VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED
DEC 21 2016
S.C. SUPREME COURT

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

GREGORY QUINN GATHERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000993

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

TRIAL TRANSCRIPT 1

APPLICATION FOR POST-CONVICTION RELIEF 563

RETURN 570

POST-CONVICTION RELIEF HEARING TRANSCRIPT 575

ORDER OF DISMISSAL 606

INDICTMENT 613

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2010-GS-10-6287

THE STATE OF SOUTH CAROLINA)
)
VS.)
)
GREGORY GATHERS,)
)
DEFENDANT.)
)

JURY TRIAL

VOLUME 1 OF 4

held before the Honorable J.C. Nicholson, Jr.

Mia Perron, Circuit Court Reporter, 9th Judicial Circuit

in the Charleston County Courthouse

Charleston, South Carolina

on Monday, November 14, 2011, Commencing at 11:31 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

FORM C-100 • LASER REPORTERS PAPER & MFG. CO. 800-628-6313

APPEARANCES OF COUNSEL

FOR THE STATE:

E. Culver Kidd, Esquire
Adam D. Young, Esquire
Ninth Circuit Solicitor's Office
101 Meeting Street
Charleston, South Carolina 29401

FOR THE DEFENDANT:

Martha Kent Runey, Esquire
Ted Smith, Esquire
Charleston County Public Defender's Office
101 Meeting Street, Fifth Floor
Charleston, South Carolina 29402

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	6
JURY VOIR DIRE	8
STRIKING OF THE JURY	54
JACKSON V. DENNO HEARING	
Lewis Bazzle	
Direct Examination by Mr. Kidd	74
Cross-Examination by Ms. Runey	79
Justin C. Holt	
Direct Examination by Mr. Kidd	82
Cross-Examination by Ms. Runey	97
Redirect Examination by Mr. Kidd	103
Michael Cook	
Direct Examination by Mr. Kidd	105
Gregory Gathers	
Direct Examination by Ms. Runey	109
Cross-Examination by Mr. Kidd	111
OPENING STATEMENT BY MR. YOUNG	135
OPENING STATEMENT BY MS. RUNEY	142

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO PROCEEDINGS, continued

PAGE

WITNESSES FOR THE STATE

HARRY GATHERS, JR.

Direct Examination by Mr. Kidd 145

LEWIS BAZZLE

Direct Examination by Mr. Young 155

Cross-Examination by Ms. Runey 161

JUSTINE HOLT

Direct Examination by Mr. Kidd 162

CERTIFICATE OF COURT REPORTER 182

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO EXHIBITS

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 1 [Advice of Rights Form]	81 / 167
Defendant's Exhibit Number 2 [Photograph of Mr. Gathers]	101 /

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

PROCEEDINGS

THE COURT: All right. Solicitor Kidd, what I'm going to do is go on the record for a minute. This is State vs. Gathers --

Is that correct?

MR. KIDD: Gathers.

THE COURT: Gathers. Have you got an indictment?

MR. KIDD: Yes, sir. It's 2010-GS-10-6287.

THE COURT: All right. I understand that you have subpoenaed two individuals; is that correct?

MR. KIDD: That's correct, Your Honor.

THE COURT: And what are their names?

MR. KIDD: It is Ronald Jenkins, which is the defendant's brother. It's actually, I think, James Ronald Jenkins, which is the defendant's brother. He was served on November 3rd of this year -- and in this month -- at his address, which is [redacted] Lemix Street in Walterboro, South Carolina. The subpoena was left with his wife at his residence. We've since been advised by his family that he went to Atlanta a few days ago.

The other individual is Harry Gathers, which is the defendant's father. He was served in person near [redacted] Hazel Street in North Charleston.

THE COURT: Okay. And neither one of them have

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

contacted you today; is that correct?

MR. KIDD: That's correct. And we've attempted with all the phone numbers we have, and have had no response, and they have not appeared.

THE COURT: All right. So you're asking for a bench warrant; is that correct?

MR. KIDD: That's correct, Your Honor.

THE COURT: All right. I'll get the clerk to issue a bench warrant, whenever he gets here, for those two individuals.

MR. KIDD: Thank you, Your Honor.

THE COURT: Ms. Runey, do you have any objections to any of his voir dire questions?

MS. RUNEY: I don't. No, sir.

[Whereupon, the Court and law clerk confer]

THE COURT: Bring them on in.

[Off the record momentarily]

[Whereupon, the jury panel enters the courtroom at 11:49 a.m.]

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

JURY VOIR DIRE

THE COURT: All right. Ladies and gentlemen of the jury, I'm Judge J.C. Nicholson, Jr. I'm going to be holding general sessions this week, which is criminal court, and we're getting ready to draw a jury. The solicitor is going to call the case, then we're going to draw the jury.

Solicitor, if you'll call your case, please.

MR. KIDD: Yes, sir, Your Honor.

This is State vs. Gregory Gathers and it's indictment number 2010-GS-10-6287.

THE COURT: All right. Ladies and gentlemen of the jury, the solicitor has called the case of the State vs. Gregory Quinn Gathers, and he is charged with murder. It happened on or about June the 7th, 2010. This is the indictment. It's not evidence. It's merely the means by which the defendant is brought before the Court for trial.

In the criminal process, an arrest warrant is issued by the magistrate, based upon affidavits from whoever is filing the affidavit with the magistrate. An arrest warrant is issued, the person is arrested, and those arrest warrants are sent to the solicitor's office. An indictment is prepared, sent to the grand jury, and a true bill is returned by the grand jury.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

But it's merely the administrative process by which the defendant is brought to court. It's not evidence. It's not an indication of his guilt or his innocence. And you are not to consider it, in any fashion, as to evidence for or against the defendant or for or against the State of South Carolina.

Now, I'm going to start by calling out a list of names and I'm going to ask you the same question about each name I'm calling out. And there's approximately thirty names. I'm going to ask you if you're related by blood or marriage or do you have any contact with the individual, do you know the individual, and if you do know the individual, please stand when I call the name out.

The first name is Harry Gathers, Jr. Is anybody related by blood or marriage, does anybody know, Harry Gathers, Jr.? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is James Jenkins. Is anybody related by blood or marriage, does anybody know, James Jenkins? If so, please stand.

[Whereupon, there is no response]

THE COURT: And when I'm talking about marriage, I'm talking about past marriages, also. If you're divorced from any of these folks, we want to know it.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

The next name is Detective Sean Bauer, North Charleston Police Department. Is anybody related by blood or marriage, does anybody know, Sean Bauer? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Detective Michael Cook, North Charleston Police Department. Does anybody know Michael Cook? Anybody related by blood or marriage? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Justin Holt, North Charleston Police Department. Does anybody know Justin Holt or is anybody related to Justin Holt? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Sargent John Reynolds, North Charleston Police Department. Is anybody related by blood or marriage or does anybody know John Reynolds?

[Whereupon, there is no response]

THE COURT: The next name is Detective Sam Riedel, North Charleston Police Department. Does anybody know Sam Riedel or is anybody related by blood or marriage? If so, please stand.

THE COURT: Yes, sir. Your name?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. - 800-626-6313

MR. BUCHTA: Ron Buchta, number 49.

THE COURT: Do you know your number?

MR. BUCHTA: 49.

THE COURT: Thank you, sir.

Yes, sir. How do you know Mr. Sam Riedel?

MR. BUCHTA: Your Honor, I worked many cases with North Charleston police over the years. I was here. I don't recall the specific names, but I'm sure if I could see their face I could tell you if I worked with them or not individually.

THE COURT: All right. What kind of work did you do with them?

MR. BUCHTA: Special Agent with the FBI. I did bank robberies and other general criminal work, fugitive hunts, and that sort of thing.

THE COURT: Okay. Are you retired now, or are you still working?

MR. BUCHTA: No. I'm retired now.

THE COURT: Okay. So you would have to see them before you knew them?

MR. BUCHTA: Your Honor, it's been ten years. I'm sorry.

THE COURT: All right. Thank you so very much. You may have a seat.

MS. RUNEY: Judge, can we question this juror

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

about his interactions with North Charleston Police Department on cases? My concern is that --

THE COURT: I'll do that. If you'll remind me, I'll do that later on. Okay?

MS. RUNEY: Yes, sir. Thank you.

THE COURT: Let me go through this witness list and if you'll remind me, I'll do that at a later time. Okay?

MS. RUNEY: Yes, sir. Thank you.

THE CLERK OF COURT: Your Honor --

THE COURT: I see him.

Just keep your -- hang on a second.

[Whereupon, the Court reviews documents]

THE COURT: Yes, sir. Your name?

MR. GINYARD: Dennis Ginyard, juror 100.

THE COURT: Yes, sir, Mr. Ginyard?

MR. GINYARD: I know the defendant in this case, Your Honor.

THE COURT: Okay. You know Mr. Gathers?

MR. GINYARD: Yes, sir.

THE COURT: All right. Do you want to come around? The attorneys can join me up here.

And somebody turn off their phone, please.

[Whereupon, Mr. Ginyard comes forward]

THE COURT: Come around right here, Mr. Ginyard.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

How do you know him?

MR. GINYARD: We went to school together.

THE COURT: Pardon?

MR. GINYARD: We went to school together.

THE COURT: Where did you go to school?

MR. GINYARD: Ponds Wilson [phonetic] High School.

THE COURT: High school? How long --

MR. GINYARD: Ponds Wilson [phonetic]

THE COURT: How long ago did you graduate?

MR. GINYARD: '80. 1980.

THE COURT: 1980. So you graduated over twenty years ago?

MR. GINYARD: Yes, sir.

THE COURT: Have you seen him since then?

MR. GINYARD: Yes, sir.

As a matter of fact, when they were investigating the case, it's right up the street from my house.

THE COURT: So do you see him -- how often do you see him?

MR. GINYARD: It wasn't very often, but often enough.

THE COURT: How many times in a week do you see him?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. GINYARD: Probably twice a month.
THE COURT: Twice a month?
MR. GINYARD: Yes, sir.
THE COURT: Do you see him in just passing, or do you see him at a --
MR. GINYARD: Yeah.
THE COURT: -- social function, or what?
MR. GINYARD: Yeah, just passing.
THE COURT: He lives in the same neighborhood?
MR. GINYARD: Yes, sir.
THE COURT: All right. Would you classify him as a friend of yours, or an acquaintance, or how would you --
MR. GINYARD: Acquaintance.
THE COURT: -- classify him?
MR. GINYARD: Acquaintance, yes, sir.
THE COURT: Pardon?
MR. GINYARD: Acquaintance, associate.
THE COURT: Acquaintance.
Do you ever go out anywhere with him? Ever go eat with him?
MR. GINYARD: No, sir.
THE COURT: Ever go drinking with him?
MR. GINYARD: Well, we've been in areas together where we drunk and ate at the same place, but not as

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

going out together, no.

THE COURT: All right. Let me ask you this. How would this affect you if you were drawn for this -- chosen, for this jury? How would it affect you sitting on this jury because of your relationship with the defendant?

MR. GINYARD: I don't see it affecting me. I mean, I would hopefully give honest judgment if I could. I don't see --

THE COURT: You don't think it would have any affect on you at all?

MR. GINYARD: I'm sure it would, but depends --

THE COURT: Well, tell me how. That's what I need to know is how it's going to affect you.

MR. GINYARD: I don't know how it's going to affect me. This is the first time I've ever been in this situation, so I wouldn't know.

THE COURT: Well, do you think it would make you -- would you favor him, or disfavor him, or how do you feel towards him?

MR. GINYARD: I'm not sure.

THE COURT: Pardon?

MR. GINYARD: I'm not sure how I would go about it. I'm not sure.

THE COURT: Well, is he a friend of yours, or a

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

buddy of yours? Would you feel --

MR. GINYARD: Yes. Yes.

THE COURT: -- bad about it?

MR. GINYARD: Yes, of course.

THE COURT: Pardon?

MR. GINYARD: He is an associate of mine. Yes.

THE COURT: Would it cause you great difficulty in finding a guilty verdict against him or finding --

MR. GINYARD: Yeah. Yeah, I'm sure it would.

THE COURT: It would cause you a great deal --

MR. GINYARD: Yeah.

THE COURT: Would it cause you great difficulty to find him not guilty? That's what I need --

MR. GINYARD: Yes.

THE COURT: -- to know. How is --

MR. GINYARD: Yes.

THE COURT: -- its going to affect you?

MR. GINYARD: It's going to affect me either way, whether I find him guilty or not guilty. If I listen to the evidence, I'm going to have to be truthful about it, but it's going to affect me either way.

THE COURT: Well, do you think you can be fair?

MR. GINYARD: I think I can be fair, I hope I would be fair, but I'm only human. I don't know.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: What?

MR. GINYARD: I said I'm only human.

THE COURT: I know you're human. And we've all got our likes and dislikes and our fairness and our unfairness.

MR. GINYARD: I want to be fair. I hope I would be fair.

THE COURT: I know you hope. But the question is because of your relationship with him, would you be fair?

MR. GINYARD: I don't think this is a case I should be sitting on because of the relationship that we have.

THE COURT: So you don't think you could be fair?

MR. GINYARD: I believe I could be fair, but, I mean --

THE COURT: But you don't --

MR. GINYARD: -- in all due honesty --

THE COURT: -- think it's a case you need to sit on?

MR. GINYARD: Yes, sir.

THE COURT: Why not?

MR. GINYARD: Because it's too close of a relationship.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Too what?

MR. GINYARD: It's too close of a relationship.

THE COURT: Okay. Too close of a relationship.

MR. GINYARD: Yeah.

All right. Do y'all have any questions?

MR. KIDD: No, sir.

THE COURT: Do you have any questions?

MS. RUNEY: No, sir.

THE COURT: Go have a seat, if you would.

[Whereupon, Mr. Ginyard complies]

THE COURT: Any motions?

MS. RUNEY: No, sir.

MR. KIDD: We would ask to excuse the juror.

THE COURT: Have you got any argument?

MS. RUNEY: He said he could be fair.

THE COURT: Pardon?

MS. RUNEY: He said he could be fair.

THE COURT: He said he didn't need to be on it because of the relationship, so I'm going to excuse him for cause. Okay?

MS. RUNEY: Yes, sir.

THE COURT: All right.

MR. KIDD: Thank you, Judge.

[Whereupon, Mr. Ginyard, juror number 100, is excused for cause]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: My client told me -- my client says that he's having a hard time hearing. I don't know if there's any way we can turn up the mikes or anything.

THE COURT: I don't know.

THE CLERK OF COURT: I can't turn it up. It's about as loud as it will go.

MS. RUNEY: Okay. Thank you.

THE COURT: Okay. All right.

[Whereupon, the Court and the clerk of court confer]

THE COURT: The next name is Nicholas Batalis. He's an M.D. at MUSC. Does anybody know Dr. Batalis? Is there anybody related by blood or marriage? Does anybody know him? If so, please stand.

Is he a pathologist, solicitor?

MR. KIDD: He's a forensic pathologist. Yes, sir.

THE COURT: Okay. I won't ask anybody if they've been treated by him.

Does anybody know him? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is -- what's his -- have y'all got a first name for Bazzle?

MR. KIDD: He's in the hall. We'll check.

THE COURT: The next name is Alex Teachey, North

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Charleston Police Department. Anybody related by blood or marriage, or does anybody know Alex Teachey? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Laura Reynolds, North Charleston Police Department. Does anybody know Laura Reynolds? Is anybody related by blood or marriage? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Adrienne Hefney, South Carolina Law Enforcement, SLED. Anybody related by blood or marriage, or does anybody know Adrienne Hefney? If so, please stand.

[Whereupon, there is no response]

THE COURT: Yes, ma'am?

UNIDENTIFIED: Lewis.

THE COURT: Lewis?

UNIDENTIFIED: Yes, sir.

THE COURT: Does anybody know Officer Lewis Bazzle, North Charleston Police Department? Anybody related by blood or marriage? Does anybody know him? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Selena Kinard, SLED. Anybody related by blood or marriage, or does

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

anybody know Selena Kinard? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Doris Yarbrough of SLED. Anybody related by blood or marriage, or does anybody know Doris Yarbrough? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Pat Crooks, also works with SLED. Anybody know Pat Crooks, or is anybody related to Pat Crooks? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Nikki Perry-Hughes. Anybody related by blood or marriage or does anybody know Nikki Perry-Hughes, who also works for SLED?

[Whereupon, there is no response]

THE COURT: The next name is Amy Stephens, who works for SLED. Is anybody related by blood or marriage? Does anybody know Amy Stephens? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Sheree Brown, of SLED. Anybody related by blood or marriage? Does anybody know Sheree Brown? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Jan Bryson, works for SLED. Anybody related by blood or marriage, or

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

does anybody does Jan Bryson? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Sherry Niblock, who works for the solicitor's office here in Charleston. Anybody know -- Sherry Niblock. Anybody related by blood or marriage, please stand.

What's your name?

MS. UMBREIT: I just know her by work.

THE COURT: What's your name?

MS. UMBREIT: My name is Andrea Umbreit.

THE COURT: Do you know your number?

MS. UMBREIT: 270.

THE COURT: Yes, ma'am. How do you know her?

MS. UMBREIT: I am grants manager for the solicitor's office.

THE COURT: I'm sorry. What?

MS. UMBREIT: I'm grants manager for the solicitor's office.

THE COURT: Okay. And you know her at work?

MS. UMBREIT: Yes.

THE COURT: Okay. Do you want to come around, please, ma'am.

[Whereupon, Ms. Umbreit comes forward]

MR. KIDD: We don't mind excusing her.

THE COURT: I'm not going to put her on the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

jury.

MR. KIDD: I wouldn't want her on --

THE COURT: I'm going to excuse her for cause --

MR. KIDD: Yes, sir.

THE COURT: -- because she works at SLED [sic].

Is civil court going on? I mean, they should have just drawn her for civil.

MR. KIDD: I believe we do have civil.

THE CLERK OF COURT: Civil court is down for the day.

THE COURT: What?

THE CLERK OF COURT: Civil court is down for the day.

THE COURT: All right. As far as the criminal is concerned, I'm going to excuse you from --

MS. UMBREIT: I absolutely understand.

THE COURT: -- all the criminal court and tell somebody to just put you on the civil side. Okay?

MS. UMBREIT: Okay.

THE COURT: I appreciate you coming up here.

MS. UMBREIT: Thank you. I'm surprised I got this far.

[Whereupon, Ms. Umbreit, juror number 270, is excused for cause]

[Whereupon, the Court and the law clerk confer]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: The next name is Jennifer Stainbrook. Anybody related by blood or marriage or does anybody know Jennifer Stainbrook? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Monique Mounza -- Mouzon, North Charleston Police Department. Anybody related by blood or marriage to Monique Mouzon? Does anybody know her? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is James Walley, North Charleston Police Department. Anybody related by blood or marriage, or does anybody know James Walley? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Kimberly Breland. Anybody related by blood or marriage? Does anybody know Kimberly Breland? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Mary Gold Breland. Anybody know Mary Gold Breland? Is anybody related by blood or marriage? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Kelly Murphy, North Charleston Police Department. Does anybody know Kelly

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Murphy, or is anybody related to Kelly Murphy? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Candy Johnson, North Charleston Police Department. Does anybody know Candy Johnson? Is anybody related to Candy Johnson? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Matthew James Lawless, North Charleston Police Department. Is anybody related to Matthew Lawless, or does anybody know Matthew Lawless? If so, please stand.

[Whereupon, there is no response]

THE COURT: The next name is Tiffany Nevarez. Is anybody related by blood or marriage or does anybody know Tiffany Nevarez? If so, please stand.

[Whereupon, there is no response]

THE COURT: Mr. Gathers, if you'll stand and face the jury, please, sir.

[Whereupon, Mr. Gathers complies]

THE COURT: Thank you, Mr. Gathers. You may have a seat. Thank you very much.

[Whereupon, Mr. Gathers complies]

THE COURT: Does anybody know Gregory Quinn Gathers, or is anybody related by blood or marriage to

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Gregory Gathers? If so, please stand.

Yes, sir. I -- anybody else?

[Whereupon, there is no response]

THE COURT: Has anybody on the jury panel been a former law enforcement in any capacity, either presently or in the past? If so, please stand.

Yes, sir. Do you want to come around, if you would, Mr. Buchta. I believe juror number 49; is that correct?

MR. BUCHTA: Yes, sir.

[Whereupon, Mr. Buchta comes forward]

THE COURT: How long did you work with the local police department -- for various police departments?

MR. BUCHTA: Well, my whole thirty-five years I was with the Bureau. I was transferred here to Charleston in '97.

THE COURT: '97. So --

MR. BUCHTA: And I retired in '01.

THE COURT: So you worked here for four years?

MR. BUCHTA: Correct.

THE COURT: Okay. Four years.

Did you work as to any particular agencies, or all of them or --

MR. BUCHTA: All agencies --

THE COURT: All agencies.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

MR. BUCHTA: -- federal and city and state and SLED.

THE COURT: How about for the City of North Charleston?

MR. BUCHTA: I worked with them frequently because they were close to here at Charleston. We worked bank robberies, check frauds, stolen-car rings --

THE COURT: A little bit of everything?

MR. BUCHTA: -- fugitive work. Yes, sir.

THE COURT: A little bit of everything?

MR. BUCHTA: Yes, Your Honor.

THE COURT: How would that affect you sitting on this jury?

MR. BUCHTA: I know I would recognize somebody testifying. I mean, what can I say.

THE COURT: I understand. I mean, we've got enough of them, you're bound to recognize somebody. But my question is how is that going to affect you sitting on the jury.

MR. BUCHTA: Well --

THE COURT: Plus, how is it going to affect you with your long, lengthy career in law enforcement?

MR. BUCHTA: I haven't work with law enforcement in North Charleston. I know they're all very

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

upstanding, reputable personnel. I've never questioned anything that they've done in the past. That's not saying I couldn't be fair and impartial. But the cases I've worked with them, everything that they have done I have agreed with.

THE COURT: Okay.

MR. BUCHTA: I don't know if I need to say any more.

THE COURT: Got any questions?

MS. RUNEY: No, not for him.

THE COURT: Pardon?

MS. RUNEY: Not for him.

THE COURT: My concern is we all think we will be fair and impartial but at the same time our biases and our prejudices are formed with what happens to us in life, in relation to our jobs, and everything else. So my concern is whether or not you're going to be partial towards the State and not for the defendant in a criminal trial. And I don't know. Only you can answer that.

MR. BUCHTA: Right. And if everything were balanced, I would lean toward what I know.

THE COURT: Which is what?

MR. BUCHTA: Which is toward the law enforcement.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: I mean, I just --

MR. BUCHTA: I can't --

THE COURT: -- that would just be human nature. You can't undo what you've been doing for thirty-something years.

MR. BUCHTA: Well, and I agree. And I'm not going to -- I'm not going to stand here and tell you that it wouldn't at least weigh some in a balance situation. It would.

THE COURT: Well, I mean, I've always used the example I like the New York Yankees, I don't like Boston Red Socks. We've all got our prejudice, and that's just human nature. I like lawyers. I don't like to see the press bashing lawyers, you know. But that comes from my profession. And I think that's just human nature. And that's my concern putting you on the jury.

MR. BUCHTA: Okay. And I totally understand.

THE COURT: Do you have any comments you want to make? I'm not saying you're a bad person or anything. I've just got real reservations about it.

MR. BUCHTA: My only comment is is this is the first time in the forty years I've been going to jury duty that I've even gotten this far. Normally, I get pulled before this stage. And since I'm going to be

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

sixty-five next time, this is my last shot. But, hey, you know, that's the way it goes.

THE COURT: Well, I think you would do a fine job on the civil side. Okay?

MR. BUCHTA: All right, Judge.

THE COURT: I'm going to excuse you for cause --

MR. BUCHTA: All right. Thank you.

THE COURT: -- for criminal court. Okay?

MR. BUCHTA: Okay.

THE COURT: Thank you so very much.

MR. BUCHTA: Thank you, sir.

[Whereupon, Mr. Buchta, juror number 49, is excused for cause by the Court]

THE COURT: Yes, sir. Your name?

MR. KAMMEYER: Kurt Kammeyer, number 138.

THE COURT: Yes, sir?

MR. KAMMEYER: I think I'm acquaintances with one of the witness -- or with one of the officers. Excuse me.

THE COURT: Which one?

MR. KAMMEYER: Sean Bauer.

THE COURT: How do you know him?

MR. KAMMEYER: He is best friends of my fiancé that I'm being married to in three months.

THE COURT: So you know him through your fiancé?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. KAMMEYER: Yes, sir.

THE COURT: How often do you see him?

MR. KAMMEYER: I have seen him three times since --

THE COURT: Pardon?

MR. KAMMEYER: I've seen him three times in five months.

THE COURT: You've seen him three times since you've been engaged, or three times when -- since when?

MR. KAMMEYER: It's been three times in five months. I've been engaged for a little bit longer.

THE COURT: Okay. Would that cause you any difficulty in sitting on this jury?

MR. KAMMEYER: Yes, sir, it would.

THE COURT: Pardon?

MR. KAMMEYER: Yes, sir, it would.

THE COURT: It would? You don't think you could be fair on this jury?

MR. KAMMEYER: No, sir, I don't think I can be fair.

THE COURT: Okay. I'll excuse you. Thank you so very much.

[Whereupon, Mr. Kammeyer, juror number 138, is excused by the Court]

THE COURT: Is any member of the jury panel, or

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

close personal friends, or members of your family employed by law enforcement agencies? In other words, do you have any close friends or any member of your family that work with law enforcement? If so, please stand.

[Whereupon, there is no response]

THE COURT: Is any member of the jury panel, members of your family, or have close personal friends employed with anyone in the Charleston solicitor's office? If so, please stand.

Yes, ma'am. Your name?

MS. ELLIOTT: Laurie Elliott, juror number 79.

THE COURT: Yes, ma'am, Ms. Elliott. Who do you know in the solicitor's office?

MS. ELLIOTT: I just wanted -- my husband is a lawyer. He's currently in real-estate law, but as a law student he was employed by the solicitor's office.

THE COURT: How long ago?

MS. ELLIOTT: Roughly five, six years.

THE COURT: All right. Have you done any criminal practice since then?

MS. ELLIOTT: Has he?

THE COURT: Yeah.

MS. ELLIOTT: Not to my knowledge.

THE COURT: Okay. Would that cause you any

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

difficulty in sitting on this jury?

MS. ELLIOTT: No, sir.

THE COURT: Can you be fair and impartial to both the State and the defendant?

MS. ELLIOTT: Yes, sir.

THE COURT: Can you base your decision on the testimony here in the courtroom?

MS. ELLIOTT: Absolutely.

THE COURT: All right. Thank you, Ms. Elliott. Yes, ma'am? Your name?

MS. PORCHER: Pamela Porcher, and number 203.

THE COURT: What number?

MS. PORCHER: 203.

THE COURT: Thank you.

MS. PORCHER: I have a niece that works with the solicitor, Taneal Barron [honetic].

THE COURT: How long ago?

MS. PORCHER: She still works at the solicitor's office.

THE COURT: She works there now?

MS. PORCHER: Yes.

MS. RUNEY: She actually works for our office, Your Honor.

THE COURT: Okay.

MS. PORCHER: Public defender's office.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

THE COURT: Public defender's office.

MS. PORCHER: Something. Okay.

THE COURT: Pardon?

MS. PORCHER: Public defender.

THE COURT: Okay. What does she do in the public defender's office?

MS. PORCHER: She's a paralegal.

THE COURT: A paralegal? Okay. Is that your brother's daughter or your sister's daughter?

MS. PORCHER: My sister.

THE COURT: Your sister. How often do you see her?

MS. PORCHER: Every -- once a week, probably.

THE COURT: You see her once a week?

MS. PORCHER: Yes, sir.

THE COURT: All right. You want to come around up front, Ms. Porcher?

[Whereupon, Ms. Porcher comes forward]

THE COURT: How are you doing?

MS. PORCHER: All right. And you?

THE COURT: What kind of work do you do?

MS. PORCHER: I work with Charleston County EMS --

THE COURT: Oh. Okay. Well, that's good.

How would that affect you sitting on this jury

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

with your niece --

MS. PORCHER: It won't.

THE COURT: -- working in the public defender's office?

MS. PORCHER: It won't.

THE COURT: You don't think it would have any effect at all? She's a paralegal. Who does she work for in the public defender's office? Do you know? Do you know which lawyer, or does she work for a group of lawyers, or do you know?

MS. PORCHER: Group of lawyers.

THE COURT: A group of lawyers. Okay.

Does she ever discuss her work with you very often?

MS. PORCHER: No.

THE COURT: Y'all don't ever talk about it?

MS. PORCHER: No. She's -- she doesn't talk about her work.

THE COURT: Okay. And you don't think it would have an effect on you at all?

MS. PORCHER: No, sir.

THE COURT: You think you would be fair to both parties?

MS. PORCHER: Yes, sir.

THE COURT: Any questions from the State?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: No, sir.

THE COURT: Any from the defendant?

MS. RUNEY: No, sir.

THE COURT: Thank you so very much.

[Whereupon, Ms. Porcher returns to the audience]

THE COURT: Any motions?

MR. KIDD: No, sir.

THE COURT: Okay.

THE CLERK OF COURT: Another standing, Your Honor. There's someone else standing, Your Honor.

THE COURT: Yes, sir. Your name?

MR. HOATS: Tim Hoats.

THE COURT: Your number?

MR. HOATS: 126.

THE COURT: 26?

MR. HOATS: 126.

THE COURT: Okay. Yes, sir. Who do you know?

MR. HOATS: Eric Tyler. He's with the Charleston city police. Good friend of my son. Known him for years.

THE COURT: How would that affect you, Mr. Hoats, sitting on this jury?

MR. HOATS: It wouldn't.

THE COURT: Can you be fair to both the State and the defendant?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-526-6313

MR. HOATS: Absolutely. Yes, sir.

THE COURT: Can you base your decision on the testimony you hear in the courtroom?

MR. HOATS: Yes, sir.

THE COURT: Thank you, Mr. Hoats.

Yes, ma'am. Your name?

MS. EDWARDS: Laurie Edwards, number 78.

THE COURT: Yes, ma'am, Ms. Edwards.

MS. EDWARDS: I have an acquaintance, through my husband, that he's a detective in the police department.

THE COURT: An acquaintance?

MS. EDWARDS: An acquaintance.

THE COURT: Do you know who the detective -- do you know the detective's name?

MS. EDWARDS: Michael Taylor. He's in another state, Your Honor.

THE COURT: Okay. Would that cause you any difficulty in sitting on this jury?

MS. EDWARDS: No, sir.

THE COURT: Can you be fair to both the State and the defendant?

MS. EDWARDS: Yes, sir.

THE COURT: Can you base your decision on the testimony you hear in the courtroom?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. EDWARDS: Yes, sir.

THE COURT: All right. Thank you, Ms. Edwards.

Has any member of the jury panel, any of your close relatives or close personal friends, been a victim of a violent crime? If so, please stand.

Yes, ma'am. Your name?

MS. BISSELL: Lurens Bissell, number --

THE COURT: Do you know your number?

MS. BISSELL: 28.

THE COURT: I'm sorry. What?

MS. BISSELL: Number 28.

THE COURT: 28.

MS. BISSELL: I was robbed at gunpoint.

THE COURT: How long ago?

MS. BISSELL: About seven years.

THE COURT: Seven years ago. Was anybody ever arrested?

MS. BISSELL: No.

THE COURT: Pardon?

MS. BISSELL: No, sir.

THE COURT: Do you have any bias or prejudice towards the police department for not having arrested anybody?

MS. BISSELL: No.

THE COURT: Pardon?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. BISSELL: No, sir.

THE COURT: Do you have any bias or prejudice towards the system, in general, since no one was ever arrested?

MS. BISSELL: No, sir.

THE COURT: Would that cause you any difficulty sitting on this jury?

MS. BISSELL: I don't think so.

THE COURT: Can you be fair to both parties?

MS. BISSELL: [Indicates affirmatively]

THE COURT: Thank you very much, Ms. Bissell. Yes, ma'am. Your name?

MS. THOMAS: Chris Thomas, 266.

THE COURT: Yes, ma'am?

MS. THOMAS: I have a -- my sister was murdered twenty years ago.

THE COURT: Was it here in Charleston?

MS. THOMAS: No, it was not.

THE COURT: Whereabouts?

MS. THOMAS: In Kansas City, Missouri.

THE COURT: Were you involved in the -- was anyone prosecuted as a result of it?

MS. THOMAS: No. It was a lengthy investigation.

THE COURT: Was anyone ever arrested?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. THOMAS: No, sir.

THE COURT: So do you have any bias or prejudice as a result of that?

MS. THOMAS: No, sir.

THE COURT: Can you be fair to both parties in this case?

MS. THOMAS: Yes, sir.

THE COURT: Can you base your decision on the testimony you hear in the courtroom?

MS. THOMAS: Yes, sir.

THE COURT: Thank you so very much.

Yes, ma'am? Your name?

MS. HARTSOCK: Charlotte Hartsock. I'm juror number 120.

My sister was raped and stabbed in the leg in New Mexico.

THE COURT: In New Mexico?

MS. HARTSOCK: Yes.

THE COURT: How long -- how long ago?

MS. HARTSOCK: Sixteen years ago.

THE COURT: Were you -- was anybody ever arrested?

MS. HARTSOCK: Yes.

THE COURT: Were you involved in the prosecution of the arrest -- the person that was arrested?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. HARTSOCK: No.

THE COURT: Do you have any bias or prejudice as a result?

MS. HARTSOCK: In what way?

THE COURT: I don't know. You've got to tell me.

MS. HARTSOCK: Well, I've got strong thoughts about it.

THE COURT: Got what?

MS. HARTSOCK: I have strong thoughts about it. She was raped and stabbed. I mean, I don't know. Is that bias?

THE COURT: In that particular case. And my concern is how is that going to affect you in this case, if it is?

MS. HARTSOCK: I don't know.

THE COURT: Okay. You want come around and let's talk about it?

[Whereupon, Ms. Hartsock comes forward]

THE COURT: I'm sorry about your sister.

MS. HARTSOCK: Thank you. She's all right.

THE COURT: Is she doing better now?

MS. HARTSOCK: She's fine. I mean, you know --

THE COURT: Okay. That was a real tragedy.

MS. HARTSOCK: Thank you.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: I hope she's doing better.

MS. HARTSOCK: yeah.

THE COURT: My concern is how would it affect you in this particular trial. In other words, would you be biased or prejudiced towards defendants, in general, as a result of your sister's experience?

MS. HARTSOCK: Well, I don't know because I don't know the case.

THE COURT: I understand.

MS. HARTSOCK: I mean, I suppose if he did the same thing, then, you know, I might. I don't know.

THE COURT: I mean, I don't know --

MS. HARTSOCK: I haven't been in this situation. I don't know.

THE COURT: I understand. But you're in it today.

MS. HARTSOCK: Right. So I guess they can figure that out by asking me stuff. I don't know. I mean, I'll try to be, I mean, you know. But it's the way it is.

THE COURT: All right. When you said -- when you stood up, you said you had some strong feelings about your sister's case. What are those feelings?

MS. HARTSOCK: Well, she was raped and she was stabbed in the leg. And she's a veterinarian and they

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

came to where she was and tried to get her medicine. And, you know, anyway, that's all. You asked me and I'm telling you.

THE COURT: Do you feel like that the people got what they deserved that raped her?

MS. HARTSOCK: He did go to prison.

THE COURT: Well, do you think that was sufficient?

MS. HARTSOCK: Yeah.

THE COURT: What other strong feelings do you have about that case?

MS. HARTSOCK: Oh, just the unfortunateness of it. That's all. I mean, you know, nothing -- the system worked.

THE COURT: Any questions from the State?

MR. KIDD: Just that you could hear the evidence from both sides and be fair and impartial?

MS. HARTSOCK: Yes. Yeah.

THE COURT: Anything from the defendant?

MS. RUNEY: No questions.

THE COURT: You think you can be fair in this case?

MS. HARTSOCK: Yes.

THE COURT: Can you set aside what happened to your sister and listen to the testimony in this case?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. HARTSOCK: Yes.

THE COURT: And you can be fair?

MS. HARTSOCK: Yes.

THE COURT: And base your decision on what you hear in the courtroom?

MS. HARTSOCK: I would, Yes, sir.

THE COURT: Thank you so very much.

MS. HARTSOCK: Okay.

THE COURT: I appreciate it.

[Whereupon, Ms. Hartsock returns to the audience]

THE COURT: As I said earlier, this was an alleged murder on a Renee Navarez on June the 7th, 2010. Has anybody read anything in the paper, heard anything on TV, or heard anyone talking about this case, other than what I have told you here today in the courtroom? If so, please stand.

[Whereupon, there is no response]

THE COURT: Does any member of the jury panel know the victim in this case, Renee Navarez, or any member of her family? If so, please stand.

[Whereupon, there is no response]

THE COURT: Has any member of the jury panel formed an opinion about this case based upon what you have been told about the case this morning in the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

courtroom? If so, please stand.

[Whereupon, there is no response]

THE COURT: Is there anyone in the courtroom who believes that a defendant in South Carolina must prove his innocense? If so, please stand.

[Whereupon, there is no response]

THE COURT: Is there anyone in the jury panel that does not understand that the State has the burden of proof and must prove the defendant guilty beyond a reasonable doubt? If you do not understand that, please stand.

[Whereupon, there is no response]

THE COURT: Is anybody on the jury panel or a member of their immediate family a member affiliated with victim right's organizations, or organizations which promote law enforcement, such as Citizens Against Violent Crimes, CAVC, people against rape, PAR, or any other like organization? If so -- or MADD. If so, please stand.

Is any member of the jury panel a member --

Yes, ma'am. I'm sorry.

MS. THOMAS: I was involved with people against rape for twenty years.

THE COURT: You've been involved with them for twenty years or --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. THOMAS: I have.

THE COURT: Pardon?

MS. THOMAS: Yes.

THE COURT: Okay. Would that affect you in this particular case?

MS. THOMAS: No, I don't think so.

THE COURT: You think it would affect you in a rape case but not this case?

MS. THOMAS: I'm not -- I don't know, Your Honor.

THE COURT: Pardon?

MS. THOMAS: I don't know.

THE COURT: Okay. Can you be fair in this case?

MS. THOMAS: Yes, sir.

THE COURT: And what's your juror number?

MS. THOMAS: 266.

THE COURT: All right. Chris Thomas. Thank you, Ms. Thomas.

Solicitor, if you'll stand and introduce yourself.

MR. KIDD: Yes, sir.

Good afternoon. My name is Culver Kidd and I'm assistant solicitor with the ninth circuit solicitor's office. I work under Scarlett Wilson. Assisting me with this trial is Adam Young, also with the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

solicitor's office. And you might see Sherry Niblock, my investigator, coming in and out of the courtroom.

THE COURT: All right. Does any member of the jury panel have a close friend that works in the solicitor's office, or is anyone involved with the solicitor's office in this particular case? If so, please stand.

THE COURT: Ms. Runey, if you will stand and introduce yourself.

MS. RUNEY: Yes, sir.

My name is Martha Kent Runey. I'm the attorney for Gregory Gathers. And this is Ted Smith.

THE COURT: Is anybody close friends with Ted Smith or Martha Runey or anyone in the public defender's office? If so, please stand.

[Whereupon, there is no response]

THE COURT: Does any member of the jury panel, or a member of their family, have any criminal charges handled by the ninth circuit solicitor's office, which include Charleston and Berkeley County? If so, please stand.

[Whereupon, there is no response]

THE COURT: Has any member of the jury panel or a member of your immediate family been represented by members of the public defender's office? If so, please

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

stand.

[Whereupon, there is no response]

THE COURT: Have you or any member of your family, or household members, now or ever been connected with a member of the public defender's office or criminal defense attorney's office by blood or marriage or are they a close friend? If so, please stand.

[Whereupon, there is no response]

THE COURT: Does any member of the jury panel have any problem following the law as the judge cites it to you, even if you believe it's inappropriate or unfair? If you believe that, please stand.

[Whereupon, there is no response]

THE COURT: Has any member of the jury panel, your relatives, or close friends had any contact with law enforcement officials, which might taint your view of law enforcement? If so, please stand. In other words, has anybody had a bad experience in law enforcement to where they couldn't be fair? If so, please stand.

[Whereupon, there is no response]

THE COURT: Has any member of the jury panel had a family member or close friends who is incarcerated or has been incarcerated at a state or federal

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

penitentiary? In other words, do you know of anybody, close friends, that's been in jail? If so, please stand.

Yes, ma'am?

MS. THOMAS: I have had a family --

THE COURT: Your name?

MS. THOMAS: -- member --

THE COURT: Your name and --

MS. THOMAS: Thomas.

THE COURT: Your number?

MS. THOMAS: 266.

THE COURT: Thank you. Yes, ma'am, Ms. Thomas.

MS. THOMAS: Yes. I have had a close relative incarcerated.

THE COURT: Will that cause you any difficulty in sitting on this jury?

MS. THOMAS: No.

THE COURT: Okay. Thank you very much.

Yes, ma'am. Your name and number?

MS. BISSELL: Laurens Bissell, number 28.

I had an uncle that was in jail.

THE COURT: What was he in jail for?

MS. BISSELL: Murder.

THE COURT: Murder? Okay. How long ago?

MS. BISSELL: A long time ago. I would say more

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

than ten years.

THE COURT: Is he in jail still or --

MS. BISSELL: No. He is not living anymore.

THE COURT: Pardon?

MS. BISSELL: No. He is dead.

THE COURT: Oh, he's dead. Okay.

All right. Would that cause you any difficulty in sitting on this jury?

MS. BISSELL: I don't think so.

THE COURT: Okay. Thank you very much.

Yes, ma'am?

MS. BRISBANE: Lakeysha Brisbane, number 42.

My brother and --

THE COURT: Is he in jail now?

MS. BRISBANE: Yes.

THE COURT: What's he in jail for now?

MS. BRISBANE: Second degree burglary non-violent.

THE COURT: Okay. How long has he been in jail?

MS. BRISBANE: Last year.

THE COURT: Last year? Okay.

Do you have any bias or prejudice as a result of your brother going to jail?

MS. BRISBANE: Oh, no.

THE COURT: Are you mad at any police officers?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. BRISBANE: No, sir.

THE COURT: Okay. Can you be fair in this case?

MS. BRISBANE: Oh, yes.

THE COURT: Thank you very much.

Yes, ma'am?

MS. HERRON: Carolynn Herron, 124.

My brother was in prison for drugs, over twelve years ago, in Columbus, Georgia.

THE COURT: He's out now?

MS. HERRON: Yes.

THE COURT: Do you have any bias or prejudice as a result of that?

MS. HERRON: No, sir.

THE COURT: Can you be fair in this case?

MS. HERRON: Yes, sir.

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

Does any member of the jury panel have religious convictions, philosophical or moral beliefs or political orientations that would make it difficult for you to sit in judgment of another person or to follow the law as explained to you by the judge? If so, please stand.

[Whereupon, there is no response]

THE COURT: Does any member of the jury panel know of any reason, personal or otherwise, as to why

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

they cannot serve on this jury? If so, please stand.

[Whereupon, there is no response]

THE COURT: Is any member of the jury panel aware of any bias or prejudice towards either the State or the defendant in this case? If so, please stand.

[Whereupon, there is no response]

THE COURT: Is any member of the jury panel that would classify themselves as a CSI junkie? In other words, do you watch CSI all the time and believe everything that's on that television program? If so, please stand.

[Whereupon, there is no response]

THE COURT: Do you understand that CSI is Hollywood, it's make believe, it's not real life? If there's anybody that doesn't understand that, please stand.

In forty-five minutes they have a crime committed, they investigate it, arrest them, and convict them in forty-five minutes. Some of it is true, some of it is make believe. But it is Hollywood, it's not real life. If you don't understand that, please stand.

[Whereupon, there is no response]

THE COURT: Does any member of the jury panel know of any reason why they cannot give both the State

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

and defendant a fair and impartial trial? If so, please stand.

[Whereupon, there is no response]

THE COURT: Any further questions from the State?

MR. KIDD: No, Your Honor.

THE COURT: Any further questions from the defendant?

MS. RUNEY: No, Your Honor.

THE COURT: Thank you very much.

How long before we can --

THE CLERK OF COURT: Coming out right now.

THE COURT: Coming out right now?

THE CLERK OF COURT: Yes, sir.

THE COURT: How long do y'all need before you'll be ready to strike?

MR. KIDD: We're ready, Your Honor.

MS. RUNEY: We're ready.

THE COURT: If y'all are going to need some time -- I'll give you some time, if you need it.

MS. RUNEY: That would be good.

THE COURT: How much time do you need?

MS. RUNEY: Five minutes.

[Whereupon, a recess is taken from 12:34 p.m. to 12:44 p.m.]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

STRIKING OF THE JURY

THE COURT: Is the State ready to strike?

MR. KIDD: Yes, Your Honor.

THE COURT: Defense ready to strike?

MS. RUNEY: Yes, Your Honor.

THE COURT: Mr. Clerk, if you'll give us a jury, please, sir.

THE CLERK OF COURT: Ladies and gentlemen, if your name is called, please gather your belongings and come forward to the podium and you'll turn and face the parties once you get there.

Juror number 78, Laura Edwards.

[Whereupon, Ms. Edwards comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Edwards.

THE CLERK OF COURT: Ma'am, you may return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Edwards returns to the audience]

THE CLERK OF COURT: Juror number 215, Sandra Reiser.

[Whereupon, Ms. Reiser comes forward]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Ms. Riser.

THE CLERK OF COURT: Ma'am, if you'll -- if you'll make your way to the jury box. You've been selected as a juror --

MS. RISER: I need to get my things.

THE CLERK OF COURT: -- in the trial of this case.

If you'll please go grab that.

Please have your belongings before you come to the podium, please.

[Whereupon, Ms. Riser is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 203, Pamela L. Porcher.

[Whereupon, Ms. Porcher comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please excuse this juror.

THE CLERK OF COURT: Ma'am, if you'll please return to the audience. You've been excused from the trial of this case.

[Whereupon, Ms. Porcher returns to the audience]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE CLERK OF COURT: Juror number 112, Stephanie Guess.

[Whereupon, Ms. Guess comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: Please excuse this juror.

THE CLERK OF COURT: Ma'am, if you'll please return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Guess returns to the audience]

THE CLERK OF COURT: Juror number 126, Timothy Hoats.

[Whereupon, Mr. Hoats comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: Please seat Mr. Hoats.

THE CLERK OF COURT: Mr. Hoats, if you would please take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Mr. Hoats is seated in the jury box

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

as a juror]

THE CLERK OF COURT: Juror number 56, Diane Carr.

[Whereupon, Ms. Carr comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Carr.

THE CLERK OF COURT: Ms. Carr, if you'll please return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Carr returns to the audience]

THE CLERK OF COURT: Juror number 28, Laurens Bissell.

[Whereupon, Ms. Bissell comes forward]

THE CLERK OF COURT: What say ye for the defendant?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Bissell.

THE CLERK OF COURT: Ms. Bissell, if you would please return to the audience. You've been excused from the trial of this case.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, Ms. Bissell returns to the audience]

THE CLERK OF COURT: Juror number 279, Caleb Weakley.

[Whereupon, Mr. Weakley comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: Please excuse the juror.

THE CLERK OF COURT: Sir, if you would please return to your seat. You've been excused from the trial of this case.

[Whereupon, Mr. Weakley returns to the audience]

THE CLERK OF COURT: Juror number 128, Ann Hood.

[Whereupon, Ms. Hood comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Ms. Hood.

THE CLERK OF COURT: Ma'am, if you will please take your seat in the jury box. You've been selected as a juror in this case.

[Whereupon, Ms. Hood is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 85, Alexander

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Fisher.

[Whereupon, Ms. Fisher comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: Please seat Ms. Fisher.

THE CLERK OF COURT: Ms. Fisher, if you would please make your way to the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Fisher is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 136, Michael Jefferson.

[Whereupon, Mr. Jefferson comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Mr. Jefferson.

THE CLERK OF COURT: Mr. Jefferson, if you would please take your seat in the jury box. You've been selected as a juror in the trial of this case.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, Mr. Jefferson is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 180, Rogina Morgan.

[Whereupon, Ms. Morgan comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat the juror.

THE CLERK OF COURT: Ma'am, if you'll please make your seat -- take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Morgan is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 290, Matthew Willis.

[Whereupon, Mr. Willis comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Mr. Willis.

THE CLERK OF COURT: Sir, if you would take your

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Mr. Willis is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 25, Marie Bedard.

[Whereupon, Ms. Bedard comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Ms. Bedard.

THE CLERK OF COURT: Ma'am, if you would please take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Bedard is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 262, Amanda Taylor-Parsons.

[Whereupon, Ms. Taylor-Parsons comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Ms. Parsons.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE CLERK OF COURT: Ma'am, you may take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Taylor-Parsons is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 45, Jessica Brown.

[Whereupon, Ms. Brown comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Brown.

THE CLERK OF COURT: Ms. Brown, you may return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Brown returns to the audience]

THE CLERK OF COURT: Juror number 155, Jacquelin Lynn.

[Whereupon, Ms. Lynn comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

defendant?

MS. RUNEY: Please seat Ms. Lynn.

THE CLERK OF COURT: Ms. Lynn, if you'll please take a seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Lynn is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 120, Charlotte Hartscock.

[Whereupon, Ms. Hartscock comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Hartsock.

THE CLERK OF COURT: Ma'am, if you'll please return to your seat. You've been selected -- or excused from the trial of this case.

[Whereupon, Ms. Hartsock returns to the audience]

THE CLERK OF COURT: That's the fifth strike for the defense.

Juror number 202, Rosetta Polite.

[Whereupon, Ms. Polite comes forward]

THE CLERK OF COURT: What say ye for the State?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Ms. Polite.

THE CLERK OF COURT: Ma'am, if you would please take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Ms. Polite is seated in the jury box as a juror]

THE CLERK OF COURT: Juror number 94, Nathan Gabriel.

[Whereupon, Mr. Gabriel comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please present the juror.

THE CLERK OF COURT: What say ye for the defense?

MS. RUNEY: Please seat Mr. Gabriel.

THE CLERK OF COURT: Mr. Gabriel, if you'll please take your seat in the jury box. You've been selected as a juror in the trial of this case.

[Whereupon, Mr. Gabriel is seated in the jury box as a juror]

THE COURT: Two alternates.

THE CLERK OF COURT: Yes, sir.

Juror number 124, Carolynn Herron.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, Ms. Herron comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: Please excuse the juror.

THE CLERK OF COURT: Ma'am, if you would please return to your seat. You've been excused from the trial of this case.

The State has exhausted your strike.

[Whereupon, Ms. Herron returns to the audience]

THE CLERK OF COURT: Juror number 287, Joann Weiters.

[Whereupon, Ms. Weiters comes forward]

THE CLERK OF COURT: Any challenge from the State?

MR. KIDD: No challenge.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please excuse Ms. Weiters.

THE CLERK OF COURT: Ma'am, you may return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Weiters returns to the audience]

THE CLERK OF COURT: Juror number 5, Thomas Allenspach.

[Whereupon, Mr. Allenspach comes forward]

THE CLERK OF COURT: Any challenge from the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

State?

MR. KIDD: No challenge.

THE CLERK OF COURT: What say ye from the defendant?

MS. RUNEY: Please seat Mr. Allenspach.

THE CLERK OF COURT: Sir, if you would please take your seat in the jury box. You've been selected as an alternate in the trial of this case.

[Whereupon, Mr. Allenspach is seated in the jury box as an alternate juror]

THE CLERK OF COURT: Juror number 79, Laurie Elliott.

[Whereupon, Ms. Elliott comes forward]

THE CLERK OF COURT: Any challenge from the State?

MR. KIDD: No challenge.

THE CLERK OF COURT: For the defendant?

MS. RUNEY: Please excuse Ms. Elliott.

THE CLERK OF COURT: Ma'am, if you would return to your seat. You've been excused from the trial of this case.

[Whereupon, Ms. Elliott returns to the audience]

THE CLERK OF COURT: Juror number 237, Calvin Simmons.

[Whereupon, Mr. Simmons comes forward]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE CLERK OF COURT: What say ye for the State?

MR. KIDD: No challenge.

THE CLERK OF COURT: What say ye for the defendant?

MS. RUNEY: Please seat Mr. Simmons.

THE CLERK OF COURT: Sir, if you will please take your seat in the jury box. You've been selected as the second alternate in the trial of this case.

[Whereupon, Mr. Simmons is seated in the jury box as an alternate juror]

THE COURT: Do the rest of them call in?

THE CLERK OF COURT: Yes, sir. They're released for the remainder of the day and they should call the number tonight.

THE COURT: All right. Members of the jury panel, I'm going to have to -- I'm going to have to ask you to go to the jury room. Please don't discuss the case. I'll get you back very shortly. Please follow the bailiff. He'll show you where to go.

[Whereupon, the jury exits the courtroom at 12:57 p.m.]

THE COURT: All right. Any motions from the State on drawing the jury?

MR. KIDD: No, Your Honor.

THE COURT: Any from the defendant?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: No, sir.

THE COURT: Okay. The remaining members of the panel call in after six o'clock at the number -- is there anybody that doesn't have the number that you need to call -- and there will be a recorded message for you to follow. Just follow the instructions on the recorded message. Thank you so very much for being here.

[Whereupon, the jury panel exits the courtroom at 12:59 p.m.]

THE COURT: Let me see the lawyers up here for a second.

[Whereupon, an off-the-record bench conference is held]

THE COURT: Would you bring us the jury panel, please, ma'am.

THE BAILIFF: Yes, sir.

[Off the record momentarily]

[Whereupon, the jury enters the courtroom at 1:01 p.m.]

THE COURT: Let me see. Marie Bedard? I'm going to appoint you as forelady. If you'll swap. Come down here and sit in the front, please, ma'am.

Ms. Bedard, if you'll sit in that chair as forelady, and the two alternates will sit behind you.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Where everybody else sits, that's up to, you know, how you file into the courtroom.

I don't know how many people brought any computers with you today, or if you did not bring your computers. I don't want you to take your computer in the jury room. I don't want you using a computer during this trial to do any research on this case or anything about the case, either in the jury room or at home. I want you to base your decision on what you hear in the courtroom, not what you read in the paper or see on television or find on a website or, you know, research of this case.

And I believe the bailiffs will take your cell phones and they'll keep them for you outside the jury room. You won't take your cell phones in the jury room, also.

I'm going to ask you to leave the courtroom at this time, and the courthouse, and come back at three o'clock, because I have some motions that I need to hear before we can get started with the testimony.

The process we're going to be going through will be: after I hear the motions, you'll come back at three o'clock, we'll have opening statements. Both parties will make opening statements. And we'll start the trial. The State will call witnesses and then

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

after the State has called all of their witnesses, then the defense will have an opportunity to call witnesses if they so desire. And after all of the testimony has been taken, the attorneys will make closing arguments to you. After the closing arguments, I will charge you the law that's applicable in this particular case.

And during the trial you can plan on we'll start generally in the mornings at 9:30. We'll quit somewhere around one o'clock, or 12:00, 12:30. It depends on how the witness flow is going. We'll take an hour and a half at lunch, and we'll quit sometime between 5:00 and six o'clock in the evening, depending upon the time frame of the witness coming in and going. Some witnesses may be long and we may quit one day at 4:30. I don't know. The case probably should take approximately two to three days. I don't know how long it's going to take, but probably about three days. So for your frame of reference, those are the hours that we'll be operating.

Is there anybody that cannot be here in the mornings by 9:30? If you have some special problems, I can accommodate you and we can start later.

All right. Madam Forelady and members of the jury, if y'all will follow the bailiff. When you come to the courthouse at three o'clock, come straight to

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

the jury room. The bailiff will show you where to come to. If you'll follow the bailiff.

[Whereupon, the jury exits the courtroom at 12:57 p.m.]

THE COURT: All right. I believe you said we're going to have a Jackson v. Denno hearing on some confessions and a written confession; is that correct?

MR. KIDD: Yes, Your Honor.

THE COURT: All right. And we will adjourn until 2:30.

MR. KIDD: Thank you, Your Honor.

THE COURT: We'll start the hearing at that time.

[Off the record momentarily]

THE COURT: All right. We'll adjourn until 2:30.

[Whereupon, a recess is taken from 1:08 p.m. to 2:31 p.m.]

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

JACKSON V. DENNO HEARING

THE COURT: All right. I believe we need to do a hearing on the confession, I believe? Written confession?

MR. KIDD: That's correct, Your Honor.

THE COURT: All right. Be glad to hear you.

MR. KIDD: Thank you, Your Honor. The State calls Lewis Bazzle.

THE COURT: And I understand the defendant doesn't question whether or not the Miranda rights was given. It's just a question of whether or not the statement was voluntarily entered into, which would encompass the Miranda rights?

MS. RUNEY: Yes.

MR. KIDD: And I hope -- and I might have lacked a little clarity a moment ago. We have two statements. We have a written statement and we also have a very short one-, two-sentence statement made to officers when he was first taken into custody. So I think the hearing would encompass both of those and I think both the --

THE COURT: Well, let's just encompass the hearing, both of them, and instead of having two hearings let's just encompass both --

MR. KIDD: Correct.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: -- of them in one hearing.

MR. KIDD: Correct. That's what I was getting at, Your Honor.

THE COURT: Okay.

MR. KIDD: I just wanted to make you aware that we would be talking about two separate statements. The bulk of it is the written statement, but we also have a one-sentence statement when he was first taken into custody.

THE COURT: Okay. Call your first witness.

MR. KIDD: The State calls Lewis Bazzle.

[Whereupon, Mr. Bazzle comes forward]

THE CLERK OF COURT: If you'll place your left hand right here and raise your right hand.

[Whereupon, Mr. Bazzle is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you shall give the Court touching now on the matters before the Court shall be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I swear.

THE CLERK OF COURT: Thank you, sir. You may take your seat.

[Whereupon, Mr. Bazzle takes the witness stand]

THE CLERK OF COURT: Sir, if you would please

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-0313

state your first and last name, spelling your last for the record.

THE WITNESS: My name is Lewis Bazzle. The last name is B-A-Z-Z-L-E.

MR. KIDD: Good afternoon, Officer.

- - - - -

LEWIS BAZZLE,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the Court where you're employed.

A. I'm employed at the City of North Charleston Police Department.

Q. And how long have you been an officer there?

A. Currently, almost seven years. March will be seven years with North Charleston.

Q. And where do you -- what are your current duties with North Charleston?

A. I'm a patrol officer. I pretty much just handle calls for service and do private patrol throughout my areas.

Q. Back in June of 2010, were your duties the same?

A. Yes, they were.

Q. Do you remember getting involved in the case

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

against the defendant, Gregory Gathers?

A. I do.

Q. Can you tell the Court briefly what -- how you first became involved in this case?

A. Well, at the time, I was working my area when they give -- tone out a call for a -- I think it was an unknown situation and they said someone was possibly deceased, murder. At that time, the detectives were on scene handling the call and they put out a possible location where the suspect may be, which was in my area.

Q. And did you respond to that location?

A. I did. I responded to that location.

Q. And who was with you at the time?

A. At that time it was an Officer Fred Houtz [phonetic]. He responded with me. We also -- we worked the same area.

Q. Were you in the same car, or separate cars?

A. We were in separate vehicles.

Q. Separate vehicles.

And do you remember what location you responded to?

A. Well, it's directly on the corner of Gumwood. As soon as you get into the subdivision, it's 2010 Gumwood. It's an apartment complex.

Q. Is that in North Charleston?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, it is.

Q. What did you see when you arrived at that location?

A. When we arrived on scene of course, standard being a kind of a private call, we waited and went in together. And once on the scene, there was -- at the apartment, they gave the description of the suspect, and there was a gentleman matching the description at the top of the stairwell of the apartments.

Q. And so were you able to see him from your vehicle?

A. Once pulling up right in front -- in front of the apartments, approaching, pulling up, we could see him at the apartments.

Q. And what did you and Officer Houtz [phonetic] do at that point?

A. At that time we exited our vehicles to go up and make contact to identify who the person was.

Q. And what happened next? What did he say to you?

A. As we were walking up -- as we were walking up the stairwell, there's a little landing that goes up to some more apartments on the top floor. It's only a two-floor apartment levels. And at that time, he kind of started walking down and almost met us in the middle. And without -- we announced ourselves, officers of North

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

Charleston police. And before we could even finish, you know, really stating who we were, he said that, I am the person you're looking for, and explicitly he stated that, I F'd up.

Q. And what did y'all do after that?

A. Pretty much at that time he was detained. After detained, he kept mumbling, you know, I'm so sorry. He started crying; you know, it shouldn't have happened; it shouldn't have been this way.

And we -- at that point, Officer Houtz [phonetic] did Mirandize him and then we were walking him back down to the vehicles.

Q. Did you transport him over to North Charleston?

A. I did not.

Q. Did Officer Houtz [phonetic]?

A. Officer Houtz [phonetic] was the transport unit. He took him back to meet with detectives.

Q. And was that the end of your involvement in the case?

A. That was pretty much the end of my involvement.

The only thing that went from there was of course we just secured the residence and everyone exited and they -- the detectives later on secured a search warrant.

Q. Okay. Now I want to talk to you a little bit

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

about just his demeanor. Did he appear intoxicated to you?

A. He did not. He did not appear intoxicated. He seemed in his right frame of mind.

Q. Did you make any force or threats towards him --

A. There was --

Q. -- after he made those statements?

A. There was no threats, there was no resistance, there was no -- I mean, we had no issues.

Q. And were -- those brief statements that he made to you, were they in response to any questions that you asked?

A. They were not. Nobody questioned him on anything.

MR. KIDD: No further questions, Your Honor.

THE COURT: Cross-examination.

MS. RUNEY: Thank you, Your Honor.

Good afternoon, Officer Bazzle.

THE WITNESS: Good morning, afternoon.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

CROSS-EXAMINATION

BY MS. RUNEY:

Q. You said that when you encountered Mr. Gathers, he was crying?

A. In the beginning, no, but as we approached him and announced who we were and after -- pretty much I think after cuffs had been placed on him, he started to cry or weep a little bit.

Q. So he cooperated with you and met you in the landing of the stairwell?

A. Yes. He was cooperative.

Q. And I believe you testified on direct that he was mumbling?

A. Yeah.

He -- I mean, half the stuff I -- some of the stuff I couldn't understand what he was saying. But, you know, he -- it was just pretty much as if a child was crying and mumbling things in the background, something that you couldn't really tell he was saying.

Q. Then he had a pat-down?

A. Yeah.

Q. Were his eyes bloodshot?

A. His eyes were a little red, but not to the point of, you know, someone that I deal with everyday that's totally intoxicated.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Did he continue to cry as you put him in the police car?

A. It wasn't all-out tears. You know, he was just weeping a little bit, not --

Q. And mumbling?

A. Mumbling, yeah.

Q. And he said to you, I'm the person you're looking for?

A. Correct.

MS. RUNEY: That's all I have. Thank you.

MR. KIDD: No further questions for this witness.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Bazzle is excused and exits the witness stand]

MR. KIDD: State calls Justin Corey Holt.

[Whereupon, Mr. Holt comes forward]

THE CLERK OF COURT: Left hand here. Raise your right hand.

[Whereupon, Mr. Holt is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you will give the Court, touching now on the matters now before the Court, will be the truth, the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes, sir.

THE CLERK OF COURT: Thank you, sir. Take your seat.

[Whereupon, Mr. Holt takes the witness stand]

THE CLERK OF COURT: Sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Justin Holt. H-O-L-T.

MR. KIDD: Good afternoon. Is it Detective Holt?

THE WITNESS: Yes.

MR. KIDD: Good afternoon.

Judge, may I approach the court reporter?

THE COURT: Yes, sir.

MR. KIDD: State's 1.

[Whereupon, State's Exhibit Number 1 is marked by the court reporter]

MR. KIDD: Thank you.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

JUSTIN C. HOLT,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Detective Holt, could you tell the Court where it is you're employed?

A. The City of North Charleston.

Q. And how long have you been employed there?

A. A little over eight years.

Q. Back in June of 2010, were you also employed with the City of North Charleston?

A. Yes.

Q. What were your duties with North Charleston then, back at that time?

A. At that time I was a property detective.

Q. Do you remember getting involved in the case against Gregory Gathers?

A. Yes.

Q. How did you first get involved in this case?

A. I initially heard the call go out over the north channel from North Charleston dispatch, and I was on my way to work and I just happened to be right there when the call went out.

Q. So did you respond to the crime scene?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. Yes.

Q. Okay. And how long were you at the crime scene?

A. Approximately forty-five minutes. Thirty, forty-five minutes.

Q. And where did you go after that?

A. Straight to the North Charleston Police Department headquarters.

Q. And why did you go to headquarters?

A. For an interview with the --

Q. An interview? They had Mr. Gathers in custody at that point?

A. Yes.

Q. Do you remember approximately what time in the morning that was?

A. I believe we began the interview at 10:40, 10:45.

Q. Okay. Detective Holt, I want to show you what's been marked as State's Exhibit Number 1. Do you recognize that?

A. Yes.

Q. What is -- what is that document that I just handed you?

A. This is the advice of constitutional rights.

Q. And is that the rights that you went over with Mr. Gathers?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, it is.
Q. And did he sign that advice of rights form?
A. Yes, he did.
MR. KIDD: Can I --
Q. [Mr. Kidd] So I just want to go through the information on the form with you. The first is --
And did you fill out this form, or did he write it?
A. The top portion, I filled it out.
Q. So you filled out his personal information there?
A. Yes.
Q. Okay. And did you get the information from him?
A. Yes.
Q. Okay. So like where it says date of birth, did you ask him his date of birth?
A. Yes.
Q. And what was his date of birth?
A. It was [redacted]/1963.
Q. And there's a section there where it says diploma/GED/or grade completed, and age. You asked him all those questions and he gave you the answers?
A. Correct.
Q. And what were those answer? Age?
A. Forty-seven years old.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Grade completed in school?
A. Twelfth grade.
Q. And diploma/GED?
A. Diploma.
Q. So to you, that means he graduated from high school?
A. Yes.
Q. Okay. And then it says, I, Gregory Gathers, have been advised by Detective J.C. Holt of the North Charleston Police Department. And you filled out that information?
A. Yes.
Q. Those two blanks with his name and your name; right?
A. Correct.
Q. And then it lists a number of rights. The first one -- and when you're going over this form with him, are you reading it to him or did you have him read it? How do you do that?
A. I turn it around so it's facing -- it would be facing him and I read it upside down to him.
Q. So it would --
A. So he reads along as I'm reading it out loud.
Q. So it's right-side-up to him and then you're reading it out loud to him, too?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Correct.

Q. Okay. So when you get to the first paragraph -- or the first line that says, I have the absolute right to remain silent, do not have to answer any questions or give any statement, and this fact cannot be used against me.

So you read that statement to him?

A. Yes.

Q. And then there's initials right there next to the line. It looks like a G.G. Did you write those initials?

A. No, I did not.

Q. Who put those initials there?

A. Mr. Gathers.

Q. And did you -- what did you tell him when you were asked to initial those lines?

A. I asked him if he understood what I just read to him.

Q. And if he understood those, to put his initials in that blank?

A. Correct.

Q. And that's what he did?

A. Yes.

Q. And the next line: if I do -- if I do answer any -- I can't read. If I do answer questions or give a statement, anything I say can and will be used against me

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

in a court of law.

And then he initials that line, also?

A. Correct.

Q. And then the next line: I have the right to consult with the lawyer of my choice before I answer any questions or give a statement and also have him/her present while I'm being questioned.

And he initials that line, also?

A. Yes.

Q. If I wish to talk to a lawyer and have him or her present but I'm unable to afford to hire a lawyer, one will be appointed to me to represent me free of charge.

He initialed that line?

A. Yes.

Q. If I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent.

And he initialed that line?

A. Yes.

Q. And then under that it says: I fully understand each of these rights explained to me.

And then we have two witness lines. Do you sign one of those witness lines?

A. Yes. My signature is the top signature.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And who's the other witness on there?
A. It would be Detective Cook.
Q. Detective Cook.
And then it has a signature on it. And it looks like Gregory Gathers' signature; is that correct?
A. Yes.
Q. And that's the defendant's signature?
A. Yes.
Q. And he signed -- he signed that advisement of rights form at the bottom there?
A. Yes.
Q. And this form was administered to him prior to giving a statement to you?
A. Correct.
Q. And then at the bottom of the form it says having these rights in mind, I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to cause me to waive these rights and/or answer questions.
And, again, it has two witness lines with your signature and Detective Cook's signature again?
A. Correct.
Q. And then it also has Mr. Gathers' signature again; is that right?
A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Which he signed there?
A. Yes.
Q. And then it has the date and the time. And what's that date and time?
A. 6/7/2010 at 10:45 a.m.
Q. And so June 7th, 2010, at 10:34 in the morning?
A. Yes.
Q. All right. And then after the advisement of his rights, did you -- what was Mr. Gathers's demeanor like during -- while he was giving his statement and being advised of his rights?
A. He was visibly upset.
Q. How did you know he was upset?
A. He was crying and just kept repeating, I'm sorry, I'm sorry.
Q. And was there a point in time where he was reluctant to speak with you at all?
A. Initially he wanted to know if the victim was deceased or not and he -- that's the only thing he would keep asking us, over and over and over, before we were able to talk to him.
Q. And is there a reason why you kind of were hesitant to begin speaking with him first?
A. I'm not sure I understand.
Q. Well, I guess -- did you want to administer

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

this advisement of rights and things like -- get things like -- procedural things like that out of the way before you --

A. Yes. Correct.

Q. And you made sure to do that?

A. Yes.

Q. Okay. And his statement is a typewritten statement?

A. Correct.

Q. He didn't type this statement, did he?

A. No. I did.

Q. You typed the statement.

Did you have a typewriter or a computer in the interview room?

A. A laptop.

Q. A laptop.

Was he in handcuffs at this time?

A. Yes. One of his hands was handcuffed.

Q. One of his hands was handcuffed?

A. To the chair.

Q. And where were y'all located?

A. In the North Charleston Police Department in the detective bureau.

Q. In the detective bureau?

A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Is that a big room or a small room or --
A. It's a small room.
Q. Like a -- an interview room. It was an interview room?
A. Yeah.
Q. What do you think? ten-by-ten? six-by-eight?
A. Something like that.
Q. Something like that.
Was he -- did he have -- was he sitting in a chair?
A. Yes.
Q. Okay. Had a table in front of him?
A. Yes.
Q. Was he provided with an opportunity to use the restroom if he needed to?
A. Yes.
Q. Did he actually take advantage of that?
A. He did.
Q. Did you give him anything to drink? Water or anything like that?
A. It would have been offered to him. I don't recall if we provided him with any water.
Q. At any point in time, did he ever ask you for an attorney?
A. No.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

Q. Or that he needed to speak with an attorney?
A. No.
Q. Did he ever hesitate in providing you what -- his statement or information? Did he ever act like he didn't want to give it?
A. No, not at all.
Q. Was he able to answer all your questions intelligently?
A. Yes.
Q. Was he making any remarks that seemed off the wall or didn't -- irrelevant or didn't have to do with the situation he was in?
A. Not at all.
Q. What -- did he appear intoxicated to you?
A. No.
Q. Was he -- you said he was physically upset. How was he -- how was he acting?
A. I mean, he was just, you know, shaking, crying. You know, just, I'm sorry, I'm sorry, over and over again. Just, you know, you could tell that he was upset with the events that had taken place.
Q. Okay. And then we have his statement. When you're writing these statements, do you do them verbatim as he -- the words come out of his mouth?
A. Exactly what he says, I type.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. So when we go through his statement and it says Detective J.C. Holt typed this statement for me, as I told him, at my request so he -- as opposed to handwriting his own statement, he had asked that you do it in this format?

A. Correct.

Q. And then you have his information. It says he was employed at Zeb's Quality Cleaning Services. Is that information that he provided you?

A. Yes.

Q. And his statement says: we was smoking crack cocaine and it was about four or five times. She stole $400 from me and all I did was beat her up. Oh, Lord, I am so sorry. We were smoking and having sex and she stole my money and that why.

And then you began a question-and-answer format. It says, the following question-and-answer was asked and typed by Detective J.C. Holt and answered by Gregory Gathers. What time did all this begin. About 12:00 last night. I didn't mean -- I'm sorry. Question: do you know the female's name. Answer: she told me; I forgot. Question: was this the first time that you had met her. Answer: yes, sir. Question: how did you meet her. Answer: at one of the bus stops I was walking up and she stopped me. Question: what bus stop. Answer: the one on Montague and Gainer. Question: was there anyone else

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

with you and her. Answer: no, sir. I'm sorry. I'm sorry. I didn't mean to kill her. Question: did you go back to her house on Gainer Avenue. Answer: yes, sir. Question: have you ever been at the residence before. Answer: no, sir.

Instead of me reading through this entire statement, is this -- how the statement continues, that's exactly how the conversation between you and Mr. Gathers went?

A. Yes.

Q. And in that statement he describes the situation when she -- he believed that she stole money from him and he says that he punched her three or four times, drug her down a hallway, and punched her a few more times, a knife was involved, says he doesn't remember stabbing her.

Is that kind of the gist of what his statement was?

A. Yes.

Q. And the entire statement -- and for -- we're not going to go through it verbatim -- is exactly how your conversation went with Mr. Gathers?

A. Yes.

Q. And on the bottom of each page, once again there's two witness lines. Whose signatures were those again?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Those were mine and Detective Bauer.

Q. Detective Bauer?

A. Correct.

Q. And also there's a signature line on the bottom of each page where Mr. Gathers signed it?

A. Yes.

Q. And he would have signed that after you would have printed up his statement?

A. That is correct.

After the statement is printed, I gave him a copy for him to read before we put any signatures on it. Just asked him to go through it, make sure that there was nothing in here that was wrong, this is what he wanted the statement to be.

He went through it, read it, said everything was correct, signed his name, and then I signed my name, and then Detective Bauer signed his on each one of the pages.

Q. At the bottom of each page?

A. Yes, sir.

Q. Did you ever threaten Mr. Gathers into making this statement to you?

A. No, not at all.

Q. Did you use any force or coercion to get him to make this statement to you?

A. No.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. By giving him the information that Ms. Nevarez had deceased, was that used in a way to coerce his statement at all?

A. No, not at all.

Q. And from beginning to end, how long were you and Mr. Gathers in the interview room, approximately?

A. From 10:45 until I believe it was 12:45.

Q. So approximately two hours?

A. Yes.

Q. Were his eyes bloodshot to you?

A. Possibly. But, again, he was crying.

Q. And crying can cause someone's eyes to be bloodshot?

A. [Indicates affirmatively]

Q. And he was -- did he tell you he was able to read and write?

A. Yes.

Q. And he had a highschool diploma?

A. Yes.

Q. Forty-seven years old.

And did you believe that he understood the rights as you read them to him?

A. Yes.

Q. Did it appear to be like he was giving that statement voluntarily?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, it did.

MR. KIDD: The Court's indulgence for one moment, please.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] You didn't make any promises to him in exchange for his statement?

A. No.

MR. KIDD: No further questions.

THE COURT: Cross-examination.

MS. RUNEY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Detective Holt, you advised Mr. Gathers of his Miranda rights at 10:40. And that's a.m.; correct?

A. Yes.

Q. And did you ask -- did you immediately tell him that we were -- that you were going to do a written statement on your laptop, or did you have him talk first? talk to you first?

A. Initially -- it was after we got his Miranda rights done, like he was, you know, upset. And we let him calm down. And there wasn't any interaction between us. It was let him -- because, I mean, he was crying and so we let him, you know, take a moment to compose himself. And then that's when I had the laptop out and we began.

FORM C-100 - LASER. REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And he sat there and cried for at least five minutes?

A. I would say probably five minutes.

Q. And so you didn't have -- I guess what I'm asking you is you didn't have him give a verbal statement before you got on the laptop and typed it?

A. I don't believe so.

Q. This all happened at the same time?

A. Yes.

Q. So when you were on your laptop and he started to talk to you, he told you that he had been smoking crack cocaine with Ms. Nevarez?

A. Yes.

Q. And did you stop him at that point and ask him how much cocaine he had had?

A. From the first part -- are you talking -- are you on the statement part?

Q. I am.

A. Where it says we was smoking crack cocaine and it was about four or five times? Is that what you're asking?

Q. That's what I'm asking. Did you stop him and ask him how much cocaine he had consumed?

A. I typed what he told me.

Q. And you continued with the interview?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes.

After he told me that, then that's when I switched to the question and answer, because he was still, you know, upset. So I decided to do the question and answer instead of just typing out the statement.

Q. He was still crying?

A. Yes.

Q. And so at that time, you asked him what time all of this began?

A. Yes.

Q. And he told you that it started about 12:00 last night?

A. Yes.

Q. So you're speaking to Mr. Gathers at 10:45 on the morning of the 8th? Or the 7th.

A. 7th. Yeah, the 7th.

Q. So on that same day is what he's referring to in that first question?

A. Yes.

Q. 12:00 last night is the 7th?

A. Yes.

Q. So hours before?

A. Yes.

Q. So at that point, it's your understanding that Mr. Gathers and Ms. Nevarez had started smoking crack at

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

12:00 that night?

A. Yes.

Q. And they had smoked four to five times together?

A. Yes.

Q. At that time, did you find out how much crack they had smoked?

A. No. Four to five times. Like quantity? No.

Q. Quantity.

But smoking four to five times can be a substantial amount of crack cocaine?

A. It depends on what they're smoking. I don't know the quantity that they were --

Q. Even if it was small amounts, four to five times could be significant?

A. Possibly.

Q. Especially over several hours? A pretty short time frame.

A. Yes.

Q. And you had been to Gainer Avenue, the scene?

A. Yes.

Q. And had you seen where they had smoked this crack?

A. No.

Q. Did you ever check Mr. Gathers for drugs?

A. No.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

Q. And did you ask him if he was a regular drug user?

A. I don't believe so.

Q. When you read this Miranda form to him and had him initial and sign it, did you ask him if he had used any alcohol?

A. No, I don't believe so.

Q. And had you asked him about any drug use at that time?

A. No, I don't believe so.

MS. RUNEY: Your Honor, may I approach the court reporter?

THE COURT: Yes, ma'am.

MS. RUNEY: I would like to have this marked just for identification.

[Defendant's Exhibit Number 2 is marked by the court reporter]

Q. [Ms. Runey] Detective Holt, I'm going to hand you a picture. If you could tell me what that is a picture of.

A. Mr. Gathers.

Q. And is that how Mr. Gathers looked that day?

A. Yes.

Q. His eyes were bloodshot --

A. I would say --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Did they appear blood --
A. Yes.
Q. And he was crying?
A. Yes.
Q. And you said on your direct testimony that he kept muttering?
A. Mumbling.
Q. And he was saying, is she dead, is she dead, is she dead?
A. Yes.
Q. And then I believe you said that he broke down and was crying?
A. Yes.
Q. And that's why you had to stop the interview?
A. Yes.
Q. And when you finally got him to talk to you again, when he starts this written statement --
A. Let me -- that was when I did the Miranda rights. Between the Miranda rights and the statement.
Q. Right.
And so then he is going to give you this statement?
A. Yes.
Q. And he blurts out what happened --
A. Uh-huh.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. -- very quickly?

And that's when you start typing it?

A. Yes.

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

Q. [Ms. Runey] How long is the statement that Mr. Gathers gave you?

A. Three pages.

Q. And then the fourth would be the advisement form?

A. Yes. The advisement of rights.

Q. And the entire interview lasted two hours?

A. Yes.

MS. RUNEY: Thank you. That's all.

THE COURT: Redirect?

MR. KIDD: Very briefly.

REDIRECT EXAMINATION

BY MR. KIDD:

Q. So this -- to give a time frame, now, this was at 10:45 on the morning of the 7th. And according to his statement, they began smoking cocaine around midnight the night before. So this is roughly eleven hours removed?

A. Yes.

MR. KIDD: No further questions.

THE COURT: Any recross?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

MS. RUNEY: No, Your Honor.

THE COURT: You may step down. Thank you very much.

MR. KIDD: Please leave the exhibits. Thank you.

[Whereupon, Mr. Holt is excused and exits the witness stand]

THE COURT: Have another witness?

MR. KIDD: One more, Your Honor. The State calls Officer Cook.

[Whereupon, Mr. Cook comes forward]

[Whereupon, Mr. Cook is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you will give the Court, touching now on the matters before the Court, will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Thank you, sir. You may take your seat.

[Whereupon, Mr. Cook takes the witness stand]

THE CLERK OF COURT: Sir, if you will please state your first and last name, spelling your last for the record.

THE WITNESS: Michael Cook. Last name spelling, C-O-O-K.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

MR. KIDD: Is it Officer Cook?

THE WITNESS: Yes, sir.

MR. KIDD: Good afternoon.

- - - - -

MICHAEL COOK,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Could you tell the judge where it is you're employed?

A. City of North Charleston Police Department.

MR. KIDD: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. [Mr. Kidd] Before you is State's Exhibit Number 1 for identification purposes. Do you recognize this top page of this document?

A. Yes, sir, I do.

Q. What is that?

A. It's our advisement of constitutional rights form.

Q. On the bottom lefthand corner of that page, is that your signature there?

A. Yes, sir, it is.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. What does that signature indicate?
A. My name.
Q. I mean, why do you -- why do you put your signature on this --
A. To show that it was read to him; that I witnessed his signature.
Q. So you were in the interview room when the -- his rights were read to Mr. Gathers?
A. Yes, sir, I was.
Q. And you were able to observe Mr. Gathers during that process?
A. Yes, sir.
Q. Did he appear to understand the rights as they were read to him?
A. Yes, sir.
Q. And did you see him initial each of the rights as they were read to him?
A. Yes, sir, I did.
Q. And then did you see him personally sign the signature line of those pages?
A. Yes, sir.
Q. And, also, later on did you end up taking some evidence off of Mr. Gathers, like his clothing and things of that nature?
A. I don't -- I can't remember. I don't believe

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

so.

Q. Did you have the opportunity to interact some with Mr. Gathers that day?

A. Mainly, I just sat there and watched and listened.

Q. Just observed the statement?

A. Yes, sir.

Q. And based on your observations, did it appear that Mr. Gathers understood what was going on that day?

A. Yes, sir.

Q. Did he appear to be intoxicated to you?

A. Not that I could tell, no.

Q. Were his responses to the questions that were asked of him, were they cognizant and intelligently made?

A. Yes, sir.

MR. KIDD: Thank you, Officer. No further questions.

THE WITNESS: Thank you.

THE COURT: Cross-examination?

MS. RUNEY: No questions, Your Honor.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you.

[Whereupon, Mr. Cook is excused and exits the witness stand]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Anything else?

MR. KIDD: No further witnesses, Your Honor.

THE COURT: Are you going to call any witnesses?

MS. RUNEY: Yes, sir. Just one.

THE COURT: Okay.

MS. RUNEY: Defense calls Gregory Gathers.

THE COURT: Okay.

[Whereupon, Mr. Gathers comes forward]

THE CLERK OF COURT: Place your left hand here and raise your right hand.

[Whereupon, Mr. Gathers is duly sworn by the clerk of court as follows: do you swear or affirm the testimony that you will give the Court, touching now on the matters before the Court, will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes.

THE CLERK OF COURT: Thank you, sir. You may take your seat.

[Whereupon, Mr. Gathers takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Gregory Gathers. G-A-T-H-E-R-S.

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

GREGORY Q. GATHERS,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. RUNEY:

Q. Mr. Gathers, I'm going to go straight to June the 6th of 2010. I want you to tell me when you got off of work that night -- I'm sorry -- that day.

A. I got off from work, it was about 11:00 or twelve o'clock that morning. And I did a move job that morning. I was helping my boss daughter move her house. And after we finished moving, I went home and I told my girlfriend I would be right back. And I left and I went up on Liberty Hill.

Q. And what did you do up on Liberty Hill?

A. Me and a couple of friends, we started drinking. A guy named Hot Rod, we went to the store and we got a twelve-pack of beer and we started drinking. We drank that. We drank some liquor. We ended up to another friend's house, where we started drinking some liquor, and drank -- drank most of the day with him. Basically drank all day long and just talk and --

Q. How much liquor did you think -- do you think you drank?

A. About three -- three or four of us, we drank

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

maybe a half a gallon.

Q. Half a gallon of what?

A. We were drinking Paul Mason, brandy, and drinking beer.

Q. Did you drink all day?

A. Yes, ma'am.

Q. Did you smoke marijuana?

A. Yes, ma'am.

Q. And then that night about midnight you smoked crack, didn't you?

A. Yes, ma'am.

Q. Were you a regular crack user?

A. I smoked crack maybe two, three times in my life.

Q. And on June the 7th, how much crack did you smoke?

A. Enough to where I had to stop because I felt like I was going to throw up.

Q. Do you remember how much money you spent on the drugs?

A. I spent about $200.

Q. And did you sleep any?

A. I eventually blacked out. I don't remember going to sleep. And I had no intention of going to sleep but I did fall asleep, yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

Q. And your alarm went off at 4:15 in the morning?
A. Yes, 4:15.
And I mashed the snooze button on it and it went off again at 4:30 and that's when I got up, I woke up.
MS. RUNEY: Thank you, Mr. Gathers. That's all I have. If you'll answer any questions Mr. Kidd has for you.
THE COURT: Cross-examination.
MR. KIDD: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KIDD:
Q. Mr. Gathers, how long did you -- you were pretty intoxicated? Is that your testimony here?
A. Yes, sir.
Q. But you had the wherewithal to set your alarm before you went to sleep?
A. It was previously set. It's set every day. It goes off the same day -- every time every day.
Q. You set the -- your alarm is set to go off at four o'clock in the morning every day?
A. Yes, sir.
That's the time that I go -- I go to work about 5:30.
Q. So what's this alarm clock on? Is it -- it's not the alarm clock that was at --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. No. It's on my cell phone.

Q. Your cell phone alarm clock.

So you were sleeping, but you were sleeping light enough to where the alarm clock would have woken you up?

A. Yes, sir.

Q. And you had the wherewithal to press the snooze button so you could get a few more minutes of sleep?

A. Yes, sir.

Q. And when you woke up and after -- but did you do anymore drugs between the time you woke up and going to that interview room with Detective Holt?

A. I didn't do anymore drugs, but I did some more drinking.

Q. Did you not understand the rights that were read to you?

A. Kind of sort of. Like when they asked me did I -- can I stop at any time and -- and -- I know you read me my rights and I thought I understood them, but I didn't really understand them the way I thought I did because when I look at them now, I didn't hear him say some of these things. But I signed it, so evidently I heard him. But I didn't understand them, no.

Q. You've been read your rights before; right?

A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Did you -- I mean, in other instances, and you understood your rights then?

A. It's been a long -- it was -- yes, yes, yes. It was a long time ago.

Q. And your rights haven't changed between now and then, have they?

A. Yeah, but then I wasn't under the influence the first time my rights were read to me.

Q. Right.

But the rights are the same. You understood you didn't have to speak to the officers, didn't you?

A. I wasn't under the influence.

Q. This time.

A. Right.

Q. This instance when you were talking to Detective Holt, you knew you didn't have to speak to him, didn't you?

A. I didn't know there was a right that I didn't have to talk to him. Once I started talking to him, I didn't know I had the right to stop talking to him. No, I didn't know that.

Q. So your testimony in this courtroom today is that you didn't understand that you had the right to remain silent?

A. I knew I had the right to remain silent. But

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

like silence -- once I started talking, I didn't know I could stop talking at any time.

Q. Did you know you had the right to an attorney?

A. Yes, sir.

Q. And you waived that right?

A. Yes, sir.

Q. And those are your initials and signature on those forms?

A. Yes, sir.

Q. And do you remember that day?

A. I remember more now than I did that day.

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] Well, that morning do you remember calling your brother?

A. Some -- yes, sir.

Q. And do you remember talking to your father?

A. Beg your pardon?

Q. And do you remember talking to your father?

A. Yes, sir.

Q. And do you remember having them -- or asking your brother to go back to that residence on Gainer?

A. Yes, sir.

Q. And you asked him to go do that to get the body out of the house, didn't you?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

THE COURT: We're not going --

A. No, sir.

THE COURT: -- to go into that. Okay?

A. No, sir.

THE COURT: No, sir. Don't answer that question.

We're just going into his condition at the time of the statement.

MR. KIDD: Yes, Your Honor.

THE COURT: I don't have any problem if you want to talk to him about, you know, talking with his brother and his father. But not the substance of it. Okay?

MR. KIDD: Yes, Your Honor.

Q. [Mr. Kidd] Did you have the wherewithal to take some steps to try to -- to try to cover up some of the things that had taken place?

MS. RUNEY: Your Honor, I'm going to --

A. No.

MS. RUNEY: -- object to that.

THE COURT: I'm sorry. What?

MS. RUNEY: He --

THE COURT: Do you have an objection?

MS. RUNEY: Yes, sir.

THE COURT: What's your objection?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MS. RUNEY: I'm objecting to him asking Mr. Gathers what he said to his father, because I don't believe that goes to his understanding of his rights that day.

THE COURT: I'll sustain that objection.

I'm not going to use this hearing for him to incriminate himself. Okay?

MR. KIDD: Correct.

THE COURT: As far as what he remembers and what he did, without questions to incriminate himself, that's fine. Okay? I know that's a fine line. I'll just have to call it as I hear your questions. Okay?

MR. KIDD: Yes, Your Honor.

The Court's indulgence one more moment, Your Honor.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] Do you drink a lot, Mr. Gathers?

A. I drink beer daily.

Q. And did you ever throw up that day?

A. That night.

Q. That night you did?

A. [No response]

Q. Did it make you feel better?

A. A little.

Q. How far of a walk is it from Gainer to Gumwood?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

A. It's about three, four miles.

Q. Three or four miles.

And you went there on foot; right?

A. I do it on the regular -- I was diagnosed with diabetes and I do it for exercise, so I'm familiar with the walk.

Q. But you weren't doing it this morning for exercise, though, were you?

A. No, sir. I was walking home.

Q. And, in fact, you went somewhere else before you went to Gumwood this morning; right?

A. I went to the gas station and bought another beer and a pack of cigarettes.

Q. And did you go by your father's house?

A. Yes.

Q. Where is your father's house located?

A. My father lives across the street, and maybe two blocks over, from Gainer Avenue.

Q. So you went to your father's house first; is that right?

A. Right.

Q. And then you went to the convenience store?

A. Yes, sir.

Q. And then you went to Gumwood?

A. No. I left my father's house and I started

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

towards Gumwood, and halfway to Gumwood I stopped at the gas station and bought a pack of cigarettes and a beer, and then I continued on to Gumwood.

Q. And so you're saying that's about three or four miles from Gainer to Gumwood and then you add on a few more blocks for going to your father's house; is that about right?

A. I went from Gainer Avenue to my father's house to Gumwood, right. And I stopped in the middle.

Q. And about what time was this?

A. It was in the morning. I probably left there -- my father -- the reason I went to my father's house, because my father takes me to work every morning and I wanted to catch him before he -- because I knew he probably had already been to my residence to take me to work. So I went to his house to see if he had came back home. But he wasn't home, so I left there and I went home. I thought I would catch him in the middle somewhere, but I didn't see him.

Q. So this was about --

A. So the time it was -- it was after 5:00.

Q. So sometime after five o'clock in the morning?

A. Sir?

Q. Sometime around five o'clock in the morning?

A. 5:00 or a little after, yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And then -- so you walked about four miles that morning?

A. Yes, sir.

Q. And what time did you get back to -- what time did you get back to Gumwood?

A. I'm not sure. I didn't pay any attention to the time. I'm not sure.

Q. Would you say a four-mile walk might take you about an hour?

A. Yes, sir.

Q. Approximately? I mean, we're not splitting hairs. But about an hour?

A. [Indicates affirmatively]

Q. So that would put you back to, what, about 6:00, 6:30, something like that?

A. Yes, sir.

Q. And then you were at Gumwood for, what, about three more hours, three or four more hours, before the police got there?

A. Yes, sir.

Q. And do you remember -- do you remember when the police got there?

A. Yes, sir.

Q. And do you remember telling them that you messed up?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. Initially, when the police came I was on the porch with my grandson and we were talking. And they came. And they didn't come directly to the house. They pulled up down the street maybe a hundred -- a little distance away. But I saw them there. And they stayed there for a little while. I don't know how long.

I told -- and then another cop came and they pulled up in front of the house and I -- and I told my girlfriend to take my grandson back into the house. And I went down the stairs. Yes -- and I told them yes. I asked them did they come to get me and they asked [phonetic] me, yes, yes.

Q. And so you told them you were the one they were looking for?

A. Yes, sir.

Q. And you told them you F'd up?

A. Yes, sir. I was in a fight with a female on Gainer Avenue.

Q. And so you admitted to them?

A. I admitted to them that I was in a fight, yes.

MS. RUNEY: Objection.

THE COURT: What's your legal objection?

MS. RUNEY: My objection is this is beyond the scope of this hearing.

THE COURT: I'll sustain the objection.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. [Mr. Kidd] And then after you had that conversation with those officers, then you were transported to North Charleston. Did they ever force or threaten you to make you make your statement?

A. No, sir.

Q. They didn't coerce you or make any promises or say we'll cut you a deal if you talk?

A. No, sir

Q. And you remembered well enough what happened that night before to put it in a statement, didn't you?

A. Not totally. Some things I don't remember; some things I do remember.

Q. But everything that was in that statement came from you; is that accurate? I mean, the officers didn't have any way to --

A. I don't remember everything that happened that night. That morning -- I constantly, daily, every day, I think about it. I think more and more about what happened and I remember now more what happened than I did that night and morning. I don't remember some of -- some things and some things I may have said I don't remember.

Q. Well, you remember giving -- you remember giving them that information that was in your statement?

A. Some of it.

Q. Well, what part of it do you not remember? I

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

think you might have a copy there of the --

[Whereupon, the witness reviews documents]

A. This isn't all of it.

Q. [Mr. Kidd] Sir?

A. This isn't all of it. Is this all of it?

Q. Yes, that's all of it.

[Whereupon, the witness reviews documents]

A. I don't remember them asking me about did I stab her with a knife, I don't remember asking me about dragging her during the altercation, I don't remember them asking me about her clothing, the question about the death.

Q. [Mr. Kidd] About what?

A. Are you responsible for the death of the female that you know as Renee. I don't remember. Some of these -- I don't remember some of them, no.

Q. So there's a few questions that they -- maybe towards the end there that you don't recall?

A. This page -- I mean, the second and third page. Yes, sir.

Q. But you signed -- that's your signature on the bottom of those pages?

A. That's my signature on the bottom of the pages, yes.

Q. Now, Mr. Gathers -- and I'll be brief. But

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you're a pretty big guy. How much do you weigh?

A. 235.

Q. 235.

A. I was weighing two twenty-something -- yes, two --

Q. I weigh 235, also. We're both kind of would like to lose a few pounds. But if it turns out I can drink a little bit more alcohol than some people because I'm a little bit bigger of a guy -- do you find that to be true in your life?

A. I know I was intoxicated. I was even intoxicated when I got to the county jail because I -- that's when I really threw up and that's when I slept until the next day and I -- where I realized that I was in jail.

I may can drink a little bit more alcohol than some, but I was truly intoxicated that I know.

Q. And you say you drink beers about every day --

A. I drink one -- I drink one and two beers a day. Yes, sir.

Q. And were there some nights you would go out and drink a lot more?

A. Most of the time when I drink, I stay -- I normally drink one or two beers a day, because I work most -- seven days a week between two jobs, so I really

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

don't get a chance to do a lot of drinking. So I normally drink like one or two beers. Anything over three beers is a little bit more than I normally do, yes, sir.

Q. Are they twelve-ounce beers, twenty-four ounce beers?

A. Uh-huh.

Q. Which one?

A. Twelve.

Q. Twelve.

What about like on holidays? The Fourth of July? You put back a couple more?

A. If I have a day off and I'll stay home and drink, I drink a little more on holidays or anytime -- like I say, for the last two months before I -- this incident happened, I been working pretty much seven days a week.

Q. What about liquor?

A. I hardly ever really drink liquor outside of the home, because when I drink liquor things seem to happen. Sometime I don't remember what happened until the next day. So I try to stay away from liquor, other than when I'm home.

Q. What made this day different?

A. I had the day off. I was around a bunch of guys and we were all drinking. They were all drinking.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

Q. So you were just kind of hanging out with the guys?

A. Just hanging out.

Q. So you're saying that -- is that -- was that rare for you just to hang out with the guys or something?

A. Yes, sir. I'm normally home every day.

Q. But you hang out with the guys sometimes?

A. I have three grandsons that live with me. I spend most of my time with them.

MR. KIDD: No further questions.

THE COURT: Redirect?

MS. RUNEY: No, sir. Thank you.

THE COURT: Okay. You may step down. Thank you very much.

[Whereupon, Mr. Gathers is excused and exits the witness stand]

THE COURT: Ms. Runey, do you have any other witnesses?

MS. RUNEY: No, sir.

THE COURT: Okay. Does the State have any testimony in rebuttal?

MR. KIDD: No, Your Honor.

THE COURT: Okay. Any arguments from either party?

I guess it's your motion to suppress the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

statements, Ms. Runey, so I guess it's your argument.

MS. RUNEY: It is, yes, sir.

We are not arguing that North Charleston forced or coerced Mr. Gathers into giving a statement, nor are we contesting the fact that he signed the Miranda form or the statement that was typed out for him.

Mr. Gathers was not able to waive those rights that day due to his intoxication. He testified here in court today that he had a twelve-pack of beer, he continued to drink liquor and then more beer, he smoked marijuana, and then he continued that night, smoked crack, $200 worth of crack, and he had only done so two to three times in his entire life, and then he blacked out. And then the next morning, or several hours later, he drank more beer when he returned to his girlfriend's house on Gumwood.

He let Detective Holt know that he had used drugs and at that point, none of the detectives stopped Mr. Gathers, inquired further into how much he had consumed in the hours before giving the statement, nor did they test him. Detectives surely could have waited, because he was in custody at that time, giving him some time to sober up so that he could voluntarily waive his rights.

We don't think that he could understand the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

significance of those rights that he did waive that day. And his behavior that day was certainly indicative of somebody who had been using drugs. His eyes were bloodshot and he was mumbling. And these officers should have known that, based on his demeanor that day, that it's likely he consumed large amounts of drugs or alcohol, yet they didn't continue to question him about how much or what he had taken that day or what he had to drink.

He testified before the Court today that he did not understand those rights. And he did say that he understood some of them and that he understood that he had the right to a lawyer but he didn't understand that he could stop at any point and quit answering their questions.

He did sign these things. But based on his intoxication, which was a significant amount, two to three times the drug use in his life -- and he used such a large amount that he didn't understand. He doesn't remember a lot of that day, and that's certainly indicative of being highly intoxicated.

And, most importantly, he told Your Honor that he didn't understand what he was waiving that day when he signed that form.

Thank you, Your Honor.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Okay. Anything from the State?

MR. KIDD: Briefly, Judge.

I believe most of the alcohol consumption that he referenced was, again, around noon the prior day. I guess that's a -- almost a twenty-four-hour period before his statement. He did say he had beer, one beer, three or four hours before his statement. But surely a man of his size, that alcohol would have metabolized out of his system.

As far as his drug use, his cocaine intoxication was in the early hours that morning, approximately -- it happened around midnight and 1:00 a.m. and this statement is at 11:00, about approximately ten hours prior to his statement since he had last ingested any drugs.

Each officer testified that he was cognizant of his surroundings, intelligently replying to his questions, understood his rights. He even just admitted on the stand that he understood that he had the right to remain silent.

Furthermore, it comes down to the credibility of the witnesses at this point, Judge. These officers have no dog in this fight. The one who would have the reason to get his statement suppressed this morning would be Mr. Gathers and the only way to do that would

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

be to not understand his rights. And I think that is -- goes to the credibility of his testimony here today.

But all the evidence from the three officers that interacted with Mr. Gathers prior to him giving his statement all testified that he understood what he was doing, he was upset, he was upset because he knew what was going on, he signed his rights, he acknowledged them, he gave the statement. The fact that he had done drugs and drank prior -- and not moments prior, but ten, twelve, fourteen, twenty-four hours prior, does not invalidate a voluntary waiver of ones rights.

That's all.

THE COURT: Okay. Anything, very briefly, in rebuttal?

MS. RUNEY: Briefly, Your Honor.

These officers did have a dog in that fight. And they could have easily stopped asking the questions, given him time to sober up, and then start the interview over again.

THE COURT: Okay. Thank you very much.

All right. The Court finds that the defendant testified that he knew he had the right to remain silent and he knew he had the right to an attorney, but

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

he did testify he didn't know he could stop talking once he started. He acknowledged signing the documents to acknowledge parts of his statement. He said today he doesn't remember some of the questions that were asked of him.

The Court also finds that he apparently has given a statement in some prior case, so he has some knowledge of the judicial system as far as giving statements and having -- previously having Miranda rights read to him on a previous charge.

And as far as the statements -- the oral statement is concerned, I find that that statement was freely and voluntarily entered into. And as far as the written statement is concerned, I find it was freely and voluntarily given.

Now, as to the two statements, I make the following findings of fact as I just enumerated. I make the following -- the additional following findings. The Court is convinced by a preponderance of the evidence, and I so find, that before the alleged statement was obtained from the defendant, the defendant was fully advised of his rights under the fifth and sixth amendments to the constitution. The defendant's advised of the constitutional safeguards required by Miranda vs. Arizona. The defendant was

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

advised, prior to any interrogation, that he had the right to remain silent. The defendant was further advised, prior to any interrogation, that he could waive his right to remain silent and made a statement, that such statement can and will be used against him. The defendant was advised, prior to any interrogation, he had a right to employ or select an attorney of his own choice, if you do not have the funds to pay for an attorney, the Court would appoint an attorney for him. He had the right to have his attorney present with him. The defendant was advised, prior to any interrogation, he had the right to consult his attorney. The defendant was further advised, prior to any interrogation, he had the right to interrupt and terminate the interrogation. The defendant was advised, prior to any interrogation, if he desired an attorney the interrogation would cease and he would be provided an attorney; that the defendant knowingly and intelligently waived his rights under the fifth and sixth amendments of the constitution of the United States that constitutes the safeguards required by Miranda vs. Arizona; and that the alleged statements obtained by the defendant was freely and voluntarily given without duress, without coercion, without due influence, without reward, without promise or hope of

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

reward, without promise of lenience, without threat of injury, and without compulsion or inducement of any kind; that such alleged statement was the voluntary product of a free and unconstrained will of the defendant.

The Court finds all of the foregoing conclusions by a preponderance of the evidence; therefore, I find that the statements are admissible into evidence.

And all of my findings apply to the oral statement except for the Miranda warnings, since the Miranda warnings were not given and the statement was spontaneously given by the defendant -- the oral statement -- to the police officer when he arrived on the scene.

Are y'all ready for opening statements?

MS. RUNEY: Yes, sir.

MR. KIDD: Yes, sir.

THE COURT: Do you want to take a short break before we start?

MS. RUNEY: Yes, sir.

THE COURT: All right. We'll take about a five- or ten-minute break and then we'll bring the jury in and have our opening statements.

Let me see the -- it's a quarter to 4:00. Let me see the attorneys up here just very briefly.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. We'll take about a ten- or fifteen-minute recess.

[Whereupon, a recess is taken from 3:35 p.m. to 3:58 p.m.]

THE COURT: Please be seated.

Anything from the State before we bring the jury?

MR. KIDD: No, sir.

THE COURT: Anything from the defense?

MS. RUNEY: No, sir.

THE COURT: Bring us the jury, please, sir.

[Off the record momentarily]

THE BAILIFF: Are you ready for them, Judge?

THE COURT: Yes, sir. Bring them on in.

[Whereupon, the jury enters the courtroom at 4:00 p.m.]

THE BAILIFF: All jurors are seated.

THE COURT: Thank you, ma'am.

Swear the jury, please.

THE CLERK OF COURT: If you all will stand and raise your right hand, please.

[Whereupon, the jury is duly sworn by the clerk of court as follows: do you swear or affirm that you

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

shall well and truly try and a true deliverance make between the State of South Carolina and the defendant at the bar, whom you shall have in charge, and a true verdict render according to the evidence and the law, so help you God]

If so, please say I do.

[Whereupon, the jurors respond]

THE CLERK OF COURT: Thank you. You may take your seats.

THE COURT: Solicitor?

MR. YOUNG: Thank you, Judge.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

OPENING STATEMENT

MR. YOUNG: Ladies and gentlemen of the jury, on June 7th, 2010, the defendant, Gregory Gathers, murdered Renee Navarez.

This case is simple. I'm going to ask you-all to listen to me for a little bit while I give my opening statement, and then we'll go to the evidence and testimony.

The reason this case is simple is because it's about choices. It's about the choice the defendant made on June 7th, 2010. Actually, in the early hours of June 6th of 2010, into June 7th of 2010 in the early hours of that next day. It's about the choices he made to go out and party on June 6th, 2010. That evening, after getting off of work, he decided to go partying. It's about the choices he made. And after getting in an argument with a woman named Renee Navarez, he beat her up. It's about a choice that he made to continue beating her until he killed her, until he beat her to death.

Now, Renee Navarez, that's our victim, her life was cut short by the anger and selfishness of one man. And that man, ladies and gentlemen, is in the courtroom with us today. This is the defendant, Gregory Gathers. Make no mistake, he is guilty of murder.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Obviously, by now you know we're in a murder case. Now, what is murder in South Carolina? The judge, at the end of the case, he's going to go over the law. And he's the judge of the law, so you're going to listen to him. Any matter, you refer to him, certainly. But it's just the killing of another person with malice aforethought. That's what murder is.

Now, this word malice, you're going to hear this over and over and over. It's very important. Malice is just killing somebody with an ill will or a wicked heart. That's what malice is. But, again, the judge is going to instruct you on that. At the end of the case, listen to what he says and think about that. Malice. Killing another person with malice and ill will.

Now, let me tell you about the facts in this case. On June the 6th, 2010, the defendant decided that he wanted to party. He wanted to have some drinks. A lot of times, as you might know and I know, when you want to party you do it with somebody of the opposite sex. So he wanted to party with a girl. This unfortunate sole was Renee Navarez.

At some point during the evening of June 6th, 2010, he made his way towards her house on Gainer Avenue. He goes over there and throughout the night,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

into the early hours of June 7th, they party. Again, whether you know or not know, partying sometimes involves using drugs, having sex. And that's what was going on this night into the early morning. They were smoking crack, having sex, and the process kept going and going.

Fast forward to about 4:00 a.m. on June 7th. The defendant and victim start to get into a verbal argument. And you can see where this is going. They get into an argument. It turns physical. At this point the defendant starts to beat the victim, starts to beat her up, and beat her, and beat her, and beat her, until he eventually killed her.

You're going to hear from the forensic pathologist. He's going to get on the stand right here and he's going to tell you blunt-force trauma. That's the cause of death. Basically, using your fist and your hands to beat somebody to death. Listen to what he says. His name is Dr. Batalis and he's going to talk to you.

After the defendant beats this girl to death, Renee Navarez, he doesn't call the cops, he doesn't try to render aid. He flees. He leaves Gainer Avenue and he goes to his house, which is on Gumwood Avenue, a few miles away. At this point he gets to Gumwood, still

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

hasn't called the cops. So he calls his brother, Ronald. Then, in turn, Ronald calls their father, Harry Gathers. And Harry is here. He's going to talk to you. He's going to tell you what was said. But Harry and Ronald at this point go to Gainer Avenue to check on this victim, Renee Navarez, to see if she's -- what has happened -- what they've heard happened has happened.

They get there and they realize that she's been killed, she's been murdered. They realize that the defendant has done it. They call the police. North Charleston police respond to the scene. They see they have a murder scene. They get there, collect evidence, take statements, do all the proper police work. At this point they know who the suspect is, the defendant, Gregory Gathers, and they go and they promptly arrest him.

Now, fast forward to today. That's why we're here, is to hold him responsible for what he did that day. It's as simple as that.

Now, as the State, as a prosecutor, I have the burden to prove this case to you beyond a reasonable doubt. And mind you, that's not beyond all doubt. There are certain ways I'm going to prove this case to you -- Mr. Kidd and I are going to prove this case and

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

prove this man guilty. Testimonial evidence: you're going to hear Harry Gathers, his dad. As you can only imagine, a father testifying against his son might be kind of uncomfortable. It's going to be a little tough, but I ask you to listen to what he says, listen to what he talks to you about on the stand. You know he doesn't want to be here. But he's doing the prudent thing.

Additional evidence. What else are we going to give to you? You're going to hear from North Charleston police officers. They're going to say how they respond to the scene, proper police work was done, evidence collected. All the things that policemen need do in a case like this have been done. And you're going to hear from them. They're all going to get on the stand and they're going to talk to you all day. They're going to talk to you about it.

You're going to hear from South Carolina Law Enforcement Division, also. SLED is what it's commonly referred to. They're going to tell you how DNA is collected for evidence at the scene, how they test the DNA. And that's right. We do have DNA linking the defendant to the victim, DNA evidence.

Additionally, you'll see some photos, some photos of the scene, some photos of the victim. Some

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

of this stuff might be hard to look at, but it's important that you do.

So all that testimonial evidence from Harry Gathers, from the officers, you have DNA evidence, photo evidence. But most importantly, you're going to hear the statement this defendant gave police officers that night. Listen carefully to what he said. All that evidence, coupled with that testimony, is going to come together and it's going to prove this defendant guilty of murder.

Now, one more thing I want to touch on about malice is there are certain things you need to be looking for in this case, certain things the evidence is going to show, that's going to prove this malice element, things such as when the victim is down, she has slits above her eyes. Evidence showing the ill will, the wicked heart, of the defendant. The evidence is going to show her hair, not in just one spot; that maybe a lucky punch would have -- may have killed her. No. Hair all around that apartment where she had been dragged around. Evidence is going to show that, proving this ill will, this wicked heart.

Additionally, you're going to hear from the pathologist, just like I've said. Also, proving malice is going to be how her head, the entire head, is

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

bruised, hardly a spot left untattered. The whole head bruised. Not just one punch to the face that killed her, but multiple beating, beating, beating, beating, over time. And this malice can be formed instantly. But, again, we'll go more into that in closing. But I want you to be aware that that stuff is important to be thinking about throughout this trial.

I won't take up too much more of your time. So in conclusion, again, listen to the testimony, look at the evidence. It's going to match up. The testimony from the father, and from the cops, the DNA evidence, photo evidence, and, most importantly, his statement to the police. It's going to match up. And when it does, myself or Mr. Kidd are going to come back up here and ask you to return a verdict in this case that truth dictates and justice demands. Hold this man responsible, responsible, for what he did that day on June 7, 2010, and find him guilty of murder. Thank you.

THE COURT: Ms. Runey.

MS. RUNEY: Thank you, Your Honor.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

OPENING STATEMENT

MS. RUNEY: The State is exactly right. This case is about choices and bad decisions, bad decisions one after the other. And Gregory Gathers made bad decisions. He made bad decisions on June the 7th of 2011 [phonetic] that would change his life forever.

He went home with Ms. Nevarez. They met at a bus stop near her home. That day Greg had been hanging out with his friends, drinking, after he had gotten off of work. Greg had never met this woman before and he went to her house and they had sex for crack, over and over again, four to five times, calling Ms. Nevarez's drug dealer over and over and over to get more crack.

Greg had gotten paid that day. He helped his boss move his daughter into a new apartment and he had cashed his check and was carrying around his money. He spent most of that money on drugs that night, but he had $400 that he kept separate. And after the two of them got high for many hours, they passed out. And when Greg woke up, he realized that his money was gone. He was furious and he confronted Ms. Nevarez.

She said the money was in the den. And they fought about it. He fought with her in the bedroom, and the fight moved to the den. He thought he was going to get his money back. The money was supposed to

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-8313

be in there.

Ms. Nevarez pulled a knife on Greg and they did struggle. You will hear all of this from the witness stand. And the police knew this. They knew this immediately. And you know how they knew it? Because Gregory Gathers told them. He told them what happened. He fully cooperated with the police. He did not murder Ms. Nevarez, and that is why we are here today.

He stands trial for murder. Greg is forty-eight years old and this is a big day for him. He's here supported by his family, who love and care about him. Greg had the same job for twenty years. And he should have never put himself in this situation. He knew better. He should have never put himself in the situation where he was trading drugs for sex, trading sex for drugs, using drugs, and fighting with Ms. Nevarez.

Now two families deal with a tragedy: one dealing with the death of a loved one, and another one dealing with a person they love facing a murder charge.

We are here because it was not a murder. And you will not hear that Greg wasn't there. You won't hear any dispute about who did this. You won't hear that there wasn't a struggle. There was a struggle. And, unfortunately, Ms. Nevarez did die.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

And as the judge will tell you, you are the fact finders. And from the facts that you will be given in this courtroom, you will see that Gregory Gathers is not guilty of murder.

THE COURT: Solicitor, you want to call your first witness, please.

MR. KIDD: Yes, Your Honor. The State calls Harry Gathers.

[Whereupon, Mr. Harry Gathers comes forward]

THE CLERK OF COURT: Sir, if you would place your left hand here and raise your right hand.

[Whereupon, Mr. Harry Gathers is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes.

THE CLERK OF COURT: Sir, if you will please take your seat.

[Whereupon, Mr. Harry Gathers takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: [No response]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. KIDD: Good afternoon, Mr. Gathers.

- - - - -

HARRY GATHERS, JR.,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you state your name for the record, please.

A. My name is Harry Gathers, Jr.

Q. And how old are you, Mr. Gathers?

A. Eighty.

Q. Eighty.

And what is your relation to the defendant, Gregory Gathers?

A. He's my son.

Q. He's your son?

A. Yeah.

Q. And where --

A. Our son. Excuse me.

Q. Go ahead.

A. He's our son.

Q. He's your son. Okay.

And how long have you been living in Charleston, Mr. Gathers?

A. 5/27/1931.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

I was born on Dewey Hill, a place they call Dewey Hill. That's North Charleston. And then, well, we moved off of there. We moved on Liberty Hill in, what, in the '40s there, you know, and I was up there ever since, you know. And I went in the service in 1950. Yeah.

Q. What service were you in?

A. Air force.

Q. Air force?

A. I was in the air force, yeah, four years.

Q. How long?

A. Four years.

Q. Four years in the air force?

A. Uh-huh. And when I got out, came back home after a while and --

Q. So you've been living in Charleston on and off your whole life?

A. [No response]

Q. Have you been living in Charleston sort of on and off your entire life?

A. Yes. Yes, yes, yes.

Q. Mr. Gathers, I want to get kind of right to the reason why we're here today. Do you remember early in the morning of June 7th, 2010?

A. [No response]

Q. Do you remember going to pick up Gregory for

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

work one day and him not being there?

A. Pick up Gregory?

Q. On June 7th, 2010.

A. Yeah.

Q. The morning when all this happened, do you remember that morning?

A. Well, when I -- that Thursday morning when my son came down?

Q. Yes, sir.

A. Yeah. And I went to his -- to an apartment up there.

Q. And just so we can get it as clear for the jury as we can, when you say your son came down, you're talking about a different son, not Gregory; is that right?

A. [No response]

Q. Talking about Ronald?

A. Yeah, Ronald.

Q. Okay. And Ronald is another --

A. He came to get me. Well, when Ronald came, I was going -- I was on Montague. I usually go on Montague and Abraham. I'll be sitting out there, you know, under -- in the -- under the tree, see. And so Ronald came down and then he told me -- he came by.

Q. And where does Ronald live?

A. Where he live?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Uh-huh.

A. In Walterboro.

Q. In Walterboro?

A. Yeah.

Q. And that's up north of here? Or not north. But it's about an hour away?

A. About an hour. An hour, yeah, according to how you drive. It's forty-five minutes, an hour, or something like that.

Q. And so he came down that morning --

A. He came down that morning, you know, and then he told me -- so I asked him what was happening and he said he had called -- say they got a call from Greg, or Greg called him, you know, and --

Q. And what did the two of you do at that point?

A. Well, after he told -- after he told me -- I was kind of like shook up. And then he told me what Gregory said to him.

And then so I said, well, let's go. I said, what. And I asked him, you know, and I said -- he said Gregory said something had happened --

MS. RUNEY: Objection.

A. -- he ran up -- to come on let's --

THE COURT: Hold on a second, Mr. Gathers.

Yes, ma'am. Got an objection?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: Mr. Gathers cannot testify to what Greg --

THE COURT: What's your legal objection?

MS. RUNEY: Hearsay.

THE COURT: Hearsay?

MS. RUNEY: Yes.

THE COURT: I'll sustain the objection.

Mr. Gathers, don't testify as to what you were told, just what you did. Okay?

THE WITNESS: Sir? Sir?

THE COURT: Don't testify to what you were told. Testify to what you did. Can you do that?

THE WITNESS: Oh, oh. Oh. All right.

A. After -- after --

THE COURT: Okay? Thank you very much.

Please proceed, solicitor.

A. After Ronald came down and told me, you know. And so I said, well, let's go up to -- to where he lived, you know.

Q. [Mr. Kidd] And you and Ronald then --

A. We went -- I got in his car, in his truck, and we went on up to his house there.

Q. And you went to Gregory's house?

A. Yeah.

Q. Okay.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. On Ten Mile Hill up to Gumwood Boulevard.

Q. And did you -- did you speak to Gregory?

A. No.

And Ronald went in there and got him, you know, from his apartment. Then he came down. And then I asked him what happened, you know. And because I was sitting in the car. So he got there -- well, after he got there, he was -- I guess he couldn't -- I don't know.

But then -- and I asked him what happened, so he just crumbled down on the -- you know, on the side of the car and said he was sorry, you know. And I said, what. And so then after -- because he had told Ronald what he did.

So I tell Ronald, let's go back to the apartment where the thing was happened and that -- so then we came back to the apartment on Railroad Avenue or --

Q. And you went back to the apartment?

A. To the apartment to see, you know.

Q. Uh-huh.

A. So then Ronald went and opened the door. And he looked and he came back right quick. And I said, well, what happened. And he said, somebody's stretched out on the floor in there like -- and I can't stand too much of it.

So I went in there peeping and I saw the thing

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

was on the floor down there, but it was headed in so I came on back.

Then I called my daughter, you know, and she told me to call the --

Q. And what does your daughter do for a living?

A. My daughter?

Q. Uh-huh.

A. She live in Walterboro, too.

Q. Well, what does she do for a -- what does she -- what's her job?

A. What's her job? She's a police in Colleton County there.

Q. She's a Colleton County police officer?

A. Yeah. Walterboro.

And, anyway, and then so she told me to call the police, so I did. I called our police in North Charleston and so -- and they came down and asked me where the place and I told them it was on Railroad Avenue or Gainer Avenue. And so they came on. When they was coming -- when I was coming from the place, then they came across the track and then we -- I turned on around and head on back and I showed them.

Q. You met the police officers there that morning?

A. How's that?

Q. Did you meet the police officers that morning?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

A. Yeah.

The officers -- you know, they -- when they was coming, and I went on and showed them to the apartment where the -- where the thing was at. And they ran on in there and --

Q. And my last question to you, Mr. Gathers: when you and Ronald went to Gregory's apartment and Gregory came outside and came to the car and kind of crumbled down the car like you said just a moment ago --

A. Yeah. You know, on the -- the car, yeah.

Q. What did Gregory tell you right then?

A. Because I asked him what happened and he said he was sorry, you know.

Q. Uh-huh.

A. And then he crumbled down on the side of the door down there. And I said, what. And because he going to give --

And I told Ron -- because I couldn't stand too much of it. And so then Ron tell me about it and I said, well, let's go. And so I told Ronald I would show him where the house was at, because he told Ronald what happening but my son didn't know where, you know, the house was at, the one -- Ronald, he didn't know where the apartment was at, so they -- because he's a stranger around there.

FORM C-100 - LASER - REPORTERS PAPER & MFG. CO. 800-626-6313

And I told him let's go, and I went there and I showed him, then he went on in the house. And that was it.

And I called the police and they came up, because they knew what we -- and they went in and look around and --

Q. What was Gregory's demeanor like? Was he crying, was he shaking? How was he acting?

A. Well, he was acting like just nervous. What he -- he just crumbled down after he got out to the car, you know. And I don't know. It's like he say, he was sorry and, I don't know, boom, crumbled down. I don't --

Q. Do you have a pretty good relationship with your son Gregory?

A. Say what?

Q. Do you have a good relationship with your son Gregory?

A. Yeah, that's my son. That's my baby boy.

Q. Right.

A. Yeah. I love all my kids. I love all my kids anyway, but then I just -- yeah. I just love children.

MR. KIDD: I have no further questions, Judge.

THE COURT: Okay. Cross-examination?

MS. RUNEY: I don't have any questions for Mr. Gathers. Thank you.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Mr. Gathers, you may step down. Thank you very much.

[Whereupon, Mr. Harry Gathers is excused and exits the witness stand]

MR. KIDD: The State calls -- another witness, Your Honor?

THE COURT: Yes, sir.

MR. KIDD: The State calls Lewis Bazzle.

[Whereupon, Mr. Bazzle comes forward]

[Whereupon, Mr. Bazzle is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I swear.

THE CLERK OF COURT: Thank you, sir. If you would take your seat.

THE WITNESS: Yes, sir.

[Whereupon, Mr. Bazzle takes the witness stand]

THE CLERK OF COURT: Sir, if you please state your first and last name, spelling your last for the record.

THE WITNESS: My name is Lewis. The last name is Bazzle. B-A-Z-Z-L-E.

MR. YOUNG: Good afternoon, Officer Bazzle.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE WITNESS: Good afternoon.

- - - - -

LEWIS BAZZLE,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Could you tell the jury where you work?

A. I work for North Charleston, City of North Charleston Police Department.

Q. And how long have you worked there?

A. Coming up on seven years in March.

Q. What are your duties at the department?

A. Right now I'm acting -- I'm a patrol officer, a street officer. I handle calls for service and proactive patrol.

Q. Were you in the course of these duties on June 7th, 2010?

A. Yes, sir, I was.

Q. And did you respond to any location on that day?

A. I did. I responded to a location over on Gumwood Avenue.

Q. Okay. What was that in reference to?

A. We had received a call about a -- I think it maybe started out as an unknown situation that led into a

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

murder. And a possible suspect was on Gumwood Avenue.

Q. And were you in the area at that point or --

A. I was.

That's my -- Gumwood Avenue is kind of right there in my area. And I was near by, so I was one of the responding officers to that area.

Q. Did you gain any information about the subject at that point?

A. We were relayed a name from the detectives and --

Q. Who was that?

A. I'm sorry?

Q. What was that name?

A. Gregory Gathers.

Q. You said you arrived at Gumwood; is that -- is that right?

A. Yes, Gumwood. It's in Ten Mile. They call it Ten Mile.

Q. When you arrived at Gumwood, did you see the suspect?

A. I did.

There was actually two -- me and another officer. We approached. And as we arrived, there's a set of apartments located at 2010 Gumwood Avenue and the person meeting the description was on the top floor of

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

those apartments.

Q. What did you -- were you with any other officers at that time?

A. Yes.

There was me and one other officer at that time. His name was Fred Houtz [phonetic].

Q. Okay. Is he with the department anymore?

A. He is currently still with the department, deployed over in Kabul in Afghanistan.

Q. Okay. So when you get to Gumwood, what do you and Officer Houtz [phonetic] do?

A. When we get there, of course we announced -- advised the dispatcher we're coming on scene.

We see him up there. We park the vehicles and approach. As we get out of the vehicles and approach, of course we're announcing ourselves, our names, who we are. Before we can continue, the defendant's coming down the stairs, meets us about halfway, and at that time he starts saying some utterances, I'm the --

MS. RUNEY: Objection --

A. -- person you look --

MS. RUNEY: -- Your Honor.

THE COURT: What's your legal objection?

MS. RUNEY: I renew my previous objection from the pretrial hearing.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: All right. Overruled.

MS. RUNEY: Thank you, Your Honor.

MR. YOUNG: Thank you, Judge.

Q. [Mr. Young] So as you're approaching the suspect, he meets you halfway down the stairs like you said; right?

A. Correct.

There's a ledge, there's like a center ledge, before going up the stairs. He meets us about halfway.

Q. And just to be clear, is the suspect in the room today?

A. Yes, he is.

Q. Can you point him out for the jury?

A. Yes, sir. He's right up here [indicates].

Q. Is he sitting at the defense table?

A. Yes, sir.

MR. YOUNG: Let the record reflect the officer has identified the defendant.

Q. [Mr. Young] At this point, does the defendant say anything to you?

A. Well, at that time, as we're walking up we're announcing who we are. He's coming down. Before we can really even say anything and say who we are, he just states that, I'm the one you're looking for. And, you know, he was a little explicit. He said, I'm the one

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you're looking for, I F'd up, is what he said.

Q. Did he say -- did he say F or did he use the --

A. He used the slang term.

Q. So I'm the person you're looking for, I F'd up?

A. Yes. Correct.

Q. What was his demeanor like when you saw him?

A. He was a little upset, a little shaken.

Q. Did you threaten him at all to give his statement?

A. No, nobody threatened him. In fact, he was being as cooperative with us, coming down and talking to us.

Q. Okay. At this point, did you have probable cause to make an arrest of this defendant?

A. At that time, with the information I had I did have probable cause to arrest him.

Q. And did you make that arrest?

A. Yes, we did.

Q. Did you, in fact, then transport him down --

A. I was --

Q. -- to the station or --

A. I was not the transporting officer. The other officer with me, Officer Houtz [phonetic], was the actual -- he did the transporting.

Q. Did the defendant say anything else, as you were

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

putting him in the car, that you heard at all?

A. He wasn't really -- just under his breath, just mumbles.

He was a little shaken up. He started to maybe -- he was crying a little bit as we put handcuffs on him, put him in the car. To the extent of it, that was about it.

Q. Okay. At this point, was that the end of your involvement with this case?

A. Besides holding the scene. We just secured the scene a little bit longer until a search warrant could be obtained to check the apartment that he was standing in front of that he was at.

MR. YOUNG: Okay. The Court's indulgence, Judge.

[Whereupon, Mr. Young and Mr. Kidd confer]

Q. [Mr. Young] Officer Bazzle, did -- was the defendant injured anywhere that you saw?

A. From appearance, I don't -- no, he was not injured.

Q. Did he complain of being injured at all?

A. He did not.

MR. YOUNG: Okay. No further questions, Judge.

THE COURT: Cross-examination.

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

CROSS-EXAMINATION

MS. RUNEY:

Q. Officer Bazzle, you said that Gregory Gathers, he was crying?

A. Yes, he was.

Q. And he --

A. Well, not the entire time. I mean, he was distraught. He was -- you know, he was just upset. He was worried and he was -- and he, you know, I'm sorry. And as we got -- it got more involved, then he started to come into tears a little bit.

Q. Had his head down crying and mumbling?

A. Yeah.

Q. And his eyes were red?

A. His eyes were a little bit red to the appearance, yes.

MS. RUNEY: Thank you. That's all I have.

MR. YOUNG: No further questions, Judge.

THE COURT: Okay. You may step down. Thank you very much.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Bazzle is excused and exits the witness stand]

THE COURT: Call your next witness, please.

MR. KIDD: The State calls Justine Holt.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, Mr. Holt comes forward]

[Whereupon, Mr. Holt is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you will give the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I swear.

THE CLERK OF COURT: Sir, if you would please take your seat.

[Whereupon, Mr. Holt takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Justine Holt. H-O-L-T.

MR. KIDD: Good afternoon, Detective Holt.

- - - - -

JUSTINE HOLT,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where it is you're employed?

A. City of North Charleston Police Department.

Q. And how long have you been employed at North

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Charleston?

A. A little over eight years.

Q. And what are your current duties with North Charleston?

A. I'm currently assigned to the violent crime task force with the U.S. Attorney's Office.

Q. And back in June of 2010, what were your duties with North Charleston?

A. I was a property crimes detective.

Q. And go right to this date: on June 7th, 2010, do you remember getting involved in this case?

A. Yes, I do.

Q. What was the first thing you did with regard to this case?

A. I was on my way to work that morning and I heard, over our North Charleston dispatcher north channel, the original call go out. I was right there in the area.

As soon as I came over the bridge on Montague, I observed Mr. Gathers's father's vehicle in the area. They were supposedly going to flag us down when we pulled into the area. I observed his vehicle. I let other officers know that I saw this vehicle. And they ended up saying that he had come to the residence on Gainer Avenue.

Q. And did you then go to that residence?

A. Yes, I did.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

Q. And did they show you where it was?
A. Yes.
Q. And what was the address? Do you recall?
A. I don't recall the exact address.
Q. But on Gainer Avenue?
A. Yes.
Q. Is that in Charleston County?
A. Yes.
Q. And did you go inside the residence?
A. Yes, I did.
Q. What did you see when you first entered the residence?
A. Upon my initial entry I observed a black female lying on the floor in the kind of the doorway -- as soon as you walked into the door, there is a kitchen area and then a second doorway -- and a large pool of blood on the floor.
Q. And she was -- was she on her back, or face down?
A. Face down.
Q. And what did you do at that point?
A. At that point, we cleared the remainder part of the residence to make sure there was no one else inside the residence, no other injured parties. As soon as we made sure that it was clear, I got all officers out of the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

residence and secured it.

Q. And for what reason did you do that?

A. For crime-scene purposes.

Q. In order to preserve evidence?

A. Evidence, yes.

Q. From that point, were there other officers entering the residence?

A. The only other officer that arrived on scene was the on-duty supervisor in that area. She came on scene and she stuck her head inside the door. She didn't make entry, but she did look inside the door just to confirm what we had told her.

And then the on-duty detective supervisor and on-duty EMS supervisor arrived on scene after that, and those were the only other -- and the crime scene supervisor were the only other ones that entered the residence at that time.

Q. And the crime scene supervisor would have been the one that was collecting the evidence --

A. Correct.

Q. -- things of that nature?

MR. KIDD: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

Q. [Mr. Kidd] I'm going to show you what's been

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

marked as State's Exhibit Number 1. Do you recognize this item?

A. Yes, I do.

Q. What is that?

A. It's advice of constitutional rights that I read to Mr. Gathers.

Q. And there's a few pages attached to that.

A. And also his statement.

Q. And were you -- were you present when that statement was taking place?

A. Yes, I was.

Q. Are you the one that advised those rights to Mr. Gathers?

A. I was.

Q. And how was the statement taken?

A. I'm not sure how --

Q. I mean, how was it recorded?

A. It was not recorded. It was --

Q. Well, I mean --

A. -- written down. Or typed out. The statement was typed out.

Q. Did you type it?

A. Yes, I did.

Q. Okay. And did Mr. Gathers sign it?

A. Yes, he did.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. KIDD: Your Honor, at this time the State would offer to introduce State's Exhibit Number 1 into evidence.

MS. RUNEY: I would renew my previous objection to the State's --

THE COURT: Overruled.

I'll admit, excuse me, State's Exhibit Number 1.

MS. RUNEY: Thank you.

MR. KIDD: Thank you, Your Honor.

THE COURT: Admitted with objection.

[Whereupon, State's Exhibit Number 1 is admitted into evidence by the Court]

[Whereupon, Mr. Kidd and Ms. Runey confer]

MR. KIDD: Sorry, Judge.

Let me kind of zoom it in and see --

Q. [Mr. Kidd] I just want to go through this. This is State's Exhibit Number 1. This is the item I just showed you a moment ago?

A. Yes.

Q. And this -- what is this first page?

A. This is Mr. Gathers' advice of constitutional rights.

Q. And you went through this advisement of rights with Mr. Gathers that day?

A. Yes, I did.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And did you fill out that form?
A. The top portion I did.
Q. So you filled out his name there, date of birth, age, grade completed in school, and all that info on the top?
A. I did.
Q. And when it says -- it says there, I, Gregory G. Gathers, has been advised by Detective Holt.
You filled that part out?
A. Yes, I did.
Q. And then these various rights, you went over these rights with him?
A. Yes, I did.
Q. How did you do that?
A. I turned the form around to where Mr. Gathers or -- yeah -- Mr. Gathers could read it and I read, upside down, to him. After each statement, before I had him initial I asked him if he understood that right that I explained to him. He stated that he did. After he stated that he did, he initialed it.
Q. And just to go through those rights, those are -- and then at the bottom of this form under the witness line, is that your signature?
A. Yes, it is.
Q. And is that Mr. Gathers' signature?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, it is.
Q. And when did you advise the defendant of his rights? What day was this?
A. June 7th, 2010.
Q. And about what time?
A. 10:45 a.m.
Q. And then when we get to the next page of the exhibit, is this the statement that you took from Mr. Gathers?
A. Yes, it is.
Q. I think it might be best to maybe -- it's a little tough to read on that overhead.

MR. KIDD: May I have the witness publish the statement to the jury, Your Honor?

THE COURT: Is that combined with Number 1, or do you offer it as Number 2?

MR. KIDD: I had it as the entire Number 1.

THE COURT: Okay. You've got it as the entire Number 1. Okay. All right. That's fine.

MR. KIDD: Thank you, Your Honor.

Q. [Mr. Kidd] If you could read the defendant's statement to the jury, please, Detective Holt.
A. Do you want me to explain it in whole, or just read the statement?
Q. Explain it first and then read the statement, if

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you could.

A. I know we can't see.

At the top part of the statement right here it says personal information, his employer, what the statement is in reference to, which it states murder. It gives the time when it happened, the date, where the statement is given at and what time the statement is given at. And then from here is where the statement started.

It says: [reading] Detective J.C. Holt typed this statement for me, as I told him, at my request.

Which means that Mr. Gathers requested that I take the statement for him instead of him physically handwriting out the statement.

His initial statement was: [reading] we was smoking crack cocaine and it was about four or five times. She stole $400 from me. And all I did was beat her up. Oh, Lord, I am so sorry. We were smoking and having sex and she stole my money, and that why.

After that, I began a question and answer. It says: [reading] the following question and answer is asked and typed by Detective J.C. Holt and answered by Gregory Gathers.

Question: what time did all this begin.

Mr. Gathers's answer: about 12:00 last night. I didn't mean. I am sorry.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Question: do you know the female's name.

Answer: she told me. I forgot.

Question: was this the first time you had met her.

Answer: yes, sir.

Question: how did you meet her.

Answer: at one of the bus stops. I was walking up and she stopped me.

Question: what bus stop.

Answer: the one at -- the one on Montague and Gainer Avenue.

Question: was there anyone else with you and her?

Answer: no, sir. I am sorry. I am sorry. I didn't mean to kill her.

Question: did you go back to her house on Gainer Avenue.

Answer: yes, sir.

Question: have you ever been at that residence before.

Answer: no, sir.

Question: when you got to her house, what happened.

Answer: we started getting high and having sex. She knew a fellow that lived at -- by the corner store in

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Liberty Hill and -- and I bought some more dope from him. We went through that routine four to five times and then when we were laying there in the bed. The alarm went off at 4:15 a.m. and I started putting my clothes on and that's when I noticed my money missing. I asked her where it was and we began arguing about that. And I hit her a couple of times and pulled out some of her hair and walked out the door. I am sorry, I am sorry, I am sorry. I didn't mean to kill her.

Question: where did you hit her at.

Answer: I boxed her in the face four to five times. I pulled her by her hair down the hall and hit her three or four more times.

Question: did you use any type of weapon.

Answer: she grabbed a knife when we was in the kitchen and I grabbed it from her and broke off the handle.

Question: where is the knife handle.

Answer: it should be in the house somewhere behind the bed or sofa. It's in the house.

Question: did you stab her with the knife.

Answer: if I did, I don't remember doing it.

Question: did you drag her at any point of the altercation.

Answer: I pulled her from the room to the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

living room.

Question: where did you go when you left.

Answer: I was going home, and I decided not to go home and went to my girlfriend's house on Gumwood Boulevard.

Question: does your girlfriend know what happened.

Answer: no. I called her and told her I was in a fight.

Question: did you call anyone and tell them about what happened.

Answer: I called my brother and told him that I was in a fight with his girl and I told him that I think I did too much. He told me to run.

Question: did you go home at any point after the incident.

Answer: I walked to the corner of Lilac and Hassel and didn't see my father's car and then that's when I walked to Gumwood.

Question: where are the clothes that you were wearing during the incident.

Answer: these are the clothes. Subject indicating that the clothes that he's currently wearing are the clothes.

Question: are you responsible for the death of

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

the female that you know as Renee.

Answer: I didn't mean to kill Renee. I was just trying to get my money back. I didn't mean to, but I guess I am responsible. I just beat her up and if she died from it --

Question: which door did you leave from.

Answer: the front door. I took a left onto Gainer and then took a left on Montague to Nesbitt and took a right on Nesbitt and then cut behind a church to Lilac and to Hassel, but I didn't see my dad's car so I turned around and went back to the same way. I crossed over the tracks and went through Ferndale to Rivers and then to Gumwood.

Question: did you tell your brother that you killed her.

Answer: I told him that I hurt her and told her [phonetic] to check on her, because she was lying on the floor when I walked out.

Question: how and where was she laying when you walked out.

Answer: she was lying on her stomach between the living room and the kitchen in the doorway.

Question: what happened to Renee's cell phone.

Answer: I took it and threw it towards the railroad tracks -- towards the railroad tracks. She

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

called the little crack boy like four or five times.

Question: do you remember what the -- what it looked like.

Answer: small black cell phone.

Question: do you know the drug dealer's name, the one who you called the little crack boy.

Answer: I think they call him Little D. He rides a blue Moped.

Question: can you tell me anything -- can you tell me anything else about him.

Answer: he lives past Liberty Hill Corner Store on Luella on the left, apartment number B, in the apartments on Luella. He's five one, about 120, 125 pounds, brown skin, short hair.

Question: did Renee fight back.

Answer: yeah, she was fighting back.

Question: when you say boxed her in her face, what does -- sorry -- when you say you boxed her in her face, does that mean you struck her with an open hand or closed fist.

Answer: closed fist.

Question: what else can you remember about the incident.

Answer: the knife handle broke off in my hand and she still had the blade part and I was pulling her

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And he was in the room with you when all this took place?

A. Yes.

Q. And he witnessed --

A. He witnessed him signing this statement.

Q. And the third page of the statement that you read, is that also Mr. Gathers' signature?

A. Yes, it is.

Q. And he signed that in front of you?

A. Yes.

Q. And how does that process go? Because you actually typed the statement. And how do you get it in front of him to sign it?

A. After I type the statement, I print out a copy, I bring it in to the defendant, I place it in front of them. I let them read it, make sure that everything in that statement is true and correct, that he didn't want to take anything out, add anything in there. And at that point after he says that that is his statement, I have him sign it in front of me and another witness. He has to sign on three pages. Each page that the statement is, he has to sign that page.

After he gets done signing it, then I sign and then the witness signs.

Q. And if he had wanted to make a change, what

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

would you have done?

A. We would have added it to it.

Q. So if he thought something was wrong or something needed to be added or taken away, that would have been done?

A. Yes.

Q. Did he request that you make any changes? Any additions or subtractions?

A. No, he did not.

And then after he is -- or after everything is signed, he's presented with a copy of that statement.

Q. And what did he do with his copy of the statement?

A. He took his advice of rights and defendant's statement and crumbled them up and threw them in the trash can.

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: No further questions, Your Honor.

THE COURT: Let me see the attorneys up here real quick.

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. Madam Forelady and members of the jury, we're going to stop at this time.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Please don't discuss the case with anyone. I want you to -- I want you to make up your own mind, your own decision, based upon what you hear in the courtroom, not what someone outside the courtroom tells you.

If there's anything in the paper, please don't read it. If there's anything on television, please don't listen to it. And don't get on any computers or do any research.

I'll see you in the morning at 9:30. Have a good evening.

[Whereupon, the jury exits the courtroom at 4:54 p.m.]

THE COURT: All right. Detective Holt, this evening don't discuss the case with anyone, please, sir.

THE WITNESS: Yes, sir.

THE COURT: We'll adjourn until 9:30 in the morning. Thank you very much.

[Off the record momentarily]

MR. KIDD: We also have the photographs that we disagree on.

THE COURT: Do you want to hand them up and let me take a look at them?

[Whereupon, Mr. Kidd proffers documents to the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Court]

THE COURT: These are the ones you disagree on?

MR. KIDD: These are the ones she objects to.

THE COURT: I'll take a look at them.

[Off the record momentarily]

[WHEREUPON, JURY TRIAL ADJOURNS AT 4:54 P.M.]

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-826-6313

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable J.C. Nicholson, Jr, on Monday, November 14, 2011.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 1st day of May, 2012.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2010-GS-10-6287

THE STATE OF SOUTH CAROLINA)
)
VS.)
)
GREGORY GATHERS,)
)
DEFENDANT.)
)

JURY TRIAL

VOLUME 2 OF 4

held before the Honorable J.C. Nicholson, Jr.

Mia Perron, Circuit Court Reporter, 9th Judicial Circuit

in the Charleston County Courthouse

Charleston, South Carolina

on Tuesday, November 15, 2011, Commencing at 11:31 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE STATE:

E. Culver Kidd, Esquire
Adam D. Young, Esquire
Ninth Circuit Solicitor's Office
101 Meeting Street
Charleston, South Carolina 29401

FOR THE DEFENDANT:

Martha Kent Runey, Esquire
Ted Smith, Esquire
Charleston County Public Defender's Office
101 Meeting Street, Fifth Floor
Charleston, South Carolina 29402

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	193
JUROR NUMBER 155 RELEASED AS JUROR	206
WITNESSES FOR THE STATE	
JUSTIN HOLT	
Cross-Examination by Ms. Runey	211
Redirect Examination by Mr. Kidd	215
SEAN BAUER	
Direct Examination by Mr. Young	217
JOHN REYNOLDS	
Direct Examination by Mr. Kidd	224
Cross-Examination by Ms. Runey	284
SAM RIEDEL	
Direct Examination by Mr. Kidd	293
Cross-Examination by Ms. Runey	302
ALEXANDRIA TEACHEY	
Direct Examination by Mr. Young	310
LAURA REYNOLDS	
Direct Examination by Mr. Young	320

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO PROCEEDINGS, continued

	PAGE
WITNESSES FOR THE STATE, continued	
SELENA KINARD	
Direct Examination by Mr. Young	330
JANICE BRYSON	
Direct Examination by Mr. Young	342
ANDREA HEFNEY	
Direct Examination by Mr. Young	349
Cross-Examination by Ms. Runey	376
NICHOLAS BATALIS, M.D.	
Direct Examination by Mr. Kidd	381
Cross-Examination by Ms. Runey	411
Redirect Examination by Mr. Kidd	417
Recross-Examination by Ms. Runey	420
MOTION FOR A DIRECTED VERDICT	424
DEFENDANT'S RIGHTS	426
CERTIFICATE OF COURT REPORTER	431

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

INDEX TO EXHIBITS

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 2 [Consent to Search Form]	193 /
State's Exhibit Number 3 [Buccal Swab]	193 / 375
State's Exhibit Number 4 [Photograph]	205 / 234
State's Exhibit Number 5 [Photograph]	205 / 234
State's Exhibit Number 6 [Photograph]	205 / 245
State's Exhibit Number 7 [Photograph]	205
State's Exhibit Number 8 [Photograph]	205 / 194
State's Exhibit Number 9 [Photograph]	206
State's Exhibit Number 10 [Photograph]	206 / 402, 422
State's Exhibit Number 11 [Photograph]	206 / 402, 422
State's Exhibit Number 12 [Photograph]	206 / 402, 422
State's Exhibit Number 13 [Photograph]	206 / 402, 422
State's Exhibit Number 14 [Photograph]	206 / 402, 422
State's Exhibit Number 15 [Photograph]	206 / 402, 422

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO EXHIBITS, continued

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 16 [Photograph]	225 / 228
State's Exhibit Number 17 [Photograph]	225 / 228
State's Exhibit Number 18 [Photograph]	225 / 228
State's Exhibit Number 19 [Photograph]	225 / 234
State's Exhibit Number 20 [Photograph]	225 / 234
State's Exhibit Number 21 [Photograph]	225 / 234
State's Exhibit Number 22 [Photograph]	225 / 234
State's Exhibit Number 23 [Photograph]	225 / 234
State's Exhibit Number 24 [Photograph]	226 / 234
State's Exhibit Number 25 [Photograph]	226 / 234
State's Exhibit Number 26 [Photograph]	226 / 234
State's Exhibit Number 27 [Photograph]	226 / 241
State's Exhibit Number 28 [Photograph]	226 / 241
State's Exhibit Number 29 [Photograph]	226 / 241

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO EXHIBITS, continued

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 30 [Photograph]	226 / 241
State's Exhibit Number 31 [Photograph]	226 / 241
State's Exhibit Number 32 [Photograph]	226 / 245
State's Exhibit Number 33 [Photograph]	226 / 245
State's Exhibit Number 34 [Photograph]	226 / 245
State's Exhibit Number 35 [Photograph]	226 / 249
State's Exhibit Number 36 [Photograph]	226 / 249
State's Exhibit Number 37 [Photograph]	227 / 249
State's Exhibit Number 38 [Photograph]	227 / 249
State's Exhibit Number 39 [Photograph]	227 / 249
State's Exhibit Number 40 [Photograph]	227 / 249
State's Exhibit Number 41 [Photograph]	227 / 249
State's Exhibit Number 42 [Knife Blade]	254 / 255
State's Exhibit Number 43 [Condom]	254 / 375

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO EXHIBITS, continued

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 44 [Knife Block]	254 / 258
State's Exhibit Number 45 [Photograph]	259 / 260
State's Exhibit Number 46 [Photograph]	259 / 260
State's Exhibit Number 47 [Photograph]	259 / 260
State's Exhibit Number 48 [Photograph]	260 / 260
State's Exhibit Number 49 [Photograph]	260 / 260
State's Exhibit Number 50 [Photograph]	260 / 260
State's Exhibit Number 51 [Photograph]	265 / 269
State's Exhibit Number 52 [Photograph]	265 / 269
State's Exhibit Number 53 [Photograph]	265 / 269
State's Exhibit Number 54 [Photograph]	270 / 271
State's Exhibit Number 55 [Swabs]	271 / 375
State's Exhibit Number 56 [Photograph]	273 / 274
State's Exhibit Number 57 [Photograph]	273 / 274

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

INDEX TO EXHIBITS, continued

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
State's Exhibit Number 58 [Photograph]	273 / 274
State's Exhibit Number 59 [Photograph]	273 / 274
State's Exhibit Number 60 [Photograph]	273 / 274
State's Exhibit Number 61 [Photograph]	273 / 274
State's Exhibit Number 62 [Swabs of Defendant's Hands]	273 / 375
State's Exhibit Number 63 [Blood Spots From Clippings Sample of Hair]	273 / 375
State's Exhibit Number 64 [Photograph of Driver's License]	294 / 299
State's Exhibit Number 65 [Map on Large Board]	295 / 298
State's Exhibit Number 66 [Condom Swabs]	346 / 375
State's Exhibit Number 67 [Styrofoam Head]	380

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO EXHIBITS, continued

[Exhibits premarked by counsel unless otherwise noted in the transcript]

	MARKED/ADMITTED
DEFENDANT'S EXHIBITS	
Defendant's Exhibit Number 1 [Photograph] [Remarked as Court's Exhibit Number 3 per Judge Nicholson]	305 /
Defendant's Exhibit Number 2 [Photograph]	286 / 286
Defendant's Exhibit Number 3 [Defendant's Exhibit Number 1 Re-marked as Court's Exhibit Number 3, per Judge Nicholson]	288 / 306
COURT'S EXHIBITS	
Court's Exhibit Number 1 [Note From Juror]	210
Court's Exhibit Number 2 [Note From Juror]	210
Court's Exhibit Number 3 [Photograph]	304

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

PROCEEDINGS

[Whereupon, State's Exhibit Number 2 is marked by the court reporter]

[Whereupon, State's Exhibit Number 3 is marked by the court reporter]

THE COURT: Let's go on the record.

[Off the record momentarily]

THE COURT: All right. Referring to State's picture, Exhibit Number 4, which is a photograph, what's your objection to that one?

MS. RUNEY: Your Honor, my objection is that they're prejudicial when they see the blood and the body on the floor.

I think that the crime scene techs can testify as to where they found her body. And we don't dispute the location of her body, we just think it's prejudicial for the jury to see her lying their dead and see the blood.

THE COURT: Okay. Number 4 I'm going to allow. Okay?

MS. RUNEY: Yes, sir.

THE COURT: And then here's Number 5, which is also a picture apparently from the other direction with the body lying on the floor.

MS. RUNEY: Your Honor, it would be the same

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

objection, but we do think that that one is much better than the previous picture.

THE COURT: Okay. I'll allow --

MS. RUNEY: Yes, sir.

THE COURT: -- Number 5.

And Number 6 is basically the same picture as Number 5, except it's a closeup. I mean, why put both in?

MR. KIDD: I don't believe I need both, Your Honor.

THE COURT: Which one do you want?

MR. KIDD: Number --

THE COURT: I'm not going to let --

MR. KIDD: -- Number 8.

THE COURT: -- both of them in.

MR. KIDD: Number 8. I believe it's a better quality photo. It shows the hair, in the exhibit, on the floor. And that's the bottom, Judge.

THE COURT: All right. I'm going to exclude 5. What's your objection? Same --

MS. RUNEY: Yes, sir.

THE COURT: -- objection as 8? All right. I'm going to allow 8 in.

All right. And then Number 19 is basically the same picture.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: We can exclude 19.

THE COURT: 20 is just apparently information that was found.

What's your objection to 20?

MS. RUNEY: My only objection to that one is that her head with the blood is at the top of that picture. If we could cut that off, that would be helpful. That would be no problem to us.

MR. KIDD: All right. I don't object to cutting that off. I would just, like you said, cut the top of it off.

THE COURT: Do the same thing as 20.

All right. Now we've got it looks like 31, 32, 33 and 34, which are closeups of the -- 31 is a closeup of the photograph earlier that was taken from a distance. I understand her objection.

In other words, I'm not going to necessarily allow all these in.

MR. KIDD: I don't need 31 so much. I can leave 30 --

THE COURT: I mean, I don't know what 31 shows, other than --

MR. KIDD: Correct.

THE COURT: -- what you've already put in.

MR. KIDD: I can leave 31 out.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: All right. What about 33? What does that show? And 34? Because it's basically the same thing, a photograph of somebody holding her hands and her fingers.

MR. KIDD: It specifically shows the defensive wounds on her hands. On the palm of the hand on that picture --

THE COURT: Show me where you're talking about.

MR. KIDD: This is the defensive wound, the knife cut on her hand here; and the knife lacerations, on her opposite hand on her fingers, in this picture.

You know, this whole case is not a who-done-it. It comes down to malice. And I think, you know, these pictures depict that she's fighting for her life.

THE COURT: All right. He's referring to 33 and 45. What's your objection?

MS. RUNEY: Judge, my objection to 33 and 34 is the blood. If the hands were cleaned off -- I think the blood makes it highly prejudicial. The fact that, you know, they're pulling the hands out of the body bag is highly prejudicial, as well.

If he wants -- the officer can testify to her defensive wounds and where they are located on her hands, and I believe that Dr. Batalis can also testify as to those wounds and where they are located, but the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

blood and the body bag are highly prejudicial.

THE COURT: Well, do you want to stipulate as to the wounds?

MS. RUNEY: I can stipulate to the location of the wounds.

MR. KIDD: I think the severity of the wounds is what's important. I think just by saying that someone has a laceration on her finger or a laceration on her palm --

THE COURT: Well, I mean, I assume the pathologist is going to testify; right?

MR. KIDD: Correct.

THE COURT: He can't testify about the severity of the cuts on the sight, the left -- right hand, the middle finger, and the right-hand palm?

MR. KIDD: They can testify to it. He will testify to it, absolutely. But I think if --

THE COURT: All right. What I'm going to do is I'm going to listen to his testimony and I'm going to take these two under advisement. Okay?

MS. RUNEY: Yes, sir.

THE COURT: As far as the wounds themselves.

Now we're looking at 32.

MS. RUNEY: Judge, when the jury sees that, I think that it's going to --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Well, I mean --

MS. RUNEY: -- certainly be emotional.

THE COURT: -- doesn't that depict to what the blows did to her, that he apparently killed her from -- I don't know the cause -- was caused that? Trauma to the head?

MR. KIDD: Blunt-force trauma.

MS. RUNEY: Blunt-force trauma.

THE COURT: Blunt-force trauma from the fist. I mean, why isn't that relevant?

MS. RUNEY: Your Honor, it --

THE COURT: I know it's relevant, but why doesn't the relevant value of the --

MS. RUNEY: It is relevant --

THE COURT: -- probative value outweigh the prejudicial value?

I understand that it's prejudicial in that it shows blood, but it's an accurate depiction of the beating that the woman took from the defendant.

MS. RUNEY: Yes, sir. And I think that the blood on these -- there are some autopsy pictures where the blood is not all over her face and it does show the bruising and the lacerations. But I believe that the blood and the body bag on those are going to prejudice the jury and not -- and affect their decision, based on

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

emotions.

THE COURT: Well, let me see the ones that she's talking about --

MR. KIDD: If I could say one further thing about that that I find very important.

The lacerations over her eyes, Dr. Batalis will testify that these are knife wounds. And they're actually symmetrical knife wounds over her eyes.

The reason I think this picture is especially important is because we also have a DMV photo of her before her injuries, which we plan to admit, which actually shows her having a very sharp nose-ridge line which kind of shows that one slash of the knife really couldn't get both those spots on her eyes.

THE COURT: My inclination is to allow it in, but I will take it under advisement --

MS. RUNEY: Yes, sir.

THE COURT: -- until I hear the pathologist testify.

MS. RUNEY: Yes, sir.

THE COURT: You can mark them for identification, as far as whoever took the pictures -- indication of the pictures themselves. But as far as admitting them and showing them to the jury, I'm going to wait until I hear from the pathologist --

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Yes, sir.

THE COURT: -- and see those other pictures you were talking about. Okay?

MR. KIDD: Yes, sir.

Particularly, I try to stay away from autopsy pictures for the purpose that the body has been altered.

THE COURT: Well, the defense wants to see it altered.

MR. KIDD: I'm sure they do.

THE COURT: You know, that's the way the defense wants it, to be altered without the blood.

I don't think she has an objection to the autopsy being an altered picture, do you?

MS. RUNEY: No, sir.

THE COURT: That's basically the same picture, just without the blood.

MR. KIDD: Correct. This is on the autopsy table.

I mean, and these depict the same injuries as the ones on the scene --

THE COURT: Why don't -- why won't these do what you want shown, other than the -- it shows the nose. It shows apparently a broken nose and the cuts. Why won't these do the same thing for what you want other

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

than without basically the bloody gore and the bloody tee-shirt and the body bag?

MR. KIDD: Well, it does, almost, except that we still have this issue of malice. I mean, malice is the entire case that we have here.

THE COURT: Well, I mean, you've got malice there with the big cut on the temple area. You've got malice, with the cuts over the eyes, both eyes. I mean, it shows the same thing, just without the blood and without the blood on the shirt, and the body bag.

But I'll take it under advisement until I hear the testimony. Okay? I'm not going to rule right now.

MR. KIDD: Correct. Can we take it under advisement, also, as to the defensive wounds on the hands, as well?

THE COURT: Yeah. I said I'm going to do that. And as far as who took the picture let's get them identified and marked for identification, as far as authentication.

Unless you don't have a problem with that?

MS. RUNEY: But please don't flash them to the jury.

THE COURT: I don't have a problem with authentication. Do you have a problem with authentication of the pictures?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Cuts and bruises --

MS. RUNEY: -- scrapes, carpet burn on her knees --

THE COURT: -- or whatever they are?

MR. KIDD: Right. And, once again, we have the autopsy photo that is the same -- depicting the same image we want. It's just the --

THE COURT: Actually, the autopsy picture shows it better than --

MR. KIDD: It's just the color is better in the autopsy photograph.

THE COURT: The color is much better with this than this. Which one do you want?

MR. KIDD: I just -- I mean, I would prefer the autopsy picture. I thought that one was more prejudicial because it has her on an autopsy table, as opposed to on the scene.

THE COURT: You don't have an objection to that one?

MS. RUNEY: Well, I do. But if I've got to decide between the two --

THE COURT: You're going to have to decide between the two. I mean, I think this is a better picture, as far as showing --

MS. RUNEY: Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: -- what actually occurred.

I'll just take this one under advisement.

MS. RUNEY: Yes, sir.

MR. KIDD: Well, if we're okay on this one, I don't need --

THE COURT: I'm okay with that one.

MR. KIDD: Okay. So I don't need that one.

MS. RUNEY: And those are the ones that you're taking under advisement?

MR. KIDD: No. That's the ones that we agreed not to --

THE COURT: Those are the ones that you're not going to put in.

MS. RUNEY: Okay

MR. KIDD: These are out and --

THE COURT: And she's marked some for identification.

MR. KIDD: And just so we're clear. These are out. This one is under advisement -- or this one is good. This one is under advisement; under advisement; under advisement; under advisement; under advisement; under advisement; that one is good; that one is good; that one is good, once I cut the top off --

THE COURT: I'll make a decision on those after I hear the testimony.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: Yes, sir.

THE COURT: We'll mark them for identification. So she doesn't have a problem with identification with these pictures right here.

MS. RUNEY: Right.

THE COURT: Is that right?

MS. RUNEY: That's right.

THE COURT: And then when I hear the autopsy testimony, I'll make a decision.

MS. RUNEY: Thank you, Judge.

[Off the record momentarily]

THE CLERK OF COURT: All jurors are present.

THE COURT: We've got all the jurors?

THE CLERK OF COURT: Yes, sir.

[Off the record momentarily]

[Whereupon, State's Exhibit Number 4 is marked by the court reporter]

[Whereupon, State's Exhibit Number 5 is marked by the court reporter]

[Whereupon, State's Exhibit Number 6 is marked by the court reporter]

[Whereupon, State's Exhibit Number 7 is marked by the court reporter]

[Whereupon, State's Exhibit Number 8 is marked by the court reporter]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

[Whereupon, State's Exhibit Number 9 is marked by the court reporter]

[Whereupon, State's Exhibit Number 10 is marked by the court reporter]

[Whereupon, State's Exhibit Number 11 is marked by the court reporter]

[Whereupon, State's Exhibit Number 12 is marked by the court reporter]

[Whereupon, State's Exhibit Number 13 is marked by the court reporter]

[Whereupon, State's Exhibit Number 14 is marked by the court reporter]

[Whereupon, State's Exhibit Number 15 is marked by the court reporter]

- - - - -

JUROR DISMISSED

THE COURT: Let me see the attorneys up here just a minute.

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. The Court has talked to the attorneys. Juror Number 144 [sic], Jacquelin Lynn, her uncle passed away yesterday morning and she has to go to Jacksonville for a family dinner Thursday night. The funeral is Friday morning. After conferring with

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the attorneys, the parties agree that we will dismiss juror number 155, Jacquelin Lynn, because of the possibility of her being involved in deliberations by this jury and unable to make the funeral in Jacksonville, Florida.

And the parties have agreed that we will put the names of the two alternates, Thomas Allenspach, juror number 5, and Calvin J. Simmons, juror number 237, in a hat and then we'll draw them out, rather than taking alternate one and alternate two in the order in which they were drawn.

Is that correct from the State?

MR. KIDD: Correct, Your Honor.

THE COURT: Is that correct from the defendant?

MR. SMITH: Yes, Your Honor.

THE COURT: Okay. Thank you very much.

[Off the record momentarily]

THE COURT: All right. The draw is Calvin Simmons, juror number 237. And the Court will place him on the jury.

Anything else from the State before we bring the jury?

MR. KIDD: No, Your Honor, other than I've now marked the exhibits we went through for ID purposes and they're State's Exhibits 4 through 15.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

And I guess my understanding, just for the record, is we won't have to establish foundation --

THE COURT: Authenticate those documents, those pictures; is that correct? There's no --

MS. RUNEY: They do not have to --

THE COURT: There's no objection as to authentication of those pictures?

MS. RUNEY: As to authentication.

THE COURT: We're going to mark them for identification only.

The Court is taking under advisement as to whether he's going to admit them or not. I'm going to wait until I hear from the pathologist's testimony before I make a decision on which ones are going to be admitted and which ones are not going to be admitted.

MS. RUNEY: Yes, sir. Thank you.

THE COURT: Okay? Is that correct?

MR. KIDD: Correct, Your Honor.

And that's -- and just so we're clear on the record, that's as to State's Exhibit Number 7, 8, 9, 10, 11, 12, 13, 14, and 15.

THE COURT: Okay.

MR. KIDD: Thank you, Your Honor.

THE COURT: Would you ask -- if you would, would you go bring in Jacquelin Lynn, juror number 155,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

please.

[Whereupon, Ms. Lynn, juror number 155, enters the courtroom at 9:58 a.m.]

MS. LYNN: Good morning, Your Honor.

THE COURT: Yes, ma'am. If you want to come around.

I read your note, and I'm sorry about your uncle.

MS. LYNN: Thank you.

THE COURT: I don't know when the trial is going to finish, but I'm going to go ahead and release you so you can go to the funeral in Jacksonville. Okay?

MS. LYNN: You know, I don't need to go until Thursday.

THE COURT: I understand. But I'm afraid we may be tied up on Thursday with the jury and unable to continue. Okay? So I'm not going to take that chance. Okay?

MS. LYNN: Thank you.

THE COURT: I'm going to go ahead and release you and let you go to your uncle's funeral.

MS. LYNN: All right. Thank you very much.

THE COURT: If you want to go get your items out of the jury room and you're free to go.

MS. LYNN: Okay.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: And you're free to go. Okay? Have a good one.

MS. LYNN: Thank you very much, Your Honor.

[Whereupon, Ms. Lynn, juror number 155, is released from the jury and exits the courtroom]

[Whereupon, Court's Exhibit Number 1 is marked by the court reporter]

[Whereupon, Court's Exhibit Number 2 is marked by the court reporter]

THE COURT: Bring us the jury, please.

[Off the record momentarily]

THE COURT: Detective Holt, you want to come around? Have a seat in the witness chair, please, sir.

[Whereupon, Mr. Holt takes the witness stand]

[Whereupon, the jury enters the courtroom at 10:03 a.m.]

THE COURT: All right. Mr. Simmons, if you'll move around next to the other chair. You are on the jury. I have excused Ms. Lynn, because her uncle died and she has to go to a funeral in Jacksonville, Florida. And I think that's important, so I have excused her to attend the funeral. And Mr. Simmons is now a member of the twelve jurors.

You're no longer an alternate, Mr. Simmons.

Cross-examination, I believe?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: Yes, sir. Thank you.

Good morning, Detective Holt.

THE WITNESS: Good morning.

- - - - -

JUSTIN HOLT,

Having Been Previously Duly Sworn,

was Examined and Testified as Follows:

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Yesterday you testified that you took Mr. Gathers's statement; correct?

A. Yes.

Q. And he was cooperative with you?

A. Yes.

Q. And when you advised him of his rights, he was muttering? I believe that was the word that you used.

A. He was upset, but as I asked -- or as I read them out to him, he understood. It was clear that he understood.

Q. He kept saying things under his breath?

A. Prior to the advice of rights. When he first was in the room with us he was crying and he wanted to know if the victim was deceased or not.

Q. He kept asking you about Ms. Nevarez?

A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And when you told him that Ms. Nevarez had passed away, he broke down?

A. Yes. He was already crying, but he continued to cry.

Q. And at that point, you couldn't ask him anymore questions?

A. No. We couldn't get on with what we needed to, as far as the statement and stuff, until we advised him of his rights and so we let him take a moment to compose himself before we advised him of his rights.

Q. And he sat there and cried?

A. For a few minutes, prior to the advisement of rights.

Q. For at least five minutes or so?

A. Yes.

Q. And he kept saying, I'm so sorry, I'm so sorry?

A. Yes.

Q. And once that happened, you let him sit there for a while and then you asked him what happened that night?

A. After the advisement of rights.

Q. Correct. And he blurted out?

A. Yes.

Q. He blurted out, we was smoking crack and it was about four to fives times. She stole $400 from me. And

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

all I did was beat her up. Oh, Lord, I am so sorry. We were smoking and having sex and she stole my money and that's why?

A. Yes.

Q. And then became upset again?

A. Yes.

Q. And so at that point you had to change the form of your interview?

A. That is correct.

Q. And you began asking him questions and he would answer your questions?

A. Yes.

Q. And his answers to you were pretty brief?

A. Yes.

Q. After he told you that they had been smoking crack for four to five times, did you stop the interview?

A. No.

Q. Did you further question Mr. Gathers about how much crack he had smoked?

A. I don't recall. I would have to look at the interview.

Q. You didn't give him a drug test, did you?

A. No. We don't -- we don't issue drug tests.

But at no time did he appear like intoxicated or anything, under the influence of anything, while he was

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

talking to us. He was speaking very clearly.

Q. And he was in custody at that time?

A. Yes, he was.

Q. He was handcuffed?

A. One hand.

Q. To a chair?

A. Yes.

Q. So if you stopped the interview, he would have remained in custody?

A. Yes.

Q. And he told you that he had been up with Ms. Nevarez all night?

A. Yes.

Q. The interview was over a two period -- two-hour period?

A. Yes.

Q. And this interview was not recorded on audio or video?

A. No. We didn't have capabilities at that time.

Q. And when you finished the written statement you asked Mr. Gathers, is there anything that you would like to add?

A. Yes.

Q. Your question was: is there anything else you would like to tell me at this point in time?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes.

Q. And he said to you: I am sorry, I didn't mean it. I am very, very sorry. I am sorry for her family, I am sorry for my son. I didn't mean to kill her. I didn't even mean to beat her up that bad. I am sorry.

A. Yes.

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: That's all I've got. Thank you, Detective Holt.

THE WITNESS: Thank you.

THE COURT: Redirect?

MR. YOUNG: Just one quick follow up.

REDIRECT EXAMINATION

BY MR. KIDD:

Q. Ms. Runey just asked you if he was up all night. But, in fact, in the statement it says that he woke up at some point; is that correct?

A. From the alarm clock.

Q. From the alarm clock.

So he did at some point, then, go to sleep that evening?

A. From my understanding, yes, because he was awakened by the alarm clock.

MR. KIDD: MR. YOUNG: No further questions.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Any recross?

MS. RUNEY: No, sir. Thank you.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Holt is excused and exits the witness stand]

THE COURT: Call your next witness, please.

MR. YOUNG: The State calls Officer Sean Bauer.

[Whereupon, Mr. Bauer comes forward]

MR. YOUNG: I think we need the clerk, first -- clerk to swear him in?

THE COURT: Raise your right hand.

[Whereupon, Mr. Bauer is duly sworn by the Court as follows: do you swear to tell the truth, nothing but the truth, so help you God]

THE WITNESS: I do.

THE COURT: Have a seat.

[Whereupon, Mr. Bauer takes the witness stand]

THE COURT: And if you would state your full name and spell your last, please.

THE WITNESS: Sean Bauer. B-A-U-E-R.

MR. YOUNG: Thank you, Judge.

Good morning. Is it Officer Bauer?

THE WITNESS: Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

SEAN BAUER,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Officer Bauer, tell the jury where you work.

A. I work at the North Charleston Police Department.

Q. And how long have you worked there?

A. July, it will be six years.

Q. And what are your duties there?

A. I am currently a patrol officer.

Q. Were you in the course of these duties on June 7th, 2010?

A. No. No, sir.

Q. What were you doing then?

A. I was a property crimes detective; investigating cases.

Q. And on that date did you respond to a crime scene?

A. Yes, I did.

Q. And what was that in reference to?

A. That was in reference to an unknown situation, I believe, that turned out to be a suspected homicide.

Q. And what did you observe when you first arrived

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

at the scene?

A. I observed -- I didn't actually go completely into the residence. I did peek my head in to see the body of the victim lying on the floor.

After that, I was looking around the area of the residence to see if I could locate any other kind of evidence that would be useful.

Q. So you just canvassed the area after you got there?

A. Yes, sir.

Q. At some point did you make your way from the crime scene to the detective bay?

A. Yes, I did.

Q. And why would you have done that?

A. I went back to the detective bay to get my notes into the computer on what was done. Also, to attempt to obtain a DNA sample from the defendant.

Q. Was the defendant at the detective bay when you went there at that time?

A. I believe he was.

Q. Okay. And so when you get to the detective bay, did you have an opportunity to view the suspect?

A. Yes.

Q. How did he appear?

A. He appeared upset. He was crying.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And where exactly did you view him; do you remember?

A. I believe it was in the interview room.

Q. And was anybody else in there with you?

A. I want to say that Detective Cook was with me at the time.

Q. And is the defendant seated or standing or how -- do you know what he was doing?

A. I believe he was seated.

Q. Seated.

At some point were you instructed to obtain a buccal swab of the defendant?

A. Yes, I was.

Q. And I'm going to show you --

MR. YOUNG: May I approach the witness, Judge?

THE COURT: Yes, sir.

Q. [Mr. Young] -- what's been marked as State's 2, for ID only. Do you recognize that form?

A. Yes, I do.

Q. And what is that form?

A. That's a consent to search form from the North Charleston Police Department.

Q. What -- consent to search, is that -- could you explain what that means to the jury?

A. That basically is just saying that, you know,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you're giving us permission to search your residence, your belongings, or your body. In this case it was his person.

Q. So did the defendant sign this?

A. Yes, he would have.

Q. And would you have signed it, as well, on the bottom?

A. Yes.

Q. And so he gave you consent to search his -- his DNA --

A. His person, yes.

Q. -- which would be a buccal swab?

A. Yes, sir.

Q. Did you, in fact, obtain that buccal swab?

A. Yes, I did.

Q. And how would you -- can you tell the jury how you go about obtaining a buccal swab?

A. After explaining it to him, I would have read the statement -- or the consent to search form, ask if he understood it. If he did do so, at that time I would have him sign it. After that, I would instruct him to open up his mouth for me. I would take a cotton swab and just swab the inner cheek of -- inner lining of his check to obtain the DNA cells.

Q. And did you -- and so it's like a Q-tip almost-looking?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

A. It kind of looks like one, yes, sir.

MR. YOUNG: May I approach the witness, Judge?

THE COURT: Yes, sir.

Q. [Mr Young] I'm going to show you what's been marked as State's 3, for ID only. It's obviously packaged up.

A. Uh-huh.

Q. What does that say right there? The top line.

A. This is a buccal swab from Gregory Gathers.

Q. Okay. And would that have been the buccal swab you would have taken --

A. Yes.

Q. -- from the defendant?

A. Yes, sir.

Q. Okay. And when you took it, did you tamper with it at all?

A. No. I --

Q. Would you --

A. I immediately packaged it.

Q. You would have packaged it up. Would you have sealed that package?

A. Yes.

Q. And what would you do -- after you sealed the package, what would you do with it --

A. I would --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. -- what did you do with it?

A. I would have put it down on the chain of custody form that I obtained it at that time, and then I would have transferred it all over to Sargent Reynolds of the crime scene unit.

Q. So you gave it to Sargent Reynolds?

A. Yes.

Q. And you didn't tamper with it at all?

A. No.

Q. You didn't alter it in any way?

A. No, sir.

Q. And processed -- when you say you gave it to Sargent Reynolds, did you hand it to him?

A. I would have handed it to him with the chain of custody form, and which he would have signed showing that he obtained it.

Q. Did you give the defendant a copy of his consent to search form?

A. Yes, I did.

Q. What did he do with that?

A. He threw it in the trash can.

MR. YOUNG: Court's indulgence, Your Honor.

[Whereupon, Mr. Young and Mr. Kidd confer]

MR. YOUNG: Please answer any questions defense counsel may have.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MS. RUNEY: I don't have any questions for Officer Bauer.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you, sir.

[Whereupon, Mr. Bauer is excused and exits the witness stand]

MR. KIDD: The State calls Sargent John Reynolds.

[Whereupon, Mr. Reynolds comes forward]

[Whereupon, Mr. Reynolds is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you will give the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Thank you, sir. You may take your seat.

[Whereupon, Mr. Reynolds takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: John Reynolds. R-E-Y-N-O-L-D-S.

MR. KIDD: Good morning, Sargent Reynolds.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE WITNESS: Good morning.

- - - - -

JOHN REYNOLDS,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Could you tell the jury where it is you're currently employed?

A. I'm currently employed with the City of North Charleston Police Department.

Q. And how long have you been employed with North Charleston?

A. Approximately sixteen years.

Q. And what are your current duties?

A. I'm currently assigned as the supervisor of the crime scene investigation unit.

Q. And what does that entail?

A. The supervisor of the crime scene investigation unit will respond to crime scenes. We recover evidence, we document, photograph, collect the evidence, and preserve it for later testing at the laboratories up in Columbia.

Q. And were these your responsibilities back in June of 2010?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, they were.

Q. Do you recall getting involved in this case in June of 2010?

A. Yes, I do.

MR. KIDD: Court's indulgence for one moment.

[Whereupon, Mr. Kidd reviews documents]

MR. KIDD: If I may approach the reporter, Your Honor?

THE COURT: Yes, sir.

[Whereupon, State's Exhibit Number 16 is marked by the court reporter]

[Whereupon, State's Exhibit Number 17 is marked by the court reporter]

[Whereupon, State's Exhibit Number 18 is marked by the court reporter]

[Whereupon, State's Exhibit Number 19 is marked by the court reporter]

[Whereupon, State's Exhibit Number 20 is marked by the court reporter]

[Whereupon, State's Exhibit Number 21 is marked by the court reporter]

[Whereupon, State's Exhibit Number 22 is marked by the court reporter]

[Whereupon, State's Exhibit Number 23 is marked by the court reporter]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

[Whereupon, State's Exhibit Number 24 is marked by the court reporter]

[Whereupon, State's Exhibit Number 25 is marked by the court reporter]

[Whereupon, State's Exhibit Number 26 is marked by the court reporter]

[Whereupon, State's Exhibit Number 27 is marked by the court reporter]

[Whereupon, State's Exhibit Number 28 is marked by the court reporter]

[Whereupon, State's Exhibit Number 29 is marked by the court reporter]

[Whereupon, State's Exhibit Number 30 is marked by the court reporter]

[Whereupon, State's Exhibit Number 31 is marked by the court reporter]

[Whereupon, State's Exhibit Number 32 is marked by the court reporter]

[Whereupon, State's Exhibit Number 33 is marked by the court reporter]

[Whereupon, State's Exhibit Number 34 is marked by the court reporter]

[Whereupon, State's Exhibit Number 35 is marked by the court reporter]

[Whereupon, State's Exhibit Number 36 is marked

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

by the court reporter]

[Whereupon, State's Exhibit Number 37 is marked by the court reporter]

[Whereupon, State's Exhibit Number 38 is marked by the court reporter]

[Whereupon, State's Exhibit Number 39 is marked by the court reporter]

[Whereupon, State's Exhibit Number 40 is marked by the court reporter]

[Whereupon, State's Exhibit Number 41 is marked by the court reporter]

MR. KIDD: All right. I apologize about that, sir.

Q. [Mr. Kidd] I'm going to first show you what's been marked for identification purposes as State's Exhibit Number 16, 17, and 19. See if you recognize these items.

A. Yes, I did [phonetic].

Q. What are those?

A. These are copies of photographs that I originally took, on that date, of the exterior of the residence that I responded to.

Q. And so you actually took those photographs?

A. That is correct.

Q. And so when you go to a crime scene, is that one of the things you do is you like to document the scene at

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

it appears to you right when you get there?

A. That is correct.

Q. And so the pictures you would have taken would have been preferably before the scene would have been disturbed in any way?

A. That is correct.

Q. And those pictures accurately reflect how that -- that's how that residence looked on that day?

A. That is correct.

Q. Do you remember the address of that residence?

A. To my recollection, it was [redacted], apartment [redacted], Gainer Avenue, in North Charleston.

THE COURT: What numbers?

MR. KIDD: This is State's -- and at this time, Your Honor, the State would move State's Exhibits 16, 17, and 18 into evidence.

THE COURT: Any objection to 16, 17 and 18?

MS. RUNEY: No, sir.

THE COURT: All right. 16, 17 and 18 admitted without objection.

[Whereupon, State's Exhibit Number 16 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 17 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 18 is

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

admitted into evidence by the Court]

MR. KIDD: Thank you, Your Honor.

Q. [Mr. Kidd] I'm going to first show you -- and I know the lighting is terrible on these -- what's been marked as State's Exhibit Number 16. Can you tell the jury what we're looking at?

A. Yes. The apartment that I responded to. I responded there in reference to a death investigation.

The apartment that it occurred in was the apartment on the left where you see the detective in the open doorway. That photograph was taken from the edge of the street in front of the residence and had been secured by yellow crime scene tape, which you can see along the bottom of the screen there.

Q. And from your crime scene unit, are there a number of other investigators and officers present at this time?

A. That is correct.

Q. I'm now going to show you what's been marked and entered into evidence as State's Exhibit 17. Can you tell what we're looking at here?

A. That's a closer view of the same residence; however, it's taken up in the front -- taken from the front yard and more towards the left side of the residence.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. So that's just kind of finishing off what we're seeing there on the left side of the house?

A. That is correct.

Q. And, finally, State's Exhibit Number 18.

MR. KIDD: I guess that would be the appropriate way to look at it.

Q. [Mr. Kidd] Can you tell the jury what we're looking at there?

A. Yes. In that photograph I'm standing under -- as you face the residence from the street, I'm standing on the right side of the porch.

That is taken from over by apartment B, showing the porch area of the house.

Q. Now I'm going to show you what's been marked for ID as State's Exhibit Number 4.

MR. KIDD: Madam Court Reporter, this actually was double-marked 5 and 20, so if you could just cross out 20 and make it --

THE CLERK OF COURT: Thank you.

MR. KIDD: Sorry about that.

Q. [Mr. Kidd] I'm first going to show you what's been marked as State's Exhibit Number 4. Do you recognize that photograph?

A. Yes, I did [phonetic].

Q. And what does that photograph depict?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. That is a photograph of the victim lying on the floor.

Q. And in what part of the residence is that?

A. The upper half of her body was in the kitchen area and the lower half of her body was protruding into the living room.

Q. Does that accurately depict the scene as you saw it when you arrived there?

A. Yes, it does.

Q. And did you take that photograph?

A. Yes, I did.

Q. I'm now going to show you what's been marked as State's Exhibit -- for ID only as State's Exhibit Number 5. Do you recognize that photograph?

A. Yes, I do.

Q. And can you tell the jury what that is?

A. This depicted the victim from a different angle, where I'm standing in the living room depicting her -- the lower half of her body in the living room but trailing into the kitchen.

Q. And you took that photograph, as well?

A. Yes, I did.

Q. And it accurately reflects the scene as you saw it that day?

A. Yes, it does.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. When you enter into that residence through the front door, where are you in that residence? How was it laid out?

A. As you walk into the residence, you step into the front living room.

Q. So there's a front living room. And is that where she's located?

A. The lower half of her body is, yes.

Q. And where is the other half?

A. In the kitchen, which is -- as you walk through the living room, the kitchen is right behind the living room.

Q. And are there -- where is the bedroom in location to that?

A. You walk into the kitchen and you make a left and go down the hallway and the bedroom is located down at the end of the hallway.

Q. I'm now going to show you State's -- what's been marked for ID as State's Exhibit Number 21. Do you recognize that item?

A. Yes, I do.

Q. And what does that depict?

A. This is a photograph of a couch in the living room.

Q. And does it accurately reflect how those -- how

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the scene looked when you arrived there that day?

A. Yes, it does.

Q. And State's Exhibit Number 22 for ID only: do you recognize that item?

A. Yes, I do.

Q. And what is that?

A. This is a closer view of the same couch from a closer angle.

Q. And it is also an accurate representation?

A. Yes, it is.

Q. Okay. I'm going to show you State's 23, 24, 25, 26, and 19. If you would take a look at those photographs.

[Whereupon, the witness reviews documents]

Q. [Mr. Kidd] Do you recognize those photographs?

A. Yes, I do.

Q. And did you take those photographs?

A. Yes, I did.

Q. And they all accurately reflect how the scene looked when you arrived that day?

A. Yes, they do.

Q. Thank you.

MR. KIDD: Your Honor, at this time the State would move 4, 5, 19, 21, 22, 23, 24, 25, and 26 into evidence.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Any objection to the ones he enumerated?

MS. RUNEY: Your Honor, I would renew my objection from photo number 4 and number 5.

THE COURT: All right. Any others?

MS. RUNEY: I have no objection to 19, 21, 22, 23, 24 and 25 and 26.

THE COURT: Okay. 19, 21, 22, 23, 24, 25 and 26 admitted without objection.

4 and 5 admitted with objection --

MS. RUNEY: Yes, sir.

THE COURT: -- which has previously been heard by the Court.

[Whereupon, State's Exhibit Number 4 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 5 is admitted into evidence by Court]

[Whereupon, State's Exhibit Number 19 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 21 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 22 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 23 is admitted into evidence by the Court]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, State's Exhibit Number 24 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 25 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 26 is admitted into evidence by the Court]

MR. KIDD: Thank you, Your Honor.

Q. [Mr. Kidd] Sargent Reynolds, I'm going to first show you --

MR. KIDD: Back out a little bit more. It's not perfect.

Q. [Mr. Kidd] But could you tell the jury what we're seeing here?

A. Yes. I took these photographs standing in the kitchen area.

As you can see, the camera is pointed towards the front door. The victim was lying like that, with her upper body protruding into the kitchen and her lower body protruding into the living room. And that photograph was taken from the kitchen towards the front door.

Q. So that front door that we see there would be the door that he's standing in right here on this photograph?

A. That's correct.

Q. And I'll now show you what's been marked and

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

admitted into evidence as State's Exhibit Number 5. Do you recognize this photo?

A. Yes, I did.

Q. And could you tell the jury what direction we're looking at here.

A. At this photograph, I'm standing in the living room pointed towards the kitchen area. The victim is the same person lying on the floor, from a different angle.

Q. I know it's kind of hard to see this picture, but can you tell what we're looking at right here?

A. Yes. That appeared to be to hair extensions or hair.

Q. Would that appear to be consistent with the victim?

A. Correct.

Q. I'll now show you what's been marked and admitted into evidence as State's Exhibit Number 19. Do you recognize this?

A. Yes, I do.

Q. And what are we looking at here?

A. That's -- I'm standing in the living room by the front door. This is the furniture that was in the living room of the residence and I photographed it from the -- by the front door.

Q. Where would the victim's body be located in

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

relation to this photograph?

A. As I'm sitting here, she would be towards the right.

Q. Towards the right.

So this is that couch -- that couch -- on the right-hand side is that couch there? Is that accurate?

A. That is correct.

Q. And what is -- what is this here?

A. That appears to me to be suspected blood stains.

Q. And up here on the couch, as well?

A. Yes, sir.

Q. I'll now sow you what's been marked and admitted into evidence as State's Exhibit Number 21. Is that that same couch we were just looking at?

A. Yes, it is.

Q. And this kind of shows starting in the kitchen on the right-hand side right there?

A. That is correct.

Q. Show you what's been marked and admitted into evidence as State's Exhibit Number 22. Do you recognize that?

A. Yes, I do.

Q. And is that -- what is that?

A. That is the same couch I photographed previously. However, it's a more close-up photo depicting

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the suspected blood stains on the couch.

Q. All right. I'm now going to show you what's been marked and admitted into evidence as State's Exhibit Number 23. Do you recognize that?

A. Yes, I do.

Q. And can you tell the jury what that is?

A. That is a couch that was by the front window, it was a longer couch, and I noticed what appeared to be another hair extension on the top of the cushion there.

Q. So we're looking back at State's Exhibit Number 19, which I previously showed you, which showed kind of a bigger picture of the living room. The couch which is in State's Exhibit Number 23, would that be the couch on the left-hand side over here?

A. Yes, it is.

Q. And now I'm going to show you what's been marked and admitted into evidence as State's Exhibit Number 24. Could you tell the jury what we're looking at here?

A. Yes. That is the same couch in the previous picture and here was a knife blade that was -- that I found on the cushion.

Q. Is that where you found the knife blade?

A. That's how I found it, yes, sir.

Q. And on the top of that cushion above the knife blade, what was that?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. It was a hair extension that was -- as shown in the previous photograph.

Q. I'm now going to show you what's been marked and admitted into evidence as State's Exhibit Number 25. Can you tell the jury what that is?

A. That's a close-up view -- photograph of the same knife blade from the previous photograph; however it was marked with an evidence marker. It's number 10. I photographed it with the evidence marker prior to collection.

Q. And was there any -- are there stains or anything like that on the knife blade itself?

A. There was some stains on the knife blade that appeared to me to be blood.

Q. Did you collect that knife blade?

A. Yes, I did.

Q. How do you go about collecting an item of evidence?

A. Well, first I get a piece of packaging to package the knife blade in. I wear gloves, of course, to recover the evidence. After I photograph it in place with the marker, then I place it into the evidence packaging.

Q. And is that sealed?

A. Yes, it is.

Q. And do you keep that in your custody --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

A. Correct.
Q. -- at that point while you're on scene?
A. Yes.
MR. KIDD: Might be a little better.
Q. [Mr. Kidd] Let me show you what's been marked as State's Exhibit Number 26. Tell the jury what that is.
A. That's a closeup photo as the same hair extension as in the previous photograph -- however this time it's marked with evidence marker number 11 -- and it was photographed with the marker in place prior to collection.
Q. And was that item collected?
A. Yes, it was.
Q. I'm now going to show you what's been marked for identification purpose as State's 27, 28, 29, 30 and 31. Would you see if you recognize those photographs.
[Whereupon, the witness reviews documents]
A. Yes, I do.
Q. [Mr. Kidd] Did you take those photographs?
A. Yes, I did.
Q. What do those photographs depict?
A. Well, these photographs depict different areas of the kitchen and different items within the kitchen.
Q. And do they accurately represent how that kitchen looked on the day in question?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, they do.

Q. Thank you.

MR. KIDD: Your Honor, at this time the State would offer State's Exhibit 27, 28, 29, 30 and 31 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, Your Honor.

THE COURT: 27, 28, 29, 30 and 31 are admitted without objection.

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Number 27 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 28 is admitted into evidence by the Court]

State's Exhibit Number 29 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 30 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 31 is admitted into evidence by the Court]

Q. [Mr. Kidd] First, I'm going to show you State's Exhibit Number -- what's been marked and entered into evidence State's Exhibit Number 27. Do you recognize that photograph?

A. Yes, I do.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Can you tell the jury what we're looking at here?

A. That is the counter top of the kitchen. It's depicting utensils and appliances on the kitchen and a butcher-block knife holder.

Q. It's a little tough to see this picture. I'm going to show you what's been marked as State's Exhibit Number -- already been entered as State's Exhibit Number 28. Do you recognize that photo?

A. Yes, I do.

Q. And what is that?

A. That depicts the same butcher block or knife holder, a hair extension that was also in the sink area, and also suspected blood stains on the counter top.

Q. And that knife holder, it was sitting upright?

A. No. I found it like that.

Q. So it was toppled over when you first saw it?

A. That is correct.

Q. I'm going to show you -- did you collect that knife holder?

A. Yes, I did.

Q. And you took it into your custody at that time?

A. Yes, I did.

Q. I'm going to show you what's been marked and entered as evidence State's Exhibit Number 29. Do you

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

recognize that item?

A. Yes, I do.

Q. Where is this in the kitchen?

A. As you step into the kitchen it's to the right, in the corner.

Q. And other than the signs of struggle, how would you characterize the condition of this apartment?

A. Other than the signs of the struggle, it was somewhat neat.

Q. I'm going to show you what's been marked -- oh.

Specifically, did you collect any evidence that you would have seen in this photograph or that would be contained in this photograph?

A. Yes.

Later on, after a search warrant was obtained for the residence, we found a condom inside that white trash bag.

Q. Inside that trash bag hanging over the vacuum cleaner right there?

A. Correct.

Q. And did you collect that condom?

A. I had one of my crime scene techs around, to see if she could give me a hand, and she collected it in my presence.

Q. So she collected the item. Were you with her

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

when it was collected?

A. Yes, I was.

Q. And did you take custody of it?

A. Yes, I did.

Q. Show you what's been marked and admitted into evidence as State's Exhibit Number 30. Do you recognize this photograph?

A. Yes, I do.

Q. Where is this photograph taken?

A. That photograph is taken in the kitchen on -- the -- the chairs in the kitchen, that there were more hair extensions in the chair.

Q. And so that's what this is right here?

A. Correct.

Q. And, finally, I'm going to show you what's been marked and admitted as State's Exhibit Number 31. Can you tell the jury what we're looking at here?

A. Yes. It's a hair extension that was lying on the floor of the kitchen.

Q. I'll now show you what's been marked for identification purposes as State's Exhibit Number 6, 32, 33 and 34. Do you recognize those photographs?

A. Yes, I do.

Q. And what do those photographs depict?

A. These photographs are taken of the hallway from

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the kitchen to the bedrooms.

Q. Did you take those photographs?

A. Yes, I did.

Q. Do they accurately reflect the scene as you saw it that day?

A. Yes, they do.

MR. KIDD: Your Honor, at this time the State would offer State's Exhibit Number 6, 32, 33 and 34 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, sir.

THE COURT: All right. 6, 32, 33 and 34 admitted without objection.

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Number 6 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 32 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 33 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 34 is admitted into evidence by the Court]

Q. [Mr. Kidd] I'm going to first show you what's been marked as State's Exhibit Number 6. Can you tell the jury what we're looking at here?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes.

This is a photograph to the hallway from the kitchen to the bedroom in the rear depicting the items on the floor of the hallway. Number 6 and Number 7 appear to be hair extensions.

Q. So in which direction are we looking? Which way is the kitchen?

A. To the top of the screen.

Q. So the kitchen is up here and that's where the victim was?

A. That is correct.

Q. Okay. And what's down on this end of the hallway?

A. From the -- on this side of the hallway is the bedroom area, leading to the bedroom area.

Q. And what evidence was recovered from the hallway itself?

A. A cell phone battery and two pieces of hair extensions.

Q. Was there any blood evidence in the hallway?

A. Yes, there was.

Q. Where was that?

A. On the walls.

Q. On the walls.

I'm going to now show you what's been marked as

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

State's Exhibit Number 32. Do you recognize that photograph?

A. Yes, I do.

Q. What is that?

A. Well, this photograph, I'm standing on the kitchen-side area of the hallway. This photograph was taken towards the bedrooms, depicting the cell phone battery on the floor and also a hair extension down there at the bottom.

Q. So is it your testimony this is the bedroom here?

A. That's correct.

Q. Or the entrance to the bedroom?

A. [No response]

Q. I'm going to show you what's been marked as State's Exhibit Number 33. I'm sorry. This won't take the whole picture on this vertical like this. But do you recognize this photograph?

A. Yes, I do.

Q. And what is that?

A. I'm standing on the opposite side of the doorway leading into the bedroom and it shows items on the floor and also a suspected blood stain on the doorframe.

Q. And that's what we're looking at right here?

A. That is correct.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Show you State's Exhibit Number 34. Do you recognize that --

A. Yes, I do.

MR. KIDD: Hang on. I'm sorry. Grabbed --

Q. [Mr. Kidd] Do you recognize that item?

A. Yes, I do.

Q. And is that that same blood stain that you just referenced?

A. Yes, it is, at a closer angle.

Q. I'm going to now show you what's been marked for identification purposes as State's Exhibit Number 35, 36, 37, 38, 39, 40 and 41. Do you recognize those photographs?

[Whereupon, the witness reviews documents]

A. Yes, I do.

Q. [Mr. Kidd] And what do those photographs depict?

A. These photographs are taken of the back bedroom and also items that were located inside the bedroom and also on the floor.

Q. And did you take those photographs?

A. Yes, I did.

Q. Do they accurately reflect that bedroom as you saw it that day?

A. Yes, it does -- yes, they do.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Your Honor, at this time the State would offer State's 35, 36, 37, 38, 39, 40 and 41 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, sir.

THE COURT: All right. 35 through 41 admitted without objection.

MR. KIDD: Thank you.

[Whereupon, State's Exhibit Number 35 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 36 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 37 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 38 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 39 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 40 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 41 is admitted into evidence by the Court]

Q. [Mr. Kidd] First I show you what's been marked and admitted into evidence as State's Exhibit Number 35. Do you recognize that?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-0313

A. Yes, I do.

Q. And what are we looking at here?

A. That is a photograph of the bedroom taken from the doorway.

Q. So just to give us a little bit of frame of reference: when we look at State's Exhibit Number 33, which is the hallway and the bloodstain, what are these right here? Can you tell?

A. To my recollection, they were plastic bins.

Q. Okay. And is that those same bins that are right there?

A. That's correct.

Q. So we're looking through that door into the bedroom?

A. Correct.

Q. Correct? Okay.

Show you what's been marked and admitted into evidence as State's Exhibit Number 37. Do you recognize that photograph?

A. Yes, I do.

Q. And what is that of?

A. That is the bed in the bedroom depicting more hair extensions over here.

Q. And when you say hair extensions, are these like dredlocks or are they like --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, they're dreadlocks.

Q. And State's Exhibit Number 36?

A. That's a closeup photo of the same hair extension.

Q. Show you what's been marked and admitted into evidence as State's Exhibit Number 38. Do you recognize that photograph?

A. Yes, I do.

Q. Tell the jury what's in that photograph.

A. That photograph is of the TV stand that was in the corner of the bedroom, a TV on it. There were numerous items on the TV stand, to include the two Pepsi cans you see on the lefthand side there.

Q. What is significant about those Pepsi cans?

A. Those Pepsi cans were folded in half, with a hole drilled in them -- made in the middle. There were ashes around that hole. And those cans when they're made into that fashion with the ashes are commonly used, in my experience, to smoke crack cocaine.

Q. Did you collect those --

A. Yes --

Q. -- Pepsi cans?

A. Yes, I did.

Q. Show you what's been marked and admitted as State's Exhibit Number 37. Do you recognize that item?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, I do.

Q. And what does that depict?

A. That's a photograph of an area of the bedroom floor depicting an ashtray on the ground with cigarette filters that appear to have come out of the ashtray, along with other items that were on the floor as I found them.

Q. State's Exhibit Number 41?

A. That's a closer photograph of the cigarette filters.

Q. And can you tell the jury what this is here?

A. To my recollection, it was a cord.

Q. I'm going to show you a photograph that's a little bit clearer. I'm going to show you again State's Exhibit Number 41. I'm going to hand it to you.

A. There was a cord on the floor.

Q. And what's next to that cord?

A. Telephone.

Q. And in this --

In the picture in your hand.

A. Oh. Was the cigarette filters.

Q. And below the cord? With the green bead on it.

A. Another hair extension.

Q. Thank you.

Just so the jury can see what we were just referencing, is that what we were referencing right there?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. That is correct.

Q. Thank you.

And, finally, State's Exhibit Number 40. Do you recognize that photograph?

A. Yes, I do.

Q. And where was that taken?

A. This was also taken in the bedroom on the floor.

Q. And what does that depict?

A. More hair extensions.

Q. Thank you.

Could you tell the jury how you go about processing a crime scene like this?

A. We respond to the crime scene, as we just went through all the photographs. As we go through, we photograph everything as we find it. We don't want to touch anything or move anything. We want to document it as soon as we found it when we arrive on scene.

Once that's done, we photograph the items in plain view, kind of document and examine -- you know, kind of try to figure out what happened here at the individual scene. Usually, a search warrant is secured for the residence before we collect or process anything further.

Once the search warrant arrives on the scene, then we start to collect the items that we think may be of evidentiary value. We also --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. KIDD: Court's indulgence for one moment.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: May I approach the reporter?

THE COURT: Yes, sir.

MR. KIDD: Thank you.

[Whereupon, State's Exhibit Number 42 is marked by the court reporter]

[Whereupon, State's Exhibit Number 43 is marked by the court reporter]

[Whereupon, State's Exhibit Number 44 is marked by the court reporter]

Q. [Mr. Kidd] All right. Sargent Reynolds, I'm going to first show you what's been marked for identification purposes as State's Exhibit Number 42. Do you recognize that item?

A. Yes, I do.

Q. What is that?

A. This is a box that I packaged the knife blade that I located on the couch in the living room.

Q. And can you open that.

A. [Witness complies]

Q. Is that that same knife blade?

A. Yes, it is.

Q. And you collected that knife blade?

A. Yes, I did.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And you packaged it into that packaging?
A. Yes, I did.
Q. And what did you -- and you did that -- what did you do with it at that point?
A. I filled out a chain of custody form and placed it into the evidence room.
Q. When you place something in the evidence room, do you actually hand it over to someone? Is there a drop box? How does that work?
A. We have a secured area in the forensic office area that passes directly into the evidence room. Once we package and seal the evidence, along with the chain of custodies we place them into secure lockers and it's passed through to the evidence room.
Q. And is this that same knife blade --
A. Yes, sir.
Q. I'm sorry.
[Off the record momentarily]
Q. [Mr. Kidd] Is this that same knife blade that you have in your hand there?
A. Yes, it is.
MR. KIDD: Your Honor, at this time we would like to offer State's Exhibit Number 42 into evidence.
MS. RUNEY: No objection.
THE COURT: All right. 42 admitted without

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

objection.

[Whereupon, State's Exhibit Number 42 is admitted into evidence by the Court]

Q. [Mr. Kidd] I'm going to show you what's been marked as State's Exhibit Number 43. Do you recognize that item?

A. Yes, I do.

Q. And can you tell the jury what that is?

A. This is the condom I spoke previously about that was located in the trash bag of the -- in the kitchen.

Q. And that was that trash bag that was hanging over the vacuum cleaner?

A. That is correct.

Q. Okay. And I think you testified that you had an assistant to actually collect that evidence; is that right?

A. That is correct.

Q. And you took it in your custody at that point?

A. That is correct.

Q. And what did you do with it then?

A. When I brought it back to the station, I had to dry it out prior to packaging. We placed it into a forensic dryer and once it was dried after three to four hours, then I placed it into this paper bag and sealed it.

Q. And what did you do with it at that point?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I placed it into the evidence room through the chain of custody.

Q. And that's in a similar method as you would have with the knife blade?

A. That's correct.

Q. Okay. Thank you.

I'm going to show you what's been marked for identification as State's Exhibit Number 44. Do you recognize that item?

A. Yes, I do.

Q. And what is that?

A. This is the butcher-block knife-holder that was located on the kitchen counter.

Q. And is that the same knife block that we had photographs of earlier?

A. Yes, it is.

Q. I believe it was depicted in State's Exhibit Number 28; is that right?

A. That is correct.

Q. And so that's that same knife block there?

A. Yes, it is.

Q. Did you collect that knife block?

A. Yes, I did.

Q. And what did you do with it?

A. I placed it into the bag and I transported it

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

back to the station, where it was sealed, and I also placed it into the evidence room.

MR. KIDD: And, Your Honor, at this time the State would offer State's Exhibit Number 44 into evidence.

MS. RUNEY: Without objection.

THE COURT: 44 admitted without objection.

MR. KIDD: Thank you.

[Whereupon, State's Exhibit Number 44 is admitted into evidence by the Court]

Q. [Mr. Kidd] All right. Sargent Reynolds, is there anything else -- well, what else -- how thorough was your search of that Gainer Avenue apartment?

A. It was very thorough.

Q. Did y'all kind of leave no stone unturned?

A. I like to think so.

Q. Did you ever find any money?

A. I don't recall finding any money at the scene, no.

Q. Did you take numerous samples? Can you describe how that process takes place?

A. Yes, I did.

There were suspected blood stains on the walls, counter tops, and other areas within the residence. These were photographed and -- I didn't collect samples from

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

every stain at the scene, but what I did was take samples of various blood stains throughout the scene. What I did was I photographed them, placed markers on them, and those markers I labeled alphabetically.

Then I used sterile cotton swabs that are sealed in paper packaging. I wet those swabs with our distilled water and I swabbed the various blood stains.

Q. Approximately how long do you think you were -- you spent at that apartment?

A. I don't recall the exact amount of time I spent at the scene, but I would say over a couple of hours.

Q. And upon leaving that scene, what was your next involvement in this case?

A. I got called to a residence on Gumwood Avenue in reference to the investigation's unit executing a search warrant.

Q. Were you aware of whose residence that was going to be?

A. Not at the time, no.

MR. KIDD: If I may approach the reporter?

[Whereupon, State's Exhibit Number 45 is marked by the court reporter]

[Whereupon, State's Exhibit Number 46 is marked by the court reporter]

[Whereupon, State's Exhibit Number 47 is marked

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

by the court reporter]

[Whereupon, State's Exhibit Number 48 is marked by the court reporter]

[Whereupon, State's Exhibit Number 49 is marked by the court reporter]

[Whereupon, State's Exhibit Number 50 is marked by the court reporter]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to show you what's been marked for identification as State's Exhibit Number 45, 46, 47, 48, 49 and 50.

[Whereupon, the witness reviews documents]

Q. [Mr. Kidd] Do you recognize those photographs?

A. Yes, I do.

Q. And did you take those photographs?

A. Yes, I did.

Q. And do they accurately represent the -- that apartment that day?

A. Yes, they do.

MR. KIDD: Your Honor, at this time the State would offer State's Exhibit Number 45, 46, 47, 48, 49 and 50 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, sir.

THE COURT: All right. 45 through 50 admitted without objection.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Numbers 45 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 46 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 47 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 48 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 49 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 50 is admitted into evidence by the Court]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to first show you State's Exhibit -- what's been marked and entered as State's Exhibit Number 45. Do you recognize that photograph?

A. Yes, I do.

Q. And what is that photograph?

A. It's a photograph of the apartment building that I responded to.

The search warrant was executed on the second floor, the apartment on the right.

Q. Do you remember what address that apartment was?

A. I don't recall the exact numerical, but it was

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

apartment B.

Q. Do you remember what street it's on?

A. Gumwood Avenue.

Q. Gumwood.

Show you what's been marked State's Exhibit Number 46. Do you recognize that photograph?

A. Yes, I do.

Q. Can you tell the jury what's in that photograph?

A. That photograph is inside the apartment. And to my recollection, it was in the -- I think it was the bedroom area, with a washcloth on the floor.

Q. Was there anything that peaked your attention at the washcloth?

A. It appeared to have reddish stains on it. It could be suspected blood.

Q. I'm going to show you State's Exhibit Number 47. Can you tell the jury what that is?

A. That's a closeup photo of the same item as in the previous photograph.

Q. I'm going to show you what's been marked and admitted into evidence as State's Exhibit Number 48. Sorry, the light is not -- it's a dark photograph. Do you recognize that item -- or that photograph?

A. Yes, I do.

Q. Tell the jury what's in that photograph.

FORM C-100 . LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. In this photograph is a pair of brown-in-color trousers, that also had suspected blood stains on them; along with a towel that had suspected blood stains on it; and another piece of clothing on the lower part of the photograph.

Q. And show you what's been marked and admitted into evidence as State's Exhibit Number 49. Do you recognize that photograph?

A. Yes, I do.

Q. And what is that?

A. That is the bedroom area of the apartment, that we did the search warrant in, taken from the doorway.

Q. And I'm going to show you what's been marked and admitted into evidence as State's Exhibit Number 50. Do you recognize that?

A. Yes.

Q. And what is that?

A. That's a closeup photo of the same bed as depicted in the previous photograph.

The pillowcase you see toward the right had a reddish stain on it, some suspected blood.

Q. Did you have an opportunity to test those items for the suspected blood?

A. Yes, I did.

Q. What kind of test do you use for that sort of

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

thing?

A. It's a presumptive test to indicate whether or not that something is possibly blood. It's a chemical kit called a phenolphthalein, which has a chemical in it that reacts with certain items within the blood.

Q. And how do you go about applying that phenolphthalein test to an item?

A. It's a four-step process. You use sterile cotton swabs. You rub it with distilled water. The swab is stained with -- the swab with the water. And then you pour alcohol on it and then the chemical reads the phenolphthalein.

Q. And how do you know whether it's presumptive or not?

A. If it's blood, the swab will turn pink.

Q. And you -- on what items did you do that test?

A. It was on the pillow case, that's shown in the previous photograph, and also the washcloth.

Q. And do they -- is there a chance that they can do false positives on those presumptive tests?

A. There's always a chance.

MR. KIDD: The Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] Do you recall about how long you were at the -- that Gumwood residence?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. To my recollection, thirty to forty-five minutes.

Q. Did you uncover any -- a large number of funds or anything there?

A. Not to my recollection, no.

Q. After leaving that Gumwood apartment, what was your next involvement in this case?

A. After leaving there, I was called back to Gainer Avenue to the railroad tracts that were across the street from the residence --

Q. How far are those railroad tracks from the Gainer Avenue -- Gainer Avenue residence?

A. Right across the street.

Once you step out of the house, you walk across the street and you're on the railroad tracks.

Q. And what were you called there in reference to?

A. Investigators had located items that they wanted collected.

[Whereupon, State's Exhibit Number 51 is marked by the court reporter]

[Whereupon, State's Exhibit Number 52 is marked by the court reporter]

[Whereupon, State's Exhibit Number 53 is marked by the court reporter]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to show

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you what's been marked for identification purposes as State's Exhibit Number 51, 52 and 53. Do you recognize those photographs?

A. Yes, I do.

Q. Did you take those photographs?

A. Yes, I did.

Q. What do they depict?

A. These three photographs depict the area of the railroad tracks where the knife handle and a cell phone was found.

Q. And do they accurately reflect those locations when you saw them?

A. Yes, they do.

Q. Do you recall the first item that you found out on the railroad tracks that day?

A. Well, I didn't find the items. They were already found previously, and when I got there I was shown the cell phone and also the knife blade.

Q. You mean the knife blade?

A. I'm sorry. The knife handle.

Q. Okay.

A. Okay.

Q. And do you recall -- well, let's talk about the knife handle first. Do you recall which officer found it?

A. No, I do not.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-526-6313

Q. Do you know if it was disturbed before you arrived?

A. I don't know if it was disturbed or not, no.

Q. Do you know if one of the officers had moved it?

A. Not to my knowledge.

Q. I'm going to show you what's been marked and entered into evidence as State's Exhibit Number 51. Do you recognize that?

A. Yes, I do.

Q. Is that the -- what is that?

A. That's a knife handle along by the railroad tracks.

Q. And I guess mainly for perspective I'm going to show you what's been marked as State's Exhibit Number 52. What does that depict?

A. That depicts the railroad tracks.

This photograph is taken from me standing on the railroad tracks, and directly behind the vehicle there is the house --

Q. So this residence back here, is that the residence in which the victim was located?

A. That is correct.

Q. In what proximity to this picture do you recall was the knife handle located?

A. The knife handle would be located to the right

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

of the picture, up towards where the green bushes are, and the cell phone was on the lefthand side of the picture down at the edge of the rocks. It's difficult to see.

Q. And I show you what's been marked as State's Exhibit Number 53.

MR. KIDD: It's almost impossible to tell on this thing but maybe if I show it to you personally, you'll be able to see it better. Sorry. Some of my photographs are pretty bad.

Q. [Mr. Kidd] Can you see that item right there?

A. Yes, I do.

Q. What is that?

A. That is a cell phone.

Q. And you collected that?

A. Yes, I did.

Q. And you collected this knife handle?

A. Yes, I did.

Q. And what did you do with those items once collected?

A. Once I secured them in the vehicle, I brought them back to the police station. There I processed the phone and also the knife handle. The knife handle was not suitable for me taking fingerprints, but I did swab it with a sterile swab and distilled water for possible touch DNA material. And I processed the cell phone with

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

fingerprint powder and I was unable to locate any fingerprints.

MR. KIDD: And, Your Honor, I think I might have --

THE COURT: Any objection to --

MR. KIDD: 51 through 53.

THE COURT: -- 51, 52 and 53?

MS. RUNEY: No, sir.

THE COURT: How about 49 and 50? Any objection to those?

MS. RUNEY: [No response]

THE COURT: I'm sorry. They're already in.

MR. KIDD: Yeah. I think we put in --

THE COURT: No objection to 51, 52 and 53?

MS. RUNEY: No.

THE COURT: All right. 51, 52 and 53 admitted without objection.

[Whereupon, State's Exhibit Number 51 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 52 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 53 is admitted into evidence by the Court]

MR. KIDD: I apologize, Your Honor.

THE COURT: Okay.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

[Whereupon, State's Exhibit Number 54 is marked by the court reporter]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to show you what's been marked for identification as State's Exhibit Number 54. Do you recognize that item?

A. Yes, I do.

Q. What is that?

A. This is the bag that I packaged the knife handle in.

Q. Is there a knife handle in that bag?

A. Yes, there is.

Q. And when you collected that item from those railroad tracks, what did you do with it?

A. I brought them back to the police station.

Q. And did you, yourself, package it in that bag?

A. Yes, I did.

Q. And then what did you do with it from that point?

A. I placed it into the evidence room after I processed it. After it was secured in the bag, I placed it in the evidence locker with the chain of custody.

Q. And you say you processed it. I think you've already told the jury this. What processing did it entail?

A. I wanted to process for fingerprints, but due to

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

the surface -- the surface was very rough, so it was unsuitable for retaining fingerprint detail, so I swabbed it with a sterile swab and distilled water for possible touch DNA.

Q. So you --

THE COURT: Any objection to 54?

MS. RUNEY: No, sir.

THE COURT: 54 admitted without objection.

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Number 54 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 55 is marked by the court reporter]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to show you what's been marked as State's Exhibit Number 55 for identification. Do you recognize those items?

A. Yes, I do.

Q. And what are those?

A. These are swabs that I obtained from evidence that we had collected.

Q. And what evidence -- what evidence did you swab those swabs?

A. These swabs contain one swab from the knife handle, one swab from one of the Pepsi cans from the bedroom, and the other swab, a third swab, is also from a

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Pepsi can -- another -- the second Pepsi can.

Q. And what did you do with those swabs once --

A. Once I swabbed the materials, I packaged them into these envelopes here and then I sealed them.

Q. And what did you do with them at that point?

A. I placed them into the evidence room with the chain of custody.

Q. After you collected the evidence from the railroad tracks, what did you do next?

A. I brought everything back to the police station.

Q. Did you have the opportunity to see the defendant that day?

A. Yes, I did.

Q. Can you tell the jury about how that occurred?

A. Later on that afternoon I was contacted by Investigator Cook and Bauer, said they had items they wanted to collect from a person they had in custody and also that they had observed what appeared to be blood on his fingers and also cuts on his fingers.

Q. Do you recall speaking with Detective Bauer, Officer Bauer, that day?

A. Yes, I did.

Q. And did he turn anything over to you?

A. Yes, he did.

Q. I'm going to show you what's been marked for

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

identification purposes as State's Exhibit Number 3. Do you recognize that?

A. Yes, I do.

Q. And what is that?

A. This is the envelope that I packaged the buccal swab that Detective Bauer had turned over to me.

Q. And what did -- after you packaged it, what did you do with it?

A. I placed it into the evidence room, also with the chain of custody.

Q. Thank you.

Did you have the opportunity to photograph the defendant that day?

A. Yes, I did.

[Whereupon, State's Exhibit Number 56 is marked by the court reporter]

[Whereupon, State's Exhibit Number 57 is marked by the court reporter]

[Whereupon, State's Exhibit Number 58 is marked by the court reporter]

[Whereupon, State's Exhibit Number 59 is marked by the court reporter]

[Whereupon, State's Exhibit Number 60 is marked by the court reporter]

[Whereupon, State's Exhibit Number 61 is marked

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

by the court reporter]

Q. [Mr. Kidd] Sargent Reynolds, I'm going to show you what's been marked for identification purposes as State's 56, 57, 58, 59, 60 and 61. Do you recognize those photographs?

[Whereupon, the witness reviews documents]

A. Yes, I do.

Q. [Mr. Kidd] Did you take those photographs?

A. Yes, I did.

Q. Do they accurately reflect the defendant as you saw him that day?

A. Yes, they do.

MR. KIDD: Your Honor, at this time the State would offer State's Exhibit Number 56 through 61 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, sir.

THE COURT: All right. 56 through 61 admitted without objection.

[Whereupon, State's Exhibit Number 56 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 57 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 58 is admitted into evidence by the Court]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, State's Exhibit Number 59 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 60 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 61 is admitted into evidence by the Court]

Q. [Mr. Kidd] Sargent Reynolds, where were you when you saw the defendant that day?

A. I was at the police station?

Q. Okay. Is it in a specific room or --

A. The defendant is placed into -- he was in one of the interview rooms after the detectives had interviewed him.

Q. First show you what's been marked as State's Exhibit Number 56. Do you recognize that photograph?

A. Yes, I do.

Q. What is that?

A. That is a photo of the defendant sitting in the interview room at the police station.

Q. Did you notice -- did he appear to have any injuries to his face or head area?

A. I don't recall, no.

Q. Do you not remember, or did you not see any?

A. I didn't see any.

Q. I'm going to show you what's been marked as

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

State's Exhibit Number 57. Do you recognize that photograph?

A. Yes, I do.

Q. What is that a photograph of?

A. That is a photograph of the defendant's right hand.

Q. Were there any injuries on his right hand?

A. He appeared to have slight cuts on there. And also his hands had like a reddish tinge to them.

Q. Show you what's been marked as State's Exhibit Number 58. Do you recognize that item?

A. Yes, I do.

Q. And what -- tell the jury what that is.

A. That is a photograph of the -- his left hand, and on the top of his second finger in is the -- on his ring finger is a small cut.

Q. You might not be able to see it, but I'm going to show you what's been marked as State's Exhibit Number 59. Is that right there [indicates] the cut you're referring to?

A. Yes, it is.

Q. And is State's Exhibit Number 60 a closer-up view of that cut?

A. Yes, it is.

Q. Is that the most substantial injury you saw on

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

the defendant that day?

A. To my recollection, yes.

Q. Finally, State's Exhibit Number 61. Do you recognize that?

A. Yes, I do.

Q. And what is that?

A. That is a photograph of his hands.

Q. Did anything else draw your attention to his hands that day?

A. I was told by Detective Cook that he had observed what appeared to be suspected blood around his cuticles and also his fingernails and when I looked at his hands, I saw the same thing. Appeared to have a reddish tinge to it, so I obtained swabs of his hands.

Q. And how did that process go when you obtained swabs from the defendant's hands?

A. I used sterile swabs and distilled water. And once I wet the swabs, I swabbed his fingers.

Q. And where was the suspected blood on his hands, again?

A. Up towards the cuticles and his nail areas.

Q. I'm going to show you what's been marked for identification as State's Exhibit Number 62. Do you recognize those items?

A. Yes, I do.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And what are those?

A. This is one swab from his right hand and one swab from his left hand.

Q. And what did you do with those swabs once you collected them from the defendant's hands?

A. I packaged them in these envelopes and I sealed them and I placed them into the evidence room.

Q. After leaving the defendant that day, what was your next involvement in this case?

A. My next involvement was attending the autopsy down at MUSC the next morning.

Q. And that would be of the victim?

A. I'm sorry?

Q. The autopsy of the victim?

A. That is correct.

Q. I'm going to show you what's been marked for ID as State's Exhibit Number 63. Can you tell what that item is?

A. Yes. These are items collected from when I attended the autopsy, down at MUSC, of the victim.

Q. And can you tell the jury what those items are? If you need to open that package, it might make it easier. Do you need scissors?

A. [Witness complies]

I collected a blood spot, which was taken from

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the victim, and dried onto a piece of cotton for DNA purposes. I collected her left fingernail clippings, the right fingernail clippings, and her head hair, a sample of her head hair.

Q. And once you collected those items, what did you do with them?

A. I transported them back to the police station, packaged them up, and placed them into the evidence room.

Q. Thank you.

MR. KIDD: The Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] Finally, Sargent Reynolds, to your knowledge, was any money recovered from the defendant that day?

A. To my recollection, I recovered money from his clothing.

Q. Do you remember possibly how much money that was?

A. I don't recall exactly how much, no.

Q. Would it help refresh your recollection if you could refer to your report?

A. This is --

Q. Do you have a copy of it up there?

A. No, I do not.

[Whereupon, Mr. Kidd proffers documents to the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

witness]

[Whereupon, the witness reviews documents]

A. It appears to be approximately $11 and change.

Q. [Mr. Kidd] And were you able to see and photograph the victim as she was found on the scene that day?

A. Yes, I did.

Q. And could you tell the jury as best you can how she appeared and what her injuries looked like to be?

A. At the scene?

Q. That's correct.

A. She appeared to have injuries around her head. And was -- she was lying on the floor. There was an amount of suspected blood under her upper body. And after we had photographed and the coroner arrived on the scene, once we turned her over she appeared to have some facial injuries, also.

Q. What do you mean facial injuries?

A. She appeared to have cuts on her face, and her face was kind of puffy and appeared to be bruised.

Q. Was there swelling?

A. Appeared to be, yes.

Q. And you say she had cuts on her face. Where were the cuts located?

A. I noticed two cuts at the time, at the scene,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

above her eyebrows.

Q. Were there any other lacerations or -- I guess, you know, that's another word for cuts, I guess. Any other specific injuries or trauma that you noticed?

A. She just had various areas on her face. It was difficult to determine to at the time, due to the amount of blood that was on her face and head area.

Q. Did you notice any cuts or lacerations to her hands?

A. Yes, I did.

Q. How did those appear?

A. She had cuts on her hands that appeared to be, in my opinion and experience, defensive wounds from a knife attack.

Q. Were they more or -- how significant were they? Were they deep cuts?

A. Yes, they were.

Q. Did they have -- did it appear that they had cut into the muscle?

A. Yes.

Q. I guess what I'm getting at is were they more significant than the cut on Mr. Gathers' hand?

A. Yes, they were.

Q. Significantly so?

A. Somewhat, yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-8313

Q. And where on her hands were these cuts?
A. I would have to refer to the photographs.
Q. Did you notice any other injuries to her legs?
A. Yes, sir, I did.
Q. What were those?
A. She had areas of shaved skin underneath both kneecaps on the front of her legs.
Q. And did you notice any other injuries to her body?
A. Not to my recollection, no.
Q. No further questions, Your Honor.
THE COURT: All right. Madam Forelady, ladies and gentlemen of the jury, we're going to take a break at this time. If you need anything, let the bailiffs know.
I don't know if any of you are smokers. If you are, let the bailiffs know and they'll take you to the proper place for smoking.
Take about a fifteen- or twenty-minute break. Please don't discuss the case amongst yourselves. We'll see you after the break.
[Whereupon, the jury exits the courtroom at 11:29 a.m.]
THE COURT: Sargent Reynolds, please don't discuss the case with anybody during the break.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

THE WITNESS: Yes, sir.

THE COURT: Thank you very much. You may step down.

We'll take about a fifteen- or twenty-minute break.

MR. KIDD: Thank you, Your Honor.

[Whereupon, a recess is taken from 11:29 a.m. to 12:05 p.m.]

THE COURT: Is the State ready to proceed?

MR. KIDD: We are, Your Honor.

THE COURT: Is the defense ready?

MS. RUNEY: Yes, sir.

THE COURT: As soon as we get the defendant.

[Whereupon, Mr. Gathers enters the courtroom at 12:06 p.m.]

THE COURT: Sargent Reynolds, if you'll come on around. Thank you. Have a seat.

[Whereupon, Mr. Reyonlds re-takes the witness stand]

THE COURT: Bring us the jury, please, sir.

[Whereupon, the jury enters the courtroom at 12:08 p.m.]

THE COURT: While they come in, can I see the attorneys up here real quick?

[Whereupon, an off-the-record bench conference

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

is held]

THE COURT: Any cross-examination?

MS. RUNEY: Yes, sir.

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Sargent Reynolds, part of your job is to photograph the scene?

A. That is correct.

Q. And you did that on June the 7th?

A. Yes, I did.

Q. And that included pictures of Gainer Avenue?

A. That is correct.

Q. And those pictures included the bedroom, the den, and the kitchen?

A. Yes.

Q. Is there a bathroom?

A. Yes, there was.

Q. Are there any other bedrooms?

A. Not to my recollection, no.

Q. This is State's Exhibit Number 24. Could you tell me what that's a picture of again?

A. This is a picture of the couch in the living room.

Q. And those are the cushions that are turned up?

A. That appears to be, yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

Q. They're not in their proper place?
A. Not normally, no.
Q. State's Exhibit Number 22, those are possible blood stains on the sofa?
A. That is correct.
Q. Did you take any samples of those blood stains?
A. I took various bloodstain samples from throughout the house, yes.
Q. How about these spots?
A. Not to my recollection, no.
Q. And this is the same sofa and the same blood spots?
A. Yes, it is.
Q. Did you take a swab of the blood on the doorframe?
A. To my recollection, I think I did, yes.
Q. And what did you do with those swabs?
A. I packaged them and placed them into the evidence room.
Q. Did you do anything further with those swabs?
A. No, I did not.
MS. RUNEY: May I approach the court reporter, Your Honor?
THE COURT: [Indicates affirmatively]
MS. RUNEY: Have that marked for identification.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-926-6313

[Whereupon, Defendant's Exhibit Number 2 is marked by the court reporter]

Q. [Ms. Runey] Sargent Reynolds, can you tell me if you can identify that picture?

A. Yes.

Q. What is that of?

A. This is a room inside the residence, which is the bedroom.

Q. And did you take that picture?

A. Yes, I did.

Q. Thank you.

And this picture was taken on January 7th --

A. That is correct.

Q. -- 2010?

A. Correct.

MS. RUNEY: Your Honor, at this time I would move Defendant's 2 into evidence.

THE COURT: Defendant's 2?

MS. RUNEY: Yes, sir.

THE COURT: Any objection?

MR. KIDD: No, sir.

THE COURT: All right. Defendant's 2 admitted without objection.

[Whereupon, Defendant's Exhibit Number 2 is admitted into evidence by the Court]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. [Ms. Runey] Sargent Reynolds --

THE COURT: Hold on just a second.

[Off the record momentarily]

THE COURT: Go ahead.

Q. [Ms. Runey] Sargent Reynolds, could you tell us again what this is a picture of and where in the house?

THE WITNESS: Can you back it out just a little bit for me, please?

A. This appears to be a storage room that was across from the bedroom at the end of the hallway.

Q. [Ms. Runey] So this is another room in the house?

A. Correct.

Q. You testified earlier about several pieces of hair extensions. Do you know if this was real hair, or hair that can be added?

A. I'm not really sure about the hair.

I do know that the hair color was consistent with the hair on the victim's head.

Q. You took eight swabs of blood from the residence?

A. If I recall correctly, yes.

Q. And you also took a swab of the knife handle?

A. Correct.

Q. And when you take a swab, that's for possible

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

DNA?

A. Correct.

Q. And DNA can be in sweat --

A. Correct.

Q. -- as well as blood and other bodily fluids?

A. Yes.

MS. RUNEY: I would like to have this marked for identification.

[Whereupon, Defendant's Exhibit Number 3 is marked by the court reporter]

Q. [Ms. Runey] Sargent Reynolds, are you familiar with --

MR. KIDD: Objection, Your Honor.

THE COURT: What's your legal objection?

MR. KIDD: May we approach? Relevance is my legal objection.

[Whereupon, an off-the-record bench conference is held]

THE COURT: The objection at this point in time is sustained.

Ladies and gentlemen, when the attorneys make an objection, what they are saying is that the evidence is not admissible under the rules of evidence. It's my job to make a determination whether they are admissible under the rules of evidence or not.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

When I use the word overruled, that means that I disagree, that it will come into evidence. If I use the word sustained, that means at this point in time I agree it's not subject to the rules of evidence and it's not permissible.

And the attorneys aren't trying to hide anything from you when they make objections. They're just trying to represent their respective clients and make sure the trial is conducted under the rules of evidence. And my job is to make a determination who's right and who's wrong. For lack of a better word, just a referee between the two parties to make a decision.

Please proceed.

Q. [Ms. Runey] Sargent Reynolds, can you tell me what that envelope is?

A. This is a paper bag containing miscellaneous paperwork from what I labeled as a storage room, which was the other room in the residence that appeared to me to be a storage room.

Q. And did you collect that evidence yourself?

A. Yes, I did.

Q. And did you place it in that envelope?

A. Yes, I did.

Q. And once you placed it in that envelope, what did you do with it?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I placed it into the evidence room with the chain of custody.

Q. And can you tell me what's in that envelope?

A. Can I open it?

Q. Yes.

[Whereupon, witness complies]

A. Paperwork.

Q. [Ms. Runey] And what appears on that paperwork?

A. Handwritten names --

MR. KIDD: Objection, Your Honor.

THE COURT: Okay. Overruled. Go ahead.

Q. [Ms. Runey] What is on that paperwork?

A. We have handwritten names and telephone numbers. It looks like some account numbers.

Q. Account numbers and bank names?

A. Some of them, yes.

Q. Are there a list of names on these papers?

A. Yes.

Q. About eight on each page?

THE COURT: I would not go any further than that until it's -- later on it's tied up. Okay?

MS. RUNEY: Yes, sir.

THE COURT: The officer [sic] stated his objection. Don't go -- don't testify anymore about those documents.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Please proceed.

MS. RUNEY: Thank you, Your Honor.

THE COURT: I think he's properly identified them.

Q. [Ms. Runey] You testified earlier that you found or collected $11 and change from Mr. Gathers' pocket --

A. Correct.

Q. -- down at City Hall. Could you tell me in which pocket that was located?

A. I would have to refer to my report, but they were in the -- to my recollection, they were in the right front pocket of his trousers.

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: That's all I have, Sargent. Thank you.

THE COURT: Any redirect?

MR. KIDD: The Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

MR. KIDD: No further questions, Judge.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Reynolds is excused and exits

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the witness stand]

THE COURT: Solicitor, would you hand me a copy of that statement, the written statement, and let me read it, look at it, please sir.

[Whereupon, Mr. Kidd proffers documents to the Court]

[Whereupon, the court reviews documents]

THE COURT: Call your next witness, please.

MR. KIDD: The State calls Detective Sam Riedel.

[Whereupon, Mr. Riedel comes forward]

[Whereupon, Mr. Riedel is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I swear.

THE CLERK OF COURT: Thank you, sir. Please take your seat.

[Whereupon, Mr. Riedel takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Sam Riedel. R-I-E-D-E-L.

MR. KIDD: Good afternoon, Detective Riedel.

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

SAM RIEDEL,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where you're employed?

A. I'm currently employed for the City of North Charleston Police Department.

Q. And how long have you been employed there?

A. January will be eight years.

Q. Eight years.

And what are your duties with North Charleston?

A. I'm currently assigned to the investigations bureau, with an emphasis on white-collar fraudulent crime.

Q. Back in June of 2010, what were your duties with North Charleston?

A. I was assigned to the white-collar crime.

Q. Did you find yourself involved in this case --

A. I did.

Q. -- in June of 2010?

A. I did.

Q. What was your involvement in this case?

A. On my way in to work, I responded to a call, along with Detective Holt and patrol officers, as it was just around the corner from our station.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

During the course of the investigation, I was appointed as the case agent or lead detective.

Q. And how does that -- how does that appointment go? I mean, you were white-collar crime. Why did you get appointed to a homicide?

A. One, for being one of the primary responding officers -- or detectives; as well as assigned by our division. There's a list in which we are assumed responsibility if we are at that scene.

Q. So is it sort of just because you were kind of the ranking officer on scene? Is that sort of how it worked?

A. Somewhat, yes. I was the lead -- or ranking investigator at that time.

[Whereupon, State's Exhibit Number 64 is marked by the court reporter]

Q. [Mr. Kidd] And so because you were one of the first responders and the ranking investigator, you kind of caught the case as the lead case agent?

A. Yes.

Q. Is that an accurate kind of description of how that worked out?

A. Yes, it is.

Q. So it had nothing to do with any white-collar that --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. No.

Q. -- you did?

What are your typical duties when you are a case agent on something like this?

A. Typical duty include making sure that, you know, all aspects of the investigation are followed up on, and assigning persons to do these tasks, gathering information that they obtain, and trying to piece it all together to make sense of the entire situation.

Q. Are you familiar with the area that this occurred in North Charleston?

A. Yes, I am.

Q. Like are you familiar with where Gumwood Avenue is?

A. Yes.

The areas in which both of the events took place were located within an area I patrolled for several years before being assigned to the investigators division.

Q. So you were familiar with Gainer Avenue and Gumwood?

A. Yes.

[Whereupon, State's Exhibit Number 65 is marked by the court reporter]

Q. [Mr. Kidd] I'm going to show you what's marked as State's Exhibit Number 65. Do you recognize that?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. It's an overhead map of a portion of the City of North Charleston.

Q. Does that accurately represent the area which you patrolled?

A. Yes.

Q. Does it contain the location of Gainer Avenue, and also the location of Gumwood Avenue, on that map?

A. It does.

Q. I'm going to give you this red Sharpie. And I know it's kind of a far-back map. Do you think you could mark an X where -- and if it takes you a minute, take your time -- where -- or maybe put a GA where Gainer is and a GU where Gumwood is?

[Whereupon, the witness reviews documents]

Q. [Mr. Kidd] I know the streets are --

A. Yeah, it's --

Q. -- kind of small.

A. -- kind of difficult to --

Do you want me to put that general area in which the street is, or where in which the incident occurred?

Q. The location.

Which one do you have marked there?

A. This would be where the incident occurred at.

Q. Gainer Avenue?

A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. As close to the residence as you can, if you would just mark a GA.

A. [Witness complies]

Okay. And then you said also for Gumwood?

Q. [Mr. Kidd] -- for Gumwood, if you could.

A. [Witness complies]

Q. Thank you.

A. That was GU.

Q. Perfect. Thank you.

MR. KIDD: Your Honor, at this time the State would like to offer State's Exhibit Number 65 into evidence.

THE COURT: Any objection?

MS. RUNEY: No, sir.

MR. KIDD: May I publish it to the jury, Your Honor?

THE COURT: Do you have a --

MR. KIDD: I have an easel right here.

THE COURT: Do you have something other, that can be folded up, of that? Or you don't?

MR. KIDD: I do not. I could refrain from admitting it --

THE COURT: We'll worry about that --

MR. KIDD: -- just demonstrative.

THE COURT: -- later on.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-828-6313

All right. State's Number 65 admitted without objection.

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Number 65 is admitted into evidence by the Court]

Q. [Mr. Kidd] And just so we can kind of try to give the jury an idea about what we're doing with --

MR. KIDD: Can I have him step down, Judge?

Q. [Mr. Kidd] Can you first show the jury where the Gainer -- the GA, the Gainer Avenue, residence was in the top corner of this map up here and where is Gumwood?

A. Gumwood is down here. Right here.

Q. Okay. And do you know what -- what is this here?

A. That's Interstate 526.

Q. It's 526?

A. Yes.

Q. And what about this right one here?

A. That is Interstate 26.

Q. So it's roughly near the 526-26 intersection? I mean, in relation on this map, anyway?

A. In relation to this, yes.

Q. Okay. And what is this line here?

A. That is a series of railroad tracks that extends from the Amtrak station, which is actually here on the

FORM C-100 - LASER: REPORTERS PAPER & MFG. CO. 800-626-6313

other side of Gainer Avenue, and extends all the way out through the city into Goose Creek.

MR. KIDD: Thank you, sir.

Q. [Mr. Kidd] During the course of your investigation, were you able to determine the identity of the victim?

A. Yes, I was.

Q. Did you obtain a photograph image of her?

A. Yes.

We obtained a photograph from access to the South Carolina Department of Motor Vehicles.

Q. I'm going to show you what's been marked as State's Exhibit -- for identification as State's Exhibit Number 64. Do you recognize that photograph?

A. I do.

Q. And what is that?

A. It is a photograph of the victim's driver's license.

Q. Thank you.

THE COURT: Any objection?

MS. RUNEY: No, sir.

THE COURT: All right. State's Exhibit Number 64 admitted without objection.

[Whereupon, State's Exhibit Number 64 is admitted into evidence by the Court]

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-8313

MR. KIDD: Thank you, Your Honor.

Q. [Mr. Kidd] And just for the jury, this is that --

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] And is that the picture that you pulled off that database?

A. That is identical to the picture that I pulled off.

Q. Right. This isn't the specific one. I mean, it's the same photograph, just a different piece of paper

A. That's correct.

Q. And is that the victim in this case?

A. Yes, it is.

Q. And that's how she appeared in this photograph.

Is her appearance much different on the -- when you saw her on the scene?

A. Yes. It was considerably different.

Q. In what ways?

A. In the upper portion of her facial area was extremely swollen and bruised.

Q. Did it make her look like a different person?

A. There was definite alterations to her appearance, yes, but she was recognizable when compared to other features that were unaltered due to damage.

Q. Thank you, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

I'm going to show you again State's Exhibit Number 64.

A. Yes.

Q. Could you tell the jury what the victim's height and weight is on that document?

A. Five foot four, 134 pounds.

MR. KIDD: The Court's indulgence.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] And were you involved in the search of the Gainer Avenue residence?

A. Yes, I was.

Q. And were you there throughout the execution of that search warrant and execute -- or searching that victim's residence?

A. Yes. I was present at the residence from the initial point until the residence was secured upon completion of that search warrant.

Q. Did you also go to the Gumwood residence?

A. I did not go to the Gumwood residence.

MR. KIDD: I have no further questions of this witness, Your Honor.

THE COURT: Cross-examination.

MS. RUNEY: Thank you.

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Detective Riedel, as a result of your participation and investigation of this case, you wrote a report; is that correct?

A. I did.

Q. And in that report you stated that you did two thorough searches of the bedroom and the living room?

A. That is correct.

Q. And that was to ensure that no evidence was overlooked?

A. Yes, ma'am.

Q. And you were also present for the interview of Mr. Gathers?

A. I was present at the ending of Mr. Holt's initial interview, yes. And upon his exiting and informing me of what was said, I did gather the full information.

Q. So after Mr. Gathers had given a written report to detective Holt, he also spoke to you? And he was cooperative with you?

A. Yes, ma'am.

Q. He was sad?

A. Yes.

Q. And you know that because he was crying?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

A. At the point I contacted him, he was more sobbing, not crying.

Q. He was sobbing?

A. Yes.

Q. And he told you that Ms. Nevarez had been in possession of a knife?

A. Yes, there was mention of a knife.

Q. And that he had tried to remove that knife from her?

A. According to what he had stated to me, yes, that is correct.

Q. And you documented that in your report?

A. I did.

MS. RUNEY: That's all I have Detective Riedel. Thank you.

THE COURT: Redirect?

MR. KIDD: No, sir.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Yes, sir.

[Whereupon, Mr. Riedel is excused and exits the witness stand]

THE COURT: Call your next witness, please.

MR. KIDD: Your Honor, may we approach?

THE COURT: yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. Madam Forelady, members of the jury, we're going to take a lunch break at this time.

Please don't discuss the case amongst yourselves. If you'll be back in the jury room at 2:15, we'll get started at that time. And if anyone tries to talk with you about it, please don't.

I believe from this morning you know where to come. When you come to the courthouse, come straight to the jury room. See you at 2:15.

[Whereupon, the jury exits the courtroom at 12:40 p.m.]

THE COURT: All right. For the record, Defense Exhibit Number 1 is a photo that was entered into during the Jackson v. Denno hearing. I'm going to mark that as Court's Exhibit Number 1, pursuant to the Jackson v. Denno hearing. If you want to introduce it at a later time, we'll change the enumeration.

[Whereupon, Defendant's Exhibit Number 1 is remarked as Court's Exhibit Number 3]

THE COURT: Now, during the bench conference, defendant offered their Exhibit Number 2, which is a series and a list of names with credit card numbers

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

that was obtained from the victim's home.

Is that correct, Ms. Runey?

MS. RUNEY: Yes, sir.

THE COURT: And the State had an objection to that; is that correct?

MR. KIDD: That's correct, Your Honor.

I think just for clarification, I think Defendant's 2 was that photo.

I think Defendant's 3 is the documents that you objected to.

THE COURT: Okay. Defendant's Exhibit Number 3.

All right. Do you want to put your objection on the record?

MR. KIDD: Yes, Your Honor.

Our objection was simply that -- it's relevancy. I don't think it has any relevancy to this case. I think it's an attempt to show action and conformity therewith, showing that maybe she had some prior bank fraud issues -- if that was even her writing or her paperwork -- and we just don't find it to have any relevancy to this case.

THE COURT: Ms. Runey, what's your relevancy?

MS. RUNEY: Your Honor, it becomes relevant when Mr. Gathers' statement is in evidence that she took money from him and that's why he became upset with her

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

and why they struggled. And it -- I do think it is character evidence but I think that when it comes into play, it -- as a part of his defense, it does become relevant.

THE COURT: All right. At the bench I ruled it may become relevant at the time. However, at that time I had not read the statement. I have now read the statement and in several portions of the statement, the defendant refers to the money and he was trying to merely just get his money back. Plus, the State has asked two of the detectives about searching the house, looking for money, and then was very specific about finding $11 and some change within the right pocket of the defendant.

Having said that, I'm going to allow those statements into evidence. I'm going to grant -- is it Defendant's Exhibit Number 3?

MS. RUNEY: Yes, sir.

THE COURT: I'm going to put State's -- Defendant's Number 3 in, with objection.

[Whereupon, Defendant's Exhibit Number 3 is admitted into evidence by the Court]

MR. KIDD: Your Honor, if you do that, I would like at least an opportunity to cross-examine the witness on those -- on that exhibit. I refrained from

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

doing that --

THE COURT: The witness -- what witness? The witness it belonged to is dead.

MR. KIDD: Well, the witness who collected it. Or any witness about it, Judge.

THE COURT: Well, if you want to re-call the police officer, I'll be happy for you to do that. Okay? I'll be happy for you to do that.

My difficulty: I had not read the statement. That's why I asked for it, so I could read it and see what it related to as far as money is concerned.

MR. KIDD: Yes, sir.

THE COURT: But please re-call -- who do you want to re-call? John Reynolds? Or do you want to re-call -- who do you want to re-call?

MR. KIDD: I won't re-call him, Judge. I --

THE COURT: I mean, I don't have any problem if you want to re-call him and ask him any question you want to ask him.

MR. KIDD: I understand that, Judge. I just think that's going to bring more attention to it than I would prefer to.

THE COURT: Well, please, if you change your mind, you can call Detective Riedel or you can call either -- whoever you want to re-call in reference to

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

that, since I did rule at the bench I wasn't going to allow it in and now I'm changing that after having read the statement.

MR. KIDD: Yes, sir.

THE COURT: Okay?

MR. KIDD: Thank you.

THE COURT: So after lunch, feel free to re-call if you want to, or at any point during the trial you're welcome to re-call. Okay?

MR. KIDD: Yes, Your Honor. Thank you.

THE COURT: All right. Thank you very much. Anything else before we recess to 2:15?

MS. RUNEY: No, Your Honor.

THE COURT: All right. We'll recess to 2:15.

[Whereupon, a recess is taken from 12:49 p.m. to 2:23 p.m.]

THE COURT: Let's see. Detective -- what is it -- Riedel, is he here?

MR. KIDD: He is, Your Honor.

THE COURT: Tell him to come on around and have a seat.

Anything before we bring the jury?

MR. KIDD: I believe he was finished testifying.

THE COURT: Oh. He had? He had finished testifying? Okay. I'm sorry. That's right. She had

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

done cross.

Who are you calling next?

MR. YOUNG: The State would call Alex Teachey.

THE COURT: Bring us a jury, please.

[Whereupon, Ms. Teachey comes forward]

[Whereupon, the jury enters the courtroom at 2:25 p.m.]

THE BAILIFF: The jurors are all seated.

THE CLERK OF COURT: Put your left hand here and raise your right hand.

[Whereupon, Ms. Teachey is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you give to the Court will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Thank you, ma'am. If you would take your seat.

[Whereupon, Ms. Teachey takes the witness stand]

THE CLERK OF COURT: Ma'am, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Alexandria Teachey. T, as in Tom, E-A-C-H-E-Y.

MR. YOUNG: Good afternoon, Ms. Teachey. How

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

are you?

THE WITNESS: Good.

- - - - -

ALEXANDRIA TEACHEY,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Is it Officer Teachey?

A. It's evidence technician.

Q. Evidence technician --

A. Yes, sir.

Q. -- Teachey?

Can you tell us, tell myself and the jury, where you're currently employed?

A. North Charleston Police Department.

Q. And how long have you been there?

A. Seven and a half years.

Q. What are your job duties there?

A. We organize and process evidence for storage and get it ready for court.

Q. And could you kind of describe for the jury what that means when you -- are you in charge of all the evidence that comes into the station?

A. We are in charge of evidence that comes in. As

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

far as it coming in off the street, we make sure that the case numbers match all pieces of evidence, all paperwork match, and we group it together, make sure it's ready for court.

Q. So if an officer should come in off the street with a piece of evidence, would he take it to the evidence room where you're at?

A. He would take it to the evidence room and drop it in a lockbox.

Q. And then what would you do at that point?

A. The next morning I would unlock the lockbox and take it out and get it ready, process it.

Q. And were you in the course of your evidence technician duties in 2010? June of 2010?

A. Yes, sir.

Q. Did you receive some evidence in regards to a Gregory Gathers' case?

A. Yes, sir.

Q. I'm going to show you --

MR. YOUNG: May I approach the witness?

THE COURT: Yes, sir.

Q. [Mr. Young] -- what's been marked State's 3. Do you recognize State's 3? And I know you have your evidence log there. You can look at that. It's going to be NCPD number 8.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. Yes, sir, I do recognize it.
Q. Is that a buccal swab?
A. Yes, sir.
Q. And it's NCPD number 8 on your evidence sheet; is that right?
A. Correct.
Q. And where would you have received that from?
A. I would have received it out of the crime scene lockers.
Q. So do you know what officer put that in the locker?
A. It would have been Sargent Reynolds.
Q. Sargent John Reynolds?
A. Yes, sir.
Q. So he would have put it in the locker and you would have come in the next day and you would have taken that out of there. Would anybody else have access to that at all?
A. The other evidence technicians would have.
Q. But you were the one that actually took it out of there?
A. Yes, sir.
Q. And you had that -- and how do you know that? Do you have a sheet that you mark --
A. Yes, sir, I do. I have a chain of custody.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And explain to the jury what that means. What is a chain of custody?

A. Chain of custody tells where it comes from.

It came from Sargent Reynolds. And I took it out of the box, and signed as receiving it, and assigned it to the spot that we needed it for storage.

Q. What date did you receive that evidence on?

A. I received the buccal swab on June 9th, 2010.

Q. Okay. And was the evidence secure when you received it?

A. Yes, sir.

Q. Did you tamper with it at all while it was in your possession?

A. No, sir.

Q. And did you break the seal at all on it then?

A. No, sir.

Q. What did you do with it?

A. I made sure all the numbers matched the paperwork, and assigned it to an evidence box.

Q. And you would have noted that on the sheet; right?

A. Yes, sir.

Q. Okay. And that's substantially in the same condition now as when you saw it last?

A. Yes. The buccal swab is, yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

Q. And the evidence was in a secure location at all times?

A. Yes, sir.

MR. YOUNG: May I approach the witness, Judge?

THE COURT: Yes, sir.

Q. [Mr. Young] I'm going to go through a few of these with you, Ms. Teachey. I'm going to show you what's been marked as State's 62. It's North Charleston's 9 and 10. Do you recognize that?

A. Yes, sir, I do.

Q. Is that -- what is that?

A. It's the swab from the right hand and a swab from the left hand.

Q. And would that have been from -- would that have been noted on your evidence sheet?

A. Yes, sir, it is.

Q. Okay. And who -- who did you receive that from?

A. I received that from Sargent Reynolds.

Q. Sargent John Reynolds?

A. Yes, sir.

Q. What was the date of that?

A. It was on June 9th, 2010.

Q. 2010.

And that's the same process? He would put it in the box and you would take it out?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, sir.

Q. Would you -- what would you do with it then after you took it out?

A. Make sure all numbers matched and assign it to a storage area.

Q. And would it stay secure in there the whole time?

A. Yes, sir.

Q. Is it in substantially the same condition now as when you saw it last?

A. Yes, sir.

Q. And the secure location the whole time?

A. Yes, sir.

MR. YOUNG: May I approach one more time, Judge?

THE COURT: Yes, sir.

MR. YOUNG: Thank you.

Q. [Mr. Young] I'm going to show you what's been marked as State's 43. To maybe speed this up a hair, I'm going to show you State's 43, State's 55, State's 63.

On State's 43, that would be NCPD's number 37 on your evidence chain sheet. Could you turn there for me, please. Do you see it on there?

A. Yes, sir.

Q. Is that noted on your sheet? Number 37.

A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And who did you receive -- State's 43, who did you receive that from?
A. Sargent Reynolds.
Q. And what was the date of that?
A. [No response]
Q. It looks like --
A. June.
Q. -- June 7th. Does that sound right to me -- I'm sorry -- to you, June 7th, 2010?
A. I believe so, yes, sir.
Q. And you would know that because it's on your sheet right there; right?
A. Correct.
Q. And once you received that into evidence, was it -- did you tamper with it at all?
A. No, sir.
Q. Did you secure the lock in the evidence room?
A. Yes, sir.
Q. You didn't open it or anything like that?
A. No, sir.
Q. And it would have been secure the whole time?
A. Yes, sir.
Q. Substantially the same condition now as when you saw it last?
A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. I'm going to ask you to put that down and look at State's 55 right there I placed in front of you. If you go on your evidence chain sheet, State's 55 is going to be NCPD 63. Are you there?

A. Yes, sir.

Q. When would you have received that and from whom?

A. I got it from Sargent Reynolds.

Q. Sargent Reynolds. And what's the date on that?

A. June 7th, 14th. I can't read it.

Q. June 7th? Is that what you said? I'm sorry.

A. Yes, sir. June 7th.

Q. 2010?

A. 2010.

Q. And the same process? Would you have taken that out of the box?

A. Yes, sir.

Q. Did you secure it in the evidence room?

A. I did.

Q. Did you tamper with it at all?

A. No, sir.

Q. You didn't open it at all?

A. No, sir.

Q. Substantially the same condition now as when you received it last?

A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And the last piece of evidence there in front of you should be State's 63, NCPD number 69. Do you see that on your evidence chain sheet?

A. Yes, sir.

Q. When did you receive State's 63?

A. June -- it's hard for me to read it.

Q. Is that a 9 right there after -- 6/9/2010? It looks like it to me, but --

A. It was in -- on 6/9/2010 it was dropped.

Q. Dropped in the box 6/9/2010?

A. Yes, sir.

Q. Is that your name to the right of that? And who --

A. It is.

Q. Who dropped it in that box?

A. Sargent Reynolds.

Q. Okay. And then you would have taken it out and put it in the -- would you have put it in the secure evidence room at that point?

A. Yes, sir.

Q. Okay. Did you alter it at all?

A. No, sir.

Q. Didn't open it?

A. No, sir.

Q. Substantially the same condition now as when you

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

saw it last?

A. Yes, sir.

Q. And all that evidence we were talking about was in a secure location at all times?

A. Yes, sir.

MR. YOUNG: That's all the questions I have, Judge.

THE COURT: Cross-examination?

MS. RUNEY: No questions. Thank you.

THE COURT: You may step down. Thank you very much.

THE WITNESS: Thank you.

[Whereupon, Ms. Teachey is excused and exits the witness stand]

MR. YOUNG: The State calls Laura Reynolds.

THE COURT: I'm sorry. Who did you call?

MR. YOUNG: Laura Reynolds.

THE COURT: Okay.

[Whereupon, Ms. Reynolds comes forward]

THE CLERK OF COURT: Put your left hand here and raise your right hand.

[Whereupon, Ms. Reynolds is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court will be the truth, the whole truth, and nothing but the truth, so

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Thank you, ma'am. If you would take your seat.

[Whereupon, Ms. Reynolds takes the witness stand]

THE CLERK OF COURT: And, ma'am, please state your first and last name, spelling your last for the record.

THE WITNESS: Laura Reynolds, R-E-Y-N-O-L-D-S.

MR. YOUNG: Good afternoon.

- - - - -

LAURA REYNOLDS,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Is it evidence technician Reynolds?

A. Yes, sir.

MR. YOUNG: Did evidence technician Teachey leave her chain of custody sheet up there?

THE WITNESS: No.

MR. YOUNG: She didn't?

Q. [Mr. Young] Evidence technician Reynolds, can you tell the jury where you're currently employed?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. North Charleston Police Department.
Q. And how long have you been there?
A. Four years.
Q. And what are your duties there?
A. I do intake on evidence, when it comes in from the police officers, and also will take evidence to SLED for analyzing.
Q. So you do -- you take the evidence -- you work in the evidence room?
A. Yes, sir.
Q. And you said if officers drop off evidence, you'll secure that in the evidence room?
A. Yes, sir.
Q. And, additionally, what else did you say about driving?
A. And I take evidence to the SLED for the -- to be analyzed.
Q. So you'll personally -- you personally drive it up there?
A. Yes, sir.
Q. What is SLED?
A. That's where they analyze any blood evidence or guns or --
Q. Where -- where is that at?
A. It's in Columbia, South Carolina.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Okay. Is that South Carolina Law Enforcement Division?

A. Yes, sir.

MR. YOUNG: If I may approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. [Mr. Young] Ms. Reynolds, I'm going to show you a chain of custody form for evidence and then I'm going to show you some pieces of evidence. This is State's 3, State's 62, State's 43, 55 and 63. We'll go through it one by one.

First, looking at State's 3. It's going to be NCPD number -- NCPD number 8 marked on your evidence chain sheet. Do you see that?

A. Yes, sir.

Q. What does that say? Can you read what it is -- what it says beside number 8?

A. It's a buccal swab from Gregory Gathers.

Q. And when did you come in possession with that?

A. On September the 10th, 2010.

Q. And how do you know that?

A. Because I took a -- took it to SLED.

Q. Is it -- did you sign on that sheet that day and that's the date that -- the date and your name on that sheet?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, sir.
Q. Is that how you know that you took it to SLED that day?
A. Yes, sir.
Q. On the evidence sheet, has anybody checked out anything -- number 8 anytime before you?
A. No, sir.
Q. Who was the last person to touch that, according to your chain of custody sheet?
A. Alex Teachey.
Q. Okay. At that point, then, you would -- then you -- then you took it. And you just testified that you took it up to SLED?
A. Yes, sir.
Q. Okay. While it was in your possession, was it secure?
A. Yes, sir.
Q. Did you tamper with it at all?
A. No, sir.
Q. Open it or anything?
A. No, sir.
Q. Is it in substantially the same condition now as when you saw it?
A. Yes, sir.
Q. When you got to SLED, who would you have given

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

it to?

A. There's four technicians there, so I most likely gave it to one of them.

Q. One of -- if I showed you the SLED chain sheet, would you be able to identify your signature on there?

A. Yes, sir.

MR. YOUNG: May I approach the witness, Judge?

Q. [Mr. Young] Is that your signature there under NCPD item number 8, SLED item number 1?

A. Yes, sir.

Q. And who does it say you gave that to?

A. To Selena.

Q. What's the last name?

A. Kinard.

Q. Selena Kinard?

A. Yes, sir.

Q. I'm going to ask you just to hold this and I'm going to ask you about a few more questions.

A. Okay.

Q. Hold it right there.

So you would have checked it in with Selena Kinard. And you would have left it with her?

A. Yes, sir.

Q. She works at SLED?

A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And on item number 9 and 10, NCPD, which is going to be State's 62, do you see that bag of evidence right there?

A. Yes, sir.

Q. Now, if you'll refer to your NCPD chain sheet, items 9 and 10, swabs from the right hand and left hand. Did you ever check those out?

A. Yes, sir.

Q. When was the date of that?

A. 9/10/2010.

Q. And what did you do with them?

A. I took them to SLED.

Q. Who did you check them out from?

A. From Alex Teachey.

Q. And while you took them to SLED, did you mess -- did you open the bag at all?

A. No, sir.

Q. Didn't play around with it or anything?

A. No, sir.

Q. You didn't alter it at all?

A. No, sir.

Q. Is it substantially in the same condition now as when you last saw it?

A. Yes, sir.

Q. And then when you got to SLED, what would you

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

have done with it?

A. I would have checked it in with an evidence technician.

Q. And if you refer to the SLED chain sheet, can you tell us who that SLED technician was?

A. It would have been Selena Kinard.

Q. Okay. And moving on to State's 43. Do you see that piece of evidence marked up there?

A. Yes, sir.

Q. Do you see that evidence marked on your chain of custody sheet, North Charleston? There should be a number 37 for North Charleston.

A. Yes, sir.

Q. Did you ever check that out?

A. Yes, sir.

Q. From whom?

A. From Alex Teachey.

Q. And what was the date of that?

A. September the 10th, 2010.

Q. And that SLED beside it, does that mean you drove it to SLED?

A. Yes, sir.

Q. Did you alter it at all when you had it in your possession?

A. No, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Didn't open the bag or anything?
A. No, sir.
Q. And when you checked it in, who did you check it in with?
A. Selena Kinard.
Q. Okay. Moving on to the next piece of evidence, State's 55. It should be NCPD number 63. Do you see that on the chain sheet?
A. Yes, sir.
Q. Did you have an opportunity to come in contact with that?
A. Yes, sir.
Q. And what was the date of that?
A. September the 10th, 2010.
Q. And who did you check it out from?
A. Alex Teachey.
Q. And would you -- what would you have done with that evidence?
A. I would have taken it to SLED.
Q. Did you alter it at all when you were driving to SLED?
A. No, sir.
Q. Open the bag or anything?
A. No, sir.
Q. In substantially the same condition now as when

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you last saw it?

A. Yes, sir.

Q. And who did you check it in with when you got to SLED?

A. Selena Kinard.

Q. And going to our last piece of evidence, State's 63, NCPD 69. If you could turn to that on your chain sheet, please. Do you see that?

A. Yes, sir.

Q. Did you come into contact with that?

A. Yes, sir.

Q. And what was the date of that?

A. September the 10th, 2010.

Q. Who did you get that from?

A. Alex Teachey.

Q. And what did you do with it?

A. I took it to SLED.

Q. And when you drove it to SLED, did you alter it at all?

A. No, sir.

Q. Did you open the bag?

A. No, sir.

Q. Tamper with it?

A. No, sir.

Q. Who did you check it in with when you got there?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Selena Kinard.

Q. And then you would have left all that evidence with her at SLED; is that right?

A. Yes, sir.

Q. In her possession?

A. Yes, sir.

MR. YOUNG: Court's indulgence, Judge.

[Whereupon, Mr. Young and Mr. Kidd confer]

MR. YOUNG: No further questions, Judge.

THE COURT: Cross-examination?

MS. RUNEY: No questions. Thank you, Judge.

THE COURT: You may step down. Thank you very much.

[Whereupon, Ms. Reynolds is excused and exits the witness stand]

THE COURT: Thank you, Ms. Reynolds.

MR. YOUNG: Thank you. Thank you.

The State calls Selena Kinard, Judge.

THE COURT: Okay.

[Whereupon, Ms. Kinard comes forward]

THE CLERK OF COURT: Put your left hand here and raise your right hand.

[Whereupon, Ms. Kinard is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you give the Court and the jury in the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes, sir.

THE CLERK OF COURT: Thank you, ma'am. If you would take your seat.

[Whereupon, Ms. Kinard takes the witness stand]

THE CLERK OF COURT: Ma'am, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Selena Kinard. K-I-N-A-R-D.

MR. YOUNG: Good afternoon, Ms. Kinard.

THE WITNESS: Good afternoon.

MR. YOUNG: Thanks for being here.

THE WITNESS: Thank you.

- - - - -

SELENA KINARD,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Where are you currently employed?

A. [No response]

Q. If you don't mind telling the jury where you're currently employed?

A. Sure. I'm employed with the South Carolina Law

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Enforcement Division, also known as SLED.

Q. And where is that located?

A. In Columbia, South Carolina.

Q. And how long have you been there?

A. I've been there since June 4th of 2007.

Q. What are your job duties there?

A. I am in the evidence control department and we intake evidence from agencies across the State, log that evidence into our computer system, and we keep track of our evidence in our locked evidence room.

Q. And were you working in that capacity in 2010?

A. Yes, I was.

Q. All right. I'm going to get straight to the case.

Do you have your South Carolina Law Enforcement Division chain sheet --

A. Yes, sir.

Q. -- for the case of Gregory Gathers?

A. Yes, sir.

Q. Do you have that in front of you?

A. Yes, sir.

MR. YOUNG: Judge, may I approach the witness?

THE COURT: Yes, sir.

Q. [Mr. Young] I'm going to show you some pieces of evidence. It looks like 1, 2, 3, 4, 5. I'll just put

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

it right there.

A. Okay.

Q. On that first piece of evidence I've handed you, marked SLED item 1, should be State's 3.

A. Okay.

Q. Can you see a SLED number on there at all?

A. Yes, I do. It's a yellow label that's affixed to the outer package labeled L10-10104, number 1.

Q. And when you -- when would that label have been put on there?

A. We affix the label to the evidence once the case has been logged into our computer system. The computer system will generate a unique lab number, and each case that comes in gets its own unique lab number. And the case would have started with item number 1 and gone on from there.

Q. If you refer to your SLED chain of custody sheet, would you have received that item in front of you?

A. Yes, I did.

Q. And what was the date of that?

A. That was on September 10th of 2010.

Q. And who was that from?

A. From Laura Reynolds, with the North Charleston Police Department.

Q. And did you tamper with it at all when you got

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

it?

A. No, I did not.

Q. Did you open the bag or anything?

A. No.

I would have just taken the envelope that is inside the heat-sealed pouch, heat-sealed it in here, and had her sign and date and initial and date on this outer heat-sealed package.

Q. And what did you do with it once you got it?

A. Once I entered it into the system on September 10th of 2010, I transferred it to our DNA evidence intake storage, which is a refrigerator within our evidence room.

Q. Now, look at your chain of custody sheet. Did you come back in contact with that evidence on seven -- I'm sorry -- on 7/19/2011?

A. Yes, I did.

Q. Okay. And what would you have done with it then?

A. At that time, on July the 19th, I removed it from -- at that time it was on DNA intake shelf 31. Removed it from that shelf, put it into my custody, and then transferred it to Adrienne Hefney, the analyst in DNA.

Q. So and then Adrienne Hefney would have analyzed it?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. That's correct. She would have taken it into her custody.

Q. And is that evidence secure the whole time on that evidence intake shelf?

A. Yes, in the -- in our evidence room. Yes, that's correct.

Q. Do y'all lock the door back? How is that secured? Can you just kind of explain that maybe a little bit?

A. Sure. Each morning we -- it is logged every evening when we leave. It's both locked with a lock and also we have to enter a code into a security system for it to lock. And then in the mornings we open that up as part of our morning routine. And we sit right in front of the evidence door, so it is, you know, safe and secure at all times. So and then at night -- we, you know, just do the same routine each day.

Q. Okay. Great.

A. Uh-huh.

Q. Moving on.

If you look at the evidence in front of you, it should be State's 62. Do you see that package right there? It should have a --

A. Can you -- which item?

Q. It should be the left and right swab -- have

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

State's 2 sticker on there. Show you. There you go [indicates].

A. I'm sorry.

Q. That's okay. State's 62.

A. 62. Okay.

Q. Right there. Do you see that?

A. Yes.

Q. Would you have come in contact with that?

A. Yes, I did.

And this is actually labeled container A on that same lab number, L10-10104.

Q. Okay. What does that mean?

A. The container?

Q. Yes.

A. It just means that we -- when I logged it in, I was able to put multiple items within that packaging. And so we assign it a container versus just 1, 2, 3, 4 or so on. So there's multiple items within this one packaging.

Q. What are the two items in there? Can you read them on the evidence -- what does it say?

A. Item 2 and item 3.

Item 2 is described as a swab with suspected blood from right hand of Gregory Gathers.

And item 3 is described as a swab with suspected blood from the left hand of Gregory Gathers.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And so you would have come in contact with those on what date?

A. On September 10th of 2010.

Q. And who gave those to you?

A. Laura Reynolds, with North Charleston Police Department.

Q. And when you got it, what did you do with it?

A. I also, on the same day, 9/10 of 2010, logged that in from Laura Reynolds and then transferred it to our DNA evidence intake storage area.

Q. Okay. Is that a secure area?

A. Yes, that's correct, within the evidence room.

Q. Did you come back in contact with that evidence at all anymore?

A. Yes, I did.

Again on 7/19 of 2011, I removed it from a DNA intake shelf 31, put it into my custody, and I transferred it to, again, forensic scientist Adrienne Hefney.

Q. Okay. And at any time, did you alter it at all?

A. No, I did not.

Q. And it was secure the whole time you had it?

A. Yes. That's correct.

Q. Moving along to State's 43, which should be SLED item 5. State's 43. Have you got it?

A. Uh-huh. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Item 5 is described as a black condom from trash bag in the kitchen.

Q. And did you come in contact with that?

A. Yes, I did, September 10th of 2010.

Q. From whom?

A. Laura Reynolds.

Q. And what did you do with it?

A. I put that item on -- excuse me -- transferred that item onto what we call our evidence processing intake shelf 110. Still --

Q. Is that -- I'm sorry. Go ahead.

A. I was going to say still within our evidence room, just a different location.

Q. Okay. Was it secure there?

A. Yes.

Q. You didn't tamper with the bag at all?

A. No. I would have done the same, put it -- you know, heat-sealed it into this pouch, she would have signed dated, initialed dated, and it would have been in this pouch.

Q. Okay. And did you happen to come back in contact with that evidence at some point?

A. Item 5 I did not.

Q. You did not?

A. No.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Moving on to SLED item 6.

A. Okay.

Q. Which is NCPD -- or State's 55, I'm sorry. Do you see that up there?

A. Yes, sir.

Q. What is SLED item 6?

A. SLED item 6 is described as a swab from black-in-color knife handle.

Q. Did you come in contact with that?

A. Yes, I did, on September 10th of 2010.

Q. From whom?

A. Laura Reynolds.

Q. And what would you -- what did you do with it?

A. On the same date, 9/10 of 2010, I transferred it to the DNA evidence intake storage area.

Q. And that's a secure area?

A. Yes, that's correct.

Q. And you didn't tamper with it at all?

A. No, I did not.

Q. Did you come back in contact with that evidence at all?

A. Yes, I did.

Again, on July the 19th of 2011 I put it into my custody, from intake shelf 31, and transferred it to Adrienne Hefney.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. For testing?
A. Yes.
Q. And when you had it in custody that time, you didn't alter it at all?
A. No, I did not.
Q. Now I'm going to direct your attention to SLED item number 7.
A. Okay.
Q. It's NCPD -- I'm sorry. It should be State's Number 63. There's a little red tag that says State's 63. Do you see that?
A. Yes.
Q. Okay. Did you come into contact with SLED item number 7?
A. Yes, I did.
Q. And just so the jury is clear -- every time it goes to SLED, you get a new SLED number, right, on the evidence? Is that correct? So it's got NCPD number 69, for example, when it comes to you. Would you guys assign a SLED number? Is that right?
A. It would -- basically, our system works -- it's, you know, one -- starts with one and goes down from there. NCPD has their own numbers that they go by, item numbers that they go by. But for SLED, when a case starts it starts with item one and then goes down from there.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

So in this case, you know, it obviously started with one and then now we're down to seven. And I think you said their number was 69. So that's basically how our system works.

Q. Okay. So going back to item -- SLED item 7, State's 63, NCPD 69. Did you come in contact with that item?

A. Yes, I did.

Q. What was the date of that?

A. That was on September 10th of 2010.

Q. And from whom did you come in contact with that?

A. Laura Reynolds.

Q. And did -- what did you do with it?

A. On September the 10th, I transferred that evidence to DNA evidence intake storage.

Q. Okay. Is that a secure location?

A. Yes.

Q. Did you alter that evidence at all?

A. No, I did not.

Q. Did you come back in contact with that evidence at some point?

A. Yes, I did.

On July the 19th of 2011, I removed it from DNA intake shelf 31, transferred it to myself, and then to forensic scientist Adrienne Hefney.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And Hefney would have done the testing on it?
A. That's correct. She's the DNA analyst.
Q. She's the DNA analyst?
A. That's correct.
MR. YOUNG: The Court's indulgence.
[Whereupon, Mr. Young and Mr. Kidd confer]
Q. [Mr. Young] Ms. Kinard, whenever -- a lot of these items, on 7/19 you said you had come back in contact with them; right?
A. That's correct.
Q. Were those pouches ever opened at all when you came back in contact with them, or are they always heat-sealed?
A. They would have been sealed in the --
Q. Sealed?
A. -- in the same area where I retrieved them from.
Q. And in this case they were all sealed?
A. That's correct.
Q. Okay. Nothing had been opened?
A. No.
MR. YOUNG: No further questions.
THE COURT: Cross-examination.
MS. RUNEY: No questions, Judge.
THE COURT: Okay. You may step down. Thank you very much.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE WITNESS: Thank you.

[Whereupon, Ms. Kindard is excused and exits the witness stand]

MR. YOUNG: The State calls Janice Bryson.

[Whereupon, Ms. Bryson comes forward]

THE CLERK OF COURT: Put your left hand here and raise your right hand.

[Whereupon, Ms. Bryson is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you give the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes.

THE CLERK OF COURT: Thank you, ma'am. You may take your seat.

[Whereupon, Ms. Bryson takes the witness stand]

THE CLERK OF COURT: Ma'am, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: My name is Janice Bryson. B-R-Y-S-O-N.

MR. YOUNG: Good afternoon, Ms. Bryson.

THE WITNESS: Good afternoon.

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

JANICE BRYSON,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Can you tell the jury where you work?

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

Q. How long have you worked there?

A. I've been at SLED for twenty-two years.

Q. Can you tell the jury what you do there?

A. I'm a forensic evidence technician in our evidence processing department.

Q. What does that mean?

A. Whenever items of evidence are submitted to the lab with a request to look for hair, fiber, blood or semen, it's my responsibility to process the evidence, collect any evidence I find, and make sure that it's routed to the appropriate department.

Q. Now, Ms. Bryson, I'm going to get you to refer to your South Carolina Law Enforcement Division chain of custody form. Do you have that?

A. Yes, sir.

Q. Specifically, SLED item 5, which is going to be State's 43.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. YOUNG: May I approach the witness, Judge?

THE COURT: Yes, sir.

MR. YOUNG: Thank you.

Q. [Mr. Young] State's 43: can you read on that bag what that is?

A. The item's description is a used black condom from trash.

Q. Okay. And looking at SLED item 5 on the chain of custody sheet, would you have come in contact with that at all?

A. Yes, sir, I did.

Q. And what date was that?

A. September the 15th, 2010.

Q. And what did you do with what you came in contact with?

A. I took two swabs from the outside of the condom as it was submitted to me, and then I took two swabs from the inside of the condom as it was submitted, and I collected possible hair from the condom.

Q. Okay. And once you swabbed it, is that denoted -- or was that notarized [phonetic] on your chain of custody form as 5.1 and 5.2?

A. Yes, sir.

Item 5 would be the black condom, would be the parent item. And then I create subitems off of that, 5.1,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

5.2 and 5.3.

Q. And after you swabbed it, what did you do with it?

A. I let the swabs air-dry. And then I placed those swabs in an envelope, and then I placed the envelopes in a heat-sealed pouch, sealed the heat-sealed pouch, initial it, date it, and then placed it into the DNA storage drawer.

Q. Okay. And is that what's in front of you right there? Is that the condom in front of you right there?

A. Yes, sir, it is.

Q. And that's heat-sealed?

A. Yes, sir. This is where I sealed it back after processing the condom.

Q. Has it been tampered with at all?

A. No, sir, it hasn't.

Q. And other than to swab it, did you alter it in any way?

A. No, sir.

Q. And just so I'm clear. So after you were finished swabbing, what would you have done?

A. I let the swabs air dry --

Q. -- if you don't mind saying it one more time just so I'm clear. What did you do when you finished swabbing it?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

A. I let the swabs air dry. I placed those swabs in an individual envelope and then I placed the envelopes inside of a heat-sealed pouch. I sealed the heat-sealed pouch. And then I initial it and date it.

Q. Okay. Thank you. I'm sorry for making you repeat that.

At this point, that would have been the last contact you would have had with that item?

A. That's correct.

Q. Okay. And when you guys secure it, is it on a shelf or is it -- is it -- is that a secure location?

A. Actually, I placed it into a file drawer, which is in a secure location.

Q. Does it have a lock on it or something?

A. Yes, sir, it does.

Q. Okay.

MR. YOUNG: May I approach the witness, Judge?

THE COURT: [Indicates affirmatively]

Q. [Mr. Young] Ms. Bryson, I'm going to show you --

MR. YOUNG: I forgot to get this marked.

[Whereupon, State's Exhibit Number 66 is marked by the court reporter]

Q. [Mr. Young] I'll just show you State's 66, which I think should -- that should be --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: What is the number?

MR. YOUNG: State's 66.

Q. [Mr. Young] Can you tell me what that is? Can you tell off of that?

A. These are the envelopes that I placed the individual swabs in. And the white envelope is the hair that I collected from the condom.

I place these in a heat-sealed pouch, I sign it, date it, and I seal it across the top, initial and date it, and I place this into the DNA storage drawer.

Q. Okay. And that's that locked drawer you were talking about?

A. The room is actually locked, not the drawer itself.

Q. Oh. The room is locked?

A. Yes, sir.

Q. And you would have been the only one to come in contact with that at that point?

A. That's correct.

Q. And you didn't alter that in any way, other than just to seal it?

A. No, sir.

MR. YOUNG: Court's indulgence.

[Whereupon, Mr. Young and Mr. Kidd confer]

MR. YOUNG: I have no further questions, Judge.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

THE COURT: Okay. Cross-examination?

MS. RUNEY: No questions.

THE COURT: You may step down. Thank you very much.

[Whereupon, Ms. Kinard is excused and exits the witness stand]

MR. YOUNG: The State calls Adrienne Hefney.

[Whereupon, Ms. Hefney comes forward]

[Whereupon, Ms. Hefney is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I will.

THE CLERK OF COURT: If you would take your seat.

[Whereupon, Ms. Hefney takes the witness stand]

THE CLERK OF COURT: And, ma'am, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Okay. Adrienne Hefney. H-E-F-N-E-Y.

MR. YOUNG: Good afternoon, Ms. Hefney.

THE WITNESS: Good afternoon.

MR. YOUNG: Thanks for being here.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

ADRIENNE HEFNEY,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q. Can you tell the jury, please, what your occupation is?

A. Yes. I'm a forensic DNA analyst with the South Carolina Law Enforcement Division, more commonly known as SLED.

Q. And how long have you been employed by SLED?

A. For fourteen years.

Q. And what does SLED mean again?

A. South Carolina Law Enforcement Division.

Q. Tell the jury what your duties are as a forensic DNA analyst.

A. As a forensic DNA analyst, what I do is analyze biological evidence that may have been left behind at a crime scene and make comparisons.

We analyze known evidence samples, which are samples that we collect from the subject and/or the victim in the case and can make comparisons to unknown samples, which are evidence samples that were left behind at the crime scene. And those samples could be blood, semen, saliva, bone, tissue, et cetera. Hair.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. What's -- tell the jury a little bit about your educational background, if you don't mind.

A. Sure.

I have a Bachelor of Science degree, from the University of South Carolina, in biology. I also have a Master's of Business Administration or MBA from Winthrop University.

I was trained at SLED by a court-qualified analyst. And since joining SLED, I've taken courses in population genetics, molecular and cellular biology, statistics.

And each year we are required to attend a conference or some other type of outside training to stay abreast of any changes that happens in the -- dealing with DNA analysis.

Q. Have you testified before as an expert in DNA testing?

A. Yes, sir, I have.

Q. Approximately how many times?

A. About fifty-three times or -- I'll say over fifty times.

Q. Over fifty times. And has that been in South Carolina?

A. Yes, sir. As well as federal court.

MR. YOUNG: Judge, at this time the State offers

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Ms. Hefney as an expert in forensic DNA analysis.

THE COURT: Do you want to cross-examine her on her qualifications, or do you stipulate?

MS. RUNEY: I don't, Your Honor. I believe that Ms. Hefney is qualified as an expert in DNA analysis.

THE COURT: The Court so finds. Thank you very much.

MR. YOUNG: Thank you, Judge.

Q. [Mr. Young] Ms. Hefney, if you could kind of tell the jury and myself, what is DNA?

A. DNA essentially is what makes us who we are. It is a chemical substance, that's found in cells of our body, that we inherit from our mother and our father. We inherit half of our DNA from our mother and the other half from our father.

Now, a lot of DNA between humans are the same because it's the DNA that codes for us to have two arms, two legs and two eyes. But if we look around this courtroom, we notice that everybody looks different. So our DNA is different and it's unique to each individual. The only two people that will have the same DNA will be identical twins.

Q. Thank you.

A. Uh-huh.

Q. How is DNA used for forensic purposes?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. The fact that we -- our DNA is unique to individuals, we use it in forensics because we are able to make comparisons to evidence to known standards. Like if we were to develop a DNA profile from an evidence sample, say a drop of blood that was left behind at a burglary scene and we through investigation find out who we think may have left that blood behind, we could make a comparison. And then once we make that visual comparison, we also apply a statistical match to it, as well.

Q. Okay. Now, is there certain types of DNA analysis that -- or analyses that you perform at SLED?

A. Yes. We perform what's known as PCR DNA analysis.

And what that is, theoretically you can have as small as a pinhead size of stain, of DNA, that was left behind and we're able to get a DNA profile from it. And we do this by an amplification procedure. And what an amplification -- and what I mean by that is, for example, say you have a Xerox copier and you lay a piece of paper down. You can make a million copies of that piece of paper. So we can make a book, but it doesn't change how the paper looks or anything like that. It's still that same piece of paper.

That's the same as with DNA. We can take a stack of DNA and amplify it to where it'll give us a DNA

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

profile that we can look at.

And we also do YSTR testing at SLED. And what YSTR testing is, it's specifically designed to only examine male DNA. And we use that in cases like sexual assault cases or any other type of case where we may have an overabundance of female DNA and a minor contribution of male DNA. Well, with this type of testing, it'll only pick up or analyze the male DNA or paternally-inherited DNA.

Q. And what specific types of bodily fluids or tissues can DNA be obtained from?

A. Sure. Blood, semen, saliva, hair, tissue, bone, skin cells, sweat.

Q. Did you have an opportunity to examine or analyze evidence related to this case for us today, the case of Gregory Gathers?

A. I did.

Q. And do you have your report in front of you that you wrote for this case?

A. I do.

Q. Can you tell the jury what type of evidence was submitted that you analyzed for this case?

A. Sure.

I received what is known as SLED item 1, which is a buccal swab from Gregory Quinn Gathers. And a buccal

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

swab is a swab from the inside of your cheek cells. I also received item 2, which was a swab from the right hand of Gregory Gathers; item 3, a swab from the left hand of Gregory Gathers ; item 5.1, swab from the outside of the condom; item 5.2, swab from the inside of the condom; 5.3 is debris from the condom, but I did not do any analysis on that; item 6, a swab from a knife handle; item 7, I received a blood standard from Renee Nevarez. I also received swabs from a Cherry Pepsi can that I did not perform analysis on. And that was item 8 and 9. As well as item 10 and 11, which were the right and left fingernail clippings of Renee Nevarez. I did perform DNA analysis on those. And I also received known head hairs that I did not perform analysis on.

Q. Ms. Hefney --

MR. YOUNG: If I may approach the witness, Judge?

THE COURT: Yes, sir.

Q. [Mr. Young] I'm going to show you two pieces of evidence. That will be State's 3, State's 62, State's 43, 66, 55, and 63. I know these have the SLED numbers, as well.

When you received I guess -- I'm sorry. When you receive like evidence, what do you -- will you take us through the process of when you say you analyze it? Is

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

this when you start the testing process or is it --

A. Yes.

Q. Can you kind of explain that?

A. Yes.

When we receive evidence, it's usually in a dried state, whether it's on a swab or on a cutting or some substrate like that. What we'll do is make a small cutting into a tube and we'll add chemicals into that tube that will release the DNA from the cells.

And once we release the DNA from the cells, we will run it through a procedure where we clean up the DNA, which means we're removing any extracellular material or anything that's not, you know, DNA from the cell, remove it from out of there as a -- known as a purification procedure.

After that's done, we'll quantify it. And what I mean by that, we will do a quantization test to see how much DNA we have.

And once that's done, we'll do the amplification, which I explained earlier with the Xerox copier type method.

We'll do that, and then develop a DNA profile from there.

Q. Okay. Now, when you get evidence in, do you -- go ahead.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I'm sorry. There's one thing I forgot.

Q. That's okay.

A. When we get evidence in, we also do what's known as a serology test. And what the serology test is is a body-fluid identification. So we'll see whether we're dealing with blood or semen.

And in this case, on item 3 I did a serology test, which is a presumptive test for blood -- which is called phenolphthalein, that reacts with the human blood. And that was on item 3, the swab from the left hand of Gregory Gathers. And there was blood indicated there. And as well as on the condoms, we also want to test for semen. So we want to identify those two types of body fluid before we go on to DNA.

Q. Okay. And when you receive evidence and it comes to you, is it sealed?

A. Yes, sir.

Q. Okay. And those pieces of evidence in front of you, SLED 1, 2, 3, 5.1, 5.2, 6 and 7, which should be State's 3 in front of you, 62, 43, 55 and 63 -- do you see all of those in front of you?

A. Let's see. 43, 62, 3, 66 --

Q. And 55?

A. -- and 55.

Q. And do you see all of that, as well -- as well

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-526-6313

as 3? Do you see all of those up there?

A. Is 3 -- yes, sir.

Q. Okay. When you got those items, when they came to you, were those items all sealed?

A. Yes.

Q. And had they been tampered with from what you could tell?

A. No, not when they arrived with me.

Q. When you -- if they had been tampered with, what would you have done?

A. We would have to make a phone call to find out why we received this opened, for one thing, and then we wouldn't analyze it.

Q. Okay. But that wasn't the case? Everything that you got had been sealed and not tampered with?

A. That's correct.

Q. Okay. When you analyze different pieces of evidence, do you make a report?

A. Yes, sir.

Q. You do.

And is that the report that you have in front of you today? It's a six-page report?

A. Yes, sir.

Q. In this case were you able to determine some results from the evidence that was submitted?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

A. Yes, I was.

Q. And let's kind of take a look at those results. So certainly for me I'm going to put your results page -- and the jury, as well -- on the overhead here. And can you kind of explain for me -- sometimes I have a little trouble understanding this stuff. If you would read it and tell me --

[Off the record momentarily]

Q. [Mr. Young] So on your results page you said that blood was indicated, right, on the left hand of Gregory Gathers? Is that right? Is that --

A. Not on that page.

Q. Okay.

A. -- but on -- in my serology section.

Q. Your serology. Okay.

A. Yeah.

Q. Explain to me what your first result was here on this page, the result that's in front of you.

A. On this page? Okay.

Q. Is that the easiest way for me to have you explain that?

A. Yes, unless -- it might be easier to show the chart but --

Q. Go over the alleles first?

A. Yeah --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Would that be easier for you?
A. -- probably so.
Q. Okay. I can do that
A. And then I can read the results if --
Q. Okay. That sounds perfect.

Let me show you, then, your chart with the different identifiers on it. And is it -- so what -- and this is a chart that you make when you perform analysis on these different pieces of evidence; is that right?

A. Yes.

THE WITNESS: May I stand?

THE COURT: Yes, ma'am.

MR. YOUNG: Yeah.

Q. [Mr. Young] If you could, Ms. Hefney, just kind of explain --

THE COURT: You don't have a pointer she can use?

Do you want a pointer?

THE WITNESS: Yes, sir.

THE COURT: Will that help you?

THE WITNESS: It'll help.

THE COURT: Get her a pointer, please.

[Off the record momentarily]

Q. [Mr. Young] Just kind of take us through what this chart means and what -- what these columns are.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

A. Okay. What you see across the top here --

THE WITNESS: And it's cut off some.

MR. YOUNG: I'm sorry. Can you see that?

THE WITNESS: Yeah, but it's still truncated on this -- on the other side.

MR. YOUNG: On the right side?

THE WITNESS: The right side.

Q. [Mr. Young] Okay. Take us through --

A. But I'll take you --

Q. Right --

A. -- through --

Q. Right. Just explain -- just -- okay.

A. At the top here, you notice these various numbers. And at the first number it says D8S1179. What that means, we have twenty-three pairs of chromosomes in our body and we look at fifteen of these chromosomes to compare a DNA profile as unique to each individual. And the first one that we looked at, D8, which is chromosome 8 at site 1179 on that chromosome -- and we go through each one. The next one will be D21, the next one will be D7, CSF, so on and so forth, until we get it through all fifteen. The last one is amelogenin, which codes for male or female. The female is an X and the male being an XY.

All right. Right here I've developed -- this item 7 is Renee Nevarez' known standard.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

Q. So that's her DNA right there? That's her DNA screen? Is that the best way to --

A. That is her known standard from the --

Q. Item -- SLED item 7?

A. -- SLED item 7, which would have been a blood standard from her.

So I've developed a DNA profile from her blood standard, and her -- it's shown right here. And at D8 you'll notice that she's a 14/15, at D21 she's a 28/30, and which means she would have either gotten -- remember I said half of your DNA comes from your mother and half of it from your father. So she would have gotten either the 14 from her mother or the 15 from her mother or one of -- one of them came from each one. Without having her parents' profile, I can't tell which one she got from which.

But at this locus you see -- and locus is just another word for the chromosome marker. Right here at CSF she is a 12. That means she got both a 12 from her mother and a 12 from her father.

So I developed a profile from her and then I developed a DNA profile from Gregory Gathers. And that's item 1.

Q. And that was SLED item 1?

A. Yes. And it was from a buccal swab from inside

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

his cheek.

And the buccal -- the -- and I want to emphasize that the swab -- the DNA that you get from your blood, the DNA that you get from the inside of your cheeks or your skin, is the same DNA. No matter what, it doesn't change depending on where you get it from from your body.

But Gregory Gathers here, he is an 11/12 here at D8 and a 31/32.2. And, again, he would have gotten the 11 or the 12 from either his mother or his father. The same as with the 31/32.2.

Now on my result sheet, the first result that I had -- and I'll read directly from my report. It says: the DNA profile developed from item 3 is a mixture of at least two individuals. Gregory Gathers and Renee Nevarez cannot be excluded as possible contributors to this mixture. The probability of randomly selecting an unrelated individual who could have contributed to ths mixture is approximately one in two million people.

Q. So this item 3, just to be clear, that was a swab that was taken from Gregory Gathers' left hand?

A. That's correct. I believe it was the left hand.

[Whereupon, the witness reviews documents]

A. Yes, the left hand. And there was blood identified or indicated on that hand.

Q. [Mr. Young] And you're saying that Renee

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Nevarez' blood is also on Gregory Gathers' hand? Is that what that chart is saying?

A. It was blood indicated on his hand. And I can't say whether the blood came from her or if he was bleeding, whether it came from him or the skin cells underneath. But she is the major contributor to this.

Q. To the blood on his hand --

A. To the -- and so I would have to assume that the blood, it is the major profile on there.

For example, here, the 11/12 -- I'm sorry. He's the major contributor here. So the 11/12 -- let's see on the chart. It doesn't tell us. But D -- item 3, the left hand of Gathers, you see we have an 11/14 and a 14/15. And the 11/12 is in bold and what that means is the bold is the major contributor to that item.

So the 11/12 matches Gregory Gathers. The 14/15 matches Renee. And I go through each one of these, like 28/30 and 31/32.2 at the next locus, and I see Gregory Gathers is a 31/32.2 and Renee Nevarez is a 28/30.

When I go through this entire profile I look before I make my conclusion that it's is a mixture of the two of them. And then I apply a statistic to it. And the statistic that I apply to it -- and how you do that is you take each one of these numbers and you apply a frequency of how -- you have a population of how ever many people,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

how many times you're going to see that number.

So I'll take the -- and I don't do this by hand. I have a computer program that will do all this mathematics for me. But I'll put the 11 in and it'll say the 11 is shown however many times in a population and the 12 is shown however many times. It'll go through each one of these numbers and so a multiplication or -- it's known as product rule -- to get the big number.

The big number in this case, or with this item, was one in two million. So if I was to line up two million people, I should only expect to see this combination of DNA one time.

Q. So -- okay. And, Ms. Hefney, explain to me -- if you look at item 3 in the left-hand, Gathers, in the first column. So Renee is 14/15; right? That's her number?

A. Uh-huh.

Q. And Gregory is 11/12; right?

A. Yes, sir.

Q. And then in that column, the first one you have is 11/12, 14/15?

A. Uh-huh.

Q. Is that -- it looks like it's matching up in every single column; is that right?

A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Okay. So that's Renee's DNA, as well as his DNA, matching up on his --

A. On his --

Q. -- hands?

A. -- hands, yes.

Q. Okay. And the chance of that not being correct, just so I'm clear, is one in two million?

A. No. The chance of you seeing that profile again --

Q. Okay.

A. -- if you were to line up two million people is a one in two million chance.

Q. One out of two million chances?

A. So I should not see -- if I line up two million people, I should only see that DNA profile, that combination, one time.

Q. What does that say? Can you -- or what does that say to you as far as -- is that -- can you say with relative certainty that's Renee on his hands?

A. Within a reasonable degree of scientific certainty, yes --

Q. That that's --

A. -- it's a mixture --

Q. -- that's Renee Nevarez --

A. It's a mixture, yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Okay. That's a mixture of Gregory and Renee; right?

A. Uh-huh.

Q. Okay. Sorry. I know you'll bear with me. I'm trying to make sure I work through -- work my way through this thing.

Do you want to go to your next result? Would --

A. Yes.

Q. -- that be --

A. All right.

Q. -- be the easiest way to do it?

A. So you see both of those. They're -- both of the results are similar for item 2 and 3. Item 5.1.f --

Now, when we -- what do I mean by F and M here? When we have a swab from like a condom or something that contains semen, we'll do out best to separate the female portion of that from the male portion of that. The female portion is the F and the male portion is the M. And we just apply different chemicals on there that's going to -- live sperm spells, and that's what you should see in the M fraction effect.

But in this case both fractions end up being from Renee Nevarez. And one reason for that may be -- usually with condoms -- we see those quite a bit because sometimes condoms contain a spermicide. We get our DNA

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

from the sperm, not really the semen. And so it could of killed the sperm where we didn't get any DNA from the male in that respect.

But here on item 5.1.f, you see 14/15, 28/30, 7, 10, 12, 15, 16, all the way across, and we see that that matches Renee Nevarez.

And, again, with the male fraction what -- normally, I guess if it was anything but a condom, maybe, we would expect to see the male in this. But in this case we see the female again, but in lower quantities of it.

Item 5.2 is another swab from the condom and that is from what, as submitted, is the inside of the condom.

Q. And can you explain -- as submitted, explain that -- that'll be too graphic.

A. Okay. Typically, when we -- when like Janice gets the condom, she's going to swab the inside and the outside as it came in. Now, whether when this act was occurring or this condom was being used, whether that was typically the inside or the outside, we don't know that because sometimes when a condom is being taken off, it's taken off and turned inside out. So if that's the case, then the outside would become the inside and the inside would become the outside.

So in this case, which is item 5.2, which was

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the inside of the condom, we have a mixture again. And my results there --

Q. And so the inside, just to be clear, would most likely be the outside? Is that -- it could be the outside?

A. It could be.

Q. It could be --

A. Uh-huh.

Q. -- could be the outside.

A. The DNA profile developed from item 5.2 is a mixture of at least two individuals. The DNA profile of the major contributors of this mixture matches the DNA profile of Renee Nevarez. The probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this item is approximately one is 500 [phonetic] quadrillion. The partial DNA profile of the minor contributor to this mixture matches the DNA profile of Gregory Gathers. The probability of randomly selecting an unrelated individual having a DNA profile matching the minor contributor to this mixture is approximately one in 17,000.

So if we go through here --

Q. Can you --

A. I can't really see it up here.

Q. Ms. Hefney, can you -- so can you kind of --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

just so I'm clear: so on the condom, one in 50 quadrillion chance that it's not her; right?

A. Is if I lined up one in -- if I lined up 50 quadrillion people, I should only expect to see that DNA profile one time. And being as though that's higher than the population on the earth, then probably within a reasonable degree of scientific certainty I would agree that --

Q. You could say that --

A. -- it's her.

Q. -- that Renee was on the condom?

A. Yes.

Q. And then the minor contributor to the condom is, from the results -- did you say Gregory Gathers?

A. Yes.

Q. Okay. And --

A. And it's a partial.

Q. The -- I'm sorry. Go ahead.

A. And it's a partial profile from him so we apply the statistic to what we see. And that's why his statistic is one in 17,000 versus one in 50 quadrillion.

Q. And when you say a minor or major contributor, is that just -- does that mean the DNA is not strong, maybe, or it's sort of been rubbed off, possibly, or something like that? Is that maybe a possibility?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

A. What I mean by that is like the concentration from DNA from her, as opposed to him, is greater. So she's contributing more DNA on that sample than he is, basically.

Q. Okay. Continue on to the -- the knife handle, is that number 6?

A. Yes.

Item number 6 is a knife handle. The partial DNA profile developed from item 6 is a mixture of at least two individuals. The partial DNA profile of the major contributor to this mixture matches the DNA profile of Renee Nevarez. The probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this item is approximately one in 460 million. And a DNA profile of the minor contributor to this mixture is insufficient for reliable interpretation.

Q. So explain what that means in laymen's terms. Does that mean that Renee Nevarez' DNA is on that knife handle?

A. Yes.

Q. Okay. And then there's also another DNA profile that there wasn't enough to make an interpretation; is that right?

A. Exactly.

So I did further testing on this knife handle.

FORM C-100 • LASER REPORTERS PAPER & MFG. CO. 800-626-8313

Where I explained earlier that we have a YSTR test that we can perform that will only pick up male DNA -- and that's a different chart, though.

Q. And I'm going to show that chart. And tell me, is this the YSDR chart?

A. Yes.

Q. Can you explain again -- I know you kind of touched on what -- touched on YSDR. Is that -- why would you use the YSTR testing?

A. Usually, YSTR testing is when we have a high concentration of female and a small concentration of male that we can -- sometimes the female may be masking the male.

We can use this test to only pick up the male and not the female in this case. And so and that's what I did in this instance on this knife handle.

Q. And in using this test, were you able to develop a result on that knife handle who that --

A. Yes.

Q. -- minor contributor, that you weren't sure about --

A. Yes.

Q. -- became?

A. And I'm going to read directly from my report.

Q. Okay.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. [Reading] The partial YSTR profile developed from item 6 matches the YSTR profile of Gregory Gathers. Paternal male relatives of Gregory Gathers may not be excluded as a contributor of this profile. This profile is found nine times in a population data base of 1,164 males.

So and, again, I went through here. This is Gregory Gathers' YSTR standard.

Q. YSTR standard?

A. This is -- I also ran the condom again because I got a -- what was -- a very small amount on the insufficient -- I'm sorry -- insufficient profile on the first condom, so I ran it on the Y to see if I could pick up any male. And I didn't get anything there.

And then on the knife handle here, I got very little. So but you can see there's a 14. And anything that's in parenthesis here, we interpret with caution because it's very low level. So it's not much at all. But there is a 14 there and that 14 matches the 14 of Gregory --

Q. And that's Gregory's DNA right there; right?

A. Yes.

Q. Okay. 14 and 14.

What's that number there? Is it 19-19, 14-14, 10-10?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

A. Uh-huh.
Q. Okay. Sorry to interrupt you.
A. That's fine.
Q. I'm just making sure, for me to be clear.
A. Okay.
Q. Is that all you need on this chart?
A. Yes.
Q. Okay. So the knife handle, interpreting your results, Renee is on there 1 in 460 million that she's not; right?
A. I should only expect to see that profile once in 460 million people.
Q. And then when you did the YSTR test, you found Gregory to be a minor contributor on there, as well; right?
A. On the YSTR profile, it -- the partial matches Gregory and I should only expect -- it was found nine times in a population of 11,064 males.

And, again, anybody on Gregory's male side of the family, or paternal side of the family, would have the same profile.

Q. Okay. And moving -- is that -- and then you did the female clippings; is that --
A. That's items 10 and 11, and there was no DNA profile foreign to Renee on those.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Okay. So nothing was developed, per your report, on items 10 and 11? Go ahead.

A. No DNA profile foreign to the victim was developed from items 10 and 11.

Q. Okay. Just so we're clear, then: on the knife handle, condom, you said you could say with a reasonable degree of certainty that you got Gregory and Renee in there; right?

A. -- make sure on those.

[Whereupon, the witness reviews documents]

A. Uh-huh.

Q. [Mr. Young] And also on his hand, her blood is there, too; right?

A. Yes.

Well, I can't say whether it was her blood or his. I have her DNA.

Q. Her DNA?

A. Yes.

Q. Okay. Is that all you need from this chart?

A. Uh-huh.

MR. YOUNG: Okay. You can sit down now, if you would like.

[Whereupon, the witness complies]

Q. [Mr. Young] Those items that we just went through, 1, 2, 3, 5.1, 5/2, 6 and 7, are those those items

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

in evidence that are in front of you right there?

A. Yes.

MR. YOUNG: Judge, at this point I would ask to admit State's 3, State's 66, State's 63, State's 55, State's 43, and State's 62 into evidence.

THE COURT: All right. You said 3, 66, 62, 43 and 55; is that correct?

MR. YOUNG: I said 3, 62, 43, 55, 63 and 66.

THE COURT: Okay. Any objection to, let me see, 3, 43, 55, 62, 63 and 66?

MS. RUNEY: No, sir.

THE COURT: All right. Admitted without objection.

[Whereupon, State's Exhibit Number 3 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 43 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 55 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 62 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 63 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 66 is admitted into evidence by the Court]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. YOUNG: Thank you for answering my questions. Please answer any questions defense counsel may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Ms. Hefney, I'm going to go straight to your results, okay, which would be Gregory Gathers -- a swab from Gregory Gathers' right hand and a swab from his left hand. Right?

A. Correct.

Q. Those are items 2 and 3?

A. Yes, ma'am.

Q. And you tested those for blood?

A. I tested item 3 for blood --

Q. Yes, ma'am.

A. -- and I did not test item 2 for blood because there was no visible stain present.

I made a note on my worksheet: item 2 swab from right hand of Gregory Gathers, no visible stain, straight to DNA.

Q. So blood is only found in the swab from his left hand?

A. On the left hand, yes, I noted that there was a visual blood stain present so I did a presumptive test,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the phenolphthalein test, and it came up positive.

Q. And that blood, or that test, is simply for the presence of blood?

A. That's correct.

Q. It doesn't tell you whose blood it is?

A. That's correct.

Q. And then following that, you do a DNA test?

A. Correct.

Q. Which is different from blood because DNA can be sweat, semen -- or can be found in sweat, semen, or other bodily fluids?

A. That's correct.

Q. And so when you do the second test, you're looking for DNA from any of those things?

A. I'm looking to see, yes, what -- who the stain belongs to, basically.

Q. And when you did that test, you found a mixture of both Mr. Gathers' DNA and Ms. Nevarez' DNA?

A. That's correct.

Q. And then on -- when you tested the handle, which would be item 6 --

A. Uh-huh.

Q. -- you weren't testing for blood, you were testing for DNA?

A. DNA.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And the major contributor of that DNA was Ms. Nevarez?

A. That is correct.

Q. And at that point you didn't find any DNA that belonged to Mr. Gathers?

A. I saw my minor contribution there from someone else, and it appeared to be him. And which is why I performed the YSTR test.

Q. And you move to that test when you don't -- when you don't have a definitive answer from the first test?

A. Yes. Or if you see something.

And also back in this one when we did the quantization step -- remember when I said we quantify the DNA to see how much we have? In this particular case I ran a quantization step that would tell us whether we had like total human DNA, as well as a male portion of DNA. And in this one I had a very little bit of male portion of DNA, so YSTR would be the best option for that. When you have a lot of total human DNA and very little male, the Y is the best option to go there.

Q. So that --

A. And so even with the identifier or with the normal I guess PCR test, I saw where I had minor alleles or DNA present from him, the DNA which is -- the YSTR, which is further being on the hands --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. For a male?

A. Uh-huh.

Q. And then at that point when you did the YSTR profile test is when you were able to develop a DNA profile for Gregory Gathers?

A. Yes, ma'am. A partial.

Q. And I believe you said on direct that there was very little DNA material of Gregory Gathers on that knife handle?

A. Yes.

It's like I had -- out of the -- let's see. 16 chromosome locations for YSTR testing, there was four with -- that matched him.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: That's all I have. Thank you, Agent.

THE COURT: Any redirect?

MR. YOUNG: No further questions.

THE COURT: Thank you very much. You may step down.

[Whereupon, Ms. Hefney is excused and exits the witness stand]

THE COURT: All right. Madam Forelady, ladies and gentlemen of the jury, we're going to take a break at this time.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

If you need to take a smoke, let the bailiffs know. Anything you need, let the bailiffs know.

Please don't discuss the case amongst yourselves.

[Whereupon, the jury exits the courtroom at 3:42 p.m.]

[Whereupon, a recess is taken from 3:43 p.m. to 4:15 p.m.]

THE COURT: Anything from the State before we bring the jury?

MR. KIDD: No, sir.

THE COURT: Anything from the defendant?

MS. RUNEY: No, sir.

THE COURT: Bring us the jury, please, ma'am.

[Off the record momentarily]

[Whereupon, State's Exhibit Number 67 is marked by the court reporter]

[Whereupon, the jury enters the courtroom at 4:16 p.m.]

THE BAILIFF: Jurors all are seated.

THE COURT: Thank you very much.

If you will call your next witness, please.

MR. KIDD: Thank you, Your Honor. The State calls Dr. Nicholas Batalis.

[Whereupon, Dr. Batalis comes forward]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-828-6313

[Whereupon, Dr. Batalis is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony that you will give the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Thank you, sir. You may take your seat.

[Whereupon, Dr. Batalis takes the witness stand]

THE CLERK OF COURT: Sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: My name is Nicholas Batalis. B-A-T-A-L-I-S.

MR. KIDD: Good afternoon, Doctor.

THE WITNESS: Good afternoon.

- - - - -

NICHOLAS BATALIS, M.D.,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where you're employed?

A. I'm employed at the Medical University of South Carolina here in Charleston.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And how long have you worked there?

A. I've been on staff there for about three and a half years now.

Q. And what is your job title at the Medical University?

A. I'm employed there as a forensic pathologist.

Q. And have you been a forensic pathologist there the three years that you've worked there?

A. Yes, I have.

Q. Are you a licensed physician?

A. Yes. I'm fully licensed in South Carolina.

Q. In South Carolina. Is that the only state?

A. Yes.

Q. And you are presently engaged in that job currently?

A. Yes, I am.

Q. Where did you receive your training in pathology?

A. So after finishing medical school at Indiana University, I came down to do training in general pathology here at the Medical University of South Carolina.

So general pathology is the study of disease. A pathologist is the one who might look at a biopsy or a PAP smear to see if there's cancer or not.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

After that four -- after those four years, I then went to the Dallas County medical examiner's office in Dallas, Texas, for a one-year fellowship in forensic pathology, and then came back here on staff after that.

Q. Can you explain to the jury a little bit about what forensic pathology is?

A. So forensic pathology is a medical subspecialty that predominately involves determining the cause and manner of death, which is how a person died.

Q. And that's currently what you do now? You're a forensic pathologist now?

A. Yes.

Q. And what do your duties entail as a forensic pathologist?

A. So as a forensic pathologist our primary duty involves performing autopsies, which are examinations on decedents, to determine why they died.

So a typical case, what would happen, we would bring a body into our examination room, take photographs as we receive the body before we've touched it in any way, with the clothing on. So take photographs as it is. Then we'll disrobe the body, clean it up, take another set of photographs.

After that's done, we then move on to the external examination, which is basically just looking at

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the body from head to toe, looking at -- for stuff such as eye color, tattoos, but also any evidence of trauma or natural disease, anything abnormal.

And then the last part of it then is the internal exam, where we make surgical type incisions to look inside the body, dissecting the internal organs, again, to look for natural disease or any sort of trauma.

Then after that's finished, we complete a report.

Q. How many autopsies, roughly, have you performed?

A. Over a thousand.

Q. And are you -- what's your affiliation with the Medical University? Do you teach there? Are you an academic there?

A. So I'm appointed as a forensic pathologist, so probably about fifty percent of my time is spent doing autopsies and working that type of stuff up. The rest of my time is spent in education. So I teach medical students and then our own trainees in pathology and forensic pathology.

Q. Are you a member of any specialized like medical groups or associations?

A. Yeah. I'm a member and actively involved in several forensic national organizations and also some general pathology organizations, as well.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. What's the American Board of Pathology?

A. So the American Board of Pathology is the body that certifies pathologists to be board certified. They're the only recognized body that certifies pathologists.

Q. Are you a certified pathologist?

A. Yes.

So after completing my general pathology training, I completed an exam to become certified in anatomic and clinical pathology, which is your general pathologist. And then after my fellowship, I became board certified in forensic pathology.

Q. Is there a continuing education requirement that accompanies that certification?

A. Yes.

From both the State of South Carolina and the American Board of Pathology, we have to get a certain number of credits each year -- I believe it's at least thirty-five credits per year -- educational hours.

Q. What about the department -- your department at the Medical University? Does it have some sort of certification?

A. The department itself does not.

Q. Okay. Have you testified in court before?

A. Yes.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

I've been -- I've testified as an expert witness in South Carolina approximately twenty times, and then once in North Carolina and once in Texas.

Q. And is that in the area of expert in forensic pathology?

A. Yes.

MR. KIDD: Your Honor, at this time we would offer Dr. Batalis as an expert in the area of forensic pathology.

THE COURT: Any objection?

MS. RUNEY: We agree.

THE COURT: Pardon?

MS. RUNEY: We agree. No objection.

THE COURT: Okay. Thank you very much.

MR. KIDD: Thank you -- thank you, Your Honor.

Q. [Mr. Kidd] Doctor, do you remember or do you recall performing the autopsy on the victim in this case, Renee Nevarez?

A. Yes, I did, on June 8th of 2010.

Q. I want to go over with you some of your findings and sort of -- do you have your -- do you generate a report when you conduct an autopsy?

A. Yes, we do.

Q. And I want to kind of mirror your report. First, do you -- were you able to determine an approximate

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

height and weight of the victim?

A. Yes, we did.

The decedent measured sixty-three inches in length, so five foot three inches, and she weighed 139 pounds.

Q. And were you able to determine the cause of death?

A. Yes, I did.

Her cause of death was blunt head trauma or blunt-force trauma of the head.

Q. And now I kind of want to go -- kind of mirror your report, as best I can. I want to go to the external examination of the body. Can you tell the jury what you found there?

A. In the general terms, or just the injury, or --

Q. In general, what did you observe when --

A. Okay.

Q. -- also when she was --

A. Again, the first thing we note is kind of what the decedent is wearing. So we noted the clothing, personal effects, removed those. Then we measured and weighed the body. Other than that, we then kind of went from head to toe to look for anything abnormal. Which the decedent did have a couple of scars, kind of scattered scars, an area of skin that was darker than others, kind

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-628-6313

of scattered around the body. But that was the major -- or I guess the findings that did not involve injuries.

Q. Did -- so any of those scars would have been from prior injuries or surgeries or things that happened well before?

A. Right.

A scar is going to take a least two months or so to heal.

Q. And in your external examination section, did you make any note about the swelling of her neck?

A. Yes.

The decedent's neck -- basically, we check the neck to see if it appears swollen, and also to see if there's any masses there, and the neck did appear slightly swollen.

Q. And you also make a comment about -- or the lack of petechia. Can you tell the jury what petechia is?

A. So petechia are small, pinpoint hemorrhages that you can get really anywhere. You can get them on your skin. You can get them anywhere. A lot of times where you'll see them is in the eyeballs and these are due to the little blood vessels that will burst. Sometimes if you've ever been really sick and vomiting, vomiting, and vomiting, just from that you can get these petechia.

But another time that we see them, especially in

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

this setting, is they can be suggestive of -- somebody who was strangled, you can get petechia in the eyes.

But, again, in this case we did not see petechia.

Q. And I want to get right to the -- your evidence of injury section.

A. Okay.

Q. And do you have that section in front of you?

A. I do.

Q. And did you make some charts with reference to this case?

A. I did. Well, I made some diagrams.

Q. I guess that's what I mean, diagrams.

Would it help to go over your findings if we were able to show the diagrams to the jury?

A. I believe so.

Q. All right. This is the first diagram I'm going to show you.

MR. KIDD: I'm going to hand you a laser pointer so you can --

THE WITNESS: Okay.

MR. KIDD: -- it might help you better explain what we see here.

THE WITNESS: Thank you.

MR. KIDD: Uh-huh.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Did you have any specific questions, or did you just want me to describe --

Q. [Mr. Kidd] Well, let's start with the blunt head trauma, which I guess might -- we might be better off seeing -- I'm on this top-left corner of the diagram.

A. Okay.

Q. Can you describe the blunt-force head trauma that she sustained?

A. Sure.

So this diagram is of the decedent's face. And the major finding was -- or one of the major findings is basically this line here, which is just across -- you know, just about the mid part of the nose. Basically from that point all the way up to the forehead, as far up as we could see to the hairline, the face was bruised. Where this little triangle is, there was a little area of sparing where there wasn't any bruising in the middle.

But essentially, again, both sides of the face all the way from the nose to the forehead were entirely bruised. You couldn't even tell them apart. Just one confluent bruise.

In addition to that, there were three different scrapes on the left side of the face. So where this says abrasions, these are just scrapes of the skin. And so we had three different scrapes, up until about an inch in

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

size, off to the lefthand -- left side of the eye. So three different scrapes here.

In addition, we had two lacerations. So a laceration is a tear in the skin but, as opposed to being a cut from a knife, a laceration is from a blunt-force object. So, again, from being struck by a fist, struck by an object, if the head was slammed in or bumped into something. That's the type of injury we're talking about the laceration.

So we had a partial thickness. So kind of a superficial laceration just over the left eye here and then a larger laceration -- I'm sorry. This one, the smaller one, was over the right eye and then the larger laceration just above and to the left of the left eye. And this one was through the full thickness of the skin. And so those were the blunt-force findings we saw on the external exam.

Q. I mean now going to show you your other chart. Can you tell the jury what this chart shows?

A. So that the findings I just described previously we're just looking at her face at the autopsy, just like I'm looking at you guys.

After we complete that external exam, the next thing we do is move on to the internal exam. So to do this -- and we make a cut from behind the right ear to the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

top of the head and then to behind the left ear. And by doing that, we can then fold forward the decedent's scalp so that we can examine the brain and then pull the scalp back so that you could still have an open casket at a funeral and not be -- and not be compromised.

So what we're looking at here, then, this is the scalp folded forward. So this part of the scalp that's right here at the bottom would actually be functionally when -- before we made the cut, would have been at the top of her head.

And so where I've colored in these dark black areas are large bruises in the scalp. And so you can see here this one will be at the top of the head, this one would correspond to right above the forehead, and then -- so several different areas we could see that would be on the front to the top of the scalp here.

This is looking at the back of the head. So there was another large bruise at the back of the head.

Looking at the left side -- so her face would be facing this way -- again, several large bruises in the scalp here. And the same thing here.

Now she would be facing this way. We see, again, five more distinct bruises.

So multiple discrete impact sites where there are bruises or contusions of the scalp.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Based on that analysis of her head, are you able to make a determination of how many times she was struck?

A. At least several would be about as --

Q. At least several? Could you give a range? Is it more -- so it's more than two, more than three?

A. At least five to ten times.

Q. At least five to ten times. Could it have been twenty?

A. Could have been.

Q. But based on your opinion, it was at least five?

A. Exactly. And that's including the bruises that we're seeing here on the scalp. In addition, again, we had the lacerations on the face. So taking into account the face and the scalp, you know, conservatively, at least five times.

Q. And upwards it could have been twenty? Could it have been more than that?

A. Right. Because of the bruising on the face was just continuous, as opposed to where we're seeing discrete lesions here, the face was just -- again, it was just kind of one big bruise.

So it's not possible to say. Again, it could have been a couple or it could have been numerous.

Q. It could have been multiple impacts in the same area? It just kind of all blended together?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Right.

Q. Now I want to talk to you a little bit about how -- how does one die from blunt-force trauma?

A. Sure. So all the findings that we showed to this point --

Q. Would it help to have one of these?

A. No. That's --

All the findings we've shown to this point indicate definite severe trauma with multiple impact sites.

But just the bruising on the scalp and face alone would not cause you to die. If you were in just a bad fight or a car accident, you could get these same type of findings.

What we found the cause -- how -- how she would have died in this case: when we then removed the skull to look at the brain, there was bleeding in two different areas. So you have a layer called the dura, which kind of wraps around and protects the brain. So she had a layer of bleeding, which was subdural hemorrhage. So blood between the dura and the brain.

In addition, you have a layer on top of the brain called the arachnoid layer. So that sits right on top of the brain. So she had subarachnoid hemorrhage. So that tells us she had bleeding around the brain and then

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

on top of the brain.

In addition to that, her brain was markedly swollen. So as the person is being beaten, the brain sloshes back and forth, your nerves, instead of sticking together like this, will get injured and kind of sheered or kind of pulled apart, which causes the brain to swell up.

And so basically to die of blunt-force trauma, you're talking about just a massive insult on the brain from the repeated trauma, and, again, that shirring episode that would cause the brain to dysfunction. And it may tell the lungs to stop breathing, it may tell the heart to stop beating. But you get a dysfunction of the brain because of the blunt-force trauma.

Q. And how -- the subarachnoid bleeding, so that's bleeding inside the skull? Is that --

A. The subarachnoid is on top of or in the brain.

Q. On top of or in the brain.

And is that from like the brain bouncing against the skull or how --

A. And so the -- let me go back. The subdural, so that's underneath the covering of the brain. That's generally from little blood vessels you have that go from the dura to the brain. So the little connecting vessels. And so those get torn, that causes the subdural

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

hemorrhage.

The subarachnoid hemorrhage is you have small blood vessels in the brain and in that layer, that arachnoid. Again, those get torn from the same actions. From the kind of sloshing back and forth, you get just the direct trauma to the brain that causes that bleeding.

Q. And does it -- that trauma, that sheering and that bleeding inside of her skull, or inside of her brain, which ultimately caused her death?

A. Yes.

Q. Now I want to talk to you about the sharp-force injuries that Ms. Nevarez suffered. Can you tell the jury a little bit about those?

A. So just above both eyes --

MR. KIDD: I'll put it back on the overhead. Maybe that'll help.

A. So just above both eyes she had very superficial incised wounds.

So, again, as opposed to the lacerations we talked about before being from a blunt trauma, these are very sharp distinct injuries which would have been made by a sharp object such as a knife.

And so she had one above each eye. So the one over the right eye was just over an inch. And so we're talking on the eyelid here between the lid and the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

eyebrow. So just over an inch on the right side. And then almost in the exact same spot on the left side, she had one that was just under an inch. So nearly identical superficial cuts above both eyes.

Q. [Mr. Kidd] And generally speaking, this -- so this is below the eyebrow but above the eyelid; is that accurate?

A. It's essentially on the eyelid so --

Q. On the eyelid.

A. Right.

Q. And is there -- there's not like a bone right behind that, is there? Is it a soft --

A. No.

Where this was, it's soft. Your eye kind of sits back in a cavity. And so this would be just kind of just above that.

Q. So is it safe to say in order to make that laceration, one would have to kind of push down and you wouldn't have a hard surface to kind of -- to cut through that skin on? Does that make sense?

A. Well, these are incise wounds so they're not -- laceration would be the one above the eye and to the left side of the eye.

Q. Right.

A. But these incise wounds --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Well, I mean, with a sharp instrument -- like even if you have like a piece of paper and I have a knife, it's going to be hard for me to cut through that paper without something to bear down on, I guess is what I'm saying.

A. Right.

Q. And so without a firm structure behind that eyelid skin, one would have to kind of push further in in order to break through that skin? Is that accurate?

A. I don't think I can say so.

You know, if the knife was sharp enough and you're pulling it across without pushing too far in, you could still cause a cut. And I guess alternatively -- I mean, there is -- the top of the eye socket is a firm surface so, I mean, if you did push up into it you would have a surface --

Q. So if it was made in an upper motion, I guess you would have that kind of backboard --

A. Right.

Q. -- to have it against? Okay.

Was there any sign of a continuation of that laceration across the bridge of the nose?

A. So, again, it's an incised wound, not a laceration. So --

Q. I'm sorry. I keep --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yeah. Laceration was -- is the tear in here.
Q. Right. I apologize.
A. So, no.
These were two distinct incise wounds --
Q. Incise wounds.
A. -- with no -- with nothing in between the bridge of the nose.
Q. Okay. And is it safe to say, sort of like this kind of mannequin here, that the bridge of the nose sticks out above or in front of where those incise wounds would be?
A. Right.
If you were to take the knife straight across, you would run into the bridge of the nose because the eyes sit back just a little bit from the bridge of the nose.
Q. And so those would be -- I guess as you described earlier -- logically speaking, separate incise wounds over each eye?
A. Correct. There's, yeah, two separate wounds, one on each eye.
Q. What other sharp-force trauma did she suffer?
A. So in addition to the two wounds on the face that we just talked about, she had three other incise wounds or cuts on her hands.
So she had one cut that was on the kind of inner

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

surface of the left hand, kind of right on the palm. And then on the right hand, on the inner surface of the second and third finger she also had cuts kind of right near where that crease is in your finger.

So one cut here, and then one cut to the inner part of each of your second and third finger.

Q. And I apologize. I didn't have the diagram up when you were referring to it. But are those depicted there?

A. Yeah. So here's the incise wound on the left palm. And then the lines are kind of small, but on the inner surface of the second and third fingers there were cuts or incised wounds.

Q. Are you able to make a determination about how deep those incise wounds are?

A. Yes. One second.

[Whereupon, the witness reviews documents]

A. So both of these -- all three of these injuries were partial thickness, so it did not go the full thickness through the skin. So relatively superficial. You know, less than a quarter of an inch.

Q. [Mr. Kidd] Quarter of an inch deep or --

A. Correct. Deep.

Q. Okay. And you say relatively superficial. That was between -- does it enter the muscle --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. No.

Q. -- at that point?

A. For superficial, we're just saying in the top part of the skin or the -- just the very superficial tissues underneath the skin. But not into fat, not into the muscle or anything, not into the deep blood vessels.

Q. And would it be the same on the laceration on the palm, as well?

A. Right.

The palm and the incisements on the fingers -- and, for that matter, the ones on the eyes -- all of them were, you know, superficial, just partially thick, partially under the skin.

Q. Would they have caused a lot of bleeding?

A. They could.

You know, they did not sever a major artery so probably not severe bleeding by themselves. But, again, the one on the hand was an inch and a half long so, you know, you definitely could get some bleeding with these wounds.

Q. What about the incise wounds on her -- on the -- on her face and/or the lacerations on her face? Would that cause a lot of bleeding?

A. Yeah.

The skin on the face, everything kind of above

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

the neck, is much more vascular. So you have a lot more blood vessels in the skin up here than you would on your fingers or hands. So you would expect the lacerations or tears on the face, and then the two incise wounds, to bleed pretty significantly.

MR. KIDD: Your Honor, may we approach?

THE COURT: Yes, sir.

[Whereupon, an off-the-record bench conference is held]

MR. KIDD: Your Honor, at this time the State would offer State's Exhibit Number 12 --

THE COURT: I'm sorry. Which ones?

MR. KIDD: State's Exhibit Number 12, 13, 14, 15, 11 and 10 into evidence.

THE COURT: So 10 through 15; is that correct?

MR. KIDD: That's correct.

THE COURT: Any objection?

MS. RUNEY: Yes.

I will renew my previous objection to these photos coming into evidence.

THE COURT: All right. As to 10 through 15, that objection is overruled. Okay?

MR. KIDD: Thank you, Your Honor.

[Whereupon, State's Exhibit Number 10 is admitted into evidence by the Court]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

[Whereupon, State's Exhibit Number 11 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 12 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 13 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 14 is admitted into evidence by the Court]

[Whereupon, State's Exhibit Number 15 is admitted into evidence by the Court]

Q. [Mr. Kidd] Dr. Batalis, I'm going to show you a series of photographs from your autopsy room. And I'm just going to kind of run through them quickly and kind of talk about some of the findings that you just -- that you just referenced. Okay?

First I'm going to show you what's been marked and entered into evidence as State's Exhibit Number 10. Can you describe those wounds that we see there that we just references?

A. Right. So, again, looking at the face, there's generalized bruising, and, again, the level of the nose all the way to the scalp. Specifically referring to the lacerations, this would be the tear from the blunt-force injury over the right eye.

And then the other wounds that we can see here

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6513

are the sharp-force injuries. So the cuts, here's the one over the right eye and then the one over the left eye. And then, again, the discoloration around the eyes are, again, just different forms of bruising. But this would all be basically all contused from the nose up.

Q. And, Dr. Batalis, can you describe what her -- how her hair is in that photograph?

A. So her hair was, you know, black-gray and curly, which you can see here.

Q. Is it kind of braided or --

A. Yes.

Q. -- or in dreadlocks or --

A. Kind of off to the side you can see that it was braided. And we also noted that on the external examination.

Q. Thank you.

I'm going to now show you what's been marked as State's Exhibit Number 11.

A. So now we're looking at the left side of the decedent's face. So this would be the left eye. And it's kind of blurry. But the cut or incised wound is right here above her left eye. This larger wound here, this is the laceration or tear from the blunt-force trauma. And then she had these scattered abrasions or scrapes off to the left side of her face.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And in State's Exhibit Number 12?

A. And so this is a picture of the right side of the face, again showing that incised wound there over the eye and then generalized bruising over most of the face.

Q. I'm going to show you a picture of State's Exhibit Number 13.

A. So this is a picture of the decedent's knees. In addition to the injuries we talked around the face and on the hands, she also had fresh scrapes on both of her knees. She had one scrape like this on the right knee and then two others on the left knee that looked similar to this one.

Q. And it's just kind of hard -- you can barely see the edge of one right there but it's just kind of hard to see it on the overhead. But it would be just kind of on the same level but on the other side of that knee?

A. Exactly. This leg, the left leg here, is just kind of rotated out. So it was right on the top of the leg there.

Q. Show you State's Exhibit Number 14.

A. So this is the decedent's left hand. So we're holding it up here to show this incised wound or cut on the left hand. And then also at the edge of this picture you can see that this skin here looks darker and purple. So there's a large contusion on the left forearm.

FORM G-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

Q. And I guess some of the reason I wanted to show you these photographs is you refer to that as kind of a superficial incise wound?

A. Right. Partial thickness. So just not all the way through the skin but part way through.

Q. And State's Exhibit Number 15?

A. So here we're seeing the two incised wounds on the fingers. So, again, we're right hand, the second and third finger. So here's one on the second finger. And then this one is on the middle finger.

So, again, fairly superficial cuts through the kind of the top part of the skin but not all the way through.

Q. Thank you.

And I want to refer back to your prior chart. Can you talk about some of the contusions that she sustained on her arms and the rest of her body?

A. Sure. So the -- in the picture we just saw of the left hand, we picked up a little bit of this bruise. But essentially most of her left forearm, on the back side of it was pretty much just one large bruise much like the face where it was just completely confluent and just all one grouping here.

And then on the right forearm, there were two large contusions. So this was about nine inches long and

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

three inches wide. And both of these contusions were up to three inches. So, again, two fairly large contusions on the right forearm but they were separate as opposed to this one, which is just one bruise.

Q. And when we talk about contusions and bruises, if I sort of bump into the podium and hit my leg, I can get a bruise there. But is that the same sort of bruises we're dealing with here, or are they greater or less or can we tell?

A. Everybody is going to bruise a little bit differently. But what's significant here is the number of bruises and the fact that they're over widespread areas. So you would not expect to see this type of bruise under most -- you know, in normal people, just from bumping into the podium or stand.

Q. Okay. And when you perform your autopsy, do you actually kind of open up the skin to see how much bleeding has occurred with some of these contusions?

A. We do on the scalp when we're exposing the brain. But we do not cut into the extremities to look at those.

Q. When you did so on the scalp, like in these diagrams, are you able to determine how much bleeding has taken place kind of behind the skin?

A. We can. I mean, only to say that the bleeding

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-526-6313

extended all the way through the scalp.

Since the blood is in the tissue, you can't kind of drain it out to actually see how much is there but --

Q. Right.

A. -- pretty significant bleeding to have this many large splotches.

And, additionally, there is -- you have a muscle right here, right about your ear, that you kind of -- when you move your mouth, you can feel that muscle. And that muscle was bruised, as well. So, again, it takes pretty significant force to bruise that muscle underneath the scalp.

Q. Did -- and I could be wrong. I thought I read in your report where she received some contusions on her shoulders? Is that accurate or --

A. She had a -- she had a pinpoint scrape on her left shoulder.

Q. What do you mean by a pinpoint scrape?

A. So it's an abrasion but literally, you know, almost too small to measure. So, you know, less than a -- less than a quarter of an inch. That was on the left shoulder.

She had the bruises on the forearms, but that would be the only wound that she had on her shoulders.

Q. And other than the injuries that we've been

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

discussing, the blunt-force trauma, the incise wound or sharp-force trauma, when you performed your autopsy did you also look at her organs and her -- the healthiness of her overall being?

A. Yes.

So, again, after -- you know, we're not just looking for the trauma. We go through, look at each individual organ for evidence of any natural disease. Overall, she was fairly healthy-appearing. Her heart was of normal size. She did have a little bit of blockage in one of her coronary arteries, but nothing to the point that would be concerning. And throughout the rest of her organs, there were no significant medical conditions.

Q. Is it safe to say that but for this blunt-force trauma, this individual would have lived substantially longer?

A. I don't know what would happen the next day, but for sure she was a healthy individual and died of the blunt head trauma.

Q. As a part of the autopsy, do y'all do toxicology reports?

A. We do.

So in the course of the autopsy we'll take samples of blood, submit them in a packet, and we send them to a national lab and we get toxicology testing

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

performed.

Q. And can you go over the results of the toxicology with the jury?

A. Sure.

So when we're in the decedent's blood for toxicology testing -- and this covers not only the illegal drugs, but also all sorts of medications. So we're looking for three to four hundred different drugs.

In the decedent's blood we did find a fairly large amount of cocaine and also a breakdown product of cocaine. We found a drug called tramadol. And tramadol is a prescription medication that they -- a pain reliever. So a prescription pain medication that she also had fairly high levels and one of its breakdown products.

And then, additionally, we found nicotine and a breakdown product of nicotine, like you might find in cigarettes. And then also caffeine, again, which you get in softdrinks and all sorts of stuff.

Q. And I -- and you did say she had high levels of cocaine in her blood, as well?

A. Yes. Significant levels of cocaine.

Q. Okay. Were there any other notes or anything in your report that I glossed over that you find to be pertinent and the jury will need to hear about?

A. I don't believe so.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: I have no further questions of Dr. Batalis.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MS. RUNEY:

Q. Dr. Batalis, the bruising on Ms. Nevarez' scalp, you can't say that that came from a fist or a hard object, can you?

A. No. It could have been -- I just know it was blunt-force, as opposed to a sharp force. So it could have been from a fist. Her head could have been pushed into the ground, could have been hit with, like you said, a hard object. I can't say for sure what caused it.

Q. Or when somebody falls to the ground and they hit the floor really hard?

A. If you fell from a standing position, you could get one of these bruises. The fact that there was multiple would not be consistent with a fall. But a fall from a standing height could cause that --

Q. Blunt-force trauma?

A. Right.

Q. And some of this bruising could have been caused by her hair being pulled out?

A. There were a couple of the smaller bruises on one of the sides of the scalp that were not as full

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

thickness, so not as deep as most of the rest of them. Those were a little bit fainter and those could be consistent with hair-pulling, but really, again, compromised a minority of the scalp bruises.

Q. And I want to ask you about the cuts over Ms. Nevarez' eyes. You can say that they're in the same location and they're approximately the same size, but you can't tell us how they got there?

A. Right. There's several different ways that it could have occurred. But -- so, yeah, I can say where they are. They appear nearly identical but --

Q. And you wrote in your report that the lacerations -- or the -- I'm sorry -- the incised wound over her right eye is one-and-one-forth inches?

A. Correct.

Q. And he left eye is seven-eighths of an inch in length?

A. Correct.

Q. So they're not the same size?

A. Within about a quarter of an inch. So within about that much [indicates]. So not exactly the same, but very close.

Q. And these types of incise wounds could be made on a person's face if they're in a standing position?

A. Certainly.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And it could be made in one swoop if the person jerked back?

A. Right. It would have to be kind of a perfect scenario, but it would be possible if the arm is coming across. Again, there is the bridge of the nose in the way.

But if she had kind of came back and then went back/forward, or possibly if the trajectory of however the person was going -- left to right, right to left -- if there was interruption in that, but still in one motion, you could get that separation.

Q. When you do an autopsy, your job is not to determine how these wounds were inflicted, your job is to determine what kind of wounds they are?

A. Not necessarily. It depends on the case. Sometimes it is, such as these wounds on the face, because they tell -- it is important to decide is it a sharp-force injury or a blunt-force injury. So to some extent, we do have to characterize what group is it in. But beyond that, once I've decided it's a blunt-force injury --

Sometimes it will be a pattern. If somebody was struck with a pipe or a wrench, it will leave a pattern so in that case it would be, I think, an important part.

But in this case the blunt-force injuries, there was nothing specific about them.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. You testified earlier that Ms. Nevarez had high levels of cocaine in her system?

A. Yes.

Q. And this would be in close proximity to the time of death?

A. Right.

So cocaine itself gets broken down by your body very quickly and so it's a matter of basically -- we're talking minutes to hours that she would -- she would have had to take the cocaine within minutes to hours before she died. Otherwise, the cocaine would get broken down and you would just have that -- the breakdown products of it. So we did have the breakdown products. But since we found that parent cocaine or the main cocaine, it tells us within, you know, minutes to hours of her death.

Q. And the breakdown of cocaine is metabolized cocaine; correct?

A. Correct.

Q. And how long can that stay in your system?

A. That can stay in there, again, in general terms, hours to even days, to have the breakdown product.

Q. And the tramadol, that is a prescription drug?

A. Yes. It's a prescription pain medication.

Q. And her levels of tramadol were significantly high?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

A. Yeah. Her -- the levels that we detected in her are higher than you would expect in a patient taking it at the normal dosage, I guess is the best way to put it.

Q. If you had a prescription for it, it's a higher dosage than --

A. Or not a prescription. The studies are based on basically you give a patient X number of milligrams, which would be a prescription dose. And so comparing her levels to those studies, she's roughly twice what that standard dose would be.

Q. Two times what it should be?

A. Right.

Q. When you issue these toxicology reports, they come with some comments.

A. So I don't issue the report. We send the samples to a national lab. It's certified in Pennsylvania. They then send a report back that does have comments with them.

Q. Comes back to you?

A. Correct.

Q. And that's usually included with your autopsy report?

A. Correct.

Q. Can you tell the jury, under the comments for the metabolites of the cocaine --

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Objection, Your Honor.

THE COURT: I'm sorry. What's your legal objection?

MR. KIDD: Objection to hearsay.

THE COURT: Well, let me hear the question first.

Q. [Ms. Runey] I would like for you to explain to the jury how this report lays out Ms. Nevarez' cocaine levels in comparison to cocaine levels in people who have died from cocaine.

A. So based on the comments they have here, again, generated by the lab, they mention that thirty-seven cocaine-related fatalities -- and, again, I'm not sure what that means. That could be somebody who was in a car accident with cocaine on board and attributed as a cocaine fatality.

But of thirty-seven people who died and was related to cocaine, those levels were -- averaged 4600 units. And hers was 600 -- 620 units.

Q. And that comes with a range, as well?

A. Correct.

So the range -- the range they stated was from forty units up to 31,000 units.

Q. And Ms. Nevarez' cocaine level was 620 nanograms per milliliter?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Correct.

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: That's all I have. Thank you, Dr. Batalis.

THE COURT: Redirect?

MR. KIDD: Very briefly, Judge.

REDIRECT EXAMINATION

BY MR. KIDD:

Q. Ms. Runey was talking about a perfect scenario, how those incise wounds could be created. I guess your testimony was that was a possibility?

A. Correct.

Q. But would it be safe to say that's kind of an unlikely possibility?

MS. RUNEY: Objection, Your Honor.

THE COURT: What's your legal objection?

MS. RUNEY: It calls for speculation.

THE COURT: Pardon?

MS. RUNEY: Speculation.

THE COURT: Lay some foundation and I'll -- right now, I'll sustain the objection.

MR. KIDD: The Court's indulgence.

[Whereupon, Mr. Kidd reviews documents]

Q. [Mr. Kidd] As an expert in forensic pathology,

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

you're able to see a lot of different series of wounds and cuts on different individuals; is that accurate?

A. Yes.

Q. And a lot of times you can see how some of those injuries might be related to one another. Like, say you have a gunshot wound. You're going to have an entrance and an exit so you might see how those -- an entrance wound and exit wound would be related to one another; is that accurate?

A. Correct.

Q. Or say you have a knife wound that went through an arm and into an abdomen or something like that, you would see how those wounds would be related to one another?

A. Correct.

Q. Based on your experience like that, is it -- would it be common for you to be able to see a wound which would have bypassed the bridge of the nose and be related to a single swipe or motion in a knife fight or something in that scenario?

A. It would not be common.

To be honest, though, this pattern with the two distinct cuts right above the eyes, I have not seen that, again, in the over a thcusand cases I've done, probably -- again, roughly 50 to 100 have involved some sort of sharp-

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

force injury. I haven't seen that pattern before. I talked to colleagues in my office. They hadn't seen that pattern. So it's -- but a very rare pattern to see the two distinct cuts there.

Q. And the photos I showed you earlier of the victim, had they been cleaned up -- had the blood and stuff been washed off the body at that point?

A. Yes, it had.

Q. So because those photographs aren't sort of bloody or gory doesn't mean that it wasn't like that at the scene, I guess is what I'm saying?

A. Correct. I was not at the scene, so I can't attest to what was there. But the photographs we -- that you showed today were after we had cleaned the body up.

Q. And when it came in to you -- when the body first came in to you, was it covered in blood?

A. I can't say for sure. I would have to review those photographs. But I do remember cleaning some blood off.

Q. And I guess my last comment is on the cocaine usage. Her levels of cocaine were high. Is that accurate?

A. Uh-huh.

Q. But her level of cocaine use didn't contribute to the blunt-force trauma, did they?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. No. She died of her blunt head trauma. Again, with or without cocaine, that would have -- her head trauma would have been enough to kill her. With the cocaine, they get into a high level, we also see -- we do autopsies for car accidents, heart attacks, all sorts of reasons. And so, again, it's a high level but not so high that it's, you know, off the charts. So it's -- we see levels like that, in other types of deaths, where people don't die of cocaine.

MR. KIDD: Thank you, Doctor. No further questions.

THE COURT: Any recross?

MS. RUNEY: Briefly, Your Honor.

RECROSS-EXAMINATION

BY MS. RUNEY:

Q. Cocaine is a stimulate; correct?

A. Yes. That's how it's classified.

Q. And that can cause excitement? aggression?

A. It's been described to do so.

MS. RUNEY: That's all I have. Thank you.

THE COURT: You may step down, Doctor. Thank you so very much.

THE WITNESS: Thank you.

[Whereupon, Dr. Batalis is excused and exits the witness stand]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE COURT: Let me see the attorneys up here for just a second.

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. Madam Forelady, I believe that's going to be the last witness.

Does the State have any further witnesses?

MR. KIDD: The State rests, Your Honor.

THE COURT: All right. The State rests.

All right. Ladies and gentlemen, I'm going to excuse you for the evening. I need to hear some motions before we are excused. Be back in the morning -- I've got another matter tomorrow. It's a sentencing in a case that was tried a couple of months ago. I've got to sentence a lady, and the lawyers and everybody tells me it's going to take two or three hours. I don't know. I won't know until tomorrow. It's going to start at ten o'clock. I'm going to bring you back at 2:30 tomorrow afternoon and we'll start the trial tomorrow at 2:30.

Please don't discuss the case. When you get to the courthouse, come straight to the jury room. I'll see you tomorrow at 2:30.

Have a good evening.

[Whereupon, the jury exits the courtroom at

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

5:09 p.m.]

THE COURT: All right. Ms. Runey, I guess the first things we need to cover are your objections to State's Exhibit 10, 11, 12, 13, 14 and 15. I believe we took that up at a bench conference.

Do you want to put on the record your objection to those pictures --

MS. RUNEY: Yes, sir.

THE COURT: -- that the Court has allowed in?

MS. RUNEY: Your Honor, I would renew my motion to suppress the photos from the autopsy. I believe that they are prejudicial. And Dr. Batalis did testify to Ms. Nevarez's injuries and was able to do so through diagrams.

I believe that the pictures will arouse the emotions of the jury and cause them to make a decision based on those pictures versus what they heard from the witness stand.

THE COURT: Okay. That objection is overruled as to 10, 11, 12, 13, 14 and 15.

However, as to pictures 7, 8 and 9, the State has offered these pictures and we have discussed it at the bench conference and I have sustained her objections to pictures 7, 8 and 9. And in doing a 403 analysis, I think the prejudicial value with the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

excessive blood in the photographs outweighs the probative value.

The probative value: it's very clear from the wounds in the pictures that the Court allowed. Basically, the same pictures were allowed in from the autopsy after the blood had been removed. I think the prejudicial value of State's Exhibits 7, 8 and 9 outweighs the probative value, especially since the same pictures are shown in the autopsy pictures less the blood and the gore.

So do you want me to mark these as a Court's Exhibit or do you want them back?

MR. KIDD: I'll just take them off your hands, Judge.

THE COURT: Okay.

MR. KIDD: Do you need them?

THE COURT REPORTER: They were marked.

THE COURT: All right. They're out.

THE COURT REPORTER: They were marked.

THE COURT: They're out. Okay?

THE COURT REPORTER: All right.

THE COURT: Any motions? Any motions from the State?

MR. KIDD: We have no motions, Judge.

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MOTION FOR A DIRECTED VERDICT

THE COURT: All right. Any motions from the defendant?

MS. RUNEY: Yes, sir.

[Off the record momentarily]

THE COURT: Well, you can't ever tell. The State might have one. At least give you the opportunity.

Any motions from the defendant?

MS. RUNEY: Your Honor, at this time the defense would make a motion for a directed verdict.

After the State presented their evidence, we submit that they have not proved murder. We heard from the admission of Mr. Gathers' statement that he woke up, that his money was missing and that he fought with Ms. Nevarez.

We submit to the Court that this was not murder and we ask you to grant a directed verdict as to this murder indictment.

THE COURT: All right. Taking the evidence as most favorable to the non-moving party, that motion is denied.

MS. RUNEY: Yes, sir.

THE COURT: Is there anything else we need to deal with this afternoon before we come back tomorrow?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. KIDD: Not from the State, Your Honor.

MS. RUNEY: Your Honor, at this time I would just renew all previous objections to the photographs, as well as any other objections made.

THE COURT: Okay.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-8313

DEFENDANT'S RIGHTS

THE COURT: All right. Mr. Gathers, if you would stand and raise your right hand, please.

MR. GATHERS: [No response]

THE COURT: Stand and raise your right hand, Mr. Gathers.

[Whereupon, Mr. Gathers complies]

[Whereupon, Mr. Gathers is duly sworn by the Court as follows: do you swear to tell the truth and nothing but the truth, so help you God]

MS. RUNEY: Your Honor, he's a little hard of hearing.

[Whereupon, Mr. Gathers is duly sworn by the Court as follows: do you swear to tell the truth and nothing but the truth, so help you God]

MR. GATHERS: Yes, sir.

THE COURT: All right. Mr. Gathers, I'm going to ask you some questions about your fifth amendment rights to remain silent; okay?

MR. GATHERS: Yes, sir.

THE COURT: Now, during this process, if you want to ask your attorney any questions please tell me and I'll stop and let you discuss it with your attorneys.

Do you understand?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. GATHERS: Yes, sir.

THE COURT: Can you hear me?

MR. GATHERS: Yes, sir.

THE COURT: All right. Under the Constitution of the United States and the State of South Carolina, no one can compel you to testify against yourself in a court in a criminal case. Do you understand? It's commonly referred to a the right to remain silent.

Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: All right. Do you understand that this is a personal privilege that you have? Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: No one can make you testify or no one can influence you not to testify.

Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: It's a personal decision that you have to make.

Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: Now, you may can talk with your attorney about whether you want to testify or not testify.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: Have you discussed it with your attorney?

[Whereupon, Ms. Runey and Mr. Gathers confer]

MR. GATHERS: Yes, sir.

THE COURT: Did you understand the conversations that you had with your attorney?

MR. GATHERS: Yes, sir.

THE COURT: Do you want to discuss your right to testify, your right not to testify, any further with your attorney before you make a decision?

MR. GATHERS: No, sir.

THE COURT: Has anybody forced you or threatened you to make you testify?

MR. GATHERS: No, sir.

THE COURT: Has anybody forced you or threatened you not to testify?

MR. GATHERS: No, sir.

THE COURT: Have you understood what I have said to you?

MR. GATHERS: Yes, sir.

THE COURT: Do you understand that if you take the witness stand, you will have to answer the questions -- do you understand -- assuming the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

questions are proper?

MR. GATHERS: Yes, sir.

THE COURT: You can't take the witness stand and take the fifth amendment to one question and answer another question. Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: It's not like you see on television where they sit there and they take the fifth to one question and answer the next question. You either testify or you take the fifth amendment to remain silent and not testify.

Do you understand?

MR. GATHERS: Yes, sir.

THE COURT: Do you understand what I have explained to you?

MR. GATHERS: Yes, sir.

THE COURT: Do you have any questions?

MR. GATHERS: No, sir.

THE COURT: Do you have any questions of your lawyers?

MR. GATHERS: No, sir.

THE COURT: Do you want to make a decision this afternoon on whether you want to testify, or do you want to wait until tomorrow?

[Whereupon, Ms. Runey and Mr. Gathers confer]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

MR. GATHERS: Yes, sir.

THE COURT: Yes, sir, what? Today, or tomorrow?

MR. GATHERS: Today is fine. Today.

THE COURT: All right. Do you wish to testify?

MR. GATHERS: Yes, sir.

THE COURT: Okay. Thank you so very much.

Anything else before we adjourn until 2:30 tomorrow --

MR. KIDD: No, sir.

THE COURT: -- on this case?

[Off the record momentarily]

THE COURT: All right. Thank you very much.

[JURY TRIAL ADJOURNS AT 5:20 P.M.]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-528-6313

State vs. Gregory Gathers
Jury Trial - Volume 2 of 4
November 15, 2011

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable J.C. Nicholson, Jr., on Tuesday, November 15th, 2011.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 1st day of May, 2012.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

FORM C-100 • LASER REPORTERS PAPER & MFG. CO. 800-626-6313

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2010-GS-10-6287

THE STATE OF SOUTH CAROLINA)
)
VS.)
)
GREGORY GATHERS,)
)
DEFENDANT.)
)

JURY TRIAL

VOLUME 3 OF 4

held before the Honorable J.C. Nicholson, Jr.

Mia Perron, Circuit Court Reporter, 9th Judicial Circuit

in the Charleston County Courthouse

Charleston, South Carolina

on Wednesday, November 16, 2011, Commencing at 3:53 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE STATE:

Edwards Kidd, Esquire
Adam D. Young, Esquire
Ninth Circuit Solicitor's Office
101 Meeting Street
Charleston, South Carolina 29401

FOR THE DEFENDANT:

Martha Kent Runey, Esquire
Ted Smith, Esquire
Charleston County Public Defender's Office
101 Meeting Street, Fifth Floor
Charleston, South Carolina 29402

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	434
WITNESSES FOR THE DEFENDANT	
GREGORY GATHERS	
Direct Examination by Ms. Runey	435
Cross-Examination by Mr. Kidd	449
CERTIFICATE OF COURT REPORTER	486

EXHIBITS

[None]

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

PROCEEDINGS

THE COURT: Is there anything from the State before we get started?

MR. KIDD: No, Your Honor.

THE COURT: Anything from the defense?

MS. RUNEY: No, sir.

THE COURT: I believe we got -- the defendant is going to testify; is that correct?

MS. RUNEY: Yes, sir.

THE COURT: Is there anything we need to do before the jury?

MS. RUNEY: No, sir.

THE COURT: Because you've already rested in front of the jury; right?

MR. KIDD: That's correct, Your Honor.

THE COURT: All right. Bring us the jury, please.

[Whereupon, the jury enters the courtroom at 3:54 p.m.]

THE BAILIFF: All present, Your Honor.

THE COURT: Thank you very much.

If you'll call your first witness, please.

MS. RUNEY: Yes, sir. The defense calls Gregory Gathers.

[Whereupon, Mr. Gathers comes forward]

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

THE CLERK OF COURT: Place your left hand here and raise your right hand.

[Whereupon, Mr. Gathers is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you will give the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes, sir.

THE CLERK OF COURT: Please take your seat.

[Whereupon, Mr. Gathers takes the witness stand]

THE CLERK OF COURT: And, sir, if you would please state your first and last name, spelling your last for the record.

THE WITNESS: Gregory Gathers. G-A-T-H-E-R-S.

- - - - -

GREGORY Q. GATHERS,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. RUNEY:

Q. Greg, I want to ask you some questions about yourself.

How old are you?

A. Forty-eight.

Q. Have you been in Charleston -- how long have you

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

been in Charleston?

A. Most of my life.

Q. Do you have family here?

A. Yes, ma'am.

Q. Tell me about your family.

A. My father, he live fairly close to me. I have ten, eleven sisters here, two brothers. My father has twenty-nine children. My mother, she lived in Walterboro. I have sisters, brothers.

Q. Lots of brothers and sisters?

A. Lots of brothers and sisters, yes.

Q. And some of your brothers and sisters, and father, are there in the courtroom today?

A. Yes, ma'am.

Q. Where did you work?

A. I work numerous jobs. On my last job, I was working for Zeb's Quality Cleaning. Which I've been working with Zeb's for about twenty years. I've been in the furniture business but the economy is slow right now so there's not a lot of work going on, So I been basically working with Zeb's and driving limo part time, limousine driver.

Q. And you've been in the military?

A. Yes, ma'am.

Q. How far did you go in school?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-5313

A. I was in the military for four years.

Q. And how about school? How far did you go in school?

A. I finish high school and some college.

Q. And you said you've worked for Zeb's Quality Cleaning for twenty years?

A. Yes, ma'am.

Q. Okay. I'm going to talk to you about the day of June the 6th and June the 7th of last year, 2010.

The morning of June the 6th: did you work that day?

A. Yes, ma'am. Well, I didn't work on my regular job but my boss, Zeb's, daughter was going back to college so I helped her move out of the house. The week prior I had already moved all the furniture out of her house and we had to move a little bit more out of her house and put it in storage. And then we had breakfast, she paid us, and I was off, yes.

Q. So just some side work for your boss?

A. Yes, ma'am.

Q. Okay. And what did you do after that?

A. I went home for a brief moment and then I left and I -- with a friend and I was out.

Q. When you say out, where were you?

A. I was on Liberty Hill, in North Charleston,

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

drinking with some guys.

Q. Liberty Hill is a neighborhood?

A. Yes, ma'am.

Q. Okay. So y'all were just hanging out?

A. Yes, ma'am.

Q. How much did you have to drink?

A. Around that day we drank about a case of beer and maybe a half of gallon of liquor. A lot.

Q. You drank too much?

A. Yes, ma'am.

Q. And did you smoke any marijuana?

A. Yes, ma'am.

Q. Any other drugs?

A. No, ma'am. Not that day, no.

Q. And how long did you hang out with your friends?

A. Basically, all day. I got there around about 12:30, one o'clock or 11:30, twelve o'clock, that night.

Q. Did you go home?

A. No, ma'am.

Q. Where did you go?

A. At 12:00 -- I started to go home around about 12:00, but I missed my ride so I started walking towards the bus stop and I was --

Q. Did you get the bus?

A. Yeah. The bus went by, zoom, and I missed the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

bus.

So I started walking towards the store. I was going to call a cab. I wanted to go in the store and then I was going to call a cab.

When I was at the bus stop, I ran -- this female, she started talking to me and she asked me if I wanted to have fun with her.

Q. What did you take that to mean?

A. Drugs and sex.

Q. And did you take her up on that?

A. Yes.

She asked me -- she asked me to go -- go to the store where there were some guys, they had drugs over there, I guess some drugs, and come back. And she lives over here, which was right up the street.

Q. Did you go get the drugs?

A. Yes, ma'am.

Q. And where did you take them?

A. I took them to her house and we started doing drugs and having sex.

Q. Started doing drugs and having sex?

A. Yes, ma'am.

Q. How much -- how many times did you smoke crack?

A. I don't smoke crack. That's probably about the second time, third time, in my life. But I was smoking

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

some that night with her. I went there. I had bought a piece. It was some. And then it ran out and she asked me to buy her some more and she called some guy and a guy bought some more. We did that throughout the night.

Q. So she would have sex with you and you would buy her drugs?

A. Yes, ma'am.

Q. And this happened several times?

A. Yes, ma'am.

Q. How many times do you think?

A. Three, four, I bought drugs, and had sex throughout the night.

Q. And then what happened? Did you go to sleep?

A. I had no intention of going to sleep but I -- I blacked out during the night, I guess. Yeah, I went to sleep.

Q. You passed out?

A. Yes.

Q. And what do you remember next?

A. My cell phone alarm going off.

Q. Had you set the alarm?

A. I had -- it's set by the week because I normally go to work every day about around 5:00, 5:30 a.m. So I had it set for 4:00, 4:30 a.m.

Q. So you were supposed to go to work that day?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, ma'am. The next morning.
Q. Okay. And so what happened after that?
A. Huh?
Q. What happened after that? You woke up and your alarm was going off.
A. I got up, started getting dressed. The victim was helping me to get dressed, giving me clothes, yes, yes, yes, and I --
Q. What do you mean she helped you get dressed?
A. It was like, here, here; here's your shirt, here's your socks. You know, put this on, put this on, put this on. I was like okay, okay, okay, okay, okay, okay. And I got dressed. And I felt in my pocket and I realized the money that I had put aside, besides the one that I spent, was missing.
Q. You had put some money in a different pocket?
A. Yes, ma'am.
Q. Why did you do that?
A. Because I know what I was doing. There was a chance that, you know, my money would be taken.
Q. How much did you put back there?
A. I had $420.
Q. And you had set that money aside?
A. Yes, ma'am.
Q. And so you realized that money was gone. What

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

did you do next?

A. I asked her for it. And I said, why did you take my money, and we started arguing and started fighting.

Q. You slapped her?

A. Yes, ma'am.

Q. And was she bleeding?

A. I slapped her a couple of times, and I hit her in the nose. Her nose started to bleed and I was like, oh, no. I don't -- I -- when her nose started to bleed she said, okay, okay, okay, okay, okay, okay, I'll give you your money, I'll give you your money, I'll give you your money.

And she started dancing around and I grabbed her by her -- I had her by her hair. I pulled her hair. And she said -- say, the money's in the living room, the money's in the living room, the money's in the living room.

We went to the living room. I had her by -- I pulled her down the hall by her hair to the living room. And when we got in the living room, she went to the sofa and started lifting the cushions, lifting the cushions, with her back -- with her back to the sofa and the -- and the seat of the sofa. I mean, she was feeling, feeling, feeling around, the money's in there.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. So she was acting like she was going to give you the money back?

A. I'm sorry. I didn't hear you.

Q. She was acting like she was going to give you the money back?

A. Yeah. She said she would give it back, give it back.

And then she said, uh, uh, uh, it's not there, it's not there. I said, well, where is it. She was like, okay, here, I'll give it to you, I'll give it to you. And she stood up and she turned towards the kitchen. And it was just a couple of steps.

She took a step and she grabs a knife out of the -- off of the kitchen counter, the butcher block. And we started fighting again over the knife. Because she had the knife. She was like get out, get out, leave, leave. And I grabbed her wrist like this and I -- I got the handle of the knife and -- but it broke. And she grabbed the blade like this.

Q. So you had the handle?

A. After the handle broke, I hit her. When we were fighting over the knife, I had -- one hand I had the blade with the handle and I hit her with the other hand and she fell and she hit her head on the counter. When she fell, she fell -- but she fell on the floor.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

And I said, this is not good. I said, just please give me my money, please give me my money, please give me my money and I'll just leave. She, uhhhh, uhhhh, I don't -- I don't -- I don't have the money, I don't have your money. I said, what do you mean you don't have it. I don't have your money; I'll give it to you; I'll give it to you later, I'll give it to you later. I said, what you mean later. I said, just give me my money and I'll leave. She said, uhhhh, I'll give it to you later.

And I got scared. And I said, I'm coming back to get my money, I'll be back to get my money, I'll be back to get it. And she said, okay. And then I was --

Q. At that point, were you freaking out?

A. Ma'am?

Q. Scared at that point?

A. [No response]

Q. You were scared at that point?

MR. KIDD: Objection, Your Honor. Leading.

THE COURT: Overruled. Go ahead.

Q. [Ms. Runey] What did you do when you left?

A. I was starting to leave, which the front door was just only a couple of steps away, from where we were, where we were fighting. And she had a cell phone that -- so I took her cell phone. And I had the blade -- I mean, the handle of the knife still in my hand. And I took the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

cell phone and the knife and when I walk outside, the blade of the knife -- I mean, the handle of the knife. And when I walk outside, I threw it across the street, which was some railroad tracks not far away. And I threw it over there. And then I left.

Q. Where did you go?

A. I went to my father's house, which he lives right across the street around -- a couple of blocks away.

Q. Was he there?

A. He was not there.

He had -- he was at my house where -- he went to pick me up to go to work for that morning, because I wasn't driving then back and forth so he was taking me to work back and forth. He wasn't there, so I just turned around and I started walking home toward my girlfriend house.

And I walked a couple of miles. I called my -- well, before I got a couple of miles, I called my brother.

Q. Where does your brother live?

A. My brother lives in Walterboro, South Carolina.

And I told him, I mean, that I was in a -- in a fight, I messed up, man; I was up doing some things I shouldn't have been doing; I was in a fight and -- a female and I think she might be hurt; will you please come and check on her.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

And I didn't want to stick around because I didn't want to get in trouble or wait for the cops. I told him to come and check on her.

And I started walking and I walked a couple of miles. I stopped at a little gas station. Wanted some more to drink, alcohol or beer.

Q. Were you still feeling intoxicated from the night before?

A. Yeah. I was really drunk, feeling kind of bad.

Got another drink, smooth -- tried to smooth it over. And finished walking. I went to my girlfriend's house. And I called her on the way, while I was walking. You know, she was like where were you, where are you, where are you. Because I didn't come home the night before.

Q. She was mad at you?

A. Ma'am?

Q. She was upset with you?

A. Upset. She didn't know where I was at; why didn't you come home. And I told her I was out doing some things I shouldn't have been doing and I got in a fight. I didn't tell her with who or about what or anything. I said I was just in a fight. And I said, I'll be there in a few minutes. And I hung up. I continued to walk. I got there. I went into the house.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And that's where you were arrested?
A. Ma'am?
Q. And that's where you were arrested?
A. Yes.
Q. You had told your father and your brother that that's where you would be?
A. I called my brother and I told him I was going to be home. Got into the house, washed -- I think washed my hands. And my grandson was there. He lives with us. And I went in the refrigerator and I got another beer. And I think they came. They came.
Q. When you say they: the police came?
A. They said they have been by the house and she was -- the lady was still laying in the house on the floor. Said she was laying in the house on the floor. Said -- I said, yeah. I said, well, you need to call -- you know, get some help, call the ambulance, you know, and get some help, the cops. He said, that's what you want to do; you're sure you don't want to take off and run. I said, no, no, no, no, no.
Q. Your brother suggested that to you?
A. [Indicates affirmatively]
Q. And you stayed on Gumwood? On Gumwood Avenue is where your girlfriend lived? You stayed there?
A. Yeah.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

They -- they were outside. I went outside and I talked to them and --

Q. Are you talking about your brother?

A. My brother and my father.

And they left. So I was thinking they were going to, you know, get some help for her.

And when they left, I sat outside for a while with my grandson. We were talking. And the police showed up. I put him back into the house.

Q. And you said --

A. And the police pulled up in front of the house.

Q. What did you tell them?

A. I walked halfway down the stairs and they met me halfway up the stairs. And I told him were -- I asked him, were you looking for me. And they said, why. Because I said I was in a fight with a lady, female, on Gainer Avenue.

Q. And they took you to City Hall?

A. Yes, ma'am.

Q. And did you give them a statement at that point?

A. Yes, ma'am.

MS. RUNEY: Beg the Court's indulgence.

[Whereupon, Ms. Runey and Mr. Smith confer]

MS. RUNEY: That's all I have, Mr. Gathers. If you would answer any questions that Mr. Kidd has for

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

you. Okay?

THE COURT: Cross-examination.

MR. KIDD: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KIDD:

Q. I want to talk a little bit about your brother.

A. Yes, sir.

Q. Do you remember talking to your brother on the phone that day?

A. Yes, sir.

Q. And, in fact, you asked your brother to get that body out of that house, didn't you?

A. No, sir. No.

Q. You're aware that my office served your brother with a subpoena in this case?

A. I was told he was subpoenaed, yes.

Q. And you're aware that he failed to comply with that subpoena and come here and testify, aren't you?

A. Yes.

Q. Why would you call your brother to get help for Ms. Nevarez when he lives over an hour away?

A. He was coming to Charleston that day, anyway. He's a painter. He was going to Phillips Painting Company on King Street, because I was supposed to be going with him because we were both looking for work. And he was

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

going to come anyway. But I had a job. I told him I was going to go to work. He said he was going to come. I said, okay, and if I be finished in time, I'll go with you. I knew he was coming to Charleston that morning. And I had no one else I could call. I didn't want to call my father.

Q. You didn't want to call your father because you knew he wouldn't help get rid of that body, didn't you?

A. I would never ask my father to do anything like that, sir.

Q. Right. You would ask your brother to do something like that.

A. I would never ask my brother to do anything like that. There was no body there when I left. There was a woman talking to me when I left, sir.

Q. So your testimony in this court that these photographs, this picture -- you have to own -- that this picture, this woman who used to look like this, your testimony is that that damage done to her face was from one punch?

A. No.

Q. How did it happen?

A. We were fighting over the knife. I previously hit her a couple of times. We were fighting in the bedroom.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. When you hit her a couple of times did you use your fist, or did you slap her like you told us earlier?

A. I slapped her a couple of times, then I hit her with my fist in her nose and her nose started bleeding in the room.

When we got into the kitchen and she grabbed the knife, the knife -- and we were fighting over the knife. And I punched her. She fell. She fell. She fell. She hit that counter. She hit that counter. She hit the -- her head hit the counter and she fell, thoom [phonetic]. She fell.

Q. And you remember giving a statement to the police; right?

A. Somewhat, sir.

Q. And in this statement you told the police, I boxed her in the face four to five times?

A. Yes.

Q. And that was in the bedroom; right?

A. Yes, sir.

Q. And then back in the kitchen you hit her three or four more times?

A. Between the living room and the kitchen. Yes, sir.

Q. And the officer asked you, what do you mean boxed her. And you said, with a closed fist.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I was meaning the last time.

She hit her head on the counter and fell on the floor.

Q. You don't say, the last time, in your statement.

A. I made a mistake, sir.

Q. So according to your statement -- four or five times, plus three or four times -- seven to nine times you boxed her in the face?

A. No, sir.

Q. That's what your statement says, isn't it?

A. Between boxed and slapped, sir.

Q. And the officer asked you what boxed meant in your statement.

A. I made a mistake, sir.

Q. How did she get these cuts over her eyes?

A. I do not know, sir.

Q. You don't know?

A. I think she -- when she fell and hit her head on the counter and fell on the floor. I don't know. I didn't cut her.

Q. You didn't cut her?

A. No, sir. No, sir.

Q. Your testimony to this jury is that someone else had to have come into that room and used a sharp instrument to cut slits over her eyes?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I didn't say that, sir.

Q. When the truth of the matter is you had her pinned down and you took that knife and you said, give me my money or I'm going to cut your eyes out?

A. No, sir. No, sir, I did --

Q. That's what you did --

A. -- not do that.

Q. -- isn't it?

A. No, sir. No, sir. No, sir. No, sir. I didn't do that. I didn't do that. I didn't do that.

Q. You tortured that woman, didn't you?

A. I didn't tortured no woman. No, sir. No, sir.

Q. And you dragged her up and down that apartment by her hair?

A. No, sir.

I pulled her by the hair out of the bedroom when we was coming out and some of her hair came out in my hand. I didn't realize I pulled it at all. And some hair came out in my hand. But I didn't pull her up and down. We only went from the bedroom to the living room one time.

Q. And you saw the photographs. Her hair is all over that apartment. In every room of that apartment her hair is, isn't it?

A. [No response]

Q. Isn't it? You saw the photographs.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I saw some photograph of picture with hair on it, but I don't think it was her hair.

Q. You've been lying and minimizing your involvement since you knew you were caught.

A. I never lied, sir. I cooperated with the police from the day they picked me up until now.

Q. When you realized that your brother wasn't going to give you the help you needed, and that your father was going to be a stand-up guy and call the police, you knew you were caught, didn't you?

A. No, sir.

Q. And you knew from that moment on that you had to minimize, that you had to tell half truths. Isn't that right?

A. No, sir. No, sir. No, sir, it's not true.

Q. And it's all been weighing on you heavily, hasn't it?

A. It weighs on me every day. Every day I think about different thing.

Q. Don't you think you would feel a lot better if you finally come clean to finally get what really happened off your chest?

A. I've been telling the truth from day one. I'm still telling the truth. I feel sorry for what I did and I admitted to what I did. And there's nothing else that I

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

can say that can make me come cleaner than what I already said, sir.

Q. I want you to tell the jury where in this photograph is a counter that she would have hit her head on.

A. Right to the left. Right to the left, right here, in the kitchen where the knife was at on the counter. Two steps away.

Q. There's no counter in this picture, is there?

A. There's not in that picture, but it's in another picture I saw yesterday with the blood on the counter. When she hit her head, her head drug across the counter.

Q. You mean where she desperately grabbed that knife to fight for her life?

A. No, sir.

Q. That counter?

A. No, sir. No, sir. She wasn't desperately fighting for her life.

She was -- she said, I'll get your money. And she stood up and she took a couple of steps toward the kitchen and she grabbed the knife.

Q. Did you ever get your money?

A. No, sir.

Q. There was no money found, was there?

A. I don't think so, sir. That's what they said.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. How big of a man are you, Mr. Gathers?
A. Five feet eleven, 230 pounds.
Q. Let me see how big that hand is.
A. [Witness complies]
Q. That's a big hand you've got there. Would you call it a big hand? Bigger than mine.
A. Yes, sir.
Q. What do you think is going to happen when you strike a female with a closed fist seven to ten times on the face?
A. I didn't strike her seven to ten times with a closed fist. I really didn't strike her -- I hit her in the nose one time, I know, which I did, and I hit her kind of hard when we -- when we were in the kitchen cussing over the knife, but I didn't hit her in her face ten times.
Q. What about when you had that knife, when you had the handle of that knife, in your hand --
A. I grabbed --
Q. -- and she was grabbing the blade; right?
A. She had the -- yes, sir. She -- when -- I grabbed her by her arm and I was able to grab the handle like this, and she grabbed the blade.
Q. And so you had control of the knife. You had it by the handle?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. The handle broke off. It broke off --
Q. And the blade broke --
A. -- in her hand --
Q. -- off in her hand?
A. -- and she had the blade. Yes, sir.
Q. When she was trying to fight you off from attacking her with that knife?
A. No, sir.
Q. But you had the handle.
A. I had the handle, she had the blade, yes, sir.
Q. And she's got all the cuts to prove it; right?
A. Right. When I -- when the handle broke -- when it broke -- when I had the handle like this, before it broke off, I pulled it a little bit. I was trying to pull it out of her hand and I guess it cut her hand. It cut her hand.
Q. And from the moment that you beat the life out of this woman, you tried to distance yourself from this apartment, didn't you?
A. I'm sorry, sir. I didn't hear you.
Q. I said from the moment you beat the life out of this woman, you tried to distance yourself from this apartment?
A. No, sir.
I was talking to her and when I left -- the

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

minute I left out of the door, she was still talking to me. I never beat the life out of her.

Q. And the one thing you could think of is, my fingerprints are on this knife handle, I'm going to get rid of it, I'm going to throw it down by the train tracks; right?

A. I don't know why I threw it away. I threw the phone away so she wouldn't call over there, and I just had the blade -- the handle in my hand. I told the police officer, when we got to City Hall, where I had threw the phone and I threw the blade -- or the handle of the knife. I'm sorry.

Q. After you realized you had been caught?

A. No, sir. I told them that so they could go and find it and recover it. And I was just telling the truth. I just told them what happened.

MR. KIDD: Court's indulgence.

[Whereupon, Mr. Kidd reviews documents]

Q. [Mr. Kidd] And you're telling this jury that you don't recall cutting her eyes?

A. I'm sorry, sir. What did you say?

Q. I said your testimony to this jury is that you don't recall cutting her eyes?

A. I did not cut her eye.

Q. But in your statement that you give the police,

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

they asked you if you stabbed the victim.

A. They asked me did I stab the victim. I told them, no, I didn't stab -- they said that she had stab wounds all over her body and did I stab her. And I said, no, I didn't stab her. And they said, how did she get stabbed. And I do not know how she got stabbed.

Q. Well, in fact, your statement says: question, did you stab her with a knife. Answer: if I did, I don't remember doing it.

Is that not what you told police?

A. I don't remember that, sir.

Q. But it's in your statement that you signed.

A. It's a lot of things in that statement I don't remember now, sir.

Q. It's convenient not to remember certain things, isn't it?

A. No, sir. The more I remember, the more I tried to tell just what happened.

Q. But it's convenient, in regards to this case, for you not to remember certain things, isn't it?

A. No, sir. It's a lie. It's not the truth.

Q. The devil is in the details, isn't it?

A. Sir?

Q. I said the devil is in the details, isn't it? The little things?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. No, sir.

Q. It's the little things that tell the story about what really happened that night.

A. No, sir.

Q. It's not the words that come out of your mouth that tells the story, it's the facts that tell the story, it's the injuries, it's the blood, it's the hair. Those things tell the story; right?

A. Yes, sir.

Q. Those things can't lie, can they?

A. No, sir.

Q. But you can lie.

A. I haven't lied, sir.

Q. But you can.

A. I haven't lied, sir.

Q. And would you agree that it's instinct, the instinct of self-preservation, to minimize your involvement in a death like this?

A. No, sir.

I believe if you do something wrong, you should pay for what you do. I don't believe in lying and hiding behind anything, sir.

Q. It's convenient? It's convenient today for that to be your answer?

A. No, sir. It's the truth.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. If you were so concerned about getting her help --

A. Yes, sir.

Q. -- why didn't you call the police right afterwards?

A. I was scared and I made a mistake.

Q. Why didn't you call the police when she stole your money?

A. Because she told me she was going to give it back to me. I didn't know we was going to end up fighting over it.

Q. You didn't know you were going to end up fighting over it? You said the first thing you did was slap her.

A. I asked her for the money, I asked her for the money, and we started fussing almost --

Q. So you started this fight? That's accurate, isn't it?

A. The fight started because of the money. I didn't steal my own money, no, sir.

Q. Well, the physical fight, you started the fight. You hit her. You didn't say that she hit you.

A. Right.

Q. And you didn't have any injuries on you, did you?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. No, sir.

Q. No scratches? You had one minor little scrape on the inside of your finger; right?

A. Yes, sir.

She fell and she hit her head on the counter and the -- down -- down there.

Q. She hit her head on the counter that's --

A. Yes, sir.

Q. -- nowhere near her body, where her body ended up?

A. She hit her head on that counter. Said, thump, thump, on there.

Q. There was a lot of blood, wasn't there?

A. There was no blood when I left. There was just some blood from when her nose was bleeding in the room and she had her hand on her nose. There was blood coming from her nose and she touched that door. There was some blood on that door. And when she was at the sofa, there was blood on the sofa. She had her hand on her nose and she put her hand on the sofa and there was blood there. There wasn't a lot of blood but there was some blood, yes, sir.

Q. And there's blood in the kitchen, there's blood in the hallway?

A. There was no blood in the kitchen. I didn't see any blood in the kitchen, sir. There was no blood -- when

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

I left, she was talking. There was no blood in the kitchen.

Q. What about the blood next to that knife block?

A. That's when she fell, she hit her head, her hand hit the counter. That's --

Q. That blood right there?

A. Yeah. Yes, sir.

Q. And you're saying those droplets of blood --

A. Smeared, right.

Q. -- came from that laceration?

A. That came from her nose, her nose bleeding.

Q. I believe that.

A. Yes.

Q. When her nose was bleeding, after you punched her in the face --

A. In the room her nose --

Q. -- and she's fighting for her life and scrambling in the kitchen to try to get a knife to get you out of there, blood drops from her nose on the counter; right?

A. I guess so, sir. I'm not sure. But that --

Q. And then you take the knife from her; right?

A. I didn't never took the knife. The handle broked off. I had the handle of the knife. She had the blade. I never took the knife.

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Well, you take the handle of the knife?
A. Yes, sir.
Q. So you're saying that she grabbed the knife by the blade out of the knife block?
A. She grabbed the knife out of the -- out of the block. And I grabbed her wrist like this and I pulled the knife out of her hand -- tried to pull it out of her hand.
Q. And at the same time --
A. I tried to --
Q. -- you punched her with the other hand?
A. Yes, sir.
Q. And what happened when you punched her? She fell to the ground?
A. She hit the counter. She [indicates] fell. She fell.
Q. Well, how did she end up in the doorway, then?
A. I don't know, sir. She was talking to me. She's -- she's only a step away from the counter. If you get the two pictures and put them together, you'll see how close the counter is to the --
Q. But she's facing the wrong direction.
A. I don't know which way she's facing, sir. She was only a step away from the counter and she was talking to me when I left.
Q. You can see the counter there; right?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. The counter is two steps, about two steps, away from the kitchen. Maybe two steps.

Q. And her feet are in the living room, aren't they?

A. Yes, sir.

Q. When one falls down -- if I were to fall down right here and hit my head on this counter --

A. Yes, sir.

Q. -- my feet wouldn't end up on the other side, would they?

A. You shouldn't. I don't know.

Q. Wouldn't you say it's impossible for her to fall from this position and hit her head on the counter?

A. The kitchen is right here. Right there. Right there.

Q. You don't think very highly of women, do you, Mr. Gathers?

A. I'm sorry. Say --

Q. You don't think very highly of women, do you, Mr. Gathers?

A. I think very highly of women. I have a mother, I have a daughter, I have a granddaughter, I have sisters. I think very highly of women.

Q. You treat them a bit like objects, don't you?

A. No, sir.

FORM C-106 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Take advantage of their weaknesses; right?

A. I was wrong. I was intoxicated and I did some things I shouldn't have do. But I do not think -- I think very highly of women.

Q. You took advantage of your mere physical size and strength to get what you wanted --

A. No, sir. No, sir.

Q. -- to exercise that sort of power or control over somebody else. Because that's really what it comes down to, right? power, control?

A. Treat people like I want to be treated. I don't have --

Q. You want to be treated like this? You want someone to treat you like this?

A. It wasn't meant to happen, sir.

Q. I agree.

A. I had no intention of this happening, sir.

Q. And your testimony today is that she was alive when you left that apartment?

A. Yes, sir. She was talking.

Q. But didn't you tell your brother that you think you went too far and killed this woman?

A. No, sir.

Q. Didn't you tell your father that, too?

A. No, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. You knew she was dead when you left that apartment, didn't you?

A. No, sir.

Q. You knew you had messed up --

A. I knew I had messed up.

Q. -- because you went too far?

A. No, sir. I knew I messed up. When her heat hit the --

Q. You got carried away?

A. -- her head hit the counter, I knew it wasn't good. But she was alive and talking to me. Sorry.

Q. It's a little late for sorrys, isn't it, Mr. Gathers?

A. I suppose so, sir.

Q. Do you felt sorry for the victim, or do you feel sorry for the situation you find yourself in today?

A. Most of all, I feel sorry for the victim's daughter, I feel sorry for my family.

MR. KIDD: Court's indulgence for just one moment.

[Whereupon, Mr. Kidd and Mr. Young confer]

Q. [Mr. Kidd] When you were dragging Ms. Nevarez down this hallway, did you just have her by her hair --

A. Yes, sir. I pulled her by the hair --

Q. -- and that was all?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, sir.
Q. And so she was kind of the front of her body towards the floor? Is --
A. Yes, sir.
Q. -- that accurate?
A. She was bent over and -- yes, sir.
Q. And you -- did you have two hands on her hair?
A. One.
Q. What was your other hand doing?
A. By my side, I guess. Yes, standing by my side.
Q. So you were just -- had one hand full of her hair, just kind of dragging her kind of like a dog, down the hallway?
A. I was pulling her by her hair down the hallway. I wasn't pulling her like a dog, no, sir.
Q. How would you describe it?
A. Pulling her by her hair down -- doing what I shouldn't have been doing, pulling her by her hair down the hallway.
Q. And you didn't tell the detective when you made this statement that she hit her head on the counter, did you?
A. I thought I did, sir, yes.
Q. Well, tell me in this statement, this three-page statement that you gave to the officers the day after this

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

occurred, tell me where in that statement you say where she hits her head on the counter.

A. It's not in there. I didn't give it to them. I thought I did.

Q. You thought --

A. I made a mistake, sir.

Q. Don't you think that's a pretty crucial mistake?

A. There's a lot of things in -- in there, there's a lot of crucial mistakes.

Q. It was a very crucial mistake for you to say that the blow that killed Ms. Nevarez came from a counter, is what you're testifying today; right? That's your testimony today, that she hit her head on the counter and that's what killed her?

A. She didn't die -- she was not dead when I left there. She was talking to me. So she died from the pathologist said blunt-force trauma.

Q. Right.

A. Yes, sir.

Q. So and so you think someone else went in there and finished her off?

A. I didn't say that, sir.

Q. So you think she died from you punching her, or from her head hitting the counter, or both?

A. She died from blunt-force trauma.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. What hit her in the head to cause her to die?

A. She hit her head on the counter and --

Q. Okay. That's what I'm getting at. So your testimony today is that she hit her head on the counter, which killed her; right?

A. She was -- I don't know. I don't know.

Q. Don't you think it would be important to tell the police officers she hit her head on the counter and that's what killed her, if that's what really happened?

A. [No response]

Q. Wouldn't that be the first thing out of your mouth?

A. I was drunk, I was high. A lot of thing I thought I told them like you said it's not in there. I made a mistake.

Q. And the last question on the statement is: is there anything else you would like to tell me at this point in time.

You didn't add that she hit her head on the counter.

A. I didn't go back and think through the whole statements that they asked me about, every question that they asked me, too. Sorry.

Q. And you were -- and this was at, what, 11:00, twelve o'clock the next day; right?

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I thought it was the same day.

Q. Well, yeah, the same morning. Right.

So this is -- what time did all of this occur? About 4:00 or five o'clock in the morning? Is that accurate?

A. Yes, sir.

Q. And this is about eleven o'clock the same day?

A. From what I read on it just in the last couple of days, yes, I don't remember what time it was.

Q. So about seven hours or so after you had been in a fight with Ms. Nevarez you made this statement. Is that accurate?

A. That's the time that's on it, sir.

Q. So it's --

A. I don't --

Q. -- accurate?

A. I don't -- I don't remember.

Q. And you had walked a few miles --

A. Yes, sir.

Q. -- you drank a couple of beers?

A. Yes, sir. I drank some more when I got home.

Q. Why were you drinking?

A. No reason. Just drinking. Drunk. High.

Q. And but after you left, you -- you testified you walked first to your father's house; right?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. Yes, sir.

Q. From Gainer to your father's house. How far is that from Gainer to your father's house?

A. Across the street. Three blocks. A --

Q. So walked --

A. -- few streets.

Q. -- a few blocks. And then your father wasn't at home. And where did you go then?

A. Started walking back towards my girlfriend house.

Q. And then you walked all the way over to Gumwood --

A. Yes, sir.

Q. -- right? From Gainer to Gumwood?

A. Yes, sir.

Q. How many miles would you say that is?

A. It's about four miles.

Q. Walked about four miles.

A. Do it all the time.

Q. Do it all the time.

And during all that walking, what were you thinking about?

A. I made a mistake I shouldn't have done. I wish I would have went home. I wish I had never stopped.

Q. Wish you hadn't been cheating on your

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

girlfriend? You didn't really care much about her feelings, either, did you?

A. Sir?

Q. I said you weren't really caring about her feelings, either, were you?

A. I love her. She's my fiancé. I'm going to marry her. Made a mistake.

Q. But nowhere in this statement do you mention her hitting her head on the counter.

A. [No response]

Q. And when they asked you in this statement about did you stab her, you said, I don't remember; is that right?

A. Yes, sir.

Q. And the reason you say I don't remember cutting her is because you didn't want to own up to it; right?

A. No, sir. If I didn't remember, I didn't remember.

Q. So you didn't remember cutting her or not cutting her then, but you specifically remember now?

A. I think about this daily. It just plays over and over and over in my mind. I know I didn't cut her. I know I never had a knife in my hand. I do know that.

Q. You just testified you had the knife in your hand.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. I had the blade -- the handle part broke off in my hand. I never had the knife.

Q. Okay. How did the blade end up on the couch, then?

A. I -- you asked me what I thought killed her. I thought when she fell --

Q. No. I asked you how the blade ended up on the couch.

A. I don't know, sir. When she fell, she had it in her hand, that I knew of.

Q. Convenient that the hardest questions you don't know the answers to, isn't it?

A. I can only tell you the truth, sir.

Q. You're almost there, Mr. Gathers. You're so close to telling the full truth.

A. I've told you the truth, sir. I've told you the truth.

Q. Why did you throw her cell phone on the train tracks?

A. Yes, sir.

Q. I said why.

A. Why? I didn't want her to call the police on me because I knew I had fought her, which was wrong.

Q. Didn't want to get in trouble; right?

A. Yes, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. When you called your brother, you didn't want to get it trouble. That's why you asked for his help; right?

A. Yes, sir.

Q. And when you're washing the blood off your hands --

A. I washed my hands, yes, sir. I didn't see any blood on my hand but when I washed them, there was blood on my hand, yes.

Q. So tell me, then, how do you get blood on your hands if you only struck her in the face that one time?

A. When her nose was bleeding, she had her hand over it and when we was fighting over the knife she had blood on her hands because she had her hand over her face.

Q. I'm going to show you a photograph. And I probably should have gotten a better one for this trial. But I want you to look at this photograph and I want you to look at that back column back there.

A. Uh-huh.

Q. Do you see that red mark that's a swipe?

A. Uh-huh.

Q. Do you see that?

A. Yes, sir.

Q. It looks like blood, doesn't it?

A. It does.

Q. Would you agree that that blood's there from

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

when you left the apartment that day?

A. No, sir.

Q. You wouldn't agree with that?

A. I don't -- I didn't put any blood on the porch.

Q. Well, when you were leaving the apartment, what door did you leave out of?

A. If I remember correctly, I think I went straight out the front door and straight off the porch.

Q. All right. But the porch -- you can't exit the porch straight. You have to exit from one side or the other because there's two ramps going from each direction; right?

A. Right.

Q. So you would have had to have gone off of one side of the porch or the other.

A. The side that -- because I don't think anyone lives on the other -- yeah. Yes.

Q. And so this column that is closest to Ms. Nevarez's apartment door has a blood smear on it, doesn't it?

A. If I put the blood on it, I don't know, sir.

Q. Okay. So your hands were bloody enough to where if you grabbed that pole running out of her apartment, it would have put a blood smear on it; right?

A. I walked out of the apartment. And I don't

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

remember touching any pole, sir.

Q. But someone put that blood smear there; right?

A. If that's blood.

Q. And if -- whoever's hand put that blood smear there obviously had enough blood on their hand to where you could have at least seen it; right?

A. I don't know. I guess. I don't know.

Q. And you had enough blood on your hands to, after you washed your hands with at least two washcloths, you still had blood on your hands when you were at the police station.

A. My hand was also bleeding. I had a little nick on my finger and my hand was bleeding.

Q. Right.

A. Yes, sir.

Q. And you also heard from the DNA analyst that when they swabbed your fingers, the victim's DNA was on your hands --

A. I didn't hear --

Q. -- you remember that; right?

A. No, sir. I can -- I can barely hear. I didn't hear a lot of things that the DNA expert said. But if she said it was, it was; it was blood on my hand.

Q. So you had enough blood on your hands to where you could wash them with two washcloths and still have DNA

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

on your fingernails from the victim; right?

A. Yes, sir.

Q. And you're telling me that much blood came onto your hands just from punching her in the face one time or from fighting over the knife with her?

A. The blood came from her nose. I may have even touched some blood. I don't know. I don't know where the blood came from. I didn't know where the blood came from. I didn't see any blood go on my hand.

Q. Well, then, why did you wash them?

A. Why did I wash them?

Q. Why did you wash your hands with two wash cloths that --

A. When I came home --

Q. -- that tested presumptive for blood?

A. -- I went into the -- I used the bathroom and I washed my hands. My grandson was right there with me. And I picked my grandson up. I washed my hands, yes, sir.

Q. You didn't want to get blood on your grandson?

A. No, sir. I washed my hand because I was using the bathroom, for one.

Q. The truth is you got blood on your hands, and you're standing over that woman, and you're cutting on her?

A. No, sir. No, sir. No, sir.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. Were you cutting on her because you didn't want --

A. I did not cut --

Q. -- her to look at you --

A. I didn't --

Q. -- while you were beating on her -- like that?

A. I did not cut her, sir.

Q. Couldn't look her in the eye when you were doing what you were doing to her?

A. No, sir. When I left, she was laying face down. She was just talking to me. I didn't see her face.

Q. She was talking to you laying face down?

A. Yes, sir. She was like, I don't have your money, I don't have your -- I'll go get your money, I'll go get your money. I say, I'm coming back to get my money. She said, I'll give you your money when -- I'll give you your money when you come back. She was talking face down. I didn't see her face. I never saw her face anymore after that, after she fell and hit her head on that counter and fell.

Q. She was talking to you lying like that?

A. Yes, sir.

Q. In that pool of blood?

A. There was no blood there, sir. There was no blood. When I left the resident [phonetic], there was no

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-826-6313

blood there.

Q. Where she fell and hit her head on the counter that's nowhere near her?

A. The counter is just a step away, sir.

Q. But regardless of all the things that you and I disagree about, we can agree that you're responsible for her death; right? We can agree on that, can't we?

A. [No response]

Q. Nobody else killed her, did they?

A. Responsible for her death. Yes, sir. Yes. I didn't mean to do it.

Q. What was that?

A. I never meant to hurt her. I didn't mean to do it, so I'm responsible for it. I did fight her. She did hit her head on the counter.

Q. You can -- we can agree that had you not been punching her, whether she hit her head on that counter or not, she would not have died. Her daughter would still have a mother. Her grandkids would still have a grandmother --

A. Yes, sir.

Q. -- but for you?

A. If I could change back the hand of time, yes, sir.

Q. All over $400, that you might have spent on

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

crack; right?

A. [No response]

Q. You could have been mistaken that that money was ever taken, couldn't you?

A. I had the money. I put it in my back pocket so it wouldn't get taken. I had 600 -- yeah, I had the money.

Q. 600? I thought it as 400.

A. Sir?

Q. I thought you said it was 400.

A. I had $600. I spent $200 with her and I had $400 left.

Q. Isn't it possible that you just spent all that money on crack?

A. No, sir. I put it in my pocket and I buttoned my back pocket so I would have it.

Q. How much do you get paid?

A. [No response]

Q. How much do you get paid?

A. I got paid the day before. I had about $700. And my boss daughter, she gave me $150 the next day for helping her move. I gave my girlfriend some money to pay a bill, and I had 600 -- 600 and some -- about six hundred and forty or fifty dollars left when I went on Liberty Hill. And I spent it --

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. And you spent --
A. -- drinking.
Q. -- some of it on beer and drinking liquor all day; right?
A. Yes, sir.
Q. Did you eat anything all day?
A. I ate that morning when I was helping Aleshia, my boss' daughter, move. We had breakfast after we got finished moving her. And I may have ate a sandwich throughout the day. I don't remember. I don't remember eating anything.
Q. How many crack rocks did you buy each time?
A. I bought --
Q. Each time you went to that --
A. I only bought it one time, and the other three times she called someone.
Q. And then how much -- how many crack rocks did you buy? Two? One for each of you? Four? Two for each of you? What did you do?
A. No. I bought -- I had -- I really don't -- I was smoking marijuana. I smoked some crack with her, but I don't smoke crack. I bought -- when I went to the store from that guy I bought 50-dollar crack, 50-dollar piece.
Q. And that was the first time; right?
A. Yes, sir. Or all three times.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Q. $50 each time?
A. Well, one time I -- yeah.
Q. Were you smoking crack, or were you not smoking crack?
A. I smoked some, yes. I did smoke some.
Q. And in your statement you say you bought crack four or five times; right?
A. Yes, sir.
Q. It says you smoked crack -- or you bought crack four or five times; right?
A. Four times -- yes, sir.
Q. And she was just going to have sex with you in exchange for that crack? That was your arrangement you had with her?
A. Yes, sir.
Q. You weren't going to have to pay her anymore money?
A. I gave her some money.
Q. All right. Now we're --
A. I gave her --
Q. -- getting there.
A. I gave her $10.
Q. $10?
A. She said she --
Q. You had sex four or five times?

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

A. [Indicates affirmatively]

[Whereupon, Mr. Kidd reviews documents]

MR. KIDD: I don't have any further questions.

THE COURT: Okay. Redirect?

MS. RUNEY: No, sir.

THE COURT: Okay. You may step down. Thank you very much. Mr. Gathers, you may step down.

[Whereupon, Mr. Gathers is excused and exits the witness stand]

THE COURT: Do you have any other witnesses?

MS. RUNEY: No, sir.

THE COURT: Can I see the attorneys up here just a second.

[Whereupon, an off-the-record bench conference is held]

THE COURT: All right. Madam Forelady --

One more thing. Let me ask the attorneys one more thing.

[Whereupon, an off-the-record bench conference is held]

THE COURT: Madam Forelady and ladies and gentlemen of the jury, we're going to break at this time. It's a little after 5:00. And if you'll be back in your jury room at ten o'clock in the morning, we'll get started at that time. I'll see you in the morning

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

at 10:00. Please don't discuss the case with anyone.

[Whereupon, the jury exits the courtroom at 5:03 p.m.]

THE COURT: All right. We'll adjourn. I'll see y'all in the morning at 9:30. We'll have an informal charge conference at that time.

[JURY TRIAL ADJOURNS AT 5:04 P.M.]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable J.C. Nicholson, Jr, on Wednesday, November 16, 2011.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 1st day of May, 2012.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2010-GS-10-6287

THE STATE OF SOUTH CAROLINA)
)
VS.)
)
GREGORY GATHERS,)
)
DEFENDANT.)
)

JURY TRIAL

VOLUME 4 OF 4

held before the Honorable J.C. Nicholson, Jr.

Mia Perron, Circuit Court Reporter, 9th Judicial Circuit

in the Charleston County Courthouse

Charleston, South Carolina

on Thursday, November 17, 2011, Commencing at 10:13 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

FORM C-100 LASER REPORTERS PAPER & MFG. CO. 800-626-8313

APPEARANCES OF COUNSEL

FOR THE STATE:

Edwards Kidd, Esquire
Adam D. Young, Esquire
Ninth Circuit Solicitor's Office
101 Meeting Street
Charleston, South Carolina 29401

FOR THE DEFENDANT:

Martha Kent Runey, Esquire
Ted Smith, Esquire
Charleston County Public Defender's Office
101 Meeting Street, Fifth Floor
Charleston, South Carolina 29402

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	490
CLOSING STATEMENT BY MR. KIDD	491
CLOSING ARGUMENT BY MS. RUNEY	500
CLOSING ARGUMENT BY MR. KIDD	508
CHARGE OF THE COURT	517
RENEWED MOTION FOR A DIRECTED VERDICT	538
VERDICT	545
POLLING OF THE JURY	547
SENTENCING OF MR. GATHERS	551
CERTIFICATE OF COURT REPORTER	565

EXHIBITS

[None]

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

PROCEEDINGS

[Whereupon, an off-the-record charge conference is held]

THE COURT: If you would bring us the jury, please.

[Whereupon, the jury enters the courtroom at 10:22 a.m.]

THE BAILIFF: All present, Your Honor.

THE COURT: Okay. Thank you very much.

Are you -- is the solicitor going to waive opening or --

MR. KIDD: I would like to open on the law, Your Honor.

THE COURT: Okay. All right.

MR. KIDD: May it please the Court?

THE COURT: Yes, sir.

MR. KIDD: Ms. Runey, Mr. Smith.

- - -

- - -

- - -

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

CLOSING STATEMENT

MR. KIDD: Ladies and gentlemen, this is my opportunity to discuss a little bit about the law that kind of governs the case that we have here in front of us this week.

Before I get started, I want to take a quick moment to thank you. I know jury service is burdensome. I know you all have places you had rather be, other demands on your time, and you've made a sacrifice to be here. And I want you to know that myself, my office, and, really, everyone in the courtroom, appreciates the sacrifices you made to be here.

But there are a few things that I do want to talk about with regard to the law in this case. There's a few issues, a few kind of legal terms, that I think need to be addressed just so you can kind of have thinking points as we start arguing about the facts.

The first is my burden of proof, which is reasonable doubt. I know it gets kicked around a lot. It's a term which there's a million definitions for. I try to mirror mine as close as the one the judge is going to charge you. And a lot of times, understanding reasonable doubt, the easiest way is to understand what it is not. Beyond a reasonable doubt does not mean

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

beyond all doubt. There are very few things in this world which are absolute certain.

And I do not have to prove to you beyond all doubt that the defendant is guilty. That's not my job. I have to prove to you each element of the offense beyond a reasonable doubt. And beyond a reasonable doubt is what leaves you firmly convinced. If you are firmly convinced of the defendant's guilt, then you must find him guilty. And that's what beyond a reasonable doubt is, that which leaves you firmly convinced.

Now, the charge that we're here for today is murder. The definition of murder is a little bit convoluted. But it is the killing of another with malice aforethought. So there's really sort of three things that make up what a murder is. The killing of another -- and that's really not in dispute here. It's really not at issue. So we have malice aforethought. So those -- malice aforethought is realty the issues that you're here to determine.

So what is malice aforethought? So let's break it down and first let's discuss what is malice. Well, there's different ways that you as a jury can find what malice is. We have express malice and then there's implied malice.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Express malice is a little bit rare. And we don't have it in this case. But express malice is when someone says, I'm going to kill you, and then takes a gun and kills somebody. The expression of that intent, the saying what he's going to do, the I'm going to kill you, that's express malice. It's the expression of that intent to do that harm. We don't have that here. And that's really kind of rare.

What we have is what we call implied malice. And implied malice is just as good as express malice, it's just different. It's a way through the defendant's actions and the things he does, based on those things you can imply or infer that he acted maliciously. And there's a number of ways in which you can find implied malice. One of the ways is through the use of a deadly weapon. A knife is a deadly weapon. And you'll get a judge charge you that fists, while ordinarily not deadly weapons, when used in a certain manner can be a deadly weapon.

And the use of a deadly weapon, fists as a deadly weapon, or a knife -- and a knife doesn't have to be what ultimately ends that person's life. But the use of a deadly weapon. From that you can infer or imply malice. So that's one of the ways that you can find that he acted maliciously.

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

Another way that you can find that he acted maliciously is through an intent to cause serious bodily injury. He doesn't have to act with the intent to kill the victim, but if he -- you find that he intended to cause her serious bodily injury, and through those actions, that can imply malice. So if you find that he intentionally acted to cause her serious injury, then you can imply that he acted maliciously.

And, finally, another way that you can imply malice is if he acted with a reckless disregard for human life or the safety of others. Just recklessly. If he acted so wanton and recklessly that it was a total disregard for human safety and human life, if you find that he acted in a behavior like that, you can imply malice from that behavior.

So those are about four separate ways that you can imply malice: from the use of his fists, from the use of a knife, from the attempt to cause serious bodily injury, or from reckless and wanton behavior, any one of those things. And we don't need all four. We only need you to find one. So if any one of you finds at least one of those things, you can imply malice. So that's the second part of murder. We have the unlawful killing with malice and then we have

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

malice aforethought.

So what is aforethought? Aforethought means that that manifestation of malice had to be present in the defendant at some time prior to his actions which caused the victim's death. It doesn't need to be there for any particular period of time. It can manifest the instant before her death or it can manifest hours or days before. But the reality of it is is that malice can manifest so quickly that in the time it takes for -- if he's just relaxed and cool as can be, with not an ill bone in his body. But the moment that he draws his fist back to strike a blow, in that amount of time that malice can manifest. And that is aforethought. All it takes is a split second for that malice to manifest itself. And that's what the definition requires, and that as soon as he draws his fist back to strike that blow, with that intent, with that malice, that is aforethought.

You're going to be charged in this case on what we call a lesser-included offense. A lesser-included offense is just -- it's voluntary manslaughter in this case. You're going to be charged on the law of voluntary manslaughter. Basically, voluntary manslaughter is murder without the malice, ultimately is what it is. But it means a lot to know exactly

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

where it came from and what it is.

Voluntary manslaughter originated when someone -- for -- to sort of lessen the degree of guilt on someone when they commit a murder or a killing and it's because they're in the heat of passion or they're so enraged and that's sort of -- they're so kind of worked up that it justifies what they did, to some extent. And it was originally kind of designed for the scenario when a husband comes home and finds his wife in bed with someone else and he's so mad and so enraged that he's incapable of cool reflection, and he loses his mind because he's so upset that he finds his wife in bed with another man when he comes home, and he kills her.

And so we have the law of voluntary manslaughter that says that upon an adequate legal provocation, is the kind of catchwords -- upon adequate legal provocation. Something that the law is going to say justifies someone to sort of lose control. And it says that upon that adequate legal provocation, someone acts out in the heat of passion, which would render the mind of an ordinary person incapable of cool reflection. An ordinary person incapable of cool reflection.

And I -- sometimes I take this too far. But an ordinary person. It's an objective standard, not a

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

subjective standard. And what that means is it's not what the defendant -- how the defendant would react or an intoxicated person would react under a certain scenario. It's how an ordinary reasonable person would react under a certain scenario. And when an ordinary, reasonable person under a certain scenario would be so enraged to lose control of themselves, then under that scenario, if they're provoked by adequate legal provocation, then voluntary manslaughter would apply.

And on top of that -- although I don't think it's necessarily too applicable in this case, you need all that and you couldn't have had sufficient time to cool. So even if you have those first prongs of voluntary manslaughter, adequate legal provocation, heat of passion, if the defendant would have had sufficient time to cool to gather his composure, then voluntary manslaughter wouldn't be available --

So those are the two options that you're really going to have as jurors. You can find him guilty of murder, guilty of voluntary manslaughter, or not guilty. So I guess you have three options.

One other concept I want you to think about -- and the judge will charge you this, also -- is the idea of what voluntary intoxication means in the context of our legal world. And voluntary intoxication is no

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

excuse or justification for any criminal act. You know, in the job that I do, if being on drugs or drunk or something like that excused criminal behavior, then we wouldn't have any criminal cases. It is not an excuse and it does not dissolve a defendant of any criminal responsibility whatsoever. So the fact that someone is intoxicated is not an issue.

Finally, I want to talk a little bit about sympathies, sympathies and sentencing and wondering about these sort of questions, which are natural questions for you to wonder and for you to ask. But they really have no place in jury deliberation. Your job, as the fact finders, is to determine what happened. It's not to feel sorry for anybody. It's not to listen in mitigation, because that's really for Judge Nicholson to consider when he -- once you determine the facts, and actually what happened, and then Judge Nicholson takes that sympathy and he takes that mitigation evidence and he uses that to pass what should be an appropriate sentence.

Because, ultimately, sentencing is up to the judge and it's really not for you to consider. You just consider what happened. You determine the acts. And as you determine the facts, no one can then question what you decide actually happened. What you

FORM C-100 · LASER REPORTERS PAPER & MFG. CO. 800-626-6313

decide happened that day is what happened that day in the eyes of the law.

And I'm not going to speak much further on the law but I do want you to know that just as you're the judge of the facts, Judge Nicholson is the judge of the law and if there is any point which I have told you or tried to explain a legal concept to you and it differs in any way than Judge Nicholson charges you, I defer to him. He is the authority on the law. So if I've made a mistake somehow or explained something incorrectly, he is the authority on the law and you must follow the law as he charges it to you, not as I charge it to you. I try to explain it to you as best I can to help maybe put in some context other than the way he does. But he is the authority on the law and I defer to him.

At this point I'm going to sit down. I want you to listen carefully to the defense counsel's arguments and then I'm going to have one more last opportunity to come up and address some of the facts with you and -- before you begin your deliberations. So I appreciate your time. And please listen to Ms. Runey.

THE COURT: Yes, ma'am.

- - -

- - -

- - -

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

CLOSING ARGUMENT

MS. RUNEY: It's not that complicated. As I told you from the beginning, this is not a whodunit. And you have now heard from Mr. Gathers himself exactly what happened that night. He's not proud of what happened. In fact, he's sad. He's distraught about it.

I'm sure that the solicitor would like you to believe that Gregory is simply protecting himself. But that is not the case. Gregory cooperated with the police from the beginning. He told the investigators what happened. He told Officer Bauer, when he approached him on Gumwood, I'm the man you're looking for; I F'd up. This is not someone who is a murderer.

Gregory called his brother and his father and he asked them to go over there and check on Ms. Nevarez, help her, she was hurt. He didn't know that she had died. Murderers don't do that.

And at City Hall, Gregory gave detectives a statement. He was crying. He was mumbling. And he kept asking if Ms. Nevarez was okay. Not only was he upset, he was drunk and he was high.

Detective Holt told you that Gregory told them how much crack they had smoked. And he never tried to stop the interview. Greg was sitting in an interview

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

room, handcuffed to a chair. He was in custody. They could have stopped the interview and waited, waited until he sobered up, but they didn't.

He also told -- Detective Holt also told you that he had to change the form of the interview, correct, because Greg blurted out what had happened. And he was crying and he was so upset that he had to change the form by asking him questions and Greg would simply answer the questions. And you'll have that statement back there with you. They're short questions and fairly short answers.

He told the officers the truth but he didn't give all the details, which he should have. He answered that he hit her and that he tried -- and that she tried to pull a knife on him and she -- and he had to wrestle her to get the knife away.

He wasn't able to concentrate and give all of the details of what happened. At the end of the interview, Detective Holt asked him is there anything else that you would like to add, and all he could do was mumble and put his head down and say, I'm sorry, I'm sorry, I'm sorry; I'm sorry for her family; I'm sorry for my family.

Gregory Gathers didn't come in here to testify to protect himself. He didn't come in here to make

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

himself look good. In fact, he admitted to a lot of bad things. And you probably don't agree with his behavior that night. He got really drunk, hanging out with his friends, smoking marijuana. He goes to the bus stop, he meets Ms. Nevarez, and instead of going home to his girlfriend where he should have gone, he traded drugs for sex. He smoked a lot of crack. And he slapped and hit Ms. Nevarez and he pulled her by her hair. And he also should have called EMS or called 911 when she fell to the ground. And as I told you from the beginning, Gregory Gathers made bad decisions, bad decisions that don't make a murderer.

This is not a court of morality. And the solicitor wanted to make Greg look like a woman-hater to pretend it's about something else. And that's not what this is about. It's really not about drugs, it's not about prostitution, and it's not about hating women.

Gregory should not have fought with her in the bedroom. He shouldn't have pulled her by her hair down the hall. But when Renee Nevarez pulled a knife on Gregory Gathers, what else was he supposed to do? He had to react immediately. This could have easily gone the other way. She could have easily have stabbed him. It doesn't matter if you are bigger than someone when

FORM C-100 - LASER REPORTERS PAPER & MFG. CO. 800-626-6313