

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Brooks P. Goldsmith, Circuit Court Judge

VOLUME II OF III

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S.C. SUPREME COURT

RANDOLPH ASHFORD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002509

APPENDIX

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INDEX

INDEX	i
PRE-TRIAL TRANSCRIPT DATED SEPTEMBER 24-26, 2008.....	1
PRE-TRIAL TRANSCRIPT DATED MARCH 30, 2009.....	35
TRIAL TRANSCRIPT DATED MARCH 31- April 3, 2009.....	153
POST-TRIAL TRANSCRIPT DATED APRIL 3, 2009.....	1106
FINAL ANDERS BRIEF OF APPELLANT	1133
<u>STATE V. ASHFORD</u> , Unpublished Opinion No. 2012-UP-035 (S.C. Ct. App. Jan 25, 2012)	1146
APPLICATION FOR POST-CONVICTION RELIEF	1148
RETURN	1157
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MARCH 31, 2015.....	1165
PLAINTIFF'S EXHIBIT # 1 (STATEMENT).....	1360
PLAINTIFF'S EXHIBIT # 2 (NOTE)	1364
PLAINTIFF'S EXHIBIT # 3 (TRIAL BRIEF).....	1365
ORDER OF DISMISSAL	1392
INDICTMENTS	1406

1 told him, I said, "Let me tell you something. You're
2 not going to bother my two nieces and you're not
3 going to hurt me. If you're going to hurt anybody,
4 you do it to me."

5 Q And that's what you told him that day?

6 A Yes. I told him that. I said, "You do it to me.
7 Leave my two nieces and nephews ain't got nothing to
8 do with it alone and I don't know where Roberta at."

9 Q Did you then go back in and get him to let your
10 nieces go?

11 A Yes. I don't know whether it was the front door or
12 the back door, but they left. Yes.

13 Q And at that point it was just you and him?

14 A Yes.

15 Q And you mentioned that he went around looking in
16 closets?

17 A Yes.

18 Q For Roberta?

19 A Yes, ma'am.

20 Q What else was he saying to you?

21 A "Where Roberta at? Where Roberta at?" I said,
22 "Randy, Roberta is not here."

23 Q Did he want you to attempt to find Roberta?

24 A No. He said, "Call Roberta." He kept on calling,
25 calling, calling different places. And I didn't

1 know, really know those people.

2 Q At some point after Kenyata and her children got out
3 and after you all had been in there, did you notice
4 something outside? Did you all notice anyone
5 outside?

6 A I didn't know if it was the City or the City of
7 Forest Acres. One of the sheriffs came through
8 there.

9 Q Police officers?

10 A One. One car. And the next thing I know, you know,
11 a lot of sheriffs was out there.

12 Q What effect did this have on him? How did he react
13 when he saw the police?

14 A Took his gun and my window and hit it and pow, one
15 time.

16 Q Did he shoot his gun more than once while you were in
17 there that day?

18 A Yes.

19 Q And do you know exactly where he was when he shot the
20 gun every time?

21 A Let's see. The first one he shot the living room,
22 the small living room window. He shot out that one.

23 Q Did he shoot inside the trailer as well?

24 A Yes, he did. In my couch.

25 Q Could he have --

1 **A** Yes. I believe it was the back bedroom window
2 because he --

3 **Q** What was going through your mind when all this
4 happened?

5 **A** Lord, don't let this man kill me. I have three kids
6 I want to see grown and send them to college.

7 **Q** Did he ever tell you anything about killing people?

8 **A** Yes. He came in there and told me, said, "I just
9 killed two mens (sic) on North Main." He said,
10 "They're going to kill me. I just killed two people
11 on North Main." Mm-hmm (affirmative).

12 **Q** Where were you up until this point? What part of the
13 house were you in?

14 **A** In my living room.

15 **Q** Did he also drag you into the bedrooms to look for
16 Roberta?

17 **A** Yes.

18 **Q** And then he'd gone to your master bedroom to get the
19 kids out?

20 **A** Yes.

21 **Q** At some point did police officers on the outside
22 start trying to make contact with you all?

23 **A** Yes. On the phone.

24 **Q** On the phone?

25 **A** Uh-huh (affirmative).

- 1 Q During the course of the afternoon, I'm going to get
2 back to some stuff in a minute, were there
3 conversations with the police officers?
- 4 A With him? Yes. He talked to them.
- 5 Q Did you talk to them?
- 6 A Yes. I talked to Mr. Lott because I told Mr. Lott,
7 "Please help me do something to help get me up out of
8 here."
- 9 Q And this whole thing lasted a long time, didn't it?
- 10 A Yes. It took until about 7, 7 or 8.
- 11 Q Did you become aware that the police had surrounded
12 your trailer?
- 13 A Not at first.
- 14 Q But later on you became aware of it?
- 15 A Because he had done put the couch and the freezer to
16 the living room.
- 17 Q That's where I want to go next. At some point did he
18 do anything to make sure you all were barricaded in?
19 He put something in front of the doors?
- 20 A Mm-hmm (affirmative).
- 21 Q And did he get you to help him do that?
- 22 A Yes.
- 23 Q What did you all do?
- 24 A Standing the couch up to my front door.
- 25 Q You pushed the couch against the front door?

- 1 **A** Mm-hmm (affirmative).
- 2 **Q** And is there another door in your trailer?
- 3 **A** Yes. My back door.
- 4 **Q** What did he do to that?
- 5 **A** I helped him slide the freezer to my back door.
- 6 **Q** And why did you help him?
- 7 **A** I ain't had no choice because he had the gun on me.
- 8 **Q** So what were you thinking about the gun?
- 9 **A** I thought this man going to -- you know, the gun was
- 10 so rusty, I just hoped this gun didn't go off and
- 11 kill me. That's all I could thing think. I knew I
- 12 didn't want to die.
- 13 **Q** At that point had you seen him fire the gun?
- 14 **A** Yes. Out the window.
- 15 **Q** Did he force you into the kitchen at some point?
- 16 **A** Yes. And had sex with me.
- 17 **Q** Okay. And where were you when that happened?
- 18 **A** In the kitchen floor.
- 19 **Q** On the kitchen floor?
- 20 **A** Yes.
- 21 **Q** And I'm sorry, but did he make you take off your
- 22 clothes?
- 23 **A** Yes.
- 24 **Q** And then did he get on top of you?
- 25 **A** Yes. And he pulled his shirt up. Because his

1 stomach is jet black.

2 **Q** And then did he force you to have sex with him?

3 **A** Yes. With the gun to my head.

4 **Q** Did he say anything about why he was doing that?

5 **A** No.

6 **Q** After that happened did he let you put your clothes
7 back on?

8 **A** Yes.

9 **Q** And did he do anything to try to mop up the area
10 where the sex had occurred?

11 **A** He poured water on my floor and got the mop.

12 **Q** As the afternoon went on, did the police continue to
13 try to contact y'all through the phone?

14 **A** Yes. Yes.

15 **Q** And as dark was approaching?

16 **A** They cut the water off, cut my water off and they
17 took the meter out of the pole.

18 **Q** So you all didn't have any power?

19 **A** We had no power. But I had water in my washing
20 machine.

21 **Q** You had water in your washing machine?

22 **A** Yeah. Because I didn't put the detergent in there.
23 I didn't get the chance to put the clothes in the
24 washing machine. So when they was throwing the
25 thing --

1 Q Let me get to that in a second. Okay. You were
2 going to wash clothes that day?

3 A Mm-hmm (affirmative).

4 Q So you had filled up the tub of your washing machine.
5 So you had water that way?

6 A Yes.

7 Q And that becomes significant because at some point
8 didn't the police officers start throwing things in
9 the trailer?

10 A Yes.

11 Q And what was that? Do you know?

12 A Something that burn your eyes to death.

13 Q Something to burn your eyes?

14 A Mm-hmm (affirmative).

15 Q And once that started happening, why was it
16 significant for you to get to water? Why did you
17 want to get to the water?

18 A Because it's burning.

19 Q So you could put it on your eyes?

20 A Yes.

21 Q Do you remember any of the conversations, what he was
22 saying during the course of the afternoon to the
23 police?

24 A He told the police, he said to bring him some
25 cigarettes and a case of beer for me and Mr. Ashford.

1 And they told him to let me go, and he wouldn't.

2 Q He wouldn't let you go?

3 A No.

4 Q Did Roberta ever get on the phone?

5 A Yes.

6 Q And the police got her to talk, too? Or you don't
7 know?

8 A She talks to him, talked to him. And, you know, I
9 didn't understand because I was still nervous. Then
10 she talked to me. I said, "Roberta, the only thing
11 this man wanted is you."

12 Q And the whole time --

13 A He talked about Roberta.

14 Q -- he talked about Roberta?

15 A Yeah.

16 Q What did he say he was going to do to Roberta?

17 A He said if they would let Roberta come down here on
18 my kitchen table, he said, "Roberta going to sit
19 right here and I'm going to sit right here and you're
20 going to stand to the door while you see when I blow
21 Roberta's brains out and low mines (sic) out. I'm
22 going to let you go." That's exactly what he said.

23 Q He was going to kill Roberta and kill himself?

24 A Yes. Yes.

25 Q Did he ever tell you why he was so mad at Roberta?

1 **A** No.

2 **Q** Did it start getting dark?

3 **A** Yes.

4 **Q** Shortly after dark did the police come in?

5 **A** Yes.

6 **Q** And what happened? How did the police come in? What
7 happened at that point?

8 **A** Like I said, I sat in my trailer and I was standing
9 right between my bedroom door where my washroom is.
10 And I heard the tin slide. And he in my washroom.
11 And I jumped in the bathtub. And something came up
12 and said boom. The whole trailer was shaking. And
13 they came in and got me out and they got him out.

14 **Q** And they got him out?

15 **A** Yes.

16 **Q** There weren't any more shots from the gun?

17 **A** No.

18 **Q** Once you got out of the house, did you then get
19 treated by EMS?

20 **A** Yes. When they came and they put me in handcuffs,
21 then they took them off. Mr. Lott told them to get
22 them off me. And I was -- from inhaling that stuff,
23 I was getting weaker. And so the ambulance people,
24 they checked my blood pressure and everything and I
25 went down to the hospital.

1 Q And did you tell them once you got outside what he
2 had done to you?

3 A Yes, I sure did.

4 Q Were you able to leave at any point during that
5 afternoon? Were you able to leave at any point that
6 afternoon until the police came in?

7 A No way.

8 Q Could you leave?

9 A After the police came in, did I leave?

10 Q No. Before the police came in, did he let you leave?

11 A No.

12 Q Okay. And he had the gun?

13 A Yes. And waving it.

14 Q And you knew the gun would fire?

15 A Mm-hmm (affirmative).

16 Q When the police came in, what part of the house were
17 you in?

18 A I was in my master bedroom in my bathtub.

19 Q Do you know where he was?

20 A In my washroom next to my bedroom.

21 Q How had you all separated to get into those two spots
22 that are right next to each other? You heard them
23 coming in?

24 A Who? The police?

25 Q Mm-hmm (affirmative).

1 **A** I already told you they slide the slide and I heard
2 them kicking the rest of the glass out the window and
3 then they knocked the glass out and --

4 **Q** And came in?

5 **A** Came on in.

6 **Q** At that point he went to the laundry room?

7 **A** He went to the laundry room.

8 **Q** And you went to the bathtub. How did you get away?

9 **A** After the lights were cut off, he knew they was
10 coming in. He knew.

11 **Q** Roberta, I need to ask you a series of stupid
12 questions. Did Randolph Ashford have permission to
13 force his way in your house that day?

14 **A** Huh?

15 **Q** Did he have permission to force his way into your
16 house that day?

17 **A** No, he sure didn't.

18 **Q** And did you stay in that house that afternoon with
19 him because he had the gun?

20 **A** Yes.

21 **Q** Against your will?

22 **A** Against my will.

23 **Q** And he forced you to have sex?

24 **A** Yes.

25 **Q** Did you ever tell him you wanted to?

1 **A** I told him no, I didn't want him.

2 **Q** I'm going to show you State's Exhibit No. 73 and 74.
3 Do you recognize those?

4 **A** That's my bedroom.

5 **Q** And this shows what area, too?

6 **A** That's my bedroom.

7 **MS. CAMPBELL:** Your Honor, at this time we'd
8 offer 73 and 74, I believe without objection.

9 **MS. SINGLETARY:** Without objection, Your Honor.

10 (WHEREUPON, State's Exhibit No. 73 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 74 is admitted
13 into evidence.)

14 **Q** And in State's Exhibit 74, does this show the area of
15 the bathroom where you ran there when they were
16 coming in?

17 **A** Right there. Uh-huh (affirmative).

18 **Q** Right there?

19 **A** Mm-hmm (affirmative).

20 **Q** You mentioned that a couch was pushed up against the
21 front door?

22 **A** The front door. Uh-huh (affirmative).

23 **Q** I show you State's Exhibit 75. Does has show the
24 couch?

25 **A** That's the couch right there.

1 Q You also mentioned in State's Exhibit 78 a laundry
2 room. Is that the laundry room area?

3 A That's my laundry room right there.

4 MS. CAMPBELL: Your Honor, at this time we'd
5 offer these two into evidence.

6 MS. SINGLETARY: Without objection, Your Honor.

7 (WHEREUPON, State's Exhibit No. 75 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 78 is admitted
10 into evidence.)

11 Q Do you remember while you were in there that he shot
12 into a piece of furniture?

13 A Say that again?

14 Q Did he shoot into a piece of furniture?

15 A My black Heather couch.

16 Q I show you State's Exhibit No. 60. Does this show
17 part of your couch?

18 A That's it right there.

19 Q And at the other end of the house, do you have a --
20 there are two extra bedrooms?

21 A Yes.

22 Q At the opposite end of the master bedroom?

23 A Yes. Mm-hmm (affirmative).

24 Q I'm going to show you State's Exhibit 102. Is that
25 one of the bedrooms?

1 **A** That's one of the biggest bedrooms.

2 **MS. CAMPBELL:** Your Honor, at this time I offer
3 these two into evidence.

4 **MS. SINGLETARY:** Without objection, Your Honor.

5 **COURT REPORTER:** 102 and what?

6 **MS. CAMPBELL:** 102 and 60. I'm sorry.

7 (WHEREUPON, State's Exhibit No. 60 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 102 is admitted
10 into evidence.)

11 **Q** Do you remember what clothing he was wearing when he
12 came on that day? Did he have on any type of jacket?

13 **A** A brown leather coat.

14 **Q** A brown leather-like coat?

15 **A** With black stuff in the middle.

16 **Q** I'm going to show you State's Exhibit No. 10. Do you
17 recognize that?

18 **A** In that room. Right.

19 **Q** Where is that bedroom located?

20 **A** It's the biggest one in the back.

21 **Q** I notice here in the window area you see a broken
22 down van?

23 **A** Mm-hmm (affirmative).

24 **Q** Is that how it was that day?

25 **A** Yes.

- 1 Q So the jury understands, at sometimes during the
2 course of this six or seven hours, you might be in
3 one room and he might be in another, right?
- 4 A Right.
- 5 Q But did you feel like you could leave without risking
6 your life?
- 7 A I couldn't leave.
- 8 Q I notice in some of these photographs, too, that the
9 window and stuff were broken out?
- 10 A Mm-hmm (affirmative).
- 11 Q Were those windows broken out prior to all this
12 happening?
- 13 A Everything happened. Because I had no broken
14 windows.
- 15 Q There were no broken windows?
- 16 A No. There were no broken windows in my house.
- 17 Q And some of these windows were broken when the
18 Sheriff's Department first entered?
- 19 A Yes. From throwing things through.
- 20 Q I've just got one more question. The person who
21 forced his way in your house --
- 22 A Yes.
- 23 Q -- held you hostage and raped you --
- 24 A Yes.
- 25 Q -- do you see him here in the courtroom?

1 **A** Yes. Right there with the yellow looking shirt, the
2 blue tie, Mr. Randolph Ashford.

3 **MS. CAMPBELL:** Your Honor, may the record
4 reflect she's identified the Defendant.

5 **THE COURT:** The record will reflect she's
6 identified the Defendant.

7 **MS. CAMPBELL:** Thank you. Please answer any
8 questions the defense may have.

9 **THE COURT:** Cross examination.

10 **MS. SINGLETARY:** Thank you, Your Honor.

11 CROSS EXAMINATION

12 **BY MS. SINGLETARY**

13 **Q** Good afternoon, Ms. Simmons.

14 **A** How you doing? Good afternoon.

15 **Q** Are you okay?

16 **A** Yeah. I'm okay.

17 **Q** Do you need some water or anything?

18 **A** No.

19 **Q** Now, you testified that on February the 23rd leading
20 up to the 24th that Mr. Ashford called your house all
21 night long?

22 **A** Sure did.

23 **Q** You said he called from about 12 midnight 'til 4 in
24 the morning?

25 **A** Yes, he did.

1 Q Now, what was your home phone number at the time?

2 A 7 -- I knew it. 9075 or something like that. I've
3 forgot the number.

4 Q Was it 754-0950?

5 A Yes.

6 Q Okay. Now, if I was --

7 MS. SINGLETARY: Your Honor, may I approach the
8 witness?

9 THE COURT: Yes, ma'am.

10 Q Now, what I'm handing to you is actually your phone
11 records from February 3rd, 2007 to February the 24th,
12 2007. Now, what I want to direct you to, and I know
13 it's a whole lot, and let me direct you to, it's
14 actually on this page. I'm directing you to line 61
15 and line 62. Okay? And I want you to verify that
16 754 -- I want you to verify if that's actually your
17 home phone number. Is that correct?

18 A It was.

19 Q Okay. Now, on line 61, what was the last time that
20 any call was made to your house on that night?

21 A Which one?

22 Q Line 61.

23 A 61. I don't see this.

24 MS. SINGLETARY: Can I approach the witness,
25 Your Honor?

1 Q This line right here. Right there. And the time is
2 right there. Do you see that?

3 A Mm-hmm (affirmative). It's circled.

4 Q Yeah. And the last time that it says that any
5 incoming call or outgoing call was made to your
6 residence on that night was at 23:44 which is
7 basically military time?

8 A Mm-hmm (affirmative).

9 Q Which means that the last time anyone called your
10 residence on February the 23rd was 11:14 that night
11 according to your phone records, correct?

12 A Yes.

13 Q And if you pay attention to the next line which is
14 line number 62, then it turns to February the 24th,
15 2007, correct?

16 A Correct.

17 Q And from February the 23rd, 2007 at 11:14 that night,
18 no one called your home again until -- or no one
19 placed a call from your home again until 7 a.m. that
20 next morning?

21 A Yeah. Because he called on my husband's cellphone,
22 too.

23 Q Okay. You said he called your house?

24 A The house and cellphone.

25 Q All night long?

1 **A** Yeah. He sure did.

2 **Q** But you would agree that your telephone records show
3 that no one called your house between midnight and
4 4:00, according to those telephone records I gave
5 you?

6 **A** Well, that telephone record got to be wrong because I
7 know --

8 **Q** So the telephone records are wrong?

9 **A** I knew the man constantly called all night long.

10 **Q** Let's just move on.

11 **A** Mm-hmm (affirmative).

12 **Q** Now, you also stated that today you walk with a cane?

13 **A** Yes.

14 **Q** Now, on February the 24th of 2007, were you walking
15 with a cane then?

16 **A** I sure wasn't walking with no cane then because I had
17 bad blood circulation in my leg, and now I walk with
18 a cane because I have a blood clot in my back.

19 **Q** So you didn't walk with a cane then?

20 **A** No.

21 **Q** All right. And you stated that prior to this date
22 you knew Randolph Ashford?

23 **A** Yes. I met him.

24 **Q** I'm sorry. Go ahead.

25 **A** How I met Mr. Ashford, by Ms. Neil. She introduced

1 me to him.

2 Q Yeah. Because they were boyfriend and girlfriend?

3 A Girlfriend, yes.

4 Q And you also testified to the fact that he had been
5 to your house on maybe one or two different
6 occasions?

7 A Yes.

8 Q Prior to February 24th?

9 A He had been there a week before anything happened
10 because he was doing some work for my husband on a
11 van.

12 Q Okay. And you also stated that you used to like talk
13 on the phone with Ms. Neil?

14 A Yes.

15 Q A whole lot?

16 A Yes.

17 Q When you would talk on the phone with her, did you
18 ever on any occasion to speak to Mr. Ashford?

19 A He would ask me how I've been doing, and that's it.

20 Q Okay. And you stated that when Mr. Ashford was in
21 your home on that day he shot two times?

22 A Yes. That's what I heard, one at the front and
23 one -- I think it was my kitchen window because that
24 one was broken out.

25 Q So he shot one time through the front window?

1 **A** Yes.

2 **Q** And then -- and, Your Honor, may I approach?

3 **THE COURT:** Yes.

4 **Q** And what I am showing you is State's Exhibit 60. And
5 that's the couch that Ms. Campbell showed you
6 earlier.

7 **A** Mm-hmm (affirmative).

8 **Q** And what you're pointing to is where the second shot
9 is at. That second shot was in the couch?

10 **A** Yes.

11 **Q** One out the front window, one to the couch. Okay.
12 And you also stated that Mr. Ashford told you to help
13 him put that couch in front of the front door?

14 **A** And my freezer to my front door. And he had the gun
15 to my head. I had no choice but to do it.

16 **Q** So let me ask the question again. He told you to put
17 the couch to the front door?

18 **A** Keep the heat off him.

19 **Q** So -- yes. I just want a yes or no. I'm sorry.

20 **A** Yes.

21 **Q** And then the freezer to the back door?

22 **A** Yes.

23 **Q** Okay. All right. And at some point you're saying
24 that Mr. Ashford forces you to the kitchen?

25 **A** On my kitchen floor.

1 Q He forces you to the kitchen floor?

2 A Yes. With the gun.

3 Q Now, did you take off your clothes or did he take off
4 your clothes?

5 A He did.

6 Q Okay. He took off your clothes. Did he take off all
7 of his clothes?

8 A No. He just pulled his shirt up.

9 Q He just pulled his shirt up?

10 A Mm-hmm (affirmative).

11 Q And you said that you had sex with him?

12 A Yes.

13 Q And I know this is a touchy subject. But when you
14 say that sex occurred, do you actually mean that
15 there was penetration? And do you need me to
16 rephrase it?

17 A Yes. Rephrase it.

18 Q When you say that sex occurred, did he insert his
19 personal parts inside of yours?

20 A No. Because, see, the polices (sic) was coming
21 through the yard. He jumped up and put his clothes
22 back on and told me to pull up my clothes.

23 Q Okay. So he didn't insert his penis inside of your
24 vagina?

25 A No. He had it in there but he had to stop. Mm-hmm

1 (affirmative).

2 Q Because at that point he heard the police in the
3 yard?

4 A And he jumped up and put his clothes on. He said,
5 "Put your clothes back on."

6 Q And he jumped up and told you to put your clothes
7 back on?

8 A Mm-hmm (affirmative).

9 Q And then at that point he pours water on the kitchen
10 floor for apparently no reason at all?

11 A No reason at all.

12 Q Yeah. And after that he goes and gets the mop and he
13 mops up the water?

14 A Mm-hmm (affirmative).

15 Q For no reason at all?

16 A For no reason at all.

17 Q Yeah. Now, you testified that this incident lasted
18 from about 12:30'ish, 12 something?

19 A Right. Something to 1. It took about 7 or until 8
20 at night.

21 Q 7 to 8 that night. And you also testified at
22 different -- like throughout those couple of hours
23 you and Mr. Ashford I guess on several different
24 occasions, if I'm saying that right, were in separate
25 rooms?

1 **A** To the end, the whole time I was there he had me with
2 the gun to my head standing at my room door until the
3 sheriff took and cut the water off and took the meter
4 out. And that's when he had me up in the washroom
5 and he was taking water out my washing machine,
6 throwing it at his face. And I had got me a
7 washcloth and wiped mine up like that. And after a
8 while the tin slides on my trailer, he said, "Oh,
9 they're coming to get me now." So he put the gun
10 there and I went and got in my bathtub.

11 **Q** So you're saying for seven hours he -- or about six
12 hours, he held a gun to your head and you guys were
13 in one location?

14 **A** Two locations. First the living room which is where
15 the couch is, after we took the couch and put it up
16 to the front door, we didn't have the kitchen table
17 when they shot that stuff all up on the table, so I
18 stand up in my washroom.

19 **Q** Okay. You were standing there?

20 **A** Yeah.

21 **Q** Where was he standing at?

22 **A** His head in the washing machine constantly putting
23 water in his eyes, constantly doing this.

24 **Q** So when he was constantly putting water in his eyes,
25 the gun wasn't to your head at that point, was it?

1 **A** No. Yes.

2 **Q** So --

3 **A** Because, see, my washing room, when you walk in, I
4 don't have no window. And here is where my clothes
5 was, and he was by the door part. And he had the top
6 up, gun to my head, put the it right down in here and
7 kept on doing like this here.

8 **Q** Okay. So if I am mimicking you correctly, he has the
9 gun to your head?

10 **A** Mm-hmm (affirmative). The whole time.

11 **Q** And he is like -- he lifts up the washer?

12 **A** The top was already up.

13 **Q** The top of the washer?

14 **A** Mm-hmm (affirmative).

15 **Q** And he is taking water and he is cleaning his eyes?

16 **A** Mm-hmm (affirmative).

17 **Q** While the gun is to your head?

18 **A** Yeah.

19 **Q** The whole time?

20 **A** Then he'd open his eyes. So after the lights went
21 out, he said, "They're coming in to get me now." And
22 he got in the washroom, and I went in my bedroom, my
23 master bedroom and got in the tub.

24 **Q** Okay. And let me ask you a question. You keep
25 saying that the lights went off. I want to

1 understand this. How long was it from the time the
2 lights went off until the police busted in? And that
3 was the front door they busted in or the back door?

4 **A** The front. In front. Mm-hmm (affirmative).

5 **Q** So the police busted in the front door. And so how
6 long after the lights went off until the police
7 busted in, if you can guess?

8 **A** Five minutes at best.

9 **Q** About five minutes?

10 **A** Yes.

11 **Q** And in those five minutes, that's when you were in
12 the bathtub?

13 **A** Yes.

14 **Q** Okay. All right. And Mr. Ashford was in the
15 washroom?

16 **A** Was in my washroom, yeah.

17 **Q** And I know -- Your Honor, may I approach?

18 **THE COURT:** Yes, ma'am.

19 **Q** And what I'm showing you is State's Exhibit 74. And
20 this is what you previously identified -- oops. Are
21 you okay?

22 **A** This is my bathroom.

23 **Q** Okay.

24 **A** The bathtub is on this side.

25 **Q** And in those five minutes you were in there?

1 **A** Yes, in that bathroom, my bathtub.

2 **Q** And this is the window?

3 **A** Mm-hmm (affirmative). The curtain, he snatched the
4 curtain down when they started throwing the gas
5 things in. But I was in my bathtub.

6 **Q** Okay. And this is a low lying window, too, isn't it?

7 **A** Yes.

8 **Q** Yeah. It's really low. And you said that when the
9 police came in, at that point they put you in
10 handcuffs, too?

11 **A** Yes, they did.

12 **Q** Yeah. And they put you in handcuffs and then they
13 transport you outside?

14 **A** Yes.

15 **Q** And at that point do you immediately go into the
16 ambulance?

17 **A** No. The ambulance was parked further up in front of
18 my uncle's house. And me and the ambulance and the
19 sheriff, we walked up there to the ambulance.

20 **Q** Were you talking to the sheriff while you were
21 walking to the ambulance?

22 **A** Mr. Lott?

23 **Q** Yeah. Were you talking to Mr. Lott?

24 **A** Mm-hmm (affirmative).

25 **Q** Okay. Now, I want to ask you a question. You said

1 that the police called several times?

2 **A** Asking him to let me go.

3 **Q** Ma'am?

4 **A** The sheriff called Mr. Ashford on my phone asking
5 him, please let the young lady go. And he wouldn't
6 do it.

7 **Q** Okay. But the question I was going to ask is that
8 you said that they called several times, correct?

9 **A** The police?

10 **Q** The police.

11 **A** Yes.

12 **Q** And that sometimes you spoke to the police?

13 **A** Yes, I did.

14 **Q** Sometimes Mr. Ashford spoke to the police?

15 **A** Yes, he did. Yes.

16 **Q** Now, every time you spoke to the police, was Mr.
17 Ashford right there beside you?

18 **A** Yes. With the gun.

19 **Q** Okay. And every time he spoke to the police, I guess
20 you were right there beside him, too?

21 **A** I had no choice but to sit there.

22 **Q** At any point did you tell the police "Get from around
23 my trailer"?

24 **A** No. He did.

25 **Q** So he told them that, not you?

1 **A** He told the police, "You all back off from me and
2 I'll let her go."

3 **Q** Okay. Beg the Court's indulgence, Your Honor. You
4 also stated during direct examination that you were
5 told by Mr. Ashford that he had just killed two
6 people?

7 **A** Yes, he did.

8 **Q** But you found out that no one was killed?

9 **A** I don't know. He's claiming, he said he just killed
10 two people on North Main.

11 **Q** No. What I'm saying is that now, today, you know
12 that --

13 **A** Wasn't no one killed.

14 **Q** And shortly after you got out of the home you knew
15 that no one was killed?

16 **A** Yeah. I thought he killed two people; well, I must
17 have been next.

18 **Q** Well, what I'm saying is afterwards. Not while you
19 were in there, but afterwards you found out that two
20 people weren't killed?

21 **A** You're right.

22 **Q** All right. And what was the duration of time the
23 police were -- are you okay, or do you need a break?

24 **A** Yeah. I'm okay.

25 **Q** I'll try to speed it up.

- 1 **A** Okay.
- 2 **Q** Throughout the duration of this time, the police was
- 3 shooting tear gas in there?
- 4 **A** Mm-hmm (affirmative).
- 5 **Q** Into your home?
- 6 **A** Yes, ma'am.
- 7 **Q** And you said that Mr. Ashford had on a jacket?
- 8 **A** A brown leather jacket with black stuff in the front
- 9 inside of it.
- 10 **Q** At any point did anything happen to that jacket?
- 11 **A** Ma'am, after that man destroyed my house and me, I
- 12 don't know what happened to nothing.
- 13 **Q** So you don't know what happened to nothing?
- 14 **A** No. All my stuff got messed up, too, in it.
- 15 **Q** And part of that was because of the tear gas they
- 16 threw in there?
- 17 **A** Yes, ma'am.
- 18 **Q** And you went to the hospital?
- 19 **A** Yes.
- 20 **Q** And you were seen by a nurse?
- 21 **A** Yes.
- 22 **Q** And you were asked several questions by that nurse?
- 23 **A** Say that again?
- 24 **Q** The nurse asked you a lot of questions, didn't she?
- 25 **A** Yeah. Yes.

1 Q And they did an exam on you, didn't they?

2 A Yes, they did.

3 Q Yeah. A thorough exam?

4 A Yes, they did.

5 Q And they actually took the clothes that you were
6 wearing on that day?

7 A Yes.

8 (Pause - witness crying)

9 MS. SINGLETARY: Your Honor, --

10 A That was my grandmama's. That was my grandma's. She
11 gave me that dress before she died.

12 Q I understand that, ma'am.

13 A Yes. It was on this way.

14 Q You don't have to talk about it at all. You don't.
15 Beg the Court's indulgence, Your Honor. I'm going to
16 give you a moment while I look through a few of these
17 photos. Beg the Court's indulgence, Your Honor. Ms.
18 Simmons, I'll be through in a few minutes. And I'm
19 just going to go back to the jacket. At some point
20 did you tell -- did you say that my client actually
21 tried to burn a jacket that may have been left by one
22 of the kids in the home on that day?

23 A No, he ain't tried to burn it. He just stood up. He
24 was so nasty, he threw up. He did light a cigarette
25 up on the jacket, went and threw it out the door.

1 Q I have no further questions, Your Honor.

2 THE COURT: Redirect.

3 MS. CAMPBELL: Just a couple of questions.

4 REDIRECT EXAMINATION

5 BY MS. CAMPBELL

6 Q Ms. Simmons, this is obviously hard for you. This
7 happened over a couple of years ago. Do you remember
8 every second of everything that happened that day?

9 A (Nods head affirmatively).

10 Q But is it hard for to you go back through it?

11 A Yeah. I think about that man's face every day in my
12 house.

13 Q He was wearing this jacket that's shown in State's
14 102?

15 A Yes, he was.

16 Q And somehow that ended up in the bedroom down at the
17 other end of the house?

18 A Yes, down in the bedroom.

19 Q So at certain points, at some point he was down at
20 that other end?

21 A Yes, he was.

22 Q And she asked you questions about what happened on
23 the kitchen floor. Okay. I've got to ask you one
24 question. You stated that I think he started to have
25 sex with you?

1 **A** He stuck his private part in me but nothing didn't
2 happen.

3 **Q** But he didn't finish? That's what I mean.

4 **A** No.

5 **Q** And I'm sorry. After this happened to you, Ms.
6 Simmons --

7 (Witness crying)

8 **Q** And I'll stop. Okay? Did you go back home?

9 **A** I ain't had a home. I had to stay in motels for
10 three months until I got my house back together. I
11 ain't had no home. I sat in that yard every day and
12 watched my house, couldn't go in my own house.

13 **Q** Because of what he did to you?

14 **A** What he did. He scared me in my home. Nobody never
15 did nothing like that to me.

16 **Q** Okay. Thank you, ma'am.

17 **A** Nobody. Nobody.

18 **THE COURT:** Recross?

19 **MS. SINGLETARY:** Your Honor, I have no further
20 questions for this witness.

21 **THE COURT:** All right. You may come down,
22 ma'am. Thank you very much.

23 **THE BAILIFF:** Your Honor, they'd like a break.

24 **THE COURT:** All right, ladies and gentlemen of
25 the jury, let's take about a ten-minute break. Don't

1 discuss the case among yourselves while you're in the
2 jury room, and we'll call you in just a few minutes.

3 (Jury out at 3:46 p.m.)

4 **THE COURT:** Counsel, let me see you at the
5 bench.

6 (Whereupon, a bench conference is had)

7 **THE COURT:** We'll stand at ease ten minutes.

8 (Whereupon, a break is taken)

9 (WHEREUPON, State's Exhibit No. 109 is marked
10 for identification.)

11 (WHEREUPON, State's Exhibit No. 110 is marked
12 for identification.)

13 **MR. O'NEIL:** May we approach, Your Honor?

14 **THE COURT:** Yes, sir.

15 (Whereupon, a bench conference is had)

16 **THE COURT:** The State ready for the jury?

17 **MS. CAMPBELL:** The State's ready.

18 **THE COURT:** Defense ready for the jury?

19 **MS. SINGLETARY:** Yes, Your Honor.

20 **THE COURT:** Bring the jury.

21 (Jury in at 4:10 p.m.)

22 **THE BAILIFF:** The jury is present, Your Honor.

23 **THE COURT:** Thank you. Mr. Foreman, I have a
24 note from you that you've got a class at 6:00. Is
25 that correct?

1 **FOREPERSON:** Yes, sir.

2 **THE COURT:** All right. Can you tell me where
3 that is?

4 **FOREPERSON:** Well, it's over there off by the
5 Carolina Stadium, but I've got to go back to
6 Blythewood to pick up another part that has to go
7 back to school with me.

8 **THE COURT:** Oh, okay. All right. Well, I have
9 advised the lawyers of your time constraints, and
10 we're going to try to abide by that.

11 **FOREPERSON:** Good. Thank you, sir.

12 **THE COURT:** Call your next witness.

13 **MS. CAMPBELL:** May it please the Court. The
14 State calls Tammy Cook.

15 TAMMY L. COOK, after being duly sworn, testifies
16 as follows:

17 **THE CLERK:** Please have a seat. State your full
18 name for the record.

19 **THE WITNESS:** My name is Tammy Lynn Cook.

20 DIRECT EXAMINATION

21 **BY MS. CAMPBELL**

22 **Q** Ms. Cook, where are you employed?

23 **A** I work for Richland County EMS.

24 **Q** What do you do there?

25 **A** I'm a paramedic.

1 Q Can you tell this jury a little bit about your
2 education and your training as a paramedic?

3 A I became an EMT initially, worked for the County for
4 several months, and then I went to paramedic school
5 for about a year and a half.

6 Q And you actually have a degree, a certificate as a
7 paramedic?

8 A Yes, ma'am.

9 MS. CAMPBELL: Your Honor, at this time we would
10 offer her as an expert as a paramedic.

11 THE COURT: Any objection or voir dire?

12 MS. SINGLETARY: Yes, Your Honor. In what
13 specific field of paramedic?

14 MS. CAMPBELL: There is no specific field.

15 MS. SINGLETARY: I understand it is general.

16 MS. CAMPBELL: She's a paramedic. That's the
17 field.

18 THE COURT: Do you want to ask her some
19 questions?

20 MS. SINGLETARY: Yes, Your Honor.

21 THE COURT: All right. Go ahead.

22 VOIR DIRE EXAMINATION

23 CROSS EXAMINATION

24 BY MS. SINGLETARY

25 Q Ms. Cook, and how long have you been a paramedic

1 total?

2 **A** I've been a paramedic about four years.

3 **Q** And have you ever testified in court before?

4 **A** No, I have not.

5 **Q** So this is your first time testifying in court?

6 **A** Yes, it is.

7 **Q** And being a paramedic -- correct me if I'm wrong --
8 you basically get a call and you go out to that call?

9 **A** Yes.

10 **Q** And when you get a call, it could be for various
11 different reasons?

12 **A** Yes.

13 **Q** It could be a call for a heart attack?

14 **A** Yes.

15 **Q** It could be a call for a sprung angle?

16 **A** Yes.

17 **Q** So basically your field; no disrespect, but it's wide
18 open?

19 **A** Yes. It's pre-hospital care.

20 **Q** So basically it's pre-hospital care. And when you
21 actually go out to actually pick someone up, you
22 actually get some information from them?

23 **A** That is correct.

24 **Q** And that information is concerning basically what
25 their ailment is at that time?

1 **A** Yes.

2 **Q** So would you -- and correct me if I'm wrong -- would
3 you say that you're a I guess jack of all trades when
4 it comes down to paramedic work?

5 **A** Sometimes, yes.

6 **Q** And once you get information from individuals that
7 you go to pick up, that information is specifically
8 for what is ailing them at that moment?

9 **A** Usually, yes; if they have a physical complaint.

10 **Q** And you put it -- correct. A physical complaint.
11 That's what I should have said. And basically you're
12 getting them to the position where they can be seen
13 by the doctors at the hospital?

14 **A** Yes. I am giving them first aid care, first
15 responding care until we get them to the hospital.
16 And that could include any number of situations.

17 **MS. SINGLETARY:** Your Honor, I have no further
18 questions, but I do have an objection to this witness
19 being tendered as an expert in the field of
20 paramedics.

21 **THE COURT:** Ms. Campbell.

22 **MS. CAMPBELL:** I'll be glad to lay a little more
23 background.

24 DIRECT EXAMINATION

25 **BY MS. CAMPBELL**

1 Q Can you tell this jury specifically, can anyone go
2 out and be a paramedic in your department?

3 A No, ma'am. You --

4 Q And why is that?

5 A You have to become nationally registered and you also
6 have to be licensed by the Department of Health and
7 Environmental Services for the state of South
8 Carolina.

9 Q And do you have both of those certificates?

10 A Yes, ma'am, I do.

11 Q And, in fact, prior to becoming a paramedic, you
12 actually worked as what's called an EMT. Is that
13 kind of a sub? That's before you become a paramedic
14 typically?

15 A Yes, ma'am. You also have to be nationally
16 registered to be an EMT.

17 Q And even though an EMT can go out on a call and do
18 certain things and a first aid thing, a paramedic is
19 more qualified than an EMT --

20 A Absolutely.

21 Q -- to give care?

22 A Yes. Absolutely. It's more invasive, more education
23 to become a paramedic.

24 Q And when you say more invasive, you can put lines in
25 people?

1 **A** Yes. Yes, ma'am.

2 **Q** I don't know. Can you intubate?

3 **A** Yes.

4 **Q** Which is something typically done in the intensive
5 care unit or the emergency room?

6 **A** Yes.

7 **Q** To save people's lives?

8 **A** Yes, ma'am.

9 **Q** And for the last four years you've been certified in
10 this area and you've been saving people's lives?

11 **A** Yes, ma'am. I'd like to think so.

12 **MS. CAMPBELL:** Your Honor, at this time I'd
13 offer her as an expert as a paramedic.

14 **THE COURT:** Approach the bench, counsel. I'm
15 not sure what she's going to, if there's any --

16 (Whereupon, a bench conference is had)

17 **MS. CAMPBELL:** Thank you, Your Honor.

18 **THE COURT:** You may proceed.

19 **MS. CAMPBELL:** Thank you.

20 **Q** As a paramedic, I want to turn your attention back to
21 the afternoon of February the 24th of 2007. Did you
22 respond to a hostage situation on Booth Street?

23 **A** Yes, ma'am.

24 **Q** Here in Richland County?

25 **A** Yes.

1 Q And about what time was it when you got there that
2 afternoon?

3 A I cannot recall the exact time. It was probably
4 somewhere around 5:30, quarter to 6.

5 Q And were you actually leading a team that had been
6 there all afternoon?

7 A Yes.

8 Q Whenever there is a hostage taken or a person's life
9 may be in danger, is it typical that a person from
10 your unit would be called out to be on standby in
11 case of an emergency situation?

12 A Yes.

13 Q In this case you got there sometime between 5:30 and
14 6 in the evening?

15 A Yes.

16 Q And shortly before 7, or actually right around 8 that
17 night, did you come in contact with a young woman
18 named Deborah Ann Simmons?

19 A Yes, I did.

20 Q And where did the contact take place?

21 A She was sitting outside of her residence.

22 Q And at that point you had been out there. So you
23 were aware that -- I don't know how to put this --
24 but the crisis had been taken care of?

25 MS. SINGLETARY: Objection, Your Honor.

1 Leading.

2 **Q** What were you aware of?

3 **A** We were positioned about block away. We heard that
4 it was a hostage situation. We heard flash grenades;
5 I believe that's that they were, loud explosions,
6 breaking glass. And then an officer escorted us down
7 to the residence.

8 **Q** And that's when you made contact with her?

9 **A** Yes.

10 **Q** And approximately what time was that?

11 **A** I'm not certain.

12 **Q** Okay. After you made contact with her, did you then
13 make arrangements to have her transported to the
14 hospital?

15 **A** Yes. I asked her if she was injured anywhere and she
16 showed me a cut on her finger.

17 **Q** And at that point did she give you any other
18 information about what had happened to her that might
19 require further treatment?

20 **A** Yes, she did. She said that she had been raped.

21 **Q** What was her demeanor like when you came in contact
22 with her that night?

23 **A** She was anxious, appeared upset, but she was able to
24 answer my questions appropriately.

25 **Q** And was her demeanor consistent with what she had

1 reported to you?

2 **MS. SINGLETARY:** Objection, Your Honor.

3 **THE COURT:** Overruled.

4 **Q** Was her demeanor consistent with what she reported to
5 you?

6 **A** Yes. It appeared so.

7 **Q** And upon transporting her to the hospital, I believe
8 you take blood pressure and pulse and things of that
9 nature?

10 **A** Yes.

11 **Q** And in this case I believe you also gave her some
12 oxygen?

13 **A** Yes. And I put her on our cardiac monitor.

14 **Q** And what's the purpose in that?

15 **A** She had been exposed to the possible tear gas and her
16 heart rate was elevated. So as a precaution I put
17 her on a cardiac monitor and gave her oxygen.

18 **Q** And were you able to transport her to the hospital?

19 **A** Yes.

20 **Q** At that point, because she gets to the hospital;
21 specifically to the emergency room, you wouldn't do
22 any further examination of her at that point?

23 **A** No. Unless she had a specific physical complaint of,
24 say, she said her leg hurt, then I would maybe expose
25 her leg.

1 Q And her complaints were basically that she had been
2 cut. I believe she said she had a headache?

3 A Yes.

4 Q And her chief complaint was the sexual assault?

5 A Yes.

6 Q The rape. Just for the record, I believe -- and this
7 is a copy of your call sheet. It indicates what time
8 you departed the scene that night?

9 A Yes. At 13:11.

10 Q When you departed the scene. The second from the
11 bottom.

12 A Yes, ma'am. I'm sorry. 19:07.

13 Q And that's military time. That would be 7:07 that
14 evening?

15 A Yes.

16 Q What time did she actually arrive at the hospital?

17 A At 19:16.

18 Q And that's when you would have turned her over to
19 emergency personnel at the hospital?

20 A Yes.

21 Q Thank you, ma'am.

22 THE COURT: Cross examination.

23 MS. SINGLETARY: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MS. SINGLETARY

1 **Q** Just briefly, Ms. Cook. And again, I asked you some
2 questions earlier. And you stated that when you all
3 go out to a scene you rely on what this person tells
4 you?

5 **A** Yes.

6 **Q** You don't have any personal knowledge of what
7 actually occurred?

8 **A** No.

9 **Q** And on that date was Ms. Simmons the only person you
10 actually attended to?

11 **A** Yes. She was my only patient.

12 **Q** And you placed her on the cardiac, you say monitor?

13 **A** Yes, ma'am. Cardiac monitor.

14 **Q** And you placed her on that because she was exposed to
15 tear gas?

16 **A** Yes. And she had an elevated heart rate.

17 **MS. SINGLETARY:** I have no further questions.

18 **THE COURT:** Redirect?

19 **MS. CAMPBELL:** No, sir. May she be excused?

20 **MS. SINGLETARY:** Certainly, Your Honor. Without
21 objection.

22 **THE COURT:** Yes, ma'am. You may come down. No,
23 ma'am. Thank you. You're excused from this trial.
24 Next witness.

25 **MS. CAMPBELL:** The State calls Linda Morphis.

1 LINDA MORPHIS, after being duly sworn, testifies
2 as follows:

3 **THE CLERK:** Please have a seat. State your full
4 name for the record.

5 **THE WITNESS:** My name is Linda Morphis.

6 DIRECT EXAMINATION

7 **BY MS. CAMPBELL**

8 **Q** Ms. Morphis, where are you employed?

9 **A** I am a sexual assault nurse examiner on call for
10 Richland Memorial and Baptist Hospitals. I'm an
11 adjunct professor at USC College of Nursing. And I
12 direct the public education at the American Cancer
13 Society.

14 **Q** And are you actually a registered nurse yourself?

15 **A** Yes.

16 **Q** And how long have you been a registered nurse?

17 **A** I've been a registered nurse since 1968 and a woman's
18 health nurse practitioner since 19 -- goodness -- 25
19 years. Whatever date that is.

20 **Q** Twenty-five years?

21 **A** Yes.

22 **Q** You mentioned first that you're an on call sexual
23 assault nurse examiner. Explain to the jury what
24 that means.

25 **A** That is a registered nurse with additional education

1 and practice in care for victims of sexual assault,
2 focusing on collection of evidence and care of that
3 victim.

4 Q Can you tell this jury a little bit about your
5 education both when you got your degree in nursing
6 and then the additional training you've had in this
7 field?

8 A Well, as I've said, I have been a woman's health
9 nurse practitioner and I worked at the Student Health
10 Center for a number of years and saw many victims of
11 sexual assault there. And after I became a woman's
12 health practitioner, I wanted to get more directly
13 involved in that, and I took the course with Terry
14 Casto who directs the program at Richland. And I've
15 been a sexual assault nurse examiner for the past
16 five years. I have a doctorate in patient education
17 and nursing practice.

18 Q Have you been qualified before as an expert in the
19 field of sexual -- as a sexual assault nurse
20 examiner?

21 A Yes.

22 Q Here in the courts in South Carolina?

23 A Yes.

24 MS. CAMPBELL: Your Honor, at this time we'd
25 offer her as an expert as a sexual assault nurse

1 examiner.

2 **THE COURT:** Any voir dire or objection?

3 **MS. SINGLETARY:** No voir dire. No objection,
4 Your Honor.

5 **THE COURT:** Thank you.

6 **Q** Ms. Morphis, I want to direct your attention to the
7 evening of February 24th, 2007. Did you come in
8 contact with a Deborah Ann Simmons that evening?

9 **A** Yes.

10 **Q** Where did you make contact with her?

11 **A** At the emergency room at Richland Memorial.

12 **Q** And do you recall -- and you can refer to your notes
13 whenever you need to -- about what time she actually
14 arrived there at the hospital or was clocked in?

15 **A** I think she got there around 7:30, and I got to the
16 hospital about an hour after that, after I was
17 called.

18 **Q** And what accounts for the time lapse between, say,
19 when the victim gets there and it takes you a little
20 bit longer?

21 **A** They call the sexual trauma service center. The
22 intake nurses take vital signs. They may speak with
23 authorities if they're there and then they call the
24 S.A.N.E. nurse who is on call and give us time to get
25 to the hospital from wherever we are.

1 Q So you got there around 8:30 that evening?

2 A Yes.

3 Q And at that point had she been cleared as far as any
4 life threatening physical problems?

5 A Yes.

6 Q And that was done by I believe a Dr. Askins?

7 A Right.

8 Q When you made contact with Ms. Simmons back on that
9 evening, what initially did you do in this case?

10 A First I determined again that there are no life
11 threatening conditions, that she is able to speak
12 with me and tell me what happened with the assault.
13 And I interview her. That interview determines the
14 evidence that I collect from various parts of her
15 body as well as the treatment that she receives.

16 Q Specifically upon making contact with her, do you
17 initially interview her prior to doing any type of
18 exams?

19 A Yes.

20 Q And what information specifically are you trying to
21 get in just that limited interview you do?

22 A Our interview is focused on any injuries that she may
23 have and where we can best collect evidence.

24 Q And specifically, without being crude when I'm being
25 crude, when it's a rape involved, do you ask

1 specifics about what kind of sexual act was involved?

2 **A** We ask very specific questions concerning the whole
3 assault.

4 **Q** Did you get a background from this victim about what
5 type of sexual assault she had been subjected to?

6 **A** Yes.

7 **Q** And was she able to indicate what had happened to
8 her?

9 **A** She did.

10 **Q** Now, do you do this in detail, or are you just trying
11 to get the gist of what happened?

12 **A** We do it in detail surrounding the circumstance of
13 the assault.

14 **Q** Did she indicate to you what kind of assault had
15 occurred with her?

16 **A** She did. She said that she had been sexually
17 assaulted, that penetration did occur. She was
18 unsure about ejaculation.

19 **Q** Was she able to give you any specific -- you can't
20 tell the jury what she told you about this -- but was
21 she able to give you specific information about who
22 had assaulted her?

23 **A** Yes.

24 **Q** And in the course of asking questions, do you also
25 try to ascertain whether or not any weapons were

1 used?

2 **A** Yes.

3 **Q** And in this case were you able to get any information
4 about that?

5 **A** Yes.

6 **Q** And what type of weapon was used?

7 **A** She said that a handgun was used.

8 **Q** Did she indicate whether or not any physical
9 restraints were used?

10 **A** She did.

11 **Q** And how was that done?

12 **A** She said that the assailant held her down.

13 **Q** In addition, you also checked to see if any verbal
14 threats were used?

15 **A** Yes.

16 **Q** And did she indicate that?

17 **A** She did.

18 **Q** And what did she indicate?

19 **A** She said that he threatened to kill her.

20 **Q** In every case you also try to find out if the victim
21 in the case has been exposed to any alcohol and/or
22 drugs in the past 12 to 24 hours. And did she
23 indicate that prior to the assault, within 12 to 24
24 hours; and we're only talking about her here, okay,
25 that she had ingested any drugs and/or alcohol?

1 **A** Yes.

2 **Q** And what drugs and/or alcohol had she ingested in
3 that time period prior to the assault?

4 **A** She said that she had had beer prior to the assault
5 within the 12-hour period.

6 **Q** Within 12 hours?

7 **A** Mm-hmm (affirmative). Whatever the question was, she
8 indicated that she had had beer within that
9 timeframe.

10 **Q** Specifically, you already answered this, but it's
11 important as far as any collection. Do you also ask
12 her whether or not the victim knows whether or not
13 ejaculation occurred?

14 **A** Yes.

15 **Q** In this case was she able to give you any
16 information?

17 **A** She was unsure.

18 **Q** Did she also indicate whether or not any parts of her
19 body were penetrated in a sexual manner?

20 **A** She indicated that her vagina was penetrated.

21 **Q** Did she make any other allegations?

22 **A** No.

23 **Q** Once you get this information, do you then conduct an
24 actual examination?

25 **A** Yes.

1 Q And attempt to collect any evidence if there is any?

2 A Yes.

3 Q And in every sexual assault, explain this to the
4 jury; is there necessarily going to be DNA evidence
5 left?

6 A Not necessarily. It's not unusual at all for an
7 assailant not to ejaculate. And it may be that we
8 don't collect sperm or see sperm, but that does not
9 mean that the assault did not occur.

10 Q Okay. In this case when you actually performed your
11 examination of the victim, what, if anything, were
12 your findings?

13 A I'm sorry?

14 Q What were your findings?

15 A Oh. She had a cut on her finger and there were no
16 injuries other than that.

17 Q And did you actually do a genital examination?

18 A I did.

19 Q And did you note any injuries there?

20 A No.

21 Q And is that unusual?

22 A It is not unusual.

23 Q Why is that, ma'am?

24 A In a woman of her age who has had vaginal deliveries,
25 the tissues are stretched, and an assault may occur

1 without injury.

2 **Q** And, in fact, is that typical?

3 **A** Yes.

4 **Q** Even if it's unwanted sex?

5 **A** Yes.

6 **Q** After you did the examination and noted any possible
7 injuries, do you also try to collect any evidence?

8 **A** Yes.

9 **Q** And in this case did you take swabs from other areas
10 just in an abundance of caution?

11 **A** Yes.

12 **Q** And what did you collect?

13 **A** I collected swabs from her vaginal area, from the
14 rectal area.

15 **Q** And once you collect those swabs; what, if anything,
16 do you do with them?

17 **A** We have a very specific protocol for handling of
18 evidence after the exam. The swabs are dried, air
19 dried for an hour, and they're put into envelopes
20 specifically labeled from the area of the body that
21 they are taken from and they're put into a kit and
22 given to the authorities; in this case the Sheriff's
23 Department.

24 **Q** I show you what's been marked as State's Exhibit
25 No. 109. Do you recognize this?

1 **A** Yes.

2 **Q** And once all the swabs or evidence is collected,
3 typically is it packaged correctly and then put into
4 a box like this?

5 **A** Yes.

6 **Q** And State's Exhibit 109, those items were actually
7 put in here. Is that correct?

8 **A** Yes. That's correct.

9 **MS. CAMPBELL:** Your Honor, at this time we offer
10 State's Exhibit 109.

11 **MS. SINGLETARY:** Without objection, Your Honor.

12 **THE COURT:** Without objection.

13 (WHEREUPON, State's Exhibit No. 109 is admitted
14 into evidence.)

15 **Q** As part of your protocol, you also collect clothing
16 from the victim?

17 **A** Yes.

18 **Q** And I want to show you what's been marked as State's
19 Exhibit No. 110. Do you recognize this? I'll show
20 you first.

21 **A** I don't specifically recall the clothing, but I do
22 recognize my name and the labeling of the clothing.

23 **Q** And prior to it coming to court today, it would have
24 been sealed up?

25 **A** Yes.

1 **Q** And that would be the clothing you took from the
2 victim?

3 **A** It would be.

4 **MS. CAMPBELL:** Your Honor, at this point I offer
5 State's Exhibit No. 110 into evidence.

6 **MS. SINGLETARY:** Without objection, Your Honor.

7 **THE COURT:** Without objection.

8 (WHEREUPON, State's Exhibit No. 110 is admitted
9 into evidence.)

10 **Q** As part of your history that you get from the victim,
11 too, did you also get kind of a history about whether
12 or not they've undergone menopause or anything of
13 that sort?

14 **A** Yes.

15 **Q** And in this case were you able to get a history of
16 that?

17 **A** Yes.

18 **Q** And had she undergone menopause?

19 **A** She had. And she had a tubal ligation some years
20 before that.

21 **Q** That was in 2000 I believe?

22 **A** Yes.

23 **Q** Once you have collected the evidence, made your
24 examinations and everything, is any type of
25 medication prescribed or given to the patient?

1 **A** Yes.

2 **Q** In cases of rape?

3 **A** Yes.

4 **Q** And in this case what was prescribed or given to her
5 that night?

6 **A** We give prophylactic antibiotics. Which means if the
7 patient has been exposed to a sexually transmitted
8 infection, these antibiotics will treat those
9 infections. We give antibiotics for both chlamydia
10 and gonorrhea which are common sexually transmitted
11 infections.

12 **Q** And after that was she released from the hospital
13 that night?

14 **A** Yes.

15 **Q** I just want to back up one little part. You
16 mentioned earlier that you had been working at I
17 believe the University for a long time?

18 **A** Mm-hmm (affirmative).

19 **Q** And that you've come in contact with literally
20 hundreds of people who either were or claim to be
21 sexually assaulted. What was her demeanor like that
22 night when you came in contact with her?

23 **A** Well, even though it's been two years, I do remember
24 her because the circumstance surrounding the assault
25 were the first time I had seen this situation where a

1 hostage was held. So I do recall it vividly. She
2 was very anxious, worried about her children. By the
3 time I saw her she had just been through a horrendous
4 ordeal and I would say very consistent with victim --

5 **MS. SINGLETARY:** Objection, Your Honor.

6 **THE COURT:** What's the objection? What's the
7 objection?

8 **MS. SINGLETARY:** To the -- what I think that the
9 witness is actually going to say. May we approach?

10 **THE COURT:** Sure. Yes, ma'am.

11 (Whereupon, a bench conference is had)

12 **THE COURT:** Overruled. Restate it for the
13 record.

14 **Q** I'm sorry we were interrupted. You were saying --

15 **A** Her demeanor is consistent with what the studies say
16 for victims of sexual assault as well as what I've
17 seen in my practice.

18 **Q** She was traumatized?

19 **A** Traumatized.

20 **MS. CAMPBELL:** Beg the Court's indulgence.
21 That's all I have, Your Honor.

22 **THE COURT:** Cross examination.

23 **MS. SINGLETARY:** Thank you, Your Honor.

24 CROSS EXAMINATION

25 **BY MS. SINGLETARY**

1 Q Good afternoon, Ms. Morphis.

2 A Good afternoon.

3 Q I'm going to just recap some of your testimony. You
4 stated that when you actually do an exam of someone
5 who comes to a hospital who say that they've been
6 raped or forced to have sex that you ask them several
7 questions?

8 A Yes.

9 Q And you want specific details. And one of the
10 questions that you asked Ms. Simmons as you testified
11 earlier to was whether or not she consumed any
12 alcoholic beverages 12 hours before?

13 A Yes.

14 Q And she said yes, she had had several beers?

15 A (Nods head affirmatively).

16 Q And another thing that you testified to was; and it
17 was kind of at the end of your testimony, you stated
18 that you gave her some medication?

19 A Yes.

20 Q And I want to ask you this question: Anyone who is
21 seen by you who say that they have been raped,
22 whether or not there is ejaculation, you would still
23 give them that same medication?

24 A Yes.

25 Q So it didn't make Ms. Simmons any more unusual from

1 anyone else?

2 **A** As far as receiving the medications?

3 **Q** Yes.

4 **A** No.. All victims if there is possible contact and
5 exposure to a sexually transmitted infection receive
6 the antibiotics.

7 **Q** And she had told you that there was no -- or she was
8 unsure whether or not there was any ejaculation?

9 **A** Correct.

10 **Q** And when you do these tests you use UV lights, don't
11 you?

12 **A** Yes.

13 **Q** You take photographs. Like you said earlier, you try
14 to collect all of the physical evidence that you can?

15 **A** Yes.

16 **Q** And in this case you took her clothes?

17 **A** Yes.

18 **Q** And the reason why you took those clothes were for
19 those to be tested later on?

20 **A** That's part of our protocol.

21 **Q** To see if there was possibly any evidence on those
22 clothes?

23 **A** Yes.

24 **Q** And you said that the only injury that Ms. Simmons
25 had was a cut to her finger?

1 **A** Yes.

2 **Q** And I just want to ask you a question about when
3 someone has sexual intercourse, whether it's
4 consensual sex or whether or not it is forced sex,
5 there can still be abrasions, whether or not it's
6 consensual or forced sex, correct?

7 **A** There can be a what?

8 **Q** Abrasions.

9 **A** There can be.

10 **Q** In the vaginal area.

11 **A** Yes.

12 **Q** And you said that when you did the pelvic examination
13 you found no lacerations in the pelvic area?

14 **A** That's correct.

15 **Q** You saw no abrasions?

16 **A** That's correct.

17 **Q** And you actually not only -- not only do you just
18 focus on the personal parts of a person, you focus on
19 their whole entire body?

20 **A** That's correct.

21 **Q** And you actually in your report wrote down that your
22 general findings of Ms. Simmons, you didn't see any
23 type of scratches on her. Is that correct?

24 **A** That is correct. And as I've said, that's not
25 unusual in a sexual assault.

1 Q I understand that. But in this case she actually
2 said that someone forcibly held her down, correct?

3 A Yes.

4 Q By the arms? I believe she told you that?

5 A I think that's correct. She said he held her arm.

6 Q Now, in general findings, did you see any hand
7 marks --

8 A No.

9 Q -- on Ms. Simmons?

10 A I think I also said that he held a gun to her head.

11 Q But you don't have any personal knowledge of that, do
12 you?

13 A I -- the personal knowledge I have is what she
14 dictated to me and I typed verbatim.

15 Q Yeah. And everything that you're basically
16 testifying to today other than your medical
17 conclusions is based on what Ms. Simmons told you?

18 A Yes.

19 Q And when you do these exams, the information you get
20 is based on what that person tells you. And your
21 medical expertise. And I don't want to leave that
22 out.

23 A Yes.

24 **MS. SINGLETARY:** Beg the Court's indulgence,
25 Your Honor. Your Honor, I have no further questions.

1 **THE COURT:** Any redirect?

2 **MS. CAMPBELL:** Yes, sir.

3 REDIRECT EXAMINATION

4 **BY MS. CAMPBELL**

5 **Q** She asked you about evidence that you find on the
6 clothes. Doing the sexual assault kit, the reason
7 you take what's called vaginal or rectal swabs is
8 because primarily when a sexual assault occurs an
9 ejaculation occurs. That would be the best the
10 primary source for that?

11 **A** Yes.

12 **Q** And that's why that's kind of the first place you
13 look?

14 **A** Yes.

15 **Q** You also collect evidence in case there may have been
16 some other sex acts. And whether or not a person is
17 wearing clothing at the time of the assault can also
18 play into that?

19 **A** Right.

20 **Q** And if there's no ejaculation you aren't going to
21 find semen?

22 **A** That is correct.

23 **Q** I'm sorry. She also asked you about how she had a
24 couple of beers. Or I think she said several beers.
25 Actually she told you she had a couple of beers about

1 12 hours before that?

2 **A** Yes.

3 **Q** A couple means two?

4 **A** I would say two.

5 **Q** You have done this for a long time?

6 **A** Five years.

7 **Q** Seen a lot of patients?

8 **A** As of last month actually.

9 **Q** And as you just explained to the jury, you actually
10 remember her?

11 **A** Yes, I do.

12 **Q** Because of what she went through and her demeanor?

13 **A** Yes.

14 **Q** She also asked you about findings from your vaginal
15 examination, about not finding any lacerations. In
16 fact, in a sexual assault, a woman with her history
17 and her age, that would be typical?

18 **A** It's not unusual to have no injuries.

19 **Q** Okay. Thank you.

20 **THE COURT:** Anything further?

21 **MS. SINGLETARY:** Just one last question.

22 **THE COURT:** Yes, ma'am.

23 RECROSS EXAMINATION

24 **BY MS. SINGLETARY**

25 **Q** Now, I just want to clear this up. You stated that

1 in your medical opinion that if a man doesn't
2 ejaculate, then no sperm will be present?

3 **A** Yes. That's correct. That's what ejaculation is.
4 It's that sperm and semen.

5 **Q** But isn't it true that a man can actually have -- and
6 I know this is very unprofessional, very crude -- but
7 a man can actually secrete some small amounts of
8 fluid without having a full ejaculation. Is that
9 correct?

10 **A** That's correct.

11 **MS. SINGLETARY:** I have no further questions.

12 **THE COURT:** All right. Thank you very much.
13 You may come down, ma'am.

14 **MS. CAMPBELL:** May she be excused, Your Honor?

15 **MS. SINGLETARY:** Without objection, Your Honor.

16 **THE COURT:** This witness can be excused.
17 Approach the bench.

18 (Whereupon, a bench conference is had)

19 **THE COURT:** All right, ladies and gentlemen of
20 the jury. I'm just conferring with counsel and
21 trying to get a schedule of witnesses. It appears
22 that this next witness or two may be somewhat
23 lengthy. So I think we'll go ahead and adjourn for
24 the day and I'll ask you to be back in the jury room
25 again tomorrow morning at 9:00. At that time we'll

1 continue with the trial. Again, do not discuss the
2 case among yourselves when you return to the jury
3 room or with anyone else over the evening hours.
4 Have a pleasant evening. We'll see you tomorrow
5 morning and continue.

6 (Jury out at 4:45 p.m.)

7 **THE COURT:** All right. Anything further before
8 we adjourn for the evening?

9 **MR. O'NEIL:** Your Honor, we would have one
10 matter that we may need to take up in camera.

11 **THE COURT:** In camera?

12 **MR. O'NEIL:** Yes.

13 **THE COURT:** Anything else?

14 **MR. O'NEIL:** Your Honor, I think on second
15 thought we don't have to take that matter up this
16 afternoon. We're fine.

17 **THE COURT:** All right. Well, then we'll adjourn
18 until 9:00 in the morning. Thank you very much.

19 (Whereupon, the proceedings are concluded for
20 the day, to be reconvened tomorrow morning)

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24

25

1 Thursday, April 2, 2009

2 **THE COURT:** The State ready to proceed?

3 **MS. CAMPBELL:** The State's ready, Your Honor.

4 We've got to get our witnesses back in. For some
5 reason they were taken out of the courtroom.

6 **THE COURT:** Anything before we start?

7 **MR. O'NEIL:** No, Your Honor.

8 **THE COURT:** All right. The State ready to
9 proceed?

10 **MS. CAMPBELL:** The State's ready.

11 **THE COURT:** Defense ready to proceed?

12 **MR. O'NEIL:** Yes, Your Honor.

13 **THE COURT:** Bring the jury.

14 (Jury in at 9:45 a.m.)

15 **THE BAILIFF:** The jury is seated, Your Honor.

16 **THE COURT:** Thank you very much. Good morning,
17 ladies and gentlemen. We're now ready to continue
18 with the trial. Solicitor, call your next witness.

19 **MR. BRYANT:** Thank you, Your Honor. If it
20 pleases the Court, the State calls Officer Allmann to
21 the stand.

22 ROBERT ALLMANN, after being duly sworn,
23 testifies as follows:

24 **THE CLERK:** Please have a seat there, sir.

25 Speak into the microphone. Spell your last name.

1 **THE WITNESS:** Robert Allmann, A-L-L-M-A-N-N.

2 DIRECT EXAMINATION

3 **BY MR. BRYANT**

4 **Q** Officer, please tell this jury where you work?

5 **A** I work for the City of Columbia Police Department.

6 **Q** For how long have you worked there?

7 **A** I've been there approximately three years.

8 **Q** Prior to that tell the jury a little bit about your
9 background?

10 **A** I attended Carolina University in the midwest. I
11 received a bachelor's degree in business
12 administration and am currently working on my
13 master's in criminal intelligence, American Military
14 University; spent many years in the business industry
15 prior to law enforcement.

16 **Q** Do you have occasion to respond to dispatches, to
17 incident locations?

18 **A** Yes, sir.

19 **Q** Let me specifically refer to February 24th, 2007.
20 Could you please tell this jury if you were working
21 that day?

22 **A** I was working that day.

23 **Q** And what were some of your duties that day?

24 **A** I was assigned to the patrol unit which entails
25 responding to calls for emergency service given out

1 through dispatch, also basic patrol, observing the
2 neighborhood, traffic enforcement, whatever may
3 happen to come up for that day.

4 Q And what is your -- I guess is it patrol area or
5 zone?

6 A Yes. I have a specific patrol area in the north
7 region of the City of Columbia Police Department.

8 Q Tell the jury kind of what that area is?

9 A My specific patrol area is or was at that time
10 Columbia College north to Prescott Road between
11 Farrow Road and Fairfield Road.

12 Q And on this particular date, were you dispatched to
13 Wash World on North Main?

14 A I was.

15 Q Tell this jury what you did in response to that
16 dispatch?

17 A In response to that dispatch I did respond in a Code
18 3 response which is blue lights and sirens in
19 reference to a carjacking which took place at 5820
20 North Main Street which is within the city limits of
21 Columbia, County of Richland. Upon arrival on that
22 scene I did make contact with a Mr. and Mrs. Kelly in
23 reference to their car being taken.

24 Q And what did you do when you arrived at that scene?

25 A Upon arriving on the scene, like I said, I made

1 contact with them and started a preliminary
2 investigation to ascertain what happened, when it
3 happened, how it happened and where it happened.

4 Q Did you I guess secure the scene?

5 A I did secure the scene, yes.

6 Q Tell the jury what securing the scene would entail?

7 A Basically it is making sure everyone is safe, first
8 and foremost, that there are no injuries. In this
9 case there were not at the time; at that time trying
10 to identify any physical evidence that may be on the
11 scene and making sure that its integrity is
12 maintained.

13 Q Did you take any statements that day?

14 A I get a brief verbal statement that day. I did not
15 get anything in writing based on the circumstances of
16 this case. That was left to investigations.

17 Q So the reason for being there was a carjacking at
18 Wash World?

19 A At Wash World, correct.

20 Q Was there anything else that you learned while you
21 were in route or at Wash World?

22 A Yes. As I arrived at Wash World, when I pulled into
23 the parking lot and made contact with the Kellys, I
24 noticed a vehicle parked in the parking lot that was
25 still running. While I was making contact with them,

1 I'm not quite sure of the specific sequence of
2 events, I did make -- another person came up to me by
3 the name of Barry Taylor and said that the car that
4 was running was his. Someone there -- another
5 dispatch came out about a car that was carjacked at
6 the 1000 block of Oakland, the corner of Oakland and
7 Randall Avenue.

8 Q I'm going to show you what's been marked and entered
9 as State's Exhibit No. 11. Do you recognize that?

10 A I do.

11 Q Could you please tell the jury what that is?

12 A This is the car that I saw parked in the parking lot.
13 It's a gray four-door vehicle which was still running
14 when I arrived on the scene.

15 Q And this is the same car Mr. Taylor told you that he
16 had been driving?

17 A That is correct.

18 Q And that was taken from him?

19 A Correct.

20 Q I believe you learned that car was taken from
21 Oakland, 1000 Oakland?

22 A Correct.

23 Q I'm going to show you a series of photos. Do you
24 recognize those?

25 A I do.

1 **MR. BRYANT:** Your Honor, State's 84, 85 and 86 I
2 move to enter into evidence without objection.

3 **MR. O'NEIL:** Without objection.

4 **THE COURT:** No objection.

5 (WHEREUPON, State's Exhibit No. 84 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 85 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 86 is admitted
10 into evidence.)

11 **Q** Could you please tell this jury what -- hold them up
12 and tell them what is it?

13 **A** The first one is the corner which is the 1000 block
14 of Oakland which is within the city limit of
15 Columbia, County of Richland. The second picture,
16 this picture is a picture on Randall Street looking
17 southbound on Randall. And this is the corner of
18 Oakland and Randall as well as eastbound Oakland
19 towards Main Street.

20 **Q** How far -- let me back up. You're familiar with
21 Oakland, Randall and the surrounding streets?

22 **A** Yes, sir.

23 **Q** How far based upon your time as a police officer in
24 that neighborhood would you estimate the distance to
25 be from North Main to the site of the first

1 carjacking involving Barry Taylor?

2 **A** About a block, one city block.

3 **Q** How far based upon your experience as a police
4 officer is it from that location at 1000 Oakland
5 Avenue to the Wash World on North Main?

6 **A** Approximately half a mile.

7 **Q** Beg the Court's indulgence. If you'll step down,
8 please, sir. Your Honor, State's 90, 98 and 99, I
9 believe without objection.

10 **MR. O'NEIL:** No objection, Your Honor.

11 (WHEREUPON, State's Exhibit No. 90 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 98 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 99 is admitted
16 into evidence.)

17 **Q** Could you tell this jury what this first shot is?

18 **A** This is an aerial photograph of the corner of Main
19 Street and Prescott Road. This building here and
20 parking lot is the Wash World at 5820. I believe
21 this was an Eckerd's at the time. It's now a Rite
22 Aid. El Cheapo's gas station, Citgo gas station and
23 VFW.

24 **Q** Wash World right there?

25 **A** Yes, sir.

1 Q And on the second one, if you'll familiarize the jury
2 again?

3 A This is just further back, a pull back picture of the
4 same area. Again this would be the Wash World right
5 here, the corner of Main and Prescott, the 5800 block
6 of Main Street.

7 Q Finally a little bit different shot with Oakland
8 Avenue. Would you please familiarize the jury with
9 that?

10 A This is again an aerial photograph of the corner of
11 Randall and Oakland. This would be Main Street here
12 at the 57 and 5800 block of Main Street with 5700
13 block of Randall and the 1000 block of Oakland.

14 Q And again how far in your experience do you believe
15 it is from 1000 Oakland Avenue to 5820 I believe
16 North Main and Wash World?

17 A About a half of a mile.

18 Q Thank you. Please take your seat again. Both
19 incident locations are in Richland County?

20 A That's correct.

21 Q Were you given a description by Mr. and Ms. Kelly of
22 their car?

23 A I don't believe that I was given -- of their car;
24 yes, I was.

25 Q Yes, sir. Do you remember that description?

1 **A** It was a 1996 Lincoln Town Car, purplish gray in
2 color.

3 **Q** Did your involvement with the case entail your going
4 to Gill Creek Baptist Church after that?

5 **A** No, sir.

6 **Q** What did you do after making contact with the Kellys
7 and Mr. Taylor?

8 **A** Upon trying to figure out what had exactly happened,
9 as I mentioned before, I secured the crime scene. At
10 that point I maintained the crime scene until
11 investigations and also crime scene investigators
12 responded to the scene.

13 **Q** Thank you, Mr. Allmann. I have no further questions
14 at this time. Please answer any questions Mr. O'Neil
15 has.

16 **MR. O'NEIL:** May it please the Court? Your
17 Honor, may the witness step down?

18 **THE COURT:** Yes, sir.

19 CROSS EXAMINATION

20 **BY MR. O'NEIL**

21 **Q** Officer, I'm going to ask you a couple of questions
22 about this diagram. Okay?

23 **A** Yes, sir.

24 **Q** Now, you said the first victim was carjacked on, if I
25 understood you, Oakland and Randall Avenue, correct?

1 **A** I was originally dispatched to Main Street. At some
2 point upon arrival I had learned that there was a
3 previous carjacking that had took place at Oakland
4 and Randall.

5 **Q** Oakland is right here?

6 **A** Oakland and Randall Avenue. That is correct.

7 **Q** And you said that's about a half a mile from the Wash
8 World?

9 **A** Correct.

10 **Q** This would be on North Main Street?

11 **A** That's correct. That's right here.

12 **Q** Okay. Did you know where Mr. Randolph Ashford was
13 staying at during this time?

14 **A** Yes, sir.

15 **Q** Where was he saying? On Muir Street?

16 **A** Yes, sir.

17 **Q** How far away -- he was at [REDACTED], correct?

18 **A** It would be actually down here.

19 **Q** Down here?

20 **A** Yes, sir.

21 **Q** And how far away from [REDACTED] would have
22 been the intersection of Oakland and Randall Street?

23 **A** There's going to be approximately four to five
24 blocks. So approximately half a mile.

25 **Q** But the Wash World is here, right?

- 1 **A** Correct.
- 2 **Q** You say it's a half a mile between here and Oakland
- 3 and Randolph?
- 4 **A** Oakland and Randall, yes. So approximately right
- 5 here.
- 6 **Q** So it would gather to be that Muir Street would be
- 7 farther away than half a mile from Oakland and
- 8 Randall Street, correct?
- 9 **A** It's going approximately the same.
- 10 **Q** You can't walk through this. You have to take the
- 11 streets to get there?
- 12 **A** No, sir. There are some cuts that come through both
- 13 of these parking lots and come back over towards his
- 14 place.
- 15 **Q** But Oakland and Randall is to the west --
- 16 **A** Correct.
- 17 **Q** -- of Muir Street.
- 18 **A** Of Muir Street, yes.
- 19 **Q** And you say you actually reported out to the Gill
- 20 Creek Baptist Church, correct?
- 21 **A** No, sir. I responded to 5820 Main Street.
- 22 **Q** Are you aware of where the Gill Creek Baptist Church
- 23 is?
- 24 **A** Yes, sir.
- 25 **Q** And that's to the east of Muir Street, correct?

1 **A** Yes, sir, it is.

2 **Q** Southeast?

3 **A** It would be approximately right about here.

4 **Q** And then Booth Street, [REDACTED] would be
5 even further southeast from --

6 **A** Correct.

7 **Q** -- Muir Street?

8 **A** Correct.

9 **Q** In this direction?

10 **A** Correct.

11 **Q** Okay. You can have a seat. So you would agree that
12 if someone were heading towards -- if someone was at
13 [REDACTED] and they were going towards [REDACTED]
14 [REDACTED], Oakland Street and Randall Street would
15 be in the opposite direction?

16 **A** Correct.

17 **Q** Okay. And you didn't take any written statements
18 that day, did you?

19 **A** No, sir.

20 **Q** How many oral statements did you take?

21 **A** I believe I received an oral statement from both the
22 Kellys and Mr. Taylor.

23 **Q** Now, Mr. Taylor, in that oral statement did he inform
24 you that there were other individuals in the parking
25 lot when his car was taken from him?

1 **A** I don't recall.

2 **Q** And you didn't get any names of those other people
3 from Mr. Taylor, did you?

4 **A** No, sir.

5 **Q** Investigator Williams in fact took the written
6 statements?

7 **A** I believe, yeah, initially Investigator Williams
8 responded to the scene.

9 **Q** And you didn't show any photo lineups to Mr. Taylor,
10 did you?

11 **A** No, sir.

12 **Q** Are you aware if any investigator showed any photo
13 line-ups to Mr. Taylor?

14 **A** I was not privy to any of that information.

15 **MR. O'NEIL:** Okay. Beg the Court's indulgence.
16 No further questions, Your Honor.

17 **THE COURT:** Redirect?.

18 **MR. BRYANT:** Nothing, Your Honor.

19 **THE COURT:** You may come down sir. Thank you
20 very much. May this witness be excused?

21 **MR. O'NEIL:** Without objection, Your Honor.

22 **THE COURT:** Without objection. Next witness.

23 **MR. BRYANT:** Yes, sir. The State calls Officer
24 Walsh.

25 MICHAEL WALSH, after being duly sworn, testifies

1 as follows:

2 **THE CLERK:** Please have a seat there, sir.

3 State your full name for the record and please spell
4 your last.

5 **THE WITNESS:** My name is Officer Michael Walsh,
6 W-A-L-S-H.

7 DIRECT EXAMINATION

8 **BY MR. BRYANT**

9 **Q** Officer Walsh, if you will, tell this jury briefly
10 where you work, for how long, and some of your prior
11 employment history or military history?

12 **A** Yes, sir. My name is Michael Walsh. I have been
13 employed by the City of Columbia since August 2006,
14 graduated the academy December of 2006, currently
15 assigned to the north region which is Eau Clair. And
16 then I'm a K-9 team ten months now. I've got basic
17 fingerprinting processing class, radar class and B.A.
18 operator class. Prior to joining the military -- or
19 correction -- the City of Columbia I was in the
20 military for 26 years.

21 **Q** Were you working on February 24th, 2007?

22 **A** Yes, I was.

23 **Q** Were you in north region?

24 **A** Yes, sir.

25 **Q** Tell this jury how you came to be involved with the

1 reason we're here today?

2 **A** Yes, sir. My main patrol area is unit area 132 which
3 adjoined Officer Allmann's area, 112. The call came
4 out from a carjacking at 5820 North Main street. I
5 responded Code 3, blue lights and siren, to back
6 Officer Allmann. I arrived at the scene. Officer
7 Allmann was already there. He came out and said that
8 the car had been traveling east on Prescott, the one
9 that was carjacked. I didn't even get a chance to
10 get out of the car at that time because we had to go
11 pursue and try to come up with the subject.

12 On the scene I did notice a gray in color
13 Oldsmobile or '88, similar to that, running in the
14 parking lot. I proceeded down Prescott east towards
15 Farrow Road scanning trying to find the car still
16 running blue lights and sirens. Word came out over
17 the radio that there is an incident going on up at
18 Gill Creek Baptist Church which is the same direction
19 I was traveling.

20 I crossed over Farrow up Cushman Road. Once I
21 turned around onto Cushman, I noticed the car, the
22 Kellys' car that had been highjacked (sic) was
23 resting up against a telephone pole in an accident.
24 And I stopped there to secure that scene and make
25 sure that no one was in it because at the time I had

1 no idea where the subject had went.

2 **MR. BRYANT:** I believe State's 97 without
3 objection.

4 **MR. O'NEIL:** No objection, Your Honor.

5 (WHEREUPON, State's Exhibit No. 97 is admitted
6 into evidence.)

7 **Q** Can you please tell the jury this location?

8 **A** Yes, sir. This here is Main Street, and again
9 there's Oakland Ave. and right up here is Prescott
10 Road. Right here is the Wash World. I had responded
11 to the Wash World coming south on Main Street and was
12 located in the parking lot here and then headed
13 pretty much east on Prescott trying to locate the
14 vehicle.

15 **Q** As you're trying to locate the gray Lincoln, you were
16 coming down the street, I show you what's been marked
17 State's 96, I believe without objection.

18 **MR. O'NEIL:** No objection, Your Honor.

19 (WHEREUPON, State's Exhibit No. 96 is admitted
20 into evidence.)

21 **Q** Again, if you could help familiarize the jury with
22 this location?

23 **A** Yes, sir. Right here is Cushman Road. Okay. And
24 you've got 277. I was still coming -- Farrow Road
25 which is over here -- coming down Farrow to Cushman.

1 I'm sorry. From Farrow Road to Cushman and then the
2 church. I'm sorry.

3 Q So the Lincoln was right --

4 A Yes, sir. Here is -- Cushman Road is east coming
5 this way and then you've got Roscoe coming down here.
6 This is Gill Creek Church. And right before the
7 bridge and these clump of trees there's a telephone
8 pole. The car was resting facing back towards the
9 church with the passenger's side on the pole. The
10 pole was tilted. If it wasn't for the pole, the
11 vehicle in my opinion would have ended up on 277.

12 Q I approach and show you State's 27, 28 and 29.

13 A Yes, sir.

14 Q Do you recognize those?

15 A Yes, sir. This is the passenger's side of the
16 Kellys' vehicle. This is the interior picture of the
17 driver's side, and this is from the driver's side
18 looking at the rear seats.

19 Q Is this what it looked like when you came up on it?

20 A Yes, sir. It was smoking and the engine was still
21 running.

22 Q And these two are shots of the interior?

23 A Yes, sir. Taken from the driver's side.

24 Q When you came up on the Lincoln, what did you do?

25 A Well, the first thing I did is make sure that there

1 was nobody in it because I had no idea that the
2 subject had left the scene at the time. Once it was
3 cleared I started scanning the Gill Creek Church area
4 to see if there's any witnesses. And that's when I
5 noticed a white in color Chevy Tahoe with all the
6 doors open out in the center of the parking lot.
7 There were some children around there. There were
8 people all over the place running around. And I was
9 trying to secure the vehicle and then secure any
10 other scenes or witnesses that were happening at that
11 same time. And then I found out it was a very fluid
12 situation.

13 Q By fluid, you mean it's ongoing?

14 A There was still calls coming over the radio that the
15 vehicle or the subject was now in a blue taxi cab.
16 Someone was following him. I didn't know who it was
17 at the time. As they were approaching Booth Street
18 or at Booth Street, other units were backing us up,
19 were in route to Booth Street. So at that time my
20 job was to secure the Gill Creek Church area, secure
21 the Kellys' vehicle and identify any other witnesses
22 or victims at the scene.

23 Q Were you able to do that?

24 A Yes, sir.

25 Q And as part of your investigation did you learn that

1 the subject --

2 **MR. O'NEIL:** Objection, Your Honor. Leading.

3 **THE COURT:** Don't lead your witness.

4 **Q** What did you learn during the course of your
5 investigation?

6 **A** I learned -- or while I was there securing the scene,
7 other witnesses and victims came forward. I learned
8 that there were three more victims in the location of
9 the Chevy Tahoe who were the witnesses, victims who
10 stated they had seen --

11 **MR. O'NEIL:** Objection, Your Honor. Hearsay.

12 **MR. BRYANT:** Excited utterance.

13 **THE COURT:** He can testify as to what he found
14 out and what he learned as a result of these
15 conversations.

16 **Q** What did you learn? Not what they said, but what did
17 you learn as a result of your investigation?

18 **A** All right. What I had learned happened in summary at
19 the Gill Creek Church scene was the subject had
20 wrecked the car. From the wrecked car he attempted
21 to --

22 **MR. O'NEIL:** Objection, Your Honor.

23 **THE COURT:** What's the objection?

24 **MR. O'NEIL:** May we approach?

25 (Whereupon, a bench conference is had)

1 Q As part of your investigation, to shorten things, did
2 you learn that the subject wrecked the car?

3 A Yes, sir.

4 Q Did you learn that he had a gun?

5 A Yes, sir.

6 Q Did you learn he then fled that scene in a taxi cab?

7 A Yes, sir.

8 Q And I know that I might have asked you this. But is
9 Gill Creek Baptist Church and this incident location
10 in Richland County?

11 A Yes, sir.

12 Q Court's indulgence. Please answer any questions Mr.
13 O'Neil has.

14 A Yes, sir.

15 CROSS EXAMINATION

16 **BY MR. O'NEIL**

17 Q Officer, just a few questions here.

18 A Yes, sir.

19 Q Basically you responded to 5820 North Main Street,
20 the Wash World, correct?

21 A Yes, sir. I responded there.

22 Q And when you got there, there was no suspect there at
23 that point?

24 A No, sir.

25 Q And then you proceeded from the Wash World to Gill

1 Creek Baptist Church off Cushman, correct?

2 A Yes, sir.

3 Q And when you got there, there wasn't a suspect there
4 either, correct?

5 A No, sir.

6 Q And you didn't take any statements from any
7 witnesses?

8 A I isolated all the different witnesses and victims at
9 the Gill Creek. I distributed the statements but I
10 waited for Investigator Felicia Williams to come up
11 and actually take the statements.

12 Q So investigator Williams actually took the
13 statements?

14 A Yes, sir.

15 Q You didn't show anybody any line-ups or anything like
16 that, did you?

17 A No, sir.

18 Q And you're familiar with this area because it's part
19 of your patrol areas, correct?

20 A Yes, sir.

21 Q And you would agree if you was at the Wash World as a
22 stopping point that Gill Creek Baptist Church is east
23 of the Wash World? Southeast?

24 A Yes, sir.

25 Q And that [REDACTED] is a little further east

1 from the Wash World?

2 **A** It's a little bit more south, because Cushman goes
3 east and then turns back south. I know Booth Street
4 is down there, but that's not in my patrol area.

5 **Q** And if you use the Wash World as the starting point,
6 you would agree that Oakland Avenue and Randall
7 Avenue, that intersection is west of the Wash World?

8 **A** Oakland and Randall is south of the Wash World.

9 **Q** South?

10 **A** Main Street runs north and south. Oakland is a
11 little bit south of it if you use Main Street.

12 **Q** It would be southwest from the Wash World?

13 **A** Yes. Southwest. Yes, sir.

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

15 **THE COURT:** Redirect.

16 REDIRECT EXAMINATION

17 **BY MR. BRYANT**

18 **Q** So based upon your experience and the events of that
19 day and what you were learning, all these events were
20 interconnected?

21 **A** Yes, sir.

22 **MR. O'NEIL:** Objection, Your Honor.

23 **THE COURT:** I'll allow it. Go ahead.

24 **Q** I'm sorry?

25 **A** Yes, sir.

1 **MR. BRYANT:** No further questions.

2 **THE COURT:** Anything? You may come down.

3 **MR. BRYANT:** The State calls Deputy David Unger.

4 DAVID UNGER, after being duly sworn, testifies
5 as follows:

6 **THE CLERK:** Please have a seat, sir. State your
7 full name for the record and please spell your last.

8 **THE WITNESS:** David Unger, U-N-G-E-R.

9 DIRECT EXAMINATION

10 **BY MR. BRYANT**

11 **Q** Deputy Unger, please tell this jury where you work
12 and for how long you've been so employed and some of
13 your background?

14 **A** Good morning. I work for the Richland County
15 Sheriff's Department. I've been employed with them
16 just under six years. I'm currently an investigator.
17 At the time of the incident I was a field training
18 officer. Prior to coming to Richland County I was in
19 the military for eight years as a military police
20 officer; deployed twice, once to Bosnia and once to
21 Kosovo. And prior to that I attended Fosberg State
22 University and obtained my bachelor's degree in
23 political science and justice study.

24 **Q** You said you were deployed to Kosovo?

25 **A** Yes, sir.

1 Q How long was that tour?

2 A Six months.

3 Q And Bosnia?

4 A Yes, sir.

5 Q How long was that tour?

6 A Six months.

7 Q Tell this jury about the day of February 24th, 2007.

8 Were you working?

9 A I was working. I was --

10 Q What were you doing?

11 A I was in the capacity of a field training officer.

12 What we do is we respond to calls that the new

13 employee has to deal with, any call within the

14 county. We're not restricted to an area, just to the

15 actual county itself. So that day we heard a

16 dispatch call out for a barricaded person at 4014

17 Booth Street which is in Richland County. I was

18 commenting that we haven't done any kind of situation

19 like that. So we responded. I believe I was on

20 inbound Two Notch at the time when that call went

21 out.

22 We responded to that location, arrived somewhere

23 between 1:15 in the afternoon. And I had put my

24 trainee -- he wasn't even on the scene. He was in

25 the back with the K-9 unit. And I approached up and

1 made contact with Master Deputy White who at the time
2 was the ranking person. He explained to me that we
3 had a hostage situation. A man with a gun was
4 inside. There was one to four hostages possibly.
5 And when I got on the scene I observed that the City
6 of Columbia had already set up a tight perimeter on
7 the trailer.

8 I sat back and waited for Sergeant Tanner to
9 arrive on the scene. Sergeant Tanner was then the
10 ranking person. He made the determination that we
11 probably need to relieve and/or supplement the City
12 of Columbia on the perimeter and asked any of us that
13 had long rifles, which is an M-16, if anybody is
14 familiar with military terminology, it's an M-16 --

15 Q Let me ask you this. When you said relieve the City
16 of Columbia, at that point whose I guess jurisdiction
17 is it?

18 A Well, Booth Street is in Richland County.

19 Q Okay.

20 A But the City of Columbia had initiated the call
21 because of the carjackings that had occurred and
22 following the complainant who was behind the cab. So
23 they had arrived on the scene and they were already
24 in a perimeter behind or a tight perimeter around the
25 trailer.

1 Q And then when the county gets there, they take over?

2 A Yes, sir.

3 Q And Sergeant Tanner directs you to set up a
4 perimeter?

5 A Yes. He directs myself. At the time it was myself,
6 Lance Corporal -- or I'm sorry. Yeah, it was Lance
7 Corporal Benson at that time and Master Deputy White.
8 We all three had M-16's.

9 Q When you're talking about a perimeter, for those of
10 you who aren't in law enforcement or haven't had
11 military service, explain that for me?

12 A What you have is you have your target which would
13 have been [REDACTED] where you have what we
14 were told was a barricaded subject with a weapon.
15 And what you want to do is you want to get eyes on
16 all four corners of that target which would have been
17 the trailer. So we wanted to have somebody on at
18 least each corner, if not each corner plus the sides.

19 Q And did you and Master Deputy White and Deputy -- or
20 I'm sorry. What was his rank?

21 A It was Lance Corporal at the time.

22 Q Lance Corporal Benson proceed to set up your
23 perimeter?

24 A We did. We went and got our rifles. And Benson was
25 first, and then it was myself and then it was Master

1 Deputy White right behind me. We were in a tight
2 line entering the woods. Lance Corporal Benson was
3 the first, so he took perimeter right at the front
4 right portion in the wood line of the trailer. If
5 you're looking at the trailer from the roadway, Booth
6 Street, it would have been the front right portion.

7 Q And when you're called to this scene, is it your
8 understanding someone is in there with a gun?

9 A Yes, sir.

10 Q And that it is a I guess a fluid situation?

11 A It is a fluid situation.

12 Q And the reason for the long rifles is because
13 somebody is barricaded in a house and has a weapon?

14 A Yes, sir.

15 Q I'm going to hand you State's 39, 40. It looks like
16 41. Let me read that one. 41, 48, 49, 50, 51; and
17 then jumping to 81. If you would flip through those,
18 please, sir, and we'll go through them.

19 A Okay. Yes, sir.

20 Q Do you recognize those?

21 A I do recognize those.

22 Q And if you would, please, sir, step down. Tell this
23 jury what No. 39 is?

24 A No. 39 is, if you're looking from the roadway,
25 there's a driveway in front of the trailer.

1 Q And there is a wood line I believe a little to --

2 A The wood line would be right in this area.

3 Q Okay. State's No. 40, please, sir.

4 A Again, this is again the front of the trailer. Right
5 here, you can start to see the trees right here, and
6 that's where the wood line is. And that van also is
7 going to come into play in just a minute. So you can
8 see a blue, light blue, dark blue van.

9 Q State's 41, is that a better shot of the wood line?

10 A That's a better shot of the wood line. If you look
11 at it, you can actually see that it's all foliage
12 over there. And that's the actual wood line that we
13 would have started coming into, right about there,
14 into the wood line.

15 Q State's 48, now tell this jury, is that the van to
16 which you referred?

17 A That is the van that I referred to. You can see it's
18 parked long ways to the trailer. And then right
19 behind that van there is another van and silver white
20 trailer, and then again here is the wood line.

21 Q State's 49, is this the side of the van closest to
22 the wood line we just showed the jury?

23 A That is the side of the residence right there. If
24 you're looking from the street, it's near the right
25 rear portion of the trailer.

1 Q Starting with the side and then the rear?

2 A Correct.

3 Q This is State's 50. And tell the jury, if you would,
4 please, sir?

5 A This right here is the back of the trailer. And then
6 again you're looking at the right rear but you're
7 just looking from the back. This is the van that is
8 in question, and then right here you can see the
9 corner. You can see that single wide and there is a
10 van.

11 Q Again, this is a shot of the van, the abandoned
12 trailer and the wood line. Tell the jury about that,
13 please, sir?

14 A Again, this is the right rear and then the trailer
15 would go out this way and would be the rear. This is
16 the van right here. This is the wood line that we
17 came in. Up front we came up through that wood line
18 and positioned right here on the van.

19 Benson was already in position in the front in
20 the woods, in a frontal position. Myself and Master
21 Deputy White then approached, crossed this van right
22 here and staged up at the end of the van. I would
23 have been first and Master Deputy White would have
24 been right on my back.

25 The plan was I was going to cross this van and.

1 put myself in a position on this trailer to observe
2 the other trailer, the target trailer. Then Master
3 Deputy White was going to go ahead and go to the
4 other side of this trailer and position himself in
5 the back.

6 Q Now, I know that you cannot tell. But is there a gap
7 between that van and the trailer?

8 A There is. There is about -- if you look at this
9 right here, it's hard to tell from this picture, but
10 there is about I'd say a six to eight-foot gap
11 between the two that we had to cross.

12 Q And you're not -- if I'm correct -- you're not right
13 behind the van. You're set off in the woods?

14 A Yes, sir. We're about -- if you look at this van,
15 we're probably about five or six feet behind the van
16 and also back off the van in the wood line.

17 Q And finally State's 81, if you could tell the jury?

18 A If you're looking at the trailer and you're inside,
19 this is that bay window on the right, if you're
20 looking at the trailer from the front on the right
21 side, this is the bay window; and that's a better
22 picture of that van itself from the bay window.

23 Q If you'll re-take your seat for me, please, sir. I'm
24 going to approach with State's No. 93 and 94. And
25 again, if you could step down and grab the easel.

1 And I believe State's 93 and 94 without objection?

2 **MR. O'NEIL:** No objection.

3 (WHEREUPON, State's Exhibit No. 93 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 94 is admitted
6 into evidence.)

7 **Q** And it's a little bit blurry. But I believe you
8 testified to some of the locations. Please tell the
9 jury, describe that for the jury?

10 **A** This right here is Booth Street and this trailer
11 right here is [REDACTED]. That would be the
12 target trailer. This is the wood line that I'm
13 describing that we went into right here. You can't
14 see it in this picture because there's foliage. But
15 that van is right here, and then the trailer would be
16 right here. I'm trying to make out some different
17 contrasts. But you can't see it. We don't even know
18 if it was there during this picture. But the van
19 would be right there and the target trailer would be
20 right there.

21 **Q** Tell the jury, if you would, you're coming up to set
22 the perimeter in the woods?

23 **A** That's correct. We come in right here and again
24 Benson puts himself down here, about this far out in
25 the wood line in the frontal position with some

1 cover. I'm sure it was a tree. I don't know exactly
2 his position. Myself and Master Deputy White move
3 up. We're right here. The van is up here. We're
4 right off here and we're getting ready to cross the
5 open area between the van and the trailer.

6 Q And again, how big of a space is it between the van
7 and the trailer?

8 A Between six and eight feet.

9 Q And as you're coming through, if you would; I'll move
10 this back. But if I am -- for purposes of this
11 display, if I am Deputy White, where am I in
12 relationship to you as you're heading through?

13 A You're going to be right on my back.

14 Q Okay.

15 A You know, almost arm's reach where you can touch each
16 other.

17 Q And you're doing that why? In case something
18 happens?

19 A Correct.

20 Q Okay. And so as the two of us are walking between
21 the van and the trailer, what happens?

22 A We hear a shot and then I hear what appears to be the
23 whiz of a bullet. If anybody has ever been in the
24 woods when a bullet is fired and you can hear the
25 bullet going through the air in the woods, it's

1 because the foliage and the cover and it almost makes
2 an echo out of it.

3 Q Could you tell where that bullet, from what window,
4 either the bay window or the two windows or the door
5 in the back; could you tell where it was coming from?

6 A No, sir, I could not.

7 Q I show you what has been marked as State's 94, I
8 believe without objection. Is that another view of
9 Booth Street?

10 A This is another view of Booth Street. And again,
11 this is the trailer on Booth Street right here. So
12 you see this is Booth Street and that's the target
13 trailer.

14 Q How do you know that the shot wasn't going towards
15 the front?

16 A Because of the, for lack of better words, lack of
17 professional terminology, the whiz. When it's going
18 through the wood line that I'm in, you can hear the
19 whiz going through there in my wood line.

20 Q Thank you. If you'll please take your seat.

21 A Sure.

22 Q After this shot what did you do?

23 A Immediately jumped back, got into the prone position.
24 I then low crawled backwards to a -- there was a
25 large tree that was laid down. I got behind that

1 tree. And I sat there for about an hour until I was
2 relieved by an SRT member.

3 Q And again for those of who don't know, SRT stands for
4 ...?

5 A Special Reaction Team.

6 Q After you were relieved, what did you then do?

7 A I then went back, stayed on the scene until it was
8 over on the outer perimeter. I had no role. And
9 then about -- I guess it was about 18:23 which is
10 6:23 in the evening, I gave a statement to
11 investigators.

12 Q Do you remember what time you responded?

13 A I responded some -- I don't remember the exact time.
14 It was somewhere around 1:00 in the afternoon, 1 p.m.

15 Q Do you remember when you were setting up your
16 perimeter?

17 A It was somewhere around 13:39 I believe, which is
18 1:39 in the afternoon.

19 Q And it was around that time that you heard --

20 A Yes, sir.

21 Q -- the shot?

22 A I believe I called shots fired over the radio.

23 Q This location, this [REDACTED], was that in
24 Richland County?

25 A Yes, sir. Richland County.

1 Q After you left and were debriefed, did you have any
2 further involvement?

3 A I did not, no.

4 Q Please answer any questions Mr. O'Neil has.

5 MR. O'NEIL: May it please the Court, Your
6 Honor?

7 THE COURT: Yes, sir.

8 CROSS EXAMINATION

9 BY MR. O'NEIL

10 Q It's Investigator Unger, is it not?

11 A Yes, sir.

12 Q But back then it was Deputy Unger?

13 A Lance Corporal.

14 Q Lance Corporal Unger?

15 A Yes, sir.

16 Q You said when you got to the scene and set up the
17 perimeter it was around about 1:15?

18 A Give or take. I don't have the exact times.

19 Q And you identified what's been marked as State's
20 Exhibit No. 39. Do you remember that?

21 A Yes, sir.

22 Q And this is the front of the residence at 4014?

23 A It is.

24 Q And this is not where you were at?

25 A No, sir.

1 Q And this is not where you heard a whiz of any
2 bullets?

3 A No, sir.

4 Q That's in front of you?

5 A Yes, sir.

6 Q You were on the right side headed towards the rear.
7 I think that's indicated in State's 48?

8 A Correct.

9 Q That's where you were. And you were actually not --
10 you say you weren't in front of this?

11 A No, sir. I was on the back side of it.

12 Q You were actually in the wood line back in there?

13 A That is correct.

14 Q Back in there in the wood line?

15 A Correct.

16 Q What did you have on that day? Do you remember?

17 A I had on a regular deputy's uniform, black BTU pants,
18 black shirt with my utility belt and vest.

19 Q And that's pretty dark colors, correct?

20 A It is.

21 Q And you wouldn't want to have on loud colors,
22 especially if you were trying to come through this
23 wood line undetected, correct?

24 A That's correct. It's my duty uniform. It's what a
25 wear. At the time it's what I would wear every day.

1 It doesn't change with the situation.

2 Q And those dark colors would have helped you blend
3 into this wood line?

4 A Well, it wouldn't help like camouflage, but, I mean,
5 it's --

6 Q It would be better than loud colored clothing in the
7 wood line?

8 A Sure.

9 Q Okay. And I'm going to show you what's been marked
10 State's Exhibit No. 50. Correct?

11 A Yes, sir.

12 Q That shows in part some of the back windows of the
13 trailer, correct?

14 A It does, yes.

15 Q And you would agree that you were positioned
16 somewhere behind the van in the wood line?

17 A No. I was crossing the van to the trailer. So I
18 would have been in that open spot where that van and
19 trailer are open.

20 Q And you would agree that the only window that would
21 have been facing you would have been the bay window
22 on the side, correct?

23 A Facing me? I mean, absolutely facing me, yes, would
24 be the bay window on the side.

25 Q Because these windows in the back would have been

1 facing the other opposite direction. Is that
2 correct?

3 A Not opposite. They would have been facing the
4 90-degree.

5 Q If you are sitting right there where the van would
6 have been --

7 A Then they would be right here at the 90-degree.

8 Q The bay window, if I would have been the bay window
9 facing you --

10 A That's straight at me.

11 Q Yeah.

12 A Right.

13 Q And these windows would have been facing this way?

14 A 90-degree.

15 Q Yeah.

16 A Correct.

17 Q So these windows would have been facing this way?

18 A Yes, sir.

19 Q Okay. Like I said, I think Mr. Bryant said in
20 State's Exhibit No. 49. That's the bay window we're
21 referring to?

22 A Yes, sir.

23 Q And this would have been the window that would have
24 been facing directly towards the bay window?

25 A Yes.

1 Q That would have been would have been facing directly
2 towards you. Now, you say you heard the whiz of a
3 gunshot, correct?

4 A Yes, sir.

5 Q You didn't see, actually see anybody shooting at you,
6 did you?

7 A I did not. No, sir.

8 Q And actually, like I said, you would have been in the
9 actual wood line itself, correct?

10 A That's correct.

11 Q And you would have been trying to go undetected,
12 correct?

13 A Well, I was crossing an open area. I don't know how
14 undetected that is.

15 Q So your goal is not to be detected, is it?

16 A My goal was to get onto the perimeter and position
17 myself --

18 Q I'm showing you --

19 A -- behind cover.

20 Q -- what's Exhibit No. 81.

21 A Yes, sir.

22 Q Now, you would have been behind this van?

23 A I would have been actually crossing that open area
24 between the van and the trailer.

25 Q So you would have been out here somewhere?

- 1 **A** That's correct.
- 2 **Q** You would have been out here somewhere?
- 3 **A** That's correct.
- 4 **Q** And this is the view from inside the bay window,
5 correct?
- 6 **A** Yes, sir.
- 7 **Q** And this is the only window that would have been
8 facing you?
- 9 **A** Directly facing the front.
- 10 **Q** And you would have been out here somewhere, correct?
11 Not in the eyesight of this window?
- 12 **A** Well, I mean, you're looking at a single shot of the
13 window. It's a big window. You can see almost
14 180 degrees through it.
- 15 **Q** But if you were standing right in front of the
16 window, you would admit that you would be out of the
17 sight of this window if you were standing directly in
18 front of this window?
- 19 **A** Sure.
- 20 **Q** You would have been over here somewhere out of sight
21 if you were standing directly in front of this
22 window?
- 23 **A** Yes.
- 24 **Q** Not in front of this van but behind the van?
- 25 **A** Correct.

1 Q In the woods?

2 A Correct.

3 Q And you say you actually wrote a statement in this
4 case, correct?

5 A I did.

6 Q And I guess especially now as an investigator now,
7 you understand the importance of statements, correct?

8 A I do.

9 Q And you understand that when you write statements
10 it's important to try to be as thorough and detailed
11 as possible, correct?

12 A That is correct.

13 Q Because this incident took place over two years ago?

14 A That is correct.

15 Q Sometimes your memory fades?

16 A That's -- sure.

17 Q And especially as a police officer, you're going to
18 be involved in several other cases?

19 A Well, not ones like this. But, yes.

20 Q In these past two years you've probably been involved
21 in hundreds of cases. Is that correct?

22 A Yes.

23 Q And in your statement you didn't mention anything
24 about hearing any window breaking or any glass
25 breaking, did you?

- 1 **A** No, I did not.
- 2 **Q** You didn't hear any glass breaking?
- 3 **A** No, I did not.
- 4 **Q** Okay. And when you were approaching into the wood
- 5 line, were you making any kind of loud noises or
- 6 anything like that?
- 7 **A** Whatever noises you would make as you crunch on
- 8 foliage in a wooded area. So not loud; but, yes,
- 9 heard.
- 10 **Q** And you have military training, correct, too?
- 11 **A** I do have military training.
- 12 **Q** And that military training, you would learn how to
- 13 try to move about in a manner --
- 14 **A** As quiet as possible.
- 15 **Q** -- as quiet as possible, correct?
- 16 **A** Yes, sir.
- 17 **Q** And this bay window would have been down? Was it
- 18 down at least at this point, correct?
- 19 **A** I don't know. They were what appeared to be closed,
- 20 yes.
- 21 **Q** The windows were closed?
- 22 **A** I don't know if they could even open.
- 23 **Q** And do you know there were -- there were never any
- 24 projectiles recovered, were there?
- 25 **A** I don't know. I wasn't part of the forensics.

1 **MR. O'NEIL:** Okay. Beg the Court's indulgence.
2 No further questions, Your Honor.

3 **MR. BRYANT:** Briefly.

4 **THE COURT:** Redirect.

5 REDIRECT EXAMINATION

6 **BY MR. BRYANT**

7 **Q** Were you and Master Deputy White the only law
8 enforcement personnel out there?

9 **A** No, sir.

10 **Q** The trailer is surrounded, is it not?

11 **A** That is correct.

12 **Q** And Mr. O'Neil asked you about the bay window and
13 looking straight on. You don't have to shoot
14 straight on, do you?

15 **A** No.

16 **Q** You can shoot out of any one of these openings,
17 including the door?

18 **A** Correct. I mean, the bay window itself is a bay
19 window. So you have an absolute left/right view of I
20 would say maybe even over 180 degrees. The back
21 windows, all you have to do is if somebody opens your
22 back window, you can see any way and point any way
23 you want.

24 **Q** And State's 49 shows bay windows, the other two
25 windows and a door?

1 **A** Yes, sir.

2 **MR. BRYANT:** I have no further questions.

3 **MR. O'NEIL:** Briefly, Your Honor.

4 **THE COURT:** Sure.

5 RE CROSS EXAMINATION

6 **BY MR. O'NEIL**

7 **Q** This bay window, State's No. 49, --

8 **A** Correct.

9 **Q** -- it has only one hole in this bay window, correct?

10 **A** That's correct.

11 **Q** And this pink substance around that is holding this
12 bay window, correct? There's a pink substance?

13 **A** I don't know. Let me take a look. Yeah. There is
14 some substance. I don't know what that is.

15 **Q** But there's a pink coloring, a color, a substance
16 around the window that looks pinkish, essentially?

17 **A** I'm red/green deficient. So there is a substance
18 around it. I don't know the color.

19 **Q** A colored substance, correct?

20 **A** Correct.

21 **Q** Are you familiar with the flash bangs and things used
22 in a --

23 **A** I'm not. I'm not an SRT member.

24 **Q** But you are aware that they used some flash bangs in
25 this residence?

1 **A** Yes. I am aware of that.

2 **Q** To I guess introduce some tear gas into the
3 residence?

4 **A** They did do that also, yes.

5 **Q** And you said there were a lot of other officers out
6 there that day?

7 **A** That's correct.

8 **Q** And those officers had firearms as well?

9 **A** Had firearms?

10 **Q** Yes.

11 **A** Yes, sir.

12 **MR. O'NEIL:** No further questions.

13 **THE COURT:** Thank you very much. You may come
14 down. May this witness be excused?

15 **MR. O'NEIL:** No objection, Your Honor.

16 **THE COURT:** Without objection. Next witness.

17 **MR. BRYANT:** Thank you, Your Honor. The State
18 calls Master Deputy White.

19 NATHAN WHITE, after being duly sworn, testifies
20 as follows:

21 **THE CLERK:** Please have a seat there, sir.
22 State your full name for the record.

23 **THE WITNESS:** Master Deputy Nathan White.

24 DIRECT EXAMINATION

25 **BY MR. BRYANT**

1 Q Deputy White, please give this jury your employment
2 history and some of your background?

3 A I'm currently a master deputy with the Richland
4 County Sheriff's Department. I've been here just shy
5 of eight years. Before that I spent four years in
6 the Army. I was a military police officer stationed
7 at Ft. Jackson most of the time.

8 Q Were you employed with the Sheriff's Department on
9 February 24th, 2007?

10 A Yes, I was.

11 Q What were some of your duties?

12 A At that time I was the assistant shift supervisor.
13 And my corporal was on vacation that day, so I was
14 the shift supervisor that day. We also respond to
15 calls for service in assisting citizens of the
16 community as much as possible.

17 Q Tell this jury how you got to [REDACTED]?

18 A We were notified by dispatch of several carjackings
19 in the area of North Main to Prescott down Cushman
20 Road. And we were notified of a Blue Ribbon taxi cab
21 that was headed -- that was on -- that had been
22 carjacked that was on Booth Street. And we were
23 responding out there to assist the City.

24 Q Because that's County jurisdiction?

25 A Yes, it was.

1 Q Tell the jury what you did when you got there?

2 A I made contact I believe it was with City of Columbia
3 Lieutenant Sharp who stated that the subject had
4 carjacked the Blue Ribbon taxi cab, had went into the
5 house. He was armed and had one to four hostages
6 inside the house, that they did not chase him in the
7 house. So all's (sic) they could do was hold a
8 perimeter until we arrived. At that point in time I
9 contacted as many County officers as I could to have
10 them respond to the scene so we could start relieving
11 the City and taking over jurisdiction of the
12 incident.

13 Q Do you remember about what time you got there?

14 A I got there at around 12:30.

15 Q What did you do when you got there?

16 A The first thing I did is I made contact with
17 Lieutenant Sharp, like I said, and started arranging
18 things as far as the County side goes, getting more
19 County officers there, and also made contact with
20 Sergeant Tanner who was my immediate supervisor and
21 was off that day.

22 Q And I believe that you and Deputy Unger then were
23 instructed to set up a perimeter?

24 A Once Sergeant Tanner arrived on the scene, yes.

25 Q And did you do that?

1 **A** Yes, we did.

2 **Q** Were you also armed with a long rifle?

3 **A** Yes. An M-16. Yes, sir.

4 **Q** And I believe that Deputy Unger has already talked
5 about some of this. But I'm showing you State's 41.

6 **A** Yes. That would be the view of [REDACTED]
7 from Booth Street looking from the left corner.

8 **Q** And you all entered the wood line?

9 **A** On the wood line that you see in the background.

10 **Q** Okay. Tell the jury -- because I know that you were
11 with Deputy Unger -- but tell the jury what you then
12 did?

13 **A** Once we were instructed to go into the wood line, we
14 lined up in a really tight line formation. It was
15 Lance Corporal Benson, Lance Corporal Unger, then
16 myself. As Lance Corporal Benson was getting in
17 position, he was the very front right person to take
18 position, the very first person to go in position.
19 So Lance Corporal Unger and I covered Corporal Benson
20 while he went in position, and then Lance Corporal
21 Unger and I continued on to the next position which
22 was just inside the wood line behind the light blue
23 van I believe it was.

24 **Q** Showing you State's 51, --

25 **A** Yes, sir.

1 Q -- does that look familiar?

2 A Yes, sir. That is the blue van that we were coming
3 behind in the wood line.

4 Q You're coming behind the van. Is that to make sure
5 you have cover?

6 A Yes, sir.

7 Q And where were you headed?

8 A Lance Corporal Unger was going to take position here
9 on the back corner of this trailer and we had to
10 cross this open area. I was continuing on to the
11 other side of this trailer where I could come around
12 and have a view from the rear of the trailer, the
13 mobile home itself.

14 Q So the goal was to set up a person kind of along the
15 way?

16 A Yes.

17 Q As you were attempting to deploy at those positions,
18 tell the jury what happened?

19 A As soon as Lance Corporal Unger and I stepped into
20 the semi open area between the van and the trailer,
21 at least one shot; I thought I heard more, but it
22 could have been an echo, come (sic) ringing out from
23 the trailer. I thought I heard the impact of a
24 round. At that point in time Lance Corporal Unger
25 dropped to the prone position and I curled around and

- 1 took cover behind the old trailer behind --
- 2 Q Showing you State's 50, --
- 3 A Mm-hmm (affirmative).
- 4 Q -- does that show the gap of where you all were
- 5 heading?
- 6 A Yes.
- 7 Q And that old trailer, as you referred to it, is that
- 8 where you eventually took cover?
- 9 A Yes.
- 10 Q And I know that Deputy Unger has also referred to the
- 11 prone position The prone position is what, if you
- 12 can describe that?
- 13 A You're laying flat on your stomach making yourself as
- 14 tight to the ground as you possibly can to make
- 15 yourself the smallest target possible.
- 16 Q Showing you State's 49, is that the view of the side
- 17 and back of the trailer?
- 18 A Yes.
- 19 Q Do you know where the shot came from?
- 20 A Not exactly.
- 21 Q Somewhere inside or the rear?
- 22 A Yes.
- 23 Q Now, as we were talking, this place is I guess abuzz
- 24 with activity?
- 25 A Oh, yes.

1 Q There are police officers and deputies all around?

2 A Oh, yes.

3 Q When you heard the shot, fell to the prone position,
4 what did you do next?

5 A I maintained my cover behind the corner of the
6 trailer until we didn't see any more activity for a
7 while, and then I proceeded back around to my
8 original destination at the back of the corner of the
9 trailer.

10 Q I show you what has been entered as State's 93. If
11 you would stand up. Are you familiar with this
12 location?

13 A Yes. This is [REDACTED].

14 Q I believe that dark object, is that the trailer?

15 A Yes, sir.

16 Q And you all were attempting to set up your perimeter
17 back in this area?

18 A Yes, sir.

19 Q And you're going back into the woods I guess. Is
20 that for cover?

21 A Yeah. We were using the woods as cover as best as we
22 could. It was a nice sunny day. You could pick us
23 out pretty easy with a nice bald white head just
24 walking through the woods. We came behind the van.
25 You can barely see this blurry van right here. We

1 came in right here. And this is when we stepped out
2 right here. And I was heading to the trailer which
3 was right here. I was going to go around to the back
4 side of that trailer. And then we stepped out right
5 here into this open area.

6 Q And again, it's not like we're talking you all were
7 50 yards apart. You and Deputy Unger are together?

8 A Within two or three feet where I could have reached
9 out and grabbed the back of his collar with my hand.

10 Q Okay. Were you debriefed after this situation?

11 A Yes, I was.

12 Q After you were debriefed, what did you do? Was that
13 the end of your involvement?

14 A That was the end of my involvement in this case.

15 Q The Court's indulgence. We talked about this
16 briefly. But you arrived at what time? Do you
17 remember exactly?

18 A It was around 12:30, within a couple of minutes.

19 Q Do you remember when you heard the first shot in your
20 direction?

21 A I believe it was around 1:30. I'm not exactly sure
22 what time it was.

23 Q Were you looking at your watch when this occurred?

24 A I didn't have a watch at the time.

25 Q No further questions. Please answer any questions

1 Mr. O'Neil has.

2 CROSS EXAMINATION

3 **BY MR. O'NEIL**

4 **Q** Deputy White, now, when you arrived on the scene that
5 day, the City of Columbia law enforcement was already
6 there?

7 **A** Yes, sir.

8 **Q** And then at some point Richland County sheriff
9 officers arrived?

10 **A** Yes, sir.

11 **Q** And the City of Columbia and Richland County, two
12 different agencies?

13 **A** Yes, sir. Two different departments.

14 **Q** Probably do things two different ways?

15 **A** Yes, sir.

16 **Q** Now, when you got there, who was in charge of the
17 whole operation?

18 **A** When I arrived?

19 **Q** When you arrived.

20 **A** Because the incident location was in the city, I mean
21 in the county, I incidentally became in charge of the
22 incident location until someone higher ranking than
23 me arrived.

24 **Q** So you all were in the process of trying to I think
25 rotate some of the City people out?

1 **A** Yes.

2 **Q** And beg the Court's indulgence here, Your Honor. And
3 it's your testimony here today that -- I'm going to
4 show you what's been marked as State's Exhibit
5 No. 50.

6 **A** Yes, sir.

7 **Q** It's your testimony here today that you were
8 inbetween the light blue van and the white trailer
9 when you heard the shot?

10 **A** Yes, sir.

11 **Q** So you were inbetween this van and the white trailer
12 when you heard a shot?

13 **A** Yes, sir.

14 **Q** And did you hear one shot, two shots or three shots?

15 **A** I believe I heard -- at the time I thought I heard
16 more, but it could have been an echo.

17 **Q** A number of things?

18 **A** When you get shot at, your perception narrows. Your
19 hearing will start to close in on you. Your sight
20 will go into tunnel vision. It's just an adrenaline
21 dump and it's your body going into preservation mode.

22 **Q** But it's your testimony today that you think you only
23 heard one shot. That's --

24 **A** I'm not sure. I heard at least one.

25 **Q** So your testimony today is that you heard at least

1 one?

2 **A** Yes.

3 **Q** You don't know how many shots you heard?

4 **A** No.

5 **Q** And you gave a statement on the particular day as
6 well, correct?

7 **A** Yes, sir.

8 **Q** And as law enforcement, you know the importance of
9 statements, correct?

10 **A** Yes, sir.

11 **Q** You understand they have to be detailed?

12 **A** Yes, sir.

13 **Q** And you try to be accurate?

14 **A** Yes, sir.

15 **Q** And you gave the statement I think probably about
16 five hours after this happened? Maybe six hours?

17 **A** It was about five hours, five to six hours. It was
18 about -- well, no. About four hours.

19 **Q** And that's when it would have been fresh in your
20 mind, correct; fresher in the day?

21 **A** Yes and no.

22 **Q** It would have been about four hours after it
23 happened?

24 **A** Yes, sir.

25 **Q** And today it's over two years since it happened?

1 **A** Yes, sir.

2 **Q** Okay. And you say, your testimony you gave us today
3 is that you were in this gap when you heard a shot
4 being fired?

5 **A** Yes, sir.

6 **Q** And you remember writing this statement, correct?

7 **A** Yes, sir.

8 **Q** In the statement you said: "Once I moved between the
9 van to behind the abandoned trailer is when I heard a
10 shot being fired." Is that correct?

11 **A** It was while I was moving from the van to the
12 abandoned trailer is when I heard the shot.

13 **Q** I understand.

14 **A** I'm trying to find in the statement where you're
15 saying I said that.

16 **Q** It's right in the middle of the big paragraph there.

17 **A** Yes. "Once I moved out from behind the van is when
18 the shot occurred."

19 **Q** And you signed this statement, correct?

20 **A** Yes, I did.

21 **Q** And the words in the statement says: "Once I moved
22 from behind the van to behind an abandoned trailer
23 the shots were fired." Correct?

24 **A** "Once I moved from behind the van."

25 **Q** To --

1 **A** To. That's where I was heading, towards the trailer,
2 when the shot rang out.

3 **Q** But that's not what your statement says, is it?

4 **A** That is what it says.

5 **Q** Read your statement.

6 **A** "Once I moved from behind the van to the abandoned
7 trailer the shots were fired."

8 **Q** "Once you moved from behind the van to the" --

9 **MR. BRYANT:** Your Honor.

10 **Q** Correct?

11 **MR. BRYANT:** He's harassing him. He's read it.
12 He's answered it.

13 **THE COURT:** Overruled. Go ahead.

14 **Q** That's what your statement says?

15 **A** To, moving to, going to a location.

16 **Q** No. I'm not asking you what your statement says.

17 **A** It says to. Move to. I'm going to a location.

18 **Q** But read that.

19 **A** "Once I moved from behind the van to an abandoned
20 trailer the shots were fired."

21 **Q** The shots were fired?

22 **A** Once I moved to. I'm going to a location.

23 **Q** I'm not asking you to explain your sentence. I'm
24 asking you what you said it says?

25 **A** Well, that's what it says.

1 Q It says: "Once I moved from behind the van to behind
2 an abandoned trailer shots were fired"?

3 A That's what it says.

4 Q Okay. And you said today you're not exactly sure
5 where the shots were coming from, correct?

6 A They were coming from inside the house, the trailer.

7 Q But you just testified on direct that --

8 A I was not sure exactly where they were coming from
9 inside. I could tell they were from inside the
10 trailer.

11 Q But you're not exactly sure where the shots were
12 coming from, correct?

13 A No.

14 Q And you didn't recover any projectiles, did you?

15 A No. That's not my job to recover any evidence like
16 that.

17 Q And you remember in your statement back then you say
18 you heard two or three gunshots, correct?

19 A Yes, sir.

20 Q But today your testimony is you're not sure how many
21 gunshots you heard?

22 A Like I said, it could have been an echo. There are
23 multiple things that you go into when you're shot at
24 having adrenaline dump like that. Your senses, your
25 vision narrows down and your hearing will fail on

1 you.

2 **Q** And neither you nor Deputy White (sic) were hit by
3 any of those shots?

4 **A** No. I was not.

5 **MR. O'NEIL:** Beg the Court's indulgence. No
6 further questions, Your Honor.

7 **THE COURT:** Redirect?

8 **MR. BRYANT:** No, sir.

9 **THE COURT:** All right. You may come down.
10 Thank you very much. May this witness be excused?

11 **MR. O'NEIL:** No objection, Your Honor.

12 **MS. CAMPBELL:** May it please the Court?

13 **THE COURT:** Yes, ma'am.

14 **MS. CAMPBELL:** The State calls Jamine Leslie.

15 JAMINE LESLIE, after being duly sworn, testifies
16 as follows:

17 **THE CLERK:** Please have a seat there. State
18 your full name for the record. Please spell your
19 first and last.

20 **THE WITNESS:** My name is Jamine Leslie. That's
21 J-A-M-I-N-E, L-E-S-L-I-E.

22 DIRECT EXAMINATION

23 **BY MS. CAMPBELL**

24 **Q** Ms. Leslie, where are you employed?

25 **A** I'm employed with Post Trauma Resources here in

1 Columbia.

2 Q And what do you do at Post Trauma Resources?

3 A I am a clinical social worker which is another name
4 for a therapist.

5 Q Will you tell this jury a little bit about your
6 education and your training?

7 A I have a master's degree in social work from the
8 University of South Carolina. Beyond that I took a
9 licensing exam to be licensed at the master's level,
10 a licensed master's social worker. That's the
11 beginning level license for South Carolina. Now,
12 beyond that what I did was I did two years of
13 clinical supervision, took an additional test, and as
14 of March of 2006 I became licensed as a licensed
15 independent social worker clinical practice, which
16 basically means that I can provide mental health
17 treatment in a private setting for people who request
18 that service.

19 Q Have you been qualified before as an expert in the
20 field of psychotherapy or as a therapist?

21 A I have.

22 Q With specialization in child sexual abuse?

23 A Yes.

24 Q Sexual trauma?

25 A Yes.

1 Q Post traumatic stress disorder?

2 A Yes.

3 Q And that's been in the courts in South Carolina. Is
4 that correct?

5 A It has. Both family and criminal courts.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer her as an expert in psychotherapy with
8 expertise in those areas.

9 THE COURT: Any voir dire or objection?

10 MS. SINGLETARY: Yes, Your Honor.
11 Independently.

12 THE COURT: All right.

13 VOIR DIRE EXAMINATION

14 CROSS EXAMINATION

15 BY MS. SINGLETARY

16 Q Good morning. How are you today?

17 A Good morning.

18 Q You went through some of your educational background.

19 A Mm-hmm (affirmative).

20 Q Could you tell me about any other specific courses or
21 any other type of training that you've had
22 specifically as it deals with sexual assaults?

23 A Okay. I've had that in a number of areas. At this
24 point my continuing ed specifically focusing on
25 trauma and/or sexual trauma numbers to more than 70

1 hours. I also deliver training on those areas as
2 part of my job. In my current position at Post
3 Trauma Resources I provide training, but also prior
4 to coming to Post Trauma Resources I was the clinical
5 director for Sexual Trauma Services of the Midlands
6 which is our area of rape crisis network location,
7 and I was the clinical director there. So I provided
8 training, went to training and also was the overseer
9 of other clinic services that were provided in that
10 agency.

11 Q And you don't actually physically examine a person,
12 do you?

13 A Like a medical exam?

14 Q Yeah. A medical exam.

15 A No.

16 Q What did you say your official title was again?

17 A My title? My licensure?

18 Q Yes.

19 A Licensed independent social worker, clinical
20 practice.

21 Q And how many times have you testified before? It's
22 just an estimate. You don't have to be exact.

23 A A dozen. A dozen or so.

24 Q Okay. And all dozen of those times, were you
25 qualified as an expert every time?

1 **A** All but one.

2 **Q** Okay. All but one. Your Honor, I have no objections
3 to her being qualified. However, I would like to
4 limit her testimony to clinical -- I'm going to
5 probable say it wrong -- psychology, sociology. The
6 solicitor is trying to have her tendered as an expert
7 in --

8 **MS. CAMPBELL:** Objection, Your Honor.

9 **THE COURT:** You can object. I'm going to
10 qualify her as offered, and you can object if
11 sometimes you think she is going beyond her field.

12 **MS. SINGLETARY:** Thank you, Your Honor.

13 **THE COURT:** You may proceed.

14 DIRECT EXAMINATION

15 **BY MS. CAMPBELL**

16 **Q** Ms. Leslie, as a therapist working for victims of
17 sexual trauma and other traumas as well, tell this
18 jury basically when you meet with a client what
19 you're trying to assess or to ultimately help them
20 with?

21 **A** During the initial session our primary goal is to
22 gather background information about the client, about
23 their victimization and about their current level of
24 functioning. Typically by the time a client reaches
25 our office it has been some period of time, be it

1 days, weeks or months since the initial incident of
2 trauma. And so we begin by finding out information
3 about how old are they, where do they work, medical
4 information. Do they have any medical issues that
5 may impact their recovery. Are they taking any
6 medications. Because certainly that can influence
7 how our body works as a whole. And then we move from
8 that to identify potential support systems within the
9 clients' world and find out additional information
10 from the client about what exactly the experience of
11 the trauma was like for them.

12 At that point we enter a phase of finding out
13 about related symptoms. When people experience a
14 trauma, very often there is an array of symptoms that
15 accompanies that, beginning sometimes days or even
16 weeks after the traumatic event. For people who do
17 not receive treatment in the initial period of time
18 and do not have adequate support or do not have an
19 opportunity to work through this unexpected event
20 that has happened to them, very often these symptoms
21 can linger for some time. And so it's very important
22 to get an idea from the client what type of symptoms
23 they are dealing with currently as well as what type
24 of symptoms they may have experienced immediately
25 after the traumatic event.

1 Q And you just mentioned when you were explaining it to
2 the jury that not every sexual assault victim no
3 matter how traumatized is going to immediately seek
4 help from a therapist such as yourself?

5 A Certainly.

6 Q Why is that?

7 A Well, when someone experiences a trauma, when someone
8 experiences either a situation where they feel as
9 though they have lost control over what happens to
10 them or is in a situation where they may fear they
11 are about to die, very often there is a common
12 constellation of symptoms that results from that.

13 **THE COURT:** Just hold it. Mr. Broome, you all
14 hold it down, please.

15 A There is a constellation of symptoms that tends to
16 appear following that. Now, not everyone gets the
17 same symptoms. The type of symptoms that may result
18 can be based on a person's overall level of
19 functioning. It can be based on other stressors in
20 their life. It can be based on a previous history of
21 trauma, whether there was one or whether there was
22 not one. And there are many other things that impact
23 that. But those symptoms tend to kind of present
24 themselves in two almost opposite types of
25 presentation.

1 On one side we have kind of an anxiety driven
2 response. Those could be things like extreme anger,
3 crying for what appears like; you know, sometimes
4 appears like no reason, being fearful, being very
5 jumpy, intrusive thoughts which is kind of what most
6 people call flashbacks that maybe that plays in their
7 head over and over again.

8 Sometimes on that anxiety side you have a lot of
9 difficulty sleeping or perhaps nightmares if you do
10 sleep. These would be the types of symptoms when you
11 check your, we call it hypervigilance, but it's where
12 you check your windows and doors and just cannot bear
13 the reminders of the response. You know, we call it
14 a trigger. A trigger is something that triggers
15 anxiety in you.

16 For this client in particular, some of the
17 triggers she mentioned were for the first few months
18 after the assault were her home itself was a trigger
19 for her. The court process is a tremendous trigger
20 for her. And that's how she found herself at my
21 office. And looking at cabs were a big trigger for
22 her. And so the anxiety driven response can be very
23 unpredictable and very uncomfortable.

24 Now, on the flip side of this it's also very
25 normal to have some avoidance or numb type symptoms.

1 These would be things like just kind of feeling
2 detached, feeling like the world is kind of going on
3 there and it's not the same as it used to be before.
4 Sometimes people may sleep a lot, kind of that
5 response of checking out so you don't have to feel
6 the way you feel.

7 There can be depressed mood in that
8 constellation of symptoms, and there can be avoidance
9 of reminders, avoidance of things that normally would
10 have brought you pleasure. And there are many more
11 symptoms, but those are kind of the things that we
12 typically see in someone who has experienced a
13 traumatic event.

14 **Q** And as you mentioned when you were talking about it,
15 you actually met with Ms. Deborah Ann Simmons who is
16 the victim in this case?

17 **A** I did. On September 18th, 2008.

18 **Q** Tell this jury what information you first got and
19 then what assessments you made of Ms. Simmons?

20 **A** At that time Ms. Simmons presented for her initial
21 appointment with her husband and provided
22 information. She had been referred because of the
23 increase in symptoms that she had experienced in
24 anticipation of the trial date which at the time was
25 coming pretty soon and then I think apparently had

1 been postponed until this date. But Ms. Simmons came
2 in and explained a little bit about what her
3 experience had been like, about her experiences of
4 being fearful for the children and trying to make
5 sure the children got out of the house safely and
6 then her experience of just being so overwhelmed with
7 the idea that she was in danger and that she felt as
8 though she had no control over what happened or, you
9 know, she went into a great deal of detail about
10 just, you know, the thought process of trying to make
11 sure that everybody stayed safe, including herself,
12 even though this unpredictable situation was going on
13 around her.

14 **Q** And did she present with certain problems, I believe
15 anxiety or depression?

16 **A** Certainly. At the time the presenting problems that
17 I noted were increased anxiety, depressed mood and
18 stress over upcoming court hearing. Additional notes
19 that I made were that she was experiencing anxiety
20 and tension, confusion and mixed feelings, excessive
21 worry and apprehension, fatigue and concentration,
22 irritability, anger, restlessness and being on edge.

23 **Q** And in your experience as a psychotherapist, in all
24 your experience over the years, are these symptoms
25 consistent with someone who suffered a sexual

1 assault?

2 **A** They are.

3 **MS. SINGLETARY:** Objection, Your Honor.

4 **THE COURT:** What's the objection? What's the
5 objection?

6 **MS. SINGLETARY:** Your Honor, --

7 **THE COURT:** She's offering opinion. Go ahead.

8 **MS. SINGLETARY:** -- I think that this is out of
9 the scope of what she actually testified that she
10 actually spoke to Ms. Simmons about.

11 **THE COURT:** Okay. Overruled.

12 **MS. CAMPBELL:** Thank you, Your Honor.

13 **Q** I'm sorry. Were those consistent with someone who
14 had suffered a sexual assault?

15 **A** They are consistent with sexual assault.

16 **Q** As a result of your meeting, and I don't want to go
17 into everything and the information she was able to
18 relate to you, that was all consistent with the
19 symptoms she was exhibiting?

20 **A** Correct.

21 **Q** As a result of meeting with her, did you actually
22 come up with some goals to try to help her cope with
23 her anxiety as well as her fatigue and other things
24 of that nature?

25 **A** The goals listed on this initial treatment note, goal

1 number one was to attain methods to reduce autonomic
2 arousal. Autonomic arousal is when you experience a
3 traumatic event. The officer earlier talked about an
4 adrenaline dump. There is a chemical process that
5 happens inside your body during the course of that
6 traumatic event that kind of enables that fight or
7 flight response. It involves adrenaline and a few
8 other chemicals, but it's very common.

9 And what it tends to do is it tends to, in the
10 course of the trauma, it allows you to really focus
11 on trying to get out safely. You kind of tune out
12 other extraneous variables and you really focus on
13 getting out safely. But what happens very often is
14 after the fact people have trouble turning that off.

15 You know, for example, if you see something that
16 triggers your anxiety response, for example, if
17 you're assaulted by a person with a beard, then all
18 of a sudden everyone with a beard triggers your
19 anxiety response. It's very difficult for these
20 victims of crime sometimes to turn that autonomic
21 response off so that they don't get over it when they
22 are triggered by something. So we were going to work
23 on some methods for reducing that response.

24 Goal number two was to diminish the irritability
25 and anger that she continued to feel as a result of

1 the assault. And goal number three was to increase
2 her sense of control and coping self efficacy. In
3 other words, as a result of being a victim of trauma,
4 very often it somewhat removes that sense that we can
5 control what happens to us in order to stay safe in
6 the future. And we wanted to kind of work through
7 some of that as well.

8 Q You mentioned the words loss of control and things of
9 that nature. Is that very difficult for someone who
10 has perhaps never experienced anything this violent
11 before to cope with?

12 A It is. And often what you see, you know, we all kind
13 of have a schedule; we all have a routine of some
14 sorts. Sometimes we have to break that. But when
15 that loss of control happens in a violent way or in a
16 way that leaves you fearing for your life, it has a
17 tremendous impact on just your ability to feel okay
18 and to feel like yourself again.

19 Q You mentioned sort of stressors or triggers that can
20 exacerbate, I think would be the proper word, these
21 symptoms. Testifying or having to come to court and
22 testify, say, in front of the person, is that a
23 trigger?

24 A That tends to be a trigger for a lot of especially
25 sexual assault victims. For one, they know within

1 court they're going to have to sit within feet of the
2 person who has harmed them. When you speak about
3 autonomic response and that involuntary response that
4 we have, if we have not worked through our trauma or
5 even if we have worked through it and we still have
6 to be put in that position, that's a tremendous
7 stressor for a lot of people.

8 Q And you mentioned some of the symptoms that can be
9 exacerbated such as -- and she mentioned and you've
10 mentioned several times -- extreme anger?

11 A Mm-hmm (affirmative).

12 Q Is that part of loss of control?

13 A It is. It's that loss of control. It's part of
14 those two types of symptoms. Very often what people
15 do is they will swing back and forth between the two
16 constellations of symptoms, maybe crying
17 uncontrollably one moment; they may can control the
18 next moment. They may be very, very, very angry one
19 minute. And it doesn't have to be a minute. But
20 sometime later they can feel very numb. And very
21 often anger is one of those anxiety responses that
22 when the autonomic response gets triggered, it swells
23 up and it comes out as anger.

24 Q When you met with her back in September, were you
25 able to come up with a diagnosis?

1 **A** At the time I had given her a provisional diagnosis
2 of adjustment disorder with mixed anxiety and
3 depressed mood.

4 **Q** After meeting with her and going over some coping
5 mechanisms with her, did you ever meet with her any
6 more?

7 **A** We scheduled an additional appointment but she did
8 not keep that appointment.

9 **Q** Is that unusual?

10 **A** That is not unusual.

11 **Q** And why is that?

12 **A** It has to do with that avoidance side of the
13 response. Very often you will get calls from people
14 when they are in the anger side, those constellation
15 of symptoms that you have; you're just really revved
16 up and you feel like you can't cope. But the
17 avoidance is there and very often kicks in to help
18 people keep from having to face what feels
19 unmanageable.

20 And so it's very common that we will meet with
21 someone once and then a no show on the next
22 appointment; or they may not come back for a few
23 months and then they'll come back again when they
24 realize it's not working on their own. But it's not
25 uncommon at all for someone not to come to an

1 appointment.

2 Q And finally, did you do a history of a sexual assault
3 that day when you met with her?

4 A I'm sorry?

5 Q You got a history from her about what happened?

6 A She did report that she was sexually assaulted.

7 Q Everything that you assessed that day was consistent
8 with what she had told you?

9 A It was.

10 Q Thank you, ma'am. Please answer any questions the
11 defense may have.

12 THE COURT: Yes, ma'am.

13 MS. SINGLETARY: Thank you, Your Honor. If it
14 pleases the Court.

15 CROSS EXAMINATION

16 BY MS. SINGLETARY

17 Q Ms. Leslie?

18 A Yes.

19 Q Now, when Ms. Simmons came to actually see you, you
20 said that that was on September the 18th of 2008?

21 A Correct.

22 Q And it was actually the prosecutor's office who
23 actually sent Ms. Simmons to you, correct?

24 A They had identified that she was having difficulty
25 coping and had made the referral based on that.

1 Q Yes. They referred, the prosecution's office
2 referred to her to you. And when they referred Ms.
3 Simmons to you, they said that she was having
4 difficulty managing emotions as the trial date was
5 nearing. I believe you testified to that earlier,
6 too?

7 A Correct.

8 Q And you said also that you only saw her once?

9 A Correct.

10 Q And when you saw her once, you were given a history,
11 a patient history from her as well as her husband,
12 correct?

13 A Some input from the husband. Not much.

14 Q All right. And you testified that you made another
15 appointment with her but she didn't show up at that
16 second appointment?

17 A Correct.

18 Q And you said that sometimes that happens?

19 A Correct.

20 Q And it just deals with the whole symptoms that a
21 person may be going through?

22 A Yes.

23 Q But you're not saying that that's why Ms. Simmons
24 didn't come to see you again on the second
25 appointment, are you?

1 **A** I wouldn't know that.

2 **Q** Yeah. And that's what I was getting at. You
3 wouldn't know why she didn't come on the second
4 appointment. And again, I asked you this earlier.
5 But when someone actually comes to see you, you don't
6 examine them?

7 **A** No. I'm not a medical --

8 **Q** You don't give them a medical exam?

9 **A** Right.

10 **Q** Examination?

11 **A** Right.

12 **Q** You basically go off of what they tell you?

13 **A** Correct.

14 **Q** And then you give them your opinion based on what
15 they say?

16 **A** Yes.

17 **Q** And some things that you observe, too?

18 **A** Of course.

19 **Q** And isn't it true that there are a lot of studies out
20 there that say that there are no particular behaviors
21 that are just associated with victims of sexual
22 assaults? Isn't that correct?

23 **A** The symptoms are related to being a victim of trauma
24 as a whole, but they are -- the constellation of
25 symptoms are consistent with sexual assault as well.

1 Q Okay. And that's what I was getting at, that a
2 victim of trauma such as being held hostage for about
3 six or seven hours can actually have the same
4 behavior patterns as a sexual assault victim?

5 A Sometimes, yes.

6 Q Because it's a traumatic experience?

7 A Exactly.

8 Q And when Ms. Simmons came to you, you noted in your
9 report that prior to her coming to you and after
10 February the 24th of 2007, at that time she didn't
11 have any problems sleeping at all?

12 A I don't believe I noted that.

13 Q It is on the first page.

14 A Oh, I see.

15 Q Yes.

16 A The sleep had returned more to normal but then had
17 been exacerbated by the recent arrival of the court
18 issues that were coming up.

19 Q Yeah. Because when the court date was coming up,
20 that's when she started, her coping patterns became
21 erratic again I would say?

22 A I don't remember exactly what she told me, but that
23 is what my note would reflect here.

24 Q Okay. And would you also agree with me that
25 different victims can have the same traumatic

1 experience but have totally different ways of
2 reacting to that traumatic experience?

3 **A** Certainly.

4 **Q** And behaviors even if present in a person saying that
5 they were sexually assaulted could be attributed to a
6 number of other traumatic experiences?

7 **A** It's really difficult to say that the sleep or this,
8 that or the other is because of the sexual assault,
9 particularly when you have a victim who has had an
10 array of traumatizations in one incident.

11 **Q** Okay. And you noted that -- and I believe you
12 testified to the fact that Ms. Simmons told you that
13 she had never had a traumatic experience prior to
14 February 24th of 2007?

15 **A** That's what it says in my note, yes.

16 **Q** Okay. So at the time when you actually spoke to her
17 you weren't aware of the fact that she had actually
18 found her mother dead in a home?

19 **A** She did indicate that to me, that that was a period
20 of loss that was a significant stressor for her.

21 **Q** And is that the same day her grandmother died?

22 **A** We did talk about the deaths that she had
23 experienced.

24 **Q** And as a result of that, she didn't tell you that she
25 was traumatized?

1 **A** We did not -- for the purposes of documentation, that
2 is not recorded as a trauma as much as a loss.

3 **MS. SINGLETARY:** Your Honor, I have no further
4 questions.

5 **THE COURT:** Okay. Any redirect?

6 **MS. CAMPBELL:** Just a couple, Your Honor.

7 REDIRECT EXAMINATION

8 **BY MS. CAMPBELL**

9 **Q** And I think you just summed this up. Because trauma
10 is different from a loss which may affect a person?

11 **A** Yes.

12 **Q** And in this case all your findings and the symptoms
13 she presented were genuine in your opinion?

14 **A** They appeared to be.

15 **Q** And would be, could correlate back to the violent
16 trauma she endured?

17 **A** They were consistent with a traumatic experience,
18 yes.

19 **Q** In this case were you also aware that she wasn't able
20 to return to her home for several months, two months?

21 **A** She indicated to me, yes, that the home had been such
22 a tremendous trigger that she could not return there
23 for a period of months.

24 **Q** And again, that was after she was raped and
25 kidnapped, not after the loss of her mother?

1 **A** Correct.

2 **Q** Thank you.

3 **MS. SINGLETARY:** Just briefly, Your Honor.

4 **THE COURT:** Yes, ma'am.

5 RECROSS EXAMINATION

6 **BY MS. SINGLETARY**

7 **Q** And, Ms. Leslie, you didn't have the opportunity to
8 actually observe Ms. Simmons prior to the incident
9 that occurred on February the 24th of 2007, did you?

10 **A** No.

11 **Q** So you don't know if she was behaving in that manner
12 prior to that date?

13 **A** I do not.

14 **Q** And you keep saying consistent, consistent.
15 Consistent doesn't mean caused by, does it? It just
16 means consistent?

17 **A** It means that it is typically seen in someone who has
18 experienced a trauma.

19 **Q** Yeah. It's typically seen. But it doesn't mean
20 caused by?

21 **A** In the manner I was using it, consistent means that
22 the history she gave me was one that could cause the
23 symptoms she reported.

24 **Q** Okay. And you're not -- it's not your testimony
25 today to this jury that within a medical degree of

1 certainty that you know that Ms. Simmons was actually
2 sexually assaulted? That's not your testimony, is
3 it?

4 **A** I am not a medical provider.

5 **MS. SINGLETARY:** I have no further questions,
6 Your Honor.

7 **THE COURT:** All right. Thank you very much.
8 You may come down. May this witness with excused?

9 **MS. CAMPBELL:** Thank you, Your Honor.

10 **MS. SINGLETARY:** Without objection, Your Honor.

11 **THE COURT:** All right, ladies and gentlemen.
12 Let's take our morning break at this time. I'll ask
13 you not to discuss the case among yourselves while
14 you're in the jury room. So just relax for a few
15 minutes and we'll call you when we're ready.

16 (Jury out at 11:22 a.m.)

17 **THE COURT:** We'll stand at ease for ten minutes.

18 (Whereupon, a break is taken)

19 **MR. BRYANT:** Your Honor, if I might. The
20 pictures, State's 39 through 41, 48 through 51, then
21 No. 81, apparently when I was up here working my way
22 through the two witnesses, I did not move them into
23 evidence or say the magic words according to the
24 Court reporter. I would actually at this time move
25 them in, I believe with no objection from Mr. O'Neil.

1 **MR. O'NEIL:** No objection, Your Honor.

2 **THE COURT:** Yes, sir.

3 (WHEREUPON, State's Exhibit No. 39 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 40 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 41 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 48 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 49 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 50 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 51 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 81 is admitted
18 into evidence.)

19 **THE COURT:** Ready for the jury?

20 **MS. CAMPBELL:** Yes, sir.

21 **MR. O'NEIL:** Your Honor, I guess at some time I
22 would like to put our morning in camera hearing on
23 the record.

24 **THE COURT:** Let's do it at the lunch break.

25 **MR. O'NEIL:** Yes, Your Honor.

1 **THE COURT:** Bring the jury, please.

2 (Jury in at 11:40 a.m.)

3 **THE BAILIFF:** The jury is seated, Your Honor.

4 **THE COURT:** Thank you very much. All right,
5 Solicitor, call your next witness.

6 **MS. CAMPBELL:** May it please the Court. The
7 State calls Agent Gianna Williams.

8 GIANNA WILLIAMS, after being duly sworn,
9 testifies as follows:

10 **THE CLERK:** Please have a seat there. State
11 your full name for the record.

12 **THE WITNESS:** It's Gianna Williams, G-I-A-N-N-A,
13 Williams.

14 DIRECT EXAMINATION

15 **BY MS. CAMPBELL**

16 **Q** Agent Williams, where are you currently employed?

17 **A** I'm with the South Carolina Law Enforcement Division.

18 **Q** And what do you do at SLED?

19 **A** At SLED I'm assigned to the midlands region, and I'm
20 dealing with general investigations.

21 **Q** I want to turn your attention back to February of
22 2007. Were you working at the Columbia Police
23 Department at that point?

24 **A** Yes, I was.

25 **Q** And what was your job there?

1 **A** At the Columbia Police Department, I was there for
2 eight years, the first five being as a parole
3 officer, the last three working in crime scene.
4 Generally you respond to crime scenes, photograph,
5 collect evidence. I was responsible for lifting
6 fingerprints, analyzing fingerprints through the
7 database.

8 **Q** Tell this jury a little bit about your education and
9 your training in crime scene investigation?

10 **A** Okay. Crime scene specifically, at the Columbia
11 Police Department, it was basically hands on. I did
12 attend classes at the State Law Enforcement Division,
13 in-house training. I was certified to operate the
14 AFIS system which is the Automated Fingerprint
15 Information System. I do have a four-year degree
16 from the University of South Carolina in psychology
17 as well.

18 **Q** And have you been qualified before as an expert in
19 crime scene investigation?

20 **A** Yes, I have.

21 **Q** Including latent fingerprint comparison?

22 **A** Yes, I have.

23 **MS. CAMPBELL:** Your Honor, at this time we'd
24 offer her as an expert in crime scene investigation.

25 **MS. SINGLETARY:** Without objection, Your Honor.

1 **THE COURT:** All right.

2 **Q** Agent Williams, I want to turn your attention back to
3 February the 24th of 2007. Were you aware there was
4 a series of kidnappings and carjackings that occurred
5 in the city limits?

6 **A** I had heard about that case.

7 **Q** And the next day, I believe on the 25th, you actually
8 were asked to process a car, an automobile involved
9 in that?

10 **A** Yes, I was.

11 **Q** On the day before that, are you familiar with a
12 Sergeant Kermit Scott?

13 **A** Yes, I am.

14 **Q** And what were Sergeant Scott's duties at the Columbia
15 Police Department back then?

16 **A** At the time -- well, Kermit Scott is no longer with
17 the Columbia Police Department. He's in Afghanistan.
18 But back in 2007 he was our sergeant over the crime
19 scene unit. On this particular day he was the one
20 that was working. So when the calls went out for the
21 carjackings, he was the one that responded to start
22 collecting evidence.

23 **Q** And he actually processed I believe two of the three
24 automobiles involved in the carjackings that day?

25 **A** Yes, he did.

1 Q And then on the next day, on the 25th, you actually
2 had processed the Blue Ribbon cab. Is that correct?

3 A Yes, I did.

4 Q And I want to your turn your attention to his report.
5 You've had an opportunity to review that?

6 A Yes, I did.

7 Q And were you aware that he responded to an area on
8 North Main Street, the Wash World, to process a
9 vehicle?

10 A Yes.

11 Q And what, if anything, did he do as far as trying to
12 process that vehicle?

13 A Okay. And this is coming directly from his report
14 that he wrote which was turned in on February 24,
15 2007. And in his report he stated that he went to
16 5700 Randall Street and processed a 1985 Oldsmobile
17 Delta which is a blue in color car. And from this
18 car he lifted two identifiable prints from the
19 exterior of the driver's front broken door glass.
20 What this means, when he lifted a print and he has it
21 listed as identifiable, all that means is he can look
22 at this fingerprint and make a comparison to another
23 print to see if you can match it up to someone.

24 And per his report, he said that he also
25 collected elimination prints from the driver which is

1 Mr. Barry Taylor. Elimination prints means if you
2 are the victim of a crime, I am going to take your
3 fingerprints and then compare them to whatever prints
4 I may also collect just to make sure that they're not
5 your prints that I'm looking at, that I'm looking at
6 the right, the bad guy's prints.

7 And per his report, he says that when he took
8 the lifted prints from the car and compared them to
9 the elimination prints they came back from the same
10 person which is Mr. Barry Taylor, the victim in this
11 case.

12 Q So all the prints that he was able to get from that
13 1985 --

14 A Oldsmobile.

15 Q -- Oldsmobile belonged to the victim in this case?

16 A Yes, they did.

17 Q And in your experience as a crime scene investigator,
18 is that unusual?

19 A No, it's not.

20 Q Now, when you go and you process a car, explain to
21 this jury, how do you actually collect a print, or
22 how you do you try to establish whether or not there
23 is a print?

24 A Well, basically, if I can say the bad guy, say I knew
25 he was in the driver's side of the car, that's the

1 only place he went, that is actually usually going to
2 be the first place I am going to go to, is just the
3 driver's side of the car if I know that's where the
4 person was at. Visual inspection. First you're
5 going to photograph it. Then you're going to kind of
6 visually inspect the car.

7 And the most common thing that we use for
8 fingerprints is the black fingerprint powder and the
9 little tiny twirly brush, just like on TV, kind of
10 different powder in it and kind of focus on like the
11 car window, the car surfaces, something that's kind
12 of smooth, those are going to be your best areas to
13 go back and lift an identifiable print.

14 Q I'm going to show you some photographs, State's
15 Exhibits 10, 12 and 13. Would those have been
16 photographs taken of that Oldsmobile by Sergeant
17 Scott?

18 A These match the description he put in his report.
19 And it also has the same tag number, 583 WAN.

20 Q And that would have been the car that was taken from
21 his information from the corner of Oakland and
22 Randall, and he actually processed those at Wash
23 World?

24 A That's what he says.

25 Q All the prints he was able to lift -- now, say, if

1 I'm in a car and I go and I put my hands on the
2 steering wheel, on the shift, on the door, am I
3 necessarily going to leave a print?

4 **A** No, you won't. Not all the time, no.

5 **Q** Explain that to the jury?

6 **A** Sometimes, I mean, basically, your fingerprints, oil,
7 if you're real greasy and you kind of take your hand
8 and you put it down and lift it up, chances are
9 you're going to leave a pretty good print. But maybe
10 you're not so oily that day, you might touch it kind
11 of lightly, you might not leave a print. Or maybe
12 you did leave it and you kind of wiped it, if you
13 open and close a door or if you grab like a door
14 handle, you could leave a fingerprint; the second
15 that you turn it a little bit, you're going to
16 distort it, and I'm not going to be able to get that.

17 **Q** And what's the difference between you can leave a
18 fingerprint -- what's, say, an identifiable
19 fingerprint versus a smudge?

20 **A** Basically, all your fingerprints are built up of what
21 we call minutia, these little ridges that kind of run
22 through your line, like the whorls, the loops, the
23 arches; that's what makes your fingerprints unique.
24 For me to make an identification, if I have a print,
25 say, like my index finger, I can tell you it's got an

1 arch on it. When I lift it and I look at it, I have
2 to be able to look at the pattern of it, pick out all
3 the little points that are in it, what we call
4 minutia, like dots, the bifurcations and things like
5 that. If the print is you smudged, I can't look at
6 all those little unique points to say that this came
7 from this person. There is no magic number on how
8 many you have to have, but I have to have at least
9 enough to look at two to say yes or no to that.

10 Q And you're familiar with the probability of getting a
11 fingerprint, say, in a high traffic area such as the
12 front door of a convenience store and/or the driver's
13 seat in a car?

14 A There could be several or hundreds of hundreds over
15 on top, on top, on top, on top.

16 Q And, in fact, if one superimposes, superimposes, and
17 the next one is a smudge and superimposes, are you
18 able to get anything from that?

19 A Usually not, no.

20 Q In this case, however, Sergeant Scott was able to
21 lift some fingerprints from which area of the car?

22 A According to his report, it says exterior of the
23 driver's front broken door glass.

24 Q The exterior of the driver's front broken door glass?

25 A That's how he has it written in his report.

1 Q And, therefore, was he able to get any prints from,
2 say, the steering wheel inside the car or anything
3 like that?

4 A Per his report, it does not say that. You can always
5 dust those areas for prints. Never say that you can
6 never get a fingerprint from anything because you can
7 get one almost on any type of surface. But primarily
8 the smoother the surface the better your chances are.
9 So a steering wheel, you probably would not get a
10 good print off that.

11 Q And again, we're talking about you have to have an
12 identifiable print --

13 A Identifiable. That's the key word.

14 Q -- with different points of identification?

15 A It has to be identifiable.

16 Q And if it's not an identifiable print, you wouldn't
17 do anything with it?

18 A No.

19 Q Or you can't do anything with it?

20 A No.

21 Q Did he also search that automobile for any weapons?

22 A In this report it says that he did, and it says that
23 no weapons were found. And that was the vehicle.

24 Q So the only fingerprints he was able to find were on
25 the exterior front door --

1 **A** Mm-hmm (affirmative).

2 **Q** -- driver's door --

3 **A** Yes.

4 **Q** -- that were usable?

5 **A** Yes.

6 **Q** And those matched the victim?

7 **A** Yes, they did.

8 **Q** Did he then proceed to a second location on Cushman
9 Drive?

10 **A** Yes. And his report says he went to the 2100 block
11 of Cushman Road. And once he got to that location it
12 states that he photographed and processed the
13 following vehicle, which was a 1996 Lincoln Town Car,
14 bronze in color.

15 **Q** And he took a number of photographs of that vehicle
16 as well?

17 **A** Yes, he would have.

18 **Q** I show you State's Exhibit 21 which is one of the --
19 just one of these photographs. Would that have been
20 taken by Sergeant Scott of that vehicle?

21 **A** Yes, it would have been.

22 **Q** Did he also process this car in an attempt to find
23 any identifiable prints?

24 **A** It says that he did and that he found no identifiable
25 prints on the listed vehicle.

1 Q Is that unusual?

2 A No, it's not.

3 Q Explain that to the jury one more time?

4 A The same thing. It just depends on the way that you
5 personally handle the car, whether if your hands were
6 covered, did you wipe it, you know, when you were
7 closing that door. That could have been it.

8 Q Did it indicate whether or not he collected any
9 evidence from that car?

10 MR. O'NEIL: Objection, Your Honor. Could we
11 approach?

12 THE COURT: Yes, sir.

13 (Whereupon, a bench conference is had)

14 Q Okay. I want to move beyond that.

15 A Okay.

16 Q Once he dusted the car for fingerprints, did he also
17 put out any what are known as those yellow markers?

18 A Yes.

19 Q Did he note any things that were significant to him?

20 A Yes.

21 Q And starting with number 2, did he mark a street
22 warning sign?

23 A Yes. According to number 2, it says marker number 2
24 was a street warning sign.

25 Q Number 3?

1 **A** Number 3 would be a yellow in color guide wire cover
2 from pole number C-5774.

3 **Q** And that would be the pole the car was resting
4 against?

5 **A** Yes.

6 **Q** Okay. Number 4?

7 **A** And number 4 would be the curb damage to the 2100
8 block of Cushman Road going westbound.

9 **Q** And number 5?

10 **A** And then number 5 would be damage to an electric
11 pole, number C-5774.

12 **Q** And just for the record, those would be -- some of
13 those are noted here in State's Exhibits 21, 25 and
14 26?

15 **A** Mm-hmm (affirmative).

16 **Q** And that would merely be evidence that he thought
17 might be significant later on down the road?

18 **A** Yes.

19 **Q** And whenever you go to a crime scene or process a car
20 such as this, you always note things; you never know
21 exactly what may be significant and what may not?

22 **A** No, you don't.

23 **Q** And again, he was not able to get any identifiable
24 prints from that?

25 **A** No.

1 Q In his report does he indicate that he then proceeded
2 to the intersection of Booth Street and Clive Street?

3 A Yes, it does.

4 Q And does he indicate what he did there?

5 A At Booth and Clive Street, it states that he
6 photographed a Blue Ribbon Taxi cab and that he was
7 unable to process the cab because it was in an area
8 that was being secured by the Richland County
9 Sheriff's Office.

10 Q I show you what's been marked as State's Exhibit No.
11 38.

12 A Yes.

13 Q Does that show the Blue Ribbon?

14 A Yes, it does.

15 Q And that's the photograph he would have taken that
16 day?

17 A Yes, it is.

18 Q And, in fact, in this photograph can you see actual
19 personnel from the Richland County Sheriff's
20 Department in the photograph?

21 A Yes, you can.

22 Q Just for a little history, you're aware then that the
23 Blue Ribbon had to pretty much remain at the scene
24 until the hostage situation was resolved?

25 A Yes.

1 Q And later that evening was the Blue Ribbon cab
2 actually towed for you to process the next day?

3 A Yes. The Blue Ribbon cab was towed to No. 1 Justice
4 Square which is the Columbia Police Department, and
5 it was placed in the back lot.

6 Q And that would be because the actual carjacking of
7 that Blue Ribbon cab started in the city
8 jurisdiction. So you would have processed that?

9 A That's correct.

10 Q Then the next day when you processed the Blue Ribbon
11 cab, did you initially photograph the cab?

12 A Yes, I did.

13 Q And I believe there are two photographs of the Blue
14 Ribbon cab. Where were you processing this cab?

15 A This right here, at the Columbia Police Department,
16 it's kind of downstairs in the back lot. It's a
17 secure lot that's got barbed wire fence and you have
18 to have secure access to get back there.

19 Q And this is State's Exhibits 82 and 83?

20 A Yes, ma'am.

21 Q And those are actual photographs you took of the cab
22 after it had been towed to the headquarters?

23 A Yes.

24 Q And then you photographed it initially and you took a
25 lot more photographs. But then it was towed. I'm

1 sorry. You also dusted it for prints?

2 **A** Yes, I did.

3 **Q** And what areas did you dust for prints?

4 **A** Well, initially after I photographed, I first did a
5 swab of the steering wheel. That's just in an
6 attempt to see if there is any DNA evidence that
7 might have been left behind. And once that stuff is
8 collected, then I would go back and I dusted the
9 inside and the outside of the driver's side door and
10 the window and the rearview mirror area.

11 **Q** And were you able to recover any identifiable prints?

12 **A** It says that I did lift partial prints from the
13 exterior of the driver's door, but they were found to
14 be of poor quality, and poor quality meaning that I
15 did lift a print but when I went back to look at it I
16 was unable to make an identification off of that
17 print.

18 **Q** Because of the quality of the print?

19 **A** That's correct.

20 **Q** And when you say a partial print, we're talking about
21 smudges, you can also leave a little pit of a finger
22 or something but it may not be enough to make an
23 identification?

24 **A** That's correct.

25 **Q** And the findings in these cases, as far as processing

1 for fingerprints, is that unusual?

2 **A** No.

3 **Q** Thank you. Please answer any questions from defense
4 counsel.

5 CROSS EXAMINATION

6 **BY MR. O'NEIL**

7 **Q** It's Agent Williams now?

8 **A** Yes.

9 **Q** Just so we're clear, Sergeant Scott actually
10 processed I guess three out of four of these vehicles
11 and you processed the cab?

12 **A** I only processed the cab.

13 **Q** But you're familiar with Sergeant Scott's work?

14 **A** Yes.

15 **Q** Basically he processed first I think this vehicle,
16 the Oldsmobile?

17 **A** I believe that's what's in his report. Yes.

18 **Q** No prints of Mr. Ashford anywhere on this Oldsmobile?

19 **A** No, sir. Just Barry Taylor's.

20 **Q** No DNA of Mr. Ashford in this automobile?

21 **A** Not listed in this report; no, sir.

22 **Q** And none of Mr. Ashford's belongings in that
23 automobile?

24 **A** No, sir. He didn't say that.

25 **Q** And then he processed the Town Car?

- 1 **A** Yes, sir.
- 2 **Q** No prints of Mr. Ashford on the Town Car?
- 3 **A** No identifiable prints at all.
- 4 **Q** No -- and this Town Car got -- the driver of this
- 5 Town Car obviously wrecked it?
- 6 **A** Yeah.
- 7 **Q** And there is no blood of Mr. Ashford's in this Town
- 8 Car, correct?
- 9 **A** It's not indicated in the report. No, sir.
- 10 **Q** No DNA?
- 11 **A** Not listed in the report.
- 12 **Q** And then he also processed a Tahoe as well, a
- 13 separate Tahoe?
- 14 **A** It says he photographed and processed a 2000
- 15 Chevrolet Tahoe.
- 16 **Q** Okay. And no prints of DNA from Mr. Ashford in that
- 17 Tahoe either?
- 18 **A** No, sir; not listed in this report.
- 19 **Q** And then you processed --
- 20 **A** Just the --
- 21 **Q** -- the cab?
- 22 **A** Just the cab.
- 23 **Q** And no usable prints anywhere in this cab?
- 24 **A** That's correct, sir.
- 25 **Q** Especially no prints of Mr. Ashford?

1 **A** No, sir.

2 **Q** No blood?

3 **A** No, sir.

4 **Q** No DNA?

5 **A** No, sir.

6 **Q** And you said that fingerprints aren't always left at
7 a scene I think?

8 **A** That's correct.

9 **Q** Especially I think you said in high traffic places
10 it's hard to get fingerprints?

11 **A** Usable prints.

12 **Q** Now, you don't know whether or not either this car,
13 the Oldsmobile, or this car, the Town Car, you don't
14 know whether these were considered high traffic
15 vehicles, do you?

16 **A** Like I said, I was never there, part of that scene.
17 So I can't really say any more than just what's
18 listed in this report.

19 **Q** So you wouldn't know whether or not either one of
20 those were high traffic cars?

21 **A** I don't know what area specifically because he didn't
22 list that in his report.

23 **MR. O'NEIL:** Beg the Court's indulgence. No
24 further questions.

25 **MS. CAMPBELL:** Just a couple.

REDIRECT EXAMINATION

BY MS. CAMPBELL

Q Just a couple. And I skipped one part. In his report he also processed a white Tahoe. Is that correct?

A Yes.

Q And again, the results on that were, was he able to lift any identifiable prints?

A It says no identifiable prints were listed, were found in the listed vehicle.

Q And I show you what's been marked as State's Exhibit No. 30.

A Okay.

Q And again, is that unusual not to be able to find any identifiable prints?

A That's not unusual.

Q And that means when you can't find any identifiable prints you can't find any prints belonging to the victim who obviously has been in the car?

A That's correct.

Q Or the six children that were in that car?

A That's correct.

Q Or anyone that's been in that car?

A That's correct.

Q He asked you specifically about high traffic areas

1 such as the front door of a convenience store?

2 **A** Yes.

3 **Q** We're talking about high traffic being somewhere
4 where people are in and out a lot?

5 **A** That's correct.

6 **Q** In order to operate a vehicle, isn't it true that a
7 person has to drive it so they're in and out of the
8 driver's side perhaps more --

9 **A** Yes.

10 **Q** -- than the other areas of the vehicle?

11 **A** Yes.

12 **Q** Thank you.

13 **THE COURT:** Anything further?

14 **MR. O'NEIL:** No further questions.

15 **THE COURT:** All right. Thank you very much.

16 You may come down, ma'am.

17 **THE WITNESS:** Thank you.

18 **MS. CAMPBELL:** Your Honor, may she be excused?

19 **MR. O'NEIL:** No objection, Your Honor.

20 **THE COURT:** Without objection, the witness may
21 be excused. Next witness.

22 **MS. CAMPBELL:** The State would call Marcus
23 Brown.

24 MARCUS BROWN, after being duly sworn, testifies
25 as follows:

1 **THE CLERK:** Please have a seat there, sir.
2 State your full name for the record.

3 **THE WITNESS:** Marcus Brown, B-R-O-W-N.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Investigator brown, where are you employed?

7 **A** At the Richland County Sheriff's Department.

8 **Q** What do you do there, sir?

9 **A** Right now I'm a senior narcotics investigator
10 assigned to the DEA Task Force.

11 **Q** To the DEA Task Force?

12 **A** Yes, ma'am.

13 **Q** And what are your duties as a senior narcotics
14 investigator with the DEA Task Force? What do your
15 duties include?

16 **A** My duties include investigating high level drug
17 traffickers in Richland County and throughout the
18 state.

19 **Q** And you all actually have a cooperative movement with
20 the DEA?

21 **A** Yes, ma'am.

22 **Q** And that's a federal agency. Is that correct?

23 **A** Correct.

24 **Q** And you're kind of a liaison to your department?

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

1 Q In addition to that, over the last two years, have
2 you also been involved in what's known as the SRT
3 Team?

4 A Yes, ma'am. I've been on STR for about nine years
5 now.

6 Q Okay. What does SRT mean?

7 A Special Response Team.

8 Q And what are your -- typically, when is the SRT team
9 called in?

10 A Usually the SRT is called in in barricaded
11 situations, hostage situations. We serve high risk
12 warrants, search warrants for felonies or escapees
13 from prison or a county jail.

14 Q And do you have any specialized training that you
15 have to have before you can become a member of the
16 SRT Team?

17 A Yes. In order to become an SRT member we're required
18 that you have some military experience, but it's not
19 required. And you also go through a 40-hour basic
20 SRT training or building entry training. And we also
21 set up a month long training that we contract out
22 with another organization that trains us.

23 Q And the types of things that you are trained to
24 become familiar with is hostage situations?

25 A Yes, ma'am.

1 Q And making entry with things? I don't know the names
2 of them. What are those things? Flash something?

3 A Flash bangs. Yes, ma'am.

4 Q What's a flash bang?

5 A Basically it's a grenade type device. We pull the
6 pin, throw it, and it emits a large, loud bang and a
7 bright light. And it enables (sic) the person for up
8 to 30 seconds.

9 Q Do you also become experienced at using things such
10 as different forms of tear gas?

11 A Yes, ma'am.

12 Q What's the purpose of deploying tear gas in a hostage
13 situation?

14 A In a hostage situation we deploy the tear gas in
15 order to flush or enable us to coax the person out.
16 The tear gas makes your nose and your eyes water.
17 Your nose and mucous come out of your nose. It's a
18 skin irritant also. So then the whole process of the
19 gas, we deploy more and more gas to the point where
20 he can't take it any more and decides to give up.

21 Q But the tear gas is never deployed in any -- it
22 wouldn't hurt anybody permanently?

23 A No. No, ma'am.

24 Q And, in fact, during the course of your training, do
25 you actually experience the effects of tear gas

1 yourself?

2 **A** Yes, ma'am.

3 **Q** And you're also trained to use the flash bangs?

4 **A** Correct.

5 **Q** And what does the flash bang enable you to do if
6 you're effecting an entry into a hostage situation?

7 **A** We throw the flash bang to distract the subject. And
8 what it enables us to do, it causes his hearing to
9 go, and a bright light messes with his sight. So it
10 disables him for a few seconds enabling us to gain
11 entry or advance forward onto him and take him into
12 custody.

13 **Q** And again, when that is done, does it cause any
14 injury to, say, a person holding someone hostage or
15 the hostage themselves?

16 **A** No, it doesn't.

17 **Q** But it more like messes with their senses?

18 **A** Yes, ma'am.

19 **Q** I want to turn your attention back to February the
20 24th of 2007. Were you called into a situation on
21 Booth Street?

22 **A** Yes, I was.

23 **Q** And was the entire SRT team called in?

24 **A** Yes. At that time we had two teams and both teams
25 were called out to the scene.

1 Q And how many members are on each team? Do you know?

2 A Eight members in each team.

3 Q When you got to the scene that day on Booth Street,
4 were other law enforcement personnel already out
5 there?

6 A As we -- as I arrived there was some city officers or
7 command staff, city officers by the command post and
8 the Sheriff's Department was there actually
9 transferring the perimeter when I arrived.

10 Q And you're familiar with Deputy White and Deputy
11 Unger. Were they actually trying to secure the
12 perimeter?

13 A Yes.

14 Q And that was being done when you arrived that day?

15 A Yes.

16 Q And do you remember approximately what time of day
17 that was?

18 A Not the exact time. I just know that it was a little
19 after lunch or the lunchtime after. So around 2 or
20 3, something like that timeframe.

21 Q Were you there actually when shots were fired?

22 A No, I wasn't.

23 Q When you got there -- or would your team be called
24 in, say, if shots had been fired?

25 A Yes.

1 Q And, in fact, in this case that's what was done?

2 A Yes, ma'am.

3 Q Once you got there, what did your -- you said you
4 have two teams. What did your team do?

5 A My team staged up behind the armored vehicle. The
6 second team, we placed the line officers, which was
7 Deputy Unger and the rest. The second team, we
8 placed them on the front perimeter while my team got
9 ready to make entry into the residence.

10 Q Was the Sheriff actually out there himself that day?

11 A Yes, he was.

12 Q And was he basically making the calls on the
13 assessment of the situation?

14 A Yes, ma'am.

15 Q You mentioned that you were in the armored car?

16 A We were staged behind the armored vehicle.

17 Q Where is the armored vehicle?

18 A The armored vehicle was parked up the hill. And
19 basically we were just checking our gear to make sure
20 that we had everything. It was basically a point of
21 cover for us at that time.

22 Q Whenever you all have a hostage situation involved,
23 is there also what's known as a command post?

24 A Yes, ma'am.

25 Q And was that done in this case?

- 1 **A** Yes, ma'am.
- 2 **Q** Where was the demanded post locate?
- 3 **A** The command post was further up the hill on a side
- 4 street.
- 5 **Q** So this was -- I guess you were within sight of the
- 6 Booth Street thing, but you were a good ways more
- 7 away? Could you actually see it from where you were?
- 8 **A** Yes. We could actually see the trailer from where we
- 9 were.
- 10 **Q** But it was on a different street?
- 11 **A** Where we were staging up was actually on the roadway
- 12 of Booth Street.
- 13 **Q** Were there hostage -- were there people there that
- 14 were trying to negotiate?
- 15 **A** Yes.
- 16 **Q** With the Defendant?
- 17 **A** Yes.
- 18 **Q** And did Sheriff Lott actually participate in that,
- 19 too?
- 20 **A** Not to my knowledge.
- 21 **Q** You weren't participating in it?
- 22 **A** No.
- 23 **Q** And you don't know who was -- you didn't have
- 24 anything to do with the negotiating?
- 25 **A** No, ma'am.

1 Q But is that common in a situation such as this where
2 there is a hostage for there to be attempts to get
3 the person to surrender themselves?

4 A Yes, it is.

5 Q Were those successful in this case?

6 A At some point during the hostage negotiation he
7 stated that he would surrender. We was ordered to
8 stand down. And then when they tried to make other
9 attempts, I was notified to ramp up again because he
10 said he wasn't going to turn himself in. And
11 eventually he never did.

12 Q He never did?

13 A No.

14 Q At some point did you all try to kind of impede his
15 abilities by turning off the power?

16 A Yes, ma'am.

17 Q And how was that done?

18 A Deputy Becker pulled the meter off the pole that was
19 close to the trailer.

20 Q As the afternoon wore on, was the Sheriff still there
21 monitoring the situation?

22 A Yes, he was.

23 Q And you all were standing by to make entry?

24 A Yes, ma'am.

25 Q And typically in a situation where you all -- is it

1 kind of a last resort for all to make entry?

2 **A** Yes, ma'am.

3 **Q** And the ideal situation is for someone to surrender

4 peacefully?

5 **A** Yes.

6 **Q** However, do you have specialized training in trying

7 to effect entry and trying to minimize damage to

8 anyone involved, including the Defendant?

9 **A** Yes.

10 **Q** That day right around 6:40, 6:45, was the decision

11 made to go in?

12 **A** Yes, it was.

13 **Q** And at that point was it dark outside?

14 **A** It was getting dark.

15 **Q** And who actually made the decision to go in at that

16 point?

17 **A** Sheriff Lott.

18 **Q** And he of course had been monitoring the entire

19 situation?

20 **A** Yes.

21 **Q** And you were on standby to go in?

22 **A** Yes, ma'am.

23 **Q** That day how did you all plan to make your entry?

24 **A** We devised a plan for a distraction device to be

25 thrown into one of the windows at the front of the

1 trailer. While the team moved up to the front door
2 of the trailer, they used a tool called a ram which
3 is nothing but basically a steel tube used to force
4 open a door, a locked door. And myself and
5 Investigator Abraham had took flash bangs and also
6 deployed one going down to the right side of the
7 hallway, and he was going to deploy his going back
8 toward the master broom.

9 Q I'm sorry. Who did you say was with you with the
10 flash bang?

11 A Investigator Abraham.

12 Q And did you all have some knowledge of the basic
13 layout of the trailer itself at that point?

14 A Yes.

15 Q You'd made contact with the family members of the
16 victim?

17 A Correct.

18 Q And how did you all make entry that day?

19 A We were approaching the stack, which is merely one
20 person behind each other, approached the front door.
21 Sergeant Major Okinaga went to the side to throw the
22 first flash bang. It didn't go into the window. It
23 bounced off the trailer and deployed in the yard way.
24 The rest of the team went up to the door, hit the
25 front door. There's a couch in front of the door,

1 barricaded to the front of the door. So the door
2 came open a little bit, then we had to push our way
3 through the front door.

4 At that time I threw my flash bang down the
5 small hallway to the right, and Investigator Abraham
6 threw his definitely in front of us which is a
7 hallway going towards or through the kitchen that
8 went to a small hallway towards the master bedroom.

9 Q So his was thrown into the kitchen area and yours was
10 thrown down the small hallway to the right as you
11 entered?

12 A Correct.

13 Q I want to show you what's been marked as State's
14 Exhibit No. 42 and 54. Do you recognize those?

15 A Yes.

16 Q And do those show the entryway where you all made
17 entry that day?

18 A Yes, it does.

19 Q And this is flat in the middle of that trailer, isn't
20 it, on the front?

21 A Yes, ma'am.

22 **MS. CAMPBELL:** Your Honor, at this time we'd
23 offer State's Exhibit 42 into evidence.

24 **MR. O'NEIL:** No objection, Your Honor.

25

1 (WHEREUPON, State's Exhibit No. 42 is admitted
2 into evidence.)

3 Q And state's Exhibit No. 42, that just generally shows
4 the front of the trailer?

5 A Yes, ma'am.

6 Q But you mentioned in State's Exhibit 54 that when you
7 made entry or attempted to make entry that -- what
8 was up against the door?

9 A The couch.

10 Q The couch. And is that shown here in State's Exhibit
11 No. 54?

12 A Yes, it is.

13 Q And when you all made entry that day, was it pushed
14 back into its place like it is in this picture?

15 A No. It was actually up against the door and we
16 actually pushed it forward so we can continue on into
17 the residence.

18 Q So how it is in this picture is because of where you
19 all pushed it that day?

20 A Correct.

21 Q Once you made entrance I believe you mentioned that
22 you threw a flash bang into the right hallway?

23 A Right.

24 Q And then one was thrown to the left into the kitchen
25 area?

1 **A** Yes, ma'am.

2 **Q** And, in fact, ultimately that flash bang ultimately

3 did damage to that kitchen floor, did it not?

4 **A** Yes, ma'am, it did.

5 **Q** And there is a hole, if I can ever find the picture,

6 in State's Exhibit No. 65?

7 **A** Yes, ma'am.

8 **Q** And is that actually damaged? I point to there. Is

9 that where I'm supposed to be pointing?

10 **A** Yes, ma'am.

11 **Q** Is that actually damage that was done by you -- or

12 actually Investigator Abraham did it -- when he threw

13 the flash bang in that day?

14 **A** Yes, ma'am.

15 **Q** So that was actual damage you all did?

16 **A** Yes, ma'am.

17 **Q** So you pushed back the couch and you threw this and

18 this caused this damage in the floor of the kitchen?

19 **A** Correct.

20 **Q** Once you made entry, tell this jury what you did?

21 **A** As we made entry, I was behind Investigator Abraham

22 going down the hallway. He had long security. I had

23 short. As we were going down the hallway,

24 Investigator Abraham stopped prior to I think it's

25 the back door. And there was another door to the --

1 or like a little cubbyhole which we later found out
2 was where the laundry room would be, the washer and
3 dryer. He stopped shy of there and we both trained
4 our weapons on that door and began barking orders to
5 the Defendant to show us his hands, drop the gun and
6 come out. We kept repeating those orders over and
7 over again.

8 Q And as you did that, at that point did you think
9 someone was back there?

10 A Yes, we did.

11 Q Why did you think that?

12 A Investigator Abraham as we were coming in saw the
13 Defendant run back to the back area. And as he was
14 coming down the hallway, he saw him jump into that
15 room.

16 Q I want to show you what's been marked as State's
17 Exhibit 67. You mentioned that you and Investigator
18 Abraham ran towards a small hole over to the left
19 beyond the kitchen?

20 A Correct.

21 Q And is that shown here in State's Exhibit 67?

22 A Yes, ma'am.

23 Q And if I put my finger right there, does that show
24 the hallway you're talking about?

25 A Yes, it does.

- 1 Q What's this item right here?
- 2 A That's a deep freezer.
- 3 Q And was that where it was when you all came in, or
- 4 was it somewhere else?
- 5 A I can't tell if it's in front of the door. But it
- 6 was in front of the door.
- 7 Q It was in front of the door when you all made entry,
- 8 right?
- 9 A In front of the back, rear door. Yes.
- 10 Q So it would have been actually in front of that door?
- 11 A Yes.
- 12 Q As in State's Exhibit No. 71, it's been moved?
- 13 A Yes, ma'am.
- 14 Q So it was moved slightly from where it was. But when
- 15 you all made entry, it was actually barricading that
- 16 back door. Is that correct?
- 17 A Correct.
- 18 Q And the hallway that you're talking about where you
- 19 and Investigator Abraham -- because you all were the
- 20 first two people in?
- 21 A Yes, ma'am.
- 22 Q You all went to the left. Abraham saw him go to the
- 23 -- where is that laundry room off this little
- 24 hallway?
- 25 A It would have been off to the left a few steps down

1 the hallway.

2 Q Is there another room also off to the left down
3 there, down that hallway?

4 A Not that I remember.

5 Q Do you remember where the master bedroom was?

6 A Straight ahead.

7 Q Straight ahead. So it's actually at the end?

8 A Yes.

9 Q And the laundry room is to the left?

10 A Right.

11 Q So the first area you would have come up to would
12 have been that laundry room. Is that correct?

13 A Correct.

14 Q And you mentioned that you all had your guns pulled?

15 A Yes, ma'am.

16 Q And as you approached the laundry room, based on what
17 Investigator Abraham had seen, what did you hear?

18 A Again, as we were -- at that point we had a gas mask
19 on because we did use tear gas. And we kept calling
20 out: "Show me your hands, show me your hands; drop
21 the gun, drop the gun; show me your hands, show me
22 your hands; come out." As we're doing that, I heard
23 something go ...(witness beats on witness stand once
24 with his hand to make a sound). And at that time, a
25 short time, said, "Come on out, come on out; show me

1 your hands, show me your hands." Again, "Come on
2 out." And at that time we could see him, basically
3 he just sticks his hands straight out and he was
4 taking baby steps forward.

5 At that time myself and Investigator Abraham
6 grabbed -- each one of us grabbed an arm and pulled
7 him out and threw him to the ground. And he was
8 handcuffed. And at that time I continued on to the
9 master bedroom where the victim was.

10 Q Okay. And that would have been straight down at that
11 same hall?

12 A Correct.

13 Q And I'll get back to that in a minute. I want to
14 show you what's been marked as State's Exhibits 78
15 and 79 and ask you first if you recognize those?

16 A Yes. This is the laundry room area.

17 **MS. CAMPBELL:** Your Honor, at this time we'd
18 offer them into evidence.

19 **MR. O'NEIL:** No objection, Your Honor.

20 (State's 78 previously received in evidence)

21 (WHEREUPON, State's Exhibit No. 79 is admitted
22 into evidence.)

23 Q State's Exhibit Nos. 79 and 78; in 78, was that the
24 area if you're looking in from the hallway?

25 A Yes, ma'am.

- 1 Q And where did you first see his hands?
- 2 A Probably back up in this area here.
- 3 Q Back up in this area?
- 4 A Yes, ma'am.
- 5 Q And once he placed his hands out, he didn't have the
- 6 gun any more, did he?
- 7 A No, he did not.
- 8 Q And when you went in to take him down, did you notice
- 9 a gun?
- 10 A As we got him onto the ground and handcuffed him and
- 11 then stood him up to walk him out, I looked down and
- 12 I saw the gun basically.
- 13 Q In this laundry room area?
- 14 A Yes, ma'am.
- 15 Q And where was the gun located? It's not in this
- 16 picture, but approximately where?
- 17 A It was in this area right here.
- 18 Q And are you aware these pictures were taken the next
- 19 day?
- 20 A No, I wasn't.
- 21 Q You may not be. Okay. And it would have been in
- 22 this area near where this hat is?
- 23 A Yes, ma'am.
- 24 Q And that would have been where the gun was?
- 25 A Yes, ma'am.

1 Q The gun that you noticed, I want to show you what's
2 been marked as State's Exhibit No. 101. If I can
3 open it. Or you can open it. I ask you to look at
4 that. Is that the gun you saw on the ground?

5 A Yes, ma'am.

6 Q And that gun was later secured by people other than
7 you?

8 A Yes, ma'am.

9 Q Once the Defendant was secured, you then mentioned
10 that you went into another room of the house. Is
11 that correct?

12 A Yes, ma'am.

13 Q And where did you go?

14 A I went to the master bedroom.

15 Q Why did you go there?

16 A Because the victim, I could hear the victim in there
17 crying and yelling.

18 Q And when you made entry into the master bedroom,
19 where was she?

20 A She was more toward the bathroom area once you get
21 into the master bedroom. Once I made contact with
22 her, I told her I was with the Sheriff's Department,
23 I said, and then advised her that I would have to
24 handcuff her and which is standard procedure when we
25 do make entry into a residence to handcuff everybody

1 who is not a police officer in the residence just for
2 our safety until we figure out exactly what is going
3 on.

4 So I handcuffed her and brought her out with
5 another deputy, Alexander. And we brought her out
6 down to the front of the trailer where she was met by
7 Sheriff Lott who then told us to uncuff her. And I
8 did. And she then began to thank the Sheriff for
9 everything he did, or for the Sheriff's Department
10 actually. And I went back into the trailer to
11 retrieve any equipment that we might have left
12 behind.

13 Q Let me ask you this. You said you handcuffed the
14 victim in the case?

15 A Yes, ma'am.

16 Q Is that by protocol?

17 A Yes, ma'am.

18 Q Why is that?

19 A Well, because a lot of times, some of the -- not
20 every time but sometimes some of the suspects try to
21 participate, hide with the victims. So it became our
22 protocol to handcuff all persons in a residence or in
23 any situation that SRT's use.

24 Q Okay. And is that a safety issue?

25 A Yes, ma'am.

1 Q Because not in this case it applies but in some cases
2 you may not be sure of whose participation is what?

3 A Yes, ma'am.

4 Q So that's your protocol every single time?

5 A Yes, ma'am.

6 Q I want to show you two photographs, No. 1 (sic) and
7 State's Exhibit No. 77. What is that?

8 A This is the end of the hallway going into the master
9 bedroom.

10 Q Okay. And is that the hallway where you're talking
11 about where the laundry room was actually located?

12 A Yes, ma'am.

13 Q And in addition, I show you State's Exhibit 74 that's
14 already in evidence. Do you recognize that area?

15 A Yes.

16 Q And then State's Exhibit 76. Is that a closer up of
17 the bathroom?

18 A Yes, ma'am.

19 MS. CAMPBELL: Your Honor, at this time we'd
20 offer State's Exhibits 77 and 76 into evidence.

21 MR. O'NEIL: No objection.

22 (WHEREUPON, State's Exhibit No. 76 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 77 is admitted
25 into evidence.)

1 Q State's Exhibit No. 77, does that show the entrance
2 to the small hallway leading to the master bedroom?

3 A Yes.

4 Q And would the laundry room be off that to the left
5 right before you get to the master bedroom?

6 A Yes, ma'am.

7 Q So this is the hallway where the laundry room is off
8 where you found the Defendant?

9 A Yes, ma'am.

10 Q And State's Exhibit No. 74, does that show the area
11 where you found the victim in the case?

12 A Yes. Back towards the bathroom area.

13 Q Towards the bathroom area?

14 A Yes.

15 Q And what was her demeanor when you came in contact
16 with her that day?

17 A It was hysterical. She was crying, yelling, "Thank
18 God, thank God you came and got me. I'm safe." At
19 that time I told her, you know, "You're going to be
20 fine," I said, "but I have to handcuff you just for
21 our safety." She said, "Okay." I handcuffed her and
22 walked her outside.

23 Q And at that time I believe she was greeted, seen by
24 Sheriff Lott?

25 A Yes, ma'am.

1 Q And then ultimately, did EMS transport her to the
2 hospital?

3 A Correct.

4 Q Was the Defendant also treated by EMS that afternoon?

5 A Not to my knowledge.

6 Q You don't know if he was or not?

7 A No, ma'am.

8 Q Okay. You mentioned then after you had secured the
9 Defendant and the victim and turned them over to
10 other people to handle, then you went back into --
11 what did you say to make sure everything secure?

12 A Well, I went back to gather all of our equipment.
13 The police took our stuff.

14 Q What type of equipment was that?

15 A The flash bang stick. They don't actually explode.
16 They just -- the inside burns and then you collect
17 the outside. That is regulated through ATF, the
18 bodies of the flash bangs.

19 Q Was tear gas actually deployed in that residence that
20 day?

21 A Yes, it was.

22 Q You didn't do that that day but other members of the
23 team did?

24 A Yes.

25 Q And I'll get back to that. During the course when

1 you all made entry, you threw the flash bangs and
2 then you ran towards the hallway, you had pushed the
3 couch back when you came in?

4 **A** Right.

5 **Q** Other than that, was any of the furniture or anything
6 on the interior of the house moved around other than
7 the freezer, moved around or anything by your people?

8 **A** No, ma'am.

9 **Q** So when you entered that residence that day, I'll
10 just show you two pictures, State's Exhibits 55 and
11 59; is that how it was before you made entry? So
12 that wasn't something you all did?

13 **A** Correct. That's not what we did.

14 **Q** And you didn't pull the painting off the wall?

15 **A** No, ma'am.

16 **Q** You didn't turn over the coffee table?

17 **A** No, ma'am.

18 **Q** You didn't basically ransack the whole area?

19 **A** No.

20 **Q** You did move the couch, and ultimately the freezer
21 was moved?

22 **A** Yes.

23 **Q** And again in State's Exhibit No. 66, you didn't do
24 that to the kitchen, other than the hole in the
25 floor?

1 **A** No, ma'am.

2 **Q** The person that you apprehended out of the laundry
3 room that day that the gun was at his feet that you
4 took into custody; for the record, other than the
5 victim and the Defendant, was anyone else in the
6 house?

7 **A** No.

8 **Q** Was the house ultimately secured?

9 **A** Yes, it was.

10 **Q** Other -- the Defendant that you got out of the
11 laundry room and took into custody that day, do you
12 see him here in the courtroom?

13 **A** Yes, I do.

14 **Q** Can you identify him for the jury?

15 **A** He's wearing a dark colored suit, a white shirt and
16 blue and white tie.

17 **MS. CAMPBELL:** Your Honor, may the record
18 reflect --

19 **THE COURT:** The record will reflect the witness
20 identified the Defendant.

21 **MS. CAMPBELL:** Thank you, sir.

22 **THE COURT:** Cross examination.

23 **MR. O'NEIL:** Thank you, Your Honor.

24 CROSS EXAMINATION

25 **BY MR. O'NEIL**

1 Q Investigator Brown, you didn't write a report in this
2 case, did you?

3 A No, I did not.

4 Q Of course actually Lieutenant Okinaga, was he in
5 charge that day?

6 A Sergeant Major Okinaga.

7 Q Okinaga?

8 A Yes, sir.

9 Q Let me make sure I get that right. He was actually
10 in charge?

11 A Yes, he was.

12 Q But you're part of the Special Response Team?

13 A Yeah.

14 Q And you all used a couple of different devices that
15 day?

16 A Yes, sir.

17 Q Now, you already mentioned the flash bangs that you
18 used?

19 A Right.

20 Q And those are two I guess disorient someone's sight
21 and hearing, correct?

22 A Correct.

23 Q Now, you also used -- you think they're called
24 chemical munitions?

25 A Yes, sir.

1 Q You all use the liquid variety and the powder
2 variety; am I correct, with --
3 A I'm not familiar with the liquid.
4 Q What different varieties under chemical munitions did
5 you use?
6 A We just use the aerosol type. Which once it enters
7 the room, it turns into a smoke type of a gaseous
8 state.
9 Q Aerosol is liquid based and then it becomes airborne
10 essentially?
11 A Right.
12 Q And you all shot one of those into the kitchen I
13 think?
14 A Through the kitchen window.
15 Q Kitchen window. Yeah. And one through the master
16 bedroom window. Is that correct?
17 A Yes.
18 Q And I'm going to show you what's been marked as
19 State's Exhibit No. 81. Would that be the master
20 bedroom window? Or you can't tell from that picture?
21 A I can't tell.
22 Q Let me get you a different picture. Beg the Court's
23 indulgence.
24 A I think that's the window on the opposite side of the
25 trailer, the one you just showed me.

1 Q I show you what's been marked State's Exhibit 73. Do
2 you know what bedroom that is?

3 A That is the master bedroom.

4 Q That's -- this hole in the window would have been
5 where the --

6 A The tear gas was shot.

7 Q -- tear gas. Yeah. It would have made that hole in
8 that window?

9 A Yes.

10 Q That's correct? And do you know whether or not those
11 chemical munitions make any kind of colored kind of
12 reaction?

13 A Are you referring to the stain on the window?

14 Q Yeah.

15 A Upon breaking the window, gas is being expelled at
16 that time. So it could discolor the window.

17 Q I'm going to show you what's been marked as State's
18 Exhibit 102.

19 A Okay. Yeah.

20 Q Sort of like that?

21 A Yes, sir.

22 Q That pinkish kind of coloring of that window right
23 there?

24 A Yes, sir.

25 Q Okay. And that would have been the same kind of

1 pinkish color that's in State's Exhibit No. 81?

2 A Yes.

3 Q Okay. The pinkish coloring would have been when it
4 initially came through the window?

5 A Yes, sir.

6 Q And what effect do those chemical munitions have on
7 an individual?

8 A Like I stated before, it's an irritant. It will make
9 your skin burn, eyes water and your nose run upon
10 contact with the gas.

11 Q And coming in contact with that gas, those symptoms
12 could have lasted for more than a few minutes.

13 That's correct? That would be fair to say?

14 A Yes.

15 Q And you don't know whether or not Mr. Ashford got any
16 medical attention, do you?

17 A No. Not to my knowledge.

18 Q Not to your knowledge. And you all used I think what
19 you call an entry tool to gain entry into the house?

20 A Yes, sir.

21 Q And that would have been -- I'm going to show you
22 what's been marked as State's Exhibit No. 54. You
23 all used that tool on the front door?

24 A Yes, sir.

25 Q And that's how you all gained entry into the

1 residence?

2 A Yes, sir.

3 Q How big is this ram that you all used on the front
4 door?

5 A They come in -- we have different sizes. But about
6 that big.

7 Q And I would assume that you had to use a considerable
8 amount of force to open that front door?

9 A Yes.

10 Q Would that be fair to say? Now, you found Mr.
11 Ashford I think in the washroom?

12 A You said I fought him?

13 Q You found him in the washroom.

14 A Yes.

15 Q And essentially Ms. Simmons was down the hall in the
16 back bedroom?

17 A Correct.

18 Q And I think you said you saw this weapon in the
19 washroom or something similar to this weapon?

20 A Yes.

21 Q Now did, you actually collect that weapon?

22 A No. I did not.

23 Q Were you aware that there were still rounds in that
24 weapon?

25 A No, I did not. But I assume that it was. Yes.

1 Q Do you know who collected that weapon?

2 A No.

3 Q And you mentioned that Sergeant -- I mean Sergeant,
4 Lieutenant Abraham saw Mr. Ashford running when he
5 came into the residence?

6 A Yes. Investigator Abraham when we went into the
7 hallway.

8 Q I'm sorry. Investigator Abraham?

9 A He saw the defendant turn and run.

10 Q He what?

11 A He was at the corner of the hallway in the kitchen
12 right there. If you show me a picture, I can better
13 describe it.

14 Q I'm going to show you what's been marked as State's
15 Exhibit No. 67 here. Will you look at that?

16 A Yes. It's like right here. He went back.

17 Q Right by the freezer essentially?

18 A Well, by the -- yeah. Between the freezer and --

19 Q And you didn't see Ms. Simmons running, did you? Or
20 he didn't indicate he saw Ms. Simmons running, did
21 he?

22 A No. Not to me.

23 Q And essentially, after several orders from you Mr.
24 Ashford complied with your orders and came out
25 peacefully in this incident?

1 **A** Correct.

2 **MR. O'NEIL:** Beg the Court's indulgence. No
3 further questions, Your Honor.

4 **THE COURT:** Redirect.

5 **MS. CAMPBELL:** Just a couple of questions.

6 REDIRECT EXAMINATION

7 **BY MS. CAMPBELL**

8 **Q** For the record, Mr. Ashford never came out of that
9 residence willingly. You all went and got him?

10 **A** Correct.

11 **Q** And even after he was in the laundry room, it took
12 you all multiple directions, drop the gun or whatever
13 you all were saying. What were you saying?

14 **A** We told him, the first couple of commands was "Drop
15 the weapon, drop the weapon; come out, come out; drop
16 your weapon; let me see your hands, let me see your
17 hands." And we did that, went through that once and
18 then waited and then we went through it again. "Drop
19 the weapon; let me see your hands, let me see your
20 hands" and did that again. And then we repeated it
21 again. "Drop the weapon; let me see your hands, let
22 me see your hands; come out." And at that time,
23 that's when I heard the thump and we said, "Come on
24 out; let's see your hands." And then he eventually
25 held up his hands and was kind of inching forward.

1 Then we pulled him out of the closet and onto the
2 ground.

3 **Q** And that night your participation in this was to
4 secure the Defendant and the hostage without them
5 being harmed?

6 **A** Correct.

7 **Q** And that's what you all did?

8 **A** Yes, ma'am.

9 **Q** And at that point when the Defendant was escorted
10 out, you didn't question him any that night, did you?

11 **A** No, I did not.

12 **Q** And as you escorted the victim out, you didn't
13 question her any, did you?

14 **A** No, I did not.

15 **Q** And that would have been for other people to do?

16 **A** Yes, ma'am.

17 **Q** Thank you.

18 **MR. O'NEIL:** A couple of questions, Your Honor.

19 RECROSS EXAMINATION

20 **BY MR. O'NEIL**

21 **Q** Investigator Brown, when you came into the residence,
22 it was around 7; it was dark almost at that point?

23 **A** Well, it wasn't dark. It was --

24 **Q** Dusk?

25 **A** -- kind of dusk. Yeah.

1 **Q** And the lights were out in the residence?

2 **A** Yes.

3 **Q** And when you would have came in contact with Mr.
4 Ashford, it would have been fair to say that he would
5 have still been under the influence of the tear gas
6 and the flash bangs?

7 **A** Yes.

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

9 **THE COURT:** Thank you, sir. You may come down.
10 May the witness be excused?

11 **MR. O'NEIL:** No objection.

12 **THE COURT:** Without objection. Next witness.

13 **MS. CAMPBELL:** The State calls Investigator
14 Abraham.

15 JAMES ABRAHAM, after being duly sworn, testifies
16 as follows:

17 **THE CLERK:** Please have a seat there, sir, and
18 state your full name for the record.

19 **THE WITNESS:** James Abraham.

20 DIRECT EXAMINATION

21 **BY MS. CAMPBELL**

22 **Q** Investigator Abraham, where are you currently
23 employed?

24 **A** I'm currently employed with the Richland County
25 Sheriff's Department.

1 Q What do you do there, sir?

2 A I'm a senior narcotics agent.

3 Q What do your duties include as a senior narcotics
4 agent?

5 A Basically the same duties as Investigator Brown. We
6 both -- he is on the federal level. I work the state
7 level. We both work high quality drug dealers that
8 are within the county of Richland.

9 Q So in your normal job you work with Investigator
10 Brown?

11 A Correct.

12 Q Right now, are you deployed somewhere else?

13 A Yes, ma'am; I am.

14 Q Where are you currently deployed?

15 A Currently deployed down in Ft. Stewart.

16 Q And are you in the Army?

17 A Yes. I'm currently in the Army.

18 Q And you're doing your tour -- I don't know what you
19 call it.

20 A I have been called up to do a special mission. That
21 was one mission that they called me up for. And I
22 have 16 years in the military. I've done three tours
23 overseas.

24 Q And you're currently doing your duty down in
25 Savannah?

1 **A** Yes.

2 **Q** And when is it that you're going to be able to return
3 to your job here in Richland County?

4 **A** I return to my job this month on the 20th.

5 **Q** On the 20th?

6 **A** Yes.

7 **Q** How long have you been in Savannah?

8 **A** Almost a year.

9 **Q** Are you familiar with the SRT team?

10 **A** Yes, ma'am, I am.

11 **Q** What does that mean, sir?

12 **A** Special Response Team.

13 **Q** And how long have you been a member of the Special
14 Response Team?

15 **A** For seven years.

16 **Q** What do your duties include as a member of the
17 Special Response Team?

18 **A** Currently -- at that time -- well, my duties was to
19 assist the team leader. Basically what I do is
20 gather intel from other sources. What we do is go in
21 and get barricaded suspects, execute high risk search
22 warrants and go in and get people that have guns or
23 knives or things of that nature.

24 **Q** Do you have any special training --

25 **A** Yes, I do.

1 Q -- to be a member of that team?

2 A Yes, I do.

3 Q What kind of training have you gone through?

4 A I've gone through training through the military. The
5 main job in the military is a combat engineer, and we
6 do that close quarters combat, which means we go to
7 different locations which are small areas, little
8 small rooms, and we do live fire exercises. In case
9 we ever have to encounter someone in that situation,
10 you are comfortable with what is going to take place.

11 Q Do you also get some training in the use of tear gas?

12 A Yes.

13 Q As well as flash bangs?

14 A Yes.

15 Q And what's the purpose of using tear gas in a hostage
16 situation? Or what's the goal?

17 A Well, the goal is to actually flush the suspect out
18 of the residence without having to actually go in.

19 Q Is it always successful?

20 A No, it's not.

21 Q The effects, there's been some talk about tear gas
22 and everything. Does tear gas do any permanent
23 damage to anyone?

24 A No.

25 Q In fact, once someone is removed from the area where

1 the tear gas is, do they recover; I mean, as far as
2 just the crying and stuff?

3 **A** Yes, ma'am, they do.

4 **Q** Fairly quickly?

5 **A** Yes.

6 **Q** And what does tear gas actually do to someone?
7 Discomfort?

8 **A** It makes their eyes burn, makes their skin burn,
9 gives them an uncomfortable feeling to cause them to
10 come from the area in which they are.

11 **Q** Is it more effective in certain cases than in others?

12 **A** Yes, it is.

13 **Q** Flash bangs, what's the purpose of those?

14 **A** Flash bangs are used to give us -- when I say "us",
15 the SRT members -- an advantage over a suspect when
16 we get ready to go in. You throw it in a few seconds
17 before you go in. It gives out a loud noise and it
18 gives a very bright flash which causes you to lose
19 your sight focus or your eyesight for a short period
20 of time which gives us an advantage to come in
21 through the door.

22 **Q** When you're talking about a short period of time,
23 you're talking about seconds?

24 **A** Yes.

25 **Q** It has no permanent effect either?

1 **A** No. It has no permanent effect.

2 **Q** I want to turn your attention back to February 24th
3 of 2007 on Booth Street. Did you respond to that
4 scene that day?

5 **A** Yes, ma'am, I did.

6 **Q** In fact, was your team called in as well as the other
7 SRT team?

8 **A** Yes, ma'am.

9 **Q** And approximately what time of the day was it when
10 you got there?

11 **A** I received a call about 3:30. I was informed to go
12 to a staging area and get all the guys prepared for
13 what we were about to go into.

14 **Q** At that point were you made aware that there was
15 other law enforcement personnel already there at the
16 scene at Booth Street?

17 **A** Yes. I was advised that lieutenant -- he was a
18 Lieutenant at the time -- Captain Santiago's team was
19 already on the perimeter.

20 **Q** And your team was called in addition to that?

21 **A** Yes.

22 **Q** And other team members came in at different times?
23 It's just matter of when they got called in?

24 **A** Yes.

25 **Q** Once you got to the scene at Booth Street, what area

1 did you go to?

2 **A** I received a call and I informed my team members of a
3 pre-determined location to meet me at. Prior to
4 going in route to that location, I received another
5 call stating that we needed to come directly to the
6 location. Once we arrived at Booth Street we parked
7 our vehicles in the designated location and started
8 to get dressed for the situation at hand.

9 **Q** And that area was a little bit down the street from
10 the actual trailer itself --

11 **A** Yes.

12 **Q** -- where the hostage situation was taking place?

13 **A** Yes.

14 **Q** And during the course of the afternoon, at one point
15 did you all stand ready to enter and then stood down?

16 **A** Yes, we did.

17 **Q** And explain that to the jury?

18 **A** Basically what happened is we got dressed. We had
19 what we called an armored car up the hill to where we
20 staged that to formulate a plan. I was given intel
21 which I then provided to my team. I was given a
22 photo of the possible suspect that was in the
23 residence and his criminal history of things that had
24 happened prior to. After that we briefed on how we
25 were going to enter the residence. We were given a

1 layout of the actual trailer of possibly where the
2 rooms were located and where the suspect possibly
3 was.

4 Q And the first time you didn't make entry, you didn't
5 actually make entry. You stood down because of
6 hostage negotiations?

7 A We were about to make entry and we were informed to
8 stand down because the suspect was about to come out.
9 So stood down. We still stayed behind our cover but
10 we did not go up to make entry. Shortly thereafter
11 the suspect never came out. He said that he was but
12 he didn't.

13 Q And that afternoon, during the course of that
14 afternoon, too, you didn't actually deploy gas, but
15 was tear gas actually deployed into the residence or
16 an attempt made?

17 A Yes, it was.

18 Q And was that successful?

19 A No, it was not.

20 Q Sometime that afternoon, later in the afternoon,
21 shortly before you all made entry, was an attempt
22 made to cut off the power to the trailer itself?

23 A Yes. The attempt was made.

24 Q Why is that? Why was that done?

25 A Basically, if it's a cold environment, we try to cut

1 the power off to make them more uncomfortable in the
2 location in which they are in.

3 Q And that was actually done successfully?

4 A Yes.

5 Q Around quarter to 7 that evening, or between 6:30 and
6 quarter to 7, did your team make entry?

7 A Yes, we did.

8 Q And was yours the only team that made entry?

9 A Yes.

10 Q And who all was at the front of that team, at the
11 head of the team?

12 A I was the actual what we call the point man which is
13 the first guy in the door. I was the point man. But
14 we had a shield guy who was standing there at the
15 door so that the guy that was going to what we call
16 ram the door to force entry would have protection
17 because all he has is a tool at the time of entry.

18 Q And how is entry made in this situation?

19 A We staged or gathered our thoughts and was given the
20 go by Sheriff Lott, moved to the door. The door was
21 forced open. As the door was forced open, I myself,
22 Investigator Brown and Lieutenant Pritchard had
23 already informed that we were going to the left of
24 the trailer and the rest of the team would go to the
25 right.

1 Once the door was forced open, at that time I
2 entered, threw my flash bang. And when I entered to
3 throw the flash bang, I seen a silhouette of a person
4 standing right by the refrigerator. At that time I
5 took my flash bang and I threw it directly at that
6 individual so that it would give that full effect
7 once it hit the ground, that they would lose their
8 eyesight and their hearing at that time.

9 Q And just for the record, prior to entering, you all
10 actually had to force your way in the door?

11 A Yes.

12 Q And that would have included ramming the door with
13 some object?

14 A Yes.

15 Q And in addition to that, were you aware that there
16 was a couch pushed up against the door?

17 A Well, we were informed that the door was barricaded.
18 We had no earthly idea what was behind the door to
19 barricade it. So we used the ram and forced our way
20 in.

21 Q So anyone in the residence for those several seconds
22 before you actually made entry or were making entry
23 would have heard or could have heard you all?

24 A Yes.

25 Q And then when you saw the silhouette, it was over

- 1 next to the refrigerator in the kitchen area?
- 2 **A** Yes.
- 3 **Q** And I show you State's Exhibit No. 67.
- 4 **A** Yes, ma'am.
- 5 **Q** Is that the area where you saw the silhouette?
- 6 **A** Yes, ma'am; that is.
- 7 **Q** And is there a hallway right beside that refrigerator
- 8 going further back into that trailer?
- 9 **A** Yes, ma'am; there is.
- 10 **Q** And what rooms were located down that hallway?
- 11 **A** If I'm not mistaken, there is a laundry room down
- 12 that hallway and the master bedroom.
- 13 **Q** And is that the area you saw the silhouette go?
- 14 **A** Yes.
- 15 **Q** You mentioned that you threw your flash bang at or
- 16 close to the person, where you saw the silhouette?
- 17 **A** That's correct.
- 18 **Q** And it actually landed in the kitchen area I believe?
- 19 **A** Yes. It hit the refrigerator and came back off the
- 20 refrigerator.
- 21 **Q** And it actually ultimately made a hole in the floor.
- 22 The picture is around here. That was from the flash
- 23 bang?
- 24 **A** Yes.
- 25 **Q** Once you made entry and threw your flash bang, you

1 all followed in right behind that?

2 A Yes.

3 Q What prevents you all from being affected by the
4 flash bang?

5 A Nothing prevents it, but we give it a second to
6 actually go off. And once it's in the process of
7 going off, then we make entry.

8 Q So then you follow the area where you saw a
9 silhouette?

10 A Correct.

11 Q And as you went down that hallway past the
12 refrigerator, did you observe a laundry room to the
13 left?

14 A Yes, I did.

15 Q I show you State's Exhibit No. 78. Is that the
16 laundry room that was in that trailer?

17 A Yes, it is.

18 Q And as you approached laundry room, what alerted you?

19 A As I approached the laundry room, I lost sight of the
20 suspect as I had my flashlight that I have on my
21 weapon pointed down the hallway. Once I got closer
22 to that area, there was a freezer, a white freezer
23 that was up against the back door which was kind of
24 long which caused me to stop short of that actual
25 room right there.

1 Q And I'll show you State's Exhibit No. 69. Is that
2 the freezer you're referring to?

3 A Yes, ma'am, it is.

4 Q And that was actually up against that door at the
5 time?

6 A Yes, ma'am.

7 Q And you said it stopped you from going forward?

8 A Yes, ma'am.

9 Q Did you have to move it out of the way, or were you
10 able to get around it?

11 A No, ma'am. We were -- there was a small opening to
12 where we could walk along the side of it. But being
13 that I lost sight of the silhouette of the individual
14 that went down the hall, we had information that
15 there was a suspect in there with a weapon, I was not
16 going to go past what we call a threshold, that door,
17 without actually being able to see all the way down
18 that door with that side wall being right there.

19 Q So at that point were you the lead person?

20 A Yes, ma'am, I was.

21 Q And was Investigator Brown right behind you?

22 A Correct.

23 Q And it was the two of you basically going back in
24 that area?

25 A It was three of us. It was myself, Investigator

1 Brown and Lieutenant Pritchard.

2 Q And he would have been the third?

3 A Correct.

4 Q And as the point man, as you approached door to the
5 left of the laundry room; what, if anything, did you
6 say?

7 A I informed whomever was in there to come out with
8 their hands up. I said that several different times.
9 Of course it could have been muffled by the
10 protective mask. But I was saying it loud enough so
11 that they could hear me. I was basically screaming
12 it out. "Come out with your hands up, come out with
13 your hands up." And then shortly thereafter we seen
14 hands come to the doorway, and then we coached him
15 out from that point.

16 Q So your demand was to come out or whatever, and that
17 was said multiple times?

18 A Yes.

19 Q And you mentioned that "show your hands" was said?

20 A Yes.

21 Q And eventually did you see some hands coming from the
22 laundry room area?

23 A Yes, ma'am.

24 Q Or in the laundry room area?

25 A Yes, ma'am, I did.

1 Q And how did you first see those hands?

2 A As I was standing there looking at the little small
3 opening that I could see, I seen fingertips as they
4 came out.

5 Q And at that point did you know where the gun was?

6 A No, ma'am, I did not.

7 Q But it wasn't in his hands at that point?

8 A No, ma'am. It was not in his hands at that point.

9 Q Once you saw his hands and he was coming forward,
10 what did you all do?

11 A At that point we, myself and Investigator Brown,
12 grabbed an arm apiece and escorted, actually pulled
13 him from that area out to where we could actually
14 handcuff him as Lieutenant Pritchard was trained on
15 the other room.

16 Q So basically Lieutenant Pritchard is covering the
17 other room and the two of you all are getting the
18 suspect, the Defendant, out?

19 A Yes. We're dealing with him.

20 Q And at that point was he handcuffed?

21 A Yes, he was.

22 Q And then was he escorted from the trailer?

23 A Yes, he was.

24 Q And who did that?

25 A I escorted him from the trailer.

1 Q So at that point Investigator Brown and Investigator
2 Pritchard would still have been inside the residence
3 to further search that area?

4 A Yes, ma'am.

5 Q And later did you become aware that Investigator
6 Brown actually escorted the victim out in handcuffs?

7 A Yes, ma'am.

8 Q And you were actually outside at that point?

9 A That is correct.

10 Q After you handcuffed him and prior to leaving the
11 residence, did you notice where the gun was located?

12 A I seen where there was something there as I came back
13 in the residence to do a security check of the area
14 to make sure that we didn't lose any of our
15 equipment.

16 Q And the gun that was located in the laundry room
17 floor, you didn't actually collect that?

18 A No, ma'am, I didn't.

19 Q Somebody else would have done that?

20 A Yes.

21 Q But that gun would have been located on the laundry
22 room floor where you apprehended --

23 A Yes.

24 Q -- Randolph Ashford?

25 A That's correct.

1 Q When you made entry that day, basically the three of
2 you all went to the left and several people went to
3 the right?

4 A Yes, ma'am.

5 Q At any point while any of you all were in there, did
6 you all -- other than moving the couch back from the
7 doors and the freezer back from the back door -- did
8 you all destroy any furniture, move anything or
9 anything at that point?

10 A No, ma'am.

11 Q And other than your flash bang and the tear gas you
12 all threw in the windows which broke some windows --

13 A Right.

14 Q -- did you all do anything to ransack or destroy
15 anything in the house?

16 A No, ma'am, we did not.

17 Q I show you State's Exhibit No. 56. Other than the
18 couch and the table, was that how it was when you
19 entered?

20 A Yes, ma'am.

21 Q I show you State's Exhibit No. 66. Is that how it
22 was when you entered?

23 A Yes, ma'am.

24 Q And again, the hole on the floor was caused by your
25 flash bangs?

1 **A** Yes, ma'am, it was.

2 **Q** You didn't have any direct contact with the victim
3 that night?

4 **A** No, ma'am, I did not.

5 **Q** And the Defendant while he was with you, you didn't
6 question him any, did you?

7 **A** No, ma'am. As soon as I escorted him out, he and I
8 walked over towards EMS and he was checked.

9 **Q** That was going to be my next question. Did he get
10 checked out by EMS that night?

11 **A** Yes, ma'am, he did.

12 **Q** And was that because of tear gas?

13 **A** Yes, ma'am.

14 **Q** And did EMS release him without any further need of
15 any treatment?

16 **A** Yes, ma'am. He was released. And I placed him in a
17 patrol car in which he was taken to the Richland
18 County Sheriff's Department.

19 **Q** Did they treat him in any way?

20 **A** No, ma'am. They checked him, checked his vitals and
21 said that he was fine and sent him on his way.

22 **Q** Later that night Investigator Brown actually went
23 back in and gathered up what equipment you all had
24 used?

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

1 **Q** The tear -- whatever you all call that stuff. The
2 person that you as the point man and Investigator
3 Brown apprehended and found in that laundry room
4 where the gun was, do you see him here in the
5 courtroom?

6 **A** Yes, ma'am, I do.

7 **Q** Can you point him out for the jury?

8 **A** It's the gentleman sitting at the table right there
9 with the dark suit on with a dark tie with the white
10 stripes and the white shirt.

11 **MS. CAMPBELL:** Your Honor, may the record
12 reflect?

13 **THE COURT:** The record will so reflect the
14 witness identified the Defendant. Cross examination.

15 **MS. CAMPBELL:** Thank you.

16 **MS. SINGLETARY:** Thank you, Your Honor. If it
17 pleases the Court.

18 **THE COURT:** Yes, ma'am.

19 CROSS EXAMINATION

20 **BY MS. SINGLETARY**

21 **Q** Investigator Abraham, I'm going to be as brief as I
22 can because the State asked basically the same
23 questions to you that they asked to Investigator
24 Brown. Okay?

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

1 Q And you stated that when you all made entry you had
2 on a mask, correct?

3 A Correct.

4 Q And you being in the military, was that the standard
5 MCU 2AP military gas mask that you had on?

6 A It's an M-40. Yes, ma'am.

7 Q It's an M-40 mask that you had on?

8 A Yes, ma'am.

9 Q And when you're actually wearing this mask, it's
10 actually hard. If you're a person who don't -- if
11 you're a person who doesn't have on the mask, it's
12 actually hard to hear what someone inside that mask
13 is saying?

14 A Yes, ma'am. It is. But you can understand what is
15 being said outside of that mask.

16 Q Yeah. And that's where I'm going to go to. Because
17 you wearing the mask, like you have to kind of
18 project your voice because the mask can kind of like
19 muffle it a little bit. So you have to talk a little
20 louder when you're wearing this mask?

21 A Yes, ma'am. That is correct.

22 Q And the reason why you all wear this mask is so that
23 you won't be affected by that tear gas, correct?

24 A That's correct.

25 Q But isn't it true that with tear gas, even if the

1 tear gas is -- you have actually been taken out of
2 the building where the tear gas is at; that tear gas
3 is still on your clothing, correct?

4 **A** Yes, ma'am, it is.

5 **Q** And that tear gas that's on your clothing is still
6 off gassing, correct?

7 **A** Yes.

8 **Q** And you can still be under the effect of that tear
9 gas even though you're outside of that building?

10 **A** That's correct.

11 **Q** So would it be correct to say that that tear gas
12 isn't just lasting for seconds. It could go on for a
13 while as long as you had on those same clothes that
14 you had on?

15 **A** Yes. You can still smell the tear gas within the
16 garments of your clothing.

17 **Q** Yes. And earlier you said that one of your duties
18 was to go there and get intel?

19 **A** Correct.

20 **Q** And the intel that you were referring to earlier that
21 you got, you said you got a picture of the suspect,
22 correct?

23 **A** Correct.

24 **Q** And another thing you got was information about the
25 three cars that had been taken earlier on that day,

1 correct?

2 **A** No, ma'am. I didn't get -- we didn't get that
3 information about any vehicles or anything like that.
4 We just got information on the suspect.

5 **Q** Okay.

6 **A** And their history.

7 **Q** Okay. Okay. So you got history. Okay. And you
8 said you forced the door in when you came into the
9 location?

10 **A** The door was forced open. Yes, ma'am.

11 **Q** Yeah. Well, you forced the door open. And another
12 thing is that when you made entry you said that -- I
13 guess you said you saw a silhouette close to the edge
14 in the kitchen?

15 **A** Yes, ma'am.

16 **Q** And you said that you took your flash bang and you
17 tried to throw it directly at that silhouette,
18 correct?

19 **A** Close to it. Yes, ma'am.

20 **Q** Close to it. Because you said you wanted them to
21 feel the full effect of that flash bang?

22 **A** That is correct.

23 **Q** And you said the effect of that flash bang was it
24 would impair a person's eyesight?

25 **A** Correct.

1 Q And it would actually impair that person's hearing?

2 A Correct.

3 Q And your team were the only people -- and I know this
4 is going to be silly question. Your team that made
5 entry into that house were the only people who had on
6 those gas masks?

7 A Yes.

8 Q To protect you from the effects of the tear gas?

9 A Correct.

10 Q Or from the flash bang?

11 A Well, the gas mask doesn't protect you from the flash
12 bang. It just protects us from the gas.

13 Q Well, when I say protect you from the flash bang, I
14 meant like your vision, so it wouldn't affect your
15 vision?

16 A It doesn't have any effect on the actual flash bang.
17 The gas mask is a regular mask and it has two lenses.
18 If I threw the flash bang and I am not used to what
19 is going to happen thereafter, then I am subsequently
20 blind as well.

21 Q Okay. But because you knew how the flash bang
22 operated, you would assume that you would close your
23 eyes so the flash bang wouldn't affect you?

24 A No, ma'am. If I close my eyes and I'm going through
25 a door, I'm setting myself up for a situation that

1 I'm not ready for. In other words, I could get shot.

2 Q But what I'm saying is initially when you throw the
3 flash bang, are you looking directly at this flash
4 bang?

5 A No, ma'am. I'm not looking directly at the flash
6 bang. When I deployed the flash bang, what I did was
7 looked in, tossed it, stuck my head back out, then I
8 went in after it went off.

9 Q And that's what I'm saying. You threw the flash bang
10 but you looked away. So you said you looked in,
11 threw the flash bang and then you ducked your head
12 back out?

13 A Yes.

14 Q So you wouldn't be affected by the flash bang?

15 A Correct.

16 MS. SINGLETARY: Okay. I have no further
17 questions, Your Honor.

18 THE COURT: Redirect.

19 MS. CAMPBELL: Just a couple.

20 REDIRECT EXAMINATION

21 BY MS. CAMPBELL

22 Q And because tear gas can effect someone, that's why
23 he had to be checked out by EMS?

24 A Yes.

25 Q They said his vitals were normal?

1 **A** They said his vitals were normal.

2 **Q** At any point did he complain of anything about the
3 gas to you?

4 **A** No, ma'am, he didn't.

5 **MS. SINGLETARY:** Objection, Your Honor. Beyond
6 the scope of cross examination.

7 **THE COURT:** I'll allow it. Go ahead.

8 **Q** Thank you. And finally, she talked about how the gas
9 mask could muffle your voice?

10 **A** Yes.

11 **Q** And you're trained to project your voice so that
12 people can hear you?

13 **A** Yes, ma'am.

14 **Q** Because you and all your training aren't going to be
15 very effective if you go in and they can't hear you?

16 **A** That is correct.

17 **Q** And did you make sure he could hear you that day?

18 **A** Yes, ma'am, I did.

19 **Q** Thank you.

20 **MS. SINGLETARY:** Your Honor, I have no further
21 questions.

22 **THE COURT:** All right. You may come down. May
23 this witness be excused?

24 **MS. SINGLETARY:** Yes, Your Honor. Without
25 objection.

1 **THE COURT:** Approach the bench, please.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** All right, ladies and gentlemen.

4 Just again checking with the schedule. I'm going to
5 dismiss you now for your lunch hour. I'll ask you to
6 be back in the jury room at 2:15 at which time we'll
7 continue the trial. Don't discuss the case with
8 anyone. Have a pleasant lunch, and we'll see you at
9 2:15. Thank you.

10 (Jury out at 1:00 p.m.)

11 **THE COURT:** We'll be at ease until 2:15.

12 Actually, just for your information, there are other
13 matters that the Court has to take up at 1:30. So
14 this courtroom will be open and we'll be conducting
15 other business of the court at 1:30.

16 (Whereupon, a lunch break is taken)

17 **MS. SINGLETARY:** Your Honor, may I approach?

18 **THE COURT:** Just a minute.

19 (Pause)

20 **THE COURT:** Come to order, please. Is the State
21 ready to proceed?

22 **MS. CAMPBELL:** The State's ready.

23 **THE COURT:** The defense ready?

24 **MR. O'NEIL:** Your Honor, I would like to take
25 this opportunity to put my pre in camera --

1 **THE COURT:** Well, let me do it later. I've got
2 a courtroom. I neglected to -- I'm going to allow
3 you to do that.

4 **MR. O'NEIL:** Yes, Your Honor.

5 **THE COURT:** Let's just don't let me forget it.
6 But I've got everybody assembled now. Bring the
7 jury, please.

8 (Jury in at 2:38 p.m.)

9 **THE BAILIFF:** The jury is seated, Your Honor.

10 **THE COURT:** All right. Thank you very much,
11 ladies and gentlemen. We're now ready to continue
12 with the trial. We did have a matter that came up at
13 just about 2:00. We had to take care of it. And I
14 appreciate your patience again. All right,
15 Solicitor. Call your next witness.

16 **MS. CAMPBELL:** May it please the Court. The
17 State calls Leon lost.

18 **THE COURT:** Come around, Mr. Lott.

19 LEON LOTT, after being duly sworn, testifies as
20 follows:

21 **THE CLERK:** Please have a seat, sir. State your
22 full name for the record.

23 **THE WITNESS:** Leon Lott.

24 DIRECT EXAMINATION

25 **BY MS. CAMPBELL**

1 Q Sir, where are you employed?

2 A The Richland County Sheriff's Department.

3 Q What do you do there, sir?

4 A I am the Sheriff.

5 Q Can you tell the jury a little bit about your duties
6 as Sheriff of the Richland County Sheriff's
7 Department?

8 A Basically I oversee everything that goes on with the
9 Sheriff's Department, in charge of all
10 administrative/operative functions, head the
11 Department, set the mission, set the goals, and
12 direct the deputies who work there.

13 Q And in certain situations do you actively participate
14 in many of the investigations and/or ongoing
15 situations that arise in this county?

16 A It depends on the situation. I try to respond to the
17 most serious ones.

18 Q And the SRT team, what does it do?

19 A That's the same as the SWAT team. We call it a
20 Special Response Team, but it's essentially the same
21 as a SWAT team. They respond to special
22 circumstances: Barricades, guns, hostages. Anything
23 that we feel like is a situation that maybe a normal
24 deputy could not handle, the SWAT team or SRT team is
25 called in to handle it. They have specialized

1 training, they have specialized equipment that a
2 normal deputy would not have.

3 Q I want to turn your attention to February 24th of
4 2007. Did you respond to a situation on Booth Street
5 that day?

6 A Yes, I did.

7 Q And approximately what time of day was it when you
8 got there?

9 A Probably about 2:00. I'd gotten the call maybe
10 shortly after 1. At that time I was in Orangeburg.
11 So I was responding from Orangeburg. So it was
12 around 2:00 when I responded.

13 Q And when you got there, sir, were there other police
14 officers, both City and County police officers, there
15 at the scene?

16 A Yes. We had some deputies there, and Columbia Police
17 Department officers were there also.

18 Q Upon arriving at the scene, were you advised of the
19 situation involving a shooting involving your
20 officers?

21 A Yes, I was.

22 Q Were you also advised that there was a hostage that
23 was still being kept inside the trailer?

24 A That's correct. On a situation like this, when I get
25 to the scene, I'm on radio contact or telephone

1 contact as I am going to the scene trying to find out
2 as much as I can by those means. But once I get
3 there, then I'm fully briefed on exactly what's going
4 on. Everybody has a job, a responsibility. I guess
5 my responsibility is to see the big picture, know
6 everything that's going on, and I am the one that
7 ultimately has to make most of the decisions that
8 occur.

9 Q Once you got there did you actively participate in
10 the negotiations that you were attempting to make
11 with the person that was holding the victim inside?

12 A I was overseeing that insofar as monitoring what was
13 going on with the negotiations, monitoring what was
14 going on with the deputies around the perimeter, just
15 kind of monitoring the whole scene as it was but also
16 giving instructions to them, what I wanted to happen,
17 what I wanted certain people to do.

18 Q And that afternoon, based on your assessment of what
19 you found when you got to the scene, did you feel it
20 was necessary to call in the SRT team?

21 A Yes, I did. I made the decision to call in our
22 special team with our special equipment, our command
23 post, our armored car and our specialized officers.

24 Q And they were actually brought in and put in position
25 I believe around 4:00 that afternoon or actually

1 sometime that afternoon?

2 **A** That's correct. One of the first things I wanted to
3 do was remove the deputies that we had that had the
4 perimeter that was around the location. I wanted to
5 replace them with our SRT Team members who again had
6 specialized training, had specialized equipment. So
7 we wanted to get them away from the scene and put in
8 our specialized people.

9 **Q** And did you in fact do that?

10 **A** Yes, we did.

11 **Q** During the course of the afternoon did you actually
12 overhear or hear some of the negotiating that was
13 going on with the Defendant himself?

14 **A** Back and forth. I was hearing that as well as
15 monitoring other activities that the deputies were
16 doing. Again, I was kept up to date on everything.
17 Minute, second by second, as things were occurring, I
18 had to know about it. So I was being briefed on it.

19 **Q** And during the course of that afternoon did you hear
20 the Defendant make any specific threats?

21 **A** Yes, he did. He threatened --

22 **MR. O'NEIL:** Objection, Your Honor. Renew my
23 previous pre-trial objection.

24 **THE COURT:** Based on ...?

25 **MR. O'NEIL:** Moran.

1 **THE COURT:** Yes, sir. Overruled.

2 **MS. CAMPBELL:** Thank you.

3 **Q** Go ahead.

4 **A** I was being advised but I was also listening, trying
5 to listen in also so I could hear his tone, his
6 demeanor, how he was saying things, what he was
7 saying. That all played in the decisions that I
8 would make. I was relying on the people that I was
9 talking with, but I also wanted to hear him myself.
10 So that's part of my decision making process, is to
11 get all the facts I can. I am the only one that can
12 basically direct officers to do certain things.

13 When you have situations like this, it's where
14 sometimes we have to be the one to go in. And I am
15 the only one that can make those decisions. Where
16 I'm going to place one of my officer's lives in
17 danger or so, if necessary, if I have to take
18 someone's life, I am the one that has to make that
19 decision. So I want to have as many facts as I can.
20 So I want to hear, I want to know, I want to know
21 everything.

22 **Q** And that afternoon did you actually hear the
23 Defendant talk about a certain person he was
24 requesting to talk to?

25 **A** Yes.

1 Q And who was that person?

2 A Roberta.

3 Q And do you know the relationship between Roberta and
4 the Defendant?

5 A I think girlfriend/boyfriend.

6 Q And during the course of that afternoon did you
7 actually facilitate things so that Roberta came down
8 there to speak to the Defendant?

9 A Yes. She came, and we had her outside the command
10 post. We actually had her do some negotiations,
11 talking for us. And it just wasn't working. The
12 demands that he was making was not demands that we
13 were going to make. And one other thing that we do
14 is, I never get personally involved in the
15 negotiations. You never have the top person do it
16 because that gives the negotiators an out. If the
17 person that's holding the hostages say, I want this
18 or I want that, the negotiator can always say, well,
19 I have to check with someone. Well, I'm the top
20 person. So if they're talking to me, there's no one
21 I have to check with. So that gives negotiations the
22 ability to buy time or make excuses. So I never
23 directly get involved in negotiations myself. That's
24 kind of procedure to make sure these things go the
25 way they should.

1 Q And during that afternoon was there attempts at
2 least, constant calling in or whatever, to make
3 contact with the Defendant while he was holding the
4 hostage?

5 A Yes. There was numerous conversations that went on
6 for a period of time.

7 Q And that afternoon at some point though, were you
8 having difficulty in getting him to respond to your
9 attempts to get him on the phone?

10 A Yes. There was a period of time that he didn't
11 answer the phone; we didn't have a conversation. And
12 that concerned me, because there was constant contact
13 with him except for a certain period of time, and
14 that worried me. I didn't know what was going on,
15 and that was kind of different from what the previous
16 time we had where there was constant conversation
17 with him. So that concerned me, why he wasn't
18 talking to us. And then after a period of time, then
19 he started back talking with us. But there was that
20 period of time there was no contact with him.

21 Q At some point during that afternoon did the Defendant
22 actually agree to come out and give himself up and
23 his hostage up?

24 A He did. He would go back and forth. Yeah, I'm
25 coming back; I'll be out in five minutes. This went

1 on for a good period of time.

2 **Q** And as dark was approaching, did you make the
3 decision to cut off all power to the trailer itself?

4 **A** Yes, I did.

5 **Q** And why was that, sir?

6 **A** Put them into darkness to give us the advantage, that
7 if we did enter the location, then we would be the
8 ones controlling the lights and we would be able to
9 see. That helps us. And certain things that we do,
10 we later used a flash bang, and flash bangs are more
11 effective if it's done in the dark because it
12 disorients the person that's inside. So we wanted to
13 go ahead and cut the electricity. Also make them as
14 uncomfortable as possible, too. By removing the
15 electricity, they don't have the ability to watch TV.
16 We had media that was present. We don't want the
17 person holding -- the bad guy being able to watch
18 what's going on on the TV and being able to see what
19 we're doing. So we cut off all communications and
20 also anything that's going to make them comfortable.
21 So that's the purpose of cutting electricity off.

22 **Q** That afternoon there's been testimony that tear gas
23 was actually launched inside the house I guess?

24 **A** Right. That's correct.

25 **Q** For lack of a better word? What's the purpose in

1 doing that, sir?

2 **A** Well, I wanted to put tear gas in to see if we could
3 force him out, if we could make it uncomfortable with
4 the tear gas, that he would give up and come out.
5 That's been successful sometimes previously. This
6 time it was not successful. But that's --

7 **Q** It's not always successful?

8 **A** It's not always successful, no. But that's
9 something -- you almost have certain steps in
10 situations like this where you take -- you try to do
11 negotiations, you feel like negotiation is not going,
12 you start cutting power. Then you start doing tear
13 gas. Then you kind of escalate what you're going to
14 do until, you know, the last resort is actually going
15 in.

16 **Q** During the course of the afternoon while you were
17 there, you never actually heard the Defendant fire
18 any shots from his gun, did you?

19 **A** No. I was briefed that that occurred prior to me
20 getting there.

21 **Q** And I want to turn your attention to around 6:30,
22 quarter to 7 that evening. Did you make a decision
23 that you needed to send your men in?

24 **A** That's correct. Looking at the whole situation, the
25 negotiations I felt were fruitless at that point. I

1 guess, for a better term, I felt like he was jerking
2 us off, that he just was not going to come out, that
3 we had to go in and get him. I was in fear of what
4 was going to happen with the victim, the person being
5 held hostage. At that point we could not wait any
6 longer. So I felt like we had to go in.

7 So I made the decision on how we would go in,
8 what we would do as far as the negotiators having him
9 on the phone to draw his attention, at what points we
10 would enter. We would throw flash bangs in which
11 emit a loud noise and light to try to disorient him
12 and the points we'd go in. So we actually had a plan
13 that we had to coordinate between the negotiators and
14 the command post and the people on the scene.

15 **Q** And did your men on the SRT Team, did they actually
16 forcibly enter the trailer that night?

17 **A** That's correct. I left the command place and placed
18 myself there at the trailer right in front of it
19 behind the armored vehicle so I could actually be
20 close to see what was going on.

21 **Q** And, in fact, were they able to gain entry into the
22 trailer?

23 **A** Yes. They were very successful. They were able to
24 go in and they were able to rescue the hostage and
25 arrest the bad guy.

1 Q And, in fact, Investigator Abraham and Investigator
2 Brown were actually able to go in and secure the
3 Defendant and bring him out?

4 A That's correct.

5 Q And as part of your policy, isn't it policy that
6 whoever is inside is handcuffed just for safety
7 precautions as far as the protocol?

8 A That's correct.

9 Q And the victim also came out handcuffed that day?

10 A That's correct.

11 Q And when did you make contact with the victim in the
12 case?

13 A As soon as she came outside the door. I basically
14 met her right outside the front door.

15 Q And do you recall her demeanor that night when she
16 finally got out of that trailer?

17 A She was very thankful and she thanked us for what we
18 done, thanked us for saving her life, thanked us for
19 rescuing her.

20 Q And shortly thereafter did you become aware that she
21 had been raped while she was in there?

22 A That's correct.

23 Q The flash bangs, the tear gas, does that have any
24 permanent effect on anyone?

25 A Not to my knowledge. I actually went into the

1 residence also and was exposed to it and it didn't
2 bother me.

3 Q So you actually went in the residence that night
4 after they were removed?

5 A Yeah. I made the decision to bring the fire
6 department in to bring the big fans that the fire
7 department has to blow the stuff out so people can
8 actually go back in and live. So I went in to see
9 how bad it was.

10 Q And did you have a mask on when you went in?

11 A No.

12 Q And did you have any residual effects from the tear
13 gas or anything else in the trailer that night?

14 A Not that I'm aware of.

15 Q So, all in all, both the Defendant and the victim
16 were able to be extracted without any harm to their
17 lives?

18 A I guess it's a successful operation. We were able to
19 get the victim out. She was not injured, besides
20 being raped, which is an injury. But we did not know
21 that at that point. And the suspect was arrested and
22 nobody got hurt. So that is a successful operation.

23 Q Beg the Court's indulgence. The person that was
24 arrested that night, did you see him when they
25 brought him out?

1 **A** Yes, I did.

2 **Q** Do you see him here in the courtroom?

3 **A** Yes. Yes, ma'am. I see him right there in the
4 middle.

5 **Q** The middle?

6 **A** The gentleman in the middle.

7 **Q** Wearing ...?

8 **A** The gentleman in the middle wearing the striped tie,
9 gray looking, dark gray suit.

10 **MS. CAMPBELL:** Your Honor, may the record
11 reflect --

12 **THE COURT:** The record will reflect the witness
13 identified the Defendant. Cross examine.

14 **MR. O'NEIL:** Thank you, Your Honor.

15 CROSS EXAMINATION

16 **BY MR. O'NEIL**

17 **Q** Mr. Lott, you were basically in charge of the scene
18 that day, correct?

19 **A** That's correct.

20 **Q** You got there around 2?

21 **A** That's correct.

22 **Q** And you essentially were advised of what happened
23 before you got there?

24 **A** That's correct.

25 **Q** But you have no personal knowledge about what

1 happened before you got there at 2?

2 **A** No.

3 **Q** And you have no personal -- you -- during the whole
4 situation, you were on the outside of the house,
5 correct?

6 **A** That's correct.

7 **Q** Up there by the command center?

8 **A** Well, different locations. I actually would go back
9 and forth from the command center which was not even
10 half a block away to directly in front of the
11 residence. Our armored vehicle at some point was
12 placed there. So I would go down behind it in a
13 protected location, but it would be close enough
14 where I could see exactly what was going on.

15 **MR. O'NEIL:** And permission to approach, Your
16 Honor?

17 **THE COURT:** Yes, sir.

18 **Q** I'm going to show you what's been marked as State's
19 Exhibit No. 38.

20 **A** Okay.

21 **Q** Can you tell me what's going on in that picture?

22 **A** This looks like this is early on before our command
23 post and all of our SWAT people had gotten there. It
24 looks like I'm on the telephone behind the vehicle.
25 You've got the taxi cab. You have an officer that's

1 on the perimeter. You have some other officers that
2 are there.

3 Q This was actually during the standoff? This picture
4 right here was taken during the standoff?

5 A Yeah. I'd say that probably was during the early
6 stages of it.

7 Q Okay. But you have no personal knowledge of what
8 happened actually inside the trailer?

9 A No.

10 Q And you said the negotiators were talking to the
11 suspect on the inside. The negotiators were located
12 in the command post?

13 A Initially they were outside. Then they were in a
14 vehicle. And then when the command post got there,
15 they came into the command post. So we had various
16 locations.

17 Q And did you all record any of the conversations
18 between the negotiators and the individual on the
19 inside of the trailer?

20 A No. At that time we did not have ability to do that.

21 Q So there's no audio, no video of what transpired that
22 day?

23 A No.

24 Q And of course you didn't write a report about what
25 happened that day?

1 **A** No.

2 **Q** One of your subordinates would have done that, one of
3 your deputies?

4 **A** That's correct.

5 **Q** And you would have relied on your deputies' report as
6 to refresh your memory about what happened that day?

7 **A** Well, it's kind of very vivid in my mind what
8 happened that day. We don't have that many. I've
9 been Sheriff for 13 years, a cop 34. And, you know,
10 this is -- something like is unique and stands out in
11 my mind. So a lot of what I'm saying is directly
12 what I would remember. I didn't have to have a
13 report to remind me.

14 **Q** But some of it you had to refresh your memory from
15 your deputies' reports?

16 **A** Like a date maybe.

17 **Q** And this happened over two years ago?

18 **A** That's correct.

19 **Q** And you say you actually went into the trailer after
20 everything was over with?

21 **A** That's correct.

22 **Q** But when you went into the trailer, that was only
23 after I think you said the big fans came from the
24 fire department?

25 **A** No, no. No, no. No, no, no, no. That was prior to

1 that. That was part of my orders, was to bring the
2 big fans in. Once the scene was secure, the suspect
3 was arrested, the victim was taken away and we had
4 the scene secured, the weapons, everything had to be
5 secured, then we'll allow the fire department. So at
6 that point I said have them come in. So, no. I was
7 there long before the fire department got there.

8 **Q** Your main role there was I guess in a supervisory
9 capacity?

10 **A** That's correct.

11 **Q** Because only certain actions can be I guess ordered
12 by you?

13 **A** That's correct.

14 **MR. O'NEIL:** Beg the Court's indulgence. No
15 further questions, Your Honor.

16 **THE COURT:** Any redirect?

17 **MS. CAMPBELL:** No, sir.

18 **THE COURT:** All right. You may come down, sir.
19 Thank you very much. May this witness be excused?

20 **MR. O'NEIL:** No objection, Your Honor.

21 **MR. BRYANT:** The State calls Shana Sorrells.

22 SHANA SORRELLS, after being duly sworn,
23 testifies as follows:

24 **THE CLERK:** Please have a seat there. Speak
25 into the microphone. State your full name for the

1 record.

2 **COURT REPORTER:** I'll need you to spell your
3 name, too.

4 **THE WITNESS:** Okay. My name is Shana Sorrells.
5 First name is S-H-A-N-A. Last name is
6 S-O-R-R-E-L-L-S.

7 DIRECT EXAMINATION

8 **BY MR. BRYANT**

9 **Q** Ms. Sorrells, where do you work?

10 **A** The South Carolina Law Enforcement Division, more
11 commonly known as SLED.

12 **Q** How long have you been there?

13 **A** Three years.

14 **Q** Tell this jury about your education?

15 **A** I have my bachelor's degree from the University of
16 South Carolina in chemistry and my master's degree
17 also from the University of South Carolina in
18 analytical chemistry.

19 **Q** And what are your duties out at SLED?

20 **A** I am a forensic toxicologist.

21 **Q** What does that mean?

22 **A** A forensic toxicologist is just a forensic scientist
23 who analyzes biological specimens such as blood,
24 urine, brains, livers. We analyze those specimens
25 for alcohol, drugs and/or other poisons. And then we

1 interpret our findings in courts of law.

2 Q And how many I guess analyses have you done during
3 your career at SLED?

4 A Well over a thousand.

5 Q Have you ever testified before?

6 A Yes.

7 Q Have you ever been qualified in court before as an
8 expert?

9 A Yes, I have.

10 Q Could you tell the judge and jury in what areas I
11 guess you've been qualified?

12 A I have been qualified in chemistry, pharmacology and
13 toxicology.

14 MR. BRYANT: Your Honor, at this time I would
15 move Ms. Sorrells be qualified as an expert in
16 toxicology.

17 THE COURT: Voir dire or objection?

18 MS. SINGLETARY: No objection, Your Honor.

19 THE COURT: All right.

20 Q As part of your job, did you have occasion to come
21 into a sample that was taken from Deborah Ann
22 Simmons?

23 A Yes, I did.

24 Q Could you tell the jury a little bit about how you
25 got that sample and how you received it and what you

1 did with it?

2 **A** Originally the sample, the type of case that it was,
3 was sent to our DNA department. The DNA department
4 then cuts it open, realizes that part of the kit that
5 they received from this case was supposed to be a
6 toxicology sample. So they brought it up to the
7 toxicology lab, in which case it was placed into my
8 custody.

9 **Q** And once in your custody, what did you do next?

10 **A** The type of case, our protocol is all of our CSC, or
11 criminal sexual conduct cases, as this one came in,
12 is if there is no history of drugs, which in this
13 case there was none, to just run a blood alcohol on
14 the case.

15 **Q** And did you run a blood alcohol?

16 **A** Yes, I did.

17 **Q** What kind of test or machines are used to run the
18 blood alcohol?

19 **A** We use a head space gas chromatography with a flame
20 ionization detector.

21 **COURT REPORTER:** With a what? I'm sorry. I
22 haven't heard that one.

23 **A** Flame ionization detector.

24 **Q** Can you simplify that? What does that do?

25 **A** What that does is that takes the sample and heats it

1 up so that anything volatile in the blood or anything
2 that can evaporate, any chemicals that can evaporate
3 get into the air. It then samples the air above the
4 sample and separates the components in the air based
5 off of the weight of the components and how volatile
6 or how evaporative the components are. And then it
7 tells you, it gives you a spike when those chemicals
8 come off. And based off of the time of the spike and
9 the components within it, we can determine exactly
10 what chemical that is.

11 Q So it tells you if the person has been using alcohol
12 or under the influence of alcohol. Is that correct?

13 A Yes, it can.

14 Q And did you do that with the blood from Debbie Ann
15 Simmons?

16 A Yes, I did.

17 Q And when you test these things, do you get I guess
18 what is a value? Or explain that to the jury, if you
19 would?

20 A We actually get a number. The instrument prints out
21 a number. We also run controls so that we know that
22 the number falls within the range that it's supposed
23 to fall in and that the number that we get from each
24 case is accurate.

25 Q And what was the result of your testing on Ms.

1 Simmons's blood?

2 **A** It was negative for alcohol.

3 **Q** Did you do a report?

4 **A** Yes, I did.

5 **Q** Do you have that report with you today?

6 **A** Yes, I do.

7 **MS. SINGLETARY:** No objection, Your Honor.

8 (WHEREUPON, State's Exhibit No. 111 is marked
9 for identification and received in evidence.)

10 **Q** I hand you what has now been marked State's 111.
11 That's your original report?

12 **A** Yes, it is.

13 **Q** And that shows that Ms. Simmons's blood alcohol level
14 was negative?

15 **A** Yes, it does.

16 **Q** Meaning she's not under the influence?

17 **A** Right.

18 **MR. BRYANT:** Your Honor, at this time I'd move
19 State's 111 into evidence.

20 **THE COURT:** Without objection.

21 **MS. SINGLETARY:** Without objection, Your Honor.

22 **Q** I don't have any more questions. Please answer any
23 questions Ms. Singletary might have.

24 **MS. SINGLETARY:** Your Honor, the defense has no
25 questions for this witness and she may be excused.

1 **THE COURT:** Thank you very much. May come down,
2 ma'am. The witness is excused. Next witness.

3 **MS. CAMPBELL:** May it please the Court. The
4 State calls Rubin Santiago.

5 RUBIN SANTIAGO, after being duly sworn,
6 testifies as follows:

7 **THE CLERK:** Please have a seat there, sir, and
8 state your full name for the record.

9 **THE WITNESS:** Rubin Santiago.

10 DIRECT EXAMINATION

11 **BY MS. CAMPBELL**

12 **Q** Captain Santiago, where are you employed?

13 **A** The Richland County Sheriff's Department.

14 **Q** What are your current duties?

15 **A** I am currently the captain of community services
16 which has several different specializations to it.

17 **Q** Are you familiar with the term SRT?

18 **A** Yes. It's the Special Response Team.

19 **Q** And are you over it now?

20 **A** Yes. I'm currently the SRT commander.

21 **Q** And how long have you been a member of the SRT? I
22 say team, but it's really SRT.

23 **A** SRT, Special Response Team, for ten years.

24 **Q** And you've had specialized training in that field?

25 **A** Yes, ma'am. We're required to go through an advanced

1 training and special tactics and weaponry; also
2 strategies for situations, for barricaded situations
3 or hostage situations, along with special entries to
4 buildings or other enclosures that might cause us to
5 go in and reduce a threat.

6 Q I'm going to turn your attention back to February the
7 24th of 2007. Do you remember that day?

8 A Yes, ma'am.

9 Q And, in fact, were you deployed to a scene over on
10 Booth Street?

11 A Yes, ma'am. I was one of the team leaders, also the
12 assistant team commander at the time.

13 Q Who was the team commander at the time?

14 A Lieutenant David Okinaga.

15 Q Is he retired?

16 A Yes, he is.

17 Q So at the time you were kind of one of the ones in
18 charge?

19 A Right. I was actually one of the first people that
20 was contacted by Lieutenant Okinaga in preparation
21 for a possible situation where we would have to
22 deploy. And shortly after I was given the order to
23 deploy our team to that location.

24 Q And what time of day was it when you got out there
25 approximately?

1 **A** It was about 2:30, almost 3:00 in the afternoon.

2 **Q** By 4 or 4:30, were your teams -- I believe you had
3 two teams that day, right?

4 **A** Initially we had one team to assess the situation and
5 to set up containment, which is basically a tighter
6 perimeter around there, and also evaluate for officer
7 safety purposes and to also contain it.

8 **Q** And later that afternoon you called in a second team?

9 **A** Right. It was at that time that we realized it was a
10 larger situation, and we activated a second team to
11 assist.

12 **Q** And there's been some talk about this; but you all
13 have specialized training because it can be a more
14 dangerous situation than most?

15 **A** That's correct. That's correct.

16 **Q** And that day when you brought in the second team, did
17 you all decide to take certain measures in order --
18 did it become obvious you were going to have to go
19 in?

20 **A** Absolutely. We learned through the intelligence that
21 was gathered and the situation that had occurred
22 earlier that we had a barricaded subject with a
23 hostage that had a firearm and he had used that
24 firearm. And so the analysis of the area was to
25 relieve the deputies in that location so those

1 specialized units could handle that situation. Given
2 the location of the residence, we wanted to make sure
3 that no one else was hurt or injured in that
4 situation.

5 Q And who was actually heading up the team that was
6 going to -- or who was the point man on the team that
7 was going to make the entry out there that day?

8 A Lieutenant Pritchard's team was the second team
9 called in. The point man was actually the assistant
10 team leader which was Investigator James Abraham.

11 Q And Marcus Brown was also on that team?

12 A That's correct.

13 Q And, in fact, were you there that day when they were
14 able to make entry into the house?

15 A Absolutely. My job was to oversee the perimeter so I
16 had a clear visual of the operation along with
17 constant communications from the team leaders to
18 assess the situation moment by moment.

19 Q Were tear gas and flash bangs used in order to effect
20 the entry?

21 A Correct. The tear gas, the CS gas was launched from
22 a 37-millimeter launcher. Given the situation that
23 the dwelling was a mobile home and there is more
24 combustible than most homes, we used a liquid CS gas
25 which is different than the thermal gas, which if we

1 used a thermal, it might have caused the mobile home
2 to catch fire. So the liquid CS was the first
3 choice.

4 **Q** And what's the purpose of putting tear gas into a
5 hostage situation?

6 **A** The liquid tear gas into the dwelling is to cause
7 agitation to the subjects or persons inside to
8 convince them to come out. It causes a burning
9 irritation to the skin, eyes and the throat area,
10 making it difficult to breathe, also to see because
11 of the mucous glands, making it very difficult and
12 hopefully making them willing to come out on their
13 own.

14 **Q** Does this have any lasting effects?

15 **A** It dissipates. You have to take into consideration
16 the closed in area versus an open area. If there is
17 ventilation or proper ventilation, the effects can be
18 diminished.

19 **Q** And in this case when you all launched or tossed in
20 the tear gas, was it successful in getting anyone to
21 come out?

22 **A** No, it wasn't. There was three attempts or three
23 launches made into the dwelling. And each one, not
24 all at the same time, we fired one into the dwelling,
25 analyzed it, saw there was no effects, could not see

1 any results that would make somebody come out of the
2 dwelling. We fired another one into the dwelling
3 depending on the ventilation in the area the person
4 might have been in and then finished it off with a
5 third round.

6 **Q** So it was not successful?

7 **A** It was not successful at all.

8 **Q** And the purpose of the flash bangs when you go in?

9 **A** The flash bang is a diversionary device used. When
10 we make emergency entries or a dynamic entry into a
11 dwelling, it gives us the advantage over somebody who
12 might potentially be a danger or harm so that our SRT
13 members can get in there safely and eliminate or
14 reduce the threat.

15 **Q** And that evening around 6:45, was the SRT team able
16 to make entry?

17 **A** Absolutely. We were given the directive to make an
18 emergency entry, a dynamic entry. A plan was devised
19 to use several distractionary flash bang devices.
20 And the team, team two, which was the team that
21 Investigator Abraham and Marcus Brown were on, were
22 lined up directly in front and made emergency entry
23 into the front door.

24 **Q** And were you there actually when the Defendant was
25 brought out of the house?

1 **A** Yes.

2 **Q** And shortly thereafter the victim was also escorted
3 out?

4 **A** That's correct. I was right there in front of the
5 house when the all clear was given to assist with
6 anything that needed to happen from the outside.

7 **Q** Why do you have the policy that when you go in, no
8 matter who is in the house, you handcuff everyone in
9 the house until you can make a further determination?

10 **A** We rely heavily on intelligence, but you just never
11 know the situation on the inside. So for the
12 officers' safety and the safety of others, everyone
13 is detained and handcuffed appropriately and advised
14 of why they're being detained. And it's usually
15 because of officer safety issues. We want to make
16 sure that -- there could be a number of different
17 reasons why -- I think Investigator James Abraham
18 gave some examples of, you're just not sure who is in
19 there. So we want to make sure everyone stays safe.
20 So everyone is secured.

21 **Q** And that's your policy in every situation?

22 **A** Every situation.

23 **Q** And as soon as the victim is brought outside, she was
24 unhandcuffed?

25 **A** That's correct. It was ascertained that she was the

1 victim and no threat to the officers and was
2 immediately released.

3 Q The victim was then transported to the hospital via
4 EMS?

5 A That's correct. As soon as the all clear was there,
6 EMS showed up on the scene, rendered care and then
7 was taken to the hospital.

8 Q And the purpose of her going to the hospital is
9 because of the rape?

10 A That's correct.

11 Q And was the Defendant also afforded an opportunity,
12 was he given treatment if he needed any?

13 A Absolutely. The EMS personnel checked him out.
14 There was concerns about the exposure to the CS gas.
15 At the time, like I said, the CS gas was not very
16 effective. There was a lot of time from the last
17 launch to dissipate. And so it was -- like I said, I
18 myself walked up to there and could not feel the
19 effects of it very well. You could smell it but
20 there was no immediate effects.

21 Q So you were actually there on the scene and went up
22 to the house?

23 A Yes. That was my duty to make sure all the officers
24 were secured and all the equipment was gathered.

25 Q And it didn't have any effect on you?

1 **A** No. I mean, there is a smell to the gas, but as far
2 as the irritant itself, there was just nothing there.
3 Which led us to believe either the gas didn't
4 function the way it was designed to or the liquid
5 solution is just not as effective as the thermal.

6 **Q** After the Defendant was removed from the scene and he
7 was later transported I believe to headquarters?

8 **A** That's correct.

9 **Q** Were there attempts -- did someone go back in to
10 recover any weapons that may have been there at the
11 scene?

12 **A** That's correct. Lieutenant Okinaga was directed to
13 go in and do a last sweep and recover the actual
14 weapon that was reported by Investigator Marcus Brown
15 to be in the laundry area.

16 **Q** So he recovered the weapon in the laundry area?

17 **A** That's correct.

18 **Q** And I show you what's been marked as State's Exhibit
19 No. 101. Do we have the gun?

20 **THE CLERK:** No. Actually it's still in the
21 evidence room because I was busy in here the whole
22 time, too, and I couldn't get it out of the evidence
23 room. So I can go down and get it, or whatever you
24 want to do, Your Honor.

25 **Q** Was the gun recovered?

1 **A** It was.

2 **Q** It's Exhibit 101.

3 **A** It was a revolver and it was recovered.

4 **Q** And was any ammunition recovered, too?

5 **A** Yes, there was. There was two spent cartridges and
6 four rounds that were --

7 **Q** Two spent cartridges?

8 **A** That's correct.

9 **Q** What do you mean when you say that?

10 **A** That the bullet itself had been fired. And the
11 cartridge, since it's a revolver, does not eject.
12 But it is near there. When the chamber is open, you
13 can pull out the cartridge.

14 **Q** So there were two spent cartridges and four what I
15 call live rounds?

16 **A** Yes, ma'am.

17 **Q** That's a bullet in our terms?

18 **A** That's correct.

19 **Q** And was that gun later entered into evidence?

20 **A** That's correct.

21 **Q** And what happened to the ammunition?

22 **A** It had been deemed unsafe to house the ammunition
23 into evidence because there had been several primer
24 strikes. When you visually look at the back of a
25 bullet, the part that activates the round to eject it

1 has been struck several times. That causes a safety
2 issue, and obviously we don't want to keep that in
3 evidence, and it had to be disposed of.

4 Q And I believe Lieutenant Okinaga actually took
5 possession of that?

6 A That's correct.

7 Q I notice in some of the photographs from the trailer
8 that several of the windows are broken out?

9 A That's correct.

10 Q Specifically, I believe a window in the front bedroom
11 which is State's Exhibit No. 74?

12 A That's correct.

13 Q And what would have caused that, sir?

14 A The flash bang.

15 Q And then other windows around the front of the house?

16 A Right. The front and then the far side from where I
17 was at and the back door was used where we launched
18 the gassing.

19 Q Prior to -- and the tear gas and the flash bangs were
20 done towards the end of this hostage situation?

21 A That's correct. The flash bangs were only used to
22 effect our dynamic entry. The gas itself was
23 introduced earlier on before that to convince the
24 person to come out.

25 Q But that was towards the end of the negotiations?

1 **A** Yes.

2 **Q** Like after 4?

3 **A** Right. When the negotiation was not being effective
4 was when we introduced the CS gas.

5 **Q** And I show you some different ones as far as where
6 you all threw things in. Do you know whether or not
7 there was a bullet hole, say, in State's Exhibit No.
8 81 prior to you all throwing that in?

9 **A** No.

10 **Q** And if you had thrown something in, even if somebody
11 had shot something through the window before that,
12 you wouldn't know that?

13 **MR. O'NEIL:** Objection, Your Honor. It calls
14 for speculation.

15 **THE COURT:** Approach the bench.

16 (Whereupon, a bench conference is had)

17 **THE BAILIFF:** Your Honor, we need a break.

18 **THE COURT:** The jury need a break?

19 **THE BAILIFF:** She feels kind of sick.

20 **THE COURT:** Yes. Go ahead. Let's take a short
21 break.

22 (Jury out at 3:18 p.m.)

23 **THE COURT:** All right, counsel. We'll stand at
24 ease for about ten minutes. And, Ms. Campbell or Mr.
25 Bryant, you may want to read Rule 403 about

1 cumulative evidence. Because I may sustain his
2 objection if it's as to cumulative evidence. Thank
3 you.

4 **MS. SINGLETARY:** Yes, Your Honor.

5 **THE COURT:** Sir, you can come down. Just don't
6 discuss the case with anybody.

7 **THE WITNESS:** Absolutely.

8 (Whereupon, a break is taken)

9 **THE COURT:** The State ready to proceed?

10 **MS. CAMPBELL:** The state's ready.

11 **THE COURT:** Defense ready to proceed?

12 **MR. O'NEIL:** Yes, sir.

13 **THE COURT:** Bring the jury, please.

14 (Jury in at 3:30 p.m.)

15 **THE BAILIFF:** The jury is all present, Your
16 Honor. The jury is seated, Your Honor.

17 **THE COURT:** Ma'am, you if you feel that sudden
18 urge, if you know what I'm talking about, just get up
19 and leave.

20 **JUROR:** Thank you, sir. I apologize.

21 **THE COURT:** All right, Ms. Campbell.

22 **MS. CAMPBELL:** No further questions, Your Honor.

23 **THE COURT:** Cross examination.

24 **MR. O'NEIL:** Just briefly, Your Honor.

25 CROSS EXAMINATION

1 **BY MR. O'NEIL**

2 **Q** Investigator Santiago, you're familiar with
3 Lieutenant Okinaga's after action report?

4 **A** Yes, I am, sir.

5 **Q** And Lieutenant Okinaga was the one who actually
6 recovered the firearm in this case?

7 **A** Yes, sir.

8 **Q** And the firearm in this case was what's called a
9 revolver?

10 **A** That's what I knew it to be, a revolver.

11 **Q** And this revolver has six chambers?

12 **A** That's correct.

13 **Q** It had the capacity to hold six live rounds?

14 **A** Yes, sir.

15 **Q** And when Lieutenant Okinaga recovered this weapon, it
16 had three rounds already in it?

17 **A** That's what I read in his after action. Yes, sir.

18 **Q** And those are the three rounds that were discarded?

19 **A** Those were the ones that were discarded.

20 **Q** That had finally hit something?

21 **A** Yes, sir.

22 **Q** And you found one of those live rounds?

23 **A** I'm sorry. It should be four rounds.

24 **Q** They found three with primer strikes and one other
25 live round?

1 **A** Okay.

2 **Q** That was not chambered?

3 **A** That's what it says.

4 **Q** And they only found two shell casings?

5 **A** That's what it says. Yes, sir.

6 **Q** He didn't find any other live ammunition?

7 **A** The live ammunition was the other rounds that you

8 were talking about.

9 **Q** Besides the one, that was the only live ammunition

10 found, the one?

11 **A** Correct.

12 **Q** Didn't find any other shell casings?

13 **A** No, sir.

14 **Q** And after it was checked out, I guess expelled out of

15 the revolver, that's where the shell casings come

16 from?

17 **A** Well, the revolver doesn't expel it. I mean, the

18 chamber or the action had to be open somehow.

19 **Q** When the live rounds are expelled --

20 **A** Oh. I'm sorry. Yes, sir.

21 **Q** -- then the shell casings have to be manually removed

22 from the gun?

23 **A** That's correct.

24 **Q** There were only two shell casings?

25 **A** That's in the report, yes.

1 Q And Lieutenant Okinaga, he actually went back in
2 there also shortly after to retrieve some of the
3 casings from the munitions?

4 A You mean the staff that we threw in there?

5 Q Yeah.

6 A Yes.

7 Q The chemical munitions, he went back in to try to get
8 some of those?

9 A That's correct.

10 Q And he could only stay in there about three minutes
11 due to the chemical residues that were still in
12 there?

13 A That's what he writes. Yes, sir.

14 Q So after three minutes it was too much for him to be
15 in there; he had to come out?

16 A That's correct.

17 Q And that was due to the chemical residue from the
18 chemicals that were introduced into the environment?

19 A Right. In the enclosed area. That's correct.

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

21 THE COURT: Any redirect?

22 MS. CAMPBELL: No, sir.

23 THE COURT: All right. You may come down, sir.

24 Thank you very much. Next witness.

25 MS. CAMPBELL: The State would call Investigator

1 Reed-Enzor.

2 PATRICIA REED-ENZOR, after being duly sworn,
3 testifies as follows:

4 **THE CLERK:** Thank you. Have a seat in the
5 witness stand and give the court reporter your name.

6 **THE WITNESS:** Patricia Reed-Enzor.

7 DIRECT EXAMINATION

8 **BY MS. CAMPBELL**

9 **Q** Investigator Enzor, Reed-Enzor, where are you
10 employed?

11 **A** Richland County Sheriff's Department.

12 **Q** And what do you do there currently?

13 **A** I'm an investigator.

14 **Q** Back in February of 2007 did you also work at the
15 Sheriff's Department?

16 **A** I did.

17 **Q** And what were your duties back then?

18 **A** I was a crime scene investigator.

19 **Q** Can you tell this jury briefly a little bit about
20 your education in crime scene investigations?

21 **A** Yes. I took various courses in crime scene
22 reconstruction, blood pattern analysis, advanced
23 crime scene photography, blood pattern reconstruction
24 and expert witness testimony. I'm also a member of
25 the International Association for Identification and

1 South Carolina International Association of
2 Identification. I also had a very long, in-depth
3 program throughout the Sheriff's Department that
4 lasted about two years in which we also did hands on
5 training in this program as well as in crime scenes.

6 **Q** And you've been qualified before as an expert in
7 crime scene investigation?

8 **A** Yes, ma'am, I have.

9 **MS. CAMPBELL:** Your Honor, at this time we'd
10 offer her as an expert in crime scene investigation.

11 **MR. O'NEIL:** No voir dire nor objection, Your
12 Honor.

13 **Q** Investigator Enzor, I want to turn your attention
14 back to February the 24th of 2007. Did you respond
15 to Booth Street that afternoon?

16 **A** Yes, ma'am, I did.

17 **Q** And approximately what time of day was it when you
18 got there?

19 **A** Around 12:21 in the afternoon.

20 **Q** And why were you one of the first ones to get there?

21 **A** I actually was responding as a backup unit. I heard
22 the call go out for a hostage situation and then it
23 was requesting assistance.

24 **Q** And when you got to the scene, were there city
25 officers there?

1 **A** Yes, there was.

2 **Q** And as time passed did additional county officers
3 come there?

4 **A** Yes, ma'am.

5 **Q** And the Booth Street address is actually in the
6 Richland County jurisdiction, not the City?

7 **A** Yes, ma'am.

8 **Q** During the course of the afternoon -- and I want to
9 be brief about this -- in fact, initially did you
10 take command of the crime scene, of the actual
11 hostage taking situation?

12 **A** Yes, ma'am, I did.

13 **Q** During the course of the afternoon, later in the
14 afternoon, did you have a chance to go to the command
15 center?

16 **A** Yes, I did.

17 **Q** And what were your duties there that afternoon?

18 **A** I assisted with -- I basically was a dispatcher. I
19 assisted with the incident command truck and acted as
20 a radio taker, I guess you could say. As units were
21 to call in information, I would write down what I
22 would actually hear on the radio and act as liaison
23 between the actual incident commander and the
24 structure there at the incident command.

25 **Q** And without going into the details of everything,

1 during the course of that afternoon, did the
2 situation resolve itself shortly before 7 that
3 evening?

4 **A** Yes, it did.

5 **Q** Around I believe 6:45?

6 **A** Yes, ma'am.

7 **Q** Did you actually -- were you one actually that was
8 going in to photograph the crime scene?

9 **A** Yes, ma'am, I did.

10 **Q** And did you actually do that later that night, or did
11 you wait until the next day?

12 **A** I waited 'til the next day.

13 **Q** And the next day -- was the scene secured overnight?

14 **A** Yes, ma'am. I had the scene secured.

15 **Q** And how was that done?

16 **A** It was done by setting up the crime scene log and
17 putting a deputy on the scene so it was secured until
18 the next morning.

19 **Q** And there's been reference in this trial to a number
20 of photographs of the crime scene. Was that how it
21 appeared both the night before and the next morning
22 when you took those photographs?

23 **A** Yes, ma'am.

24 **Q** And all the photographs have been handed up. The
25 exterior of the residence, you took those

1 photographs?

2 **A** Yes, ma'am, I did.

3 **Q** As well as of the interior?

4 **A** Yes, ma'am.

5 **Q** And again, that was how it was that night?

6 **A** Yes, ma'am.

7 **Q** And again the next morning when you went back to
8 process it?

9 **A** Yes, ma'am.

10 **Q** I want to show you some additional photographs,
11 State's Exhibits 43 through 45, 46, 47, 52. Are
12 those all photographs you took?

13 **A** Yes, ma'am, they are.

14 **Q** Of the exterior of the crime scene?

15 **A** Yes, ma'am.

16 **Q** And those again were taken the next morning?

17 **A** Yes, ma'am.

18 **MS. CAMPBELL:** Your Honor, at this time we offer
19 those into evidence.

20 **MR. O'NEIL:** No objection, Your Honor.

21 (WHEREUPON, State's Exhibit No. 43 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 45 is admitted
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 46 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 47 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 52 is admitted
6 into evidence.)

7 Q And those show both the front and the back?

8 A Yes, ma'am.

9 Q As well as several windows were broken out?

10 A Yes, ma'am.

11 Q In addition, I show you State's Exhibit No. 53 which
12 is actually the exterior also. 75 and 80, do you
13 recognize those?

14 A Yes, ma'am. I also took those photographs.

15 MS. CAMPBELL: Your Honor, at this time we'd
16 offer these into evidence.

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

18 (WHEREUPON, State's Exhibit No. 53 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 75 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 80 is admitted
23 into evidence.)

24 Q Investigator Reed-Enzor, the layout of this house;
25 basically, when you walk in the front door, what area

1 are you in?

2 **A** The living room.

3 **Q** And to the right, what rooms are there?

4 **A** To the right was a bedroom.

5 **Q** Were there two bedrooms?

6 **A** Yes, ma'am.

7 **Q** Down the hall?

8 **A** Yes, ma'am.

9 **Q** And there's a small hall there?

10 **A** Yes, ma'am.

11 **Q** And I believe that hallway to the right of the door
12 is shown in State's Exhibit No. 80. Is that correct?

13 **A** Yes, ma'am.

14 **Q** And that goes down to one end of the house. And then
15 on the other end of the house next to the living room
16 area is the kitchen?

17 **A** Yes, ma'am.

18 **Q** And then another small hallway in the master bedroom?

19 **A** That's correct.

20 **Q** And a small laundry room?

21 **A** Yes, ma'am.

22 **Q** And those were all at the areas, all these
23 photographs you took?

24 **A** Yes, ma'am.

25 **Q** In addition, had you received any information about

1 looking for a bullet inside the house?

2 **A** I'm not sure if I received information on that or if
3 I observed it or not. I do remember observing one
4 and photographing it.

5 **Q** I show you what's been marked as State's Exhibits 61,
6 62, 63 and 64. What are those photographs of?

7 **A** Of an apparent bullet hole that I photographed.

8 **Q** And which piece of furniture were those in?

9 **A** A black chair.

10 **Q** And where was the black chair located?

11 **A** In the living room.

12 **Q** I show you State's Exhibits 60 and 58. Do those show
13 -- well, here. Better than that. State's 57, does
14 that show the black chair?

15 **A** Yes, ma'am, it does.

16 **Q** And I believe this is not as good a picture. And the
17 black chair was located where? Is my finger pointing
18 to it?

19 **A** Yes, ma'am.

20 **Q** And is that in the front area as you walk in?

21 **A** Yes, ma'am.

22 **Q** Near the kitchen?

23 **A** Yes, ma'am.

24 **Q** And when you examined that black leather chair, what
25 did you find?

1 **A** I found an apparent bullet hole.

2 **Q** And once you found the bullet hole, did you
3 actually -- I think I didn't offer these into
4 evidence.

5 **A** No, ma'am.

6 **MS. CAMPBELL:** I'd offer these at this time.

7 **MR. O'NEIL:** No objection.

8 **COURT REPORTER:** 61 through 64?

9 **MS. CAMPBELL:** Yes, ma'am.

10 (WHEREUPON, State's Exhibit No. 61 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 62 is admitted
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 63 is admitted
15 into evidence.)

16 (WHEREUPON, State's Exhibit No. 64 is admitted
17 into evidence.)

18 **Q** I notice in State's Exhibit No. 61 you can see an
19 actual indentation. Is that correct?

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

21 **Q** And once you found that indentation, did you then
22 make an attempt further to collect a projectile?

23 **A** I did.

24 **Q** And I see in State's Exhibit No. 62, is that once you
25 cut back that area?

1 **A** I did.

2 **Q** And that's an actual hole in the leather. Is that
3 correct?

4 **A** That is correct.

5 **Q** Were you able to locate that projectile in that
6 residence that day?

7 **A** No, ma'am.

8 **Q** But this would be evidence that someone shot in that
9 residence?

10 **A** Yes, ma'am.

11 **Q** Is it unusual for you not to be able to locate a
12 projectile?

13 **A** No. That's not uncommon.

14 **Q** Why is that?

15 **A** It could be located anywhere in that piece of
16 furniture, or it could have fallen through to the
17 bottom. It could be lodged in there somewhere.

18 **Q** Did you also look at different areas around the house
19 for any other shell casings and/or projectiles?

20 **A** Yes, ma'am, I did.

21 **Q** Were you able to locate any of those?

22 **A** No, ma'am.

23 **Q** Did you collect any pieces of clothing?

24 **A** No, ma'am.

25 **Q** And I notice in the end bedroom where the bay window

1 was there was a jacket on that bed. Did you
2 photograph that?

3 **A** Yes, ma'am.

4 **Q** And in the laundry room there was a hat on the floor.
5 Did you photograph that?

6 **A** Yes, ma'am.

7 **Q** Did you do any swabs for DNA in that residence?

8 **A** No, ma'am, I did not.

9 **Q** And why was that?

10 **A** I did not -- I wasn't requested to, for one. For
11 two, the suspect was known. He was in the house. So
12 there wasn't any relevancy to it.

13 **Q** It wouldn't --

14 **A** It wouldn't be probative.

15 **Q** Thank you. And in addition to that, did you dust for
16 any fingerprints?

17 **A** No, ma'am.

18 **Q** And for the same reasons?

19 **A** The same reasons. Yes, ma'am.

20 **Q** Beg the Court's indulgence. Thank you. Please
21 answer any questions the defense may have.

22 **THE COURT:** Questions.

23 **MR. O'NEIL:** Thank you, Your Honor.

24 CROSS EXAMINATION

25 **BY MR. O'NEIL**

1 Q Investigator Enzor?

2 A Yes, sir.

3 Q I guess the job of crime scene analysts is to -- part
4 of the job would be to photograph crime scenes?

5 A Yes, sir.

6 Q And try to collect physical evidence?

7 A Yes, sir.

8 Q And that's what you attempted to do in this
9 situation?

10 A Yes, sir.

11 Q You attempted to go into the residence I think that
12 night on the 24th, correct?

13 A Yes, sir. The electricity was cut off. So that made
14 it a little bit more difficult.

15 Q And, plus, I think you noted in your report two
16 reasons why you couldn't go in there and analyze the
17 scene that night, correct?

18 A Right. It was dark, for one; and it was a little
19 bit, I guess you could call smelly, and it had a
20 little bit of that smell of the, I think it's CS gas.

21 Q You said you couldn't go in because there was no
22 electricity in there and because the tear gas was in
23 the incident location?

24 A Right. The main reason would be the electricity.

25 But because we could secure it, it would be better to

1 come back the next day where I had more light,
2 especially because I was requested to look for
3 projectiles and shell casings and they're so small.
4 So it would be easier to do it with light.

5 Q So you came back on February 25th at 10:00?

6 A When my shift came on. Yes, sir.

7 Q And you noted in your report at that time that the
8 incident location was still contaminated with the
9 tear gas?

10 A Right. But I was able to work.

11 Q But you were able to look at it?

12 A Yes, sir.

13 Q And you found a bullet hole in the black chair?

14 A Yes, sir.

15 Q No projectile?

16 A No, sir.

17 Q You didn't find any other shell casings in the house?

18 A No, sir. I wasn't able to locate any.

19 Q No projectiles?

20 A No, sir.

21 Q No live rounds?

22 A No, sir.

23 Q No other ammunition?

24 A No, sir.

25 Q And I guess backing up to the 24th, one of your jobs

1 I guess that day was to do the command log that went
2 on that day at the command center?

3 A At the incident command truck?

4 Q Yeah.

5 A Yes, sir. I was requested to.

6 Q Okay. And you indicated at that point that there was
7 gunshots inside the home at 4:55 p.m.?

8 A Well, actually the incident command truck was
9 separate from, I guess about maybe about a block or
10 two down from the actual house. And the truck, I
11 guess it's an air conditioned truck. So couldn't
12 hear anything that was going on. The only thing I
13 was actually recording and writing down as fast as I
14 could is what deputies and other persons were
15 recording or requesting or hearing on the radio.

16 So what I'm writing down by hand is what people
17 are recording. So what they're saying is what they
18 might hear. But when you look on the log, at 16:55
19 I'm saying shots fired inside residence; if you look
20 at 16:57, it's saying gas deployed inside by SRT. So
21 it may have been actually at the same time, but I'm
22 handwriting it. So I'm not sure if they were all at
23 the same time and if deputies are hearing the gas
24 being deployed at the same time.

25 Q But you would agree that those deputies heard shots

1 fired approximately 4:55, 4:56?

2 **A** They were hearing loud noises, but I'm writing down
3 what they're saying. Yes, sir.

4 **Q** That was approximately 4:55, 4:56?

5 **A** Yes. But it says 16:55, 56 and 57. Yes, sir.

6 **Q** That's military time.

7 **A** I'm sorry. I'm sorry. Yes, sir. It's 4:55, 56, 57
8 in the afternoon. I apologize.

9 **Q** And another loud noise could have been a shot around
10 6:00? 6:04? Would that be fair to say?

11 **A** I need to look back to see. It said: "Reported one
12 shot, was here prior to last deployment of gas."
13 That was what was reported. Yes, sir.

14 **Q** Around 6:00?

15 **A** Yes, sir.

16 **Q** And you also noted that around 6:47 that EMS was
17 responding to the victim?

18 **A** That's what was reported on the radio. Yes, sir.

19 **Q** There's no report on the radio that EMS responded to
20 Mr. Ashford, to the suspect?

21 **A** Nothing that was requested on the radio. Yes, sir.

22 **Q** No report of that?

23 **A** On the radio; no, sir. I'm only hearing what's on
24 the radio.

25 **Q** And the next day you went in -- I think one of the

1 places you went to were the washroom when you were
2 photographing the trailer?

3 **A** I have to go through because you're skipping around.
4 Hold on one second, sir. You're talking about
5 photographing --

6 **Q** Yeah.

7 **A** -- or what was your question?

8 **Q** One of the areas of the trailer you photographed was
9 the washroom?

10 **A** Okay. I photographed the whole area. But hold on.
11 What was your question? I'm sorry.

12 **Q** One of those areas was the washroom, correct?

13 **A** Okay.

14 **Q** And the washroom has I think two mops in it?

15 **A** Yes, sir.

16 **Q** And didn't it have two hats in there as well as the
17 two mops?

18 **A** I'd have to look at the photographs, sir.

19 **Q** Okay. But the reason why you were interested in this
20 washroom, one of the reasons why you were interested
21 in this washroom was that there was a report that the
22 suspect had used these mops. Would that be fair to
23 say?

24 **A** I didn't interview him. I wouldn't know.

25 **Q** But you made a notation in your report that the mops

1 appeared to be dry and had not been used recently.

2 Is that correct?

3 **A** I think I recall a request to look at the mops and to
4 check the conditions of the mops. And at that time,
5 at -- and I remember it was towards the end of my
6 exam, so it was probably closer to noon that
7 afternoon, and by noon on the 25th it appeared that
8 the mops in the laundry room appeared to be dry and
9 hadn't been used recently. So I don't know what
10 their condition would have been the following
11 afternoon. But by noon on that day they appeared to
12 be dry.

13 **Q** And that's what you noted in your report?

14 **A** Yes, sir.

15 **Q** I'm going to show you what's been marked State's
16 Exhibit No. 79. That's that washroom and the mops
17 we're talking about?

18 **A** Yes, sir. I took that photograph.

19 **Q** And I think you would agree that there is two hats in
20 that picture, in that washroom?

21 **A** Right. There is one hanging up from one of the mops
22 and there is one on the floor.

23 **Q** Okay. And you took some pictures of the windows in
24 the house?

25 **A** Yes, sir. I would have taken all the photographs

1 completely around the house.

2 Q Now, when a firearm is fired I guess, what's called
3 gunshot residue would expel from the firearm. That's
4 correct?

5 A I'm not anything to do with firearm examination.
6 You'll have to ask a professional. I'm not a
7 specialist in that type of --

8 Q Do you know if anybody did any gunshot residue
9 analysis on any of your analysis?

10 A I did not do any and I was the crime scene person.
11 So if I did not do it, it wasn't done. No, sir.

12 Q If you didn't do it, it wouldn't have been done?

13 A No, sir.

14 Q And there was nothing on your report that was stolen
15 from this residence. Is that correct?

16 A Not that I'm aware of.

17 Q And I think Investigator Barnes had you come out and
18 photograph and examine the blight blue van on the
19 outside of the house?

20 A I wouldn't know what he did, sir.

21 Q No. He had you go photograph the van that was on the
22 outside of the house?

23 A I don't have a report of where he had me do that,
24 sir.

25 Q Did you take any pictures of a blight blue van and

1 the exterior of the house?

2 **A** I have where I did the entire photographs in general,
3 sir. When I do -- well, I guess I should back up
4 just a little bit. When I do crime scene
5 photographs, I would take general photographs which
6 are of everything when I looked completely from the
7 outside of the crime scene and then work myself in.
8 And I wouldn't think an investigator would get me
9 specifically to take a picture of a specific van
10 unless I would make note that he wanted me to take a
11 specific photograph. So that's why I'm not
12 understanding what you're asking me.

13 **Q** I could show you Investigator Barnes' investigative
14 report. Would that refresh your memory about whether
15 or not you took pictures of this light blue van in
16 State's Exhibit No. 50?

17 **A** I mean, I remember taking photographs of all of the
18 vans. I mean, I remember that van. Sure.

19 **Q** But do you remember focusing on this van
20 specifically?

21 **A** No. I don't recall specifically photographing that
22 specific van. No, sir.

23 **Q** Let me show you something and see if that refreshes
24 your memory. Okay?

25 **A** Sure.

1 **MR. O'NEIL:** May I approach, Your Honor?

2 **THE COURT:** Yes.

3 **Q** Let me let you read this last paragraph of
4 Investigator Barnes' report and see if that refreshes
5 your memory.

6 **A** Okay. Okay. I understand what you're saying here.
7 What he is discussing here is when he talked to me
8 before I cleared the crime scene. And I had already
9 done a walk through while I was looking for
10 projectiles inside and outside of the house while I
11 was processing the crime scene. And I had looked at
12 all the vehicles on the inside and outside of the
13 house, not just specifically that blue van.

14 **Q** Yeah. So you looked at all the vehicles that were
15 outside of the house?

16 **A** Right.

17 **Q** You didn't find any projectiles in this van?

18 **A** No. I did not find any projectiles in that van.

19 **Q** You didn't find any bullet holes in this van?

20 **A** No, sir, I did not.

21 **Q** Any bullet holes in this trailer?

22 **A** No, sir.

23 **Q** And I think on the night of the 24th you released the
24 scene to a Mr. Ali Harrison. That's correct?

25 **A** Yes, I did.

1 Q And he was one of the residents of that location?

2 A Yes, I did.

3 MR. O'NEIL: Beg the Court's indulgence. No
4 further questions, Your Honor.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MS. CAMPBELL

8 Q Just a couple of questions. He asked you about the
9 log that you wrote down about some chatter on the
10 radio?

11 A Yes.

12 Q Did you hear any gunshots that afternoon?

13 A No. Well, yes, I did hear some.

14 Q And when did you here a gunshot that afternoon?

15 A I heard a gunshot that afternoon shortly after I took
16 the scene as incident commander. And that would have
17 been approximately 1:00, between 12:45 and 1:00.

18 Q Approximately? Could it have been a little later?

19 A Probably -- I got there and I took the scene about
20 12:45. So within 30 minutes I guess of arriving
21 there. There's a guestimate.

22 Q A guestimate. And during the course of the rest of
23 that afternoon, did you hear any more gunshots out
24 there?

25 A No, I did not.

1 Q But were you aware that they were launching tear gas
2 into the --

3 A Yes, I was.

4 Q And the time periods he went over with you where he
5 talks about these gunshots, that's the same time
6 period?

7 A Yes, it is.

8 Q And, in fact, could someone maybe initially on the
9 radio say gunshots when in fact it's them launching
10 tear gas?

11 A Yes.

12 Q And you don't have any other reports from anywhere
13 else of any gunshots later that afternoon after the
14 first ones you heard?

15 A No, ma'am.

16 Q He talked to you about projectiles. You explained
17 about how you looked in the house and looked for
18 projectiles. And you weren't even able to recover
19 the one in the chair. Is that correct?

20 A That is correct.

21 Q And that's not unusual?

22 A No, ma'am.

23 Q And as far as if someone is shooting into a tree line
24 through the woods, it's whizzing past, would you
25 think there is any likelihood you'd be able to

1 recover that projectile?

2 **A** No, ma'am.

3 **MS. CAMPBELL:** I don't have anything else, Your
4 Honor.

5 **MR. O'NEIL:** Just briefly, Your Honor.

6 RECROSS EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Investigator Enzor, you say you heard a gunshot --

9 **A** Yes, sir.

10 **Q** -- about 30 minutes after getting there?

11 **A** Yes, sir.

12 **Q** And you wrote a crime scene analysis report, correct?

13 **A** That's correct.

14 **Q** You had bench notes?

15 **A** Yes, I did.

16 **Q** And you had the command log notes?

17 **A** Yes.

18 **Q** And nowhere in there did you document hearing a
19 gunshot at around 30 minutes after arriving at the
20 scene?

21 **A** No, I did not.

22 **Q** Nowhere did you document that?

23 **A** No, sir.

24 **Q** But you did document other people saying they heard
25 what appeared to be gun shots around 4:50, 4:56?

1 **A** Yes, I did.

2 **MR. O'NEIL:** No further questions.

3 **THE COURT:** You may come down, ma'am. Thank you
4 very much. May the witness be excused?

5 **MR. O'NEIL:** No objection, Your Honor.

6 **THE COURT:** Without objection. Next witness.

7 **MS. CAMPBELL:** The State calls David Collins.

8 DAVID COLLINS, after being duly sworn, testifies
9 as follows:

10 **THE CLERK:** Thank you. Have a seat in the
11 witness stand and give the court reporter your name.

12 **THE WITNESS:** David Collins.

13 DIRECT EXAMINATION

14 **BY MR. BRYANT**

15 **Q** Mr. Collins, where do you work?

16 **A** I work for the Richland County Sheriff's Department.

17 **Q** How long have you been employed?

18 **A** I've been employed at the Richland County Sheriff's
19 Department since 2002. So approximately --

20 **Q** Can you give the jury your prior employment history
21 as well as your educational background?

22 **A** I received a bachelor's degree from the Citadel in
23 1984. I went to work at the State Law Enforcement
24 Division, commonly known as SLED, in 1990, where I
25 was employed as a firearms and tool marks examiner in

1 the forensic services laboratory. Once I was
2 employed at SLED, I started employment essentially an
3 on the job training program to be a firearms and tool
4 marks examiner.

5 A firearms and tool marks examiner is what is
6 commonly referred to on television as a ballistics
7 examiner. This training program at SLED lasts for
8 approximately two and a half years, following which I
9 was certified by SLED as a firearms examiner and
10 began working cases on any own. I've received
11 continuing education and training in my field in the
12 form of armorer's schools or firearms repair courses
13 offered by various firearms manufacturers and also
14 through some training seminars provided by our
15 professional association or the Association of
16 Firearms and Tool Marks Examiners, AFTE.

17 I have also attended and successfully completed
18 shooting scene reconstruction school, and I have a
19 prior background before getting into law enforcement
20 with some gunsmithing training and firearms
21 examination.

22 Q Firearms examination I guess in the simplest terms is
23 looking at a gun and telling how it works?

24 A That is a portion of what we do, yes.

25 Q And what's the other portion?

1 **A** Our most commonly requested examination would be to
2 examine fired bullets and cartridge cases to
3 determine if they came from one gun or from multiple
4 guns if we have a gun submitted. If we don't have a
5 gun submitted, we are asked to look at those items to
6 determine what type of firearm may have fired them.

7 We are also requested, in addition to those
8 exams and the firearms function exam that you
9 referred to, to do such examinations as muzzle to
10 target distance determinations, serial number
11 restorations and any type of other examination that
12 involves either a firearm or a tool mark.

13 A tool mark is simply a unique mark left on a
14 surface by a tool or an object. A firearm is, for
15 instance, sometimes referred to as a tool but in the
16 manner that it marks bullets and cartridges that are
17 fired.

18 **Q** Have you ever testified in a court of law before?

19 **A** Yes. I have testified in the state courts or the
20 circuit courts of South Carolina as a firearms
21 identification expert or a firearms examination
22 expert in excess of 200 times. I've also qualified
23 similarly in the state courts of Georgia and North
24 Carolina, the federal court system and the military
25 court system.

1 Q And qualified I believe as an expert in I guess as a
2 firearms examiner and ballistics expert?

3 A Yes.

4 MR. BRYANT: Your Honor, at this time I would
5 offer Mr. Collins as an expert in firearms
6 examination and ballistics.

7 THE COURT: Voir dire?

8 MR. O'NEIL: No voir dire. No objection, Your
9 Honor.

10 THE COURT: Thank you.

11 Q Let me turn your attention to the present case. Did
12 you receive a firearm to examine from an incident
13 that happened February 24th of 2007?

14 A Yes, I did.

15 Q And did you conduct an examination?

16 A Yes, I did.

17 Q I show you what has already been marked as State's
18 101 I believe. Do you recognize that?

19 A Yes. This is the firearm that I examined in this
20 case. I recognize it by its make, manufacturer
21 rather, and also the fact that I've written very
22 boldly the case number, my initials and the item
23 number on the back of the firearm.

24 Q What did you do when you -- first, how did you
25 receive that weapon?

1 **A** I received this weapon sealed in a box from the
2 evidence room. And I received it on -- if I can
3 refer to my notes for just a moment. I received the
4 firearm on the 5th of September of 2008.

5 **Q** And what did you do with that fireman?

6 **A** I was asked to simply examine the firearm to
7 determine its functioning characteristics and to
8 determine essentially did it work.

9 **Q** And did it work means does it fire?

10 **A** Does it fire. Yes.

11 **Q** And did you make such an examination?

12 **A** I did.

13 **Q** Tell the jury about your examination, please, sir?

14 **A** The first thing that we do when we receive a firearm
15 in the laboratory is that we'll take notes as to its
16 condition. If there's any appropriate measurements
17 that need to be made, we'll take those measurements.
18 And then we'll attempt to test fire the firearm to
19 determine if it's functioning properly. The way we
20 test fire a gun in the laboratory is that we will
21 load it and then we have a water tank in a trailer
22 out back that we fire it into. This enables us to
23 both determine if the firearm is functioning properly
24 and to recover test fired bullets and cartridge cases
25 that we may need for further examinations.

1 Additionally in this case the firearm had what
2 appeared to be obliterated serial numbers on it, and
3 also other markings had been ground or filed off.
4 And I also made an attempt in this case to restore
5 those numbers to a legible state. The primary
6 function of the examination that I had was to
7 determine if the firearm functioned properly.

8 Q And in this case did it function properly?

9 A No. It had some -- there were some functioning
10 characteristics of this firearm that caused to it
11 misfire frequently. When you have live ammunition in
12 the firearm and you pulled the trigger, it would
13 frequently fail to fire.

14 What causes the firearm to discharge in this
15 case is when the hammer falls, it strikes a firing
16 pin which then in turn strikes the primer of the
17 cartridge. The primer is the part of the cartridge
18 that is required to discharge the cartridge. It
19 shoots a jet of flame when it's struck into the body
20 or cavity of the cartridge case to ignite the pallet.

21 In this particular case the firearms functioning
22 characteristics were such that it would not properly
23 align the cartridge with the firing pin every time
24 you pulled the trigger. And then additionally it
25 seemed to have a somewhat light firing pin strike.

1 In other words, the hammer wasn't striking the firing
2 pin with enough force to create a large enough dent
3 in the primer to reliably fire the gun. So in
4 conjunction, the combination of those two
5 characteristics created a condition when the firearm
6 actually would misfire more frequently than it would
7 fire.

8 (WHEREUPON, State's Exhibit No. 112 is marked
9 for identification.)

10 Q So if I might, when the barrel is shut, the holes in
11 the --

12 A Cylinder.

13 Q -- cylinder -- thank you -- line up with the hammer?

14 A That is correct. When you cock the hammer -- and
15 this gun can be fired one of two ways. You can
16 actually manually cock it by pulling the hammer to
17 the rear or you can just pull the trigger all the way
18 through. It's called a double action revolver. When
19 you do that, right just before the firearm fires,
20 there is a part of the mechanism that serves to lock
21 the cylinder in place. And when it locks the
22 cylinder in place, it is supposed to be locked in
23 place with the chamber; that is, the portion of the
24 cylinder that contains that cartridge properly
25 aligned with the firing pin. And this firearm

1 frequently does not properly align that cartridge.

2 The firearm is capable of holding a maximum of
3 six cartridges in the cylinder. And in my testing,
4 when I pulled the trigger to fire the gun, it would
5 rotate. And it would -- the handle would fall, but
6 it would leave a dent somewhat off center on the
7 primer and very lightly. Sometimes the cartridges
8 would fire on the first impact; sometimes it would
9 not, and many of the cartridges never fired at all,
10 and we had as many as four firing pin impacts on it.

11 Q And you I believe test fired this a number of times?

12 A I attempted to test fire it a number of times.

13 Again, if I could refer to my notes. According to my
14 notes, there were a total of 20 test firing attempts.
15 20 cartridges were placed in the gun at various
16 times. Most of them were .32 Smith and Wesson long
17 caliber cartridges which the gun is intended to fire.
18 A total of 14 of those were used in the testing, and
19 11 of them misfired and never fired at all. Three of
20 them fired independently. Excuse me. Excuse me.
21 Five of them fired independently -- I'm sorry -- and
22 nine did not fire.

23 .32 auto cartridges were also placed in the
24 cylinder of the gun and attempted. The reason I did
25 that was that .32 auto ammunition, although not

1 designed to be used in this model of firearm, is
2 frequently used in them by people that don't know
3 they're not supposed to use it. It does fire
4 effectively most of the time in this model of
5 firearm. And none of those cartridges would fire
6 effectively.

7 Q When this gun fires, the results are it is a deadly
8 weapon?

9 A Yes. When it fires, it has all the force or the
10 energy that you would have in a normal firearm. The
11 actual firing is not diminished. It's just it either
12 fires or it doesn't fire at all.

13 Q After you were done with the testing, then what do
14 you do with the weapon?

15 A Once I've completed my testing I package it
16 appropriately; I mark it as you see on the back of
17 the firearm, and then I place it in a box, seal it
18 and return it into evidence.

19 Q Mr. Collins, thank you for your time. Please answer
20 any questions the defense might have.

21 CROSS EXAMINATION

22 **BY MR. O'NEIL**

23 Q Mr. Collins, just a couple of questions. You said
24 sometimes when you attempted to use this firearm the
25 cylinder would misalign?

1 **A** That's correct.

2 **Q** And other times the primer would strike but it struck
3 essentially too light to cause the projectile to
4 expel?

5 **A** Yes. It was a combination of those two factors that
6 would cause it to misfire.

7 **Q** So I think you test fired this firearm right here
8 about I think you said 20 times?

9 **A** Yes, sir. The first time I attempted, I went through
10 a series of tests. I used eight cartridges, and all
11 .32 Smith and Wesson long caliber. And the second
12 time I went through the testing, I did additional
13 testing later, I used 12 additional cartridges. And
14 again, that was what I used, mixed brand, mixed
15 caliber. I used .32 auto and .32 Smith and Wesson
16 long. And that's when I came to my final
17 conclusions.

18 **Q** And of those 20 times that you tried to fire this
19 weapon, only five times you were successful firing
20 it. Is that correct?

21 **A** Yes. The first time I attempted to fire it, it fired
22 two times the first time I attempted to fire it. The
23 second time, through the second series of tests with
24 a total of 12 cartridges, it fired three times.

25 **Q** So the first time was two out of eight essentially

1 and then three out of twelve?

2 **A** That is correct.

3 **Q** And I think that you said you didn't have any spent
4 projectiles to compare to this firearm, did you?

5 **A** No. That firearm was the only firearm that I
6 received that was related to firearms type evidence.

7 **Q** No shell casings either?

8 **A** No, sir.

9 **Q** This incident date was I think you said February of
10 2007?

11 **A** Yes, sir.

12 **Q** And what date was it that you did the testing on
13 this?

14 **A** We actually did the testing -- it started on the 5th
15 of September, 2008.

16 **MR. O'NEIL:** Okay. No further questions.

17 **THE COURT:** Anything further?

18 **MR. BRYANT:** Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 **BY MR. BRYANT**

21 **Q** The gun stays in evidence, secured in evidence?

22 **A** Yes, it does.

23 **Q** Does the lapse of time from when it's in evidence at
24 the Sheriff's Department to when you test it make any
25 difference?

1 **A** Properly secured; no, sir, it does not.

2 **MR. BRYANT:** Thank you, Your Honor.

3 **MR. O'NEIL:** Nothing further.

4 **THE COURT:** All right, sir. You may come down.

5 May this witness be excused?

6 **MR. O'NEIL:** No objection, Your Honor.

7 **THE COURT:** Next witness.

8 **MS. CAMPBELL:** The state calls Investigator John
9 Barron.

10 JOHN BARRON, after being duly sworn, testifies
11 as follows:

12 **THE CLERK:** Thank you. Have a seat in the
13 witness stand and give the court reporter your name.

14 **THE WITNESS:** My name is John Barron,
15 B-A-R-R-O-N.

16 DIRECT EXAMINATION

17 **BY MS. CAMPBELL**

18 **Q** Investigator Barron, where are you employed?

19 **A** Richland County Sheriff's Department.

20 **Q** What do you do there, sir?

21 **A** I am an analyst.

22 **Q** Can you tell this jury a little bit about your
23 education and your training in DNA analysis?

24 **A** I have a Bachelor of Science degree in microbiology
25 from Clemson University. I received my original

1 training in DNA analysis along with forensic serology
2 which goes along with DNA analysis at South Carolina
3 Law Enforcement Division, otherwise known as SLED. I
4 completed the training program there in forensic
5 serology and DNA analysis in 1990. In 1999. Excuse
6 me. And in 2005 I -- 2004 -- I came to the Richland
7 County Sheriff's Department to set up the -- help set
8 up the DNA laboratory there.

9 Q And have you been qualified before as an expert in
10 DNA analysis?

11 A Yes, I have.

12 Q And approximately how many times have you been
13 qualified as an expert in that area?

14 A Approximately 30 times.

15 MS. CAMPBELL: Your Honor, at this time we'd
16 offer him as an expert in DNA analysis.

17 MS. SINGLETARY: No objection, Your Honor.

18 THE COURT: Without objection.

19 Q I'm going to turn your attention to the case number
20 07-02200424 involving the suspect, Randolph Ashford,
21 and the victim, Debbie Simmons. Did you receive
22 what's known as a sexual assault kit in this case?

23 A Yes, I did.

24 Q And what type of evidence was involved in this case
25 as far as when you received a sexual assault kit?

1 **A** A sexual assault kit is taken at the hospital from
2 sexual assault victims. It generally includes
3 envelopes and swabs to collect various types of
4 material. Not all the time all of them are used. In
5 this case I received blood from Deborah Simmons,
6 vaginal swabs and slides, rectal swabs and slides and
7 known hair samples and pubic combings from the
8 victim.

9 **Q** In addition to that, at a later time, did you also
10 receive some clothing from the victim?

11 **A** Yes. At a later time I obtained from our evidence
12 room the assorted clothing from the victim and also a
13 known buccal swab or a mouth swab from Randolph
14 Ashford.

15 **Q** So in this case -- before you do any DNA comparison,
16 basically you have to have what's known as a known
17 sample; is that correct, from a victim and/or a
18 subject?

19 **A** You don't have to have a known to do a DNA analysis.

20 **Q** To make a comparison?

21 **A** To make a comparison.

22 **Q** Yes, sir. And to make a comparison then, you
23 actually received flood from Deborah Simmons from
24 which you could extract DNA to use to compare?

25 **A** That's correct.

1 Q And in this case you actually received a buccal swab
2 which is actually an oral swab inside the mouth?

3 A Yes. It's a swab of the gums inside the cheek of an
4 individual.

5 Q And that was from Defendant Randolph Ashford?

6 A Correct.

7 Q And then you were asked to analyze certain evidence
8 from the sexual assault kit?

9 A Yes.

10 Q As well as evidence from the victim's clothing?

11 A Correct.

12 Q And in addition to that I believe you were also
13 submitted at a later date a swab that was taken from
14 the steering wheel of the Blue Ribbon cab?

15 A Yes.

16 Q And that's the extent of the evidence that was
17 submitted for you to do any testing?

18 A That's correct.

19 Q And when you tested the sexual assault kit, tell this
20 jury what you're looking for and what you're testing
21 for?

22 A In a sexual assault kit you are looking for primarily
23 semen from a male individual; in this case it was a
24 female victim, to determine the presence of it first
25 of all and then to perform DNA analysis on it to

1 determine whose semen it is. Along that with there's
2 pubic combings. And in close, intimate contact you
3 may have hair transfer. Hair transfer can result in
4 identification through DNA analysis or an association
5 through microscopic analysis.

6 Q And you indicated that in the sexual assault kit the
7 first thing you look for is the presence of semen?

8 A Yes.

9 Q And why is that?

10 A Well, it's a primary piece of evidence in sexual
11 assault.

12 Q And in every sexual assault kit are you necessarily
13 going to be able to detect the presence of semen?

14 A No.

15 Q And why is that, sir?

16 A Well, there's several reasons for that. One reason
17 might be the use of a condom. Another reason might
18 be timeframe. Very often in a sexual assault the
19 victim may not report the crime for several days; and
20 as a result, time and cleaning up has destroyed
21 seminal fluid. And in some cases there may not be
22 ejaculation. There could be penetration without
23 ejaculation. And ejaculation then puts the semen and
24 sperm cells into the victim where it can be collected
25 and identified and analyzed.

1 Q And I know I'm getting very graphic here. But is it
2 important in order for you to do a comparison on a
3 sexual assault kit, are the sperm cells important?

4 A Yes. The sperm cell contains the DNA molecule from
5 the Defendant or the suspect in a case.

6 Q So, in other words, the sperm cells are included in
7 the semen. Is that correct?

8 A Correct. Semen is the fluid that carries the sperm
9 cell.

10 Q Okay. But it's the sperm cells themselves that have
11 the DNA in it that you need to do any comparison?

12 A That would have the male DNA.

13 Q The male DNA?

14 A Yes.

15 Q And in a sexual assault kit, one of such of this
16 nature, you're looking for male DNA?

17 A Correct.

18 Q And in this case when you examined the sexual assault
19 kit and the items that you were submitted to you,
20 were you able to detect any male DNA?

21 A I was not.

22 Q And no semen was identified?

23 A No. No semen was identified on the vaginal or the
24 rectal swabs. And I visually searched for sperm
25 cells on the slides and did not identify any there

1 either.

2 **Q** So without the presence of semen or sperm you were
3 not able to do any further testing?

4 **A** I did not do any further testing of that. I did do
5 testing on the hair from the pubic combings.

6 **Q** And that's where I want to go next. Did you also
7 receive a pubic hair combing?

8 **A** Yes.

9 **Q** And you mentioned earlier that sometimes in an
10 intimate situation that hair can be transferred. Is
11 that always true?

12 **A** It's not always true. It's a very small percentage
13 of time that we actually recover a hair from the
14 assailant, but it does happen.

15 **Q** But it's a small percentage of the time?

16 **A** That's correct.

17 **Q** But in this case, since you couldn't find semen or
18 sperm on the vaginal or rectal swabs, you then moved
19 to that?

20 **A** Yes. There were three hairs, pubic hairs recovered
21 from her pubic combings. They were similar to hers.
22 But sometimes even though they're similar, they still
23 could belong to different people. So I did do a DNA
24 analysis on those hair samples. And the DNA matched
25 the victim. So they were her hair.

1 Q And you didn't find any other DNA but hers in those
2 combings?

3 A That's correct.

4 Q And in addition to that, I believe you also at a
5 later date got her clothing. Is that correct?

6 A That's correct.

7 Q And what analysis did you perform of the clothing?

8 A The clothing, I searched for seminal fluid and blood.

9 Q What did you find?

10 A I did not find any seminal fluid on the clothing. I
11 did find blood on the shirt. I did type the DNA
12 analysis on the blood on the shirt and it was also
13 the victim's blood.

14 Q And that was the testing you did on the clothing?

15 A That's correct.

16 Q Finally, you also received a swab from the steering
17 wheel of the Blue Ribbon cab?

18 A Yes.

19 Q And did you do any testing on that?

20 A I did.

21 Q And what were the results of that testing?

22 A I did find some male DNA on the swab. It did not
23 belong to the Defendant.

24 Q It did not belong to the Defendant?

25 A No.

1 Q And in doing your testing, you can tell the
2 difference between male DNA and female DNA?

3 A Yes, I can.

4 Q And in this case you found male DAN. Did you ever
5 get a sample from Malachi James?

6 A No.

7 Q On the swab from the steering wheel, just because,
8 say, if I get into a car and I drive a car for a
9 period of time, be it minutes, hours, am I
10 necessarily going to leave DNA on that steering
11 wheel?

12 A Not necessarily.

13 Q And what factors go into that?

14 A What we're looking for on something like a steering
15 wheel swab is what we call touch DNA. In other
16 words, we're hoping that some of the skin cells come
17 off your hand and remain attached to the steering
18 wheel. As in this case, I did recover DNA from some
19 other individual, not the Defendant or the victim in
20 this case. So probably the person who drove that
21 vehicle the most is probably who left that DNA on it.

22 Q And again, you never received a swab from Malachi
23 James?

24 A No.

25 Q And just because you didn't find the Defendant's DNA

1 does not mean he did not drive that vehicle?

2 **A** That's correct.

3 **Q** On the rape kit and the clothing you were searching,
4 I believe on the rape kit for the presence of semen,
5 you found none?

6 **A** None.

7 **Q** And on the clothing semen and blood?

8 **A** Correct. And I was also searching for hair on the
9 clothing as well, but I did not recover any.

10 **Q** You didn't recover any?

11 **A** No.

12 **Q** And if a person -- are your findings consistent with
13 someone that did not ejaculate?

14 **A** It is consistent with that, yes.

15 **Q** Again, when you're doing DNA testing from crime
16 scenes, typically you're looking for things such as
17 bodily fluids left at the scene; like in a murder
18 scene, perhaps blood?

19 **A** Yes. We're looking for blood, semen in the case of
20 sexual assault, saliva in the case where anything you
21 touch with your mouth like a cigarette butt or a
22 drink can. And because of the sophistication and the
23 sensitivity of DNA analysis at the present time, we
24 are also able to pick up DNA from touch DNA which is
25 skin cells that you may leave somewhere.

1 Q And that's a thing you just started doing in your lab
2 in the last year or so?

3 A We've been doing that in our lab for the last five
4 years.

5 Q Okay. Thank you.

6 **THE COURT:** Cross examination.

7 **MS. SINGLETARY:** Thank you, Your Honor. If it
8 pleases the Court, very briefly.

9 CROSS EXAMINATION

10 **BY MS. SINGLETARY**

11 Q Good afternoon, Investigator Barron.

12 A Good afternoon.

13 Q And I just want to recap very briefly your direct
14 testimony. And that was that there was no semen
15 found on the clothes that you received, correct?

16 A That is correct.

17 Q There was no DNA contributed by Mr. Ashford on the
18 clothes that you found?

19 A That is correct.

20 Q There was no semen in the vaginal and rectal swabs
21 that you found, correct?

22 A That is correct.

23 Q No DNA from Randolph Ashford?

24 A No.

25 Q The pubic hair, all of the hair that was actually

1 given to you, it all belonged to the victim?

2 **A** That's correct.

3 **MS. SINGLETARY:** I have no further questions,
4 Your Honor.

5 **THE COURT:** You may come down, sir. Thank you
6 very much. Next witness.

7 **MS. CAMPBELL:** Your Honor, may we approach?
8 (Whereupon, a bench conference is had)

9 **THE BAILIFF:** She is not feeling well.

10 **THE COURT:** All right.

11 (Whereupon, a bench conference is had)

12 **THE COURT:** All right, ladies and gentlemen.

13 I'm just again checking on the schedule. Now, there
14 are just very few witnesses left that I know of. Of
15 course things change. But due to the fact that one
16 of your members of the jury is having some
17 problems -- and I don't know what they are. I hope
18 they're not serious. I hope I haven't caused them.
19 But let's go ahead and adjourn for the day. We're
20 going to finish this case up in the morning. We
21 couldn't finish it tonight anyway.

22 So in respect to her condition, whatever it may
23 be, I think we'll just go ahead and adjourn this
24 afternoon, reconvene tomorrow morning at 9:00, at
25 which time we are going to wrap this case up. So

1 have a pleasant evening. Again don't discuss the
2 case among yourselves when you return to the jury
3 room or with anyone else over the evening hours. See
4 you at 9:00 in the morning.

5 (Jury out at 4:24 p.m.)

6 **THE COURT:** All right, counsel. While we have a
7 few minutes -- and I'll take your matter up in a
8 moment -- I'm interested in whether the State or
9 defense has any requests to charge.

10 **MR. O'NEIL:** I do, Your Honor.

11 **THE COURT:** All right.

12 **MS. SINGLETARY:** Your Honor, may we approach?

13 **THE COURT:** Sure.

14 (Document handed to the Court)

15 **MS. SINGLETARY:** Your Honor, what I just handed
16 up to you is actually the defenses' requests, the
17 charge, the jury instructions. A lot of the jury
18 instructions is that we handed up are in your actual
19 general instruction.

20 **THE COURT:** All right.

21 **MS. CAMPBELL:** I hope so.

22 **THE COURT:** I'll review these. You could have
23 just given me the book.

24 **MS. SINGLETARY:** Your Honor, my clerk brought
25 them in.

1 **THE COURT:** That's all right. Well, let me ask
2 you this. Are you requesting any lesser-included
3 charges? That's a primary concern to me.

4 **MS. SINGLETARY:** Yes, Your Honor. We are
5 actually requesting ABHAN.

6 **THE COURT:** Now, wait a minute. You're going to
7 have to tell me which indictment you're referring to.

8 **MS. SINGLETARY:** We are actually referring to
9 the CSC indictment, Your Honor. And that would be
10 the indictment ending 1940.

11 **THE COURT:** All right. Okay. Just ABHAN?

12 **MS. SINGLETARY:** Yes, Your Honor. Your Honor,
13 that would be all the lesser's that we are asking
14 for.

15 **THE COURT:** Okay. Ms. Campbell, assuming you
16 have not, nor have I, read all of these, does the
17 State have any objection to a charge of assault and
18 battery of a high and aggravated nature as a
19 lesser-included charge of criminal sexual conduct in
20 the first degree?

21 **MS. CAMPBELL:** I'd have to review the law, Your
22 Honor. But based on the testimony that's so far in
23 the record, now the statement is not in yet; but the
24 Defendant in his own statement says that they had
25 sexual relations, just that it was consensual.

1 **MR. O'NEIL:** I don't think that's quite an
2 accurate characterization of Mr. Ashford's statement.

3 **THE COURT:** Okay. Well, I haven't heard the
4 statement or seen the statement.

5 **MS. CAMPBELL:** And it may just effect your
6 decision because --

7 **THE COURT:** I'm sorry?

8 **MS. CAMPBELL:** Because he basically says that --
9 it's crude. Let me hand up the statement.

10 **THE COURT:** I think I -- did you show me the
11 statement?

12 **MR. O'NEIL:** I think Your Honor is familiar with
13 the pre-trial hearing.

14 **THE COURT:** Yeah. That's what I thought. I
15 think I'm that familiar with it. I understand. The
16 question is, based on that statement, would it
17 support a charge of assault and battery of a high and
18 aggravated nature?

19 **MS. CAMPBELL:** No, sir. The worst thing he says
20 is it only lasted about a second because I couldn't
21 get it up.

22 **THE COURT:** I understand that. I understand
23 what the statement says.

24 **MS. CAMPBELL:** But he still admits to sexual --
25 the first thing he says is she and I had sexual

1 relations on the living room floor. I just don't
2 know that there's any evidence to support an ABHAN in
3 this case. But he does say it was consensual or she
4 wanted it.

5 **THE COURT:** All right. Now, Mr. O'Neil, with
6 regard to your motion.

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

8 **THE COURT:** I mean, your making the record.

9 **MR. O'NEIL:** I just want to put on the record
10 what occurred this morning, Your Honor, in camera.

11 **THE COURT:** I understand. You want counsel for
12 the State present since they were present in those in
13 camera interviews?

14 **MR. O'NEIL:** Yes, Your Honor.

15 **THE COURT:** Okay. All right. I need the
16 court -- court is adjourned for the day with the
17 exception of this matter we need to put on the
18 record. And I need to do it in camera, which means
19 we need to go ahead and clear the courtroom.
20 Everybody else can leave except the attorneys and the
21 deputies. Security stays.

22 **MR. BRYANT:** I'm sorry, sir?

23 **THE COURT:** I said we're ready to proceed. The
24 investigator will have to leave. All right, Mr.
25 O'Neil.

1 **MR. O'NEIL:** Yes, Your Honor. I think it came
2 to the State's attention on yesterday that one of
3 their deputies, a Deputy White from the Richland
4 County Sheriff's Department, may have overheard I
5 think it was what turned out to be juror number 134
6 during lunch saying something to the effect that,
7 "I've heard all I need to hear."

8 I think at that point my request of the Court
9 was to bring that juror in, or hopefully bring in
10 Deputy White first to try to identify that juror and
11 then to ask that juror first if she made that
12 statement; and if she did make that statement, in
13 what context does she make that statement in.

14 I think what the Court decided to do was to
15 bring in what turned out to be a total of five jurors
16 one-by-one in camera, I think it was juror 134, 172,
17 juror number 1, juror number 199 and juror 174; and
18 ask them in a generic form had they formed any
19 opinion about the ultimate issues of this case or
20 either expressed that opinion to anybody about the
21 ultimate issues of the case and whether or not they
22 had made up their mind, whether or not they expressed
23 to anyone they had made up their mind.

24 I think all the jurors that were questioned
25 answered in the negative about whether or not they

1 had either made their mind up or expressed the fact
2 that they had made their mind up. I just want to put
3 on the record that it was my request for the jurors
4 to be -- especially one juror in question, I think
5 juror number 134 -- to be asked specifically did she
6 make that specific statement and whether or not, if
7 she did make that statement, in what context she made
8 that statement. And, Your Honor, based on that I
9 guess I would ask for a mistrial.

10 **THE COURT:** Does the State have a position?

11 **MS. CAMPBELL:** Yes, Your Honor. As we discussed
12 in chambers, no one alleged to know what she was
13 referring to, if she was referring to this case or
14 any other thing in her life. You did bring the juror
15 in as well as other jurors to make sure, to inquire
16 whether or not they heard anything from anybody or
17 there had been any discussions. Each and every one
18 of them denied doing anything. Basically you just
19 reminded them of their duty. There is no evidence
20 that she was referring to this case.

21 In addition to that, Your Honor, all the jurors
22 seemed quite forthright and quite serious about their
23 obligations in this case. And I do believe the
24 colloquy you went through with each and every one of
25 them back in chambers would be enough to address this

1 issue.

2 **THE COURT:** All right. Well, I don't know if,
3 A, to begin with, I don't know what the -- the
4 officer wasn't clear as to exactly what he heard,
5 although it's something similar to what Mr. O'Neil
6 has placed on the record. We did our best to
7 identify who that witness might be; I mean, that
8 juror might be. I believe we covered everybody that
9 the Defendant's counsel, Mr. O'Neil, asked us to meet
10 and to voir dire in terms of their ability to be fair
11 and impartial and the fact that they had neither
12 spoken in the jury room nor outside of the courtroom
13 about having made up their mind in this case.

14 And all five of those witnesses (sic) I would
15 say categorically denied that they had made any such
16 statement outside the jury room or inside the jury
17 room, and I had no reason to go any further with it.
18 And I stopped calling jurors in for an in camera
19 conference with the consent of both parties. I must
20 respectfully deny your motion.

21 **MR. O'NEIL:** Just one further thing I want to
22 put on the record, I guess just so the record is
23 clear. Deputy White's description of the individual
24 whom he heard make that statement was a black female,
25 a younger black female I think. And there are only

1 three black females on the jury. There's juror
2 number 172 and juror number 134. You questioned both
3 134 and 172. And out of an abundance of caution, I
4 think we requested three additional jurors.

5 **THE COURT:** 9:00.

6 **MS. SINGLETARY:** Thank you, Your Honor.

7 (Whereupon, the proceedings are concluded for
8 the day, to be reconvened tomorrow morning)

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1 Friday, April 3, 2009

2 (WHEREUPON, State's Exhibit No. 113 is marked
3 for identification.)

4 **MR. BRYANT:** Your Honor, if it pleases the
5 Court?

6 **THE COURT:** Are you on the record, Jenny?

7 **COURT REPORTER:** Yes, sir.

8 **THE COURT:** Yes, sir.

9 **MR. BRYANT:** I was talking to our court reporter
10 and there was a little bit of a question mark about
11 some of the stuff that was in evidence. I believe
12 everything has been moved in. But I've talked with
13 Mr. O'Neil, and in order to err on the side of
14 caution, Exhibits 19, 20, 21 I believe -- I'm sorry.
15 Did I say that? Exhibits 19, 20, 21, 25 through 29
16 and then 90 I move again just to make it official so
17 Madam Reporter does not have a problem. 112 I
18 marked, did not enter. And I believe then Ms.
19 Campbell has 91, 92 and 100. If there is another
20 problem, let me know and I'll clear it up so that I
21 don't cause you any more confusion.

22 **COURT REPORTER:** Thank you.

23 (WHEREUPON, State's Exhibit No. 19 is admitted
24 into evidence.)
25

1 (WHEREUPON, State's Exhibit No. 20 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 21 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 25 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 26 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 27 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 28 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 29 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 90 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 91 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 92 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 100 is admitted
22 into evidence.)

23 **THE COURT:** All right. The State ready to
24 proceed?

25 **MS. CAMPBELL:** The State's ready, Your Honor.

1 **THE COURT:** By the way, without objection on the
2 exhibits?

3 **MR. O'NEIL:** No objection, Your Honor.

4 **MS. SINGLETARY:** No objection, Your Honor.

5 **THE COURT:** Defense ready to proceed?

6 **MS. SINGLETARY:** Yes, Your Honor.

7 **THE COURT:** Bring the jury.

8 (Jury in at 9:15 a.m.)

9 **THE BAILIFF:** Your Honor, the jury is present.

10 **THE COURT:** Good morning, ladies and gentlemen.
11 I think somebody cut the air conditioner on.

12 **FOREPERSON:** We hanging beef in here this
13 morning, or what?

14 **THE COURT:** Unfortunately, I don't have much --
15 I've got control over a lot of things, but the air
16 conditioner, I can't touch it. But, Jackie, the
17 clerk, is going to work on it. All right. Good
18 morning, ladies and gentlemen. We're ready to
19 continue with the trial. Solicitor, call your next
20 witness.

21 **MS. CAMPBELL:** May it please the Court.

22 **THE COURT:** Yes, ma'am.

23 **MS. CAMPBELL:** The State calls Eric Barnes.

24 ERIC BARNES, after being duly sworn, testifies
25 as follows:

1 **THE CLERK:** Please have a seat. State your full
2 name for the record.

3 **THE WITNESS:** Eric Barnes.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Sergeant Barnes, where are you employed?

7 **A** Richland County Sheriff's Office.

8 **Q** What do you do there, sir?

9 **A** I am a sergeant in the investigative division.

10 **Q** Can you tell this jury as a sergeant in the
11 investigative division what your duties include?

12 **A** I am a sergeant over ten men, and our primary duty in
13 the division that I'm in, the burglary team, is we
14 handle all the burglaries that happen in the county.
15 I then investigate those and bring the suspects to
16 justice in regard to burglary.

17 **Q** I want to turn your attention back to February the
18 24th of 2007. Were you working that evening?

19 **A** I was.

20 **Q** Did you become aware during the course of that day of
21 a hostage situation over on Booth Street?

22 **A** I did. As a part of my other duties as an on-call
23 supervisor for investigations, we do a rotation about
24 every five to eight weeks. And we handle anything
25 that happens over the weekends or during the evening

1 shift. And my team on evening shift would have been
2 comprised of various different investigators from all
3 parts of investigations, and we would handle
4 emergency situations that would come up in the
5 county.

6 Q But you didn't actually go to the scene at Booth
7 Street. That wasn't part of your role that night.
8 Is that correct?

9 A No. My role that night was to stay at headquarters
10 where the databases were and to be in constant
11 contact with my investigators who were out on the
12 scene.

13 Q And did you become aware that they had taken into
14 custody a man named Randolph Ashford?

15 A I did.

16 Q And at some point during that evening did you also
17 have statements taken from two of the victims in the
18 case, I believe two deputies?

19 A Yes.

20 Q And who actually took those statements that
21 everything?

22 A I took one from Deputy White. And Investigator
23 McCray who was working with me that night took one
24 from Deputy Unger.

25 Q Did you also send one of your investigators that

1 evening to the hospital to interview Debbie Simmons?

2 **A** I did. That was Investigator Croxton.

3 **Q** And why did he go interview her?

4 **A** When she came out of the -- when they made entry into
5 the residence and got her safely out of the
6 residence, she made a statement to the deputies and
7 to -- and overheard by the investigator that she had
8 been raped.

9 **Q** And is it the normal course of business to go follow
10 up on that?

11 **A** That is correct.

12 **Q** And that was done in this case?

13 **A** That is right.

14 **Q** And she was actually interviewed while still at the
15 hospital. Is that correct?

16 **A** Yes, ma'am.

17 **Q** That evening were you aware that Randolph Ashford had
18 been transported to headquarters?

19 **A** Yes, ma'am.

20 **Q** And that's where you were?

21 **A** That's where I was; yes, ma'am.

22 **Q** And what were your duties that night as far as Mr.
23 Ashford?

24 **A** I was to do some preliminary things. We had to do
25 some things in the course of an arrest. We have to

1 do these things; major case prints and some
2 background information to fill out the arrest reports
3 and that sort of thing. But my primary duty is to
4 try to talk to the suspect and see if he had any
5 comments or any statements to make as a result of
6 this incident.

7 Q And when did you come in contact with the Defendant
8 that night, and where?

9 A When they brought him to headquarters and brought him
10 by my cubicle.

11 Q And would that be sometime after 7 p.m. that night?

12 A That is correct.

13 Q And prior to questioning the Defendant, Randolph
14 Ashford, what did you do?

15 A I introduced myself to him. They brought him by my
16 cubicle and I introduced myself to him, let him know
17 who I was. He volunteered that he had messed up,
18 that he had -- you know. And we talked about the
19 Situation briefly. And then I verbally Mirandized
20 him at that point.

21 Q And he volunteered the fact, I think his words were,
22 that he had messed up?

23 A That is correct. Something along those lines.

24 Q And you mentioned that then before any further
25 detailed questioning you advised him of his rights?

1 **A** Correct.

2 **Q** And initially did you just verbally advise him of his
3 rights?

4 **A** I did.

5 **Q** And why do you advise someone of their rights before
6 questioning them if they're in custody?

7 **A** That's your Constitutional right. Okay. That's what
8 our country is founded on, individual rights not to
9 self-incriminate themselves. So we as law
10 enforcement give them Miranda rights and just remind
11 them that they don't have to talk and that anything
12 they say can be used against them. So I verbally
13 Mirandized him of that and we continued to carry on a
14 conversation.

15 **Q** And what rights did you actually go you through with
16 him that evening?

17 **A** I told him that he had the right to remain silent,
18 anything he said could be used against him in court.
19 He had the right to talk to a lawyer, to have him
20 with him during questioning. If he can't afford a
21 lawyer, one will be appointed for him before
22 questioning if he wishes and if he decided to answer
23 questions now without a lawyer present, he still have
24 had the right to stop answering at any time. He also
25 had the right to stop answering at any time until he

1 talked to a lawyer. And he said he understood these
2 things, and we continued to talk.

3 Q And, in fact, as you're -- how long have you been in
4 law enforcement, sir?

5 A I'm working on my 23rd year.

6 Q And in your opinion, was he wanting to tell you his
7 story?

8 A He was.

9 Q And at any point during your course of talking to him
10 that evening, did he invoke any of his rights?

11 A He did not.

12 Q And did he cooperate with you on a voluntary basis?

13 A He did.

14 Q After advising him of his rights, did you do anything
15 to pressure him or force him to talk to you?

16 A Absolutely not.

17 Q Did you threaten him or coerce him in any way?

18 A No, ma'am.

19 Q Did you deprive him of any creature comforts?

20 A No, ma'am.

21 Q Did he seem to be coherent and understand your
22 questions?

23 A Absolutely.

24 Q When he talked to you, was his voice slurred or was
25 it hard to understand?

1 **A** No.

2 **Q** And his demeanor and his appearance, did he appear to
3 be under any duress or any pain or agony?

4 **A** No.

5 **Q** What, if any, information did he talk to you about
6 that evening about what had gone on that day?

7 **A** He wanted to go back even further than I would even
8 have spoke to him about. He wanted to go back to
9 where this all began. And he stated that it all
10 began with an argument that he was having with
11 Roberta, his girlfriend, and over some money that he
12 had received and some mis --

13 **MS. SINGLETARY:** Objection, Your Honor.

14 **THE COURT:** Approach the bench.

15 (Whereupon, a bench conference is had)

16 **THE COURT:** State your objection.

17 **MS. SINGLETARY:** Your Honor, at this time the
18 defense would like to renew their pre-trial Jackson
19 v. Denno motion, Your Honor.

20 **THE COURT:** All right. Overruled.

21 **MS. CAMPBELL:** Thank you, Your Honor.

22 **THE COURT:** You may proceed.

23 **Q** He mentioned -- let me start back -- about the
24 incident started the right before?

25 **A** That is correct.

1 Q Did he say where it started?

2 A I'm sorry?

3 Q Did he say where it started?

4 A It started over on Muir Street, at his place.

5 Q And he mentioned Roberta?

6 A Correct.

7 Q And who is Roberta?

8 A Roberta is his girlfriend.

9 Q Did he mention any specifics about Roberta?

10 A He said it was his girlfriend, she was 65 years old,
11 she was at the trailer with him that night.

12 Q At that point did he give you any information about
13 himself that he wanted you to know?

14 A He stated that he was 41 years old himself. And
15 that's about it as I can recall.

16 Q Did he mention what had happened the night before
17 with Roberta?

18 A Yes, ma'am.

19 Q And what was that?

20 A That they had an argument. Well, he had brought
21 home -- they had brought home some lottery tickets.
22 And she was scratching some off. He told her that he
23 wanted to go to the store to get some more. He got
24 on his bicycle and went up to the store to get some
25 more lottery tickets. When he came back the door was

1 open and she wasn't there, nor was his money. And he
2 became upset. He at first thought she had been taken
3 and had even mentioned that he had called the City
4 Police Department and wanted to file a missing
5 persons report and was concerned about her. And the
6 city officer said, no, she's just over at a friend's.
7 This is what he's telling me. She's just over at a
8 friend's house, she'll be back in the morning, don't
9 worry about it, that sort of thing.

10 And then he tries to call her several times
11 during the night. And it escalates from there based
12 on his conversations with her. She keeps putting him
13 off. And it finally culminates in what happens the
14 next day. But this gradually escalates to the point
15 that he's trying to find her that evening.

16 Q Did he mention that after he made the missing persons
17 report where he said the officer told him that she
18 was fine, she was over at a friend's house, did he
19 mention that he noticed something was missing?

20 A He then mentioned that he had the \$4,000 missing.
21 And this was the \$4,000 that he got in a settlement,
22 an accident and that he felt like she had taken that.

23 Q Did he also tell you that he was trying to get in
24 touch with her that night?

25 A He did.

1 Q Was he able to talk to her during the course of the
2 night according to what he talked to you about?

3 A Well, he said he kept trying to call her all night.
4 And he called her around 1:35 a.m. And all he heard
5 were noises, like somebody was making love, something
6 along those lines, and he got upset over that.

7 Q And this is what he is telling you?

8 A That's what he's telling me.

9 Q And prior to this, had you ever had any contact with
10 Roberta or any of these people?

11 A No.

12 Q Did you have any information prior to what he's
13 telling you about Roberta?

14 A No. I had no idea of any of this.

15 Q Did he indicate whether or not he was able to get in
16 touch with her the next morning?

17 A He said he finally talked to her the next morning,
18 later on in the morning, and she was talking about
19 how she is a grown woman and that she didn't -- he
20 wasn't her parent and she could do what she wanted,
21 that sort of thing. Later on he called and then a
22 man answered the phone and said the man told him he'd
23 talk to him later. That made Mr. Randolph (sic) a
24 little more mad over the situation. In fact, when he
25 talked to the, man Randolph told me that that's when

1 he snapped. And he admitted to taking his gun and
2 walking up to the store and stealing the first car,
3 is what he told me at that point.

4 Then he only remembered it being a big car.
5 When we talked about describe this car, that sort of
6 thing, he said he only remembered it being a big car
7 and he went straight to Cushman Road. And then he
8 talked about losing control of the vehicle on Cushman
9 Road around a curve and he ran into a pole or a tree
10 or something. And then he stood in the middle of the
11 road and stopped a taxi. And he felt like the taxi
12 driver saw his gun at this time. Okay. He said he
13 did not pull it out on the first victims but the taxi
14 driver may have seen it in his pocket when he got
15 him, or on that time.

16 And then around that time is when Investigator
17 Thomas from the City showed up and could speak. And
18 that was good for me because Investigator Thomas knew
19 a little bit more about the car situations. And so
20 Investigator Thomas was able to sit in on the
21 interview at that point.

22 Q And is this Investigator Thomas?

23 A That is.

24 Q At that point did you continue -- did he continue
25 giving you information about the course of events

1 after he got the taxi cab?

2 **A** He did. Excuse me for just one second. Okay. We
3 continued on in our verbal statement. Okay. We
4 haven't -- we're feeling him out, trying to see what
5 he's going to say, see how that matches up to where
6 we are in the investigation. And he is continuing to
7 talk. Okay. He is very open with us in this regard.

8 We continue to go through Ashford's approach to
9 the trailer. He said he ordered the children out.
10 He admitted that he had found some of the children in
11 one of the bedrooms. And then he ultimately admitted
12 to actually holding the gun at the time and tapping
13 Debbie Ann on the shoulder or on the arm and asking
14 her where Roberta was. So he's still in a search for
15 Roberta.

16 He later stated that he expected to find Roberta
17 and a man there and he doesn't really know what would
18 have happened had they been there. Ashford kept
19 saying that he was acting out of his right mind.
20 Okay. Which goes along with what he said about
21 snapping at that point. And I understood it to mean
22 that if Roberta and --

23 **MS. SINGLETARY:** Objection, Your Honor.
24 Speculation.

25 **THE COURT:** I understand. Sustained. Just what

1 he saw and what he heard.

2 **A** Sure. Yes, ma'am. Yes, sir.

3 **Q** Did he state whether or not he knew that the police
4 were coming?

5 **A** He did. He stated that he knew they were coming. I
6 think it kind of surprised him when they came so
7 quickly, but he stated he knew they were coming and
8 they were close. And then he saw the police car and
9 he knew he wasn't going to be able to go anywhere
10 else at that point.

11 He said he talked about pushing a freezer
12 against the back door and he talked about pushing the
13 couch against the front door, barricading himself in
14 the trailer. I asked him at that point why didn't he
15 let Debbie Ann go, and he said at first she couldn't
16 move the chair and he wasn't about to move it. Then
17 he later said he needed her because time was running
18 out and he needed help from her to get Roberta or to
19 get in touch with Roberta.

20 I mentioned to him that I had heard that he was
21 wanting at some point to trade Debbie Ann for
22 Roberta, and he remembered conversations along those
23 lines. I asked him what would have happened had he
24 gotten Roberta, and he said he just wanted her to
25 look at him in the face and tell him what she did.

1 And he felt sure at that point based on his
2 relationship with Roberta that had that happened that
3 she would have cried and apologized to him for what
4 she had done. And he talked about his love for
5 Roberta despite everything and he said he didn't mean
6 to hurt anyone.

7 And then Investigator Croxton called me from the
8 hospital, talked about what the victim had been
9 saying down at the hospital. He mentioned the rape
10 situation. We talked a little bit more about that.
11 And we talked a little bit more about what happened,
12 and then I asked Mr. Randolph (sic) why would she be
13 at the hospital, hoping to elicit something about the
14 rape situation.

15 And he said that -- and I asked him if he had
16 been intimate with her. Had he had sex? And he said
17 that the only reason -- he denied it, and the only
18 reason he thinks that she would have been hurt was
19 from the tear gas canisters that would have come
20 through the window. So he denied having sex with her
21 at that point.

22 Later on Investigator Croxton was able to
23 forward me the statement that the victim had given to
24 him. And I read over it briefly. And then I
25 approached Mr. Randolph again. And I took it from

1 another approach. I told him that technology today
2 gives us the ability to look into situations like
3 this and videotape and archive those videotapes and
4 see what's actually happening inside the trailers,
5 something along those lines. Those aren't the exact
6 words, but that's somewhere along the lines.

7 And I asked him if there would be any reason why
8 Debbie Ann would have been naked inside the trailer.
9 At that point he said that they had had sex and that
10 it was a consensual situation. And he became graphic
11 in some respects from the consensual standpoint. He
12 also said that he was unable to perform all the way
13 in that situation.

14 And so after a time, after we kind of felt like
15 he had given us all the story to the point of the
16 arrest, we then took that and memorialized it in a
17 formal statement and then went through that statement
18 and made sure that what he was wanting to tell us had
19 actually come through on the statement itself.

20 Q Let me back up for a minute. Also that evening you
21 mentioned that you orally advised him of his rights.
22 Did you also advise him of his rights and have him
23 sign off acknowledging his rights?

24 A I did.

25 Q I want to show you what's been marked as State's

1 Exhibit No. 1 for identification at this point. Do
2 you recognize that?

3 A I do. This is our formal advice of rights where we
4 document that we've actually, you know, advised him.
5 I had advised him verbally. This is just a formal
6 piece of paperwork where we go back in and we advise
7 them again and then I go through and remind him of
8 his rights. I check off the blocks, and then I ask
9 him if he continues to waive his rights, wanted to
10 talk to us. I check off that box. And then he
11 signed it advising that he understood this and he
12 still wished to talk.

13 Q And even though it's enough to orally advise him, you
14 took an extra step and actually went through it with
15 him in a written form?

16 A I did.

17 Q So he could acknowledge it. The writing at the top,
18 whose writing is that?

19 A That is mine.

20 Q And what's the name written at the top?

21 A Randall.

22 Q And was that a mistake on your part?

23 A That was a mistake on my part. It's actually
24 Randolph.

25 Q And, in fact, he signed it Randolph. Is that

1 correct?

2 **A** That is correct.

3 **Q** And what time did you actually read him these rights
4 in a more formal setting?

5 **A** 19:50 hours would be the military time. It was 7:50,
6 ten to eight. So that's what time I gave him his
7 formal advice of rights.

8 **MS. CAMPBELL:** Your Honor, at this time we'd
9 offer State's Exhibit No. 1 into evidence.

10 **MS. SINGLETARY:** Renew the prior objection, Your
11 Honor.

12 **THE COURT:** Over the Defendant's objection, so
13 admitted.

14 (WHEREUPON, State's Exhibit No. 1 is admitted
15 into evidence.)

16 **Q** Just briefly for the jury go through the rights that
17 you actually explained to him on a more formal basis
18 that night?

19 **A** Okay. "Before we ask you any questions, you must
20 understand your rights. You have the right to remain
21 silent. Anything you say can be used against you in
22 court. You have the right to talk to a lawyer for
23 advice before we ask you any questions and to have a
24 lawyer with you during any questioning. If you
25 cannot afford a lawyer, one will be appointed for you

1 before any questioning if you wish. If you decide to
2 answer questions now without a lawyer present, you
3 still have the right to stop answering at any time.
4 You also have the right to stop answering at any time
5 until you talk to a lawyer."

6 And went through that and then we went to the
7 waiver of the rights. "I have read this statement of
8 my rights. I understand what my rights are." And
9 I'm reading this out to him as we're going through
10 it. It's not like he's reading it and then signing
11 it. We're reading it together. We're going through
12 it together.

13 "I have read this statement of my rights and
14 understand what my rights are. I am willing to talk
15 and answer questions. I understand and know what I
16 am doing. No promises have been made to me, and no
17 pressure or coercion of any kind has been used
18 against me." At that point he signs both lines.

19 Q And he signs acknowledging that he wants to talk to
20 you?

21 A Correct.

22 Q So he was advised of his rights twice that evening?

23 A At that point; yes, ma'am.

24 Q You mentioned that you went through all this verbally
25 related to what he initially told you. And initially

1 he denied any type of sexual contact with the victim?

2 A Correct.

3 Q And initially he said if she was in the hospital she
4 must have been hurt by tear gas?

5 A Correct.

6 Q And then when you asked him about possible
7 surveillance or people seeing in, that's when he
8 changed his story?

9 A Correct.

10 Q Specifically, you asked him why surveillance would
11 have shown that she was naked inside the house?

12 A Correct.

13 Q And that's when he changed his story?

14 A That's when he admitted that he had -- they did have
15 sex. And he talked about his performance and talked
16 about some of the details of that particular
17 situation.

18 Q Which were later put into the written statement?

19 A That is right.

20 Q I'm going to show you what has been marked as State's
21 Exhibit No. 2. Do you recognize this?

22 A Yes. This is the formal statement that we took in my
23 cubicle that day. As he's reading it, as he's going
24 through what happened, we're going back through it at
25 this point and we're putting it in -- I'm typing it

1 on the computer, we're writing it in. And then as we
2 review it, as we go through it, we're making changes
3 as we go. And this is the final copy, the final
4 version.

5 Q And you're actually doing the types and he is giving
6 you the information?

7 A That is correct.

8 Q And you went through everything to make sure that
9 this was his final version?

10 A That's correct.

11 Q And after he went through it, did you go back through
12 it with him to make sure he understood what you were
13 putting in it?

14 A I did.

15 Q And, in fact, did he acknowledge that was his
16 statement in some way?

17 A He did.

18 Q And how did he do that?

19 A He did with it his signature down here. At the
20 bottom it says: "I have made the foregoing statement
21 freely and voluntarily, without fear, threat, promise
22 or hope of reward of any kind." And he was signing
23 the authenticity of this statement as being his.

24 Q And I note that there is a place down here where
25 there's a signature for a notary. Is that your

1 signature?

2 **A** That is my signature.

3 **Q** And who else witnessed this statement?

4 **A** That is Investigator Thomas from the City.

5 **Q** At any time that evening did he tell you he didn't
6 want to talk any more?

7 **A** No.

8 **Q** And, in fact, did he want to give you his version of
9 what happened?

10 **A** He seemed to; yes, ma'am.

11 **MS. CAMPBELL:** Your Honor, at this time we'd
12 offer State's Exhibit No. 2.

13 **MS. SINGLETARY:** The prior objection.

14 **THE COURT:** The same objection?

15 **MS. SINGLETARY:** Yes, Your Honor.

16 **THE COURT:** Over defense objection.

17 (WHEREUPON, State's Exhibit No. 2 is admitted
18 into evidence.)

19 **Q** Sergeant, if you would, just publish the statement
20 that he signed off on as his version of the events
21 that night.

22 **A** Okay. The statement is set up in a question/answer
23 format. Every investigator has a different way of
24 doing things. I like to start out my interrogation
25 with just a, tell me what happened that day. And

1 you'll see a Q. That would be the question that I
2 would ask him. "Tell me about what happened that
3 day." And his answer, the A, would come after that.

4 "It started last night about 9:15 p.m. Roberta
5 and I were sitting around the house. We had just
6 watched *The Smackdown*. Roberta was scratching off
7 the lottery tickets. I told her that I was going to
8 run up to the store and get some more before the
9 store closed. I got on my bicycle and went up to the
10 store and came right back. When I got back the door
11 was cracked and there was no sign of Roberta. I got
12 scared and thought she had been kidnapped. I called
13 911 and had a car come out to take a missing person
14 report. The officer came over and said that Roberta
15 was all right and that she had gone over to her
16 cousin's house. He also said to give him a call if
17 she did not come back in the morning.

18 "At some point after the officer left I realized
19 she had taken my \$4,000. She actually called me.
20 She actually called me at 1:35 a.m. and all I heard
21 was what sounded like sex noises. I called her phone
22 all night long. (803)786-4773 is my home phone
23 number. Her cell number is (803)381-3849. I didn't
24 go to sleep all night. At some point she called me
25 this morning and talked a bunch of nonsense about I

1 wasn't her mama or daddy and she was a grown woman.
2 It wasn't really a conversation and it seemed like
3 she was trying to agitate me. She said she just
4 wanted me to go.

5 "I asked her about the \$4,000 but she wouldn't
6 talk about it and she hung up the phone. I hoped she
7 would call back but she didn't. I called the
8 cellphone again and he answered and said he would
9 talk to me in a minute. That pushed me over the
10 edge. And she called back and I tried to ask her
11 about that and she wouldn't talk to me.

12 "Then I walked up to the store and I had my gun
13 in my pocket. It was the Citgo on North Main. I saw
14 the big, middle-aged lady in a big car. There was a
15 man on the outside of it. He was a pretty big man.
16 I went up to the car and yelled, 'Get out of the
17 car.' He looked at me. She got out of the car and I
18 jumped in. I never pulled my gun on them. I drove
19 straight to Cushman Road because I figured she was
20 over at her cousin's house, Debbie Ann Simmons.

21 "The car got loose on the curve by the church on
22 Cushman Road and hit a telephone pole or a tree or
23 something. I got out and briefly went into the
24 church and told somebody to give me the keys to their
25 cars. Nobody gave me the keys, so I went back

1 outside.

2 "I stopped a Blue Ribbon cab in the middle of
3 the road. I stood in front of it and I told the
4 driver to get out. I believe he may have seen my gun
5 in my pocket, but I never took it out. I got in and
6 drove straight to Debbie Ann's trailer.

7 "I pulled up in the yard. I pulled out my gun
8 but I did not point it at anyone. I walked up in the
9 house and sent the children out of the house. I went
10 through the housing looking for Roberta. I actually
11 expected to find the man there. I don't know what
12 would have happened if I had seen that man because I
13 was not in my right mind. I asked Debbie Ann to call
14 Roberta. I knew the police were coming, and then I
15 saw one police officer and then I knew I couldn't
16 leave."

17 "Q Why would you not let Debbie Ann leave?

18 "A She was scared. She couldn't move the chair
19 that I had out up against the door and I wasn't
20 thinking about moving the chair.

21 "Q Did you shoot at the officers when they were
22 coming around the house?

23 "A No, sir. I shot in the house and I let them
24 know that I did have a gun. I shot into a black
25 chair twice. I had four bullets in the gun at first

1 and three more in my pocket. After I shot the first
2 time I loaded the gun with the rest of the bullets.

3 "Q Were there any misfires?

4 "A Yes. I tried to wipe off the bullets a little,
5 and actually some of the bullets may still be in the
6 house.

7 "Q Did you shoot outside the house at all?

8 "A No. I wasn't mad at the police. I was mad at
9 her.

10 "Q When you went into the house, who did you first
11 see?

12 "A Debbie Ann and the children. I told the
13 children to get out. Then I tapped Debbie Ann on the
14 arms and asked her where Roberta was at. I followed
15 her into the bedrooms and I saw the other kids. I
16 told them to get out. I knew the police were coming
17 and I didn't want them to get me before I talked to
18 Roberta. I pushed the freezer up to the back door
19 and the chair up against the front. I wasn't trying
20 to hold her hostage but I was trying to get her to
21 help me talk to Roberta. Debbie Ann even said that
22 what Roberta did to me was wrong.

23 "Q Well, can you explain why Debbie Ann may have
24 been naked in the house during this time?

25 "A She and I had relations, sex, on the living

1 room floor. She was saying that Roberta had
2 commented how big I was and she always wanted to
3 know. So we tried. But I couldn't get it hard
4 enough to do it. She tried to help me by trying to
5 pack it in, but it didn't happen. It only lasted
6 about a second because I couldn't get it up. She
7 tried several positions but I couldn't because my
8 mind wasn't there.

9 "Q Where was the gun while you two were on the
10 floor?

11 "A It was laying on the floor by us.

12 "Q How did all this end?

13 "A I gave up.

14 "Q Did you hit Debbie Ann at all?

15 A No.

16 "Q Do you remember taking the first vehicle off of
17 Oakland Avenue before you took the big car that you
18 actually talked about earlier?

19 "A I don't remember" was his answer.

20 Q And was that the extent, or that was the information
21 he finally gave you that was reduced to writing. Is
22 that correct?

23 A That's right. I've got one more.

24 Q I'm sorry.

25 "Q Did you try to take a vehicle out of the church

1 parking lot off of Cushman Road or grabbing anyone
2 and forcing them outside the church?

3 "A No. I don't remember doing any of that."

4 So, yes. That was the statement that he gave
5 me.

6 Q And during this period of time as he is relating this
7 information to you, did he -- was he coherent?

8 A He was.

9 Q Did he seem to be in any kind of pain or distress or
10 have any problems?

11 A No. He was actually working -- like I said, he even
12 went back further than I expected to go back. And he
13 was putting the timeline together in his mind. And
14 this is the coherent statement that came out of that
15 conversation. And I had no indication that it was
16 anything less than a coherent, well thought out
17 statement from him.

18 Q After taking the statement, the verbal statement and
19 subsequently the written statement -- well, let me
20 back up. With the written statement, he had the
21 opportunity to go through it?

22 A He did.

23 Q And, in fact, did he sign off that that was his
24 version of the events?

25 A He did. And he was given a copy of that statement as

1 well.

2 Q After that did you also ask him to consent to give
3 you a buccal swab?

4 A I did.

5 Q And why did you want to get a buccal swab for DNA?

6 A Well, I knew that a DNA kit, a rape protocol kit was
7 being done down at the hospital, which is the normal
8 way we handle rape victims. We send them down to the
9 hospital. And the SANE nurse would work with the
10 victims and take the evidence that we needed to
11 process in a way that was conducive for the victim.
12 So I knew that there was evidence coming from the
13 hospital and that we would probably need some DNA to
14 compare that to. And that's why I asked him for the
15 DNA buccal swab.

16 Q In case there was any evidence?

17 A To put it in evidence in case there was any evidence
18 to compare it to.

19 Q That night -- he was already under arrest when you
20 made contact with him?

21 A That is correct.

22 Q Did you actually make the formal charges?

23 A I did.

24 Q And what all was charged with in your jurisdiction
25 versus Investigator Thomas's jurisdiction?

1 **A** I charged him with burglary first, which is the
2 unlawful entry into the house with a weapon. The
3 kidnapping, which he held Ms. Simmons against her
4 will. I charged him with two counts of assault with
5 intent to kill for the deputies, shooting at the
6 deputies. And we charged him with the rape
7 situation.

8 **Q** Criminal sexual conduct?

9 **A** Yes, ma'am. Criminal sexual assault at that point.

10 **Q** That next day did you make contact with Investigator
11 Reed-Enzor about looking for a bullet hole in the
12 house and I believe near a van?

13 **A** I did. It was my understanding that because of the
14 tear gas, we were holding that trailer and we were
15 going to need to process that trailer the best we
16 could. I knew Reed-Enzor was going back out there to
17 do that. I talked to her and let her know a little
18 bit about the statements that were made, hoping that
19 she would look at the crime scene and compare those
20 statements to what she actually found at the crime
21 scene, hoping to find some corroboration there in
22 some way.

23 **Q** Whenever a person is placed under arrest, do you get
24 certain personal information about them?

25 **A** I do.

1 Q And was he able to give you information about his
2 age?

3 A He was.

4 Q And how old was the Defendant --

5 A He was --

6 Q -- at that time?

7 A -- 41 at that time.

8 Q And were you also able to get information from him
9 about his height and weight?

10 A I was.

11 Q And what information did he give you?

12 A He was five-ten, 165.

13 Q Did he also indicate what his address was?

14 A [REDACTED].

15 Q I show you two diagrams, State's Exhibits 91 and 92.

16 Are you familiar with these?

17 A I'm familiar with the maps; yes, ma'am.

18 Q The maps?

19 A Yes, ma'am.

20 Q Do those show generally the Muir Street address?

21 A That is correct.

22 MS. CAMPBELL: Your Honor, at this time we'd
23 offer them into evidence.

24 MS. SINGLETARY: Without objection, Your Honor.

25 (Exhibits 91 and 92 were previously received in

1 evidence)

2 Q Where is Muir Street on that?

3 A Muir Street is right here running between Colonial
4 Drive and Koon Road. This is North Main Street right
5 here.

6 Q That was going to be my next question. Does this
7 actually show where the Wash World is? Do you see
8 the corner of Prescott and North Main?

9 A Prescott and North Main is right here. The wash
10 World is -- it's in the city, so I'm not quite sure
11 where exactly the Wash World is, but it's --

12 Q On that corner?

13 A This is the corner right here.

14 Q And finally, the address on Muir Street, this is a
15 closeup of [REDACTED]?

16 A Right.

17 Q What are these? It looks like buildings.

18 A These are trailers in this particular area right
19 here.

20 Q And the address he gave you is one of those trailers?

21 A Yes, ma'am.

22 Q Did he also indicate who else lived there?

23 A Roberta.

24 Q That evening did you also have a photograph taken of
25 the Defendant and how he appeared when you were

1 talking to him?

2 **A** I did.

3 **Q** And I want to show you State's Exhibit No. 113. Is
4 that the photograph that was taken that evening?

5 **A** That is how I remember it, yes.

6 **MS. CAMPBELL:** Your Honor, at this time we'd
7 offer State's Exhibit 113.

8 **MR. O'NEIL:** Objection, Your Honor. May we
9 approach?

10 **THE COURT:** Yes, sir.

11 (Whereupon, a bench conference is had)

12 **Q** That night when you made contact with the Defendant,
13 do you remember what he was wearing when you made
14 contact with him?

15 **A** I remember him wearing a shirt. I don't remember the
16 specific shirt. That would be -- you know, he's got
17 a shirt on. That would be similar to what I remember
18 seeing. As far as a coat, hat, glasses, I don't
19 remember anything like that. I do remember him
20 wearing a shirt, and that was it.

21 **Q** And State's Exhibit No. 113, does that reflect the
22 shirt you're referring to?

23 **A** Yeah. That's how I recall it.

24 **Q** And as far as his appearance and demeanor, did he
25 appear to be crying or having mucous coming from his

1 nose?

2 **A** I don't recall any of that. And I'm not saying that
3 there wasn't any of that. I just don't recall
4 anything that would tell me that I needed to look for
5 more medical help or something like that. He was
6 very coherent, very willing to talk and seemed within
7 his capabilities at that point.

8 **Q** And this photograph, that would have been taken --

9 **A** A couple hours later.

10 **Q** -- after you talked to him?

11 **A** After I talked to him.

12 **Q** So this is how he appeared that night?

13 **A** Yes, ma'am.

14 **MS. CAMPBELL:** Your Honor, at this time we offer
15 State's Exhibit No. 113.

16 **THE COURT:** The objection is overruled.

17 (WHEREUPON, State's Exhibit No. 113 is admitted
18 into evidence.)

19 **Q** At any time in the course of time when you were
20 talking to the Defendant, did he tell you he didn't
21 want to talk to you any more?

22 **A** No, ma'am.

23 **Q** And at any time did he invoke of any of his rights?

24 **A** No, ma'am.

25 **Q** In fact, did he sign off on that last version as the

1 final version of his story?

2 **A** Yes, ma'am.

3 **Q** The person that you interviewed that night -- let me
4 ask you this, too. Where did the interview take
5 place?

6 **A** In my cubicle within CID which is within the
7 investigative division at the Sheriff's Office which
8 is on the second floor. My cubicle is like any
9 cubicle. It doesn't have a wall that goes all the
10 way up. It fairly open to everyone else in there.

11 **Q** And present for the parts of that interview and the
12 final version was Investigator Thomas from the City?

13 **A** That is correct.

14 **Q** Thank you, sir.

15 **THE COURT:** Is that it?

16 **MS. CAMPBELL:** Yes, sir.

17 **THE COURT:** Cross examination.

18 **MS. SINGLETARY:** Thank you, Your Honor. If it
19 pleases the Court.

20 CROSS EXAMINATION

21 **BY MS. SINGLETARY**

22 **Q** Good morning, Investigator Barnes.

23 **A** Good morning.

24 **Q** Now, you stated that the interrogation of Mr. Ashford
25 occurred in your cubicle?

1 **A** I wouldn't say it was an interrogation. But, yes,
2 the interview happened in my cubicle at the Sheriff's
3 Office.

4 **Q** Well, the reason why I said interrogation was because
5 you said before you read the statement, you said
6 typically when I interrogate someone I start off by
7 saying, "Tell me what happened." So that's why I
8 said it.

9 **A** Okay. I understand.

10 **Q** Okay. And you stated that initially it was just you
11 and Mr. Ashford, correct?

12 **A** Initially. Yes, ma'am.

13 **Q** And at that time Mr. Ashford gave you some
14 information about himself, correct?

15 **A** Yes, ma'am.

16 **Q** Like his age? Now, were you aware of the fact that
17 Mr. Ashford only made it to the eighth grade?

18 **A** No, ma'am.

19 **Q** Were you aware of the fact that Mr. Ashford had
20 previously suffered from some --

21 **MS. CAMPBELL:** Objection, Your Honor. May we
22 approach?

23 **THE COURT:** Yes, ma'am.

24 (Whereupon, a bench conference is had)

25 **THE COURT:** You withdraw the objection?

1 **MS. CAMPBELL:** Yes, sir. I just needed to
2 clarify a point. Thank you.

3 **Q** Were you aware of the fact that Mr. Ashford actually
4 suffers from some mental health issues at the time
5 you interviewed him?

6 **A** I wasn't aware of any mental health issues that Mr.
7 Ashford was complaining of or, you know, had in his
8 experience.

9 **Q** But you will agree that at least two times he told
10 you that he was acting out of his right mind?

11 **A** When he was talking about that specific incident,
12 when he was talking about the end of that phone call
13 or during that phone call and then later on, yes, he
14 did talk about that. And I -- you know, that was not
15 unusual in my experience.

16 **Q** And you notated that in your actual report that you
17 wrote?

18 **A** Yeah. I wasn't trying to hide anything.

19 **Q** Yeah. And actually, to come back to that point of
20 whether or not you were trying to hide anything,
21 would you agree with me -- and I believe you have a
22 copy of your report up there and a copy of Mr.
23 Ashford's statement?

24 **A** Yes, ma'am.

25 **Q** Would you agree with me that your report, if you

1 would look at your report and then look at Mr.
2 Ashford's statement, there are some differences in
3 what you said in your report and what was actually in
4 Mr. Ashford's statement?

5 **A** Of course.

6 **Q** And Mr. Ashford isn't actually writing this report,
7 is he?

8 **A** No, ma'am. He is not writing it.

9 **Q** You're the one who's writing it?

10 **A** Right.

11 **Q** And you're actually paraphrasing what Mr. Ashford
12 told you?

13 **A** That is correct.

14 **Q** Because you didn't have a tape recorder?

15 **A** Talking about my follow-up, yes. I'm paraphrasing,
16 yes.

17 **Q** You didn't have a tape recorder in there with you,
18 did you?

19 **A** No, ma'am.

20 **Q** That's not your policy?

21 **A** That's not my policy or our policy at the Sheriff's
22 Office.

23 **Q** The Sheriff's Office policy. Now, was Mr. Ashford
24 handcuffed at the time?

25 **A** You know, I don't recall him being handcuffed.

1 Because our conversation was such a give and take, I
2 recall him coming into my cubicle and we hitting it
3 off. Whether it be our age or whatever, we hit it
4 off. And I don't recall him being handcuffed. And,
5 in fact, he would not have been able to be handcuffed
6 when he signed a report, signed a statement.

7 Q You said you guys hit it off. So basically Mr.
8 Ashford, he wanted to get his side of the story out?

9 A I think so.

10 Q He wanted to tell you?

11 A I think so.

12 Q Because you said he was cooperative with you?

13 A Yes, ma'am.

14 Q And again, you didn't go to the scene?

15 A No.

16 Q You didn't go to Booth Street. While the incident
17 was occurring on Booth Street, you were actually back
18 at headquarters?

19 A Yes, ma'am.

20 Q And you were actually trying to come up or write the
21 warrant worksheets and get the warrants squared away?

22 A Right. We were interviewing Deputy Unger and Deputy
23 White and trying to piece together exactly which
24 jurisdiction had what, how this thing worked out and
25 what the possible charges, if this ended in a good

1 way, what the possible charges would be.

2 Q And you also testified previously that Mr. Ashford
3 volunteered to you that he had messed up?

4 A Yes, ma'am.

5 Q That this all starts because of Roberta the night
6 before?

7 A Yes, ma'am.

8 Q And I want to go back to some of the last questions
9 that Ms. Campbell asked you. She asked you about Mr.
10 Ashford's appearance. Because you weren't at the
11 scene, there is no way for you to have personal
12 knowledge as to whether or not Mr. Ashford was
13 treated by EMS?

14 A Yes, ma'am. I don't know that. I know I can speak
15 to our protocol. I can speak to my experience in
16 investigations when they're turned over to me those
17 types of situations where they're treated by EMS.
18 All those had already occurred. And if there were
19 complaints in my presence, then I would be obligated
20 to calls EMS. But there were no complaints.

21 Q And you stated that when you talked to Mr. Ashford,
22 he admitted walking to a Citgo, to a store?

23 A He talked about taking his bicycle up there to get
24 lottery tickets. Let's see. And then he went up to
25 the store. It may help if you point me to the right

1 place on my report.

2 Q Okay. I going to tell you I'm not talking about the
3 lottery tick incident the day before. I'm actually
4 talking about when you said that Mr. Ashford admitted
5 to walking to the store and taking a car.

6 A That's right. That's right. Right after she
7 wouldn't talk to him, he decided to walk to the
8 store. He had the gun in his pocket at the Citgo on
9 North Main.

10 Q And he stated that he couldn't describe the car that
11 he said he took but he knew it was a big car?

12 A That is correct.

13 Q Okay. And he told you that there was a woman that
14 was inside of the car?

15 A Yes, ma'am.

16 Q And there was a man that was on the outside of the
17 car?

18 A Yes, ma'am.

19 Q But Mr. Ashford didn't remember anything about taking
20 Barry Taylor's car, did he?

21 A That's the car that was supposedly taken right before
22 then?

23 Q Yes.

24 A You know, if that's -- Investigator Thomas can
25 probably talk a little bit better about that. We

1 were talking to him about that, tried to shore that
2 up. You know, we asked him later on did he remember
3 taking the first vehicle off of Glenn Avenue and he
4 said he didn't remember. And when he said that, it
5 was not a denial, it wasn't an admission; he just
6 said he couldn't remember.

7 Q Yeah. And that's not exactly what I'm asking you.
8 What I was asking was the response that he gave. And
9 the response was he didn't remember?

10 A Right.

11 Q So when he first tells you anything about taking or
12 being at the Wash World or the location where a car
13 was taken, the first thing he remembers is taking
14 that car from that man and that woman?

15 A Right.

16 Q And then at that point he says he goes to Cushman
17 Road or Cushman Street, according to the statement.
18 Correct?

19 A That's correct.

20 Q And at that point you testified that he said that the
21 actual car lost control?

22 A That's what he said. Yes, ma'am.

23 Q And then at that point he remembers being at that
24 location and trying to get some keys, trying to get
25 someone to help him to get some keys?

1 **A** Well, I'm not sure.

2 **Q** According to the statement?

3 **A** I'm not sure that the helping part is in there. But
4 let me go back here. "I got out and briefly went
5 into the church and told somebody to give me the keys
6 to their cars. Nobody gave me the keys, so I went
7 back outside." So it wasn't he was looking for help.
8 He was telling them to give them the keys.

9 **Q** But he was looking for keys?

10 **A** Oh, yeah. He was looking for keys.

11 **Q** And the next thing he remembers is going in the
12 middle of the road and stopping the taxi cab?

13 **A** Correct.

14 **Q** And then getting in that taxi cab and according to
15 the statement going to Debbie Ann's house?

16 **A** That was what he told me.

17 **Q** And then, according to the statement, he told you
18 that he didn't want to hurt anyone?

19 **A** I believe that's right, but I don't see it in the
20 statement. Hold on for just one second.

21 **Q** Okay.

22 **A** I don't see that in here now. Perhaps you can help
23 me.

24 **Q** Okay. It's actually in your investigative report.

25 **A** Okay. This is the one prior to the formal statement?

1 Q Uh-huh (affirmative). But you would just agree that
2 he told you that he didn't want to hurt anyone.
3 Because you testified to that during direct, that
4 that's what Mr. Ashford told you?

5 A And I'll be more than happy to say that if you can
6 point me to the place in the report where I had made
7 notation of that.

8 Q Okay. Beg the Court's indulgence, Your Honor.

9 A He said that he recalled that he was still in love
10 with Roberta and was still in love with her despite
11 all of what happened. He said he didn't mean to hurt
12 anyone.

13 Q And when he told you that, according to the
14 statement, he goes into the trailer, the first people
15 he says he sees is Debbie and the children?

16 A Correct.

17 Q And at that point he immediately, according to his
18 statement, you orders the children to get out?

19 A Right.

20 Q And then after that he goes through the actual
21 trailer and he sees that there are some children in
22 the back bedroom?

23 A Right. That's what he explained.

24 Q And as soon as he sees those kids, he orders them out
25 also?

1 **A** Sure.

2 **Q** Okay. And he actually told you that when he actually
3 came inside this trailer that he tapped Debbie Ann on
4 the shoulder asking her did she know where Roberta
5 was, correct?

6 **A** That is my understanding. Yes, ma'am.

7 **Q** And in his statement you actually asked Mr. Ashford:
8 "Did you hit Debbie Ann at all?" And his response
9 was, "No"?

10 **A** Correct.

11 **Q** And let's talk about the charge of CSC. And Mr.
12 Ashford -- and you read this out. Mr. Ashford at no
13 time in his statement says that he has a gun held up
14 against Ms. Simmons's head, does he?

15 **A** No, he doesn't say that. He says he has the gun
16 laying by her head.

17 **Q** He actually says he has it laying by her head?

18 **A** I'm sorry. I may have misspoke on that. "It was
19 laying on the floor by us."

20 **Q** Okay. And he says that it only lasted about a
21 second?

22 **A** Yes.

23 **Q** He also says that we tried but I couldn't get hard
24 enough to do it?

25 **A** Right.

1 Q He also says that I couldn't get it up?

2 A Right.

3 Q And then the next statement he makes is that she
4 tried several positions but I couldn't because my
5 mind wasn't there?

6 A Correct. That's what he says.

7 Q Yeah. That's what he says. And after you actually
8 got that statement and you typed it up and Mr.
9 Ashford signed it, you asked him for his DNA?

10 A Correct.

11 Q He freely gave his DNA?

12 A He did.

13 Q No hesitation?

14 A No hesitation.

15 MS. SINGLETARY: Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes, ma'am.

18 MS. SINGLETARY: Your Honor, I have no further
19 questions.

20 THE COURT: Redirect.

21 MS. CAMPBELL: Yes, sir. Just a few questions.

22 REDIRECT EXAMINATION

23 BY MS. CAMPBELL

24 Q Let me back up. She asked you about what he told you
25 about the rape. When you first asked him about

1 Debbie Ann being in the hospital and he denied --

2 A Correct.

3 Q -- having any type of sexual relation with her?

4 A Correct.

5 Q And, in fact, what did he say about the only reason
6 she'd be in the hospital?

7 A Because of the tear gas canisters that came through
8 the window.

9 Q And it wasn't until later when you gave him
10 additional information that he changed that story?

11 A That is correct.

12 Q So when initially confronted about a possible rape,
13 what did he say?

14 A He denied it.

15 Q And he only tried to explain her being naked when you
16 confronted him with that fact?

17 A Correct.

18 Q And, in fact, even in his statement, even though he
19 says -- he did say he had sex with her for at least a
20 second?

21 A Correct.

22 Q She asked you about how his written statement is
23 different from some of the information he gave you
24 initially?

25 A Yes.

1 Q Is that unusual?

2 A No.

3 Q Why?

4 A When we worked through the statement with him, a lot
5 of times the suspect is trying to get things straight
6 in his mind. And a lot of times he even wants to
7 turn the statement to his benefit. That's not
8 unusual. We all have a tendency to do that. My kid
9 has a tendency to do that. But those statements
10 change. And when we get into the formal statement,
11 we want to make sure that's exactly what they want to
12 say.

13 Q What he wants reduced to writing?

14 A Right.

15 Q And, in fact, you mentioned on your direct
16 examination that as you went through it some changes
17 were made --

18 A Right.

19 Q -- during the course of doing it?

20 A That is correct.

21 Q So that was his final version of the events?

22 A That's correct.

23 Q After having been confronted with whatever evidence
24 you told him about, such as people maybe seeing her
25 naked?

1 **A** That is correct.

2 **Q** But initially he denied any kind of sex acts with
3 her?

4 **A** That's correct.

5 **Q** And, in fact, as far as, what does he say about how
6 she was in the trailer, why he didn't let her go?

7 **A** Well, at one time he says that she was scared, she
8 couldn't move the chair and he wasn't about to do it.
9 Another time he says that he needed her to get to
10 Roberta, to make contact with Roberta.

11 **Q** At any point when you were talking to him that night,
12 did you have any concern over his ability to
13 understand you?

14 **A** No.

15 **Q** Did you have any concern over his mental state?

16 **A** No.

17 **Q** Did he indicate to you he had any mental issues that
18 needed to be addressed?

19 **A** No.

20 **Q** Did he indicate to you that he was too intoxicated or
21 any other way to talk to you?

22 **A** No, ma'am.

23 **Q** In your observation, in your 23 years of experience,
24 did he appear to be coherent and able to talk to you?

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

1 Q And, in fact, didn't he want to get his version out
2 there?

3 A He did.

4 Q To explain what had happened that day?

5 A Yes, ma'am.

6 Q And who does he blame for what happened that day?

7 MS. SINGLETARY: Objection, Your Honor.

8 THE COURT: If there's a factual basis.

9 A Roberta.

10 THE COURT: If that's what he told the officer,
11 then it's admissible. Overruled.

12 Q The person that you interviewed, do you see him here
13 in the courtroom?

14 A I do.

15 Q Could you point him out for the jury?

16 A He is sitting between defense counsel in a black
17 shirt and a black and white tie.

18 Q Thank you, sir. I don't have any other questions.

19 THE COURT: The record will reflect the witness
20 identified the Defendant. Anything further?

21 MS. CAMPBELL: No, sir.

22 MS. SINGLETARY: Briefly.

23 MS. CAMPBELL: Oh, I'm sorry.

24 THE COURT: Yes, ma'am. Go ahead.

25 MS. SINGLETARY: Briefly, Your Honor. May it

1 please the Court.

2 **THE COURT:** Just one minute.

3 **FOREPERSON:** That will work.

4 **THE COURT:** Go ahead.

5 **MS. SINGLETARY:** Thank you, Your Honor.

6 RECROSS EXAMINATION

7 **BY MS. SINGLETARY**

8 **Q** Let's go back to this, Investigator Barnes, this
9 advanced technology. When you told Mr. Ashford that
10 what if you told him that there was some advanced
11 technology that would show, or if someone said that
12 Ms. Simmons was nude, was that a lie?

13 **A** Yeah. We don't have that. The federal government I
14 think does, but we don't.

15 **Q** Okay. And Mr. Ashford denied actually penetrating
16 Ms. Simmons because he said that his penis could not
17 get hard. Is that correct?

18 **A** I don't know that he put his -- that was his --
19 that's what he said. He said that he couldn't get it
20 up.

21 **MS. SINGLETARY:** I have no further questions,
22 Your Honor.

23 **THE COURT:** Thank you very much. You may come
24 down. The jury would like to take a break?

25 **FOREPERSON:** Briefly.

1 **THE COURT:** All right. All right, ladies and
2 gentlemen. Let's take a ten-minute break. Just
3 again, don't discuss the case among yourselves while
4 you're in the jury room..

5 (Jury out at 10:18 a.m.)

6 **THE COURT:** We'll stand at ease for ten minutes.

7 (Whereupon, a break is taken)

8 **THE COURT:** What's the schedule, Ms. Campbell?
9 What's the schedule?

10 **MS. CAMPBELL:** I'm calling one more witness.

11 **THE COURT:** Okay.

12 **MS. CAMPBELL:** At this point possibly two, but
13 it looks like one, but maybe two. But that's the
14 most.

15 **THE COURT:** You ready for the jury?

16 **MS. CAMPBELL:** I'm ready.

17 **MS. SINGLETARY:** Yes, Your Honor.

18 **THE COURT:** Bring the jury.

19 (Jury in at 10:35)

20 **THE BAILIFF:** Your Honor, the jury is present.

21 **THE COURT:** All right. Thank you very much.
22 All right, Solicitor. Call your next witness.

23 **MS. CAMPBELL:** May it please the Court. The
24 State calls Investigator Thomas.

25 ARTHUR L. THOMAS, after being duly sworn,

1 testifies as follows:

2 **THE CLERK:** Please have a seat. State your full
3 name for the record.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Investigator Thomas, where are you employed?

7 **A** City of Columbia Police Department.

8 **Q** What do you do there, sir?

9 **A** I'm a homicide and violent crime investigator for the
10 City.

11 **Q** Can you tell this jury a little bit about your duties
12 as a city investigator?

13 **A** We respond to major crimes, carjackings, assaults,
14 homicides that occur in the area. We're on 24/7
15 call. So even on my off day, if something serious
16 occurs, I may be called out in spite of another
17 investigator working.

18 **Q** I want to turn your attention back to February the
19 24th of 2007. Were you actually working, or were you
20 called in that day?

21 **A** I was actually called in.

22 **Q** And when you got in, did you become aware that there
23 had been a series of carjackings and kidnappings in
24 the city?

25 **A** I was.

1 Q That ultimately culminated on Booth Street which is
2 actually the county jurisdiction. Is that correct?

3 A That is correct.

4 Q And all these areas are in Richland County. Correct?

5 A That is correct.

6 Q Did you actually go out to the scene on Oakland
7 Avenue, North Main or Cushman that day?

8 A I did not have the opportunity to go on any of the
9 scenes. Again, Investigator Williams had initially
10 taken statements. She is a burglary investigator,
11 but she was the day shift investigator that day. So
12 she had already initiated the statements. But I did
13 not make it to the scene, any of the scenes.

14 Q And in addition, I believe some police officers,
15 Allmann and Walsh and others, had responded out that
16 day?

17 A That is correct.

18 Q Gotten information?

19 A That is correct.

20 Q Once that information typically is gathered, then is
21 that forwarded to you?

22 A That's correct.

23 Q During the course of that evening on the 24th, did
24 you go down to the Sheriff's Department on Two Notch
25 Road?

1 **A** I did.

2 **Q** Why were you going there that evening, sir?

3 **A** I was briefed by Sergeant Horry of the situation when
4 he called me in. They had had a barricaded suspect
5 that had hostages and that they were going to make
6 entry. Entry was gained and he was taken into
7 custody and transported to the Sheriff's Department
8 where he was going to be interviewed. And so I went
9 over to the Sheriff's Department and met with
10 Investigator Barnes.

11 **Q** And when you got there, did you make contact with
12 Investigator -- I mean Sergeant Barnes?

13 **A** I did.

14 **Q** And did you actually join in the interview at that
15 point?

16 **A** I did. He had already advised the individual,
17 Mr. Randolph (sic) of his rights. And they were
18 already in discussion of some of the situations, the
19 scenarios that had transpired up until his arrest.

20 **Q** And you confirmed when you got there he had already
21 been advised of his rights?

22 **A** Yes, I did.

23 **Q** And that's important that he get his advice of
24 rights?

25 **A** That is.

1 Q And when you made contact with the Defendant, what
2 was his demeanor like?

3 A Very calm and relaxed and seemed very willing to try
4 to get his side of the story out; quite coherent,
5 quite articulate actually.

6 Q I want to show you a photograph, State's Exhibit No.
7 113. Do you recognize that?

8 A Yes.

9 Q And is that how the Defendant appeared when you
10 talked to him that night?

11 A Yes. That's how I remember him, yes.

12 Q And you mentioned also that he appeared to be
13 coherent and fairly articulate. Is that correct?

14 A Yes..

15 Q And you've been in law enforcement how long, sir?

16 A Nineteen years.

17 Q And in your opinion as an investigator, was he
18 cooperating voluntarily?

19 A Oh, yes. Completely.

20 Q At the point when you made contact or joined in the
21 interview, it wasn't being reduced to writing yet?

22 A No. We had not reduced it to writing. He was just
23 giving his first verbiage of what had transpired. I
24 came in probably just after some of the first few
25 things that he'd done, and he continued to tell

1 things up until the Booth Street incident.

2 Q And, in fact, he told you information about what
3 happened at the church?

4 A Correct.

5 Q His first version, and then on into the Booth Street?

6 A That is correct.

7 Q And were you there when information came in and he
8 was initially confronted about the rape?

9 A Yes, I was.

10 Q And tell this jury what information was given to him
11 and what he said?

12 A Hold one moment. Give me a moment to refer to the
13 statement.

14 MS. SINGLETARY: Objection, Your Honor.

15 THE COURT: What is the objection?

16 MS. SINGLETARY: Cumulative in nature.

17 THE COURT: Go ahead. Overruled.

18 MS. CAMPBELL: Thank you.

19 THE COURT: What was the question?

20 MS. CAMPBELL: Was he just there when he was
21 initially confronted about the rape.

22 A I'm trying to refer to the statement here. All
23 right. Yes. The question was asked: "Can you
24 explain why Debbie Ann may have been naked in the
25 house during this time?" And then he responded:

1 "She and I had sex, had relations, sex on the living
2 room floor."

3 Q And that was when he gave his formal statement,
4 right?

5 A Right.

6 Q Were you there initially when he was confronted about
7 Debbie Ann being in the hospital?

8 A Yes.

9 Q And at that point did he deny any kind of sexual
10 relations?

11 A On the initial questioning, he did deny it.

12 Q I'm sorry.

13 A I apologize. He did deny having any relations with
14 the victim.

15 Q And at a later time was he then confronted with
16 information I believe that there may be surveillance
17 of her being naked in the house?

18 A That is correct. Investigator Barnes --

19 Q And, in fact, did you know whether or not there was
20 any surveillance?

21 A Not at that time. I didn't know.

22 Q Is it unusual to, say, give information like that to
23 a defendant to see what the response will be?

24 A No. It's similar to saying that your co-defendant is
25 giving up the whole story and what's your story type

1 scenario.

2 Q So is there anything inappropriate about doing that?

3 A No, there's not.

4 Q And once confronted with that information, did he
5 give you the information that's in his written
6 statement?

7 A Yes, he did.

8 Q In his written statement, too, he indicates that the
9 first carjacking that he admits to that he remembers
10 was one that he refers to it as being at the Citgo?

11 A Yes. He mentioned the Citgo.

12 Q And, in fact, were you able to correlate that to an
13 actual carjacking that he did that day?

14 A Yeah. It's actually the carjacking that happened at
15 the Wash World. Citgo is across the street adjacent
16 to the Wash World.

17 Q So the Citgo is right next to it?

18 A Yes.

19 Q And the final version that was reduced to writing is
20 a little bit different from the initial set of facts
21 that he gave you?

22 A Correct.

23 Q Is that unusual?

24 A No, it's not.

25 Q And, in fact, I want you to review the statement that

1 he actually gave which is State's Exhibit No. 2.

2 Were you there when that was reduced to writing?

3 **A** Yes, I was.

4 **Q** And during the course of that, were there some
5 changes made as he wanted made?

6 **A** Yes.

7 **Q** And that was at his request?

8 **A** That was his request.

9 **Q** So that it could have been his final version?

10 **A** Exactly.

11 **Q** And does State's Exhibit 2 reflect the information he
12 wanted you all to reduce to writing?

13 **A** That is correct.

14 **Q** During the course of interviewing him, did you have
15 any concerns about his mental state?

16 **A** None at all.

17 **Q** Did he make any complaints about his mental state?

18 **A** No, he did not.

19 **Q** Did he make any complaints about his ability to
20 understand?

21 **A** No, he did not.

22 **Q** And in your 19 years of experience, did he seem to
23 understand what was going on and want to talk to
24 y'all?

25 **A** Yes, he did.

1 Q And, in fact, after y'all reduced his statement to
2 writing, you then asked for a DNA sample?

3 A Yes, we did.

4 Q And did he have any problem giving you that?

5 A He was absolutely cooperative.

6 Q He wanted his version of events?

7 A That's correct.

8 Q Is that unusual when interviewing a Defendant?

9 A No, it's not.

10 Q Why?

11 A A lot of people want to justify certain actions. And
12 so they want to ensure that their version is told and
13 told in their way. So it's not uncommon to get that.
14 The version may vary from the facts, but it's still
15 their version.

16 MS. SINGLETARY: Objection, Your Honor.

17 THE COURT: What's the objection?

18 MS. SINGLETARY: Speculation, Your Honor.

19 THE COURT: Overruled. Go ahead.

20 Q I'm sorry. Did you get to finish that statement?

21 A Yes.

22 Q The version, you were saying --

23 A I said it may vary from the facts that have occurred,
24 but it's their version and they feel comfortable with
25 providing that.

1 Q He mentioned in that statement that he had expressed
2 concern and actually thought that his girlfriend,
3 Roberta, had been kidnapped?

4 A Yes.

5 Q And he mentioned that he actually filed a missing
6 person's report?

7 A Yes.

8 Q And that the officer said she was okay, she was at
9 somebody else's house?

10 A Yeah. He said at the cousin's house or something of
11 that nature and that she was fine.

12 Q Did you check to see if anything like that happened?

13 A There was no report taken as far as a missing person.
14 I had my secretary check to see if there was any
15 report filed, and there was no missing person report
16 filed the day prior.

17 Q And would a police officer necessarily know if there
18 was where a missing person was?

19 A It's not common that an officer responding to that
20 location would know the location of a missing person
21 in that regard.

22 Q During the period of time that you were with him and
23 he was talking to you --

24 A Yes.

25 Q -- and to Investigator Barnes, --

1 **A** Yes.

2 **Q** -- at any point did he tell you he didn't want to
3 talk any more?

4 **A** No, he didn't.

5 **Q** At any point was he anything but cooperative?

6 **A** Absolutely cooperative.

7 **Q** And did he give you that statement voluntarily
8 because he wanted his version of events out there?

9 **A** Yes, he did.

10 **Q** When a person is arrested, do you get certain
11 information?

12 **A** Yes.

13 **Q** For your booking report and everything?

14 **A** Yes, I do.

15 **Q** And did he give you information?

16 **A** The information that was provided to me was that he
17 was 41, about six foot tall, 175 pounds.

18 **Q** And that varies slightly from one to another?

19 **A** Right.

20 **Q** A slight difference is not unusual?

21 **A** No, it's not uncommon.

22 **Q** That evening did you go ahead and charge him with
23 certain crimes?

24 **A** Yes, I did.

25 **Q** And were the charges you brought the three counts of

1 the carjacking?

2 **A** That is correct.

3 **Q** And the kidnapping of Ms. Worthy?

4 **A** That is correct.

5 **Q** And was that based on the evidence and the
6 information you had available?

7 **A** That's correct.

8 **Q** The person that you interviewed that evening and that
9 gave you and Investigator Barnes first orally and
10 then subsequently reduced in State's Exhibit 2, do
11 you see him here in the courtroom?

12 **A** Yes, I do.

13 **Q** Can you point him out for the jury?

14 **A** The gentleman in the black shirt and the black and
15 white tie sitting between counsel.

16 **MS. CAMPBELL:** Your Honor, may the record
17 reflect?

18 **THE COURT:** The record will so reflect the
19 witness identified the Defendant.

20 **Q** Are you familiar with the area around Oakland and
21 North Main Street, Wash World?

22 **A** Yes, I am.

23 **Q** And I want to show you State's Exhibit No. 100. It's
24 upside down 100. Do you recognize this?

25 **A** Yes, I do.

1 Q And other than it's not to scale, does this kind of
2 accurately show this whole area where these events
3 occurred?

4 A Yes, it does.

5 MS. CAMPBELL: Your Honor, at this time we'd
6 offer State's Exhibit No. 100.

7 MS. SINGLETARY: Without objection, Your Honor.

8 THE COURT: Without objection.

9 (Exhibit 100 previously entered into evidence)

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

12 THE COURT: Yes, ma'am.

13 Q You may come on this side. Just speak up so the
14 court reporter can hear you.

15 A Okay.

16 Q Were you made aware of the Defendant's residence on
17 Muir Street?

18 A Yes, I was.

19 Q And who actually -- who else's residence was that
20 that you knew of?

21 A That was Roberta's as well.

22 Q Roberta's?

23 A Roberta's.

24 Q And is that shown generally the area where Muir
25 Street is, where that trailer would be located?

- 1 **A** That's correct. 4801, right here.
- 2 **Q** Right where this dot is right here?
- 3 **A** That's correct.
- 4 **Q** And the information from Mr. Taylor was that he was
- 5 carjacked right there around the corner of Oakland
- 6 and Randall?
- 7 **A** Yes.
- 8 **Q** Is that shown here?
- 9 **A** Yes.
- 10 **Q** And is that within walking distance of Muir Street?
- 11 **A** Yes, it is.
- 12 **Q** Or biking distance?
- 13 **A** Yes.
- 14 **Q** And the Wash World location, is that -- this is the
- 15 corner of Oakland and Randall. Where is it located
- 16 on this map?
- 17 **A** Just a few blocks up on Main Street. If I take
- 18 Oakland to Main, then you can go up to about the 5800
- 19 block of Main and Wash World.
- 20 **Q** Would you consider Main Street a major road?
- 21 **A** It's a major thoroughfare.
- 22 **Q** And Prescott Road, is it also a major thoroughfare?
- 23 **A** That's correct.
- 24 **Q** And here at the corner of Wash World, you then go
- 25 down to the church. Is that correct?

1 **A** That's correct.

2 **Q** And where is the church located on Cushman in
3 relation to Wash World?

4 **A** Well, you take Prescott down. You can get onto
5 Cushman crossing Ames, and it will take you directly
6 to the church.

7 **Q** Directly to the church?

8 **A** Yes. On Cushman Drive. There is a railroad track
9 just before you get to the intersection or the stop
10 sign. Then you have a church here.

11 **Q** And, in fact, if you were to take the major
12 thoroughfares, that would be the most direct route?

13 **A** That's correct.

14 **Q** And you go down here. You mentioned that there are
15 some railroad tracks right around here right before
16 you get to that?

17 **A** Yes.

18 **Q** Is that significant to you?

19 **A** Well, yes. I believe that's where he may have lost
20 control of the car. He come across the tracks too
21 hard, losing control of the steering wheel. I
22 believe that's why the vehicle was wrecked.

23 **Q** And the vehicle was wrecked right here at the corner.
24 This is 277?

25 **A** Correct.

- 1 Q And it was right there at that corner of that church?
- 2 A That's correct.
- 3 Q Then if you continue to Booth Street, what would be
- 4 the most direct route?
- 5 A You take here.
- 6 Q In here?
- 7 A Yeah. Come down.
- 8 Q Wait a minute.
- 9 A Yeah. You use a little road here but then you get
- 10 the direct route to Booth.
- 11 Q And that would be the most direct route?
- 12 A Right. Coming off of Cushman and taking this direct
- 13 route.
- 14 Q And Booth Street would be right here?
- 15 A That's correct.
- 16 Q Thank you. And again, in his statement, when you
- 17 asked him about the carjacking on Oakland street,
- 18 what was his response?
- 19 A He advised that he didn't remember.
- 20 Q Did he ever deny it?
- 21 A No, he didn't deny it. He just didn't remember.
- 22 Q The next day did you make contact with some of the
- 23 witnesses in the case?
- 24 A Yes, I did.
- 25 Q And you didn't call in every witness, did you?

1 **A** No, I did not. I called witnesses that I believed
2 may have seen the facial features and give a very
3 positive identification of the suspect.

4 **Q** So you followed up on that even though you had
5 already spoken to him the night before?

6 **A** That's correct.

7 **Q** And he pretty much admitted to what you had?

8 **A** That's correct.

9 **Q** I want to show you -- did you meet with Mr. and Ms.
10 Kelly the next day?

11 **A** Yes, I did.

12 **Q** And at that point had statements already been taken?

13 **A** Yes. Felicia Williams had already got the statements
14 from many of the witnesses at that time.

15 **Q** But you felt it was appropriate to follow up to see
16 if the people that actually got a good look at his
17 face could see him?

18 **A** Correct.

19 **Q** And I'm going to show you what's been marked as
20 State's Exhibit No. 4 which is already into evidence.
21 Do you recognize that?

22 **A** Yes.

23 **Q** What was your purpose of showing Mr. Kelly a photo
24 line-up that next day?

25 **A** Again, looking at the statements and the incidents

1 that had occurred, I figured Mr. Kelly should be able
2 to give a good positive identification of the
3 perpetrator. So I wanted to provide him an
4 opportunity to look at a photo line-up.

5 Q And other witnesses, such as Ms. Worthy, she
6 indicated she didn't get a look at his face at all?

7 A Right. Ms. Worthy was very traumatized and said she
8 never really saw the individual. So I didn't call
9 her up.

10 Q And when you made contact with the Kellys the next
11 day, did you actually show Mr. Kelly a photo line-up?

12 A Yes, I did.

13 Q And was he with his wife or separated from her at
14 that point?

15 A I separated the two parties into separate interview
16 rooms.

17 Q Why do you do that?

18 A Well, to ensure that there is no conversation or any
19 kind of corroboration between the two to try to
20 figure out who the individual is. I want their own
21 perspective on who they believe to be the suspect.

22 Q And when you first show them the line-up, that
23 affidavit is not attached, is it?

24 A No, it's not.

25 Q But the pictures underneath, you showed them to them?

1 **A** Yes.

2 **Q** And when you show him that line-up; what, if
3 anything, do you say to him?

4 **A** Normally, my normal spiel is, I have a photo line-up
5 here of six individuals. The individual in question
6 may not be in this line-up. If you see the
7 individual that perpetrated this crime against you,
8 try to identify them, if you will. And I pretty much
9 just handed them the line-up. And they look at the
10 photo. And Mr. Kelly was able to identify number 2
11 which I placed in there, which is the suspect, Mr.
12 Ashford.

13 **Q** And the way that those are numbered, is that random?

14 **A** Yes. It's random.

15 **Q** And you basically mix up the numbers?

16 **A** Correct.

17 **Q** So that in case of any contact between witnesses.
18 That didn't happen in this case.

19 **A** Correct. I don't want them to be able to sometimes
20 communicate I picked number 2 when he walks out and
21 so forth. So I mix the numbers up.

22 **Q** But for the record in this case, there was no contact
23 between the witnesses when they were shown the
24 line-ups?

25 **A** No. They were already separated.

1 Q And he identified what is number 2 in this line-up?

2 A That's correct.

3 Q And who is that?

4 A Mr. Ashford.

5 Q Randolph Ashford?

6 A Yes.

7 Q Did you also make contact that day with Gregory
8 Fleming and Kimberly Gilliard?

9 A I did.

10 Q And again, what, if anything, happened when they came
11 down to the police department?

12 A The same as the Kellys. I separated the two parties
13 into separate interview rooms and also provided them
14 with a line-up, giving them the same statement. The
15 individual may or may not be in this line-up, take
16 your time, take a look at it and let me know if you
17 see the subject who perpetrated the crime.

18 Q And I'm showing you what's been marked as State's
19 Exhibit No. 5. When you showed them these photos --
20 and these are in black and white versus color.

21 A Yes, ma'am.

22 Q Is there any significance this?

23 A I try to change up a few things. And sometime I'll
24 do that with the copy machine. I may run low on my
25 color copies and burn off a few black and white

1 copies. But that's all it is.

2 Q And when you showed Mr. Fleming that photo line-up;
3 what, if anything, did you say to him?

4 A The same thing. I have six photos. The individual
5 may or may not be in this particular photo line-up,
6 take your time, take a look at it and let me know if
7 you see the individual. He was able to also pick out
8 Mr. Randolph Ashford. In this one he was labeled
9 number 4.

10 Q And in that one, did he also circle and initial
11 indicating that's who he recognized?

12 A Yes, he did.

13 Q And did he have any doubt that that was the person?

14 A No. He positively identified him.

15 Q As did Mr. Kelly?

16 A As did Mr. Kelly.

17 Q And at that point you then filled out the affidavit
18 and he then signed off on it?

19 A That's correct.

20 Q Again, did anyone influence him in any way or tell
21 him who to pick, any of that stuff?

22 A No. Not in any way.

23 Q I want to show you what's been marked as State's
24 Exhibit No. 6. Do you recognize that?

25 A Yes.

1 Q And is that the photo line-up and the affidavit, the
2 photo line-up which was originally shown to Kimberly
3 Gilliard?

4 A Yes, it is.

5 Q And, again, at the point when you showed her that,
6 she and Mr. Fleming had been separated?

7 A Yeah. They were in separate rooms.

8 Q And when you went in and showed her the line-up;
9 again, did you say the same thing to her?

10 A Exactly the same.

11 Q And did she look at the photographic line-up?

12 A She did.

13 Q And did she indicate she recognized anybody?

14 A Yes. She also picked out Randolph Ashford. In this
15 one he was labeled number 1. She also placed her
16 initials by it, and she positively identified him.

17 Q And again, you didn't tell her who to pick?

18 A No, I did not.

19 Q Influence her in any way?

20 A Not in any way.

21 Q Finally, did you also meet with the McQueens that day
22 on the 25th?

23 A Yes.

24 Q Kelli and her sister, Keri?

25 A That's correct.

1 Q And did you actually show Kelli McQueen the
2 photographic line-up?

3 A I did.

4 Q And did she -- again, was she separated?

5 A Yes, she was.

6 Q So none of these individuals had any interaction with
7 each other?

8 A No. No conversation, no interaction. No.

9 Q And when she looked at the photo line-up, did she
10 indicate whether or not she recognized anyone?

11 A Yes. She also positively identified Mr. Randolph
12 Ashford as the perpetrator. He was number 3 in this
13 particular line-up.

14 Q And did she then initial and circle it, as did the
15 others?

16 A Yes.

17 Q And that was at your direction?

18 A That's correct.

19 Q And then she signed off on the affidavit?

20 A That's correct.

21 Q Just for the record, and I'm not going to go through
22 everything he told you. Sergeant Barnes has already
23 testified. But he gave you information first
24 verbally and you were there for that?

25 A Yes.

1 Q And then he reduced it into the written statement and
2 those were his words and his information?

3 A Yes.

4 Q Had you ever had any contact with these people
5 before?

6 A I never had contact with either party.

7 Q So the information, he talked about Roberta and all
8 that, you know, the relationships and everything,
9 that was information that was new to you?

10 A Right. It was by him.

11 Q And then you allowed him to change whatever he wanted
12 in his final written version?

13 A Yeah. He made a few changes.

14 Q During the course of this time, was he coherent?

15 A Very.

16 Q Did you ever threaten him?

17 A No, he was not. No.

18 Q Did you promise him anything to make him talk?

19 A No. We didn't promise anything.

20 Q Did you try to coerce him into talking?

21 A No, we did not.

22 Q At any time did he tell you he didn't want to talk
23 any more?

24 A Not at any time.

25 Q Or asked to talk to anybody?

1 **A** No, he did not.

2 **Q** And in your opinion, was he giving this statement
3 voluntarily?

4 **A** Yes.

5 **Q** And did he want his version of the facts out there?

6 **A** He wanted his version out there.

7 **Q** Beg the Court's indulgence. Just one point of
8 clarification.

9 **A** Mm-hmm (affirmative).

10 **Q** On his statement, State's Exhibit No. 2, did I hand
11 that up to you, or did I take it back?

12 **A** You took it back. Yes.

13 **Q** And, in fact, when you all went over this
14 statement -- oh, let me ask you this. Did you all go
15 over the statement at the end?

16 **A** Yes, we did.

17 **Q** And the advice of rights, is that actually at the top
18 of the statement?

19 **A** Yes, it is.

20 **Q** And that would have been gone over with him, too?

21 **A** Yes.

22 **Q** And once you went over that written statement which
23 would have been reduced to typewritten by Sergeant
24 Barnes --

25 **A** Correct.

1 Q -- did he then sign off on it?

2 A Yes, he did.

3 Q And he acknowledged that was his statement?

4 A Yes, he did.

5 Q Thank you, sir. I don't have anything further.

6 **THE COURT:** Cross examination.

7 **MS. SINGLETARY:** Thank you, Your Honor.

8 CROSS EXAMINATION

9 **BY MS. SINGLETARY**

10 Q Investigator Thomas.

11 A Yes.

12 Q Now, you stated during direct testimony that you did
13 not go to any incident scenes, correct?

14 A That is correct.

15 Q That you did not take any statements?

16 A That is correct.

17 Q That it was actually another officer or investigator
18 that took statements?

19 A Yeah. Investigator Felicia Williams, the burglary
20 division, initiated the statements. And again, once
21 the hostage situation was finished, then that's when
22 major crimes would be called out.

23 Q And as an investigator, these type of things happen a
24 lot; like you don't necessarily go to the scene,
25 correct?

1 **A** That's correct.

2 **Q** And you don't necessarily take the statement,
3 correct?

4 **A** That is correct.

5 **Q** It's forwarded on to you, correct?

6 **A** That is correct.

7 **Q** And that's because you're kind of like a lead
8 investigator, correct?

9 **A** That is correct.

10 **Q** And you have to rely on the accuracy of other
11 officers who are writing these statements, correct?

12 **A** That's correct.

13 **Q** And when all of this information is forwarded to you,
14 you look over all this information?

15 **A** Yes.

16 **Q** And it helps you in determining what course of action
17 you should take?

18 **A** That's correct.

19 **Q** And it helps you -- and, Your Honor, may I approach
20 the witness?

21 **THE COURT:** Yes, ma'am.

22 **Q** -- in such areas as in coming up with a photo
23 line-up?

24 **A** Correct.

25 **Q** Correct? And do you have the actual statements that

1 were made by Mr. Kelly and the McQueens up there with
2 you?

3 **A** No, I do not.

4 **Q** Okay. Beg the Court's indulgence, Your Honor. Let
5 me get a copy of those for you. And, Your Honor,
6 just let the record reflect that I am handing up to
7 Investigator Thomas the statements that were given by
8 Gregory Fleming, Olin Kelly and Kelli McQueen. And,
9 Investigator, I want you to pay close attention on
10 those statements to the descriptions that were given
11 by those individuals. Some of them, they are like
12 one page and maybe on the first page, Gregory Kelly
13 (sic), just reference part of the second page.

14 **A** All right.

15 **Q** Do you see where I'm referring to? I don't want to
16 actually start until you know where I'm at.

17 **A** You say the description of the individual, correct?

18 **Q** Yes.

19 **A** Yeah. Okay. I've got --

20 **Q** And let's go ahead and start with Gregory Fleming.

21 **A** Okay.

22 **Q** Now, what is the description of the individual that
23 Gregory Fleming gave Ms. Williams?

24 **A** Let's see. About five-nine, 175 to 180 pounds. He
25 was wearing a hat. A black man, skinny, had on a

1 brown leather coat, blue jeans or slacks. Is that
2 right? Is that the one?

3 Q Yes. Thank you.

4 A Okay.

5 Q Investigator. Now, let me turn your attention to
6 Kelli McQueen.

7 A Kelli McQueen. All right.

8 Q And in Ms. McQueen's statement, would you agree with
9 me that the only description that she gave was a
10 male?

11 A Give me a moment. Did she have one or two pages?
12 Was it just one page?

13 Q Just one page. And take your time, Investigator.

14 A All right. I'm just trying to see what she's got.

15 Q And I will tell you that there is no detailed
16 section. It's just throughout the statement.

17 A Okay.

18 Q She just says male?

19 A She says male or he.

20 Q He. Yeah.

21 A All right.

22 Q And no other description?

23 A Yeah. There's another description.

24 Q I'm not trying to confuse you.

25 A She says he and she says male.

1 Q Yes. And if you would bring your attention to
2 Mr. Olin Kelly.

3 A Mm-hmm (affirmative).

4 Q Could you read for me the description that was given
5 by him?

6 A Description: He had on a green jacket, gray pants,
7 light brown, with a mustache. That's it.

8 Q Thank you, Investigator. Your Honor, may I approach
9 the witness?

10 **THE COURT:** Yes, ma'am.

11 Q You were previously shown State's Exhibit No. 13?

12 A 13, yes.

13 Q And you identified this Exhibit, correct?

14 A Yes, I did.

15 Q And you stated that on that -- on February the 24th
16 of 2007, this is the way Mr. Ashford appeared to you
17 on that day, correct?

18 A That is correct.

19 Q Beg the Court's indulgence, Your Honor. Your Honor,
20 I have no further questions.

21 **THE COURT:** Redirect?

22 **MS. CAMPBELL:** Yes, sir.

23 REDIRECT EXAMINATION

24 **BY MS. CAMPBELL**

25 Q There were other descriptions; such as Barry Taylor

1 gave a description?

2 **A** Yes.

3 **Q** And the height ranges went anywhere from five-nine?

4 **A** Yeah. Five-nine.

5 **Q** To six feet?

6 **A** To six feet tall.

7 **Q** And, in fact, that was the additional information you
8 got, the difference between you and Sergeant Barnes's
9 booking information?

10 **A** Yeah. He had five-ten. I had six foot.

11 **Q** Is it unusual, or would you expect, that different
12 witnesses, depending on their perception, are going
13 to have a little bit of height difference?

14 **A** Oh, that's often the case.

15 **Q** Maybe assess weight a little different?

16 **A** Often the case.

17 **Q** Say, a dark jacket versus a greenish tan jacket
18 versus a brown jacket?

19 **A** Very often the case.

20 **Q** And, in fact, if every single witness came forward to
21 you and gave the exact same description, would you be
22 suspicious?

23 **A** I'd probably pass out.

24 (Laughter)

25 **Q** And it depends on perception, how close they got?

1 **A** It really does. It does.

2 **Q** And of course when there is a gun involved, too,
3 people tend to focus on the gun as well?

4 **A** Right. The gun takes -- you get tunnel vision and
5 everything else is blurred.

6 **Q** So as far as what the material on the jacket may be,
7 they may be general. One may say it's dark green.
8 Like I may say you have on a gray suit. Someone else
9 may say it's a black suit?

10 **A** Correct..

11 **Q** Someone else may say it's charcoal?

12 **A** Correct. That commonly happens.

13 **Q** And, in fact, that makes it credible?

14 **A** It actually does.

15 **Q** And again, in each of these cases where you showed
16 the photo line-ups they were able to pick out the
17 Defendant, those were people that you knew got a good
18 look at him?

19 **A** Right. From the information I received and so forth,
20 I knew that these individuals should be able to
21 identify the perpetrator.

22 **Q** And, in fact, indicated to you they could identify
23 him?

24 **A** That's correct.

25 **Q** And, in fact, with Mr. Fleming, he actually had seen

1 him before?

2 **A** Correct.

3 **Q** Did anyone you showed line-ups to identify anyone
4 other than the Defendant, Randolph Ashford?

5 **MS. SINGLETARY:** Objection, Your Honor.

6 **THE COURT:** Sustained.

7 **Q** The four photo line-ups that I showed you, in each of
8 these line-ups, the person that they identified, who
9 was it?

10 **A** Randolph Ashford.

11 **MS. CAMPBELL:** Thank you, Your Honor. I don't
12 have anything further.

13 **THE COURT:** Anything further?

14 **MS. SINGLETARY:** Beg the Court's indulgence,
15 Your Honor.

16 **THE COURT:** Yes, ma'am.

17 **MS. SINGLETARY:** No further questions, Your
18 Honor, of this witness.

19 **THE COURT:** You may come down. Thank you very
20 much.

21 **THE WITNESS:** Thank you, Your Honor.

22 **THE COURT:** Next witness.

23 **MS. CAMPBELL:** Your Honor, the State would rest.

24 **THE COURT:** All right, ladies and gentlemen.

25 The State has rested. In other words, they've

1 concluded their case. There will be no more evidence
2 from the State presented in this trial. As I advised
3 you when we began, the defense has the opportunity to
4 present a defense at this time. However, before that
5 takes place there are some legal matters I need to
6 take up with the attorneys. So I'm going to ask you
7 to retire to the jury room for a few minutes while I
8 take those matters up with the attorneys. Just
9 relax. We'll call when we're ready to proceed with
10 the trial. And those of you who absolutely have to
11 have a smoke, even though I disapprove for health
12 reasons, you're allowed to do so. Mr. Bailiff, make
13 sure they have that opportunity.

14 (Jury out at 11:10 a.m.)

15 **THE COURT:** Any motions?

16 **MR. O'NEIL:** Yes, Your Honor. At this time I
17 would have a directed verdict motion on four of the
18 indictments here, Your Honor. Should I take them one
19 at a time here? And I say four, but two, one each on
20 two AWIKS.

21 I would move for a directed verdict of not
22 guilty on two indictments dealing with assault with
23 intent to kill as it relates to Deputy Unger and
24 Deputy White. As Your Honor is aware, at this stage
25 of the proceedings what the Court is concerned about

1 is whether or not there's any direct evidence or,
2 according to State v. Arnold at 361 SE 386, if the
3 case is based on circumstantial evidence, there must
4 be substantial circumstantial evidence for the case
5 to go forward to the jury. I feel as though there is
6 not any substantial circumstantial evidence that Mr.
7 Ashford was guilty of the two assault with intent to
8 kills as relates to Deputy White and Deputy Unger
9 because of this reason, Your Honor.

10 Basically Mr. Ashford and Ms. Simmons are the
11 only people in the trailer. There is allegations
12 that there was a shooting from the trailer towards
13 Deputy Unger and Deputy White on the outside right
14 and rear of the trailer. The only testimony about
15 gunshots coming from inside the trailer, one from
16 Ms. Deborah Ann stated that she saw Mr. Ashford shoot
17 once in the floor and once out the front window.

18 I think we established through one of the
19 State's pictures that the front window would be
20 facing away from where both Deputy Unger and where
21 Deputy White was located at. I think I asked both
22 Deputy White and both Deputy Unger the fact that they
23 were not in front of the house, they were positioned
24 on the side going towards the rear of the house. And
25 it would have been unable for somebody to shoot out

1 from in front of the house and strike them on the
2 rear or the side.

3 Mr. Ashford's statement is in evidence. His
4 only statement, he categorically denies shooting at
5 any deputies and only says he shot once in the floor
6 and once into a chair. And that's corroborated by
7 actual pictures and actual evidence that he shot in
8 the chair, Your Honor.

9 Both Deputy Unger and both Deputy White took the
10 stand and neither one of them said they saw anybody
11 shoot at them. Deputy White testified that he didn't
12 hear any glass breaking or any windows opening. And
13 I think Deputy Unger testified he was, his words, not
14 exactly sure where the gunshot he heard was coming
15 from, but he indicated that he thought it was coming
16 from the trailer but he wasn't exactly sure.

17 There have been no projectiles recovered. There
18 has been no forensic match between the gun and any
19 projectile, but there were no projectile recovered as
20 well, Your Honor.

21 There were several other people, I think I asked
22 Deputy Unger, that had guns out there besides Mr.
23 Ashford, several members of law enforcement. And,
24 furthermore, I think there has been no proof of if
25 someone would have shot from inside of the trailer

1 that had any actual knowledge somebody else would
2 have been outside the trailer. I think the deputies
3 testified that they were in the wood line behind the
4 trailer. Your Honor, based on that all that, I think
5 there is not substantial circumstantial evidence for
6 the two charges of assault with intent to kill to go
7 back to the jury, Your Honor.

8 **THE COURT:** Do you want to address those now?

9 **MR. O'NEIL:** Yes, Your Honor.

10 **THE COURT:** You say you have other motions?

11 **MR. O'NEIL:** Yes, Your Honor.

12 **THE COURT:** What's the State's position?

13 **MS. CAMPBELL:** Your Honor, the testimony from
14 both deputies is that gunfire came from the trailer
15 towards them. They were unequivocal about that. At
16 least one shot, maybe two. And then they yelled
17 "shots fired" because they thought they were shot at.

18 **THE COURT:** Well, there were two deputies that
19 testified that a shot went through, by them. Neither
20 testified there were two shots each.

21 **MS. CAMPBELL:** They testified that the shot went
22 by them.

23 **THE COURT:** Yes. So two of perhaps the same
24 shot.

25 **MS. CAMPBELL:** Perhaps.

1 **THE COURT:** But I didn't hear anybody say there
2 were two shots.

3 **MS. CAMPBELL:** Your Honor, it would be an
4 assault with intent to kill no matter which one it
5 hit. I don't think we have to elect which one was
6 being shot at more. Basically the shot was in their
7 direction. It's like if someone opens fire into a
8 crowd, potentially everybody -- or into a house -- we
9 typically charge assault with intent to kill if
10 there's one or two bullets and there's several people
11 in the house because anyone can be a potential
12 witness; it can kill any one of them. So I don't
13 know that the fact that there is one shot would
14 preclude two counts of assault with intent to kill in
15 the light most favorable to the State.

16 **THE COURT:** Where do you get malice?

17 **MS. CAMPBELL:** Where do I get malice? The use
18 of a deadly weapon, period. The fact that he's in a
19 hostage situation shooting out at the police as
20 they're moving into barricade him in, that would be
21 malice, Your Honor.

22 **MR. O'NEIL:** Your Honor, my only argument is
23 there's no evidence -- nobody saw a gun. Malice can
24 be inferred by the use of a deadly weapon. There
25 wasn't nobody saw anybody use a deadly weapon. The

1 only testimony is that they heard a whiz around.
2 There's no testimony even in the record about how
3 close that whiz around came to them. It could have
4 been, for all the jury knows, 20 or 30 feet above
5 their head. There's been no testimony about how
6 close that whiz around came to them.

7 **THE COURT:** Does it have to be close?

8 **MR. O'NEIL:** It has to be a present ability to
9 accomplish any kind of assault. If the assault -- if
10 the bullet -- if there was a gunshot and it would
11 have been 50 feet above their head, there's no way
12 the person could complete that act, Your Honor, if
13 they're not shooting at them.

14 **MS. CAMPBELL:** Your Honor, he just said it's a
15 jury issue. I mean, --

16 **THE COURT:** Right.

17 **MS. CAMPBELL:** -- it's whether or not --

18 **THE COURT:** It's my decision whether it's a jury
19 decision.

20 **MS. CAMPBELL:** -- they were being shot at and
21 what the jury determines from that. Obviously they
22 thought they were being shot at, as they testified
23 to. And both of them yelled "shots fired", got down.
24 They thought they were being shot at. That was the
25 testimony, Your Honor.

1 **MR. O'NEIL:** My only last reason is that I don't
2 think there's any -- there's no direct evidence of
3 any shot. There's only circumstantial evidence of
4 shots. If you take that into effect that at 4:55 and
5 4:56 and 6:00 there were indications from the
6 deputies of shots fired, and I think Investigator
7 Enzor said that could have been the flash bangs;
8 therefore, the mere fact that the deputies say they
9 were shot at is not even conclusive that they were
10 actually shots, because the deputy, there is evidence
11 in the record that the flash bangs and those things
12 were confusing or may have been confused with what
13 could have been gunshots.

14 **THE COURT:** All right. Well, I certainly think
15 you've got a good jury argument there, particularly
16 on the grounds of the burden of proof. But I think
17 that at least there is enough evidence to send it to
18 the jury. I respectfully deny your motion.

19 **MR. O'NEIL:** Yes, Your Honor.

20 **THE COURT:** Yes, sir.

21 **MR. O'NEIL:** My next motion for a directed
22 verdict, Your Honor, would be for the carjacking of
23 Barry Taylor, Your Honor. If you take that
24 indictment in isolation, the only evidence that
25 relates to that carjacking is that --

1 **THE COURT:** Is Barry Taylor.

2 **MR. O'NEIL:** -- Mr. Barry Taylor. He says that
3 the person who came, the only description that he
4 gave was a person, a black male, six foot to
5 six-foot-one inch, brown skinned, a sweater and a
6 coat. There was no photo ID of Mr. Ashford by
7 Mr. Taylor. Mr. Taylor did not identify Mr. Ashford
8 in any way. I don't think he gave a description of
9 him. There are no fingerprints of Mr. Ashford on
10 that car. There is no DNA evidence on that car.

11 And, Your Honor, the Kellys testified that that
12 car was at the Wash World when they got to the Wash
13 World, that that car pulled up to the Wash World
14 after they were already at the Wash World. But there
15 has been no temporal connection between what time Mr.
16 Taylor was alleged to be carjacked until when that
17 car pulled up to the Wash World.

18 As far as the jury is concerned as it relates to
19 particularly that charge, there is no -- it could
20 have been a ten-hour period between when Mr. Taylor
21 was carjacked and this individual came out of what
22 has been later identified as Mr. Taylor's car while
23 they were at the Wash World. Based on that, Your
24 Honor, there is no direct evidence that Mr. Ashford
25 carjacked that car and there is not substantial

1 circumstantial evidence Mr. Ashford carjacked that
2 car. And based on that standard, I guess again,
3 State v. Arnold, I think there's not substantial
4 circumstantial evidence to send that case to the jury
5 either.

6 **THE COURT:** State's position?

7 **MS. CAMPBELL:** Your Honor, clearly there's
8 circumstantial evidence. Mr. Kelly has identified
9 him as the person that gets out of the one car and
10 takes his car at gunpoint. The description of the
11 two are the same. In addition to that, before the
12 police can even respond to the first one, they're
13 responding to the second one. That was the
14 testimony. And the officers also testified these are
15 all interconnected. It's a series of events that
16 happened in a short period of time. The two officers
17 who responded to the scene testified that basically
18 they were rushing to the next scene from one scene
19 and --

20 **THE COURT:** But there's no identification of
21 this Defendant as to the first carjacking.

22 **MS. CAMPBELL:** He's identified as the person
23 getting out of the car that had just been carjacked
24 by Mr. Kelly. There is no doubt. Mr. Kelly says the
25 man who got out of that car and carjacked me is this

1 person. In addition to that, Your Honor, when
2 confronted about it, he says he just doesn't
3 remember.

4 **THE COURT:** Slow down. Slow down.

5 **MS. CAMPBELL:** I'm sorry.

6 **MR. O'NEIL:** Well, I think it's key that there
7 is no temporal connection in the record. There may
8 be temporal connections in discovery and matters that
9 have not been presented to the jury. But for the
10 record, what the jury has been presented with, there
11 has been no temporal connection from the time Mr.
12 Taylor was carjacked until when Mr. Kelly saw
13 somebody getting out of what's been later identified
14 as Mr. Taylor's car. That has not been established
15 in front of the jury. The time period between those
16 two events has not been established. And for all the
17 jury knows, Mr. Taylor was carjacked by someone who
18 was six-foot-one and later on at some unestablished
19 time, Mr. Ashford, a suspect that fit the description
20 of Mr. Ashford came out of that car.

21 **THE COURT:** All right.

22 **MS. CAMPBELL:** If I may finish?

23 **THE COURT:** Yes, 'ma'am.

24 **MS. CAMPBELL:** The .32 also, Your Honor, Mr.
25 Taylor identified it. It was put into evidence

1 through him, which they admitted.

2 **THE COURT:** What?

3 **MS. CAMPBELL:** The .32 caliber gun that was
4 used. In addition to that, basically he says he
5 was --

6 **THE COURT:** What's that got to do with --

7 **MS. CAMPBELL:** It's the same gun that we recover
8 off the Defendant.

9 **THE COURT:** I know that.

10 **MS. CAMPBELL:** Your Honor, clearly it's
11 probative. In addition to that, and I would
12 submit --

13 **THE COURT:** Probative is one thing.

14 **MS. CAMPBELL:** Your Honor, I would submit that
15 even if it happened hours later that he's in the car,
16 that is circumstantial evidence that he carjacked
17 that car, especially when --

18 **THE COURT:** That's about the best description of
19 it, that it's circumstantial. But it's hours later.

20 **MS. CAMPBELL:** What? Ours isn't hours later.
21 The cops reported they responded. As they're
22 responding to the first call, they respond to the
23 second one. This is a series of events.

24 **THE COURT:** I know that. What evidence is there
25 that would take Barry Taylor's carjacking case to

1 this jury?

2 **MS. CAMPBELL:** The evidence is Mr. Taylor gave a
3 description of the Defendant. He stood up in court
4 and said that he matches the physical description.
5 He just didn't get to see his face very well. He
6 also identified, and the actual gun was put into
7 evidence, as the gun that was used to rob him, and
8 that's the gun that was recovered at the hostage
9 taking several hours later after the hostage taking
10 which we can put with Mr. Ashford through the course
11 of the afternoon.

12 **THE COURT:** So you think you can get to the jury
13 by way of the gun? Is that your theory?

14 **MS. CAMPBELL:** In addition to Mr. Kelly. Mr.
15 Kelly said the man that got out of Mr. --

16 **THE COURT:** I know what Kelly said. He got out
17 of Taylor's car.

18 **MS. CAMPBELL:** Yes, sir.

19 **THE COURT:** Right.

20 **MS. CAMPBELL:** Right there at the Wash World
21 down the street.

22 **THE COURT:** I know that.

23 **MS. CAMPBELL:** The police officers put the time
24 period together. All those things, Your Honor, more
25 than -- are more than enough to put it to the jury.

1 **THE COURT:** Well, that's your opinion.

2 **MS. CAMPBELL:** That's my opinion.

3 **MR. O'NEIL:** Your Honor, there's one thing. I
4 think Mr. Taylor never -- he used the word
5 "consistent". I don't think he ever used the word
6 "matched" as it relates to either the gun or Mr.
7 Ashford. He said the gun looked like the same gun.
8 He said Mr. Ashford it appears is consistent with the
9 description he gave in that regard, Your Honor.

10 **MS. CAMPBELL:** And then Mr. Kelly says that that
11 man got out of Mr. Taylor's car and carjacked him in
12 the same way he was carjacked.

13 **THE COURT:** Well, he didn't know he was taking
14 his car.

15 **MS. CAMPBELL:** But the car is identified in the
16 parking lot by Mr. Taylor as that's his car. If Mr.
17 --

18 **THE COURT:** Taylor never said that -- I mean,
19 Kelly never said that was Mr. Barry Taylor's car.

20 **MS. CAMPBELL:** Correct, Your Honor. He did say,
21 however, that this was the car which Mr. Taylor
22 identified as his car that pulled up beside him in
23 the parking lot. And we showed him photographs of
24 that, and he said that's the car he got out of.
25 Which we then linked back because Mr. Taylor said

1 that was his car.

2 **THE COURT:** It's all circumstantial. It's all
3 circumstantial evidence. You don't disagree with
4 that.

5 **MS. CAMPBELL:** I say that there is a direct link
6 with Mr. Kelly. Yes.

7 **THE COURT:** You've got all kind of things --

8 **MS. CAMPBELL:** He identified --

9 **THE COURT:** We're talking about the burden of
10 proof.

11 **MS. CAMPBELL:** The burden of proof, Your Honor,
12 it's the same thing. We have burglary cases such as
13 the recent murder and burglary involving the women in
14 the Northeast, of Monticello Road. He is seen
15 pawning their material later in the afternoon. She
16 is murdered that morning.

17 **THE COURT:** This is this case. We're not trying
18 some other case.

19 **MS. CAMPBELL:** I understand. I'm just trying to
20 give examples where it's circumstantial. Assuming
21 even if Mr. --

22 **THE COURT:** Well, at best your instruction is
23 going to be that there is a higher burden of
24 circumstantial evidence or that you have to prove
25 your circumstantial evidence beyond a reasonable

1 doubt.

2 **MS. CAMPBELL:** Yes, sir.

3 **MR. O'NEIL:** Your Honor, I just want to make
4 sure --

5 **MS. CAMPBELL:** And that's a jury issue.

6 **MR. O'NEIL:** -- we're clear. What's not a jury
7 issue is the standard for circumstantial cases to be
8 submitted to the jury whenever --

9 **THE COURT:** Only on circumstantial evidence.

10 **MR. O'NEIL:** Your Honor, the case, which Mr.
11 Taylor is carjacking is clearly circumstantial.
12 State v. Arnold says there must be substantial
13 circumstantial evidence.

14 **THE COURT:** I understand that.

15 **MR. O'NEIL:** Not just any circumstantial
16 evidence.

17 **MS. CAMPBELL:** State vs. Grippon says it can be
18 all circumstantial.

19 **MR. O'NEIL:** As long as it's --

20 **THE COURT:** Well, there is no question it can be
21 all circumstantial.

22 **MR. O'NEIL:** As long as it's substantial.

23 **THE COURT:** But if it's just circumstantial,
24 there's a higher burden.

25 **MS. CAMPBELL:** No, sir.

1 **THE COURT:** Yes, sir. Ma'am, I disagree with
2 you, and that's my ruling. I'm going to deny his
3 motion. But the instruction will be that if the
4 State relies only on circumstantial evidence, they're
5 going to have to have a higher burden of proof.

6 **MS. CAMPBELL:** But you will charge Grippon which
7 you always charge.

8 **THE COURT:** I'll charge -- but the Grippon talks
9 about when there's both.

10 **MS. CAMPBELL:** Grippon talks about the
11 circumstantial evidence doesn't have to be to any
12 higher level of proof than -- I'm just asking for the
13 Grippon charge.

14 **MR. O'NEIL:** And actually, Your Honor, I would
15 ask for a directed verdict as it relates to the
16 kidnapping of Ms. Evelyn Worthy, Your Honor. I think
17 according to State v. Barry, the kidnapping involves
18 the control of a human being by force. And
19 essentially what we're dealing with is whether or not
20 Mr. Ashford in any way curtailed Ms. Worthy's
21 freedom.

22 I think the only testimony in the record about
23 what happened at that church was that Ms. Worthy said
24 an individual reached over her shoulder and hung up
25 the phone and she saw a firearm at that point. There

1 has been no indication that anybody restricted Ms.
2 Worthy's freedom or hold her to go anywhere or told
3 her not to go anywhere. When she said she then
4 walked out of the church, there's been no testimony
5 from Ms. Worthy that anybody had any physical contact
6 with her after walking out the church. She testified
7 she didn't remember anybody holding a gun to her
8 head. And she said the only thing she remembers is
9 she got out onto the street, didn't see anybody else,
10 and decided to run back into the church, Your Honor.

11 I think there has been no testimony of any overt
12 act on Mr. Ashford's part to curtail or force Ms.
13 Worthy to go anywhere or to restrict her freedom in
14 any way, Your Honor. I think the mens re I think for
15 kidnapping I think is knowledge and that Mr. Ashford
16 would have had to have knowledge that his actions
17 would have caused curtailing Ms. Worthy's freedom. I
18 think that has not been established. There is no
19 indication he did anything to Ms. Worthy that would
20 have given her reason to believe that she was not
21 free to go and that she had to stay in one particular
22 part of the church, Your Honor.

23 **THE COURT:** Denied. Respectfully deny the
24 motion. All right. Anything further?

25 **MR. O'NEIL:** Beg the Court's indulgence, Your

1 Honor.

2 **THE COURT:** Sure.

3 **MR. O'NEIL:** Nothing further, Your Honor, at
4 this time.

5 **THE COURT:** All right. I need to advise your
6 client of his right to testify and whether he is
7 going to take the stand. Mr. Ashford, at this time
8 I'm going to explain to you some of your -- certain
9 of your rights. Do you understand?

10 **MR. ASHFORD:** Yes, sir.

11 **THE COURT:** If you do not understand anything I
12 say, please let me know. If you want me to explain
13 anything in more detail, please let know. Do you
14 understand?

15 **MR. ASHFORD:** Yes, sir.

16 **THE COURT:** We have now reached the stage of
17 this trial where you may now present your defense.
18 You have the right to claim the protections given to
19 you by Fifth Amendment to the Constitution of the
20 United States. This Amendment states in part: "No
21 person shall be compelled in any criminal case to be
22 a witness against himself."

23 This means you cannot be required to testify in
24 this case. You have the right to testify on your own
25 behalf if you wish to do so. However, no one can

1 make you testify. This is a personal right, and no
2 one can waive this right except you. If you decide
3 to testify, you will be subject to the same rules
4 that govern other witnesses and you may be examined
5 and cross examined on any relevant issue in this
6 case.

7 In addition, if you have any convictions
8 involving dishonesty or false statement or for crimes
9 punishable by imprisonment for more than one year and
10 this Court determines that the probative value of
11 admitting this evidence outweighs its prejudicial
12 effect to you, the solicitor will be able to
13 introduce your record to attack your credibility.

14 If you decide to testify, this decision on your
15 part must be freely, voluntarily and intelligently
16 made with knowledge of the protections given to you
17 by the Fifth Amendment to the Constitution and the
18 consequences of your decision to testify.

19 If you decide not to testify I will instruct the
20 jury that they cannot give the fact that you did not
21 testify any consideration whatsoever and that there
22 is absolutely to be no prejudice to you because you
23 did not testify.

24 It is left entirely up to you whether or not you
25 testify. You may talk with your attorney or family

1 and friends or anyone else, but the final decision
2 will be left entirely up to you. Do you understand
3 what I have explained to you?

4 **MR. ASHFORD:** Yes, sir.

5 **THE COURT:** Do you have any questions about what
6 I have explained to you?

7 **MR. ASHFORD:** No, sir.

8 **THE COURT:** Have you discussed with your lawyers
9 whether you should testify or not testify?

10 **MR. ASHFORD:** Yes, sir.

11 **THE COURT:** Do you wish to talk to your lawyers
12 any more about this subject?

13 **MR. ASHFORD:** No, sir.

14 **THE COURT:** Do you wish to testify?

15 **MR. ASHFORD:** Yes, sir.

16 **THE COURT:** All right. Thank you very much.

17 **MS. CAMPBELL:** Do we need to clarify his record?

18 **THE COURT:** Yes, you should.

19 **MS. CAMPBELL:** The only thing I see, he's got a
20 lot of criminal domestic violence charges and things,
21 but the only thing that I see that would be
22 admissible --

23 **THE COURT:** Convictions.

24 **MS. CAMPBELL:** Those aren't admissible. Even if
25 they were admissible, I think the only one would be

1 assault and battery of a high and aggravated nature.
2 And that would be the extent of what's admissible at
3 this time.

4 **MR. O'NEIL:** I agree.

5 **THE COURT:** All right. Approach the bench,
6 please.

7 (Whereupon, a bench conference is had)

8 **THE COURT:** All right. Take a five-minute break
9 this time.

10 (Whereupon, a break is taken)

11 **THE COURT:** Mr. Broome, the deputy is going to
12 sit there.

13 **THE BAILIFF:** All right.

14 (Pause)

15 **THE COURT:** The State ready to proceed?

16 **MS. CAMPBELL:** The State's ready.

17 **THE COURT:** Defense ready to proceed?

18 **MS. SINGLETARY:** Yes, Your Honor.

19 **THE COURT:** All right. Bring the jury, please.

20 (Jury in at 11:43 a.m.)

21 **THE BAILIFF:** Your Honor, the jury is present.

22 **THE COURT:** Thank you very much. Mr. O'Neil,
23 you may proceed.

24 **MR. O'NEIL:** Your Honor, at this time the
25 defense calls Randolph Ashford.

1 RANDOLPH ASHFORD, after being duly sworn,
2 testifies as follows:

3 **THE CLERK:** Please have a seat. State your full
4 name for the record.

5 **THE WITNESS:** My name is Randolph Ashford.

6 DIRECT EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Randolph, you're going to have to speak into the
9 microphone so the lady can understand what you're
10 saying. Okay?

11 **A** Okay.

12 **Q** Now, Randolph, how old are you?

13 **A** Forty-three.

14 **Q** And just tell us a little bit about yourself. Where
15 are you from?

16 **A** Okay. I'm from Richland County, living in South
17 Carolina all my life. I'm a high school dropout.
18 And I work construction. And I've done various other
19 jobs; like lay bricks, carpenter work and mechanic
20 work.

21 **Q** Now, you got any family here in Columbia?

22 **A** Yes, I do.

23 **Q** Who is that?

24 **A** I have two sisters, Ms. Dorothy Nelson and Katherine
25 Hollins.

- 1 Q And that's Ms. Dorothy and Ms. Katherine right there?
- 2 A That's correct.
- 3 Q Those are your two sisters?
- 4 A Yes, sir.
- 5 Q Do you have any brothers?
- 6 A Yes, sir.
- 7 Q How many brothers you got?
- 8 A One.
- 9 Q What's his name?
- 10 A Eldred Ashford.
- 11 Q And, Randolph, are you married?
- 12 A No, sir.
- 13 Q Do you have any kids?
- 14 A Common law married.
- 15 Q Common law married. Who is that?
- 16 A Roberta Neil.
- 17 Q And is she here today as well?
- 18 A Yes, sir.
- 19 Q Where is she at?
- 20 A Sitting over there between my two sisters.
- 21 Q And do you have any kids, Randolph?
- 22 A No, sir.
- 23 Q Now, what schools did you go to here in Columbia?
- 24 A I went to Denny Terrace, Heyward Gibbes, and they
- 25 passed me to Eau Clair. And that's when I dropped

1 out.

2 Q And how long did you stay at Eau Clair? Do you
3 remember?

4 A About two months.

5 Q And that's it?

6 A That's it.

7 Q And you say you started work after you dropped out of
8 school?

9 A Yes, sir.

10 Q And what kind of work did you do?

11 A I started out doing construction work, building
12 houses and stuff like that.

13 Q And you say you're 44 at this point?

14 A Correct.

15 Q And how old were you when you dropped out of school?

16 A I can't remember.

17 Q Under 20?

18 A Yes, sir.

19 Q So you've been working in construction for about 20
20 years, give or take?

21 A Yes, sir.

22 Q And at any point in time did you ever get hurt at
23 work?

24 A Yes, sir.

25 Q And when would that have been?

1 **A** This happened in 2006. I got injured one Saturday
2 morning.

3 **Q** Tell us what kind of work you were doing?

4 **A** Well, me and the boss man was moving cars. And we
5 was using bobcat machinery to lift the cars and put
6 them on trailers and haul them out from around
7 people's houses and stuff. And I accidentally -- well,
8 I stuck my hand down between the bobcat while it was
9 open. They let a chain down to it to clamp the chain
10 to pull the cars. And when he opened it up, the
11 chain was too long, so I had to shorten it up. But
12 by him having the bobcat piled up real high, and if
13 you touch any of the levers on it, it will make a
14 certain move real fast, vicious like.

15 And so his cellphone rang while I was reaching
16 down in there to pull the chain. And he attempted to
17 answer his cellphone, and he must have accidentally
18 tapped a button. And it shut up on my arm. It
19 crushed my right arm.

20 **Q** And did you get any kind of medical treatment for
21 that?

22 **A** Yes, I did.

23 **Q** What did they give you for that?

24 **A** I was immediately taken to Richland Memorial
25 Hospital, which they transported me to North

1 Carolina, Carolina Medical Center, where they worked
2 on my arm from that point.

3 Q This was 2006?

4 A Yes, sir.

5 Q And did you have to continue to take medication for
6 that?

7 A Yes, sir.

8 Q Now, sometime in 1999 you'd been convicted of a
9 crime?

10 A In '98.

11 Q What was that? What was that conviction for?

12 A ABHAN. Assault and battery of a high and aggravated
13 nature.

14 Q And when did you meet Ms. Roberta?

15 A I met Roberta -- I'm not really -- well, I think in
16 2005, somewhere along in there.

17 Q And how did you all meet?

18 A I went over by Roberta's house, me and some guys one
19 day, and she had asked me to -- did I know anything
20 about putting a starter on a car. And I told her
21 yeah. So she had a car. So I put a starter on her
22 car.

23 Q And how did that interaction actually transition to a
24 romantic relationship?

25 A Well, I went back to check on the car to see whether

1 the starter was working all right and stuff like
2 that, and so we started talking. And so I would go
3 by and pay her a visit from time to time after that.

4 Q At any point in time did you move in with
5 Ms. Roberta?

6 A Yes, sir. About I'd say two months after, after I
7 visited her off and on.

8 Q And where was that location at?

9 A [REDACTED].

10 Q And y'all were living together in the house?

11 A Well, not at first. But, yes, it came -- it got --
12 we started -- I started living with her.

13 Q Now, did you know Ms. Deborah Ann?

14 A No, sir. I didn't know Ms. Deborah Ann at first. I
15 met Debbie Ann through Roberta.

16 Q And do you remember when about that would have been?

17 A Well, we had -- me and Roberta had been together
18 about I'd say four months and that's when I met
19 Ms. Debbie Ann.

20 Q And what was her relation to Roberta?

21 A I think she said was cousins, something of that sort.
22 Cousin.

23 Q And what was the interaction between you and
24 Ms. Deborah Ann?

25 A Well, there was none, because I hadn't actually saw

1 her at that time. But later on me and Roberta went
2 over to Debbie Ann's house and I met her personally
3 then. And a short time after that I helped her
4 husband put a transmission in a van. And from that
5 point, that was mainly our knowing each other.

6 Q Did you all have any occasion to speak on the
7 telephone?

8 A Yes, sir. Pretty much --

9 Q Tell us about that?

10 A Pretty much every day. Whenever she called Roberta
11 she would say, "Hello, Roberta. Where is Randy?"
12 All the time. And I didn't speak to her every time,
13 but she would always ask every time she would call.
14 She would say, "Hello, Roberta. Where is Randy?"
15 Because me and Roberta, we used to -- I used to tell
16 Roberta, I'd say, "I bet you she ain't going to do
17 nothing but say, 'Hello, Roberta, and where is
18 Randy', you know, like that.

19 And so we used to laugh about it, because that's
20 what she would do. So I said it seemed like she used
21 to call to speak to me. I used to tell Roberta that.
22 It seemed like she called to talk to me. Every time
23 she called she, you know, immediately asked about me.
24 And so we laughed about it and stuff like that.

25 Q Now, let's fast forward to 2007. Okay? February of

1 2007 in particular. Now, did you go to the hospital
2 the week of February the 20th, 2007?

3 **A** Yes, sir, I did.

4 **Q** And why was that?

5 **A** I went to the hospital that Wednesday because I -- I
6 had been woke for like a week. I hadn't slept at
7 night for a whole week, day or night.

8 **Q** Was that unusual for you?

9 **A** Yes, it was. And I was beginning to have chest
10 pains. And so I went to the hospital and they gave
11 me a shot. And it put me to sleep about 4:00 that
12 evening. And I woke up in the hospital about 11:00
13 that night. And we went home.

14 **Q** When you say "we", who are you referring to?

15 **A** Me and Roberta. And I went back to sleep that night.
16 And the next morning I got up a little before 10
17 because I had to be in therapy..

18 **Q** Now, this would have been Thursday?

19 **A** That's right.

20 **Q** That would be February 22nd, 2007?

21 **A** That's right. That's right. And I had to be at
22 therapy at 11. So I went to therapy and we came back
23 home.

24 **Q** And let's talk about, did they have you on any kind
25 of medication during that week? Did you take any

1 kind of medication?

2 **A** Yes, sir. I was taking medication from the doctor
3 concerning my arm still because I was having a lot of
4 pain and stuff like that. And I don't remember the
5 name of the medication, you know, but ...

6 **Q** What kind of effect did this medication have on you?

7 **A** Well, it would make you drowsy pretty much. And
8 that's all. That's all I can describe as to the
9 effect of it.

10 **Q** Now, let's talk about Friday, February 23rd, 2007.
11 What was going on that afternoon? What were you
12 doing?

13 **A** That afternoon what was going on? We were -- me and
14 Roberta, we were trying to finish up our last-minute
15 details on our normal activity of a day, like cooking
16 and the cleaning. And me and Roberta, we had a
17 disagreement about something. I can't remember
18 exactly what it was. A verbal disagreement. And
19 that was pretty much that.

20 But during the time of the verbal disagreement,
21 that afternoon Debbie Ann called. And Roberta
22 answered the phone but she was still talking to me.
23 She picked the phone up but she was still talking to
24 me. So I guess Deborah Ann asked her what was going
25 on and she said that we was arguing. And they didn't

1 say very much. I don't know if -- I remember hearing
2 Roberta say, "Yeah", and she hung the phone up.

3 So we continued to argue a little bit. The next
4 thing we knew, the cops showed up. The police showed
5 up. So we both went outside and we talked to the
6 City Police Department. The guy knew us from seeing
7 us all the time. And he told me -- Roberta telling
8 me -- telling him that she wanted to go over to her
9 cousin's house. And I didn't have no problem with
10 it. So he told me to give her the money to go with.
11 So I gave her \$30.

12 And I think the officer called a -- I think he
13 called a cab. And Roberta had called a cab but a cab
14 never did show up, never did come. So the officer
15 left and we went back in the house. And so we sit
16 down. Roberta was scratching off some lottery
17 tickets that she had. And it was getting pretty late
18 then. We had missed most of the -- *The Smackdown*
19 come on at 8:00. We had pretty much missed it. So
20 it must have been about 10, because it was going off.

21 And her brother was there with us, Ernest. And
22 so I asked him to go to the store for me. He went to
23 the store. And I think about I bought about \$20 in
24 tickets, or 15, somewhere along in there. So when he
25 came back we scratched them off. And I didn't -- we

1 didn't -- me and my brother, you know, we didn't --
2 we stayed until he came back. We didn't win
3 anything. So it was getting late and he was scared
4 to go to the store, you know, because it was getting
5 late, about time for the store to close. So I told
6 Roberta, I said I was going to go to the store and
7 get some more tickets right before the store closed
8 because the store closes up at 12 on Friday night.

9 **Q** And what happened once you got back from the store?

10 **A** Okay. When I got back from the store, the door was
11 cracked. So when I walked in the house, wasn't
12 nobody in the house. So I went through the rooms
13 looking for Roberta and she wasn't there. So I went
14 outside because her brother stayed right around the
15 other trailer. And I asked him, I said, "Hey, man."
16 I said, "Berta isn't in the house." I said, "What
17 done happened? Where she at?" He said he didn't
18 know.

19 I went back in the house and I was concerned
20 about where she was, so I called 911. I didn't know
21 what was going on. I didn't have no idea that she
22 had left, you know, gone nowhere, because she was
23 there when I left. So I called 911 and came back
24 out. And I asked them to, you know, let them know,
25 make a missing person report because she wasn't there

1 and I didn't know what could have happened. And so
2 he said, "No." He said, "Don't worry about Roberta.
3 Roberta is at a girlfriend's house", said but if she
4 didn't come back by morning to give him a call.

5 Q Now, had Roberta left in y'all's car?

6 A No.

7 Q Y'all still had a car there at the residence?

8 A Yes, sir. My car was -- my car was there.

9 Q So after you figured out where Roberta was at, what
10 did you do that night?

11 A Well, I went back inside and I went -- I got some
12 papers that I had borrowed some money from a loan
13 company. And so I was going over the papers because
14 I had to pay it back. And, you know, if you don't
15 pay it back in a certain length of time, the money
16 would increase. So I went over the papers and trying
17 to figure out, you know, could I get the money to pay
18 it back within a time limit of what I could pay back
19 and stuff. And I watched movies all night, VCR and
20 all.

21 Q Did you go to sleep any time that night?

22 A No, I did not.

23 Q Did you receive a call from Roberta that night?

24 A Yes, I did. Well, I can't say it was Roberta. But I
25 did -- a call did come in about 1:35, because I

1 looked to see what time it was. And I answered the
2 phone and didn't nobody say anything. So I hung the
3 phone up. I called Roberta's cellphone number I
4 think one or two times, but I quit because she didn't
5 answer it. I knew she wasn't going to answer it.

6 Q And did you call Ms. Deborah Ann's house that night?

7 A Well, let me remember. I don't remember. I don't
8 think so.

9 Q Let's talk about what happened that Saturday morning.
10 So, did you ever get any sleep Friday night?

11 A No, I didn't.

12 Q What did you do when it gets light on Saturday
13 morning?

14 A When it gets light on Saturday morning, I got up off
15 the chair... I stopped watching the movie. I took a
16 bath.

17 Q Let me ask you, is Roberta home at this point?

18 A No, she's not. I called Roberta's cellphone number.
19 She didn't answer again. I called Debbie Ann. And I
20 asked Debbie Ann was Roberta over there. She said,
21 no, Roberta ain't over there. She said she didn't
22 come over there that night. It was just like a two
23 to three minutes -- seconds I mean -- phone
24 conversation. So I hung up.

25 A short time later Debbie Ann called me and

1 asked where was Roberta. And I told her Roberta --
2 she said, "Where my cousin at?" So she said -- I
3 told her, I said she wasn't there. She seemed like
4 she didn't believe me. She thought she was there and
5 wanted to speak to her. I said, "She ain't here. I
6 thought she was over there."

7 So, at the same time I asked Debbie Ann -- no,
8 not at that time. I hung up. So some time later,
9 about 7 or 8:00, about 8:00, I think I called her
10 back and I asked where was Ali Harrison, her brother.
11 And she gave me his cellphone number. And I called
12 him and I told him about the night, that night of
13 events. And I told him to come on over, I said, and
14 talk to me. I said I wasn't doing anything, like
15 that. And he said that he was at a cousin's house
16 and that he would come over later on to talk to me,
17 be with me a little while.

18 Q Randolph, what did you have on that day? Do you
19 remember?

20 A Yes, sir. I put on that brown -- that red and white
21 shirt and the brown khakis that morning, and a brown
22 leather jacket.

23 (WHEREUPON, Defendant's Exhibit No. 1 is marked
24 for identification.)

25 Q Now, Randolph, I'm going to show you what's been

1 marked as Defense Exhibit No. 1. I want you to take
2 a look at this. Okay? Take a look at what's in the
3 bag, please.

4 **A** Yeah.

5 **Q** Are these the same clothes you had on on
6 February 24th, 2007?

7 **A** Yes, sir, it is.

8 **MR. O'NEIL:** Your Honor, at this time I'd move
9 into evidence Defense Exhibit No. 1.

10 **THE COURT:** Any objection?

11 **MS. CAMPBELL:** No, sir.

12 (WHEREUPON, Defendant's Exhibit No. 1 is
13 admitted into evidence.)

14 **Q** And you had on those clothes all day long?

15 **A** That day, yes, sir. Yes, sir. That Saturday
16 morning, I put them on that Saturday morning.

17 **Q** No green sweater?

18 **A** No green sweater.

19 **Q** No jeans?

20 **A** No jeans.

21 **Q** No jacket?

22 **A** A brown leather one.

23 **Q** A brown leather jacket?

24 **A** Yes, sir.

25 **Q** No green jacket?

1 **A** No green jacket.

2 **Q** No tannish jacket?

3 **A** No tannish jacket.

4 **Q** And do you ever remember leaving the house that
5 morning?

6 **A** No, I do not remember leaving the house. I was there
7 for some time. I pulled my car from behind the house
8 because I was going to rake the leaves up. Roberta's
9 brother, Ernest, was out in the yard and a friend of
10 mine by the name of Richard. So I pulled the car out
11 there where they was. They were sitting right out in
12 the yard. So I sit in the car and I talked to them a
13 little while. I told them what I was fixing to do.

14 And at that time, it was about -- it was 11:00.
15 I discovered I didn't have any cigarettes. So I
16 said, well, I said, "I need to go get some
17 cigarettes." My reason for not driving the car over
18 to the store is because my license got suspended and
19 I didn't have any insurance on the car. So I backed
20 the car back up in the backyard and I went back in
21 the house. And my arm had started bothering me and I
22 took two of the pain killer pills. And from that
23 point I don't remember --

24 **Q** What's the --

25 **A** -- when I left the house at all.

1 Q What's the next thing you remember?

2 A The next thing I remember, walking in the lot of the
3 Wash World.

4 Q So you take these pain killers and the next thing you
5 remember is walking through the lot of the Wash
6 World?

7 A The Wash World.

8 Q What happens after that? What do you remember?

9 A When I walked in the lot of the Wash World, I saw
10 this man bent over in his trunk. And from the angle
11 he was bent over in the trunk, I could see past him
12 to the driver's side of the car and I seen this lady
13 in the car. So I walked over to him and I told him,
14 I said, "Tell your lady to get out of the car."

15 Q Now, why would you have done that?

16 A I have no idea.

17 Q What happens after that?

18 A I told her -- I told him that. So he looked up from
19 looking in the trunk and he looked at me. So when I
20 went to go around to the passenger's side of the car,
21 the lady jumped out and took off running. So when I
22 turned around back around facing him, he had done
23 shut the trunk down, he had done backed up from the
24 car. So I went on around and got in the car and
25 drove off.

1 Q What's the next thing you remember after that?

2 A The car got loose. It got away from me and it hit a
3 bank pole or something by a church. I think it's
4 Gill Creek.

5 Q And what do you remember after the car hit the pole?

6 A I got out of the car. And cars was slowing down
7 passing my me. I was in the middle of the road. And
8 this cab pulled, came. And I was standing in the
9 middle of the road. And the cab stopped right in
10 front of me. I put my hands on the hood. I told
11 him, you know, I said, "Sir, get out the car." And
12 he didn't apparently hear me the first time. So I
13 said it again. Cars were still going by. And so he
14 stepped out of the car. So when he stepped out of
15 the car, I think it's Mr. Malachi I learned through
16 testimony, he stepped out of the car, and there was a
17 lady in the back of the car. So I went. I got in
18 the car. And then she stepped out. So then I was
19 fixing to turn around and went to Debbie Ann's house
20 which is on Booth Street.

21 Q Now, do you remember at any time going to the corner
22 of Oakland and Randall Streets?

23 A No, sir, I did not.

24 Q And what happened once you got to --

25 A I mean, when I remember, I was walking in the parking

1 lot of the washing place where you wash clothes.

2 Q And what happens once you get to [REDACTED]

3 which is Deborah's Ann's house?

4 A When I get to Debbie Ann's house I stopped the cab

5 and got out and proceeded to go to the door. And

6 when I got to the door, it was a glass door, a storm

7 door like. And when I got to the door, an arm

8 reached out the door. As I reached the knob, I could

9 see Debbie Ann standing right there facing me. And I

10 heard someone say, "Run. Get up under the bed." And

11 so by that time I done opened the door, and I said,

12 "Hey, Debbie Ann." I went to step inside the house.

13 All of a sudden the door comes rushing to me.

14 So when I throwed my hands up, the door hit me

15 in my foot and it bounced back. So I stepped on in

16 the house, you know, immediately to try to get out of

17 the way of this -- the door. And so when I stepped

18 inside the house, I really -- I think it's Kenya;

19 Kenya was standing behind the door. And so I say,

20 "Debbie Ann" -- I didn't really even pay that much

21 attention what she had just did. I said, "Debbie

22 Ann, where is Roberta?" She said, "Randy, Roberta is

23 not here." So I said, "Well, let me see if she's in

24 the room there." So I walked on by.

25 Q You can stop right there. Do you remember having a

1 firearm at this time?

2 **A** That's when I -- that's when I realized I had a
3 firearm in my hand.

4 **Q** What do you do after that?

5 **A** Well, I went on -- I walked on to the bedroom. And I
6 peeped in the bedroom, and the kids was down on the
7 floor. And I told them, I said, "Y'all." I said,
8 "Y'all come on out here." I said, "y'all ain't got
9 to get up under no bed." I said, "Y'all don't
10 remember me?" I said, "I'm the ice cream man."
11 Because the kids had been over to the house about two
12 months prior to this and I had gave them ice cream.

13 And so they got -- they came -- they was just
14 sitting on the floor by the bed. So they got up and
15 they came back out. So when I walked back out there
16 where Debbie Ann and Kenyata were standing in the
17 living room, Kenyata was holding a little baby. And
18 she said, "Can we leave?" So I said -- she was
19 looking at me. She says, "Can we leave?" I said,
20 "You can leave if you want to." I said, "Yeah", like
21 that. So when I said that, she run on out the door,
22 and the kids followed her, followed her outside.

23 So I said, "Debbie Ann," I said, "Roberta ain't
24 been home all night." I said, "I thought she was
25 over here." I said, "I wonder where she at." I

1 said, "Help me call her" I said, "because I've been
2 calling her and she don't too much want to talk to
3 me", like that. And so she said -- she started
4 saying, she said, "I don't know where Roberta at."

5 So at that time a city police car was pulling
6 down to the cab. So Debbie Ann grabbed -- she was
7 standing at the door. So she shut the door. And so
8 I saw the police car, too. And I didn't say anything
9 about it. I said, "Hmm." I said to myself, I said,
10 the police right there.

11 So when she shut the door, Debbie Ann, when I
12 knew anything, she was moving the long chair, pushing
13 the long chair over toward the door. She said, "Come
14 over here and help me put this chair to the door so
15 they can't come in." So I just helped her, took my
16 leg and put it up against the chair and helped her
17 push the chair. She had done pushed it over to the
18 door. I just helped her push it up to the door.

19 And so then we -- I was trying to talk to her.
20 So she started heading back towards the back, to the
21 back. So right after then as I was talking to her,
22 the police knocked on the door. So she said -- told
23 me to do like this here, and she said, you know,
24 like, don't say nothing, don't make no noise. So the
25 officer knocked on the door a few times, and she

1 said, "Don't answer it; don't say nothing." So I
2 didn't say anything.

3 And so she was -- we was -- she was looking
4 around the corner from the washroom to see where the
5 officer was when he left the door. So he left the
6 door and went back out to the car. And I took it as
7 he was on the radio calling some people or something
8 like that. And so as we --

9 Q Now, at this point in time, who is all in the house?

10 A Nobody but me and her.

11 Q All the kids were out of the house?

12 A Yes, sir.

13 Q Just you and Ms. Deborah Ann?

14 A That's right. And at that time she said, "Come on.
15 Let's put this freezer up against the door." It was
16 a big freezer. And so she got up there at the
17 freezer and like pushing on it like, you know what
18 I'm saying. So I said, well, I'll help her push the
19 freezer. So we tried to push the freezer to the back
20 door. But my arm wouldn't let me. I couldn't do
21 much with this arm here. And I still can't. So I
22 did all I could do and couldn't get it no further. I
23 just said, well, that's what -- she give up trying to
24 push it up against the door. So I did, too.

25 And so we continued talking. And so she got on

1 the phone and trying to call Roberta. So at that
2 time, another officer, somebody else came and started
3 knocking on the door. So she told me to be quiet.
4 So I been quiet. And then when they left, we're
5 still in the back area because we could see them, you
6 know, from the washroom through the curtain.

7 So when they left Debbie Ann went back in the
8 living room and sit down in the chair. So I followed
9 her. I went and I sat down on the edge of the chair.
10 to the door because it was closer. And so we was
11 talking. I was talking to her. And Debbie Ann had a
12 24-ounce Budweiser. She said, "Randy, you want some
13 of the beer?" I said, "Yeah." So she went back in
14 the kitchen and got a glass and poured me about a
15 glassful of it.

16 I didn't have any cigarettes. She had some
17 cigarettes. I got a cigarette from her. And I was
18 smoking. And so we started talking. And she started
19 telling me about she came up in a poor family and
20 they never had anything and stuff like that. And so
21 I told her about the events of what me and Roberta
22 was arguing about, disagreed on, which I can't
23 remember right now what it was. And she said,
24 "Yeah." She said, "Well, Roberta really, she
25 shouldn't have left you and went, stayed away all

1 night like that." She said, "Roberta was wrong for
2 that" or something. So I said, "Yeah." And so while
3 we were sitting there talking, I mean, we had talked
4 a long time. They hadn't started -- the phone hadn't
5 started ringing yet as far as the police calling.

6 Q Now, when the phone would ring, who would answer the
7 phone?

8 A I would answer it sometimes and then sometimes she
9 would answer it.

10 Q And what would you say when you answered the phone?

11 A I'd say, "Hello." And they'd tell me who they were
12 and stuff like that. But at the same time, we talked
13 a long time. And so while we were sitting there
14 talking, I had to sit on the floor by the chair
15 because I wanted to stay down from the -- she tell me
16 to stay down from the windows and stuff. And so
17 while we was talking and while we was talking, well,
18 I guess they had set up the command post or whatever
19 because the phone started ringing and they was steady
20 saying, you know, come out, asking me to come out. I
21 told them I wasn't. And they asked me why --

22 Q Why didn't you just come out?

23 A Well, I was -- I was -- I was scared. I was actually
24 scared to come out of the house, you know. I know I
25 had that gun. At that time I realized I had the gun.

1 So I told them, you know, no, I wasn't going to come
2 out. I said I actually wanted to talk to Roberta.
3 So, to let them know that I had a gun, because I had
4 discovered I had this gun, I pointed it at the floor
5 and pulled the trigger, not knowing it was going to
6 shoot or anything. And it shot one time. It shot in
7 the floor. And so, some time went by after that.
8 And as the time went by, I pulled it -- I pointed it
9 at the chair and I pulled the trigger. And it didn't
10 shoot at first, but then eventually it shot again.

11 Q So you shot once in the floor?

12 A Yes, sir.

13 Q Once in the chair?

14 A And once in the chair.

15 Q At any time did you shoot out any of the windows of
16 the trailer?

17 A No, sir. I never shot out the window.

18 Q Did you shoot at Deputy Unger?

19 A No, sir. I did not shoot at no deputy. I was
20 sitting on the floor right by Debbie. I never got up
21 from her. So I was saying to myself, I said, well,
22 maybe I'll let them know I've got a gun, because
23 Debbie Ann was saying like they was going to kill me.
24 You know, don't go out because they're going to kill
25 you and I don't want them to kill you in my house.

1 And so that was scaring me more, you know, really. I
2 didn't really want to die. You know, at that point I
3 didn't.

4 So while we're sitting there talking, something,
5 a big shot sounded like a couple of knocks out the
6 house, and it came through the front living room
7 window. And there was -- some gas was coming out.
8 It wasn't far. It hit the wall and it bounced toward
9 the kitchen and it was shooting gas. So we sit
10 there, you know, like looking at it and it was still
11 smoking, you know, smoking. We just sit there just
12 kind of like staring at it.

13 And as it just kept smoking and my face started
14 tightening up and my eyes started getting watery. So
15 I got up and went behind it and grabbed it and I
16 threw it down the hallway and it ended up in the
17 bedroom. I didn't even go after it to close the door
18 or anything. I just throwed it away from us.

19 By the time I did that, Debbie Ann had done
20 passed me and was going to the -- she went to the
21 washroom because I heard the water running. My face
22 was burning. I'm still in the living room. So when
23 I heard the water running, I said I need some water
24 for my face. And I went in the bathroom, washroom.
25 She was in there with a towel on her face. So I

1 reached down in there. In the washing machine there
2 was some clothes down there. I got me one and I just
3 put it over my face.

4 And so when I pulled the door open as I was
5 coming back out because the thing was still smoking.
6 So we came back out and went back into the living
7 room and sit down. And we started talking about it.
8 We was talking to the police, too. And they kept
9 calling and they asked me why wouldn't I let Debbie
10 Ann go. Debbie Ann could hear the conversation
11 because she's got a speaker phone. Before I could
12 answer it, before I could answer the question, Debbie
13 Ann hung the phone up, disconnected the call. So I
14 didn't even -- I just left it like that.

15 So the phone rang around again. When she hung
16 the phone up, she cut the ringer off. So the only
17 phone that was ringing was in the back bedroom part.
18 So I didn't worry about answering the phone, I mean,
19 you know. So she went on to say that the police
20 wasn't, you know, nothing and don't go out there
21 because she didn't want them to kill me; she didn't
22 want them to kill me in her house.

23 So she got up and she went and got, I think it
24 was -- I don't know if it was a caller phone or not.
25 But there was a phone on the counter of the kitchen

1 there. She got it and she dialed, I took it to be
2 911 because the way she was talking. She said, "The
3 police out here in front of my house, and all I want
4 you to do is have these polices to get out from in
5 front of my house." She did that and she hung the
6 phone up. She did that several times after that.
7 She actually called 911 and told them that. But we
8 continued our, you know, trying to call Roberta and
9 talk. And I'm sitting in the corner by her. And --

10 Q Now, at any point did y'all move from out of the
11 living room into the kitchen area?

12 A No.

13 Q So what happens after that?

14 A So I heard another bang. But they must have shot
15 gas, a gas bomb in the far room, bedroom. And so we
16 didn't bother because it was in there and it wasn't
17 bothering us. And so we stood. We talked and then
18 talked some more. And I was smoking a cigarette at
19 the time. I finished. We never did drink all the
20 beer that day. So I drank some of the beer. So I
21 was like in the corner, in the corner to keep from
22 being seen, you know. She was telling me they was
23 going to kill me.

24 And I thought about having the gun. And I said,
25 you know, they might would kill me, you know. And so

1 at that time we heard another bang, and it was
2 something in the room next to us, but that door was
3 pulled up. And so I was laying back in the corner by
4 her chair. And so I was smoking a cigarette. And I
5 was kind of trying to look through the window, front
6 window and see the police, too, because, you know,
7 trying to watch myself. I didn't want them to shoot
8 me.

9 And I wasn't really paying Debbie Ann any
10 attention. And at that time when I know anything,
11 Debbie Ann was kneeling down in front of me and had
12 her clothes off. So she unzipped my pants. I was in
13 shock because I couldn't believe what was going on.
14 I mean, it shocked me for a minute. She had her hand
15 down in my pants and she had done grabbed my privates
16 and she was doing like that. And she said, she said,
17 "Roberta told me how big you was. I always wanted to
18 know or wanted something", something like that.

19 And she said that -- she said -- what did she
20 say? Yeah. When she said that, I was in shock. I
21 was like, you know, looking at her. And so I was
22 trying to get up off the floor because I was -- I was
23 pushing her away. And when I got up as far as to my
24 knees part, she had done got my pants loose and my
25 pants eased down a little bit. She's still doing

1 that. So I had hopped around and was doing like
2 that, you know.

3 And by that time the thing come in the kitchen
4 window. I heard another bang. It knocked glass or
5 glass off the counter or table or something and it
6 hit the wall. So she turned me loose. So I hurried
7 and I pulled my pants and zipped my pants back up.
8 And the thing had ran her in the kitchen right there
9 in the hallway. And it looked to be small and it was
10 putting out a lot more smoke. So I run and grabbed
11 it and run and holding it off from me and run into
12 the back bedroom and threw it in the room and pulled
13 the door back closed.

14 By that time Debbie Ann was in the washroom
15 again putting water on her face. So I went, got me
16 another rag because the other rag was in the living
17 room, and I put it on my face, too. So when she had
18 left out the little washroom and standing on the
19 corner of the thing looking out toward the window,
20 the front window watching the police.

21 So when I finished putting stuff all over my
22 face, I went to come out. She said, told me, "Hold
23 up, hold back." Then in a few seconds she said, "I'm
24 going to sit right here on the freezer and watch the
25 police", said, "You stay back there." And so I was,

1 you know, talking to her. She just hopped up on the
2 freezer right there at the back door. We didn't talk
3 very long.

4 A hole about that big appeared in the door and
5 the thing came in the door and just missed her head.
6 It hit the wall right in front of me. There was
7 another one of them gas bombs. So I reached and
8 grabbed Debbie Ann. I said, "Debbie Ann, you'd
9 better get down." I said, "You don't realize how
10 close that thing coming to you. That thing could
11 have killed you just now." I said, "You'd better get
12 down from there."

13 So when I pulled her down, we went back into the
14 bedroom area and sit down and, you know, was talking.
15 The thing was smoking right back there in the back.
16 It didn't smoke very long. It smoked a little while
17 and then it just quit. And so as we resumed our
18 talking with me and her, the phone was ringing. So
19 between us talking and she answered, turned the phone
20 back on and talking to the police, and they asked me
21 about the -- they asked me about the negotiating for
22 me to come out. I told them, I said I would come
23 out, I said, if you will let me talk to Roberta. I
24 said, "If I talk to Roberta, I will come out." And
25 they never did ask me anything about, no more about

1 was I holding Roberta hostage or anything.

2 Q Now, what happened once the police came into the
3 door?

4 A When they came in?

5 Q Yeah.

6 A Well, they hadn't came in at that point. At that
7 point they hadn't came in. So, like I say, we talked
8 to the police. She would answer the phone sometime
9 and then I would answer the phone. And they was, you
10 know, like answering it, you know, asked where I was.
11 And she said, "He's sitting right here by me and he
12 don't want to talk right now." So I said, "I don't
13 want to talk." "You don't want to talk, stuff like
14 that. So she would hang up.

15 So as we continued our talk, she said, she said,
16 she said, "Look at how these people done tore up my
17 trailer." She said, "Randy, could I sue them?" I
18 said, "Roberta" -- I said, "Debbie Ann," I said, "you
19 probably could", I said, "but in order to sue them",
20 I said, "you probably would have to make it look like
21 I was keeping you against your will and holding you
22 hostage." And I said, "You'd have to probably say
23 that I had sex or something with you and stuff like
24 that." I said, "You would have to put me at blame."
25 But I said, "That's probably how you would get some

1 money from them", just like that. And so that was
2 the end of that conversation. So, with that, I
3 didn't think no more of it. So, --

4 Q Now, at this point were the lights still on, or --

5 A Well, at that point they were. And shortly after
6 that the lights got turned off.

7 Q And what happened after the lights got turned off?

8 A It started getting dark in the house. And Debbie Ann
9 said something like, she said, "I've got to go to the
10 bathroom." And so I was sitting on the floor in the
11 corner. So she got up and she went in the bedroom.
12 So about I'd say 15, 10 or 15 minutes later, it was
13 getting darker and darker. So I got up. I was
14 getting me some more water for my face.

15 And so when I went and walked to the laundry
16 room, Debbie Ann was sitting on the sink. When she
17 seen me, she was looking, peeping out part of the
18 bedroom and she told me to get down. So, you know,
19 so I didn't go no farther into the room or anything
20 like that. So I went into the washroom. And when I
21 went in the washroom I got some water and put on my
22 face. So she was in the bathroom.

23 And at that point the phone rang and they
24 called, and I told them that I would -- I would --
25 you know, I would come out in about five minutes. I

1 told them to give me five minutes. And when I told
2 them that, I got up and I went to the front window
3 and I opened the curtains up so they could see me. I
4 seen all these little red lights and pointed on me
5 and stuff like that. They didn't shoot me.

6 So when I went back, I said, "Debbie Ann," I
7 said, "I'm going to go out. They didn't shoot me
8 just now." About the time I said that, I just heard
9 a big old bang at the front door. And so I just got
10 down on the floor when I heard that. I just got down
11 on the floor like this here.

12 So when they came in, I guess they were looking
13 for me to be up top. They was almost stepping on me
14 before they saw me. And then they saw me. I done
15 put my hands behind my back and stuff like that. So
16 by that time one of them had already grabbed me, put
17 me in handcuffs.

18 Q Now, at this point were you suffering from any
19 effects from tear gas?

20 A Yes, I were.

21 Q What was that?

22 A My eyes had swolled (sic) up. My nose was running.
23 And, to be honest with you, man, my head felt like it
24 was that big, you know. Yeah. I just felt real bad.

25 Q Now, when they took you out of the house, did they

1 send you to EMS, get any treatment?

2 **A** No. When they took me out of the house, right in
3 front of the door they stopped and brought Debbie Ann
4 out. And someone told them to take the handcuffs:
5 Debbie Ann said, "What am I being arrested for? I
6 didn't do anything." And so somebody said, "Take the
7 handcuffs off of her." So when they took the
8 handcuffs off of her, they said, "Take him on." So
9 they walked me on to the car, put me inside the car.

10 **Q** And where did you go from there?

11 **A** Then they took me straight from there to
12 headquarters. I guess that's their headquarters,
13 somewhere off Two Notch Road.

14 **Q** Do you remember who you talked to there?

15 **A** Yes, I do.

16 **Q** You spoke with Investigator Barnes I think?

17 **A** Yes. That's correct.

18 **Q** Now, I'm going to show you what's been marked as
19 State's Exhibit No. 1. Now, do you remember
20 Investigator Barnes giving you what's called your
21 Miranda rights?

22 **A** No, sir.

23 **Q** Do you remember Investigator Barnes going over with
24 you those rights in a written form like in State's
25 Exhibit No. 1?

1 **A** No, sir.

2 **Q** Is your signature on State's Exhibit No. 1?

3 **A** No, sir.

4 **Q** Do you remember signing an advice of rights?

5 **A** I remember signing some papers and I remember him
6 telling me somewhat I guess the name of them. I
7 can't recall if he told me the actual name of them or
8 not. And I couldn't see because my eyes was -- I
9 couldn't see anyway. So I just did as he asked me to
10 do.

11 **Q** Were you understanding the conversations you had with
12 Investigator Barnes?

13 **A** Well, yes. I understood, you know, a little bit of
14 it. But I was disoriented. I really didn't -- I
15 really didn't realize a lot of the stuff he was
16 probably saying to me. No.

17 **Q** Now, I'm also showing you what's been marked State's
18 Exhibit No. 2. That's your statement Investigator
19 Barnes said you gave to them on that particular day?

20 **A** I did not.

21 **Q** Now, have you had the opportunity to review that
22 statement --

23 **A** I have.

24 **Q** -- at this point?

25 **A** I have. And I did not give them that statement.

1 Q Is everything in that statement correct?

2 A No, it's not. Ninety percent of that statement is
3 wrong.

4 Q What parts of that statement is not correct?

5 A The only part that is right is about three or four
6 lines at the very top.

7 Q What's those portions that are right? Let me do
8 this. Let me see State's Exhibit No. 2. Did you
9 tell Investigator Barnes about that it started around
10 9:15 that night?

11 A Correct.

12 Q And did you say you and Roberta were sitting around
13 the house, you had just watched *Smackdown*?

14 A I said that's what we was intending to do. We never
15 actually watched it.

16 Q Did you tell him about Roberta scratching off some
17 lottery tickets?

18 A I did.

19 Q And you told her that you were going to the store to
20 get some more lottery tickets before the store
21 closed?

22 A Yes. About 11:30. Right.

23 Q And you told him that you got on your bike and you
24 went up to the store and you came right back?

25 A I did not.

1 Q You didn't tell him that?

2 A I didn't tell him that I got on my bike and went to
3 the store.

4 Q Did you tell him that when you got back the door was
5 cracked and there were no signs of Roberta?

6 A I did.

7 Q And then it goes on talking about the officer came
8 over that night?

9 A I did.

10 Q You told him that?

11 A I did. But I didn't tell him that she was over to
12 her cousin's house. Because the officer said she was
13 at her girlfriend's house.

14 Q Did you tell him anything about Roberta calling you
15 at 1:35 and hearing sex noises?

16 A I did not. I mentioned the phone. Somebody called
17 at 1:30 and never said anything. And I did not say
18 anything about sex noises. I didn't say that.

19 Q Did you tell him anything about you and Roberta
20 arguing over \$4,000?

21 A I did not.

22 Q And pretty much you agree that the only real part you
23 told Investigator Barnes was the first sentence of
24 this statement?

25 A That's correct.

1 Q Now, did you read the statement over after
2 Investigator Barnes typed it?

3 A No, sir. I couldn't see the statement.

4 Q And was there any other reason why wouldn't have read
5 that statement over?

6 A Sir?

7 Q Was there any other reason why wouldn't have read
8 that statement over? How well do you read?

9 A I can read, you know, small words but not very big
10 words.

11 Q So Investigator Barnes would have had to read that
12 statement to you?

13 A Well, no. No. I don't think so. I think I could
14 have read it if I could have seen it.

15 Q But did he give you the opportunity to read it?

16 A Yes, he did. But, you know, he's seated where I
17 couldn't read it. And so he took it back and he said
18 -- caught himself reading it to me.

19 Q And did he ever give you a copy of that statement?

20 A Yes, I did get of a copy of it. And all he did was
21 ask me to sign it. He put it in front of me and
22 said, you know, just sign right here. I couldn't see
23 where to sign it at. So he put an X on it and put
24 his finger on it. So I got the pen to where his
25 finger were and I signed my name.

1 Q Now, after you met with Investigator Barnes, did you
2 continue to get any medical treatment?

3 A I never got any medical treatment.

4 Q Did you continue to take any kind of medications
5 after that day?

6 A After that day?

7 Q Yeah.

8 A Yes.

9 Q What kind of medication were you taking?

10 A For depression. I was seen by Mental Health. Mental
11 Health. You mean --

12 Q Yeah. Are you taking any medications today?

13 A Yeah. The name of it is Alexa, Elixir or something
14 like that.

15 Q And what's that medication for?

16 A For depression.

17 Q Now, Randolph, I'm going to ask you a couple of
18 questions to sum things up here. Did you at any
19 point shoot at Deputy White or Deputy Unger?

20 A I did not.

21 Q Did you at any point hold Ms. Deborah Ann against her
22 free will?

23 A I did not.

24 Q Did you at any point force Ms. Deborah Ann to have
25 sex with you?

1 **A** I did not.

2 **Q** Do you remember at any time going to the corner of
3 Randall and Oakland Street?

4 **A** I did not.

5 **Q** Beg the Court's indulgence, Your Honor. I have no
6 further questions at this time. Answer any questions
7 Ms. Campbell has for you.

8 **THE COURT:** Cross examination.

9 **MS. CAMPBELL:** Yes, sir.

10 CROSS EXAMINATION

11 **BY MS. CAMPBELL**

12 **Q** What you just told this jury about what happened
13 after the Blue Ribbon cab all the way to when you
14 gave your statement that night you remember in vivid
15 detail?

16 **A** Repeat your question again?

17 **Q** Do you remember everything just as you told this jury
18 in detail about what you did, what the police did,
19 what Debbie Ann did from the time period when you got
20 that Blue Ribbon cab all the way to when the police
21 came in and got you?

22 **A** I do.

23 **Q** And your testimony is that night -- excuse me. Let
24 me back up. Your testimony is that early in that
25 week, on that Wednesday, you went to the hospital

1 because you couldn't sleep?

2 **A** That's correct.

3 **Q** And you got a shot?

4 **A** Repeat it?

5 **Q** Did you get a shot?

6 **A** I did.

7 **Q** And the shot was so potent you actually had to stay
8 in the hospital I believe you said and sleep?

9 **A** It put me to sleep.

10 **Q** Okay. And what doctors did you see at the hospital?

11 **A** I can't remember their names.

12 **Q** But they kept you there while you slept?

13 **A** Correct.

14 **Q** And Roberta was with you?

15 **A** That's correct.

16 **Q** And at that point you mentioned that later on in the
17 week, that Friday and Saturday, you were on pain
18 medication?

19 **A** I was on pain medication from 2006 to 2007,
20 February 24th.

21 **Q** So how long had you been on this pain medication that
22 you ultimately were taking on that Friday and
23 Saturday?

24 **A** From February -- from 2006 'til February of 2007.

25 **Q** 'Til the day this all happened?

- 1 **A** That's right.
- 2 **Q** You were never on any more pain medication after
- 3 that?
- 4 **A** No, I was not.
- 5 **Q** And this pain medication, who was your doctor?
- 6 **A** I can't remember his name.
- 7 **Q** You don't remember your doctor's name?
- 8 **A** No, I cannot.
- 9 **Q** So he is not here in the courtroom?
- 10 **A** No. My doctor is not.
- 11 **Q** And the medication you were taking, what was that?
- 12 **A** I can't remember the name of it.
- 13 **Q** So you don't remember the name of your doctor who
- 14 prescribed this medication for you and you don't
- 15 remember the pain medication, what it was called?
- 16 **A** That's correct.
- 17 **Q** Do you remember how often you were supposed to take
- 18 it?
- 19 **A** No, I cannot.
- 20 **Q** Do you remember you're supposed to take one pill a
- 21 day?
- 22 **A** I cannot remember.
- 23 **Q** Two pills a day?
- 24 **A** I cannot remember.
- 25 **Q** But you remember specifically on this date when all

1 this occurred that you don't remember that you took
2 two pills?

3 **A** I do remember taking my pain medication.

4 **Q** And were you supposed to take two pills?

5 **A** I can't remember if I was supposed to take two or
6 not.

7 **Q** When you had taken two pills on prior occasions, did
8 it cause you to commit violent acts against innocent
9 people?

10 **A** Repeat the question?

11 **Q** When you had taken this pain medication on prior
12 occasions from 2006 all the way up to February of
13 2007, had it ever caused you to act out violently
14 towards other people?

15 **A** No.

16 **Q** Had it ever caused you to get your gun and go out and
17 carjack people?

18 **A** I don't own a gun. I don't own a gun. So it didn't
19 cause me to get my gun. I didn't -- I don't own a
20 gun. I didn't own a gun at that time either.

21 **Q** Did it cause you to get anyone's gun?

22 **A** No, ma'am, it did not.

23 **Q** Had this pain medication ever in the -- was it six
24 months you've been taking it?

25 **A** Repeat the question?

1 Q How long had you been taking it?

2 A From March.

3 Q 2006?

4 A From 2006 'til February.

5 Q When in 2006?

6 A I can't remember.

7 Q Was it in the fall, in the summer, in the spring?

8 A It was probably in the spring.

9 Q So for this almost year period of time that you had
10 been taking this pain medication that caused you to
11 lose your memory and commit violent crimes, it had
12 never had that effect on you before?

13 A I can't say that the medication did this to me one
14 way or the other. So I can't deny the --

15 Q So you aren't here telling this jury the medication
16 caused you to commit these acts?

17 A No, I'm not here telling the jury that.

18 Q But you just wanted them to know that on that date
19 you took two pills of your pain medication of which
20 you don't know who your doctor is and you don't
21 remember what the name of the medication is?

22 A That's correct.

23 Q And then your testimony is, is that on that date --
24 let's move to the night before. You have specific
25 memory of the night before, do you not?

1 **A** Yes, I do.

2 **Q** And do you remember that you and Roberta were at
3 Roberta's house on Muir Street? Right?

4 **A** That's correct.

5 **Q** And that y'all were there with some lottery tickets?

6 **A** Repeat the question?

7 **Q** You were there. She was scratching off lottery
8 tickets?

9 **A** That's correct.

10 **Q** And then you went to the store around 10:30?

11 **A** No.

12 **Q** Okay. When did you go to the store?

13 **A** I did not go to the store around 10:30. It was
14 pretty close to about 12:00.

15 **Q** Close to 12:00. I'm sorry. Don't let me misspeak.
16 Your story is then you went to the store around 12:00
17 in order to get more lottery tickets?

18 **A** That's correct.

19 **Q** And why was it so important to get lottery tickets
20 that night? Why would the next morning not do?

21 **A** Well, I play the lottery -- I play the lottery a lot
22 and I like it. So it didn't matter what time that I
23 needed to buy them or that, you know, the store was
24 open. And, you know, I'd buy them.

25 **Q** And that night you mentioned something about y'all

1 hadn't won that day. That's why you needed more
2 lottery tickets?

3 **A** That's correct.

4 **Q** When you buy a lottery ticket, can you immediately
5 tell whether or not you've won?

6 **A** No. When you buy a lottery ticket, you have to
7 scratch it off to see that, see if you win or not.

8 **Q** So that's the reason you went to get the lottery
9 tickets that night?

10 **A** Yeah.

11 **Q** And you came back and Roberta was gone?

12 **A** That's correct.

13 **Q** But you all had been arguing that night?

14 **A** Roberta --

15 **Q** A verbal argument, right?

16 **A** Right.

17 **Q** And in that verbal argument --

18 **A** Not arguing. A disagreement.

19 **Q** Okay. I was just using your words. You said you'd
20 had a verbal argument with her that night. Or a
21 disagreement?

22 **A** Yeah.

23 **Q** What was it about?

24 **A** I can't remember exactly what it was about.

25 **Q** I want to put you on notice that I've talked to

1 Roberta.

2 **MR. O'NEIL:** Objection, Your Honor.

3 **MS. CAMPBELL:** I think I have to.

4 **THE COURT:** What's the objection?

5 **MR. O'NEIL:** It's improper for her to make
6 herself a witness.

7 **THE COURT:** All right. I'll sustain it. Just
8 disregard the last question.

9 **Q** Did you think Roberta was fooling around on you?

10 **A** No.

11 **Q** That wasn't what the argument was about?

12 **A** No, it was not.

13 **Q** Did you think Roberta was fooling around on you that
14 night?

15 **A** No, I didn't. No, I didn't.

16 **Q** However, you are telling this jury you had a verbal
17 argument or a disagreement with Roberta, you go to
18 the store, you come back, and she's gone?

19 **A** That's correct.

20 **Q** Was that unusual for Roberta to leave?

21 **A** No. She have left before.

22 **Q** And why was that, sir?

23 **MR. O'NEIL:** Objection, Your Honor.

24 **THE COURT:** Sustained.

25 **Q** It was not unusual for Roberta to leave?

1 **A** Well, yes. It was unusual for her to leave without
2 letting me know she was leaving.

3 **Q** Did you know she had called Debbie Ann and asked her
4 if she could go over? I believe you testified to
5 that?

6 **A** Yes. I did.

7 **Q** So you knew that Roberta was making arrangements to
8 spend the night somewhere else?

9 **A** At one point, yes. But after that was resolved by
10 the police officer and Debbie Ann calling back
11 telling her she couldn't come over, I didn't think
12 that she was going anywhere then.

13 **Q** And, in fact, you were so concerned when you got
14 back, even though Debbie Ann had spent the night out
15 before, that you called the police and the police
16 officer who knew y'all came by?

17 **A** That's correct.

18 **Q** What's his name?

19 **A** I can't remember.

20 **Q** And at that point you were so concerned that she had
21 been kidnapped, I believe was your testimony, that
22 you then filed a police report?

23 **A** I didn't.

24 **Q** You didn't. I'm sorry. I misunderstood.

25 **A** I told him. Whether he filed the police report or

1 not, I don't know.

2 Q And this was a police officer you knew?

3 A Yes.

4 Q But you don't know his name?

5 A I do not.

6 Q Or your doctor's name?

7 A I do not.

8 Q And he told you not to worry because Debbie Ann was
9 over at her cousin's house, because we had come when
10 you all had had the earlier argument?

11 A No. He did not. I did not. He did not tell me not
12 to worry because she was over to his cousin's house.
13 He told me not to worry because Debbie Ann was at a
14 friend's house.

15 Q A friend's house. Sorry. But she was not there.
16 She was somewhere else?

17 A No. Not somewhere else. At her friend's house.

18 Q And that's based on the advice he had given her
19 earlier?

20 A Repeat it?

21 Q That night you mentioned that you just stayed up all
22 night watching movies?

23 A That's correct.

24 Q And during the course of that you just happened to
25 get a phone call around 1:35 a.m.?

1 **A** That's correct.

2 **Q** And in that phone call, when you picked it up, who
3 was on the other line?

4 **A** No one.

5 **Q** So that wasn't the phone call where you heard sex
6 noises and it was Roberta?

7 **A** I never heard sex noises.

8 **Q** And I'll get to your statement later. And then the
9 next morning you moved your car around the back, but
10 you couldn't drive it, right?

11 **A** Repeat it?

12 **Q** You moved your car around to the back of the trailer
13 you said?

14 **A** No. I did not.

15 **Q** What did you do?

16 **A** That morning I moved my car from behind the trailer
17 out in the front area.

18 **Q** In the front area?

19 **A** Yes, I did.

20 **Q** But you couldn't drive it?

21 **A** I could have drove the car. I had to drive it from
22 the back of the house out into the front of the
23 house.

24 **Q** But didn't you mention that you couldn't drive to the
25 store because of your license situation?

1 **A** I said I wouldn't drive it because of my license.

2 **Q** And you mentioned that you got hurt on the job?

3 **A** That's correct.

4 **Q** Did you get a settlement in that case?

5 **A** Yes.

6 **Q** And was that settlement for \$4,000 or more?

7 **A** That's correct.

8 **Q** And, in fact, when you got that settlement, you gave
9 Roberta \$1,000?

10 **A** That's correct.

11 **Q** That morning when you dressed you put on that red and
12 white shirt, and you had on a brown colored jacket
13 over it?

14 **A** Repeat the question?

15 **Q** You put on this red shirt you testified?

16 **A** Yes, I did.

17 **Q** And then you put your brown jacket over it?

18 **A** That's correct.

19 **Q** And do you know what happened to your brown jacket?

20 **A** No, I do not know what happened to it.

21 **Q** Did you leave it at Debbie Ann's house?

22 **A** Apparently that must be where it's left at.

23 **Q** Along with the cap you were wearing that day?

24 **A** No. My cap wasn't with it.

25 **Q** And you testified on direct that you dressed and

1 everything, and you remember that?

2 **A** Getting dressed?

3 **Q** Yes, sir. You testified to it.

4 **A** That morning?

5 **Q** That morning.

6 **A** Yes, I do.

7 **Q** And then what's the next thing you remember?

8 **A** After I got dressed?

9 **Q** Yes, sir.

10 **A** I went outside and proceeded to clean up the

11 backyard. I moved my car up front, talking with her

12 brother and friend of mine.

13 **Q** And that's Roberta's brother?

14 **A** Yes. That's correct.

15 **Q** So you were still looking for Roberta?

16 **A** At that point, no.

17 **Q** No. And why did you get in contact with her brother

18 then?

19 **A** He was in the yard.

20 **Q** He was in the yard?

21 **A** (Nods head affirmatively).

22 **Q** Do you remember leaving the yard that day?

23 **A** No, I do not.

24 **Q** You mentioned that you didn't own a gun. That's your

25 testimony?

1 **A** That's correct.

2 **Q** And how did you come to have this gun on that day?

3 **A** I'm not sure that's the gun because I haven't seen
4 it -- I haven't seen it close up. But I do not know
5 how I came in contact with the gun, with a gun. Like
6 I say, I don't know if that's the gun or not. I
7 haven't seen it close up.

8 **Q** Do you want to see it?

9 **A** (Nods head affirmatively).

10 **Q** Let's not point it towards you. Do you recognize
11 that gun?

12 **A** I -- I really can't say that's it. But ...

13 **Q** When you say you can't say that's it, say that's it?

14 **A** I don't really recognize it.

15 **Q** You don't really recognize the gun?

16 **A** No.

17 **Q** So, at some point in this time period you don't
18 remember you -- and you do admit that you ended up
19 with a gun. You testified to that?

20 **A** That's correct.

21 **Q** And you just don't know if this is the gun you ended
22 up with?

23 **A** That's right.

24 **Q** So somehow at some point when you're blacking out you
25 end up with a gun?

- 1 **A** That appears that's what happened.
- 2 **Q** And the first time you really remember having that
- 3 gun is when you got to Debbie Ann's house?
- 4 **A** That's correct.
- 5 **Q** So you don't remember going up to Barry Taylor,
- 6 pointing a gun at him and demanding he get out of his
- 7 car?
- 8 **A** I did not go up to Barry Taylor, point no gun at him,
- 9 demand him to get out of any car.
- 10 **Q** You didn't do that or you don't remember?
- 11 **A** I did not do that.
- 12 **Q** You did not do that is your testimony now?
- 13 **A** That's correct.
- 14 **Q** Okay. And when you went to Wash World, do you
- 15 remember pointing the gun at Mr. Kelly?
- 16 **A** No, I do not remember pointing any gun at Mr. Kelly.
- 17 **Q** But you do remember telling him to get out of his car
- 18 and give him the car, give you the car?
- 19 **A** That's correct.
- 20 **Q** And he was kind enough to oblige you?
- 21 **A** That's correct.
- 22 **Q** But you didn't threaten him in any way or point a gun
- 23 at him to make him give you the car?
- 24 **A** Not that I remember.
- 25 **Q** And then you remember wrecking the car?

1 **A** Yes, I do.

2 **Q** And again, you don't remember, do you remember where
3 the gun was then?

4 **A** No, I do not.

5 **Q** But you were able to get out of the car at that
6 point. And do you remember going up to the car in
7 the parking lot?

8 **A** No, I do not.

9 **Q** Do you remember pointing the gun at Mr. Fleming?

10 **A** No, I do not.

11 **Q** And telling him to give you the car?

12 **A** No, I do not.

13 **Q** Do you remember going over to the white Tahoe where
14 the children were?

15 **A** No, I do not.

16 **Q** Do you remember going into the church?

17 **A** No, I do not.

18 **Q** Do you remember flagging down cars?

19 **A** No. I stood in the middle of the road trying to, you
20 know -- because they could have run over me.

21 **Q** Do you remember why you were standing in the middle
22 of the road?

23 **A** Well, yeah. I remember now why was standing in the
24 middle of the road. Because I had just wrecked the
25 car and I was -- I was on feet.

- 1 Q Do you remember why you needed the Kellys' car?
- 2 A No, I do not.
- 3 Q And as you are driving from Wash World down to
- 4 Cushman, do you remember why you were going in that
- 5 direction?
- 6 A No. At that time I do not.
- 7 Q Do you remember now?
- 8 A Yeah. I remember now.
- 9 Q Why were you going down there?
- 10 A Because I was apparently trying to get to Debbie
- 11 Ann's house.
- 12 Q And what were you looking for at Debbie Ann's house?
- 13 A Roberta.
- 14 Q You were standing in the middle of the road and the
- 15 Blue Ribbon cab stopped?
- 16 A That's correct.
- 17 Q And do you remember telling him to get out?
- 18 A That's correct.
- 19 Q And then you got in and then the girl in the back got
- 20 out?
- 21 A That's correct.
- 22 Q And they were kind enough, too, also to give you the
- 23 car?
- 24 A They were.
- 25 Q And at that point you didn't show them a gun or

1 anything?

2 **A** I can't remember showing them a gun.

3 **Q** And then you went down to Booth. That's your
4 testimony today.

5 **A** That's correct.

6 **Q** And at that point you were able to go up to the door,
7 and you saw Debbie Ann through the glass door, right?

8 **A** That's correct.

9 **Q** And then you heard somebody say what?

10 **A** I heard someone say, "Run. Go in the bedroom. Get
11 up under the bed."

12 **Q** And then you stuck I believe you say your arm in the
13 door or your foot?

14 **A** No. I was looking for the door handle when I --

15 **Q** You looked for the door handle?

16 **A** Mm-hmm (affirmative).

17 **Q** And you were able to get in?

18 **A** I opened the screen. It happened so fast. When I
19 opened the storm door and I proceeded to step inside,
20 that's when the front door came rushing up to me and
21 hit my foot, and I threw my hands up and it hit my
22 hands and it bounced back, and I stepped on in.

23 **Q** And then you were able to step in. And it was at
24 that point when you got in and you heard her saying,
25 "Run", that you realized you had a gun?

1 **A** No. I realized when I had a gun when I throwed my
2 hands up. I saw I had a gun in my hand then.

3 **Q** So at that point is the first time -- you've been
4 driving down the road, you've driven two different
5 cars; and this is the first point when you remember
6 having a gun?

7 **A** When I seen it, that's when I remember having a gun.

8 **Q** And then you --

9 **A** I had a gun in my hand.

10 **Q** You had a gun in your hand?

11 **A** Yeah. That's when I remembered I had a gun in my
12 hand.

13 **Q** And it was in your hand at that point?

14 **A** That's right.

15 **Q** And at that point you went inside. They were trying
16 to shut the door and you went inside?

17 **A** Kenyata was behind the door and she pushed the door
18 as I was stepping in and it hit my feet and caused me
19 to throw my hands up. And it bounced back and --

20 **Q** And then of course you let, I believe you said, the
21 children go. You told the children to leave. They
22 asked if they could leave and you said, "Sure you can
23 leave"?

24 **A** No. Kenyata asked could they leave.

25 **Q** And you said, "Of course they can leave"?

1 **A** I said, "You can leave if you want to", I said.

2 **Q** And then your testimony is at that point you're
3 inside. You're in there with Debbie Ann. Excuse me.
4 Kenyata runs out the door was the testimony. The
5 other children followed her out?

6 **A** That's correct.

7 **Q** And then you looked at Debbie Ann and said, "Where is
8 Roberta? She hasn't been home all night"?

9 **A** No. I didn't look at Debbie Ann and asked her where
10 was Roberta, because I had already asked Debbie Ann
11 that.

12 **Q** Did she tell you she didn't know where Roberta was?

13 **A** That's correct. I asked her to help call, help me
14 get in touch with Roberta and talk to her.

15 **Q** And then this is when things started going kind of
16 sour. That's when Debbie Ann saw a police car and
17 she shut the front door?

18 **A** That's correct.

19 **Q** And that's when she moved the chair or the couch in
20 front of the door?

21 **A** She started putting the chair up against the front
22 door and she asked me to help her.

23 **Q** Did you help her?

24 **A** Yes, I did.

25 **Q** And did you know why you were putting the chair up

1 against the front door?

2 **A** At that time, what she said, so they couldn't get in.
3 That's when that happened.

4 **Q** So you were helping her out?

5 **A** I was helping her do what she asked me.

6 **Q** And then an officer came and I believe you said
7 knocked on the door?

8 **A** That's correct.

9 **Q** She said, "Don't answer it"?

10 **A** That's correct.

11 **Q** And that was Debbie Ann again. And then I believe
12 you even laughed at this point. You said she got you
13 to help her move the freezer in front of the back
14 door?

15 **A** That's correct. We attempted to move the freezer in
16 front of -- we really couldn't. It was too big and
17 too heavy.

18 **Q** Did Debbie Ann tell you why she was barricading
19 herself in her home?

20 **A** No, she did not. She said she didn't want the police
21 to come in.

22 **Q** She didn't want the police to come in is your
23 testimony now?

24 **A** That's what -- that's what she told me, so they
25 couldn't come in.

1 Q After you put the freezer in front of the door, you
2 tried to call Roberta?

3 A I didn't put the freezer in front of the door.

4 Q After she put the freezer -- excuse me -- is your
5 testimony.

6 A After we tried to put the freezer --

7 Q After the freezer gets in front of the door. And
8 that's when she goes and gets you a 24-ounce beer?

9 A No. She did not go get me a 24-ounce beer.

10 Q Explain that to the jury, because that's what you
11 testified to.

12 A When we sit down and started talking, Debbie Ann had
13 a 24-ounce beer sitting on the stand by there. She
14 asked me did I want some. I said yes. She went in
15 the kitchen and got a glass. And she poured me about
16 I would say half of the 24-ounce beer in a glass.

17 Q And that was for you?

18 A That was for me.

19 Q And were you drinking the beer?

20 A Yeah. I sipped some of it. I didn't drink it all.

21 Q And at that point y'all sat down and talked. And you
22 told her about that Roberta was mad at you?

23 A Repeat the question?

24 Q You told her that Roberta was mad at you when you
25 told her what it was about?

1 **A** No. I don't think I told her Roberta was mad at me.
2 And I, you know --

3 **Q** But for some reason she told you -- and I wrote it
4 down -- that she should not have left you, that
5 Roberta was wrong?

6 **A** That's correct.

7 **Q** And that was in response to you telling her why
8 Roberta left you?

9 **A** That's correct.

10 **Q** And why did you tell her Roberta had left you?

11 **A** I said we had had a verbal argument.

12 **Q** But you don't remember what that argument was about?

13 **A** No. Not -- no, I don't.

14 **Q** And it wasn't because you thought Roberta was
15 cheating on you?

16 **A** Not now I don't remember. It wasn't because Roberta
17 was cheating on me. That's correct.

18 **Q** I'm not saying what she was doing. It's what you
19 thought. What did you think Roberta was doing to
20 you?

21 **A** I didn't think Roberta was doing anything to me.

22 **Q** So you don't remember what the argument was about?

23 **A** No, I do not.

24 **Q** Then the police surrounded y'all. And basically you
25 just did whatever Debbie Ann told you to do that

1 afternoon?

2 **A** Well, I was -- well, when she asked me, I didn't
3 object to her asking me as far as the freezer and
4 helping her with the chair. That's it.

5 **Q** And you testified at one point you shot into the
6 floor?

7 **A** That's correct.

8 **Q** And then you shot into the chair?

9 **A** That's correct.

10 **Q** Why?

11 **A** I wanted -- I was scared and I wanted for them to
12 know. Because I had just realized or discovered I
13 had a gun. And I -- and Debbie Ann was telling me
14 that they was going to kill me. And I wanted them to
15 know that I had it so, you know, they wouldn't kill
16 me.

17 **Q** So it was Debbie Ann's fault because she said they
18 were going to kill you?

19 **A** I don't understand the question.

20 **Q** Debbie Ann was the one that said that they were going
21 to kill you, and that's why you had to shoot into the
22 chair?

23 **A** No. That ain't why I had to shoot in the chair.

24 **Q** Okay. Well, why did you shoot in the chair?

25 **A** I shot in the chair to let them know that I had a

- 1 gun, the police know that I had a gun.
- 2 Q And you were scared of the police because of why?
- 3 A Why was I scared of the police?
- 4 Q Yes, sir.
- 5 A I didn't want them to kill me.
- 6 Q And why did you think the police were going to kill
- 7 you?
- 8 A I guess because I had a gun.
- 9 Q And if you put the gun down and went out unarmed like
- 10 they asked you to, did you think they would kill you?
- 11 A I thought so.
- 12 Q But you had called the police earlier the day before
- 13 or that day. So you trust the police, don't you?
- 14 A Yes. I trust the police.
- 15 Q And during the course of the afternoon you talked to
- 16 the police over and over and over?
- 17 A Well, hold on, Ms. Campbell. I hadn't called the
- 18 police that day.
- 19 Q Had you called them the day before? Or had the
- 20 police responded?
- 21 A Yes. That's what you're saying? Had I called them
- 22 that night?
- 23 Q That night before.
- 24 A Oh. Yes.
- 25 Q When you were so upset because Roberta may have been

1 kidnapped?

2 A That's correct.

3 Q So you trust the police. But this day when you
4 turned up with a gun at Debbie Ann's house and she
5 barricaded y'all in, you didn't trust them any more?

6 A I still trust the police. It's just that I didn't
7 want them to shoot me, because I had a gun.

8 Q Do you think the police always shoot people when they
9 have a gun if you unarm yourself?

10 A I would rather not answer that question because I
11 don't think it's fair to the officers that's in the
12 courtroom.

13 Q You stated that you talked to the police that
14 afternoon?

15 A Which afternoon?

16 Q That afternoon. During the course of the afternoon
17 while you're in the house. They called?

18 A That's correct. That's correct.

19 Q Y'all answered the phone. You talked to them?

20 A That's correct.

21 Q Did you tell them you were a victim?

22 A A victim?

23 Q Debbie Ann had barricaded you in and she wouldn't let
24 you out?

25 A Of course not. I didn't tell them that.

1 Q What did you tell them?

2 A I told them I wanted to talk with Roberta.

3 Q And, in fact, did you tell them you weren't letting
4 anybody out until you talked to Roberta?

5 A I did not tell them that.

6 Q Then at some point in the afternoon, Debbie Ann, just
7 the next thing you realize is she's unzipping your
8 pants?

9 A That's correct.

10 Q And starts touching you?

11 A Fondling me. Yeah. That's correct.

12 Q And then tells you she's heard about you?

13 A That's correct.

14 Q From Roberta?

15 A From Roberta.

16 Q And she, while the police were surrounding you, just
17 wants to experience that?

18 A Repeat the question?

19 Q What did she say?

20 A When she put her hand in my pants she said, "Roberta
21 had told me about how big you is." And I was in --
22 it shocked me. I was in shock, you know, honestly.
23 Because when she appeared before me she was naked.
24 She was doing what she was doing. So at that time I
25 wasn't thinking anything. I just -- all I knew, I

1 was just staring at her, you know. And so, that was
2 that. When I attempted to get up and I got as far as
3 my knees, and she turned around and backed up toward
4 me, still playing around with my private parts until
5 the projectile came through the kitchen window.

6 Q Okay.

7 A And that's when she jumped and turned me aloose
8 (sic). And I pulled my pants up. Well, they wasn't
9 really down, just unzipped and open.

10 Q And at some point that afternoon --

11 A I zipped them up.

12 Q -- she told you, she looked around and the place was
13 a mess. Is that right?

14 A No. The house wasn't a mess.

15 Q She said that they had damaged her house?

16 A That's correct. The window.

17 Q And who was she referring to?

18 A The police.

19 Q And at that point she had already made several phone
20 calls to the police telling them to back off, don't
21 be around my house?

22 A No. She wanted -- she called 911. She wanted the
23 police -- she told 911 she wanted them to leave out
24 from around her house.

25 Q And she made that phone call how many times? Do you

1 remember?

2 **A** Two, three times.

3 **Q** Two or three times? And do you remember if she told
4 the people, like Sheriff Lott and all those, that
5 that's what she wanted?

6 **A** No. I can't say whether it was Sheriff Lott or not.
7 I know she dialed 911. I do know that.

8 **Q** The police were calling you in there, talking to
9 y'all, right? On the phone?

10 **A** Yes, they were.

11 **Q** Did she tell them that when they called?

12 **A** No, she didn't. I don't -- I don't remember. I
13 can't remember her telling the people that were
14 calling that had talked to us. Yeah.

15 **Q** So she didn't tell those people that called over and
16 over and over that?

17 **A** I can't remember her telling them that.

18 **Q** But that's when she said that she was mad because
19 they had damaged her trailer; that's when she said
20 something about suing them?

21 **A** She asked me could she sue them for the damages.

22 **Q** And that's when you gave her that advice of saying,
23 well, why don't you say I had sex with you?

24 **A** Unfortunately, I didn't give her that advice. I told
25 her, I said -- I didn't tell her like that. I

1 told -- I -- I indicated to her where if she could
2 sue, that's probably what she would have to do.

3 Q You told her if y'all had sex, that's how you should
4 do it?

5 A Repeat the question?

6 Q You told her if she wanted to sue them she should
7 probably say that y'all had sex and that's how you
8 should do it?

9 A No, I did not.

10 Q Do you know why you testified to that before?

11 A I did not.

12 Q Okay.

13 A I explained to you just now, Ms. Campbell, that I --
14 when she asked me that, because she needed the money,
15 I explained to her, I said, "The only way you could
16 get money is probably tell the people that I did
17 everything and put me on it for it." I said, "You
18 probably could sue them then, Richland County or
19 something."

20 Q Specifically, as you testified on direct, you
21 mentioned that we had sex. That's what you testified
22 to?

23 A No. No, no. I did not.

24 Q Okay. And then the police turned off the power?

25 A That's correct.

1 Q And then the phone rang and you answered it and you
2 told them that you would come out in five minutes?

3 A That's correct.

4 Q And then you opened the curtains, you saw the red
5 lights, and you were going to go out but then they
6 came in before you could get out the door?

7 A That's correct.

8 Q And then somehow you end up back in that laundry room
9 area?

10 A No. I didn't end up back in the laundry area. When
11 I got off the phone -- and I never left the laundry
12 room area other than when I went up to the window and
13 when I went --

14 Q I was going to say, how did you open the curtains?

15 A Yeah. When I went up to the window and when I left
16 the window, I went back to the laundry room area, and
17 that's when the phone rang and I told them I would,
18 you know, come out in five minutes.

19 Q Okay. And then they took you out and they took you
20 down to the Sheriff's Department?

21 A That's correct.

22 Q And your testimony is you were confused and you were
23 disoriented because of the tear gas?

24 A That's correct.

25 Q So that they never gave you any treatment for it?

1 **A** That's correct.

2 **Q** Did you ask for treatment?

3 **A** Yes. At one point I think I did.

4 **Q** But they just said no way?

5 **A** No. They didn't say nothing.

6 **Q** Okay. And then you were met with Sergeant Barnes,
7 right? Do you remember him?

8 **A** That's correct.

9 **Q** And Investigator Thomas was there when you were
10 giving your statement?

11 **A** I don't remember him.

12 **Q** He wasn't there?

13 **A** I don't remember him being there.

14 **Q** Okay. And you talked to them for a while?

15 **A** I remember talking to Sergeant Barnes.

16 **Q** And you signed some papers. You don't know what they
17 were?

18 **A** That's correct.

19 **Q** And specifically, you signed twice on every page of
20 this four-page document which is your statement?

21 **A** That's incorrect.

22 **Q** You did not sign all eight times?

23 **A** I signed it, but that was not what I told the
24 investigator.

25 **Q** Okay. You signed it?