

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Spartanburg County

Deadra L. Jefferson, Circuit Court Judge

S.C. SUPREME COURT

NORMAN STOUDEMIRE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001311

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Norman Eugene Stoudenmire,) 2008-GS-42-7014
6 Defendant.) March 29 - 31, 2010
7 Spartanburg, South Carolina

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9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury

12
13
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Jury qualification

1 (Proceedings March 29, 2010)

2 THE COURT: Any matters we need to address prior to
3 jury selection?

4 MS. POULOS: Yes, sir, Your Honor.

5 THE COURT: All right. Are we ready for the jury
6 panel?

7 MR. GRAY: Yes, sir, Your Honor.

8 MR. HALL: Yes, sir.

9 I have one witness who I will bring in who is already
10 here so that she will be here so the panel can see her.

11 We have another one with a small child that I'm not
12 going to bring in yet, but she will be out here just in
13 case.

14 THE COURT: Okay.

15 MR. HALL: Your Honor, I have seen the state's voir
16 dire request.

17 The only addition I would have is we would ask if
18 they've been charged with or friends or family been charged
19 with, and we would ask if any victims, Your Honor, also in
20 the questions about crimes of violence.

21 THE COURT: All right.

22 MR. GRAY: No objection from the state, Your Honor.

23 (The following takes place in the presence of the jury
24 venire.)

25 THE COURT: Ladies and gentlemen, we are ready to

Jury qualification

1 begin with jury selection in the first case that's going to
2 require some of your participation. And the title of the
3 case is the State vs. Norman Eugene Stoudenmire.

4 Mr. Stoudenmire has been accused by the state of
5 having committed the crime of murder. The state alleges by
6 way of the indictment -- and the indictment is this
7 document that I'm holding in my hand.

8 It's not evidence of anything; it's not proof of
9 anything; but it is the means by which any person accused
10 of a crime is brought into this court to stand trial on
11 that particular charge.

12 This indictment alleges that Norman Eugene Stoudenmire
13 did here in Spartanburg County on or about February the
14 23rd of 2008 wilfully and with malice aforethought kill one
15 Gwendolyn Emory by stabbing her and that she died as a
16 proximate result of that wound.

17 As to those allegations and as to that charge the
18 defendant has entered a plea of not guilty. A plea of not
19 guilty places upon the state, because they have brought the
20 accusation, to establish the allegations that they have set
21 forth in the indictment, to prove each of the essential
22 elements of the crime alleged; and therefore the burden is
23 upon the state through the prosecutor to establish the
24 defendant's guilt to the satisfaction of 12 jurors beyond a
25 reasonable doubt before a verdict of guilty can be returned

Jury qualification

1 in any case.

2 So we're going to be selecting 13 of you to
3 participate in this trial. There'll be 12 primary jurors,
4 and one additional juror is to be selected to serve as an
5 alternate in the event one of the original 12 cannot
6 continue to serve for some reason during the trial.

7 But by way of your participation you're simply going
8 to be called upon to listen carefully to testimony and
9 consider other evidence that might be introduced.

10 At the trial's conclusion you'll be called upon to
11 evaluate all of that testimony, carefully examine all of
12 the evidence. From that evidence you'll determine the
13 facts. Upon determining the facts you'll apply the law
14 that I will have provided you, and the jury will determine
15 whether or not the defendant's guilt has been proven beyond
16 a reasonable doubt.

17 If it has, then the verdict would be guilty; and if it
18 has not, then the verdict would be not guilty.

19 So prior to the selection of those 13 that will
20 participate I've got some questions to ask you. And the
21 purpose of these questions is to determine if there is some
22 reason why any juror should not be selected to participate
23 in the trial of this particular case, in other words, do
24 you have a reason why you could not be fair and impartial
25 if called upon to decide this particular case.

Jury qualification

1 And so as these questions are asked where they apply
2 to you, I'll ask that you please stand. And I'll address
3 those matters with you individually in the event that that
4 should become necessary.

5 Now, as I told you, the defendant, that is the person
6 who is accused of having committed the crime, is Norman
7 Eugene Stoudenmire.

8 Mr. Stoudenmire, if you will, please stand and face
9 the jury panel so that they may see who you are.

10 (Whereupon, the defendant and Mr. Hall stood.)

11 THE COURT: This is -- Mr. Stoudenmire is the person
12 standing to your left. The person standing to your right
13 is Robert Hall. That's Mr. Stoudenmire's lawyer. He'll be
14 assisting him in the trial of the case.

15 In this case, as I've told you, the person who is
16 alleged to have been the victim of this particular event is
17 Gwendolyn Emory. And some of Ms. Emory's relatives are
18 present.

19 And I'll ask them, if you will, please, to stand and
20 face the jury panel so that they can see who you are. And
21 if they know you they may have some knowledge of Gwendolyn
22 Emory.

23 (Whereupon, the victim's family stood.)

24 THE COURT: Thank you. Be seated.

25 Representing the defendant, as I told you, is Robert

Jury qualification

1 Hall. Mr. Hall is employed in the 7th Judicial Circuit
2 Public Defender's Office. He is employed in the
3 Spartanburg office.

4 Presenting the case on behalf of the state are Abel
5 Gray and Timi Poulos. They are each assistant circuit
6 solicitors for the 7th Judicial Circuit both working here
7 in Spartanburg.

8 Potential witnesses to be called in the trial of the
9 case -- and the reason that I'm introducing these people to
10 you is because when I get through I'm going to ask if any
11 juror is related by blood or marriage to any person who has
12 been identified, or whether you have some business, social,
13 personal, professional relationship with any person who has
14 been identified, or whether you've met them, you know them
15 from somewhere, whether or not you have a personal
16 relationship or not.

17 That would also apply to any person who is being
18 identified or any members of their families. If you happen
19 to know a family member of any person who is being
20 identified, then I'll need you to stand also so that we can
21 identify what that relationship is and whether or not it
22 would have any impact upon your decision in the case.

23 So, again, those who have been identified are the
24 defendant, Mr. Stoudenmire, and Mr. Hall, his lawyer.

25 Gwendolyn Emory is the person alleged to be the

Jury qualification

1 victim. You've seen her family members. And Mr. Gray and
2 Ms. Poulos from the solicitor's office.

3 And in addition to those I also have potential
4 witnesses which include -- about 21 persons are employed
5 with the sheriff's department. I'm going to recite a list
6 of them first. So each of these persons I'm identifying
7 now are employed with the Spartanburg County Sheriff's
8 Department.

9 They include Eric Babb; Marc Finley; Jason Bryant;
10 Chris Durham; Todd Ruffner; Allen Wood; Megan Burrell;
11 David Taylor; William Gary; Mike Gabriel; Matt Wilde;
12 George Balderama; Lindsey McGraw; Sean Nix; Hugh Murphy;
13 Robert Talanges; David Hogsed; Tim Davis; Dominick Baird;
14 Stephen Lully; Dwayne Corn. Excuse me. Stephen Lully and
15 Dwayne Corn are both employed in the coroner's office.

16 Additional sheriff's department employees are Jack
17 Westmoreland, Tom Smith and Robert Rosenberg.

18 Also, Randy Bogan with the coroner's office; Koranda
19 Williams from the state law enforcement division, commonly
20 known as SLED; Tracy McKinnon from the state law
21 enforcement division; Lindsay Thompson from the state law
22 enforcement division; John David Wren, pathologist,
23 Spartanburg Regional Medical Center; Nikki Perry with the
24 state law enforcement division; Shamika Sanders, formerly
25 employed at the Spartanburg County Sheriff's Department;

Jury qualification

1 Danny Morgan; Phyllis Pack; John Glenn; Ben Nevins; Hillard
2 Lee Walker; David Ravan with the Spartanburg County
3 Emergency Medical Services; and Kim Young, also Spartanburg
4 County Emergency Medical Services.

5 Further, we have Dena Crump of Simpsonville; Amy
6 Johnson of Laurens; Ricky Dyer of Piedmont; Lynn Jenkins of
7 Clinton; John and Angela Glenn, who I think have already
8 been identified, or at least John has, from Enoree; Leroy
9 and Jean Neese from Greenville; Daniel Swad with the
10 sheriff's department; Clyde Pennington from Laurens; and
11 Caroline Duffy from Spartanburg at the -- now employed at
12 the detention facility.

13 Are there any other additional witnesses to be called
14 by the state?

15 MR. GRAY: Just you mentioned her name already --
16 Ms. Glenn.

17 THE COURT: All right. Any others on behalf of the
18 defendant?

19 MR. HALL: None from the defense, Your Honor.

20 THE COURT: Okay. Now, does any member of the jury
21 panel know any person who has been identified for your
22 benefit, introduced, present or not present?

23 Those persons who I've identified by name, please
24 stand if you know them. And if you know somebody who has
25 that name but you're not sure if it was the same person or

Jury qualification

1 not, let me know of that fact too so that we can try to
2 narrow down the identification of those persons for your
3 benefit and in order for us to determine any relationship.

4 And while we're on that point I need to know if any
5 juror knows of any person who is employed in the
6 7th Judicial Circuit Solicitor's Office or the 7th Judicial
7 Circuit Public Defender's Office.

8 All right. Everybody standing now that needs to
9 respond to that question?

10 All right. I'm going to start, sir.

11 UNIDENTIFIED JUROR: I'm sorry. Go ahead.

12 THE COURT: What?

13 UNIDENTIFIED JUROR: I was kind of confused on that
14 name, one name.

15 THE COURT: Okay. Tell me what name.

16 UNIDENTIFIED JUROR: Danny Morgan.

17 THE COURT: Danny Morgan.

18 All right. Is Mr. Morgan employed at the sheriff's
19 department?

20 MR. GRAY: He used to be, Your Honor. He used to be
21 the operator of the lie detector. He used to run the
22 polygraph for the sheriff's department. He no longer works
23 there now.

24 THE COURT: He's not employed at the sheriff's
25 department. Okay. He used to be employed with the

Jury qualification

1 Spartanburg County Sheriff's Department. He no longer is.

2 UNIDENTIFIED JUROR: Okay. This one is --

3 THE COURT: Sir?

4 UNIDENTIFIED JUROR: That's not the same one.

5 THE COURT: That's not the one you know. Okay. Thank
6 you.

7 All right. I'll start with the lady on the front row,
8 and then I'll get the two gentlemen on my right. And then
9 I'll work back to my left.

10 Yes, ma'am. If you will, give me your name and your
11 number, please. And then tell me how that question relates
12 to you.

13 JUROR NO. 37: No. 37, Betty Compton. And Ricky Dyer.
14 I believe you mentioned that person.

15 THE COURT: From Piedmont, South Carolina.

16 JUROR NO. 37: Yes. Now, my husband is related to a
17 Ricky Dyer from Simpsonville. I just wanted to make sure
18 that's cleared up.

19 THE COURT: Well, I'm not sure of that, but that's
20 getting close to Piedmont.

21 Is Mr. Dire present?

22 MR. HALL: No, sir, he's not present.

23 JUROR NO. 37: I do not know the person really that
24 well or anything like that. I just remembered the name.

25 THE COURT: Well, let's do this. Let's assume for the

Jury qualification

1 purpose of this inquiry that that is the same person that
2 your husband is related to.

3 Would that fact if true have any impact whatsoever
4 upon your decision in this case if you were selected to
5 serve as a juror?

6 JUROR NO. 37: No, sir.

7 THE COURT: Thank you. You may be seated.

8 All right. Gentlemen, next, either one.

9 JUROR NO. 151: Danny Morgan. I attended a class or
10 two with him at U. S. C. Spartanburg. We were friendly,
11 but we haven't spoken in many years.

12 THE COURT: All right. And tell me your name and
13 number, please.

14 JUROR NO. 151: Joaquin Romero, Juror 151.

15 THE COURT: All right. Would that have any bearing
16 upon your decision in this case?

17 JUROR NO. 151: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, sir.

20 JUROR NO. 62: Ken Gilbert, Juror 62. In reference to
21 Oppy Taylor, David Taylor, excuse me, Spartanburg County
22 Sheriff's Office.

23 THE COURT: How do you know Mr. Taylor?

24 JUROR NO. 62: I've been friends with him for years.
25 My wife has been friends with his family for over 20 years.

Jury qualification

1 THE COURT: And would that have any bearing upon your
2 decision in this case?

3 JUROR NO. 62: Try not to, sir.

4 THE COURT: Do you think you could put aside that
5 relationship and not let it influence your judgment, or do
6 you think it might be too difficult?

7 JUROR NO. 62: I'm afraid it might just for the simple
8 reason I have family in law enforcement also.

9 THE COURT: All right. We'll excuse Juror 62 from
10 service in the case. But don't leave yet.

11 JUROR NO. 62: Okay.

12 THE COURT: All right. Gentleman in the burgundy.

13 JUROR No. 20: John Brooks, Juror No. 20. About 20
14 years ago I was introduced to Dr. John Wren, the
15 pathologist.

16 THE COURT: And would it have any bearing upon your
17 decision?

18 JUROR No. 20: I don't believe so.

19 THE COURT: Thank you. Be seated.

20 Yes, ma'am.

21 JUROR No. 156: Kim Schmidtke, Juror No. 156. And I'm
22 friends with Sean Nix and his spouse.

23 THE COURT: And would that have any bearing upon your
24 decision in this case?

25 JUROR No. 156: No, sir.

Jury qualification

1 THE COURT: Thank you. You may be seated.

2 Anyone else know any person who has been identified?

3 (No response.)

4 THE COURT: Does any member of the jury panel believe
5 that you have heard, seen or read anything about the
6 circumstances that might relate to this particular case?

7 In other words, do you believe you have been exposed
8 to any information about this case from any person or any
9 other source? If so, please stand.

10 (No response.)

11 THE COURT: Is there anything about the nature of the
12 case itself, that is -- I know you don't know anything in
13 detail about the case. I did read the indictment to you.

14 You understand the defendant is charged with murder in
15 the death of another person. Is there anything about the
16 nature of this case that would prevent any juror from being
17 able to be fair and impartial to both sides if you were
18 called upon to serve in the case? If so, please stand.

19 (No response.)

20 THE COURT: Has any member of the jury panel or any
21 member of your immediate families -- and let's identify an
22 immediate family member as a parent, a spouse, a child or a
23 sibling -- a parent, spouse, child or sibling. Have you or
24 any members of your immediate family as I just defined it
25 ever been the victim of or ever been accused of having

Jury qualification

1 committed any type of violent crime?

2 And we'll describe violent crimes as those which would
3 include the offenses of murder, manslaughter, burglary,
4 armed robbery, criminal sexual conduct, criminal domestic
5 violence of a high and aggravated nature or any other
6 similar type of an offense.

7 I need to know if you or a family member has ever been
8 the victim of such an offense or ever been accused of
9 having committed any such offenses. If so, please stand.

10 JUROR No. 30: Greer Casey, Juror No. 30. My son is
11 incarcerated.

12 THE COURT: And what was the nature of that offense?

13 JUROR No. 30: Armed robbery.

14 THE COURT: All right. And is there anything about
15 that fact or circumstance that would affect your judgment
16 in this case?

17 JUROR No. 30: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, sir.

20 JUROR No. 125: I'm Juror 125, Leslie Moss. My father
21 was murdered in '78.

22 THE COURT: And was that here in Spartanburg or
23 somewhere else?

24 JUROR No. 125: Yes, sir, here.

25 THE COURT: And was someone charged in that --

Jury qualification

1 JUROR No. 125: Yes, sir.

2 THE COURT: -- crime? And has that case been
3 resolved?

4 JUROR No. 125: It has.

5 THE COURT: And is there anything about that
6 particular experience or circumstance that would have any
7 impact upon your decision in this case?

8 JUROR No. 125: No, sir.

9 THE COURT: All right. Thank you. You may be seated.
10 Yes, ma'am.

11 JUROR No. 109: I'm Valorie Malpica, Juror 109. My
12 father was charged of sexual misconduct, criminal domestic
13 violence and quite a few other things that fall on your
14 list.

15 THE COURT: All right. And would any of those facts
16 have any bearing upon your decision in this case?

17 JUROR No. 109: I might be a little standoffish due to
18 some of the facts that pertained to him that's in the case.

19 THE COURT: All right. Well, do you think that it
20 would influence your judgment, or could you put it aside
21 and not allow it to affect your decision?

22 JUROR No. 109: It might influence me.

23 THE COURT: You think that it reasonably might?

24 JUROR No. 109: Yeah.

25 THE COURT: All right. Well, we'll excuse you from

Jury qualification

1 service then.

2 That's Juror 109.

3 All right. Don't leave yet.

4 Yes, sir.

5 JUROR No. 106: Dan Lingevitch, 106. About over ten
6 years ago my wife and I had a situation. Police were
7 called and it was resolved.

8 THE COURT: And was somebody the victim of some
9 offense or charged with some offense?

10 JUROR No. 106: Nobody was charged. I was the victim.

11 THE COURT: Okay. Would that have any bearing upon
12 your decision in this case?

13 JUROR No. 106: No, sir.

14 THE COURT: Thank you. You may be seated.

15 JUROR No. 156: Your Honor, could I speak to you
16 privately for a moment?

17 THE COURT: Yes. You are Juror 156.

18 JUROR No. 156: 156, yes, sir.

19 (Bench conference held off the record with Juror No.
20 156 with counsel present.)

21 THE COURT: Has any member of the jury panel already
22 made up your mind or formed an opinion as how you think the
23 case ought to be decided based upon what you've heard up to
24 this point or based upon any other consideration? Have you
25 already formed an opinion as to the outcome? If so, please

Jury qualification

1 stand.

2 (No response.)

3 THE COURT: Does any juror know of any reason
4 whatsoever why you believe you could not be fair and
5 impartial if called upon to serve as a juror in this
6 particular case? If so, please stand.

7 (No response.)

8 THE COURT: Any other questions requested by the
9 state?

10 MR. GRAY: None, Your Honor.

11 THE COURT: By the defendant?

12 MR. HALL: None from the defense, Your Honor.

13 THE COURT: Okay. As your names are called you'll be
14 asked to come forward.

15 If you're towards the center aisle you can just come
16 up the center aisle. And when you get to the desks where
17 the lawyers are -- or the tables where the lawyers are
18 seated, if you'll take about two paces towards me and stop
19 and turn around and face your fellow jurors, each side has
20 an opportunity to have you seated for service in the case
21 or have you excused from service in the case.

22 If either side asks that you be excused you can simply
23 go back and have a seat where you are now. If both agree
24 to have you seated for service in the case, then you'll be
25 having a seat in the jury box to your right and to my left.

Jury qualification

1 So if you'll please simply come forward as your name
2 is called you'll be instructed if you're to be seated for
3 service in the case or excused from service in the case.

4 And I'll say this too. If you're closer to the wall
5 than you are to the center you can simply come around the
6 tables where the lawyers are seated and take your position
7 there in front of me.

8 Okay. All right.

9 THE CLERK: Juror No. 95, Kenneth Jones.
10 What say the state?

11 MR. GRAY: Please present the juror.

12 THE CLERK: What say the defense?

13 MR. HALL: Please seat the juror.

14 THE CLERK: Juror No. 63, Rory Gilliam.
15 What say the state?

16 MR. GRAY: Please excuse the juror.

17 THE CLERK: Juror No. 149, Debra Rogers.
18 What say the state?

19 MR. GRAY: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. HALL: Please excuse the juror from the trial of
22 this case.

23 THE CLERK: Juror No. 181, Charles West.
24 What say the state?

25 MR. GRAY: Please present the juror.

Jury qualification

1 THE CLERK: What say the defense?
2 MR. HALL: Please seat the juror.
3 THE CLERK: Juror No. 30, Greer Casey.
4 What say the state?
5 MR. GRAY: Please excuse the juror.
6 THE CLERK: Juror No. 37, Betty Compton.
7 What say the state?
8 MR. GRAY: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. HALL: Please seat the juror.
11 THE CLERK: Juror No. 48, Todd Duck.
12 What say the state?
13 MR. GRAY: Please present the juror.
14 THE CLERK: What say the defense?
15 MR. HALL: Please seat the juror.
16 THE CLERK: Juror No. 78, James Hawkins.
17 What say the state?
18 MR. GRAY: Please present the juror.
19 THE CLERK: What say the defense?
20 MR. HALL: Please swear the juror.
21 THE CLERK: Juror 157, Baktawar Singh.
22 What say the state?
23 MR. GRAY: Please present the juror.
24 THE CLERK: What say the defense?
25 MR. HALL: Please swear the juror.

Jury qualification

1 THE CLERK: Juror 151, Joaquin Romero.
2 What say the state?
3 MR. GRAY: Please present the juror.
4 THE CLERK: What say the defense?
5 MR. HALL: Please swear the juror.
6 THE CLERK: Juror No. 69, Michael Hall.
7 What say the state?
8 MR. GRAY: Please excuse the juror.
9 THE CLERK: Juror No. 35, Leslee Cole.
10 What say the state?
11 MR. GRAY: Please present the juror.
12 THE CLERK: What say the defense?
13 MR. HALL: Please excuse the juror from the trial of
14 this case.
15 THE CLERK: Juror 125, Leslie Moss.
16 What say the state?
17 MR. GRAY: Please present the juror.
18 THE CLERK: What say the defense?
19 MR. HALL: Please excuse the juror from the trial of
20 this case.
21 THE CLERK: Juror No. 65, Stephoni Gist.
22 What say the state?
23 MR. GRAY: Please seat the juror.
24 THE CLERK: What say the defense?
25 MR. HALL: Please swear the juror.

Jury qualification

1 THE CLERK: Juror No. 178, Nathan Wallace.

2 What say the state?

3 MR. GRAY: Please present the juror.

4 THE CLERK: What say the defense?

5 MR. HALL: Please swear the juror.

6 THE CLERK: Juror No. 31, Charles Clayton.

7 What say the state?

8 MR. GRAY: Please excuse the juror.

9 THE CLERK: Juror No. 47, Beth Doughty.

10 What say the state?

11 MR. GRAY: Please present the juror.

12 THE CLERK: What say the defense?

13 MR. HALL: Please swear the juror.

14 THE CLERK: Juror No. 182, Robert Widener.

15 What say the state?

16 MR. GRAY: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. HALL: Please swear the juror.

19 THE CLERK: Juror No. 136, Kimberly McConey --

20 McConnell.

21 What say the state?

22 MR. GRAY: Please present the juror.

23 THE CLERK: What say the defense?

24 MR. HALL: Please swear the juror.

25 THE CLERK: This will be for the alternate.

Jury qualification

1 Juror No. 154, Corey Sanders.

2 What say the state?

3 MR. GRAY: Please present the juror.

4 THE CLERK: What say the defense?

5 MR. HALL: Please swear the juror.

6 THE COURT: Those selected, I'll ask you to please go
7 with a bailiff to a jury room, and I will bring you back in
8 just a few minutes.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Are there any matters that need to be
12 addressed regarding jury selection by the state?

13 MR. GRAY: No, sir, Your Honor.

14 THE COURT: By the defendant?

15 MR. HALL: None, Your Honor.

16 (Whereupon, the remaining members of the jury venire
17 were excused.)

18 THE COURT: All right. Bring the jury back, please.

19 (The following takes place in the presence of the
20 jury.)

21 THE COURT: Ladies and gentlemen, I've got some
22 matters I'll need to address before we can actually begin
23 the trial of the case. And it's a convenient time for us
24 allow you to go to lunch.

25 So we'll recess for your benefit for the lunchtime.

1 We will resume this afternoon with the beginning of the
2 trial at 2:30. We should have all our matters, other
3 matters, resolved by then.

4 So right now you're going to be excused for lunch.
5 I'm going to ask that you please report back to the jury
6 room that you've just been introduced to after your
7 selection. Report back there at 2:30 this afternoon,
8 2:30 this afternoon.

9 Keep in mind now that you have been selected in a case
10 you are never under any circumstances permitted to talk
11 about this case in any fashion whatsoever with any person
12 whatsoever. That includes your fellow jurors.

13 You're only permitted to talk about this case when you
14 are engaged in jury deliberations, and that won't be until
15 the end of the trial after all of the evidence has been
16 received and I have instructed you on the law that is
17 applicable and you've been asked to begin your discussions
18 about the case.

19 Now, after you reach a decision in a given case you
20 can talk about it as much or as little as you want to to as
21 many or as few as you'd like.

22 But until you have reached a decision you are not
23 permitted to talk about the case in any way whatsoever, in
24 any fashion whatsoever, including discussions with your
25 fellow jurors. That can only take place during jury

1 deliberations after you have been instructed to do so.

2 Also, you are never permitted to engage in any
3 research or do any type of investigation into the case that
4 you might be involved in. So no computer search, no books,
5 no newspapers, no anything. You can't research or
6 investigate any issue that arises.

7 Your decision, whatever that decision is, has to be
8 based solely upon what you see and hear during the trial of
9 the case. You can't supplement your knowledge by
10 conducting any outside research or discussing the case with
11 other people.

12 Okay. So with those cautions in mind do have a good
13 lunch, and please report to your jury room at 2:30 this
14 afternoon, 2:30 this afternoon. Have a good lunch.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: All right. Mr. Hall, I understand that
18 you have filed or are making a motion for the Court to
19 suppress a statement given by your client to law
20 enforcement pursuant to their investigation of this case.

21 MR. HALL: Yes, sir, that's correct, the statement
22 made during the -- after the arrest during the
23 interrogation on February the 29th of 2008 at the
24 Spartanburg County Sheriff's Department.

25 It's based on my client asserting his right to have

1 counsel, when the attorney got there, and that the attorney
2 was there, and the duration of the interrogation while his
3 attorney sat there waiting to talk to him and he asked to
4 speak to his attorney but he was not afforded that
5 opportunity even though he asked.

6 And I think the attorney never got to speak to him.
7 And I have Mr. Pennington here who was representing him at
8 the time about that, and so I would ask -- I think it would
9 be appropriate given some of the issues that we have the
10 witnesses be sequestered in this matter, Your Honor.

11 THE COURT: All right. Who are the witnesses to be
12 called on the motion?

13 MR. GRAY: On the motion, Your Honor, it will be
14 Detective Jason Bryant and Detective Todd Ruffner.

15 THE COURT: All right. Bryant and Ruffner?

16 MR. GRAY: Yes, sir, Your Honor.

17 THE COURT: Okay. Which one is first?

18 MR. GRAY: Detective Bryant.

19 THE COURT: All right. Ruffner, if you will, step
20 outside, please, sir.

21 (Whereupon, the witness was excused.)

22 THE COURT: Mr. Bryant is the first witness?

23 Who are the witnesses you're calling, Mr. Hall?

24 MR. HALL: We have Mr. Pennington, Dena Crump, Amy
25 Johnson, Dan Swad and Ms. Caroline Duffy from the jail.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 THE COURT: Okay. All right.

2 Mr. Gray.

3 MR. GRAY: Thank you. The state calls Detective
4 Bryant.

5 JASON BRYANT, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. GRAY

8 MR. GRAY: May it please the Court, Your Honor.

9 THE COURT: Yes, sir.

10 Q Please state your name and occupation.

11 A My name is Jason Bryant, and I'm with the Spartanburg
12 County Sheriff's Office.

13 Q How long have you been employed there?

14 A Since 1996.

15 Q Have you ever had any law enforcement experience
16 before that?

17 A No, sir.

18 Q What are your present duties?

19 A I'm a violent crimes investigator and a polygraph
20 examiner.

21 Q Now, as part of your duties are you familiar with the
22 so-called Miranda warnings?

23 A I am.

24 Q Now, on January 20, excuse me, February the 24th of
25 2008 were you called to investigate a murder?

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 A I was.

2 Q Where did that murder occur?

3 A [REDACTED]

4 Q As a result of that murder I believe you became the
5 lead investigator.

6 A That is correct.

7 Q As a result of your investigation did you develop a
8 potential suspect?

9 A I did.

10 Q Was one of these suspects Mr. Norman Stoudenmire?

11 A It was.

12 Q And at that time you were still an investigator with
13 the Spartanburg County Sheriff's Office.

14 A That's correct.

15 Q Investigating violent crimes.

16 A Correct.

17 Q Now, when you became involved with this on
18 February the 24th did you do an interview with
19 Mr. Stoudenmire on that day?

20 A I did not.

21 Q When did you finally have an opportunity to interview
22 Mr. Stoudenmire?

23 A It was on February the 29th of 2008 that I performed
24 the interview of Mr. Stoudenmire.

25 Q Now, before performing this interview did you advise

Jason Bryant (In-camera)
Direct examination by Mr. Gray

- 1 Mr. Stoudenmire of his Miranda rights?
- 2 A Prior to this interview?
- 3 Q Yes, sir.
- 4 A That is correct.
- 5 Q What time did this interview begin?
- 6 A We met with Mr. Stoudenmire at No. 9 Springside Avenue
- 7 in Greenville. And at that time at about 11:50 a.m. once
- 8 the approach was made he was in my patrol car, and I
- 9 advised him of his rights from a pocket card that I carry
- 10 in my pocket.
- 11 Q And what was the date of that?
- 12 A That was also on the 29th.
- 13 Q February the 29th of 2008.
- 14 A That's correct.
- 15 Q Now, at that time when you advised him of his rights
- 16 did he seem to understand all of his Miranda rights?
- 17 A Absolutely.
- 18 Q And this pocket card, did it go through every Miranda
- 19 right?
- 20 A It did.
- 21 Q And what are those?
- 22 A I'm going to read them from the card that I had that
- 23 day.
- 24 Q Thank you, sir.
- 25 A And it's from the pocket card that I carry, and it's

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 the suspect's Miranda rights.

2 "You have the right to remain silent. Anything you
3 say can and will be used against you in a court of law.
4 You have the right to talk to an attorney and have him or
5 her present with you while you're being questioned. If you
6 cannot afford to hire an attorney one will be appointed to
7 represent you before any questioning if you wish. You can
8 decide at any time to exercise these rights and not answer
9 any questions or make any statements. Do you understand
10 each of these rights as I have explained to you, and then
11 having these rights in mind do you wish to talk to us now?"

12 Q Now, at this time is when you did the pocket card.

13 A Correct.

14 Q Why didn't you wait until you got to your destination
15 to do this Miranda warning?

16 A At that time he was in custody.

17 Q Did you want to talk to him at that time?

18 A Exactly.

19 Q Did he indicate he understood these Miranda warnings?

20 A He did understand these Miranda warnings.

21 Q At that time did he ask for an attorney or say he did
22 not wish to speak to you?

23 A Not at all.

24 Q Who else was present during these Miranda warnings?

25 A Investigator Todd Ruffner.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 Q Was he also present during the discussion or interview
2 with Mr. Stoudenmire?

3 A He was.

4 Q Was this interview taken in your car only?

5 A No, sir. We spoke briefly on the way to the sheriff's
6 office in my patrol car, and then the interview
7 subsequently in the interview room at the sheriff's office
8 continued.

9 Q Now, you went straight from his arrest in Greenville
10 to the sheriff's office, Greenville County, excuse me, to
11 the sheriff's office.

12 A That's correct.

13 Q That's when the interview continued?

14 A That's correct.

15 Q At that time did Mr. Stoudenmire ever say he wanted an
16 attorney?

17 A Not at all.

18 Q Did he ever indicate that he had an attorney?

19 A No.

20 Q Did he ever indicate any discomfort with you?

21 A Not at all.

22 Q Did he indicate any problems he was having
23 communicating with you?

24 A Not at all.

25 Q Did he appear to be under the influence of anything?

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 A Nothing at all.

2 Q Now, how long did this interview last with
3 Mr. Stoudenmire at the sheriff's department?

4 A We picked him up at approximately 11:50 a.m. We
5 arrived at the sheriff's office at about 12:30 a.m. and
6 roughly -- and I can't swear to the exact time, but the
7 interview ceased at around 8:00-8:30 p.m. He was able to
8 call his sister and then was transported to the jail.

9 Q You allowed him to call his sister?

10 A That's correct.

11 Q Did he ever ask to call his attorney?

12 A No, not at all.

13 Q Were you ever apprized that he had an attorney by
14 Mr. Stoudenmire?

15 A Not at all.

16 Q Did any member of Mr. Stoudenmire's family come to you
17 and say they had an attorney for Mr. Stoudenmire?

18 A No, sir.

19 Q Now, during the course of this interview did he ever
20 say he wished to stop this interview and wished to stop
21 speaking to you?

22 A No, sir, not at all.

23 Q Was Mr. Stoudenmire ever given any promises during
24 this interview?

25 A No, sir.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 Q Was he ever coerced during this interview?

2 A Not at all.

3 Q Let's get it out there.

4 Was he ever hit or beaten during this interview?

5 A No, sir. Not at all.

6 Q Who else was present, again, during this entire time
7 of the interview?

8 A It'd be myself and Investigator Todd Ruffner.

9 Q Now, I notice I have a copy of your report and you
10 have a copy of your report. Some of his statements are
11 verbal.

12 A That's correct.

13 Q And some of them are reduced to writing.

14 (Statement marked State's Exhibit No. 1 for
15 Identification.)

16 Q I'm going to show you what's marked as State's Exhibit
17 No. 1 and ask if you recognize this.

18 A That's correct. That's the written statement that he
19 asked me to scribe for him on the 29th.

20 Q All right. I understand that this statement that
21 you're going to testify about here today is verbal and
22 written in nature.

23 A That's correct.

24 Q Why is it -- excuse me. Why is it split like that?

25 A Well, he had provided a written statement at first.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 And then he made several admissions after the written
2 statement. And then he requested not to put anything on
3 paper after the first original written statement.

4 Q Why wouldn't you reduce that to writing anyway if you
5 had Mirandized him?

6 A I'm sorry, sir?

7 Q Why wouldn't you reduce that to writing anyway?

8 A That was just his decision to make. I offered the
9 choice of having the interview or the statement
10 audio-taped, or he could write his statement himself, or I
11 could write it in his own words for him. And he chose that
12 I write it in his own words.

13 Q That's the first writing.

14 A That's correct.

15 Q Now, the second part, you say he wouldn't agree to
16 have it reduced into writing?

17 A He did not.

18 Q If you had written it would he have signed it?

19 A No, sir.

20 Q And that was discussed with Mr. Stoudenmire?

21 A That's correct.

22 Q He did give you the verbal statements during the
23 entire course of the interview.

24 A He did.

25 Q And at no time was he threatened.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 A No, not at all.

2 Q At any time was he promised anything?

3 A No, sir.

4 Q You have State's Exhibit No. 1 in front of you. Would
5 you please read that?

6 A Sure.

7 THE COURT: You don't need to read it. I'll read it.
8 That's the written statement --

9 MR. GRAY: Yes, sir.

10 THE COURT: -- provided by the defendant?

11 MR. GRAY: Yes, sir.

12 THE COURT: Okay.

13 MR. GRAY: I'd like to go into the oral part now, Your
14 Honor.

15 THE COURT: Okay.

16 Q During the oral part, which is the second part, did
17 you continue questioning him about this incident involving
18 Ms. Gwen Emory?

19 A I did.

20 Q And what was Mr. Stoudenmire's demeanor at this time?

21 A He was very emotional at that time, remorseful at
22 times and emotional.

23 Q What was said?

24 A During the course of the interview he made several
25 admissions at that time.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 He had also discussed that, that he could not give me
2 a blow-by-blow in regards to what happened to Gwen Emory
3 because of the amount of crack cocaine that he had used.
4 He had advised me he'd used about \$500 worth of crack
5 cocaine that day, and once he uses crack cocaine he turns
6 into a monster.

7 And then he also advised me that he didn't mean to
8 hurt Gwen and that he didn't deserve any kind of a life, he
9 came from a good family. And he was very fearful of the
10 death penalty and he did not deserve to live, is what he
11 had stated.

12 And during one time when I was speaking with him in
13 regards to the injuries of Gwen Emory, and he became very
14 emotional crying and he couldn't speak at times. But he
15 advised me that he was responsible for her death.

16 Q He stated those words.

17 A Yes, sir.

18 Q Did he say those words once?

19 A He said those words numerous times.

20 Q And what was his emotional state at the time?

21 A He was very emotional at the time.

22 Q Did he say why he did this?

23 A Because he turned into a monster when he used crack
24 cocaine.

25 Q Did he say he had any other personal problems with

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 Ms. Emory?

2 A No, sir.

3 Q Reading your report here it says also suffered from
4 blackouts.

5 A He stated that at times he was able to block things
6 out of his mind or block things out of his mind.

7 Q And did he say Ms. Emory had stirred up some problems
8 with him?

9 A He stated that they had had some problems and some
10 word. And then his exact words was she was a shit stirrer.

11 Q Did he talk about anything else during his interview
12 regarding Ms. Emory or her death?

13 A No, sir.

14 Q Now, has, as your experience has -- Mr. Emory (sic)
15 has any previous experience with law enforcement?

16 A He has had numerous experiences with law enforcement.

17 Q Dating back to when?

18 A Until, according to his criminal history until,
19 around --

20 MR. HALL: Your Honor, how is this relevant to the
21 interrogation hearing?

22 THE COURT: Well, you don't get to ask me. Do you
23 object?

24 MR. HALL: Yeah, I object to that, Your Honor. I
25 don't know what the relevance --

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 THE COURT: What's the relevance --

2 MR. GRAY: I think the relevance of this hearing is
3 the voluntariness of it, Your Honor.

4 If they had been through this situation once before or
5 twice before or 15 times before, he understands how the
6 situation works. If he's not under the influence he knows
7 that any time he can stop, this interview stop, talking.
8 He can't this was an accident or mistake.

9 THE COURT: Well, is Mr. Bryant -- has he dealt with
10 him previously on any of these prior events?

11 THE WITNESS: No, sir. The only --

12 THE COURT: Okay. Well, that takes care of it.
13 Sustained.

14 Q Did you determine how -- you say he couldn't give you
15 any details whatsoever. Did he give you any details?

16 A He, he had stated that he was advised -- that he
17 responsible for her death, and if you'd let me refer to my
18 notes just one second.

19 (Pause.)

20 A He stated that he could not remember any of the how,
21 but he accepted responsibility for her death, and that he
22 had stated that he was responsible for the death of Gwen.

23 Q I want to ask you one question. I've seen your report
24 here, and I ask you a question about beating Mr.
25 Stoudenmire.

Jason Bryant (In-camera)
Direct examination by Mr. Gray

1 Did you ever put your hands on Mr. Stoudenmire?

2 A I did.

3 Q And what was the purpose of doing that?

4 A It was a -- to provoke, to provoke an emotional
5 response from him.

6 There was times where I slightly touched his chest in
7 the places where Ms. Emory was stabbed at on the left side.
8 I believe if I can refer to my writeup, I believe it was on
9 the left side of her chest area and her arm area, to
10 produce an emotion when spoken or emotional response from
11 Mr. Stoudenmire.

12 Q And what was his response?

13 A He wept greatly and was remorseful.

14 Q Could you have ever -- when you touched him was it
15 ever in an aggressive manner?

16 A Not at all. It was an emotional interview. It never
17 was an aggressive interview.

18 Q Any threats against him?

19 A Not at all.

20 Q Any promises regarding punishment or the death
21 penalty?

22 A The only thing he tried to do was get me to promise
23 not to get him the death penalty, and I advised him that I
24 could not do that, that that was a decision that was made
25 by the 7th Circuit Solicitor.

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 Q Thank you.

2 MR. GRAY: No further questions, at this time, Your
3 Honor.

4 CROSS-EXAMINATION

5 BY MR. HALL

6 Q Investigator, in this part of your report and in other
7 parts you're -- put down specific times. Did you put in
8 your report what time you went to the jail?

9 A No, sir, I did not.

10 Q So your report, you say he declined an audio
11 recording --

12 A He did.

13 Q -- of the interview.

14 A He did.

15 Q Did you audio-record anybody's interviews in this
16 case?

17 A Not that I recall.

18 Q Did you make that same offer to everybody, and we can
19 record this so there's no mistake about it later?

20 A No, sir. I didn't offer to do anything such as that
21 that I recall.

22 Q So you're saying you said -- how did you phrase it to
23 him?

24 A I said there's several different ways that you can do
25 this in regards to a voluntary statement, that you could

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 write the statement yourself, that we could audio-record
2 the statement or that I could write the statement word for
3 word for you, review it with you and then have you to sign
4 it. And that's what he chose.

5 Q And that's pretty much the way you said it.

6 A Yes, sir, absolutely.

7 Q Did you say we could audio-record or I can just simply
8 write it down for you?

9 A That's just how I said it.

10 Q Now, from your report we know you arrived at 11:50 in
11 Greenville. You took him into custody. And at 12:30 you
12 were in Spartanburg County, right?

13 A That's correct.

14 Q You just testified that the interview ended sometime
15 at 8:30.

16 A I did.

17 Q You said 8:30. Isn't that what you said?

18 A That it ended, yes, sir.

19 Q Okay. What time did he supposedly have you write that
20 statement?

21 A 1:20 p.m.

22 Q And for the next eight hours or seven hours --

23 A Seven.

24 Q -- you talked to him.

25 A Yes, sir.

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 Q Did anybody else come in there?

2 A Myself and Investigator Todd Ruffner. There was times
3 when Steve Cooper came in and talked to him also. And he
4 ate crackers and drank Cokes.

5 Q Well, in this 7-or-8-hour period when I believe you
6 said your captain came in --

7 A I believe that's correct, yes, sir.

8 Q -- did you leave the room and Investigator Ruffner
9 leave the room? Do you know what transpired there?

10 A There were times when we did leave the room, that is
11 correct.

12 Q Okay. And for some reason you don't have your
13 captain's interrogation in here?

14 A I do not. No, sir.

15 Q Is there any reason you left off the time that you
16 finished the interview and took him to the jail?

17 A No, sir.

18 Q I mean, you're specific when you got him and when you
19 started, and then you simply say the interview ended and he
20 called his sister and was transported to the county jail.

21 A That's correct.

22 Q Is the time not important there like it was when you
23 got to the sheriff's department?

24 A It could have been. Probably would have been a better
25 practice to put it on there.

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 Q Now, you say you didn't know anything about an
2 attorney.

3 A He never mentioned an attorney at all.

4 Q He never mentioned an attorney. When you were in
5 Greenville who was there when he was taken into custody at
6 11:50 a.m.?

7 A I believe it was his uncle's residence, or some of his
8 relatives.

9 Q His uncle's residence, yeah.

10 A That's correct.

11 Q Was his sister Dena?

12 A If I remember correctly, she was.

13 Q She was there. And you don't remember her saying I'm
14 going to get you a lawyer?

15 A Not at all.

16 Q So there was no conversation between her and her
17 brother saying --

18 A She never stated that to me, no, sir, not at all.

19 Q So you didn't hear that conversation.

20 A No, sir, not at all.

21 Q Okay. Did anybody ever tell you on the afternoon of
22 February the 29th of 2008 that an attorney was there for
23 Mr. Stoudenmire?

24 A No, sir, not at all, not that I recall, not at all.

25 Q Let me ask you. If somebody had said that there's an

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 attorney says he represents this guy down there, what would
2 you have done?

3 A He never invoked his rights to an attorney.

4 Q That's not what I asked you.

5 If somebody came up and said, hey, there's a guy down
6 there that says he represents Norman Stoudenmire --

7 A He advised me that he was not under any
8 representation, and I would have continued the interview.

9 Q All right. So somebody -- the answer would have been
10 if somebody told you you would have kept going.

11 A Absolutely.

12 Q All right. Now, Investigator, I apologize. There's
13 no delicate way to put this. But you're not a small
14 person.

15 A No, sir.

16 Q And when Mr. Parris, when he was an investigator, if
17 he had touched somebody, it would probably appear to that
18 person -- to feel that to person differently than if you
19 had done it.

20 A Not at all. Not in this situation.

21 Q All right. So you didn't use a little force on that?

22 A No, sir.

23 Q Okay. And that -- when was that interview, because it
24 just kind of gets thrown in at the last. Was it the last
25 of the interview? Was it at 2:00 o'clock, 3:30, 8:00

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 o'clock?

2 A It was, it was after the written statement was taken
3 and during the course of the interrogation between after
4 the written statement was taken and when the interview
5 ceased.

6 Q Okay. I think we've established that's approximately
7 seven hours.

8 A That's correct.

9 Q So can you narrow it down a little bit?

10 A I would say around the hours of three to four hours
11 after.

12 Q So after the -- he didn't sign a statement that you
13 wanted. It just says, "I don't remember anything. If I
14 did anything I didn't mean to, and I don't remember."

15 A No. That was when he stated he was responsible for
16 her death and he blocks that kind of stuff out of his mind.

17 Q I understand that. Now, you talked to him about the
18 traumatic experience. You said suffers from posttraumatic
19 stress syndrome.

20 A That's right.

21 Q What was the basis of that?

22 A Where he was raped in prison and the death of his
23 child in a vehicle accident.

24 Q And didn't -- isn't that what he said, something like
25 that I try to block out of my mind?

Jason Bryant (In-camera)
Cross-examination by Mr. Hall

1 A No, sir. He states that he tries to block all bad
2 stuff out of his mind.

3 Q Oh, all bad stuff.

4 All right. Now, do you ever just record these, whether
5 he says why don't you write it? Don't you ever just record
6 it for everybody's safety so we won't have to be sitting
7 here?

8 A At their request I do. It's however, whatever makes
9 them feel comfortable. I don't want to do anything to stop
10 the flow of information.

11 Q But had you video-taped or at least audio-taped this
12 we probably wouldn't be sitting here like this, would we?

13 A If he had felt comfortable audio-taping it, you're
14 exactly right, but he didn't feel comfortable with doing
15 that.

16 Q Could it be that you didn't feel comfortable with it?

17 A Not at all.

18 Q Now, isn't there another witness, potential suspect,
19 in this case that refused to talk to you because of your
20 tactics in this case -- Ben Nevins?

21 A He never refused to talk to me at all.

22 Q Well, didn't he tell William Gary that he ain't
23 talking to you any more?

24 A That's correct.

25 MR. GRAY: Objection, Your Honor.

Jason Bryant (In-camera)
Redirect examination by Mr. Gray

1 THE COURT: Sustained.

2 Q And when you say at the close of the statement he took
3 response -- responsibility, did he say that, "I take
4 responsibility"?

5 A Yes, sir. "I am responsible for Gwen Emory's death."

6 Q All right. You never put that in your notes like a
7 quote. You just said he took responsibility.

8 A I documented it in my investigative report.

9 Q "He did accept responsibility. He made statements to
10 me that he was responsible for the death of Gwen and that
11 he couldn't provide me with what he referred to as a
12 step-by-step detail." But you don't have his words
13 unless -- and I don't see anything in quotation marks.

14 A They're not in quotation marks, but that's his words.

15 Q Once again, other than on admission, you can't say why
16 you never put down the time that he was finally taken to
17 the jail after this 8-hour.

18 A No, sir.

19 MR. HALL: Nothing further of this witness.

20 MR. GRAY: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. GRAY

23 Q Did he appear to understand his rights?

24 A Absolutely.

25 Q Did he ever request an attorney?

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 A I'm sorry? I couldn't hear you.

2 Q Did he ever request an attorney?

3 A Not at all.

4 Q Did he ever request to stop speaking to you?

5 A No, sir.

6 Q Did this statement appear to be voluntary to you?

7 A It was.

8 Q Thank you.

9 MR. GRAY: Nothing further, Your Honor.

10 THE COURT: Step down.

11 Ask Mr. Ruffner to step in.

12 TODD WILLIAM RUFFNER, having
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. GRAY

15 Q Please state your name and occupation, sir.

16 A Todd William Ruffner. I'm an investigator with the
17 Spartanburg County Sheriff's Office.

18 Q How long have you had that job?

19 A I've been an investigator since 2005.

20 Q Do you have any previous law experience, law
21 enforcement experience, before that?

22 A I worked uniform patrol division and also the forensic
23 division.

24 Q What are your primary duties and responsibilities now?

25 A I am assigned to the property crimes unit with the

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 sheriff's office.

2 Q February of 2008, what were your primary duties and
3 responsibilities?

4 A I was assigned to violent crimes, investigation for
5 homicides and robberies and...

6 Q February 24th of 2008 did you investigate the death of
7 Gwen Emory?

8 A Yes, sir, I did.

9 Q Were you the lead investigator on that case?

10 A No, sir, I was not.

11 Q Who was?

12 A Jason Bryant.

13 Q Did you assist Investigator Bryant with this case?

14 A Yes, sir.

15 Q As part of your duties at that time did you interview
16 suspects or other people also?

17 A Yes, sir, I did.

18 Q Was one of these individuals Mr. Norman Stoudenmire?

19 A Yes, sir.

20 Q When did you and Investigator Bryant interview Norman
21 Stoudenmire?

22 A The first time we interviewed him, I believe it was
23 the 27th. And we also interviewed him the day of his
24 arrest, which was the 29th.

25 Q That would be February 29th of 2008?

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 A Yes, sir.

2 Q Where did that arrest take place?

3 A The arrest took place in Greenville at 9 Springside
4 Avenue.

5 Q Was Mr. Stoudenmire advised of his rights at that
6 time?

7 A Yes, sir, he was.

8 Q Who advised him of his Miranda rights?

9 A Detective Bryant advised him.

10 Q Were you present during this advising?

11 A Yes, sir, I was.

12 Q Did Mr. Stoudenmire appear to understand his rights at
13 that time?

14 A Yes, sir.

15 Q Did he ask any questions about his rights at that
16 time?

17 A No, sir, he did not.

18 Q I'm assuming he went with you voluntarily.

19 A He was under arrest. Yes, sir.

20 Q Thank you, sir.

21 Now, once in the vehicle did any questioning begin of
22 Mr. Stoudenmire by yourself or Investigator Bryant?

23 A No questioning, sir, just casual talk, if he wanted
24 food or drink or anything like that.

25 Q When did the invest -- questioning began?

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 A Once we arrived at the sheriff's office.

2 Q Once you arrived at the sheriff's office who began the
3 questioning of Mr. Stoudenmire?

4 A Detective Bryant and myself both interviewed him
5 together.

6 Q Both of you interviewed him. Did Mr. Stoudenmire give
7 a written statement?

8 A Yes, sir, he did.

9 Q Do you have a copy of that written statement?

10 A I do, sir.

11 Q Did you witness that written statement?

12 A Yes, sir, I did.

13 Q What time was that written statement given?

14 A According to the bottom of the statement it was
15 completed at 1:20 p.m.

16 Q What time did you arrive at the sheriff's office to
17 the best of your knowledge?

18 A According to my notes we arrived at approximately
19 12:30 and the interview began at approximately 12:36.

20 Q And lasted according to that document until 1:20.

21 A 1:20, yes, sir.

22 Q Was that the end of the interview process?

23 A No, sir. Detective Bryant continued to interview him.

24 Q Now, at that time did Mr. Stoudenmire ever request
25 that the interview stop?

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

- 1 A No, sir, he did not.
- 2 Q Did Mr. Stoudenmire ever request an attorney?
- 3 A No, sir, he did not.
- 4 Q Did he ever make it known to you or Investigator
5 Bryant that he had an attorney under his employment?
- 6 A No, sir, he did not.
- 7 Q Were you aware of anybody, any attorney, representing
8 Mr. Stoudenmire during your interrogation?
- 9 A Not a specific attorney. I received a call from Lorin
10 Williams stating that the sister may be hiring an attorney
11 for him.
- 12 Q And that's the extent that you knew of.
- 13 A Yes, sir.
- 14 Q Now, how long did the questioning continue after the
15 written statement was concluded?
- 16 A I believe he was booked into the jail around 8:30 or
17 9:00. So a few hours after that I would say.
- 18 Q Was Mr. Stoudenmire ever threatened by yourself or
19 Detective Bryant?
- 20 A No, sir, he was not.
- 21 Q Was he ever given any incentives for his statements?
- 22 A No, sir, he was not.
- 23 Q What was his demeanor at the time of his questioning?
- 24 A He was very emotional, would be the way I would
25 describe it. He was calm but emotional. He cried a good

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 bit during the interview.

2 Q Did he ever say anything regarding Gwen Emory's death?

3 A After 15 or 20 minutes from arriving at the sheriff's
4 office he told us that he would admit to killing Ms. Emory
5 if we could guarantee him he wouldn't get the death
6 penalty.

7 Investigator Bryant instructed him that we can't talk
8 about possible sentences on anything, that is at the
9 discretion of the solicitor's office and the Court.

10 Throughout the interview he would state that he
11 accepted responsibility for it, that he was responsible for
12 it. He would not elaborate on that any further.

13 Q Did he give you any details as to how she died?

14 A No, sir.

15 Q Did he tell you that he had killed her?

16 A He did not outright say he killed her other than just
17 saying that, you know, he would tell us he did if we could
18 guarantee not the death penalty and that he accepted
19 responsibility for her death.

20 Q He accepted responsibility for her death. Did he ever
21 implicate anyone else?

22 A No, sir, he did not.

23 Q Just himself.

24 A Yes, sir.

25 Q At this time was he denied any food or cigarettes or

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

1 water?

2 A No, sir, he was not. If I may elaborate, on the trip
3 back to Spartanburg he was offered something to eat or
4 drink which he declined. He asked permission to smoke
5 which he was allowed to do.

6 Once we arrived at the sheriff's office he again asked
7 to smoke which we allowed to do. He was again offered food
8 and drink. And he asked for a pack of crackers and a
9 Coca-Cola which were provided to him.

10 Q Was he allowed to go to the restroom?

11 A Yes, sir.

12 Q One moment.

13 MR. GRAY: May I approach?

14 Q I show you what's been marked as State's Exhibit No. 1
15 and ask if you recognize that.

16 A Yes, sir. That's the statement of Norman Stoudenmire
17 when Investigator Bryant and I were in the room.

18 Q When you were in the room with Investigator Bryant.

19 A Yes, sir.

20 Q Was that statement taken before or after the verbal
21 statements?

22 A That is after the verbal statements and after he was
23 advised of his rights.

24 Q After he was advised of his rights?

25 A Yes, sir.

Todd William Ruffner (In-camera)
Direct examination by Mr. Gray

- 1 Q Do you know what time that statement was taken?
- 2 A Completed at 1:20.
- 3 Q Completed at 1:20.
- 4 A P.m.
- 5 Q And that's the written statement that you witnessed.
- 6 A Yes, sir.
- 7 Q But the questioning continued after that.
- 8 A Yes, sir, it did.
- 9 Q All right. Did you yourself ever threaten
- 10 Mr. Stoudenmire?
- 11 A No, sir, I did not.
- 12 Q Did you ever make him any promises regarding his
- 13 statements to the police?
- 14 A No, sir.
- 15 Q Did he ever ask for an attorney to be present?
- 16 A No, sir, he never asked for an attorney.
- 17 Q Did he ever say he wished to stop speaking to you or
- 18 Detective Bryant?
- 19 A No, sir, he did not.
- 20 Q And, again, he kept repeating what over and over?
- 21 A That he was responsible for her death and that he
- 22 accepts responsibility for that.
- 23 Q One moment. Thank you.
- 24 MR. GRAY: No further questions.
- 25 Q Answer any questions Mr. Hall may have.

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 A Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. HALL

4 Q What happened in the seven hours or so, seven or eight
5 hours, between the written statement and him being taken to
6 the jail and booked into the jail?

7 A He was just continued to be questioned in regards to
8 the case.

9 Q And at what point did somebody -- Detective
10 Williams -- say something about his sister hiring a lawyer?
11 Was it at 1:00 o'clock, 3:00 o'clock, 8:00 o'clock?

12 A We were -- that was -- I received a call as we were en
13 route from Greenville to Spartanburg.

14 Q Okay. And to your knowledge did an attorney ever show
15 up in Spartanburg?

16 A I do not know.

17 Q But you're absolutely certain that Norman Stoudenmire
18 never said I want to talk to my lawyer when he gets here.

19 A Yes, sir. I'm certain he did not.

20 Q Okay. Do you recall whether or not his sister said
21 anything about hiring a lawyer at the time he was taken
22 into custody?

23 A No, sir.

24 Q Is that no, sir, she did didn't, or no, sir, you don't
25 recall?

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 A I do not recall her saying anything to us when we
2 arrested him.

3 Q Now, in your summary in this case you are pretty
4 specific on times to a point.

5 A To a point, somewhere approximate.

6 Q But that's one thing you do in your investigations.
7 You put times that you do things and such.

8 A Yes, sir. We try to.

9 Q Is there some reason that 1:20 p.m. is the last time
10 noted in this interview if he wasn't taken to the jail
11 until, say, 9:25 in the evening?

12 A That was just when he gave the statement.

13 Q Yes, sir. I mean, "At approximately 1145 hours we
14 arrived at the address in Greenville."

15 A Uh-huh.

16 Q "11:50 he was advised of his rights." And, "We
17 transported to Spartanburg County. We arrived at
18 approximately 12:30. At approximately 12:36 we began the
19 interview. At 1320 there was a statement." But there's no
20 time for the rest of those seven hours.

21 A Okay.

22 Q Is there a reason for that?

23 A The reason is he just kept repeating what he initially
24 stated up to that point, and I would have been redundant to
25 rewrite that, and rewrite that, and rewrite that, and

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 rewrite that with different times.

2 Q What I mean, if it's important enough to put down when
3 you took him into custody is it not important enough to put
4 it down when you took him to the jail and he was in their
5 custody?

6 A I believe that will be on the jail paperwork.

7 Q Yes, sir.

8 A So it would be documented.

9 Q That's what I'm saying. You're specific on times, but
10 you don't put that time down.

11 A On the jail paperwork it is, so if we needed to recall
12 that information we could have it. But, no, I do not
13 notate that in any investigative report that I do.

14 Q Now, I assume you've read your summary before court
15 today.

16 A Yes, sir.

17 Q Is there any indication in there of captain -- your
18 Captain Cooper coming in there and talking to him at times?

19 A I don't believe there is.

20 Q Did Captain Cooper come in there and talk to him at
21 times?

22 A That I don't know.

23 Q Could you see where if somebody read your report that
24 it sounds like within a short period of time after this
25 written statement that we talked to him a little bit more

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 and then took him to the jail as opposed to the seven or
2 eight hours it was?

3 A What is the question?

4 Q Your summary here, your report, it doesn't have the
5 time that the interrogation ended.

6 If you look at that and look at Investigator Bryant's
7 couldn't it be read looks like within a short period of time
8 after this statement he's taken to the jail?

9 A Someone may or may not assume that.

10 Q All right. Now, let me ask you. Y'all both talked
11 about the crack cocaine. Are y'all saying he smoked, he
12 told you he smoked, a whole bunch of crack cocaine on
13 Saturday the 23rd or that he smoked a whole bunch of crack
14 cocaine on Friday night the 22nd?

15 A He -- I guess the 22nd into the 23rd is his indication
16 to us.

17 Q Okay.

18 A Over that weekend.

19 Q And how many times did Investigator Bryant touch him
20 where the victim had been stabbed -- one time, four
21 times -- like she was stabbed or --

22 A I would say one or two at each interval where he was
23 stabbed. So maybe a total of three to six.

24 Q Okay. So it wasn't one touch.

25 A No. It was just lightly touching where she had been

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 stabbed.

2 Q But multiple, three to four times.

3 A One to two at each location, giving you three to six
4 total.

5 Q Okay. But he didn't tell you that he smoked a whole
6 bunch of crack cocaine Saturday night, \$500 worth. Is that
7 part of the interview, that he said he smoked \$500 worth of
8 crack cocaine that day before the murder?

9 A The day of the interview or the day of the murder?

10 Q The day of the murder.

11 A Yes. He said he had smoked crack.

12 Q That's what I asked. In Investigator Bryant's notes
13 there's something about \$500 worth of crack a day.

14 A Uh-huh.

15 Q Did he say on Saturday I smoked \$500 worth of crack?

16 A I believe so in his statement, yes, he did.

17 Q Okay.

18 A Or several hundred dollars. Sorry. Excuse me.

19 Q Now, you said during the transit when Lorin Williams
20 called you about the sister hiring an attorney --

21 A Yes, sir.

22 Q -- and you didn't ask him anything, are you getting an
23 attorney or anything?

24 A No, sir, I did not. He had already been advised of
25 his rights and did not ask for one.

Todd William Ruffner (In-camera)
Cross-examination by Mr. Hall

1 Q Did you tell Investigator Bryant that?

2 A I don't remember if I did or not to be honest. I
3 don't know.

4 Q So it's you, my client and Investigator Bryant in the
5 car. And you got that call I assume on a cell phone.

6 A Uh-huh.

7 Q Just hung up. And your fellow investigator didn't say
8 who was that, what was that?

9 A No, sir. He did not. I believe he was talking with
10 Norman.

11 Q Okay. Who was driving the car?

12 A Investigator Bryant.

13 Q Okay. And you didn't say, you didn't say anything to
14 my client.

15 A No, sir. I didn't, did not.

16 Q All right.

17 MR. HALL: Nothing further of this witness, Your
18 Honor.

19 MR. GRAY: No further questions, Your Honor.

20 THE COURT: You may step down.

21 Court is in recess until 2:30.

22 (Whereupon, a recess was taken.)

23 THE COURT: All right. Who is the next witness?

24 MR. GRAY: That will be the state's showing, Your
25 Honor.

Dena Suzanne Crump (In-camera)
Direct examination by Mr. Hall

1 THE COURT: Okay. Mr. Hall.

2 MR. HALL: Call Dena Crump.

3 DENA SUZANNE CRUMP, having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. HALL

6 Q Ms. Crump, if you will, state your full name and where
7 you live.

8 A Dena Suzanne Crump. I live at 199 Twin Leaf Lane,
9 Simpsonville.

10 Q All right. And you're Norman Stoudenmire's sister.

11 A Yes.

12 Q Okay. And this is just about when he was arrested on
13 February the 29th of 2009. Do you remember that day?

14 A Yes, sir.

15 Q All right. Were you with him?

16 A Yes.

17 Q And where were you?

18 A At my uncle's house on 7 Springside Avenue, I mean, 9
19 Springside Avenue.

20 Q And that's in?

21 A Greenville.

22 Q Greenville. All right. And do you recall seeing
23 these gentlemen, this gentleman here with the blue suit and
24 blue tie and this gentleman over here in the blue suit and
25 stripe tie?

Dena Suzanne Crump (In-camera)
Direct examination by Mr. Hall

- 1 A Yes, I do, yes.
- 2 Q Did you see them that day?
- 3 A Yes.
- 4 Q Were they two of the people there to arrest your
- 5 brother?
- 6 A Yes.
- 7 Q Okay. And was there somebody else with them?
- 8 A There was some police officers.
- 9 Q Okay. And did you see them place Norman under arrest?
- 10 A Yes, I did.
- 11 Q And do you recall how long that process took from them
- 12 arriving?
- 13 A Didn't take that long.
- 14 Q Okay. Did you have time to speak to him?
- 15 A Yes.
- 16 Q Okay. And what, if anything, did you tell him?
- 17 A I told him that I would call my daughter, Amy, to get
- 18 a lawyer for him to come up there.
- 19 Q All right. Were those two investigators standing
- 20 there?
- 21 A They was around the porch. All of them were around
- 22 the porch on the -- in his driveway. They pulled in the
- 23 driveway. And they was around the, the whole front. And
- 24 they were around the front porch and the door.
- 25 Q Okay. Who physically arrested him and put handcuffs

Dena Suzanne Crump (In-camera)
Direct examination by Mr. Hall

1 on him and whatever?

2 A The police officer. I don't know his name.

3 Q A Greenville County officer?

4 A Greenville County.

5 Q All right. When he was placed under arrest where were
6 these two investigators?

7 A They were on the porch, around the front porch.

8 Q When Norman was arrested was he on the front porch
9 too?

10 A Yeah, he was the front porch too.

11 Q How close were these two to Norman when you were
12 speaking to him?

13 A Probably as close as you are to him right now.

14 Q Okay. So just 5 feet, 5 or 6 feet away.

15 A Right. Real close.

16 Q Did Norman acknowledge that you told him you were
17 going to get Amy to get a lawyer?

18 A Yes.

19 Q Did you say who the lawyer was going to be?

20 A No, I didn't say who it was going to be.

21 Q Did you in your mind have an idea who that lawyer was
22 going to be?

23 A Yeah, I did.

24 Q Your daughter is a friend with a lawyer down in
25 Laurens?

Dena Suzanne Crump (In-camera)
Cross-examination by Mr. Gray

1 A Yeah, she knows him, yes.

2 Q Okay. Did you attempt to tell anybody else to contact
3 the sheriff's department or anybody else that a lawyer was
4 coming?

5 A No.

6 Q Okay. Have you ever spoken with Lorin Williams with
7 the Spartanburg County Sheriff's Department?

8 A Not that I know of.

9 Q Okay. So your only thing you said, told him you'd get
10 a lawyer through Amy. And did you do that?

11 A Yes, I did that.

12 Q And contacted your daughter.

13 A Yes.

14 Q All right. And these two investigators were within 5
15 or 6 feet of you, or Norman and you, when you were telling
16 that.

17 A Yes, sir.

18 Q All right.

19 MR. HALL: No further questions.

20 MR. GRAY: May it please the Court, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. GRAY

23 Q Ma'am, you're the sister of Mr. Stoudenmire?

24 A Yes.

25 Q On the day he was arrested you said you told

Dena Suzanne Crump (In-camera)
Cross-examination by Mr. Gray

- 1 Mr. Stoudenmire you were going to get him an attorney.
2 A Yes.
3 Q How many people were in the yard that day?
4 A There was a bunch of police officers and them two
5 there.
6 Q Uh-huh.
7 A And that was it.
8 Q So you say a bunch of police officers -- 10 people or
9 15 people?
10 A There was like three car loads that came, so there was
11 like two, four, maybe six, five or six, something like
12 that.
13 Q The only person you told was Norman.
14 A Well, they were all right there at the porch.
15 Q Yes, ma'am. I understand that. But the person you
16 told was Norman.
17 A Yeah. I told him.
18 Q Is that correct?
19 A I told him -- like I couldn't -- I mean, there was all
20 of us sitting out there on the front porch. So whoever was
21 out there had to have heard, heard what we was saying, what
22 I was saying to him.
23 Q Did you stop one of the officers, any of these
24 officers, and say I'm getting an attorney for my brother?
25 A No.

Dena Suzanne Crump (In-camera)
Cross-examination by Mr. Gray

1 Q You did not.

2 A No.

3 Q The only person you told was Norman.

4 A Yes.

5 Q Did you talk to Norman any time that day after he had
6 been arrested?

7 A That same -- that was later on that night.

8 Q Yes, ma'am.

9 A Yes.

10 Q Did you tell him you had gotten him an attorney?

11 A Yes.

12 Q Did you tell him to tell the police you had gotten him
13 an attorney?

14 A He -- they had already put him into -- was taking him
15 from wherever they took him to to the Spartanburg Detention
16 Center, so.

17 Q So you never discussed him mentioning to the police
18 that he had an attorney.

19 A No, because it was already -- they had already
20 questioned him.

21 Q I understand that. But I'm just trying to get this
22 clear. You had mentioned to him earlier that you were
23 going to get him an attorney.

24 A On the porch when they was taking him.

25 Q On the porch.

Clyde Louis Pennington, Jr. (In-camera)
Direct examination by Mr. Hall

1 A But that's the only.

2 Q And later that night did you have an attorney for
3 Norman?

4 A Yes, we did.

5 Q By the time he was arrested and in the jail.

6 A Yeah.

7 Q Did you tell Norman who that person was?

8 A Yeah, we told him who it was.

9 Q No. I mean you on the phone with him.

10 A Yeah. I told him that Clyde was up there and they
11 wouldn't let him in.

12 Q You told him that.

13 A That night on the telephone when he called when I
14 talked to him from the detention center.

15 Q Okay. Thank you.

16 MR. GRAY: Nothing further.

17 THE COURT: You may step down.

18 MR. HALL: We call Clyde Pennington.

19 CLYDE LOUIS PENNINGTON, JR.,
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. HALL

22 Q Mr. Pennington, if you would for the record, state
23 your name and where you live.

24 A My name is Clyde Louis Pennington, Jr. I live in
25 Laurens, South Carolina.

Clyde Louis Pennington, Jr. (In-camera)
Direct examination by Mr. Hall

- 1 Q And in February of 2008 were you practicing law?
- 2 A I was.
- 3 Q Specifically, were you contacted on February the
- 4 29th of 2008 about representing Norman Stoudenmire?
- 5 A I was.
- 6 Q Do you recall about what time that was?
- 7 A It was in the afternoon.
- 8 Q Early afternoon, late afternoon?
- 9 A Somewhere around noon, 1:00 o'clock, somewhere between
- 10 there.
- 11 Q Okay. And at that point did you agree to represent
- 12 Norman Stoudenmire?
- 13 A I did.
- 14 Q And what did you do? Who contacted you?
- 15 A Amy Johnson.
- 16 Q All right. And what did you do after she contacted
- 17 you?
- 18 A I went to the sheriff's department where he was being
- 19 held.
- 20 Q Okay. And that's -- you're talking about the
- 21 Spartanburg County Sheriff's Department?
- 22 A Yes.
- 23 Q And did you speak to the people there?
- 24 A I did.
- 25 Q And what did you tell them?

Clyde Louis Pennington, Jr. (In-camera)
Direct examination by Mr. Hall

- 1 A I told them that I would be representing
2 Mr. Stoudenmire and I would like to see him.
- 3 Q And what were -- did you ever get to see him?
- 4 A I did not.
- 5 Q Approximately, what time did you get there?
- 6 A I think it was around 1:00 o'clock.
- 7 Q Okay. I assume you drove from Laurens.
- 8 A I did.
- 9 Q And do you know how long you waited to try to talk to
10 him?
- 11 A I believe as best I can recollect I was there until
12 about 5:00 o'clock.
- 13 Q Did you prior to leaving Laurens try to get in touch
14 with anybody at the sheriff's department saying you were
15 going to be representing him?
- 16 A No.
- 17 Q So you just walked into the sheriff's office and told
18 them what?
- 19 A I told them I would be representing him and wanted to
20 make sure he was there.
- 21 Q Did you confirm that he was there?
- 22 A Yes.
- 23 Q And, again, in that approximately four hours you were
24 there you never got to speak to him.
- 25 A No.

Clyde Louis Pennington, Jr. (In-camera)
Cross-examination by Mr. Gray

1 Q All right. Thank you very much. No further
2 questions.

3 CROSS-EXAMINATION

4 BY MR. GRAY

5 Q Excuse me, sir. Who did you speak to at the sheriff's
6 department?

7 A I don't recall who it was. It was a rather large
8 gentleman. He said he handled the desk there. It was kind
9 of a large desk and he was seated behind it. I spoke with
10 him a couple of times.

11 Q How did you confirm Mr. Stoudenmire was there?

12 A I asked him if he was there.

13 Q You asked who?

14 A The gentleman behind the desk.

15 Q But you don't know his name.

16 A I do not.

17 Q Do you know what time you got there?

18 A Approximately.

19 Q And you know how long you waited.

20 A Yes.

21 Q But you don't know who you talked to.

22 A No. I did not get his name.

23 Q Did you try to look at his name badge?

24 A I don't recall looking at his badge.

25 Q Did you get a badge number?

Clyde Louis Pennington, Jr. (In-camera)
Cross-examination by Mr. Gray

- 1 A No.
- 2 Q So for four hours you sat there in the lobby. You
- 3 didn't get a name or a badge number to figure out that your
- 4 client was being questioned allegedly without you. You
- 5 didn't think that was important to write that down?
- 6 A I didn't ask. I sat on the bench and waited. There's
- 7 a little small bench right there you can sit at.
- 8 Q So why did you stop waiting at 5:00 o'clock?
- 9 A I had to be back in Laurens.
- 10 Q Was it your understanding that he was allegedly being
- 11 questioned without your approval?
- 12 A They wouldn't tell me anything.
- 13 Q They wouldn't tell you anything.
- 14 A Other than to say that he was there.
- 15 Q You don't know what was going.
- 16 A I do not.
- 17 Q So had you given any paperwork to anyone to say that
- 18 you were this gentleman's attorney?
- 19 A Well, I certainly felt like the gentleman behind the
- 20 desk understood when I told him that I was representing
- 21 Mr. Stoudenmire and that I would like to speak with him.
- 22 Q Whoever that was.
- 23 A Yes.
- 24 Q Did you ever go to the jail that night to speak to
- 25 Mr. Stoudenmire about what may or may not have happened.

Clyde Louis Pennington, Jr. (In-camera)
Cross-examination by Mr. Gray

- 1 that day?
- 2 A I did not.
- 3 Q Why is that?
- 4 A Because my understanding was he was still there at the
5 facility when I left. And I had no idea about what time he
6 would arrive at the detention center.
- 7 Q So you think your represen -- alleged representation
8 ended at 5:00 o'clock of Mr. Stoudenmire?
- 9 A No. I had to be back in Laurens, and they weren't
10 going -- they weren't letting me see him anyway.
- 11 Q Who is they?
- 12 A The individuals there at the sheriff's department.
- 13 Q Did you ever see this gentleman?
- 14 A Not that I recall.
- 15 Q Did you ever see that gentleman?
- 16 A In the blue suit?
- 17 Q Yes, sir.
- 18 A Not that I recall. There was a large gentleman there.
19 I think he was kind of heavy, but I couldn't say for sure
20 who it was.
- 21 Q You say they weren't letting you see him.
- 22 A Well, I guess you'd say whoever the representative was
23 there at the desk, which I would assume was being the
24 representative of the sheriff's department.
- 25 Q But neither of these two individuals denied you

Clyde Louis Pennington, Jr. (In-camera)
Redirect examination by Mr. Hall

1 access.

2 A I can't say I recall what the person looked like, so I
3 couldn't say that neither of them said no. I could say
4 that whoever was behind the desk said no. I can't --
5 that's been almost two years. I can't recall who it was.

6 Q Do you even remember what happened? Were you hired or
7 were you -- how were you hired that day?

8 A They asked me if I would represent him. I agreed that
9 I would.

10 Q And that was the extent of it.

11 A That's correct.

12 Q All right. But you don't know who was on the desk.

13 A I do not.

14 Q And you've never seen these two gentlemen before.

15 A I can't say whether I have or not. I do not recognize
16 them, but, then again, it's been two years almost.

17 Q Thank you.

18 MR. GRAY: One moment, Your Honor.

19 (Pause.)

20 MR. GRAY: Nothing further, Your Honor.

21 MR. HALL: Briefly.

22 REDIRECT EXAMINATION

23 BY MR. HALL

24 Q You said you had to get back to Laurens. Do you have
25 a family?

Clyde Louis Pennington, Jr. (In-camera)
Redirect examination by Mr. Hall

1 A I do.

2 Q Small children?

3 A I do.

4 Q And did you have small children at that time?

5 A I did. In fact, we had foster children then that had
6 a meeting.

7 Q Okay. And so that's the purpose you couldn't wait
8 any -- or reason you couldn't wait any longer.

9 A That's correct.

10 Q This was on Friday. Did you come -- when, if any
11 time, did you come to see Norman?

12 A I think if I recall it was the very next week. It
13 might have even been that weekend. I'm not sure. I
14 can't -- the jail records would reflect that. But I'm not
15 going to say I know exactly when it was, but it was fairly
16 soon thereafter.

17 Q Within a few days?

18 A I think so.

19 Q All right. Thank you.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you, Your Honor. May I be
22 excused?

23 THE COURT: You may be.

24 THE WITNESS: Thank you.

25 MR. HALL: Your Honor, for the purpose of dis --

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 THE COURT: Well, I say you can be excused. Now, I
2 don't know if Mr. Hall is going to need you later or not.

3 Are you?

4 MR. HALL: I'll be back in touch with him. He's
5 certainly excused today.

6 THE WITNESS: Thank you, Your Honor.

7 (Whereupon, the witness was excused.)

8 MR. HALL: Your Honor, the next witness just for the
9 purpose of the suppression motion will be Norman
10 Stoudenmire.

11 NORMAN EUGENE STOUDENMIRE,
12 having been first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. HALL

14 Q Norman, for the record give us your name.

15 A Norman Eugene Stoudenmire.

16 Q And you're the defendant in this case and you were
17 arrested February the 29th of 2008.

18 A Yes, sir.

19 Q All right. Tell us about the arrest and what you knew
20 or didn't know about an attorney.

21 A They came to -- they give -- made a telephone call
22 that they were needing to talk to me, and they wanted to
23 know where I was at. So I told them that I was at my
24 uncle's and give them the, the address and partial
25 directions. They said they knew how to get there, because

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 they would be -- was being assisted by Greenville County.

2 I stayed and I waited on them to arrive. They
3 approached me on the porch, and at that time they told me
4 that they were placing me under arrest for the murder of
5 Ms. Emory.

6 My sister was at the door with me, and they put me in
7 cuffs and was standing there just for just a short period
8 of time. And my sister told me, she said, "We're having an
9 attorney come. I'll call Amy and I'll have, we'll have an
10 attorney come up to, to meet you at the jail."

11 And I got into the car with the officers. And
12 Mr. Bryant read me my Miranda rights. He asked me if I was
13 willing to talk to him, and I said I had nothing to hide
14 and I had no problems talking to him.

15 I asked could I smoke, because I was nervous. I was
16 scared to death. And I had no -- it, it was a shock. I
17 didn't know how to act really. I asked him if I could
18 smoke. He said I could smoke.

19 And we arrived at the jail, at the sheriff's
20 department or wherever their office is. I'm not sure where
21 their office is at. I just -- I'm not too familiar with
22 that area. So I couldn't, probably couldn't, even get you
23 back there.

24 But we got to the jail, to the -- their office. And
25 they took me upstairs and started questioning me.

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 Q And is it correct that you probably got there about
2 12:30?

3 A Yes, sir.

4 Q Were you paying attention to times?

5 A Yes, sir.

6 Q All right. Did you at any point tell either of these
7 investigators that you wanted to talk to your attorney?

8 A I told Mr., Mr. Ruffner that my sister told me -- I
9 asked him if he heard the conversation. I told them that
10 my sister told me that they would be sending an attorney to
11 talk to me, that I didn't have a problem talking to them
12 but when my attorney got there that I needed him to be
13 there.

14 And he just looked at me like no problem. He didn't
15 really make much of a comment about it. He just kind of
16 give me that look.

17 Q Did you make that comment one time or more?

18 A No. Through the course of, of the period of time that
19 they kept badgering me and just kept insisting and
20 insisting that, that I, that I killed the girl, and I kept
21 telling them, no, I didn't. You know, they kept insisting.
22 And I said, no, I didn't, if I did I sure the heck didn't
23 remember doing no such thing.

24 And in the course of that period of time, yeah,
25 several times I told them. I asked them did my attorney

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 ever get there. I had no idea who the attorney was, but I
2 knew my family was sending one.

3 Q Okay. And did at some point during this -- we've
4 heard testimony 12:30 to 8:30 or so -- interrogation did
5 you ever stop saying I want to talk to my attorney when he
6 gets here?

7 A No.

8 Q All right. Did you later find out he did come?

9 A Yes, after -- I didn't. I didn't until I talked to my
10 sister that -- before we left their office, before they
11 took me to the jail.

12 Q All right.

13 MR. HALL: If I may approach the witness, Your Honor.

14 Q I've got State's Exhibit 1. That's the statement we
15 referred to, is that correct?

16 A Yes, sir.

17 Q All right. And this is the statement that there's
18 testimony you had Jason Bryant write.

19 A Yes, sir.

20 Q Okay. Can you read the time on that? It's down
21 towards the bottom.

22 A 1:20.

23 Q Okay. Now, you've got on glasses. Are those reading
24 glasses?

25 A These are, yes, sir.

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 Q Okay. Tell me how that statement was written out and
2 how you signed it.

3 A He asked me if, if I would, if I wanted to write the
4 statement, and I told him I had problems with my hands and
5 that my handwriting wasn't all that good, if they wanted to
6 make any sense of it they may need to write it theirself,
7 so.

8 Q Did he ever offer to audio-tape it for you --

9 A No.

10 Q -- or video-tape it?

11 A No.

12 Q All right. Go ahead.

13 A He, he, he wrote it out and he, he give it to me and
14 asked me to, to look over it if this was what, if it suited
15 me, if I was satisfied with what he wrote.

16 And I basically scanned over it because I didn't have
17 my, my regular reading glasses. I had, I had a set of
18 glasses that just permitted me to see in a distance, but
19 they wasn't what I needed to, to really read. So I
20 basically just scanned over it.

21 I figured that they wouldn't be any problem with -- if
22 he was dictating what I told him. And I didn't have any,
23 any reason to think that there would be anything on there
24 other than what I told him.

25 Q Okay.

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

- 1 A And I signed it.
- 2 Q Did you pay any attention to the time?
- 3 A I-- at that time?
- 4 Q Uh-huh.
- 5 A It wasn't no 1:20. That's for sure.
- 6 Q You didn't certainly put the time in there, did you?
- 7 A No, sir.
- 8 Q Do you recall what time that statement was given?
- 9 A Yes, sir. It was in, in the latter part of the
- 10 afternoon. It wasn't -- I would say within two, two hours,
- 11 maybe two and a half hours tops, to the time I arrived at
- 12 the jail.
- 13 Q Okay. So you're saying that statement is much later
- 14 in the afternoon or the evening.
- 15 A Yes, sir.
- 16 Q Okay. And --
- 17 A They interrogated me constantly for at least four or
- 18 five hours before they even said anything to me about any
- 19 kind of statement.
- 20 Q And there's been testimony about the touching. Where,
- 21 when did that occur during the interrogation, early on, in
- 22 the middle or at the end?
- 23 A Right before they told me to -- before they took -- I
- 24 took, give the statement.
- 25 Q And tell us what happened with that touching in the

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 places where Gwen Emory was stabbed.

2 A He, he, he pulled out the pictures of, of Ms. Emory,
3 and he kept shoving them in my face and asking me how's
4 it -- he, he kept pounding me in my chest, not touching me.
5 He was pounding me in my chest.

6 Q Could you physically hear it and feel it?

7 A Yes, sir. It hurt. He hurt me. He, he asked me
8 how's it feel, how's it feel. And he was terrorizing me.
9 I was scared to death. I was scared for my safety. I
10 didn't know if that officer, Bryant, was not going to hurt
11 me physically.

12 Mr. Ruffner didn't, was, was not an aggressive person.
13 I guess that's part of the good-cop/bad-cop thing, but
14 Mr. Bryant was very aggressive with me. He hurt me.

15 Q Did anybody else during this time period come in and
16 interview you without these two in the room?

17 A Yes, sir. A gentleman, Steve something. I don't
18 really remember. I think he said he was a supervisor or
19 something. I am not exactly sure, maybe a captain or
20 something, but he came in and talked with me.

21 Q Before he come, would come, in and talk with you would
22 one or both of the other investigators leave?

23 A Yes, sir. They was in and out. One would stay in and
24 one would leave out of the room. And then one would come
25 back in. And maybe they'd stay in there together for a few

Norman Eugene Stoudenmire (In-camera)
Direct examination by Mr. Hall

1 minutes and another -- they'd leave out, back and forth.

2 Q Did you ever tell them, "I accept responsibility"?

3 A No, sir. I don't understand if I had, was --

4 Q Hold on. How long after you got to the sheriff's
5 department did you tell them I want to talk to my lawyer
6 when he gets here?

7 A When I got to their office.

8 Q Or did you tell them in transit when you were coming
9 over here? Did you tell them that, or did you wait until
10 you got to the office?

11 A I waited till, I waited till we got to the office, and
12 I told Mr. Ruffner that, that my family was sending an
13 attorney, when he got there that I wanted to talk to him,
14 him to be there.

15 Q Okay. So is that soon after you got there or an hour
16 or what?

17 A Within an hour.

18 Q Okay. Let me go back to the trip over. Did they ask
19 you about this case on the way over, or did they just talk
20 to you?

21 A Not -- they didn't really get into any, any depth
22 about any questioning. They more or less talked, just
23 really not nothing.

24 Q Okay.

25 A Asking me if I wanted -- I asked them if it was all

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 right to smoke. They asked me if I wanted anything to eat
2 or anything. And I told them I didn't care for anything
3 right then.

4 Q So if you got to the sheriff's department at 12:30 in
5 the afternoon, sometime in that first hour you said I want
6 to talk to my lawyer when he gets here.

7 A Yes, sir.

8 Q How often did that come back up if it did?

9 A Probably, I probably brought it up again every other
10 hour, because it kept getting. I couldn't figure out why
11 it was being so lengthy. And I knew that my sister would
12 do what she said. I knew that they would be an attorney
13 coming.

14 Q And had you been told that your attorney you say you
15 were asking for was there, would you have stopped talking
16 to them and said I want to see him now?

17 A Yes, I would have.

18 Q No further questions.

19 CROSS-EXAMINATION

20 BY MR. GRAY

21 Q Your sister told you that she was getting you an
22 attorney, correct?

23 A Yes, sir.

24 Q Did she tell any of the officers?

25 A She said it loud enough for everybody on the porch to

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 hear it, sir.

2 Q Yes, sir. I understand.

3 Did she specifically talk to any of the officers and
4 say I'm getting an attorney for my brother?

5 A She was talking to me. She was addressing me. She
6 wasn't addressing them.

7 Q Thank you. So she didn't do that.

8 A No. She let me know that she was sending an attorney.

9 Q Did you tell these officers I'm getting an attorney?

10 A Once I got to the jail, yes, I did.

11 Q Okay. On the way to the sheriff's office?

12 A When I got the sheriff's office.

13 Q On the way to the sheriff's office did you tell them,
14 "I have an attorney, I don't want to talk to you"?

15 A We wasn't discussing anything about the case, so there
16 was no use, no reason for me to tell them anything or to
17 say that.

18 Q Did you ever tell them, "I don't want to talk to you,
19 whether my attorney is here or not I don't want to talk to
20 you"?

21 A Well, sir, by me telling them that, asking them when
22 my attorney gets here I need to speak to him, I'm sure that
23 they educated enough to where they would know that I'm
24 meaning I want to talk to my attorney.

25 Q Okay. You've been Mirandized before, correct?

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 A Yes, sir.

2 Q How many times?

3 A A number of times.

4 Q To understand what your Miranda rights are, correct?

5 A Yes, sir. I do.

6 Q To know that you have the right to stop talking with
7 or without an attorney, correct?

8 A Yes, sir.

9 Q Did you ever tell them, "Whether my attorney is
10 present or not, I don't want to talk to you"?

11 A I didn't have anything to hide from them, sir, and I
12 told them I didn't -- yes, I would talk to them until my
13 lawyer got there. When my lawyer got there I wanted him to
14 be present.

15 Q Did you ever tell them, "I don't want to talk to you
16 with or without my attorney present"?

17 A No, sir.

18 Q You never told them that.

19 A No, sir. I didn't tell them. I just wasn't going to
20 talk to them and just freeze up and not speak to them.

21 Q Even though you know your rights under Miranda.

22 A Yes, sir, because I didn't have anything to hide.

23 Q Now --

24 A I cooperated with them in every kind of way that I
25 could.

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

- 1 Q Back up. Who gave you the crackers?
- 2 A Sir?
- 3 Q Who gave you the cheese crackers?
- 4 A If I -- I'm not a hundred percent accurate with that,
- 5 but I think Mr. Ruffner did.
- 6 Q Who gave you the Coke?
- 7 A Same person.
- 8 Q Who let you go smoke?
- 9 A Sir?
- 10 Q Who let you go smoke?
- 11 A The two of them.
- 12 Q Both of them.
- 13 A I smoked there in front of them.
- 14 Q You smoked right there in front of them.
- 15 A Yes, sir.
- 16 Q So there's no good-cop/bad-cop. That's your theory,
- 17 correct?
- 18 A Well, no, sir. It's not a theory. One cop -- one of
- 19 the investigators was being aggressive. He kept, he --
- 20 expressing the fact that he already knew for a fact that I
- 21 did something that I keep, I kept telling that I didn't do.
- 22 Mr. Ruffner didn't. I had already spoken to
- 23 Mr. Ruffner the night that they found Ms. Emory. She came,
- 24 he came to my sister's house and questioned me. And I gave
- 25 a statement at that time to Mr. Ruffner. I'd already

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 talked to him.

2 Q And so your written statement here --

3 A No. I had give another statement other than that.
4 They's another written statement.

5 Q I understand. This is the one from February the 29th.

6 A That's the one that -- from the interrogation, yes,
7 sir.

8 Q From the interrogation. You gave this one. Who
9 signed this one?

10 A I signed it.

11 Q You signed it. And Mr. Ruffner, the good cop, was
12 there --

13 A Yes, sir.

14 Q -- when you signed it. And you say, "If I hurt Gwen,
15 I did not intentionally do it."

16 A I didn't -- if I -- I didn't read that and I didn't
17 pay that attention because I would have brought it to the
18 attention and let them know that that's not what I said.
19 They took everything out of context. I never said that.

20 Q You never said that at all --

21 A No, sir. I did not.

22 Q -- when you signed those two pages.

23 A When I signed those two pages?

24 Q Yes, sir.

25 A Not the way 'he -- not the way he was, worded it in.

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 that statement.

2 When I -- what I said to him was -- he kept insisting
3 that I killed her, and I said, no, I didn't, no, I didn't.

4 They kept insisting. I said, "Well, something's got
5 to be wrong here because I sure don't remember doing no
6 such thing."

7 Q You can read and write?

8 A Sir?

9 Q You can read and write, sir?

10 A Yes, sir, I can.

11 Q And you say you've been Mirandized more than once.

12 A Yes, sir.

13 Q And you understand you don't have to sign anything you
14 don't want to, correct?

15 A Again, I didn't have anything to hide. I was trying
16 to cooperate with them. I was afraid that -- I was afraid
17 of his violence. I was trying to do anything I could to
18 get out of there and away from him.

19 Q Had he told you he was going to hurt you?

20 A He already did.

21 Q Did he ever leave the room?

22 A Did he ever leave the room?

23 Q Yes, sir.

24 A Yes, sir, several times.

25 Q He did?

Norman Eugene Stoudenmire (In-camera)
Cross-examination by Mr. Gray

1 A Yes, sir.

2 Q Now, when you signed that document, was he in the room
3 when you signed that document?

4 A I believe so.

5 Q He was.

6 A I believe so, yes, sir.

7 Q Along with Detective Ruffner.

8 A Yes, sir.

9 Q So what were you afraid of allegedly?

10 A I was afraid that if I showed any, any type of
11 aggression or any, any type of trying to defend myself from
12 his physical, that I was afraid what they may do to me.

13 Q What is exactly aggressive about --

14 A Well, sir, if any time anybody puts their hands on
15 you --

16 Q Excuse me, sir. Let me ask the question. What is
17 aggressive about a signature?

18 A What's aggressive about the signature?

19 Q About you signing the piece of paper.

20 A Nothing.

21 Q Thank you.

22 MR. GRAY: Nothing further, Your Honor.

23 MR. HALL: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 MR. HALL: We have nothing further on this issue, Your

1 Honor, no other witnesses.

2 THE COURT: Okay.

3 MR. HALL: Excuse me. I'm sorry. I'm about to
4 forget... Get the officer in first. I am sorry. I am
5 sitting here looking at my photo copy of what we're going
6 to put in and I haven't put it in yet.

7 THE COURT: Can you all just stipulate that's the jail
8 card? Do you need a witness to do that?

9 MR. HALL: Well, they wouldn't let anybody else bring
10 it, Your Honor.

11 THE COURT: Well, I know that.

12 MR. GRAY: That's fine, Your Honor. I can stipulate.

13 MR. HALL: Your Honor, can we substitute after the
14 next witness, can we substitute a photocopy so they can
15 have the jail card back?

16 THE COURT: Well, my question is do you even need a
17 witness.

18 Solicitor, do you object to the copy of the jail card
19 being admitted?

20 MR. GRAY: No, sir.

21 THE COURT: Okay.

22 MR. HALL: Thank you.

23 (Copy of booking card marked Defendant's Exhibit No. 1
24 for Identification.)

25 MR. HALL: We call Dan Swad.

Dan Swad (In-camera)
Direct examination by Mr. Hall

1 DAN SWAD, having been first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. HALL

4 Q If you would, give us your name and where you work.

5 A My name is Dan Swad, spelled S-W-A-D. I work at the
6 Spartanburg County Sheriff's Office.

7 Q And how long have you been with the sheriff's
8 department?

9 A Somewhere over 27 years.

10 Q And are you one of the officers who sometimes works at
11 the Spartanburg County Detention Facility?

12 A I am and I do.

13 Q And were you so employed on February the 29th of 2008?

14 A Yes, sir.

15 Q What time would you get to work?

16 A 1630, 4:30 p.m.

17 Q And you worked at the sheriff's department and the
18 jail.

19 A Yes, sir.

20 Q Did you work every day or --

21 A It varies, sometimes one night a week, sometimes two
22 or three nights a week. It just varies.

23 MR. HALL: If I may approach the witness.

24 Q I hand you Defense Exhibit No. 1 which is two pages,
25 photocopy of a jail card. If you will, just take your time

Dan Swad (In-camera)
Direct examination by Mr. Hall

1 and look at that.

2 A All right.

3 Q Does that appear to be the jail card from the
4 Spartanburg County Detention Facility?

5 A A copy of it, yes, sir.

6 Q And for Mr. Norman Stoudenmire?

7 A Yes, sir.

8 Q Okay. Tell me the procedure of when somebody comes to
9 the jail, to get them from arrested and turned over to the
10 jail and then booked into the jail.

11 A All right, sir. The officers bring the arrested
12 person in an area called the sally port and park their car
13 and walk them into a room about a fourth the size of this
14 room here. It's called the prebook.

15 The people inside the jail can look out through the
16 wall -- there's glass there -- and see them in there.
17 Sometimes the officers stop there at a table and fill out
18 this booking card or whatever other information they have
19 to fill out. Sometimes they have it already filled out and
20 they walk them in. They're allowed in through a sliding
21 door into the booking area of the jail.

22 At that point a detention officer, or for instance
23 myself working there as a booking officer, will meet them
24 over near that doorway, will take this card that they hand
25 to us filled out, and if they have copies of the warrants

Dan Swad (In-camera)
Direct examination by Mr. Hall

1 or other paperwork.

2 We ask the subject if they need medical attention, yes
3 or no.

4 At that point we walk them up to a counter where they
5 take everything out of their pockets, take off coats, hats,
6 stuff that we would inventory.

7 And at that point we do a patdown search of their
8 person for anything left in their pockets, any other
9 jewelry, any items that might be on their body they don't
10 need in the jail.

11 Q All right. And you don't have any special memory of
12 booking or being involved in the booking of Norman
13 Stoudenmire, do you?

14 A It being two years ago, I don't remember specifically
15 the actual details. No. I -- you know, the time period
16 but --

17 Q And how many people can you book in in one shift? How
18 many people can you frisk and take out of the sheriff's
19 department or city police custody? Is it very busy at
20 times?

21 A Yes, sir. I mean, sometimes we book in 40 people in
22 that seven and a half hours.

23 Q Okay. Now, can you recognize any of the writing on
24 that jail card? I'm just referring to it even though it's
25 a photocopy of a jail card.

Dan Swad (In-camera)
Direct examination by Mr. Hall

- 1 A Yes, sir. I recognize my handwriting.
- 2 Q Okay. And on the front of the card which I think is
- 3 first do you have any handwriting on that?
- 4 A Yes, sir. And I guess left out of detail, specific
- 5 detail, once we take the card from them, there's a clock up
- 6 there. We look up at the clock. We write down what time
- 7 it is here on this upper right-hand corner. This way is
- 8 the right hand.
- 9 Then we flip it over on the back, and it's got a place
- 10 for the person who is going to search. And you put the
- 11 date and time in there also on the back.
- 12 Q And is that your handwriting on the timing on the
- 13 front?
- 14 A Yes, sir, that's my handwriting on the front where I
- 15 wrote the time.
- 16 Q And what about on the back side?
- 17 A On the back where it says, "searched by", that's my
- 18 handwriting. I wrote that in there, and the time.
- 19 Q Okay. And what time did you search him?
- 20 A This says 2125, which is military time for 9:25 p.m.
- 21 Q All right. Now, if we're in a real busy time at the
- 22 county detention facility and the officers are backed up do
- 23 you go ahead and take the cards from them and put the time
- 24 in and frisk them, or what do you do, or do the officers
- 25 have to wait?

Dan Swad (In-camera)
Direct examination by Mr. Hall

1 A Well, usually, I mean, yes, we take them as soon as we
2 can.

3 Now, there might be eight people come in within a span
4 of two or three minutes, and there might be two booking
5 officers.

6 And we get the card, get the person, take them up to
7 the counter, get all of their belongings, put it in a
8 numbered bag, a recycled type numbered bag that they reuse
9 at the jail.

10 And we ask them to go sit in a, an area at the jail.
11 It's actually down several steps. They call it the pit.

12 Q We're familiar with the pit.

13 So it's pretty much as soon as they get there within a
14 relatively few minutes, you had frisked them or an officer
15 has frisked them and put down the time.

16 A Yes, sir.

17 Q And apparently you frisked Norman.

18 A Yes, sir.

19 Q And that was at 9:25 p.m. on February the 29th of
20 2008.

21 A According to that document, yes, sir.

22 Q According to that document. But you have no other
23 involvement in this or memory of anything?

24 A I don't. We have -- we book a lot of people, and
25 that's over two years ago.

Dan Swad (In-camera)
Cross-examination by Mr. Gray

1 Q All right. Please answer any questions the solicitor
2 might have.

3 CROSS-EXAMINATION

4 BY MR. GRAY

5 Q Do you know if Mr. Stoudenmire gave any statements to
6 the police that day?

7 A I don't know of any statements he gave.

8 Q Do you know if his attorney was present at the jail at
9 all that day?

10 A I'm sorry. I don't. No, sir. I --

11 Q Do you know if Mr. Stoudenmire asked to speak to his
12 attorney or call his attorney?

13 A He didn't to me.

14 MR. GRAY: Nothing further, Your Honor.

15 THE COURT: You can step down.

16 THE WITNESS: Thank you, sir.

17 MR. HALL: Your Honor, that would be the defense
18 showing.

19 THE COURT: All right. Based upon the testimony and
20 evidence received I do find that the state has established
21 by the greater weight or a preponderance of the evidence
22 that the statement given by the defendant, both orally and
23 written, was freely and voluntarily made, and he was well
24 aware of his constitutional right to remain silent and to
25 have a lawyer present, to have one appointed if he couldn't

1 afford one, and to stop questioning at any time he wished
2 to.

3 It appears in this case that he never did invoke any
4 of those constitutional rights. Another person cannot
5 invoke a constitutional right for him, and in this case he
6 invoked none.

7 He was not threatened or promised anything, and I do
8 find that the statements provided were freely and
9 voluntarily made, at least based upon the preponderance of
10 the evidence presented.

11 Anything else?

12 MR. GRAY: Not from the state, Your Honor.

13 MR. HALL: Not from the defense, Your Honor.

14 THE COURT: Okay. Bring the jury in.

15 Ask Mr. Widener to take the foreperson's seat --
16 Mr. Widener.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: Good afternoon, ladies and gentlemen.

20 I apologize for the delay in having you brought back.
21 I told you before lunch that I had some matters I had to
22 address before we could actually start in the trial of this
23 case. And those matters took a little bit longer than I
24 had participated. And so I apologize for that delay. But
25 we are now ready to begin with the trial of the case for

1 which you have been selected.

2 And, Mr. Widener, I'm going to ask you to serve as the
3 foreperson of this jury. As the foreperson you're going to
4 have three specific duties that none of the other jurors
5 will have.

6 No. 1, you'll be asked to serve as the spokesperson
7 for the jury. And so if during the trial something arises
8 that needs to be brought to my attention, that is you or a
9 fellow juror has some difficulty or problem or question, if
10 you'll let the bailiff know, he'll let me know, and I'll
11 address it.

12 Secondly, you will be called upon to preside over jury
13 deliberations when that time comes. That of course will
14 not be until the end of the trial after all of the evidence
15 has been received and I have instructed you on the law
16 that's applicable in this case.

17 But when the time does come for those jury
18 deliberations it will be you who will preside over that
19 process in the jury room simply to ensure that those
20 deliberations are carried out in some orderly fashion.

21 And, thirdly, you'll be asked to actually write the
22 verdict or the decision of the jury. You'll do that on a
23 verdict form that I'll provide you at the trial's
24 conclusion on which you will indicate the jury's unanimous
25 decision in this case.

1 Now, the foreperson has those duties that I have just
2 indicated. That does not however mean that he is any more
3 important than any of you other jurors, because, as you've
4 heard, the decision of a jury is the unanimous consensus
5 opinion of all 12 jurors. And so each of you will have an
6 equal say and equal vote in what the ultimate decision will
7 be in this case.

8 Someone simply has to be delegated those
9 responsibilities that I have just indicated, and I have
10 delegated those to Mr. Widener in appointing him as the
11 foreperson. But all of you jurors are equally important so
12 far as the ultimate decision in this case is concerned,
13 because, as I have stated, the verdict has to be unanimous.
14 All 12 of you must be in agreement.

15 Now, Mr. Sanders, you've been selected as an alternate
16 juror. The function of an alternate is to take the place
17 of one of the original 12 if during this trial one of these
18 original 12 cannot continue to serve for some reason.

19 And so if one is called away because of an illness or
20 an emergency and that person cannot continue to
21 participate, then you would be called upon to take that
22 person's place. In that event you would become the
23 12th juror, and in that event you would participate in the
24 jury deliberations at the trial's conclusion.

25 If however when the time does come for jury

Jury sworn

1 deliberations the original 12 are able to participate, then
2 your service ends, and you would not be allowed to
3 participate any further, and that's because the decision of
4 a jury is that of 12. But no more than 12 can participate
5 in that deliberation process.

6 However it is important that you pay just as careful
7 attention as we ask of all of the jurors in this case,
8 because it does occur from time to time for one reason or
9 another one of these 12 may not be able to continue. In
10 that event you become the 12th.

11 So we do appreciate your participation as an alternate
12 juror, just as we appreciate the participation of each of
13 you jurors who have been selected for the purpose of
14 deciding the verdict in this particular case.

15 You may swear the panel.

16 (Whereupon, the jury was duly sworn.)

17 THE COURT: Ladies and gentlemen, as you well know
18 now, you have been selected to decide the verdict in the
19 case of the State vs. Norman Eugene Stoudenmire.

20 As you also know, Mr. Stoudenmire has been accused by
21 the prosecutor through -- by way of an indictment of having
22 committed the crime of murder.

23 They allege that he did on February the 23rd of 2008
24 wilfully and with malice aforethought kill Gwendolyn Emory
25 by stabbing her and that she died as a proximate result of

1 those wounds inflicted.

2 As you have been told, as to those allegations and as
3 to that charge and that indictment the defendant has
4 entered a plea of not guilty. As you are aware, that plea
5 of not guilty places upon the state because they have
6 brought this charge against the defendant to establish his
7 guilt to the satisfaction of you 12 jurors beyond a
8 reasonable doubt before any verdict of guilty could be
9 returned.

10 Every person who is accused of a crime, and it does
11 not matter how serious the offense might be for which that
12 person stands charged, any person accused of a crime is
13 always under the law presumed to be innocent of the charge.

14 That presumption of innocence remains with any
15 defendant, as it does with this defendant, from the time
16 that he is placed under arrest and throughout the course of
17 the criminal process and even throughout the course of the
18 actual trial in the case.

19 And that presumption of innocence will be with
20 Mr. Stoudenmire even at the time that you go back to begin
21 with your jury deliberations at this trial's conclusion.
22 And that presumption of innocence will be with him in that
23 jury room, and it'll be with him forever unless you 12
24 jurors determine that he is no longer entitled to that
25 presumption of innocence.

1 That is after you've carefully considered all of the
2 evidence, and from that evidence you've decided the facts,
3 and upon deciding those facts you apply the law that I will
4 have provided you, if you 12 jurors unanimously determine
5 that his guilt has been proven beyond a reasonable doubt,
6 then he would no longer be entitled to the presumption of
7 innocence. But it's only if, unless and until you are
8 satisfied of his guilt beyond a reasonable doubt that the
9 presumption of innocence would no longer be applicable in
10 the case.

11 Now, the way the trial will proceed is that in a
12 moment the lawyers are going to address you in what are
13 called opening statements. There are two occasions in the
14 trial of a case where lawyers are permitted to address the
15 jury, and that is at the beginning of the trial before any
16 evidence has been introduced, then again at the conclusion
17 of the trial after all of the evidence has been received.

18 Please understand and keep in mind however that the
19 lawyers' statements are not evidence in the case. You are
20 not to rely upon the lawyers' statements as being any
21 evidence upon which you will decide a fact.

22 That's because the lawyers aren't witnesses to
23 anything. They're not going to tell you anything about
24 this case that they know of their own personal knowledge or
25 perception like witnesses will be.

1 The lawyers are not going to be placed under oath.
2 They're not going to take the witness stand. They're not
3 going to be subjected to direct and cross-examination as
4 witnesses will be.

5 So what they tell you is not to be considered by you
6 as being any evidence upon which you will base your
7 decision in this case. But you should listen to what the
8 lawyers have to say because those statements to serve a
9 purpose.

10 The opening statements allow the lawyers an
11 opportunity to tell you what this case is about from the
12 perspective of both the state and the defendant so that
13 you'll have some context in which to place the evidence
14 that we will be receiving shortly thereafter.

15 The closing statements, which occur after all of the
16 evidence has been received, allows the lawyers an
17 opportunity to discuss with you the evidence that you have
18 seen and heard during the trial. And through that
19 discussion each will have an opportunity to try to persuade
20 you or to convince you that the evidence in the case does
21 or does not support a particular decision depending upon
22 the perspective of the lawyers.

23 It's in between those opening and closing statements
24 that we actually receive the evidence upon which you will
25 decide the facts and base your decision.

1 The state has brought this accusation against the
2 defendant. The state has the burden of proving his guilt
3 to your satisfaction beyond a reasonable doubt, and
4 therefore the state must present evidence. They have to
5 present testimony and perhaps other evidence because they
6 do have the burden of proof.

7 And right now if you were asked to go back into your
8 jury room and to decide the case you would have to return a
9 verdict of not guilty because there is no evidence right
10 now that would establish the defendant's guilt.

11 So the state has the burden of proving his guilt.
12 They will go forward first in their presentation of
13 evidence.

14 Once the state has concluded with that presentation a
15 defendant in a trial has the same right to testify or to
16 present evidence if he or she wishes to do so.

17 But understand, as I told you, while the state does
18 have a burden of proving a defendant's guilt beyond a
19 reasonable doubt, a defendant has no burden of proof. The
20 defendant has no obligation to testify.

21 The defendant does not have to call any witnesses or
22 produce any evidence, and that's because a defendant does
23 not have to establish that he is not guilty of a particular
24 crime because in some cases that might not even be possible
25 to establish. The burden is not upon a defendant. The

1 burden is always upon the state.

2 Oftentimes in criminal cases you might have a
3 defendant that does not testify or present any evidence.
4 If that happens or if that occurs you can't hold that
5 against the defendant, because the burden is not upon him
6 to establish anything. But a defendant is afforded an
7 opportunity to testify or call witnesses or introduce other
8 types of evidence should the defendant wish to do so.

9 So after all of the evidence has been received and
10 after you've heard the final summations of the lawyers I
11 will then instruct you fully on the law as it relates to
12 the criminal law generally and as it relates to the crime
13 of murder specifically.

14 Then you'll be asked to go back and begin with your
15 deliberations. Through that process you are simply called
16 upon through the exercise of good judgment and common sense
17 conscientiously applied to the testimony and evidence in
18 the case to decide what you believe to be the true facts as
19 it relates to these allegations.

20 Once you decide those facts you'll apply the law that
21 I will have provided you. And you will determine whether
22 or not the evidence in this case has established the
23 defendant's guilt beyond a reasonable doubt. And if it
24 has, then your verdict is guilty. And if it has not, then
25 your verdict is not guilty.

1 Now, because you have to decide the facts in this case
2 you therefore necessarily must evaluate the credibility of
3 witness testimony.

4 Sometimes in cases you have various witnesses that
5 testify, and sometimes they testify in conflict or their
6 testimony is in conflict. And if that conflict in that
7 testimony relates to a material fact that you have to
8 resolve in order to arrive at a decision, then you have to
9 determine what is the most credible testimony, what is the
10 most believable evidence.

11 So in order for you to be in a proper position to do
12 that it's important that you give every witness the same
13 degree of attention as they testify so that when you go
14 back to begin your deliberations you'll be in a proper
15 position to be able to carefully evaluate each witness'
16 testimony in light of not just that particular witness'
17 testimony but in light of all of the testimony and all the
18 evidence received during the trial.

19 Of course it's always important that you keep an open
20 mind throughout the course of the trial. And that just
21 means that you are not to begin making up your minds or
22 formulating your opinions as to what you think the ultimate
23 decision in this case ought to be until all of the evidence
24 has been received, until I have instructed you on the law
25 and until you've been asked to begin with your

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1 deliberations in this case. That is the process that is
2 designed for you 12 jurors to arrive at a fair and just
3 decision.

4 So I do want to thank you in advance for your
5 participation, as well as for your careful attention. I
6 would ask that you please give the lawyers your attention
7 now as they give you their opening statements.

8 Ms. Poulos.

9 MS. POULOS: Thank you, Your Honor. May it please the
10 Court.

11 Gwen Emory was a 51-year-old woman. She lived in the
12 little town of Enoree and worked for D & D Masonry in Greer
13 as a dispatcher. She lived on a little road called
14 Robinson Dairy Road.

15 But on February 24th of 2008 Gwendolyn Emory bled in
16 her home in her bedroom on her waterbed that had been set
17 to 80 degrees face down, arms curled up in her chest,
18 partially clothed, stabbed dead.

19 Ladies and gentlemen, good afternoon. My name is Timi
20 Poulos, and I along with Abel Gray are prosecutors here in
21 Spartanburg County. We represent the State of South
22 Carolina.

23 And why are we here today? We are here because the
24 state has brought a charge against the defendant, Norman
25 Stoudenmire, for murder. And we have the burden and the

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1 responsibility of proving each and every element of that
2 charge to you beyond a reasonable doubt.

3 Now, in South Carolina murder is defined as the
4 killing of another person with malice aforethought. And
5 malice is basically hatred or ill will towards another. It
6 is the intentional doing of a wrongful act without any just
7 cause or excuse with the intent to inflict an injury.

8 Now, in this case the victim, Gwen Emory, knew the
9 defendant, Norman Stoudenmire. In fact, they were
10 neighbors. They lived down the road from each other and
11 worked for the same company, D & D Masonry.

12 In fact, Gwen picked up the defendant every day and
13 took him to work. His roommate also worked for the same
14 company. And they would all ride together every day.

15 And as time went on the defendant began having
16 problems at work, and eventually he was fired. In fact,
17 witnesses will testify that it was Gwen who told him --
18 gave him the message from their boss that he had been
19 fired. And as time went on the defendant grew angry and
20 very resentful toward Ms. Emory.

21 February the 23rd of 2008 was a Saturday. The
22 defendant and his roommate had been helping a neighbor with
23 some work on an outbuilding that day.

24 When they got done they went home and they had some
25 dinner. They drank beer and then smoked crack together.

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1 Witnesses will testify the defendant was a crack addict.

2 Meanwhile, Gwen Emory, the victim, had come home for
3 the day, taken a shower and washed her hair and was
4 relaxing and getting ready for bed. And then she went to
5 sleep.

6 And sometime thereafter her back door was kicked open,
7 and seconds later she was stabbed not once, not twice but
8 three times in the chest and once in the left arm. There
9 was a shadow box that was hung on the wall. There was a
10 \$20 bill that was autographed from a concert. That box had
11 been smashed on the floor. The \$20 bill was gone.

12 And there Gwendolyn Emory lay and spent the last few
13 seconds of her life face down, arms curled up at her chest
14 on an 80-degree water bed and bled to death.

15 Hours later the victim's boyfriend came to check on
16 her because she had not been returning his calls. He was
17 worried about her. But, unfortunately, we all know it was
18 too late.

19 And what does the defendant do? Well, the defendant
20 leaves. And witnesses are going to testify that he made
21 several calls throughout the day constantly wanting
22 updates, what was going on and whether the police had been
23 to his house.

24 And there's going to be a lot of information that you
25 will hear throughout the course of this trial. And there

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1 will be several witnesses who will each have something to
2 add.

3 And I'm going to tell y'all. I know a lot of y'all
4 watch shows like "C. S. I." and "Matlock", but this is not
5 going to be like T. V. This case is not going to be solved
6 in a 1-hour time slot or even a day or two days.

7 We're not going to have all of the answers for you.
8 They are not going to be any eye witnesses in this case.
9 The only eye witnesses are the victim who obviously can't
10 be here today and her killer.

11 But there will also be what we refer to as
12 circumstantial evidence. And we believe that it is that
13 evidence that will place the defendant at the scene the
14 night Gwen Emory was murdered and will also show that he
15 had the opportunity and the motive to commit this senseless
16 crime.

17 Ladies and gentlemen, this is not going to be a case
18 about who could have done it or who should have done it.
19 This is going to be a case about who must have done it.
20 And we submit to you that the evidence will show that the
21 defendant must have done this. And that's what we're here
22 to prove.

23 On behalf of the state I want to thank you for your
24 service as jurors. And all I can ask of you during this
25 trial is this. Be fair to the state, be fair to the

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1 defense. Listen to both sides very carefully and pay
2 attention to all of the testimony that's presented to you.

3 Most importantly, remember to use your good old common
4 sense. It has served you well in the past. It will serve
5 you well this week.

6 THE COURT: Mr. Hall.

7 MR. HALL: May it please the Court -- solicitor.

8 Mr. Foreman, members of the jury, I too want to thank
9 you for being here.

10 This is not just the day that this case gets tried
11 where Gwendolyn Emory's family gets this finally in court.
12 This is also the day Norman Stoudenmire and his family get
13 this in court, because he's been accused of a heinous
14 crime. Murder.

15 There's a person who is no longer here, and this trial
16 is a result of that. There is no way around it.

17 What the state has done is said we have evidence
18 beyond a reasonable doubt that he did it, and this trial is
19 to test them on that. Do they have proof beyond a
20 reasonable doubt? Not that he could have done it, maybe
21 did it, probably did it. They have to prove beyond a
22 reasonable doubt.

23 The basic facts that the state, the solicitor, gave
24 you are pretty much it. There's a young lady -- I say a
25 young lady -- at 51 seen on Saturday. She's found dead on

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1 Sunday. That's tragic.

2 But there's a lot more to it than that. There's a lot
3 of circumstantial evidence going in a lot of different
4 ways.

5 I too ask you to listen, to pay attention, because at
6 the end of the trial you'll have to use your common sense.
7 The judge will tell you what the law is. But the facts
8 will have been presented in this trial.

9 You will have to take what has been presented and
10 determine using the common sense, your common sense, what
11 facts have been proven beyond a reasonable doubt.

12 You can't do your job unless you pay attention. So I
13 ask you to pay careful attention to everything that's
14 presented, not just things that go down one track.

15 I agree. This is not a "C. S. I." case. Certainly,
16 it's not. This is not entertainment. This is involving a
17 person who is deceased and a person who has been accused.

18 We don't solve it in one hour. Sometimes we don't
19 solve these things within a whole season or several seasons
20 of a television show.

21 Please pay attention to what's presented. Watch the
22 witnesses as they testify. You're reasonable people.
23 That's why you've been put on this jury. Use your common
24 sense.

25 At the end of the case you will have to make that

Marc Stephen Finley
Direct examination by Ms. Poulos

1 tough decision. But you cannot, you cannot make that
2 decision to give Gwen Emory a fair trial and give Norman
3 Stoudenmire a fair trial unless you pay attention. Thank
4 you very much.

5 THE COURT: Which one is handling the first witness --
6 Ms. Poulos?

7 MS. POULOS: Thank you, Your Honor. The state calls
8 Deputy Marc Finley.

9 MARC STEPHEN FINLEY, having
10 been first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MS. POULOS

12 Q: Good afternoon. Please state your full name for the
13 record.

14 A: Marc Stephen Finley.

15 Q: And where are you employed?

16 A: Spartanburg County Sheriff's Office.

17 Q: How long have you been employed at the sheriff's
18 office?

19 A: Twenty-three and a half years.

20 Q: And what are your current job duties?

21 A: I'm a patrol officer, and I patrol the southern end of
22 Spartanburg County -- Woodruff, Enoree, Cross Anchor.

23 Q: Were you on duty February the 24th of 2008?

24 A: I was.

25 Q: And on that day did you receive a dispatch call?

Marc Stephen Finley
Direct examination by Ms. Poulos

- 1 A I did.
- 2 Q And do you recall what time that call came out?
- 3 A About quarter after 1:00 in the afternoon.
- 4 Q What was it pertaining to?
- 5 A It was simply dispatched as a death call.
- 6 Q Okay. And where was the location?
- 7 A I was dispatched to [REDACTED]
- 8 Q Where is that?
- 9 A That's down Highway 146 close to Cross Anchor.
- 10 Q Is that in Spartanburg County?
- 11 A Yes.
- 12 Q Was anyone there when you arrived?
- 13 A I think E. M. S. had already arrived, and they were in
- 14 the yard.
- 15 Q Okay. Do you recall, had they already been in the
- 16 home?
- 17 A I think they had already gone in and come out --
- 18 Q Okay.
- 19 A -- waiting on us.
- 20 Q Were there any other officers or investigators present
- 21 on the scene when you arrived?
- 22 A No, not, not when I arrived.
- 23 Q Now, did you do anything in the house when you first
- 24 arrived?
- 25 A I waited on, on another deputy, Eric Babb. And we

Marc Stephen Finley
Direct examination by Ms. Poulos

1 went in the house to what we call cleared the house, made
2 sure there wasn't anyone else in the house.

3 Q Okay. Was the door already opened?

4 A The left rear door to the house was damaged. It was
5 opened and looked as if it had been damaged.

6 Q Okay. And once Deputy Babb arrived did you go inside
7 together?

8 A Yes.

9 Q Okay. And what did you do once you got in there?

10 A We cleared the house.

11 Q What's involved in clearing the house?

12 A Go room to room, search the whole house to make sure
13 there's no one else in the house.

14 Q Did either of you, either one of you, touch anything?

15 A Not -- no.

16 Q Can you just briefly describe what the scene looked
17 like?

18 A As I said, the back rear door was damaged. There was
19 pieces of wood on the floor in the living room from the
20 door.

21 There was a, a picture lying on the floor, a picture
22 of a race car driver, I think, that had been, appeared to
23 have been setting on a bookcase maybe and had gotten
24 knocked over and broken.

25 We, we made our way to one of the back bedrooms where

Marc Stephen Finley
Cross-examination by Mr. Hall

1 we found a woman.

2 Q And where was the victim?

3 A She was lying on a, a bed in one of the bedrooms,
4 lying on her stomach.

5 Q Do you recall who arrived next on the scene?

6 A There were, there were the paramedics, and then me and
7 Deputy Babb, and then I think -- I can't remember. There
8 were just miscellaneous people showing up, and we were
9 trying to keep them kind of away from the scene.

10 Q Did the detectives and the coroner arrive at some
11 point thereafter?

12 A Yeah.

13 Q And they began their investigation?

14 A Right.

15 Q No further questions. Please answer any questions
16 Mr. Hall may have for you.

17 CROSS-EXAMINATION

18 BY MR. HALL

19 Q You say when you got there the door was open, right?

20 A Yes.

21 Q That back left door, you called it.

22 A Yes.

23 Q And let's orientate ourselves. If you're behind the
24 house, the trailer, it would be to your left. There's two
25 entrances.

Marc Stephen Finley
Cross-examination by Mr. Hall

- 1 A As I recall, yeah. This is the back side of the
2 doublewide, and you drive around, and this is the left
3 side.
- 4 Q Okay. And this is down, you said, near Cross Anchor.
5 A It's on the Cross Anchor end of 146.
- 6 Q Kind of close to Highway 56 where it comes into 146?
7 A Yeah, right on that end.
- 8 Q And the other end of the road, do you know where that
9 goes?
- 10 A 146?
- 11 Q No. Robinson Dairy Road.
- 12 A Oh, that goes over to Browning Road. It runs from
13 Highway 146 or Cross Anchor -- Cross Anchor Road over to
14 Browning Road.
- 15 Q Okay. Do you know where Browning Road goes? Is it --
16 A Browning Road runs off of -- well, Browning Road comes
17 from Highway 92 in Enoree and runs across to Highway 49.
- 18 Q Is this a rural neighborhood, so to speak?
19 A Yeah. There are -- a lot of people have horses and a
20 little bit of acreage. It's a gravel road.
- 21 Q Now, when you pulled up behind her house -- I assumed.
22 You said you pulled around.
- 23 A Uh-huh.
- 24 Q What is behind her house?
25 A Well, there's -- it seemed like I remember a driveway

Marc Stephen Finley
Cross-examination by Mr. Hall

1 that goes on beyond the house, so maybe another large yard
2 or pasture, and maybe another, another residence back
3 behind there.

4 Q Now, other than the lots where people are living in
5 mobile homes, or homes, was this more of a wooded area with
6 pastures -- pastures around the homes in a wooded area?

7 A Mostly pasture on both sides of the road and then
8 woods beyond that maybe -- large lots, doublewides.

9 Q Now, you said you had to keep various people who
10 arrived out.

11 A Well, I think they were neighbors and friends that had
12 started to show up, and I was just concerned that they
13 didn't get, you know, beyond our tape.

14 Q You were trying to protect the crime scene.

15 A Yeah, yeah.

16 Q People were coming up to see what happened.

17 A Yeah.

18 Q And did y'all start asking any questions at that point
19 of those people or --

20 A No. We didn't, we didn't try to investigate or -- no.

21 Q Nobody was offering any information at that point that
22 was showing up?

23 A I can't really recall that because I was concerned
24 with --

25 Q Protecting the scene?

Marc Stephen Finley
Cross-examination by Mr. Hall

- 1 A And searching the house and all of that.
- 2 Q When you arrived and waited for Deputy Babb, I assume
- 3 you didn't want to go in by yourself.
- 4 A Right.
- 5 Q Right. Did y'all go back to the bedroom where Gwen
- 6 Emory was found together?
- 7 A Yes.
- 8 Q Was she lying on the bed covered up or uncovered?
- 9 A I recall that she was fully clothed. I don't recall.
- 10 I don't recall a blanket. There may have been.
- 11 Q You're just not sure?
- 12 A Not sure about a blanket. I know she was fully
- 13 clothed.
- 14 Q But you didn't -- you weren't there to photograph.
- 15 You were just to clear the house and protect the scene.
- 16 A Right. That's all we were there to do.
- 17 Q Now, the picture, you said it was a race car driver or
- 18 something.
- 19 A It seemed like a race car driver maybe.
- 20 Q One of those shadowbox pictures -- deep? Or do you
- 21 recall?
- 22 A I tend to recall a photograph, framed photograph.
- 23 Q Okay. All right. Did y'all move it, turn it over, do
- 24 anything to it?
- 25 A No, no.

Marc Stephen Finley
Redirect examination by Ms. Poulos

1 Q Do you recall if -- you said it was broken. Was there
2 a broken glass on the floor?

3 A It seems that there was a broken glass from this
4 picture on the floor.

5 Q Okay. So when you got there there was broken glass
6 and the picture apparently lying face up.

7 A Yes.

8 Q So you could see what you thought was a picture of a
9 race car driver.

10 MR. HALL: Beg the Court's indulgence.

11 (Pause.)

12 MR. HALL: Nothing further of this witness.

13 REDIRECT EXAMINATION

14 BY MS. POULOS

15 Q Deputy Babb, you said earlier that the victim was
16 fully clothed. Do you recall exactly what she had on?

17 A It is Deputy Finley.

18 Q I'm sorry.

19 A If my memory serves me correctly maybe blue jeans and
20 a -- maybe a heavy type of t-shirt.

21 Q Thank you.

22 MS. POULOS: That's all I have.

23 THE COURT: You may step down.

24 MS. POULOS: Your Honor, the state would call Deputy
25 Eric Babb.

130

Eric Benjamin Babb
Direct examination by Ms. Poulos

1 and family members that had gathered at the house.

2 Q Okay. And E. M. S. had already gone into the home as
3 far as you recall?

4 A Yes, ma'am.

5 Q Did you and Deputy Babb go inside the house and search
6 together?

7 A Deputy Finley, yes, ma'am, we did.

8 Q Finley. I'm sorry.

9 A Yes, ma'am, we did.

10 Q And what was involved in searching the house?

11 A When we, when we went in our main objective is to make
12 sure nobody else is in the house, to make sure the house is
13 safe for our investigators to come into. But we're also
14 looking for evidence that sticks out, just a quick search.
15 We don't open dresser drawers; we don't look under beds or
16 anything like that. We're just looking for plain-sight
17 stuff.

18 Q Did you, either of you, touch anything?

19 A No, ma'am.

20 Q And describe for us what the scene looked like.

21 A When we approached the rear of the house the door on
22 the left-hand side of the house appeared that it had been
23 forced open. There were pieces of the doorframe laying
24 inside.

25 When we walked in we went to the right, traveled down

Eric Benjamin Babb
Direct examination by Ms. Poulos

1 a small hallway through the kitchen and living room to the,
2 to where the bedroom was. The E. M. S. told us where,
3 that's where the victim was.

4 We, we looked. I saw. When I entered the bedroom
5 Ms. Emory was laying on her stomach on the bed to the
6 left-hand side of me.

7 I continued on. The bathroom was straight in to the
8 right. I checked the bathroom. I noticed that there was a
9 drawer that was opened with several loose bills, twenties
10 and tens just setting in the, in the drawer.

11 I noticed a bruise on Ms. Emory's, I believe it was
12 her, left-hand side.

13 Q Did Ms. Emory appear to be covered with a blanket, or
14 how did she look?

15 A I know she had on a t-shirt. I don't recall if she
16 had, if she was covered with a blanket or not.

17 Q Do you recall who arrived next on the scene?

18 A Probably Investigator Hogsed with the, with our
19 forensics division was probably the next one on the scene.

20 Q Okay. And who put up the crime scene tape?

21 A I did.

22 Q And at that point the detectives and coroner, I
23 assume, began their investigation.

24 A Yes, ma'am.

25 Q Thank you. Please answer any questions Mr. Hall may

Eric Benjamin Babb
Cross-examination by Mr. Hall

1 have for you.

2 A Okay.

3 CROSS-EXAMINATION

4 BY MR. HALL

5 Q I assume Marc Finley helped you put up that tape, or
6 did you put it up yourself?

7 A Yes, sir, Marc. Marc assisted me.

8 Q All right. And the purpose of that from that point on
9 is to keep unauthorized people out, right?

10 A Yes, sir.

11 Q And were many people showing up?

12 A No. The people that were there originally, I, I don't
13 recall a large crowd. There may have been four or five
14 people there on the scene.

15 Q How long were you and Marc Finley on the scene, do you
16 recall?

17 A I was there until well after 7:00 o'clock that night
18 when I was relieved by second shift.

19 Q And did various people show up from the neighborhood,
20 so to speak, or family?

21 A No, sir.

22 Q Just investigators.

23 A Yes, sir, and...

24 Q All right. Now, when you went to the bedroom where
25 Gwen Emory was you could see the bathroom with the drawer

Eric Benjamin Babb
Cross-examination by Mr. Hall

1 open with the money in it.

2 A When I, when I walked into the bathroom, yes, sir, I
3 could.

4 Q So the drawer was open --

5 A Yes, sir.

6 Q -- a couple of inches, several inches?

7 A Three or 4 inches.

8 Q But you could see the money.

9 A Yes, sir, I could.

10 Q I'm not saying you tried to move anything, but if you
11 had closed the drawer would some of that money still have
12 been sticking out?

13 A I don't recall.

14 Q Okay. Could there have been other type of bills
15 instead of tens and twenties? Did you pay that much
16 attention?

17 A No, sir, I didn't. I noticed there was, there were
18 several, several bills in that drawer. I didn't, wasn't my
19 job to count it or inventory it at that point.

20 Q Okay. And do you recall touching or moving anything
21 in that house?

22 A No, sir. I did not.

23 MR. HALL: I have no further questions of this
24 witness, Your Honor.

25 MS. POULOS: Nothing further, Your Honor.

David Ravan
Direct examination by Mr. Gray

1 THE COURT: You may step down.

2 MR. GRAY: The state calls.

3 DAVID RAVAN, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. GRAY

6 Q Please state your name and occupation.

7 A David Ravan. I'm a paramedic with Spartanburg
8 E. M. S.

9 Q How long have you had that occupation, sir?

10 A Almost nine years.

11 Q February 24th, I believe, of 2008, did you receive a
12 call on that day?

13 A Yes, sir, we did.

14 Q And what was that call to?

15 A It was for a subject not breathing on -- I forget
16 the -- I'm bad with names of streets. Do you mind if I
17 look?

18 Q Go right ahead, sir.

19 A Robinson Dairy Road, I think is the name of it, yes,
20 on Robinson Dairy Road for not breathing.

21 Q For not breathing.

22 A Yes, sir.

23 Q You didn't get a call of a possible death.

24 A Well, not breathing most of the time means there's
25 going to be a D. O. A., whether it's of natural causes or

David Ravan
Direct examination by Mr. Gray

1 not.

2 Q Once you arrived there what did you observe?

3 A As we pulled on the scene we saw several folks there,
4 bystanders, family members or whatever. I don't know.

5 We went up onto the porch. We noticed the back door
6 was open, appeared to have been forced open. The doorframe
7 was broken.

8 As we entered into the house we noticed items laying
9 just inside the door such as picture frames. It looked
10 like they'd been knocked off the wall and broken and so
11 forth.

12 Q Did you proceed into the home? What type of home was
13 it?

14 A I think it's like a doublewide mobile home. I'm not
15 sure if it's a doublewide or a single-wide. It was a
16 mobile home type.

17 Q Describe these doors if you will.

18 A It's an inward opening. It looked like it had been
19 kicked inward, I think. I don't remember if it was metal
20 or wood, but the doorframe was wood and was broken.

21 Q You said you went inside the home.

22 A We went inside the home. We were notified that the
23 subject was in the back or, excuse me, the front bedroom,
24 because we entered from the back.

25 We made our way back to the bedroom, located a white

David Ravan
Direct examination by Mr. Gray

1 female laying across the bed, made note that there was
2 lividity in the pooling of the blood in the side of the
3 patient.

4 Q If I may, sir, lividity?

5 A Yes.

6 Q For those of us who didn't go to medical school, what
7 is lividity?

8 A Lividity is where the blood pools on the body when a
9 person is deceased and lays in position for some time.

10 Q And what does some time mean?

11 A It varies. I would say probably about 12 hours, I
12 would say. I'm not sure. But, I mean, as time goes the
13 blood settles to the lowest, to the lowest point.

14 Q To the lowest point of the body?

15 A Of the body, yes. Like if she was laying on her side
16 the blood would have pooled to her side.

17 Q Would that resemble a bruise?

18 A It would to an untrained person, yes.

19 Q And speaking then would that bruise show up in any
20 race of female, particularly Caucasian females?

21 A More probably in Caucasians. African-Americans is a
22 little hard to discern for the dark pigmentation. But most
23 prominently on Caucasians.

24 Q Is there coloration of this lividity?

25 A Yes.

David Ravan
Direct examination by Mr. Gray

1 Q Would that change over the amount of time the person
2 had been laying there?

3 A I'm not sure.

4 Q What's the typical color?

5 A It's a purplish-blue color. It would appear as a dark
6 bruise.

7 Q Now, when you approached the bed could you immediately
8 see this lividity?

9 A No. I had to actually go down to the foot of the bed
10 and look back up because of the way the covers were. I
11 could see it at that point.

12 I then did check the patient, as always we check
13 patients for pulses even though we know there's probably
14 not a pulse.

15 Patient did have rigor, which is the stiffening of the
16 joints also.

17 At that point in time we returned back out of the
18 house by the same means that we went in.

19 Q You say rigor. What is rigor?

20 A It's where the joints stiffen on a person that is
21 diseased. The joints and muscles just stiffen up to where
22 they did not move.

23 Q How do we know it was rigor?

24 A Rigor -- rigor mortis.

25 Q Rigor mortis. Now, that stiffen, how long does that

David Ravan
Direct examination by Mr. Gray

1 take if you know?

2 A I'm not quite sure. I think it takes different
3 timeframes. I mean, I'm saying from what I have been told
4 around ten to 12 hours.

5 MR. HALL: I object, Your Honor.

6 THE COURT: Sustained.

7 MR. GRAY: Thank you, Your Honor.

8 Q Now, last: Now, after you examined the body and
9 determined Ms. Emory was diseased did you move her at all?

10 A No, I did not.

11 Q Did you move any of the clothing that she had on?

12 A Not that I recall, no, sir.

13 Q Did you move the bedspread or anything of that nature?

14 A No, sir, not that I recall.

15 Q How long did you stay there checking for breathing,
16 checking for a pulse?

17 A Less than probably a minute and a half. Not very
18 long.

19 As soon as we realized that the patient was deceased
20 and the circumstances around it we immediately went back
21 out. When I say we, me and my partner went back out and
22 secured the scene from any other people entering the scene
23 until the county got there.

24 Q Well, let me ask you some more about the -- what you
25 saw. You saw -- what type of bed was this?

David Ravan
Direct examination by Mr. Gray

- 1 A It was a water bed.
- 2 Q Did you touch the water bed?
- 3 A No, sir, not that I remember. It's been two years.
- 4 Q All right. I understand. Not touching the water bed,
- 5 did you see anything else on the sheets or the bed itself
- 6 or the spread?
- 7 A The comforter had some blood on it, looked like it had
- 8 been laid over her and then pulled back. There was also
- 9 some blood on her shirt.
- 10 Q What type of shirt if you remember?
- 11 A It was a bluish colored t-shirt type of material.
- 12 Q Did she have on any clothing below the waist?
- 13 A I don't know, sir. As far as I remember that portion
- 14 of the body was covered with a sheet.
- 15 Q You left the home at that point?
- 16 A Yes, sir. We went back out the same way that we went
- 17 in, the same path.
- 18 Q The same path.
- 19 A Yes. That way we didn't try to contaminate any other
- 20 evidence or any of the house other than where we went.
- 21 Q You didn't literally back out.
- 22 A No. We walked back out the same direction that we
- 23 came in, same path through the kitchen and back out through
- 24 the back door.
- 25 Q Now that you were turned around walking out did you

David Ravan
Direct examination by Mr. Gray

1 notice anything else on the way out?

2 A Like I said, there was items laying around on the
3 floor, broken picture frames. That's about all I remember
4 as far as details, what it was. But there was numerous
5 items laying in the floor-way.

6 Q Now, you did this check of Ms. Emory before the
7 officers got there from the county?

8 A Yes, sir.

9 Q Once the officers got there from the county did you
10 reenter the home?

11 A I reentered with the forensics officer and showed him
12 which way we went in, what path we took. And then we
13 returned back outside and shortly after departed the scene.

14 Q Do you recall the name of that forensics officer?

15 A I think it was Officer Talanges. I'm not sure. There
16 was a couple of them there, a couple of the forensic guys.

17 Q Thank you.

18 MR. GRAY: One moment, Your Honor.

19 (Photographs marked State's Exhibits Nos. 2 through 19
20 for Identification.)

21 Q I'm showing you what's been marked State's Exhibit No.
22 9 for identification purposes and ask you if you recognize
23 that.

24 A That appears to be the lividity that I noted in my
25 statement on the patient.

David Ravan
Direct examination by Mr. Gray

1 Q And also State's Exhibit No. 12.

2 A Again, lividity with some blood on the shirt.

3 Q Is that indicative of the way you found the victim
4 when you entered the home?

5 A Yes.

6 MR. HALL: No objection.

7 MR. GRAY: I move these into evidence, Your Honor.

8 THE COURT: Numbers are what?

9 MR. GRAY: Twelve and nine.

10 THE COURT: They are admitted without objection.

11 MR. GRAY: Thank you.

12 (Photographs marked State's Exhibits Nos. 9 and 12.)

13 MR. GRAY: Request permission to publish to the jury,
14 Your Honor.

15 THE COURT: You may.

16 Q Show you what's been marked as State's Exhibits No. 10
17 and 11 and ask you if those look familiar.

18 A Yes. They do.

19 Q What are those indicative of, sir?

20 A That is the victim that we found in the bed in the
21 bedroom.

22 Q Is that the state she was in when you entered the
23 home?

24 A Yes.

25 Q And you say you hadn't touched her or moved her at

David Ravan
Direct examination by Mr. Gray

1 that point.

2 A No. We did not move the patient.

3 Q Thank you.

4 MR. HALL: No objection.

5 THE COURT: What are the numbers?

6 MR. GRAY: Ten and 11, Your Honor.

7 (Photographs marked State's Exhibits Nos. 10 and 11.)

8 MR. GRAY: Request permission to publish to the jury.

9 THE COURT: You may.

10 Q And for time sake I want you to look at 13 through 19
11 and see if you recognize those, sir.

12 A The first three appears to be the doorframe and the
13 door of the -- the rear door that we entered through that,
14 like I stated, it looked like it had been forced in,
15 whether kicked or whether with a tool.

16 The next one is a -- the picture that I stated that I
17 saw as we went in the door that had been, looked like it
18 had been, knocked off the wall and broken.

19 Seventeen is the same; 18 is the same; and No. 19 is
20 the same picture that was laying down in the floor.

21 Q And those are all reflective of the scene once you got
22 there.

23 A As soon as I stepped in the door, yes, sir.

24 Q Thank you.

25 MR. HALL: No objection.

David Ravan
Cross-examination by Mr. Hall

1 THE COURT: Thirteen through 19.

2 MR. GRAY: Yes, sir, Your Honor.

3 THE COURT: They are admitted.

4 (Photographs marked State's Exhibits Nos. 13 through
5 19.)

6 MR. GRAY: Request permission to publish, Your Honor.

7 THE COURT: You may.

8 MR. GRAY: No further questions of this witness.

9 Q Please answer any questions Mr. Hall may have.

10 CROSS-EXAMINATION

11 BY MR. HALL

12 Q Now, if you can answer this, let's talk about rigor
13 and lividity.

14 A Yes, sir.

15 Q That's the stiffening of the ability for somebody to
16 be able to move the joints, would be rigor.

17 A Yes, sir.

18 Q And lividity is settled in place.

19 A Yes, sir.

20 Q Does heat and cold if you know have any effect on
21 that?

22 A I have no idea, sir.

23 Q But as far as you know you were the first, you and
24 your partner were the first, government people going into
25 the house, is that correct?

Ben Nevins
Direct examination by Mr. Gray

1 A Yes, sir. We were the very -- we were the first ones
2 on the scene.

3 Q And you describe -- would you describe the house as
4 neatly kept or messy?

5 A For the most part it seemed neatly kept other than the
6 items that were strowed about that were broken.

7 Q Okay.

8 MR. HALL: I have no further questions, Your Honor.

9 MR. GRAY: No further questions, Your Honor.

10 THE COURT: Thank you.

11 MR. GRAY: State calls Ben Nevins.

12 BEN NEVINS, having been first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. GRAY

15 Q Please state your name, sir.

16 A Ben Nevins.

17 Q Mr. Nevins, where do you live?

18 A Robinson Dairy Road -- 625 Robinson Dairy Road.

19 Q How long have you lived there, Mr. Nevins?

20 A Since 1988.

21 Q Do you know a Ms. Gwen Emory, Mr. Nevins?

22 A Yes. I did.

23 Q How did you know Ms. Emory, Mr. Nevins?

24 A She rented my pasture to keep her horses in. She had
25 four horses and I had nine acres, and she rented it to keep

Ben Nevins
Direct examination by Mr. Gray

1 her horses in.

2 Q Mr. Emory (sic), is that the only way you knew her?

3 A No. I saw her after she started renting my horse
4 pasture, and she'd come up to my house just about every day
5 after work.

6 Q What happened after a while, Mr. Nevins?

7 A What happened?

8 Q Yes, sir, between the two of you.

9 A Oh, we developed a relationship and saw each other.
10 It was pretty much her just coming to my house though. We
11 didn't really go out or nothing.

12 Q Mr. Nevins, I'm going to have to ask you about
13 February the 24th of 2008. Do you remember that day?

14 A Yeah. Never will forget it.

15 Q Why do you remember that day, Mr. Nevins?

16 A Well, she told me the night before I went down to her
17 house that she was making some C. D.s for me of Indian
18 music because she had Indian blood in her.

19 And I went down there, and she gave me two C. D.s and
20 told me she'd call me tomorrow. She had another one
21 making.

22 And she didn't. And my son and I were sawing down
23 some tree stumps on some land I was clearing, and I saw her
24 pickup truck was there. And so I went and called her, and
25 she didn't answer the phone. And after she didn't answer

Ben Nevins
Direct examination by Mr. Gray

1 the phone I went down there, and her door was opened.

2 And I went in, and there was a piece of door stop like
3 you close the door up against and a little metal thing that
4 you lock the door with was laying in the floor, and there
5 was a picture frame broken laying in the floor.

6 And I said, "Gwen, Gwen," and I went down the hallway,
7 and she was in her bedroom laying across the bed dead.

8 Q Take a look at this, Mr. Nevins, for a second, please.

9 A Yeah.

10 Q I want to go back to the day before. You say you had
11 some contact with Ms. Emory on the 23rd. I believe that
12 was a Saturday.

13 A Saturday night I went down to her house for about ten
14 minutes. Friday night she came up to my house and stayed
15 up there for a few hours.

16 Q Okay. Saturday night, the 23rd, you went down to her
17 house.

18 A Uh-huh.

19 Q Why did you go down to her house?

20 A Because there was a basketball game. Tennessee and
21 Memphis were playing basketball on T. V. And I told -- and
22 I wanted to see that because I'm from Tennessee. And I
23 told Jack I was going to go down there for just a few
24 minutes because if I didn't she'd call me during the
25 basketball game.

Ben Nevins
Direct examination by Mr. Gray

1 And so I just went down there for a token visit for
2 about 15 minutes, and that was when she gave me the two C.
3 D.s that she had made and told me she'd give me the third
4 one the next day.

5 Q About what time was that?

6 A I'd say 8:00 o'clock, 7:30 or 8:00 o'clock, something
7 like that, earlier in the evening.

8 Q You had a relationship of some type with Ms. Emory.
9 That night did it appear Ms. Emory was getting ready to
10 leave?

11 A No.

12 Q Go out? How did it appear to you?

13 A Well, she had taken a bath, and she was barefoot and
14 just looked like she was going to go to bed soon.

15 She was working on the computer, and she had a tape
16 recording off of -- I don't know if it was her stereo or
17 the computer. But she was putting it on a compact disc.

18 Q Was there, was her hair wet?

19 A Damp, uh-huh.

20 Q Like she had just washed her hair?

21 A Uh-huh.

22 Q Now, again, you had a basketball game you needed to
23 see. So how long did you stay down there?

24 A Maybe ten minutes, 15 minutes, something like that.
25 Not long.

Ben Nevins
Direct examination by Mr. Gray

1 Q When you left Ms. Emory what was her condition?

2 A Oh, she was just fine working on the computer, and,
3 and she was eager about making this Indian music. She just
4 really was proud of having Indian blood in her. And when I
5 was interested in it she just wanted to make the C. D.'s
6 for me. It was chance, Indian chance.

7 Q Do you remember what she was wearing?

8 A Yeah, or I remember the shirt. It was a light blue, I
9 think, maybe Eddie Bower, but it was like polar-tech or
10 some kind of fleece. I think it was a pullover shirt.

11 Q When you found her the next day was she wearing the
12 same shirt?

13 A I thought. I mean, to my knowledge she was. It
14 looked like the same shirt she had on the night before to
15 me.

16 I could only see the back of it because she was laying
17 on her stomach and her shirt was pulled up to about right
18 there. So I could only see about that much of the shirt.

19 Q How did she appear when you found her?

20 A Well, she was just laying on her stomach with her head
21 turned this direction, and blood was coming out from under
22 her. I mean, there was blood under her. And I could see.

23 There was covers over her from about the hips down,
24 and her shirt was pulled up to about right there. And
25 there was a big purple bruise like I had never seen. It

Ben Nevins

Direct examination by Mr. Gray

1 was that big. And it just -- I, I said, "Gwen, Gwen," and
2 I put my hands on her and shook her, and she was cold and
3 stiff already.

4 Q When you left her the night before was there any
5 problems with her?

6 A No, no.

7 Q Did she have any -- anything to drink that night?

8 A No.

9 Q The two of you?

10 A Uh-uh.

11 Q Any drugs, the two of you, that night?

12 A She didn't, she didn't do anything like that.

13 Q When you left her that night she was in perfect
14 health.

15 A Uh-huh.

16 Q And about what time was the next time you saw her?

17 A The next time I saw her?

18 Q Yes, sir.

19 A Was I think when I looked at my, my phone when I
20 called 9-1-1, was 1:04 or 1:05, something like that. And
21 I'm not absolutely sure about that. But I, I remember when
22 the policeman asked me what time I got there. I got my
23 cell phone out and looked at it, and I said, well, at
24 1:04 or whatever my cell phone had on there.

25 Q All right. This picture box, shadow box, do you know

Ben Nevins

Direct examination by Mr. Gray

1 anything about that?

2 A It had a picture of David Ball when he was at the
3 auditorium and she had been to see him. This was before I
4 knew her. But she had taken a picture of him. And she had
5 a picture of him. His autograph was on the \$20 bill. And
6 she had both of those in a picture frame hanging on the
7 wall. And that picture frame was laying on the floor
8 smashed.

9 And it took me a day or two to remember what else was
10 in the picture frame. But the bill was gone. The \$20 bill
11 with his autograph on it was missing.

12 Q Did she ever keep money in the house?

13 A Well, not that I know of. She kept money in her
14 pockets, wadded up in little balls. And she told me once
15 she found \$300 in her dryer lint thing where she'd washed
16 money in her pockets.

17 But as far as having money around, I don't know. When
18 she paid me rent for the horses she just always brought it.
19 I never went to get it.

20 Q Thank you, sir. One moment, sir.

21 (Pause.)

22 Q I have no further questions, sir. Please answer any
23 questions Mr. Hall may have.

24

25

Ben Nevins
Cross-examination by Mr. Hall

1 CROSS-EXAMINATION

2 BY MR. HALL

3 Q Now, y'all had -- you said she would come and visit
4 you at your house instead of going out.

5 A Not instead of going out. We just didn't go out
6 because I don't have any money.

7 She would just come to my house after she got off work
8 each day because she was tired, and she was usually mad at
9 some of the people she'd been working with. And she would
10 come and vent her frustrations to me on some of those
11 people because --

12 Q Let me ask you this. Y'all had your whatever your
13 relationship was. How many months before February 29th of
14 2008 had y'all had this relationship?

15 A Well, I met her on April the 15th, but it was a few
16 months before a relationship developed. So it was less
17 than eight months -- six months.

18 Q Did you ever go to a hotel room with her?

19 A On her birthday because she was afraid that somebody
20 would come up there. And if I went to her house, she was
21 afraid somebody would come down there. So she said that on
22 her birthday she would pay for a motel room.

23 Q Now, you referred to Jack before. Is that your son?

24 A Uh-huh.

25 Q I think she needs for you to answer.

Ben Nevins
Cross-examination by Mr. Hall

1 A Yes.

2 Q Yes or no.

3 THE COURT: He just wants you to answer out loud
4 rather than shaking your head.

5 A Yes.

6 Q Okay. And he lived with you.

7 A Yes.

8 Q All right. When you and Ms. Emory would get together
9 was Jack there at times?

10 A Sometimes, and sometimes he wasn't.

11 Q All right. Was your relationship with Ms. Emory
12 sexual in nature?

13 A Sometimes, and sometimes not.

14 Q All right. How old was your son at that time?

15 A Twenty-five.

16 Q Twenty-five. And this son was -- he didn't drive, did
17 he, a driver's license?

18 A Did my son drive? Yes.

19 Q Oh, he had a driver's license?

20 A Uh-huh.

21 Q Okay. I got confused. Now, does Jack work?

22 A Yes.

23 Q All right. Did he work back then?

24 A Yes.

25 Q Okay. So sometimes you and Ms. Emory would have your

Ben Nevins
Cross-examination by Mr. Hall

1 evenings or afternoons together. You could be together at
2 your house without Jack there.

3 A Sometimes.

4 Q Okay.

5 A Not afternoons.

6 Q Or evenings. I apologize.

7 A Okay.

8 Q And y'all had your relationship for about eight months
9 up to this time.

10 A That's just a guess, you know, because I wasn't
11 writing anything down or anything. I have the receipt from
12 the first, when she rented the pasture, and it was on
13 April the 15th. That's the only thing that makes me know a
14 date.

15 Other than that she would stop by my house on the way
16 home, and then she'd go home most of the time.

17 Q All right.

18 A You know.

19 Q Did she ever spend the night at your house?

20 A Uh-huh.

21 Q Did you ever spend the night at her house?

22 A Uh-huh.

23 THE COURT: Please answer orally.

24 A Yes.

25 Q She had a waterbed, is that correct?

Ben Nevins
Cross-examination by Mr. Hall

1 A Yes.

2 Q Do you know if that was a heated waterbed, have a
3 thermostat for it, to heat the water to make it warmer?

4 A Yes.

5 Q Do you know if that worked very well?

6 A Yes.

7 Q Did it work too well? Do you know if the bed was hot,
8 uncomfortable hot, or just comfortable?

9 A It was hotter than I like it.

10 Q Okay. I think you described it like being a hot dog
11 on one of those turning things that cooks it. Do you know
12 if that, the thermostat for that thing, worked properly or
13 not?

14 A No.

15 Q Okay.

16 A I mean, no, it didn't work, not, no, I don't know.

17 Q Okay. Do you know if she could adjust it?

18 A You couldn't adjust it. You could unplug it.

19 Q So it was kind of like a heater with one setting all
20 the way.

21 A It was kind of like a waterbed that the thermostat
22 didn't work.

23 Q So it was either on or off.

24 A You plugged it in or you unplugged it.

25 Q Yes, sir. If you plugged it in, it was on. To get it

Ben Nevins
Cross-examination by Mr. Hall

1 off you had to unplug it, is that correct?

2 A I would say, I would say that's right.

3 Q Okay. Now, Ms. Emory worked in, for a company out of
4 Greer. Do you know what that company did?

5 A Uh-huh.

6 Q Okay. What did that company do?

7 A Laid blocks and bricks.

8 Q Did they do that for a house mover or just wherever?

9 A I don't know exactly who all they did it for. I know
10 they did some for house movers. I know they did some new
11 work. But I never went to her job, and I don't know. They
12 worked different places all around.

13 Q And at the time of her death she was taking Hillard
14 Lee Walker to work every day, wasn't she?

15 A Uh-huh.

16 Q And had been doing that for some time.

17 A Uh-huh.

18 Q And you know he's an exboyfriend.

19 A Uh-huh. Once -- he was her boyfriend when she put her
20 horses in my pasture.

21 Q But at the time y'all started seeing each other that
22 was over with.

23 A No. He had moved.

24 Q And he had moved in with my client, hadn't he?

25 A That's right, and I think maybe another person in the

Ben Nevins
Cross-examination by Mr. Hall

1 beginning.

2 Q All right. Do you know if after the breakup of Lee
3 and Gwen if Lee ever went back to Gwen's?

4 A Uh-huh.

5 Q Again, I think she needs --

6 A Yes.

7 Q All right. Do you know if Norman ever went to Gwen's?

8 A I never saw him there.

9 Q All right. Did you ever see Gwen at Norman's?

10 A When she -- he used to ride to work with her, and he
11 got fired.

12 Q Okay. But my question is did you ever see her at
13 Norman's house or trailer.

14 A Dropping off, picking them up.

15 Q Okay. Did you ever go by his trailer one time and she
16 was up there and Lee was up there?

17 A On the way home from work I saw her leaving one day.

18 Q Okay.

19 A She had gotten a computer from her mother and he
20 installed something on it.

21 Q Talking about Norman installed things on the computer
22 for Gwen, is that correct?

23 A That once.

24 Q Okay. At least one time.

25 All right. Was there any problem that she would still,

Ben Nevins
Cross-examination by Mr. Hall

1 albeit given transportation for work, driving Lee to work
2 every day, if y'all were in some type of relationship?

3 A I'm sorry? Could you repeat that?

4 Q Let me put it very simple. Were you jealous that she
5 still had contact with Lee almost every day?

6 A No.

7 Q Was your relationship with her a love relationship or
8 more of a convenience?

9 A Well, I don't know if it'd fall into either one of
10 those categories. The longer I knew her, the more I cared
11 about her. It had nothing to do with convenience.

12 Q Okay. Was there -- so you weren't jealous of Lee
13 being around?

14 A He, he came when I was there before to try to get her
15 to take him to the store or get beer or get cigarettes or
16 something.

17 It, it didn't matter that I was there. He would still
18 come to try to get her to take him to the store or borrow
19 money or various things. He didn't, he didn't care that I
20 was there. He would still come.

21 Q And what would she do? What did Gwen do?

22 A She would tell him to go on and leave, and he would
23 kind of just -- he was always real nervous acting and
24 stuff. And he would leave.

25 Q So you had nothing to be jealous of then.

Ben Nevins
Cross-examination by Mr. Hall

- 1 A Not a bit.
- 2 Q Now, the night or the evening of February the 23rd --
- 3 that's February. When you went down there at 8:00 o'clock
- 4 or so, I assume it was dark. Okay. And you spent ten or
- 5 15 minutes there. Was she drinking a beer?
- 6 A No.
- 7 Q No. Didn't drink much?
- 8 A Uh-uh. Occasionally she'd drink a beer but not...
- 9 Q Do you know what kind of beer she drank?
- 10 A Uh-uh.
- 11 THE COURT: Please answer yes or no.
- 12 A No.
- 13 Q When y'all were together did y'all ever drink, either
- 14 of you?
- 15 A Yeah.
- 16 Q Okay.
- 17 A I, I drank more than she did. Occasionally, she might
- 18 drink one beer or she might drink one glass of wine, but
- 19 she wasn't a drinker.
- 20 Q Was she a neat housekeeper or --
- 21 A No.
- 22 Q Was she a bit messy with her house?
- 23 A Yes. I don't know that I would say messy, but it had
- 24 washed, folded-up clothes everywhere.
- 25 Q So she didn't -- things might not be dirty, but she

Ben Nevins
Cross-examination by Mr. Hall

1 didn't always put them away?

2 A Yeah. It wasn't dirty, but her -- she just always had
3 washed, laundered, fold-up clothes stacked everywhere.

4 Q And the shadow-box picture.

5 A It wasn't a shadow box. It was a picture frame.

6 Q A picture frame. Okay. The picture frame from a
7 David Ball concert. Do you know who she went to that
8 concert with?

9 A No.

10 Q But I believe there were two tickets there, right?

11 A No. It was one.

12 Q Just one ticket. Now, when you went in that Sunday
13 afternoon, 1:00 or 1:15 or whatever it was, you went in the
14 door that looked like it had been forced open, is that
15 correct?

16 A It was open when I got there.

17 Q Yes, sir. Did you have to push the door some?

18 A No. It was open when I got there.

19 Q Yes, sir. I just asked you if you had to.

20 A Well, I know, but you just asked me two times, and I
21 just answered the first question, and I thought it was
22 strange you asked me again.

23 Q No, sir. What I was saying, the door was all the way
24 opened as opposed to partially opened.

25 A It was, it was opened enough to go in.

Ben Nevins
Cross-examination by Mr. Hall

1 Q Yes, sir. That's what I am getting to, because that
2 door could swing almost back against the wall at that
3 point, couldn't it? I mean, it was capable.

4 A I don't know what was behind it. There was a chair
5 behind the door, I think. I don't know. You know, the
6 door was open.

7 Q Okay. Did you -- you didn't have to touch the door.

8 A Uh-uh.

9 Q Did you touch that picture frame at all?

10 A No.

11 Q Do you recall if you moved anything as you went
12 through the house?

13 A I went, I went down to the bedroom. I found her
14 laying in there dead. I went and called 9-1-1, and I said
15 there's no need to send an ambulance, send the police,
16 she's already dead and cold.

17 And then the lady at 9-1-1 said what street number is
18 it. I said I don't know, it's a small road, send, send the
19 police down here and I'll flag them down.

20 She said look around on her and find something that
21 has a box number. So I found a letter laying on her desk
22 that had the box number. And then she -- I gave her the
23 box number.

24 Q Okay. When you went in and found her did you go
25 through the kitchen or did you kinda go through a living

Ben Nevins
Cross-examination by Mr. Hall

1 room, a hallway and living room or...

2 A There's a hallway between the room you go in. It's a
3 trailer. There's a hallway from one end to the other end,
4 from the end I went in to the end the bedroom was on.

5 Q Can you get to the bedroom through the kitchen too?

6 A You go through, you went through, the kitchen.

7 Q Okay. That's what I was trying to ask you. That's
8 the only way you went in and out?

9 A I ran and told her next-door neighbor who lives in
10 front of her.

11 Q That would be Leeann?

12 A Yeah. But I think I went out the back door. I don't
13 really remember that part because I was in shock.

14 Q Did you call 9-1-1 before you left the house --

15 A No.

16 Q -- or in it?

17 A I called 9-1-1 immediately from inside the house.

18 Q Now, her computer, you're talking about the computer
19 that was between the kitchen and den in that little area
20 or --

21 A It was on her desk, is the only one I knew she had.

22 She had gotten that one, one from her mother. That was an
23 old one. And I don't know which one was which.

24 Q Okay. I'm just saying that's the area where you
25 picked up the letter.

Ben Nevins
Cross-examination by Mr. Hall

- 1 A It was on her desk.
- 2 Q Okay.
- 3 A She had -- the only desk I knew of was one desk.
- 4 Q And what I'm asking you is where is that desk located
- 5 in her house.
- 6 A I guess the dining room. I don't know. She had a
- 7 living room, a kitchen and dining room all together kind
- 8 of.
- 9 Q Well, the bedroom -- is it in front of the house or
- 10 back of the house where that's --
- 11 A Back of the house.
- 12 Q Okay. And is it a room next to the kitchen?
- 13 A The kitchen, a den, dining room. All of that stuff
- 14 was kind of together.
- 15 Q All right. But that's the only thing you touched.
- 16 A And the only reason that I did was because the lady on
- 17 the telephone --
- 18 Q That's what the 9-1-1 operator told you to do.
- 19 A To find the house number.
- 20 Q Okay. And after you called 9-1-1, that's when you
- 21 went to Leeann's?
- 22 A I went to Leeann's, and then we came back over there
- 23 and waited for the ambulance to get there.
- 24 Q Did you or Leeann go back inside?
- 25 A I think we walked in and Leeann looked at her, and

Ben Nevins
Redirect examination by Mr. Gray

1 then we went back out.

2 Q Now, after all of this when they started investigating
3 do you remember speaking to Leeann or anybody else and
4 asking what the sheriff's department was asking?

5 A I know I never did.

6 Q Okay.

7 MR. HALL: Beg the Court's indulgence.

8 (Pause.)

9 MR. HALL: No further questions.

10 MR. GRAY: Briefly, Your Honor.

11 THE COURT: Wait just a minute. He's got some more
12 questions.

13 MR. GRAY: Just one question.

14 REDIRECT EXAMINATION

15 BY MR. GRAY

16 Q I want to ask you about Mr. Walker borrowing any
17 money. Do you know if Norman borrowed money from Gwen?

18 MR. HALL: Objection. That's not proper redirect.

19 THE COURT: Overruled.

20 A Yeah. They used to borrow money from her all of the
21 time. When they got their check they owed their check,
22 most of it, to their boss, because after Gwen stopped
23 loaning them money Phyllis would loan them money at a
24 pretty high rate, interest rate. And when they would get
25 their check they would owe most of their check back to

Ben Nevins
Recross-examination by Mr. Hall

1 Phyllis.

2 But Gwen -- later, later I think the reason she came
3 to my house was to not be there when they would come to try
4 to get money.

5 Q Thank you, sir.

6 RECROSS-EXAMINATION

7 BY MR. HALL

8 Q Do you know how long it had been since Norman worked
9 for their -- that common employer?

10 A A few months. I don't know exactly how long.

11 Q Could it have been five months?

12 A Not that long.

13 Q Not that long.

14 A No.

15 Q A few months. What's a few months -- two, three?

16 A That's what I would call a few.

17 Q Were you ever around when Norman Stoudenmire came up
18 to her house to borrow money?

19 A I never saw Norman other than he would be out in the
20 road flagging cars down. This is the closest I've ever
21 been to him.

22 Q If you will, answer my question, please.

23 A I did.

24 Q Did you ever see him at Gwen's house, yes or no?

25 A No.

Ben Nevins
Recross-examination by Mr. Hall

1 Q All right. Did you ever see Gwen at his house any
2 time that he was asking to borrow money?

3 A No.

4 Q All right.

5 MR. HALL: Nothing further.

6 THE COURT: You may step down. You can be excused.
7 Thank you.

8 (Whereupon, the witness was excused.)

9 THE COURT: Ladies and gentlemen, we're going to
10 recess for the day.

11 Keep in mind the caution I gave prior to excusing you
12 for lunch. Do not discuss the case with anybody. Don't
13 conduct any research; don't do any investigation; don't
14 read any articles in the paper if there are any; don't look
15 at anything on the television if there is anything; don't
16 listen to anything on the radio should something come on
17 the radio.

18 Your decision, as I told you, has to be based upon
19 what you see and hear during this trial. You can't be
20 influenced by any outside consideration. So avoid any
21 outside contact or information that might be related to the
22 case.

23 Have a good evening. Please report to your jury room
24 at 9:30 in the morning, 9:30 in the morning.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: Court is in recess until 9:30 in the
3 morning.

4 END OF PROCEEDINGS MARCH 29, 2010

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Michael Sean Nix
Direct examination by Mr. Gray

1 (Proceedings March 30, 2010)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are there any matters to address before
5 the jury is brought?

6 MR. GRAY: Not from the state, Your Honor.

7 MR. HALL: None from the defense, Your Honor.

8 THE COURT: Okay. Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the state was
13 in the midst of their presentation of evidence. So we'll
14 continue with that presentation this morning.

15 Mr. Gray.

16 MR. GRAY: Thank you, Your Honor. The state calls
17 Deputy Sean Nix.

18 MICHAEL SEAN NIX, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. GRAY

21 Q Please state your full name, sir.

22 A Michael Sean Nix.

23 Q Where do you work, sir?

24 A Spartanburg County Sheriff's Office.

25 Q How long have you worked there?

Michael Sean Nix
Direct examination by Mr. Gray

1 A Nine years.

2 Q And what are your primary duties and responsibilities?

3 A I work in the crime scene unit, and our primary
4 responsibility is for the documentation and collection of
5 evidence at crime scenes.

6 Q For lack of a better term, you're Spartanburg County's
7 C. S. I.

8 A Yes, sir.

9 Q Okay.

10 THE COURT: Use that microphone, please, sir.

11 THE WITNESS: Yes, sir.

12 THE COURT: You can adjust it if you need to.

13 Q Now, February the 24th of 2008 were you called to a
14 scene?

15 A Yes, sir.

16 Q Where was this scene located, sir?

17 A It was located at [REDACTED]

18 Q When you arrived there what did you observe?

19 A I observed a -- what they might call a mobile-trailer
20 home. I believe it was white in color.

21 The back door of the residence appeared to have been
22 forced open. At that time I was advised what they had
23 inside was a, a person who was deceased. Then I waited on
24 other investigators to arrive and then went inside to
25 process the crime scene.

Michael Sean Nix
Direct examination by Mr. Gray

1 Q So you processed the crime scene. What did you do?

2 A I took photos of the interior of the crime scene and
3 insisted in fingerprinting inside, as well as collecting
4 some evidence.

5 Q Did you happen to see any items around the house that
6 you collected as far as evidence?

7 A Yes, sir. There's a -- one particular notice is a,
8 what they call a, picture shadow box that was laying in the
9 floor just inside the rear door.

10 Q Sir, I want to show you what's been marked as State's
11 Exhibit No. 21 for evidence.

12 Do you need gloves? Do you have gloves?

13 A Yes, I've got some here somewhere.

14 Q Can you pull that out? Thank you, sir.

15 A Uh-huh.

16 Q State's Exhibit No. 21, is that the shadow box you are
17 referring to?

18 A Yes, sir.

19 Q Is that the way you collected and processed the crime
20 scene?

21 A The -- I collected it -- the actual processing was
22 done back at the sheriff's-office lab, I believe, by
23 Investigator Talanges.

24 Q When you say collected, what do you mean by you
25 collected it?

Michael Sean Nix
Direct examination by Mr. Gray

- 1 A Basically, I put in it the evidence bag.
- 2 Q And that's the evidence bag right there.
- 3 A That is correct, sir.
- 4 Q Once it's placed in the evidence bag, what do you do
- 5 with it?
- 6 A It's sealed up.
- 7 Q Do you put any markings on that evidence bag?
- 8 A Other than evidence tape, sometimes we mark it with
- 9 initials --
- 10 Q All right.
- 11 A -- besides put our name on the front of the bag.
- 12 Q When you put your name on the front here this is
- 13 sealed by S. Nix, that's you?
- 14 A Yes, sir.
- 15 Q And you did that on September, excuse me, February the
- 16 24th of 2008.
- 17 A Yes, sir.
- 18 Q And that is the condition besides the -- I guess --
- 19 what's that, fingerprint dust?
- 20 A Yes, yes, sir, fingerprint powder.
- 21 Q That's the condition the shadow box was in.
- 22 A Yes, sir.
- 23 Q And it was broke and in the home when you found it?
- 24 A Yes, sir.
- 25 MR. GRAY: At this time, Your Honor, I'd like to move

Michael Sean Nix
Direct examination by Mr. Gray

1 this item No. 21 into evidence.

2 MR. HALL: Without objection, Your Honor.

3 THE COURT: It's admitted.

4 (Shadow box marked State's Exhibit No. 21.)

5 MR. GRAY: Thank you, Your Honor.

6 Q Now, you also said you took some pictures of the crime
7 scene.

8 A Yes, sir.

9 Q I have here some pictures that's already been marked
10 State's Exhibit No. 5, 7. There's No. 2; there's No. 6;
11 No. 4, No. 3.

12 Now, I want to ask you about two, three and four and
13 ask you if you recognize these -- two, three, four and six.
14 I ask you if you recognize those, sir.

15 A Yes, sir, I do.

16 Q What are those pictures of?

17 A They're pictures of U. S. currency.

18 Q And where was that U. S. currency found?

19 A It was located in the bathroom that runs off the, I
20 guess you'd call, master bedroom where the victim was
21 found.

22 Q It was not in the same room as the victim.

23 A No, sir, not in the same room.

24 Q You took pictures of that currency?

25 A Yes, sir, I did.

Michael Sean Nix
Direct examination by Mr. Gray

1 Q Did you count that currency?

2 A Yes, sir, we did count it eventually when we collected
3 it.

4 Q What was the approximate value?

5 A If I may refer to my notes, I know it was over five
6 hundred. We have it at about five hundred -- approximately
7 \$533.

8 MR. GRAY: At this time, Your Honor, I'd like to enter
9 State's Exhibits 2, 3, 4 and 6 into evidence, Your Honor.

10 MR. HALL: No objection.

11 THE COURT: They are admitted.

12 (Photographs marked State's Exhibits Nos. 2, 3, 4 and
13 6.)

14 MR. GRAY: Thank you.

15 Q Also I want to show you pictures, State's Exhibits 5,
16 7 and 8. Specifically No. 5, could you tell me what that's
17 a picture of, sir?

18 A That is a picture of the thermostat of the waterbed.

19 Q And what is that thermostat set to?

20 A It appears to be set at approximately 80 degrees.

21 Q Did -- and you took that picture?

22 A Yes, sir.

23 Q Is that the condition the waterbed was found in when
24 you took a picture of the waterbed?

25 A Yes, sir. It was.

Michael Sean Nix
Direct examination by Mr. Gray

1 Q Also, I want to show you State's Exhibits 7 and 8 and
2 ask you what those purport to be pictures of.

3 A They're pictures of a small hole that was found in the
4 skin of the waterbed, I guess.

5 Q And those were characterized as puncture wounds?

6 A Yes, sir.

7 Q And they were found at the scene the day that you
8 processed the scene.

9 A That is correct, sir.

10 Q You took pictures of these puncture wounds.

11 A Yes, sir.

12 Q Why did you find it relevant?

13 MR. GRAY: Excuse me one second.

14 (Pause.)

15 MR. GRAY: At this time, Your Honor, the state would
16 like to move Exhibits 5, 7 and 8 into evidence.

17 MR. HALL: Without objection.

18 THE COURT: They are admitted.

19 (Photographs marked State's Exhibits Nos. 5, 7 and 8.)

20 Q Why did you find it relevant to take pictures of those
21 puncture wounds in the waterbed?

22 A Because the victim appeared to have been stabbed. We
23 thought that it might be relevant to take pictures because
24 the puncture to the waterbed could be a result of that.

25 Q Thank you very much.

Michael Sean Nix
Cross-examination by Mr. Hall

1 MR. GRAY: Request permission to publish to the jury,
2 Your Honor.

3 THE COURT: You may.

4 MR. GRAY: No further questions of this witness.

5 Q Please answer any questions Mr. Hall may have.

6 A Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. HALL

9 Q Now, Investigator Nix, you were working with
10 Investigator Talanges.

11 A Correct, sir.

12 Q Working in tandem or together.

13 A Yes, sir.

14 Q Right. And the things you took, put into evidence you
15 turned over, I think technically, to Officer Talanges?

16 A Yes, sir, after transporting, yeah.

17 Q Now, the shadowbox, other than putting it in this
18 container did you do any of the processing or anything on
19 it?

20 A No, sir.

21 Q All right. Did you also collect the glass that was
22 from that frame?

23 A Yes, sir, the glass was also collected.

24 Q Okay. But you didn't, you didn't have anything else
25 to do with that other than turning it in.

Michael Sean Nix
Cross-examination by Mr. Hall

1 A No, sir.

2 Q Okay. Now, you said you took photographs,
3 fingerprints and collected evidence.

4 A Yes, sir.

5 Q And we've seen some of the photographs and we've seen
6 some of the evidence. Where did you fingerprint?

7 A The places I remember fingerprinting would be the bed
8 that the victim was found in, some items in the house. I
9 remember the computer area, an island table that was in the
10 kitchen and I also -- the victim's white truck.

11 Q Anything else you recall you fingerprinted?

12 A Not right off, sir.

13 Q Did you get any prints that you could do anything
14 with?

15 A I believe we turned in or I believe we lifted a couple
16 of prints off the railings or the sides of the bed that we
17 turned in, or we turned into AFIS rather.

18 Q Do you know if you ever got any results on those?

19 A I do not, sir.

20 Q Okay.

21 MR. HALL: No further questions.

22 MR. GRAY: No further questions of this witness, Your
23 Honor.

24 THE COURT: Okay.

25 MR. GRAY: The state calls Deputy Talanges, Your

Robert Charles Talanges
Direct examination by Mr. Gray

1 Honor.

2 ROBERT CHARLES TALANGES,
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. GRAY

5 Q Please state your full name, sir.

6 A Robert Charles Talanges.

7 Q And where do you work?

8 A Spartanburg County Sheriff's Office.

9 Q How long have you worked, sir?

10 A I've been at the sheriff's office a little over four
11 years.

12 Q What are your primary duties and responsibilities?

13 A I work for the crime scene unit processing -- collect
14 and photograph all and any crime scene we're called to.

15 Q How long have you had that responsibility?

16 A Since I started at the sheriff's office. But prior to
17 that I had worked for the city for 15 plus years.

18 Q And what did you do there at the city?

19 A For seven years while I was there I did the same job
20 I'm doing at this time, crime scene investigation.

21 Q You have over ten years experience doing this?

22 A Yes, sir.

23 Q Thank you.

24 Now, I want to take you back to February the 24th of
25 2008. Were you called to a crime scene?

Robert Charles Talanges
Direct examination by Mr. Gray

- 1 A Yes, sir.
- 2 Q Now, on that day where did you go?
- 3 A [REDACTED] I responded to.
- 4 Q Once you arrived on the scene at [REDACTED]
- 5 Road what did you do and what did you observe?
- 6 A Upon my arrival the crime scene had been already
- 7 marked off with crime scene tape. What I proceeded to do,
- 8 I started video-taping the exterior of the, the scene.
- 9 Q All right. Have you seen a copy of that tape?
- 10 A Just a little while ago I did, yes, sir.
- 11 Q Just a little while ago.
- 12 I show you what's been marked as State's Exhibit No.
- 13 40. That's the sleeve, I believe, to that video tape.
- 14 A Okay.
- 15 Q Actually it's on a disc now. And that disc is a copy
- 16 of the crime scene video that you took, is that correct?
- 17 A Well, I took a high-speed standard cassette, and it
- 18 gets transferred over to a D. V. D.
- 19 Q And that's the copy of it.
- 20 A I assume that it is.
- 21 Q That's the one that you observed this morning.
- 22 A Yes, sir, that's the one.
- 23 Q Is it an accurate depiction of the video that you
- 24 took?
- 25 A Yes, sir, it is.

Robert Charles Talanges
Direct examination by Mr. Gray

1 Q Thank you.

2 MR. GRAY: At this time I'd like to move that video
3 into evidence.

4 MR. HALL: Without objection.

5 THE COURT: It's No. 40. It's admitted.

6 MR. GRAY: Thank you.

7 (Crime scene video marked State's Exhibit No. 40.)

8 Q Now, as part of the processing the crime scene once
9 you got there and was video-tapping, it was marked off,
10 what else did you do besides video-tape the crime scene?

11 A Assistance from Deputy Nix, we photographed,
12 fingerprinted and also collected evidence from inside the
13 residence.

14 Q Now, when you fingerprint the residence, did you
15 process these fingerprints through any type of system?

16 A We submitted whatever latent prints were collected.
17 We submitted them to AFIS for analysis.

18 Q What is AFIS?

19 A It's an automated fingerprint identification system,
20 and it's through the State of South Carolina.

21 Q Now, when you submitted these fingerprints did you get
22 any responses or hits, as you call them?

23 A Na, I don't believe we did, because I checked a few
24 weeks, and there was no positive response or no positive
25 response back for any of the latent prints that were

Robert Charles Talanges
Direct examination by Mr. Gray

1 submitted.

2 Q All right. Now, after you fingerprint the scene, what
3 else did you do besides taking pictures?

4 A Besides documentation and fingerprinting, collection
5 of all evidence.

6 Q What did you observe about this residence once you got
7 there?

8 A The French doors or glass doors on the back side of
9 the residence were forced open, the doorjamb split. He had
10 pieces of the doorframe inside, I guess, the den area, what
11 I would call it. And also there was a shadow box several
12 feet inside that was in the floor that had been -- the
13 glass broken out of it and appeared to have been flipped
14 back over.

15 Q And that shadow box is the one that's already entered
16 into evidence?

17 A Yes, sir, that's the one.

18 Q And the glass was collected by you?

19 A With the assistance of Deputy Nix, yeah. We were both
20 there at the same time.

21 Q Thank you, sir.

22 After you saw those items, part of the door, did you
23 continue on into the house?

24 A Yes, sir.

25 Q What else did you observe?

Robert Charles Talanges
Direct examination by Mr. Gray

1 A The house is not the neatest house, I would say. It's
2 got clutter in it. We responded to the location where the
3 victim was. It's going to be the bedroom to the, from the
4 rear of the house, it's going to be to the right side, the
5 master bedroom area.

6 Q Did you see the victim once you arrived in the home?

7 A Yes, I did.

8 Q And where was the victim located?

9 A The victim was lying in her waterbed semi covered with
10 bedding.

11 Q Did you know what her name was at this time?

12 A No, sir, I did not.

13 Q Thank you.

14 Now, did you document her position in any way?

15 A Yes, I did.

16 Q How did you do that?

17 A Just written notes and also video-taping, as well as
18 photographs.

19 Q All right. Now, after you video-taped the scene and
20 took pictures and dusted for prints did you collect any
21 evidence from the scene?

22 A We collected the bedding; we collected the victim's
23 shirt; we collected a beer can that was in a trash can
24 behind the bathroom door. Several hundred dollars in cash
25 that was in the bathroom was collected. The living room

Robert Charles Talanges
Direct examination by Mr. Gray

1 area, we collected the picture frame, the steel striker
2 plates from the doors, the wood trim that was actually
3 forced off the door, items of that nature.

4 Q All right. Show you what's been marked State's
5 Exhibit No. 20. And what is that, please?

6 A This is the piece of the doorframe collected on
7 2/24/08 at approximately 2130 hours by myself.

8 Q Is that the doorframe that you said you witnessed when
9 you walked into the home?

10 A Yes, sir, laying in the floor.

11 Q Thank you.

12 MR. HALL: No objection.

13 MR. GRAY: Move to have item No. 20 admitted into
14 evidence, Your Honor.

15 THE COURT: It is admitted.

16 (Piece of doorframe marked State's Exhibit No. 20.)

17 Q Would you open that, please?

18 A Yes.

19 Q That's the doorframe you're walking about the part
20 that was missing when you came in the door?

21 A Yes, sir.

22 Q Thank you, sir. Please put that back.

23 All right. I have before me items, State's
24 Exhibits 26, 28 and 29, and I ask you if you recognize
25 those, sir, from any markings on the bags.

Robert Charles Talanges
Direct examination by Mr. Gray

1 A That is going to be a green and pink flowered
2 pillowcase collected from the bedroom, master bedroom, was
3 evidence No. -- Exhibit No. 26.

4 Twenty-eight's off-white pillowcase from the
5 master-bedroom bed, and it's going to be a pink pillowcase,
6 No. 29.

7 Q Are those the pillowcases that were found in the
8 victim's bedroom where you found her body?

9 A Yeah. These are the ones that I collected from her
10 with the assistance of Deputy Nix.

11 MR. HALL: No objection.

12 MR. GRAY: Your Honor, at this time I would enter 26,
13 28 and 29 into evidence.

14 THE COURT: They are admitted.

15 (Pillowcase marked State's Exhibit No. 26; pillowcase
16 marked State's Exhibit No. 28; pillowcase marked State's
17 Exhibit No. 29.)

18 Q Also, I have Exhibit No. 27, State's Exhibit No. 27.
19 It looks like the clothing that the victim was wearing, is
20 that correct?

21 A Says was on victim. Appeared to be, that's correct,
22 going to be the clothing.

23 Q And that was the clothing that was collected from the
24 victim at the crime scene.

25 A That's correct, 1818 hours.

Robert Charles Talanges
Direct examination by Mr. Gray

- 1 MR. HALL: Without objection.
- 2 MR. GRAY: The state moves to enter Exhibit No. 27
- 3 into evidence.
- 4 THE COURT: It is admitted.
- 5 (Victim's clothing marked State's Exhibit No. 27.)
- 6 THE COURT: Please be careful with the microphone.
- 7 Q Is that what the victim was wearing at the crime
- 8 scene?
- 9 A Yes, sir. This is the shirt that was removed from
- 10 her.
- 11 Q And who removed that shirt from her?
- 12 A I did.
- 13 Q You removed that shirt from her at the crime scene?
- 14 A At the crime scene, that's correct.
- 15 Q And is that what she was wearing? Is that the stain
- 16 on there -- is that water or blood?
- 17 A What you see here is going to be blood.
- 18 Q Just put that back in the bag.
- 19 I want to show you three more items, 23, 24 and 25,
- 20 state's exhibits, and ask you what these are, sir.
- 21 A No. 23 is going to be the door-striker plate; 24 is
- 22 also going to be a metal-door striking plate; and 25 is
- 23 going to be a pile of broken glass.
- 24 Q Now, that glass, was that the glass from the picture
- 25 frame shadowbox that's already in evidence?

Robert Charles Talanges
Direct examination by Mr. Gray

1 A Yes, sir.

2 Q Thank you, sir.

3 MR. HALL: No objection.

4 MR. GRAY: Your Honor, at this time we would like to
5 move 23, 24 and 25 into evidence.

6 THE COURT: They are admitted.

7 MR. GRAY: Thank you.

8 (Door striking plate marked State's Exhibit No. 23;
9 door striking plate marked State's Exhibit No. 24; broken
10 glass marked State's Exhibit No. 25.)

11 Q Now, 23 and 24, you said something about a locked door
12 or locked plate. What do you mean exactly?

13 A The metal plates or brass plates that when you close
14 your door they got -- between your doorframe and your door
15 lock where the bolt actually goes into. That's what it is.

16 Q And where were those recovered from?

17 A In the living room or the den area. When the door was
18 forced open the screws that were attached there, actually
19 ripped them out, and they were laying in the floor.

20 Q Thank you, sir.

21 Show you what's been marked Exhibit 22 and Exhibit 30
22 and ask if you recognize these, sir.

23 A This is the pink and white sheets and the red blanket
24 that was on the bed which is No. 22.

25 Q All right.

Robert Charles Talanges
Direct examination by Mr. Gray

1 A This is a tan multicolored comforter that was also on
2 the bed.

3 MR. HALL: No objection.

4 MR. GRAY: I'd like to enter State's Exhibits No. 22
5 and No. 30 into evidence, Your Honor.

6 THE COURT: They are admitted.

7 (Blanket marked State's Exhibit No. 22; comforter
8 marked State's Exhibit No. 30.)

9 Q And these are the items that the victim was found in
10 or under when officers arrived on the scene, correct?

11 A That is correct.

12 Q Now, you talked about processing the scene once you
13 got there, video-taping and things of that nature. Did
14 your involvement in this case end on February the 24th of
15 2008?

16 A No, sir, it did not.

17 Q What else did you do?

18 A After leaving that scene I did use an alternate light
19 source at approximately 2340 hours, and I checked
20 Mr. Hillard Walker's clothing and shoes. We were looking
21 for blood. And none was located.

22 Q Hillard Lee Walker?

23 A Yes, sir, Hillard Lee Walker.

24 Q You say an alternate light source. What exactly is
25 that?

Robert Charles Talanges
Direct examination by Mr. Gray

1 A That is a high-tech light that actually you can, you
2 can locate trace evidence -- blood, bodily fluids. It's
3 what we use for searching.

4 Q And you did that on Mr. Walker?

5 A Clothing that we received from Investigator Baird.
6 There was a request.

7 Q And was any blood of any kind found on the clothing of
8 Mr. Walker?

9 A Clothing or shoes, no.

10 Q Nothing at all.

11 A No. There was none.

12 Q Thank you, sir.

13 MR. GRAY: One moment.

14 (Pause.)

15 MR. GRAY: Your Honor, at this time I would like to
16 publish the crime-scene video.

17 THE COURT: Okay.

18 Q Excuse me, Deputy Talanges. Would you come here for a
19 second?

20 (Whereupon, the witness left the stand.)

21 (The following takes place during the playing of the
22 video. There was no audio.)

23 Q Just give a brief description of what was seen.

24 A This is going to be the exterior of the residence.
25 You see the crime scene tape in place. We photo -- we

Robert Charles Talanges
Direct examination by Mr. Gray

1 videoed, or I videoed, everything that was on the
2 exterior -- vehicles.

3 This is also the rear of the house. That door that
4 you see open there is going to be the entry point where the
5 door was forced open.

6 THE COURT: Let me ask you to step closer to the court
7 reporter -- the court reporter.

8 (Whereupon, the witness complied.)

9 THE COURT: That's good.

10 A The exterior of the residence, all four corners
11 video-taped. It'll take a little while.

12 This is showing the entrance to the house, the
13 residence. We will be entering the residence at this point
14 here showing the damage to the doorframe.

15 This is the shadow box we were talking about, broken
16 glass in the floor.

17 This is your door strikers, door striker plates.

18 This is the master bedroom where the victim was
19 located.

20 This is the bathroom door, still in the master
21 bedroom.

22 (Whereupon, the video was completed.)

23 MR. GRAY: Thank you, Your Honor. The state has no
24 further questions for Deputy Talanges.

25 Q Please answer any questions Mr. Hall may have.

Robert Charles Talanges
Cross-examination by Mr. Hall

1 A Yes, sir.

2 (Whereupon, the witness returned to the stand.)

3 CROSS-EXAMINATION

4 BY MR. HALL

5 Q Let me start with -- from your collection of
6 evidence you -- and printing, you dusted around the point
7 of entry, for lack of a better word, that den door that had
8 the broken jamb.

9 A Yes, I did.

10 Q All right. Did you get anything from there?

11 A I think we found like a trace hair. That's all we
12 found there.

13 Q Did you turn that in?

14 A Yes, sir.

15 Q Do you know if anything ever was done with that hair?

16 A I have no idea, sir.

17 Q Long, short?

18 A I would guesstimate a couple of inches long, is all I
19 know.

20 Q A couple of inches long. All right. But that was
21 collected and turned in for possible examination.

22 A Yes, sir.

23 Q Now, in your processing at this time or later did you
24 check any items -- keyboards, computers, anything -- do any
25 kind to try to -- any kind of test to try to collect some

Robert Charles Talanges
Cross-examination by Mr. Hall

1 D. N. A. material?

2 A Are you referring to touching or --

3 Q Any, any type of, you know, any type of collection,
4 swabs or anything, to see if there was D. N. A. on the
5 keyboards or any of the items. I think there was a digital
6 camera. There was all kinds of things collected, even
7 including the window box or the shadow box, the picture
8 frame.

9 Do you know if any tests were done on that for D. N. A.
10 other than, I think, you said you printed some things.

11 A Just, just printing, that's correct.

12 Q Okay. Now, you and Inves -- or Deputy Nix collected
13 the glass I think you brought in and the shadow box.

14 A That's correct.

15 Q Was any kind of swabs or anything done of that to look
16 for any D. N. A. if somebody had broken it?

17 A The way it appeared on the scene is it was smashed
18 glass down and then flipped over. But, no, there was no
19 other type of D. N. A. done on it.

20 Q But it looks as though something was removed from it.

21 A Yes, sir. There was a, there was a voided area inside
22 the shadowbox.

23 Q So if somebody took something they had to have contact
24 with the inside and pull that item out.

25 A Yes, sir.

Robert Charles Talanges
Cross-examination by Mr. Hall

1 Q Okay. Now, you used an alternative light source to
2 look for blood or human secretions of some kind for
3 Mr. Walker, is that correct?

4 A Yes, sir.

5 Q All right. Did you do that, excuse me, where you
6 found the victim in that bedroom?

7 A No, we did not.

8 Q All right. There appeared to be a pair of jeans on
9 the bed in the video.

10 A Jeans, and I think a jersey or some type of shirt,
11 that's correct, at the foot of the bed.

12 Q And I think a leather jacket lying on the floor.

13 A Yes, sir.

14 Q Did you do any tests on those at the scene?

15 A No, sir, we did not.

16 Q Did you attempt to get any fingerprints from the
17 bathroom where all of that money was located?

18 A No, sir, we never attempted to do any kind of dusting
19 in there at all.

20 Q Now, at some point you -- I think you said you removed
21 her shirt and you had rolled her body over. At any point
22 did you do anything to secure her hands, protect her hands
23 like putting bags over them or anything like that?

24 A Prior, prior to removing or removal of her hands were
25 bagged.

Robert Charles Talanges
Cross-examination by Mr. Hall

1 Q Okay. But before you moved her on the bed were her
2 hands bagged?

3 A No, they were not.

4 Q Okay. Now, you just collect the evidence, don't you?
5 Somebody else determines what to send down and what to
6 test.

7 A Usually the lead investigator decides what needs to be
8 submitted.

9 Q And I believe on the shadowbox picture frame you
10 collected a partial print.

11 A Yes, sir.

12 Q Can you tell us what that means?

13 A That's a print showing just minor ridge detail that
14 was located on the outside of the shadowbox, the gold frame
15 area. It wasn't good enough for AFIS quality or for a
16 positive identification.

17 Q But it's -- I think we saw where Hugh Murphy looked at
18 that.

19 A Yes, sir. We directly imported it off the picture
20 frame and a lift was made as well.

21 Q Okay. And to your knowledge somebody in your office
22 compared that partial print to the prints you had.

23 A To my knowledge, yes.

24 Q Okay. Now, were you involved in collecting any buccal
25 swabs or mouth swabs for D. N. A. testing with anybody?

Robert Charles Talanges
Cross-examination by Mr. Hall

- 1 A No, sir.
- 2 Q All right. Were you involved in any witnesses or
3 suspects taken, and fingerprints or anything?
- 4 A No, sir.
- 5 Q Now, in your video you went into, I believe, a
6 bathroom and videoed the trash can.
- 7 A Yes, sir.
- 8 Q Did you collect anything out of there?
- 9 A Out of the trash can, no.
- 10 Q All right. There appeared to be some kind of bottle.
11 It looked like a conditioner, a partial candle, some
12 toothpaste, but some kind of bottle. Do you recall that
13 bottle?
- 14 A It was just on the video. It was shoved down into
15 the, I guess, the front left or front right bottom area of
16 the trash can, but no.
- 17 Q Do you recall if that was a beer bottle or soda bottle
18 or --
- 19 A No, I don't.
- 20 Q But the beer can in the bedroom was collected.
- 21 A Yes, sir.
- 22 Q But the bottle, some kind of bottle, in the bathroom,
23 which is the master bathroom, right?
- 24 A That's correct, the master bathroom.
- 25 Q And nobody collected that.

Robert Charles Talanges
Cross-examination by Mr. Hall

1 A No, sir.

2 Q Now, I think I asked the solicitor this probably and
3 he haven't -- have an answer, but did you start
4 video-taping and stop and then continue? Because it looks
5 like you got there and it's daylight, and at the end it's
6 dark.

7 A That is correct.

8 Q Okay. So in between videos you were doing what?

9 A Photographing, searching, just basically trying to
10 mark evidence.

11 Q All right. I think y'all made note and video-taped
12 and photographed where it looked like some items on the
13 headboard is moved.

14 A Well, my report says shifted.

15 Q Shifted. In your searching through the house did you
16 find anything else out of place? I mean, it didn't look
17 like a very neat house, kind of cluttered. But anything
18 out of place?

19 A You said not a very neat house.

20 Q Specifically, like in, I guess, the front room, the
21 living room, looks like -- is that a T. V. setting on the
22 coffee table, or is that a computer monitor?

23 A Appeared to be a computer monitor.

24 Q All right. There wasn't a computer there though, was
25 there?

Robert Charles Talanges
Cross-examination by Mr. Hall

- 1 A Several computers are in the house.
- 2 Q But there wasn't one in that living room with that
- 3 monitor.
- 4 A No, sir.
- 5 Q All right. Do you recall how many computers appeared
- 6 to be hooked up and working?
- 7 A I know of one. I can't say that the others were
- 8 hooked up or --
- 9 Q Is that the one between the -- for lack of a better
- 10 word -- the den, the back den area and the kitchen?
- 11 A Yes, sir.
- 12 Q Now, in your video-taping you seized a coffee mug, a
- 13 glass in the kitchen, I think a plate and a bowl, a spoon.
- 14 A Yes, sir.
- 15 Q Was any of that collected for any kind of testing?
- 16 A No, sir.
- 17 Q And if I can go back to the bathroom and the drawer
- 18 with the money, you said you didn't print it. Is there
- 19 some reason you didn't print that area?
- 20 A I don't recall that we printed it or not.
- 21 Q Okay. Obviously your attention, and I think anybody
- 22 else's, would be drawn to that money setting there in an
- 23 open drawer. So y'all just decided. So you don't remember
- 24 if it was printed, or you didn't print it?
- 25 A I don't recall if it was printed or not.

Robert Charles Talanges
Cross-examination by Mr. Hall

1 Q All right. Is there some reason it would not have
2 been printed that you can come up with?

3 A None that I can think of.

4 Q But you don't know whether it was or not.

5 A No, no, sir, I don't recall.

6 Q And the door where what appears to be the point of
7 entry, on your video it looks like the deadbolt was not
8 engaged, was not out, it was in the door, is that correct?

9 A If I recall, I think it was.

10 Q Okay. And did you or anybody to your knowledge check
11 the door handle to see if that door was locked, in a locked
12 position or unlocked position?

13 A I processed that area. I don't recall checking it or
14 not.

15 Q But you had no indication whether the door was
16 supposed to be locked or unlocked or anything like that.

17 A No, sir. All I know is the evidence -- the doorframe
18 being split, striker plates being knocked off.

19 Q And who moved Ms. Emory's body eventually? Was it you
20 or Nix or somebody else?

21 A I did.

22 Q All right. And other than -- how did you cover her to
23 move her other than bagging her hands?

24 A When we -- first of all, we searched the body looking
25 to see if we could find any type of trauma to her, which we

Robert Charles Talanges
Cross-examination by Mr. Hall

1 found stab wounds. Then we found -- lifting up her shirt
2 we found another one that was on the, I think the, left
3 side, side, I think armpit area or that general area where
4 another stab wound -- we removed her shirt, collected that.
5 After -- I think E. M. S. placed her in a body bag. As a
6 matter of fact, I know they did put her in a bag, and then
7 for removal.

8 Q So I assume you rolled her over and checked her before
9 you removed the shirt.

10 A Yes, sir. We rolled her to -- it would be towards her
11 left.

12 Q Okay. At what point did you bag her hands for
13 protection?

14 A That would be prior, prior to her leaving, putting her
15 in the bag.

16 Q Okay. And do you know if there was any analysis done
17 on her shirt? Do you know of any?

18 A I don't think there was any analysis done. The paper
19 that it's still wrapped in is what I placed it in, and
20 sealed it.

21 MR. HALL: Beg the Court's indulgence.

22 (Pause.)

23 MR. HALL: No further questions.

24 MR. GRAY: No further questions of this witness, Your
25 Honor.

Koranda Williams
Direct examination by Mr. Gray

1 THE COURT: You may step down.

2 MR. GRAY: May we approach?

3 (Bench conference held off the record in the presence
4 of the jury but out of the hearing of the jury.)

5 MR. GRAY: Your Honor, the state calls Koranda
6 Williams.

7 KORANDA WILLIAMS, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. GRAY

10 Q Ma'am, would you please state your name?

11 A Koranda Williams.

12 Q Ms. Williams, where do you work?

13 A I work with the South Carolina Department of Health
14 and Environmental Control.

15 Q Okay. Did you previously work for the state -- South
16 Carolina Law Enforcement Division?

17 A Yes, I did.

18 Q Were you working there February of 2008?

19 A Could you repeat that?

20 Q Were you working there in February of 2008?

21 A Yes.

22 Q And what were your primary duties and responsibilities
23 at that time?

24 A At that time I was a (sic) evidence control forensic
25 technician responsible for processing evidence from

Koranda Williams
Direct examination by Mr. Gray

1 different agencies across the state.

2 Q All right. You have a number of sheets in your hand
3 and what -- just for your recollection, what types of
4 sheets are those, ma'am?

5 A These are property sheets from the Spartanburg County
6 Sheriff's Department.

7 Q Now, at SLED during that time what were your primary
8 duties and responsibilities?

9 A While I was at SLED, like I said, I worked as a
10 forensic technician.

11 And what would happen was the officer would come in,
12 and they would have either completed or given the forms to
13 complete the SLED evidence sheet for them to fill out for
14 them to list all of the evidence that they're bringing in
15 for processing.

16 Q And once you received that evidence, what would you do
17 with it?

18 A Once I receive that evidence we would put that
19 evidence in our packaging material via a heat-sealed pouch,
20 which is a plastic bag, or it would be in boxes, cardboard
21 boxes.

22 And then once the evidence is packaged, then we would
23 give that evidence a lab number. And that is how that
24 evidence is identified throughout the lab.

25 Q All right. Now, let me. Can I see those for a

Koranda Williams
Direct examination by Mr. Gray

1 second? Now, if you can read these, ma'am, looks like it
2 says a sexual assault evidence collection kit.

3 A Yes.

4 Q Is your signature anywhere on that evidence form in
5 the chain?

6 A Yes.

7 Q And did you -- you don't know who you received that
8 from, or do you know?

9 A No, sir.

10 Q Would it have been somebody from the sheriff's office?

11 A It very well could have.

12 Q Okay. And once they give it to you is when you heat
13 seal the evidence.

14 A Yes, sir.

15 Q I want to show you this. It says a buccal swab
16 collection kit from Hillard Lee Walker. And do you see
17 your signature on there?

18 A Yes, sir.

19 Q And when did you receive that?

20 A This evidence according to the property sheet, I
21 received the evidence on February the 26th of 2008 at 1:40
22 p.m.

23 Q And, again, you would heat seal it in some type of
24 SLED mechanism or bag.

25 A Yes.

Koranda Williams
Direct examination by Mr. Gray

1 Q I show you property sheet, says buccal swab collection
2 kit from Ben Carl Nevins. Is your signature on there
3 anywhere?

4 A Yes.

5 Q And when did you receive that?

6 A February the 26th of 2008.

7 Q And lastly I want to show you a buccal swab collection
8 kit from Norman Stoudenmire. Is your signature anywhere on
9 that?

10 A No, it is not.

11 Q Okay. Great. I just wanted to make sure.

12 Now, the -- Mr. Nevins, Mr. Walker and the sexual
13 assault evidence collection kit, you received these items,
14 signed saying you did so, and then immediately heat sealed
15 them.

16 A Correct.

17 Q I want to show you a copy of a South Carolina Law
18 Enforcement Division, SLED, report. And you said that once
19 items come in they're assigned a lab number. Was that done
20 in association with this case with Ms. Emory? Is there a
21 lab number on there?

22 A SLED Lab No. L08-03001.

23 Q Okay. L08-03001. Now, what is the purpose of giving
24 that particular number to a report or to evidence if you
25 know?

Koranda Williams
Direct examination by Mr. Gray

1 A When the evidence comes into the lab we have to
2 identify each piece of evidence that is brought into the
3 lab. And the computer system, the database, automatically
4 generates a lab number. And that is the number that is
5 assigned to the evidence.

6 Q I notice there are some other individual numbers on
7 that sheet below that. Were those individual numbers like
8 one through eight, would those denote the individual items
9 under the lab number?

10 A Yes.

11 Q I want to show you this bag that's been opened. Is
12 this typical of a heat-healed bag?

13 A Yes.

14 Q And this is the type of bag that you would heat seal.

15 A Yes. And we would have the officer initial and date.

16 Q Would your initials be anywhere on the heat-sealed
17 bag?

18 A No.

19 Q Not at all. But you say it would be automatically
20 generated, a number.

21 A The lab number. The computer system would
22 automatically generate this number. And this number is the
23 actual item number. So this is the case number considered
24 the case or lab number and then. The item, the number next
25 to it, would be the individual piece of evidence. So this

Koranda Williams
Direct examination by Mr. Gray

1 evidence would be assigned this lab number which would
2 correspond with all of the evidence for that particular
3 case, and this number would be the number identifying this
4 piece of evidence.

5 Q And under No. 1 on this report, what is No. 1?

6 A No. 1 is a sexual assault evidence collection kit from
7 Gwendolyn Emory.

8 Q All right. What is No. 2? Sorry. I apologize.

9 A Okay. No. 2 is identified as buccal swabs from
10 Hillard Lee Walker.

11 Q All right. And this is evidence of a heat-sealed bag,
12 the lab number and automatically generated number, correct?

13 A Yes.

14 Q And number -- this lab number in No. 4?

15 A No. 4 is identified as buccal swabs from Ben Carl
16 Nevins.

17 Q All right. And No. 8?

18 A No. 8 is also identified as buccal swabs but from
19 Norman E. Stoudenmire.

20 Q Okay. Let me ask you about No. 3.

21 A And No. 3 is identified as swabs from Gwendolyn Emory.

22 Q And those would be state's evidence 39, 36, 38, 35.

23 All right. Thank you very much. Please answer any
24 questions Mr. Hall may have.

25

Koranda Williams
Cross-examination by Mr. Hall

1 CROSS-EXAMINATION

2 BY MR. HALL

3 Q If I may, you say you did not receive the buccal swab
4 from Norman Stoudenmire. Is that what you just testified
5 to, that your signature wasn't on that?

6 A Correct.

7 Q Okay. But you did have the sexual assault kit of
8 Mr. Walker, Mr. Nevins, and then the swab from the victim.

9 A Correct.

10 MR. HALL: No further questions.

11 MR. GRAY: No further questions, Your Honor.

12 THE COURT: You may step down.

13 MR. GRAY: May she be excused, Your Honor?

14 THE COURT: She may be.

15 (Whereupon, the witness was excused.)

16 MR. GRAY: The state calls Deputy Tim Davis.

17 TIM DAVIS, having been first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. GRAY

20 Q Please state your name, sir.

21 A Tim Davis.

22 Q Where do you work, Mr. Davis?

23 A Spartanburg County Sheriff's Office.

24 Q How long have you worked there, sir?

25 A I've worked there approximately 16 years now.

Tim Davis
Direct examination by Mr. Gray

1 Q What are your primary duties and responsibilities?

2 A I'm with the crime scene unit.

3 Q What do you do with the crime scene unit?

4 A We respond to different crime scenes and process them
5 for prints and documentation. I document those scenes with
6 photographs and things of this nature.

7 Q Are you ever called upon to collect D. N. A. evidence?

8 A Yes.

9 Q How do you do that?

10 A Collecting D. N. A. from an individual is usually done
11 by what they call a buccal swab.

12 Q What's a buccal swab?

13 A That is simply a -- I used a sterile cotton-tip swab.
14 And it's basically getting the saliva from the inside of
15 the cheek.

16 Q And once you take that swab, what do you do?

17 A We simply place that swab, of course, into a, a
18 sterile container or envelope, box, depending on what kind
19 of -- you have. And basically you seal it up so that it
20 stays secured.

21 And from there it'll be placed into evidence, and-but
22 again the lead investigator will usually decide which ones
23 of those items get sent to SLED for analysis.

24 Q Did you take a buccal swab from anyone in association
25 with this case of Gwendolyn Emory?

Tim Davis
Direct examination by Mr. Gray

- 1 A Yes, I did.
- 2 Q Who did you take a buccal swab from?
- 3 A That was Hillard Lee Walker.
- 4 Q When did you do that, sir?
- 5 A That would have been on the 24th of February of 2008.
- 6 Q And after you took that swab what did you do with it,
- 7 again?
- 8 A Again, it was packaged, sealed and then placed in the
- 9 evidence.
- 10 Q I show you what's been marked as State's Exhibit No.
- 11 36. I think it also has lab number -- No. 2 on here. See
- 12 if you recognize that.
- 13 A Yes, I do.
- 14 Q And what is that, sir?
- 15 A This is the envelope that I used after I collected the
- 16 buccal swab. It was placed in this envelope and sealed.
- 17 Q Have you ever seen that envelope again, once you take
- 18 the buccal swabs and seal it?
- 19 A Once I take it and seal it and place it in evidence I
- 20 no longer see it.
- 21 Q Did you tamper with it in any way?
- 22 A No, I did not.
- 23 Q After you took those swabs from Mr. Walker you placed
- 24 them into evidence?
- 25 A That is correct.

Tim Davis
Cross-examination by Mr. Hall

1 Q And did you sign a property sheet saying that you had
2 done so?

3 A That is correct.

4 Q And which property sheet is that, sir?

5 A That is the property sheet with my signature for the
6 collection of that buccal swab.

7 Q Thank you, sir.

8 MR. GRAY: No further questions regarding State's
9 Exhibit No. 36, Your Honor.

10 Q Please answer any questions Mr. Hall may have.

11 CROSS-EXAMINATION

12 BY MR. HALL

13 Q Now, in your collecting of buccal swabs and things
14 such as that you have to be extremely careful, don't you?

15 A Yes, sir.

16 Q And you don't just get a Q-tip and a zip-lock bag, do
17 you? There's special things you --

18 A Yes, sir. It requires a sterile Q-tip, which they
19 usually come into a sealed, basically a sealed, envelope as
20 well. And of course ever who's collecting it will wear
21 latex gloves during this collection so that your D. N. A.
22 does not cross contaminate the swab that's collected.

23 Q So you have to keep. And you open whatever package it
24 comes in. I assume you have a bag to put the sample you
25 take in and you have something to take separately, right?

Tim Davis
Cross-examination by Mr. Hall

1 You have the buccal swab and something to put it in.

2 A Uh-huh.

3 Q Do you open the bag before you take the swab or after
4 you take the swab sample?

5 A The --

6 Q I'm talking about the bag that you're going to put the
7 sample in, not the bag that everything came in. Obviously
8 you've got to open it before you do anything else. But the
9 one you're going to put the sample back in for collection,
10 do you open it before you do the swab, or after?

11 A That's open just so that you can put it into it, that
12 the Q-tips themselves are actually separate.

13 Q Okay. That's what I mean. But do you open the bag in
14 preparation before you take the swab, or do you take the
15 swab and then hold that and open the bag and stick the swab
16 in?

17 A You collect it and then open it up and put them in
18 there.

19 Q Now, I assume you have some training in that for
20 proper procedure, right?

21 A Yes, sir.

22 Q And other people at the sheriff's department have that
23 training too?

24 A I, I received training when I went into the crime
25 scene unit from the officers that are there. And that's

Tim Davis
Cross-examination by Mr. Hall

1 where I received my training.

2 Q And that would be -- we've heard from Nix. Does he do
3 that?

4 A That would be from Sergeant Hodge and Sergeant Burgess
5 and the other folks that were back there when I went to the
6 crime scene unit. It was part of my on-the-job training
7 for that division.

8 Q Okay. So there are other forensic investigators who
9 do that.

10 A That is correct.

11 Q Do all of the people in forensics do it, or just some?

12 A Everyone in the crime scene unit, yes, will end up
13 doing it.

14 Q That's what I was asking. And was this your only
15 involvement in this case, taking this buccal swab from
16 Mr. Walker?

17 A I went back to the, the location and collected some of
18 items that had been laid out by the investigators,
19 different miscellaneous paperwork and things of this
20 nature, and also processed one area of a wall investigators
21 had searched for fingerprints.

22 Q Is, for lack of a better word, is that part of the red
23 room that was cut out or -- you said you processed part of
24 a wall. What color was the wall?

25 A I'm wanting to say it was red, but I can't recall

Tim Davis
Cross-examination by Mr. Hall

1 right off, right offhand.

2 Q And did you get any prints or anything from that?

3 A I did not get any latent prints collected.

4 Q All right. You said you got some miscellaneous
5 paperwork.

6 A There was different miscellaneous paperwork. A lot of
7 it had the victim's name on it -- some photographs, things
8 of this nature.

9 Q And do you know if anything was done with that
10 paperwork other than seeing that it had the victim's name?

11 A I do not, no.

12 MR. HALL: No further questions.

13 MR. GRAY: Nothing further from the state, Your Honor.

14 THE COURT: You may step down.

15 We're going to take a short break, so I am going to
16 ask the jury to please go to your jury room. Do not
17 discuss the case. We'll bring you back after that break.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: We'll be in recess for 15 minutes.

21 (Whereupon, a recess was taken.)

22 THE COURT: Bring the jury in, please.

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: Ms. Poulos.

Phyllis Pack
Direct examination by Ms. Poulos

1 MS. POULOS: Thank you, Your Honor. The state calls
2 Phyllis Pack.

3 PHYLLIS PACK, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MS. POULOS

6 Q Please state your name for the record.

7 A Phyllis Pack.

8 Q Where are you currently employed?

9 A D & D Masonry.

10 Q And what's your title there?

11 A Owner.

12 Q Were you the owner of D & D Masonry on February 24th
13 of 2008?

14 A Yes, ma'am.

15 Q And prior to that time was the victim employed by your
16 company?

17 A Yes, ma'am.

18 Q For how long?

19 A Two or two and a half years, something like that. I
20 don't --

21 Q What type of work did she do for you?

22 A She was a mason.

23 Q Was the defendant, Norman Stoudenmire, also employed
24 for you?

25 A At what time?

Phyllis Pack
Direct examination by Ms. Poulos

- 1 Q During that time.
- 2 A Not February 24th, no.
- 3 Q Okay. Was he employed with you prior to that?
- 4 A Yes, ma'am.
- 5 Q Okay. For how long?
- 6 A Seven or eight months, maybe a year, not very long.
- 7 Q And did you ever have any problems with the defendant
- 8 on the job?
- 9 A Yes, ma'am.
- 10 Q Okay. Describe that.
- 11 A He had several altercations with different people
- 12 including myself.
- 13 Q What types of altercations?
- 14 A Bullying, arguing, you know, not wanting to do his
- 15 job.
- 16 Q And did you witness some of those incidents?
- 17 A Yes, ma'am.
- 18 Q Did you ever see him get violent with anyone at work?
- 19 A Yes.
- 20 Q Tell me about that.
- 21 A I had a worker that worked for me -- Carlos. He
- 22 had -- they almost came to blows one day. It got really,
- 23 really serious.
- 24 Q What was that about?
- 25 A I don't remember right off the bat what it was about.

Phyllis Pack

Direct examination by Ms. Poulos

1 It was about something to do with work.

2 Q Did he ever come to work high on drugs?

3 A I don't think he came to work high.

4 Q Did you ever see him high?

5 A Yes, ma'am.

6 Q And where was that?

7 A In my house.

8 Q How many times had you seen him high on crack?

9 A I probably have just seen him that one time. He had
10 come to my house wanting some money that night.

11 Q Do you recall when exactly that was?

12 A No, ma'am, I don't.

13 Q Did he ever threaten you?

14 A Yes, ma'am.

15 Q How did he threaten you?

16 A Got angry because I fired him and said he would just
17 mess me up and call D. S. S. on me about my kids and that
18 kind of stuff.

19 Q Did you fire him or did Gwen, the victim, in this case
20 fire him?

21 A Actually, I'm the one that fired him. Gwen just was
22 kind of like his ride. So I told her not to pick him up
23 the next day. He had stayed up cracking all weekend and
24 laid out two days previous to that. So the second day I
25 told her just to tell -- don't pick him up and tell him to

Phyllis Pack
Direct examination by Ms. Poulos

1 call me if he had any questions about what was going on.
2 And then that's when he called me and we had the
3 altercation about messing me up and calling D. S. S. and
4 that kind of stuff.

5 Q Now, on the day that the victim's body was discovered
6 did you go to the crime scene?

7 A No, ma'am.

8 Q Did you have any conversations with the defendant
9 after Ms. Emory's body was discovered?

10 A Yes, ma'am.

11 Q And was that in person or over the phone?

12 A Phone.

13 Q Okay. How many times?

14 A Numerous times. He's how I found out what was going
15 on, and then five or six or seven phone calls a day every
16 day until the day of the funeral.

17 Q Okay. What was he, what was he talking to you about?

18 A Just trying to get information about did I know what
19 was going on, had they arrested anybody, stuff like that.

20 Q And this was for how many days after her body was
21 discovered?

22 A From the day she was found until the day of the
23 funeral.

24 Q Ms. Pack, can you describe what the defendant was like
25 when he was on crack? You said you'd seen him before.

Phyllis Pack
Cross-examination by Mr. Hall

1 A Yeah. He came to my house. He was there just for a
2 short while. He was on -- wanting money. But he was just
3 wired, you know, just wired and kind of weird.

4 He had a gun that night, and I don't know what else he
5 had on him. He did have a gun in his pocket. I know that
6 for a fact.

7 Q Thank you. Please answer any questions Mr. Hall may
8 have for you.

9 A Sure.

10 CROSS-EXAMINATION

11 BY MR. HALL

12 Q Now, can you approximate when he came to your house
13 and you said he was weird, wired and weird?

14 A He was still working for me at that time. I don't
15 know.

16 Q Okay.

17 A Four or five.

18 Q When did he stop working for you?

19 A The latter part of 2007, probably October or November,
20 something like that.

21 Q So it was prior to, say, October of 2007.

22 A Yes, sir.

23 Q All right. Was it cold outside, warm outside?

24 A It was cold.

25 Q Cold. Okay. Was it long before you fired him, or

Phyllis Pack
Cross-examination by Mr. Hall

1 because he could have from your time span, he could have
2 been working when it was cool or cold in the springtime at
3 night or fall in the -- at night, cool. Do you recall
4 which?

5 A It was cold. I don't know exactly what month it was
6 that he came to my house, no.

7 Q Now, when he came to your house you said he was wired
8 and weird. Did you, did you see him smoke crack cocaine or
9 anything else?

10 A No, I did not.

11 Q Did you tell that he was, you said -- what makes you
12 say he was on crack cocaine?

13 A Because he acted --

14 Q Had he been drinking?

15 A He acted differently than he acted when he was at
16 work.

17 Q Okay. But could he have been drinking?

18 A I don't know that he -- possibly, I guess. I don't
19 know.

20 Q And did he make any kind of threats to you at that
21 point or just ask you to borrow money?

22 A Just asked me to borrow money.

23 Q But didn't get violent?

24 A Yeah, there was a violence down at the end of my
25 driveway. I don't know if he or his cousin ended up

Phyllis Pack
Cross-examination by Mr. Hall

1 backing his car off into my ditch. And one of my employees
2 went down there to help him, and there was violence, yes.

3 Q Was there violence towards you about the loan or that
4 type, having a loan or anything?

5 A No.

6 Q So he could have been drinking, made no threats.

7 Now, Gwen for a period of time gave him a ride to work
8 every day.

9 A Yes, sir.

10 Q All right. Do you know if Norman -- he had to be in
11 her truck. I assume she drove the truck to work.

12 A Yes, sir.

13 Q Do you know if he was ever in her house?

14 A Yes.

15 Q Were they at some point at least friends, some type of
16 friends, help each other with things?

17 A Yeah, I guess so.

18 Q Okay. Do you know if Norman ever helped Gwen with her
19 computer, installing programs or --

20 A For pay, yes.

21 Q Okay. Pay or otherwise, but he did.

22 A Yeah, for pay.

23 Q Okay.

24 MR. HALL: Nothing further.

25 MS. POULOS: Nothing further, Your Honor.

Hillard Lee Walker
Direct examination by Mr. Gray

1 THE COURT: You may step down.

2 MR. GRAY: The state calls Hillard Lee Walker.

3 HILLARD LEE WALKER, having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. GRAY

6 Q Sir, please state your full name.

7 A Hillard Lee Walker.

8 Q Mr. Walker, where do you live?

9 A I live at 188 Phantom Drive, Greer, South Carolina.

10 Q Did you used to live on Robinson Dairy Road?

11 A Yes, sir, I sure did.

12 Q How long did you live there?

13 A I lived there approximately four and a half or five
14 years, maybe a little longer.

15 Q Now, did you have one address or multiple addresses?

16 A Well, I had two addresses while I was there.

17 Q What was your first address?

18 A 180 -- 186.

19 Q Robinson Dairy Road.

20 A Yeah, Robinson Dairy Road.

21 Q And what was the other address?

22 A I'm think I'm wanting to say 254 or 220 something. I
23 don't even really know. I didn't never get no mail there.

24 Q All right. Now, at one address did you live alone?

25 A No.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q At both addresses you had a roommate.
- 2 A Yeah, surely, yeah.
- 3 Q What was your roommate at the first address?
- 4 A Well, it was actually my girlfriend.
- 5 Q And who was that?
- 6 A That was Gwen Emory.
- 7 Q Gwen Emory.
- 8 A Yeah.
- 9 Q The victim in this case.
- 10 A Yeah.
- 11 Q And who was your roommate at the second address?
- 12 A Norman.
- 13 Q The defendant, Norman Stoudenmire?
- 14 A Yeah, Norman Stoudenmire.
- 15 Q The defendant in this case.
- 16 A Yeah, the defendant in the case.
- 17 Q You knew both of them.
- 18 A Yeah, I knew both of them.
- 19 Q How long did you know and date Gwen?
- 20 A I knowed Gwen 15 years, but I actually stated -- I
- 21 dated her there for a little while. And then I moved in
- 22 with her.
- 23 But I was married when I first met Gwen. She -- what
- 24 it was is I was doing her drywall. My brother had a
- 25 drywall company, and we'd, we'd go in and start running the

Hillard Lee Walker
Direct examination by Mr. Gray

1 dry wall all around all the metal studs and putting the
2 brown sheeting on. And then she worked for another guy.
3 Then they'd come in and start laying the brick behind us.

4 I never did talk to Gwen because I's married, you
5 know. But I started going through a divorce probably five
6 years after I still knowed her, because I said something to
7 her, you know. That's how I am. You know, as I seen her
8 all the time, because every time when I'd go to a job she'd
9 be right behind me on a job.

10 So I started having rocky relationships with my wife.
11 The judge gave her time, you know, 30 days to get out of
12 the house. So when she did, I was working on the job with
13 Gwen. And I just slipped her my telephone number one day,
14 and she called me that night. And that's how I got to
15 where I was dating her.

16 Q Gwen used to follow you around on jobs. What type of
17 work did you do?

18 A I done drywall work, the metal studs and the
19 drywall -- acoustical tile ceilings.

20 Q And what type of work did Gwen do?

21 A Gwen was a brick mason.

22 Q Both of you are in construction.

23 A Yeah, both of us doing construction.

24 Q Did you ever work together?

25 A Yeah. She worked for me for a long period of time.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q And where was that?
- 2 A That -- I was, I was a subcontractor for four or five
- 3 people.
- 4 Q Did either of you ever work at D & D Construction?
- 5 A Yeah.
- 6 Q Did you work for Ms. Pack?
- 7 A I still work for her now.
- 8 Q You still work for Ms. Phyllis Pack.
- 9 A Yeah. I been with her four and a half years.
- 10 Q Did Gwen work for Ms. Pack?
- 11 A Yeah.
- 12 Q What about Mr. Stoudenmire? Did he work there also?
- 13 A Yeah. He worked too.
- 14 Q Who got Mr. Stoudenmire his job?
- 15 A Who got him his job?
- 16 Q Yes, sir.
- 17 A Gwen did.
- 18 Q Who was the one who delivered him the information that
- 19 he was unemployed?
- 20 A Phyllis Pack.
- 21 Q Okay. Did Gwen ever deliver that message to him for
- 22 Ms. Pack?
- 23 A Gwen come to the, Gwen come to the house and picked me
- 24 up, and I got in the van. And then Norman started to get
- 25 in the van. Gwen told him, said, you need to call Phyllis

Hillard Lee Walker
Direct examination by Mr. Gray

1 before you come. I didn't have no cell phone at the time.
2 So Gwen gave Norman the cell phone. He called. And
3 Phyllis just said we don't need you no more. And then
4 that's when he started, you know, saying things to, to
5 Phyllis, you know.

6 Q Were you present when these things were said?

7 A Well, I just, you know, I was like in the front seat.
8 You know, he always climbed in the back, and then in the
9 evenings, I mean, in the morningtime, and, you know, it, it
10 was something over her daughter, you know.

11 Q Okay. Did you and Norman once you moved out of
12 Phyllis -- let me back up. You and Phillips dated, excuse
13 me, you and Gwen dated for how long?

14 A Dated probably six years.

15 Q How long did you live together?

16 A Probably four and a half or five.

17 Q And during that time did you have any alcohol abuse
18 problems?

19 A I have alcohol abuse problems?

20 Q Yes, sir.

21 A Yeah. I drank a little bit, yeah.

22 Q What about Ms. Emory?

23 A She drank but it wasn't no -- you know, she didn't
24 have no -- I drank more than she did.

25 Q Did she have any abuse problems?

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 A No, she didn't have no abuse problems whatsoever, two
2 or three beers a day.
- 3 Q While you lived with Ms. Emory did you have any drug
4 abuse problems?
- 5 A Yes, I sure did.
- 6 Q What was that, sir?
- 7 A I was smoking crack cocaine.
- 8 Q You were smoking crack.
- 9 A Not, not, not at first when I first met her, not at
10 first when I first met her, no. The last couple of years,
11 yeah.
- 12 Q When did you -- why did you start smoking crack?
- 13 A Why did I start?
- 14 Q Yes, sir.
- 15 A Just running in the wrong people, you know, and just
16 getting messed up and doing the same thing they doing,
17 yeah.
- 18 Q With who?
- 19 A Huh?
- 20 Q With who?
- 21 A Well, I started out with a, a guy right up the road.
22 His name, hell, I don't know his name. He lived, him and
23 his mama lived, right across the street from where I moved
24 in at with Norman. I started out there and then, you know,
25 got in with Norman. And me and Norman was smoking.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q You and Norman smoked crack together?
- 2 A Yeah, we smoked crack together, yes, sir.
- 3 Q Did it happen on a fairly regular basis?
- 4 A Mostly on the weekends.
- 5 Q Now, how would you get money for crack -- you and
- 6 Norman?
- 7 A I'd get money from my boss lady. And then, like I
- 8 say, we was running real hard at the time. Sometimes we
- 9 was working five or six days a week, 11 or 12, 13 hours a
- 10 day if the light permitted, you know. We have been out
- 11 there with headlights working to finish a job.
- 12 Q And you and Norman were roommates and smoking crack
- 13 together.
- 14 A Yeah.
- 15 Q How would Norman get money for crack?
- 16 A Huh?
- 17 Q How would he get money?
- 18 A He was the same way as me.
- 19 Q Working.
- 20 A He was working, and plus he'd borrow money too.
- 21 Q Borrow money?
- 22 A Yeah.
- 23 Q He'd just go ask people for money?
- 24 A Well, he asked -- he got a lot of money from Phyllis
- 25 just like I did, you know.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q All right. Did he ever ask Gwen for money?
- 2 A Yeah, he asked Gwen for money.
- 3 Q Had he ever been to Gwen's home before?
- 4 A Oh, yeah.
- 5 Q About how many times?
- 6 A Well, I mean, sometimes, whenever, sometimes, whenever
- 7 we got off work he'd walk down there, you know, and, you
- 8 know, get money from her, you know.
- 9 Q And what was the purpose of getting that money?
- 10 A That was smoking crack and drinking.
- 11 Q Now, would he go with you every single time, or did
- 12 you go together?
- 13 A No, no, a lots of times we didn't go together, no.
- 14 Q He would go by himself, is that --
- 15 A A lot of times, yeah.
- 16 Q For money for crack. Excuse me.
- 17 A Yeah.
- 18 Q Excuse me just a second. I show you what has been
- 19 marked as State's Exhibit No. 21 -- please excuse the
- 20 dust -- and ask you if you recognize that, sir.
- 21 A Oh, yeah.
- 22 Q What is that?
- 23 A That's the concert -- David Ball. That's my ticket
- 24 and Gwen's ticket. And when we took that picture of him,
- 25 and she -- he was sitting at a table, and everybody was

Hillard Lee Walker
Direct examination by Mr. Gray

1 getting autographs from him. And she said I'm going to get
2 an autograph.

3 She reached in her pocket. She only had a couple of
4 hundred dollar bills and a five-dollar bill. And she said
5 I'm going to get him to autograph this. And I looked down.

6 I said I wouldn't insult him like that. And I reached
7 and gave her a twenty-dollar bill. And he signed it. And
8 that was what was across the bottom of that. It was a
9 twenty-dollar bill with David Ball wrote in big black
10 letters with a magic marker.

11 Q Please forgive my ignorance. Who is David Ball?

12 A Huh?

13 Q Who is David Ball?

14 A He's a small-town guy from Spartanburg. Spartanburg
15 Civic Center is where we went and seen him at.

16 He's a, he's like a country singer. He's the one that
17 sang that private malone, you know, with the Corvette and
18 the guy that went to Army and all of that. And she really
19 liked it.

20 Q All right. Now, you say that there's something
21 missing. Is the thing that's missing is that twenty-dollar
22 bill?

23 A Down in the bottom right across there. And I heard
24 Ben say yesterday -- now, I don't know if she -- okay. Go
25 ahead.

Hillard Lee Walker
Direct examination by Mr. Gray

1 Q No. Okay. This twenty-dollar bill was signed by
2 Mr. Ball.

3 A Yes, sir.

4 Q Had Mr. Stoudenmire ever been to the home and seen
5 this shadow box or frame?

6 A Yeah.

7 Q Was he aware of the significance of it?

8 A Computer is setting right here. Right there on the
9 same desk, it's like that. Computer setting here. That,
10 that box, didn't hang on the wall. Not -- it was hung on
11 the wall later. But all the time I was down there we -- it
12 was setting right there on, was right there beside the
13 computer, right dead in the corner of the -- of her
14 computer cabinet. That's where it sat at. It never hung
15 on the wall, not unless she hung it up later, you know.

16 Q And Mr. Stoudenmire has seen that?

17 A You can sit there and look right at it. You know, you
18 can see it.

19 Q Because he had done work for Ms. Emory on computers.

20 A Oh, yeah.

21 Q So he had seen that shadow box.

22 A Had to see it, yeah, had to see it.

23 Q When he come down to Ms. Emory's house with you would
24 he ever go in other areas of the home?

25 A Would he?

Hillard Lee Walker
Direct examination by Mr. Gray

1 Q Yes, sir.

2 A I can't really say that. You know what I am saying?

3 I seen him come all the way through as far as probably the
4 kitchen. You know what I'm saying?

5 Q Do you know if Ms. Emory had a bank account?

6 A Yeah. I knew she had a bank account.

7 Q Did she keep a lot of money around her house?

8 A Well, a lot of times she'd get her check. A lot of
9 times she would write checks for her bills, and a lot of
10 times she'd go down to the store and get money orders and
11 send money orders off.

12 Q Did you ever see cash in the home while you two were
13 there?

14 A Did I ever keep cash in the house?

15 Q Did she ever keep cash in the house while --

16 A Oh, yeah, she kept cash in the house.

17 Q Now, after you and Mr. Stoudenmire moved in did you
18 know if she kept cash in the house or not?

19 A Na, I didn't know, but I still, you know, I've been,
20 I've been with this woman five years. I'm thinking she's
21 doing the same thing she's always been doing. You know
22 what I'm saying?

23 Q Did you ever relay that information to
24 Mr. Stoudenmire?

25 A No, never did.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q You never told him there may be cash laying in the
2 house.
- 3 A No, never did.
- 4 Q Now --
- 5 A We hadn't never talked about nothing like that.
- 6 Q Never.
- 7 A Never.
- 8 Q Now, on February the 23rd of 2008, do you remember
9 that night?
- 10 A Yeah, I sure do.
- 11 Q Were you and Mr. Stoudenmire in your residence
12 together?
- 13 A Yeah, we was in the residence together.
- 14 Q What were you doing that night?
- 15 A Well, we, we smoked a little bit of crack that night,
16 probably, probably two rocks.
- 17 Q Two rocks.
- 18 A Yeah, probably two, yeah, because I --
- 19 Q Go ahead.
- 20 A Because I had \$20 in my pocket that I had got through
21 working for John in his building. And then I'm thinking
22 Norman had sold John a piece of a computer or something and
23 got \$20 from him.
- 24 Q And who is John, sir? What's his full name?
- 25 A I don't know his full name, but he's, he's, he's the

Hillard Lee Walker
Direct examination by Mr. Gray

1 guy that lived right beside us.

2 Q Right beside you.

3 A Right beside Norman's residence, which is also -- I
4 was living there, you know, as roommates. You know, I was
5 actually living there because Gwen was picking me up,
6 forth, to go to work. He was working with us. I could
7 stay in his house and have a way to go. Do you see what
8 I'm saying?

9 Q Yes, sir. Now, you say John lived next to you.

10 A Yeah, right.

11 Q White man, black man?

12 A Black man.

13 Q Was John married?

14 A Yeah, he was married.

15 Q Did he have any children?

16 A Yeah. He had a, a, a girl. He had a daughter and a
17 son that lived at home that I know of.

18 Q But you don't know John's last name.

19 A No, I don't know his last name.

20 Q All right. So that night you and Lee had gotten money
21 somehow. You, I guess, working, I mean, excuse me. You
22 and Mr. Stoudenmire got money to smoke crack.

23 A Yeah.

24 Q Now, was that the end of the smoking crack that night?

25 A That was to my best ability, it was.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q Did you have any more money?
- 2 A I didn't have no more money.
- 3 Q Did he have any more money?
- 4 A Not, not as I know of.
- 5 Q Did you have any drinks that night?
- 6 A We might have had a -- we might -- no, I don't think
- 7 we did.
- 8 Q Okay. How long did the smoking crack take?
- 9 A Well, I think whenever -- it had done already started
- 10 getting dark whenever he sold the computer to, to, to John.
- 11 You know, it was getting in the -- you know, evening, at
- 12 night. You know what I am saying?
- 13 Q Yes, sir.
- 14 A Getting dirty dusk dark what I'm thinking, what I'm --
- 15 you know, remember of. This has been a long time.
- 16 Q All right. Now, you say you bought some and
- 17 Mr. Stoudenmire had some money. How much? You got two
- 18 rocks, correct?
- 19 A Yeah.
- 20 Q How much did each rock cost?
- 21 A Anywhere between \$20 apiece, yeah.
- 22 Q Twenty dollars apiece.
- 23 A Yeah. It wasn't a whole lot of crack.
- 24 Q I understand that. Is that an average price for a
- 25 crack rock?

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 A Well, you can get bigger pieces, you know, if you got
2 more money.
- 3 Q You can get bigger if you have more money.
- 4 A Yeah, you can get bigger if you have more money.
- 5 Q But the average price is \$20.
- 6 A Yeah.
- 7 Q Is that what was missing from that shadow box?
- 8 A Yeah, \$20 was.
- 9 Q And after you smoked and Mr. Stoudenmire smoked did
10 you do anything further that evening?
- 11 A Naw. I might have stayed there and talked to them for
12 another ten or 15 minutes. And I said, look, I'm going to
13 bed, you know, because I's broke. I's just going to bed.
- 14 Q What did Mr. Stoudenmire do?
- 15 A He was still sitting in the chair whenever I went to
16 bed.
- 17 Q What time do you think you went to bed?
- 18 A What time did I think he went to bed?
- 19 Q You.
- 20 A Oh, me. It was anywhere from I'm saying 9:00 to
21 10:30, no later than 11:00.
- 22 Q And what time did you wake up the next morning?
- 23 A I want to say somewhere around 7:00.
- 24 Q So from 9:30 to 11:00 -- let's say 11:00 o'clock until
25 7:00 the next morning you were asleep.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 A Yes, sir.
- 2 Q Do you know where Mr. Stoudenmire was?
- 3 A No, never did. Well, I'm thinking, I'm thinking he's
4 supposed, supposed to be in the house, he's still there.
- 5 Q For a fact do you know where he is?
- 6 A No. For a fact I don't know where he's at, no, sir.
- 7 Q Because you were asleep.
- 8 A Because I was asleep.
- 9 Q And you said you and Mr. Stoudenmire had been smoking
10 crack for a while. Was it his usual custom to smoke one
11 rock and stop?
- 12 A No.
- 13 Q What was his usual custom?
- 14 A Smoke until there wasn't any more money.
- 15 Q But you're telling the Court there was no more money.
- 16 A Yeah. There was no more money.
- 17 Q Would it be natural for him to just stop then if there
18 was no money or try to seek out more?
- 19 A Well, I mean, like I say, it was getting late at
20 night. So I don't guess he was, you know, was going to try
21 to get no, you know, more money because we, you know,
22 wasn't no, there wasn't no minutes on the phone. We
23 couldn't call nobody. You know what I'm saying? So I just
24 went on to bed, you know.
- 25 Sometime he can call people and they'll front him

Hillard Lee Walker
Direct examination by Mr. Gray

1 some, you know, like, if he's got a check. You know what
2 I'm saying? Both of us. You know what I'm saying?

3 Q Did he ever ask Gwen for money?

4 A Yeah, he asked Gwen for money.

5 Q He asked her for money for crack?

6 A Yeah. But she didn't know that he was wanting crack
7 far as, you know what I mean? But he has got \$20 from her
8 and went and bought crack with it, yeah.

9 Q Is that a possible source if he wanted to smoke some
10 more to go ask Gwen for some crack, go ask Gwen for some
11 money?

12 A Yeah, he would, yeah.

13 Q Did it matter if it was day or night to him?

14 A Well, I mean, I, you know, the latest I ever seen him
15 go down there was, you know, right at dark or something
16 like that. You know what I'm saying -- 9:00 or 10:00
17 o'clock -- you know what I'm saying?

18 Q Now, after the next morning when you woke up, what was
19 Mr. Stoudenmire's behavior?

20 A Just like usual, you know. I didn't, couldn't, you
21 know, could tell no difference in him, you know.

22 Q Did you or he go anywhere with your next-door
23 neighbors?

24 A No. Well, John was going to go get us -- we was going
25 to go cut some wood up the road. They'd cleaned the power

Hillard Lee Walker
Direct examination by Mr. Gray

1 lines off. We's going to cut us a load of wood, and then
2 we's going to cut Norman's sister a load of wood.

3 John was nicer enough and was going to hook his
4 trailer up and some up 'ere and load it all up on a trailer
5 and bring, and we unload it, and went back up 'ere and got
6 us another load. So I think we got two loads in John's
7 trailer that morning, because we'd been helping John on his
8 building, you know.

9 Q What time did that project end if you know?

10 A That probably ended maybe 11:00 or 12:00 o'clock --
11 11:00 o'clock or something like that.

12 Q When were you first aware that something was wrong at
13 Gwen's house?

14 A I don't know what time it was. But it was my
15 next-door neighbor. It was John and his wife had come up
16 there and told me that I needed to ride with them because,
17 you know, they's going to take me -- you need to go down at
18 Gwen's because something had happened down nar.

19 Q Did Mr. Stoudenmire go with you?

20 A Mr., Mr. -- he wasn't at home.

21 Q He wasn't home?

22 A No, he wasn't at home. He had done already left with
23 his sister.

24 Q He'd already left for his sister's house?

25 A Yeah.

Hillard Lee Walker
Direct examination by Mr. Gray

- 1 Q You went down to Gwen's house.
- 2 A Yeah, I went down there.
- 3 Q Mr. Stoudenmire left for his sister's.
- 4 A He, he left before, before they had told me that
5 something happened. I was sitting up there at the house by
6 myself when John come up there.
- 7 Q Did Mr. Stoudenmire ever call you after?
- 8 A He didn't ever call me because I ain't got no phone,
9 no cell phone or nothing, naw. He never called me -- no
10 house phone, no cell phone or nothing. Never called me.
- 11 Q Did Mr. Stoudenmire try to make any contact with you
12 regarding Gwen?
- 13 A Na-uh.
- 14 Q When was the last time you saw Mr. Stoudenmire?
- 15 A The last time I seen him was -- he had left that
16 morning to go with his sister. He left that morning to go
17 with his sister. I'm thinking that's the last time. This
18 has been a long time. I'm thinking that's the last time I
19 seen him.
- 20 Q February of 2008.
- 21 A Yeah. Well, whatever that same day was, I guess it --
22 he had got me and told me to come down there that, you
23 know, something had happened down at Gwen's house and I
24 needed to go. That's the last day I seen him.
- 25 Q Who told you something happened at Gwen's house?

Hillard Lee Walker
Cross-examination by Mr. Hall

1 A Mr. -- I mean, John.

2 Q John did.

3 A No, no. He didn't say something happened to Gwen. He
4 just said something has happened down at Gwen's --

5 Q All right.

6 A -- and I needed to go down there, you know. So that's
7 what I done.

8 Q Thank you, sir. No more questions. Please answer any
9 questions Mr. Hall may have.

10 A All right.

11 CROSS-EXAMINATION

12 BY MR. HALL

13 Q Mr. Walker, I want to, I guess, educate everybody a
14 little bit on crack cocaine.

15 Now, were there times that you, or you and Norman,
16 would smoke a lot of crack cocaine?

17 A Oh, yeah.

18 Q And were there times that you would only smoke a rock
19 or so?

20 A Yeah.

21 Q All right. How does crack cocaine affect you?

22 A Affect me?

23 Q Yeah. What does it do to you?

24 A It, it, it makes me sit down and kinda just, you know,
25 relax and be still.

Hillard Lee Walker
Cross-examination by Mr. Hall

1 Q Okay. Does your living with Lee for -- how long, I
2 mean, with Norman for how long?

3 A I would say something around seven months.

4 Q Seven months. And when you say y'all would smoke on
5 the weekend are you talking about --

6 A Naw.

7 Q -- Friday night, Saturday night, both or one or --

8 A He was saying, he was saying most of the time on the
9 week, weekend. We did get some through the week, but it
10 was just very little through the week. When we got the
11 biggest amount it was on the weekend.

12 Q All right. Let me ask you. The fact that Norman left
13 that Sunday before whatever time it was when they said
14 let's go down, you need to go down to Gwen's something
15 happened --

16 A Yeah.

17 Q -- I assume that was sometime between or after
18 11:00 or 12:00.

19 A Yeah, somewhere around in there, yeah.

20 Q All right. Was that the normal practice for him to go
21 to his sister's?

22 A A lot of times he'd go on Sundays. Sometimes they'd
23 pick him up on Monday morning.

24 Q Okay. And he would return.

25 A He would return on Friday.

Hillard Lee Walker
Cross-examination by Mr. Hall

- 1 Q On Friday.
- 2 A Friday evening.
- 3 Q So during those times -- how long had he been doing
- 4 that -- two months, three months?
- 5 A He went and done a little work at his sister's house
- 6 and a little work at his daddy's house. So I'd say, yeah,
- 7 probably about a month and a half, he'd been doing it two
- 8 months.
- 9 Q Okay. For some time. So while he was doing that you
- 10 weren't smoking any crack with him on the week, during the
- 11 week.
- 12 A No, I wasn't smoking no crack with him during the
- 13 week.
- 14 Q Because he wasn't there.
- 15 A Uh-uh, because he wasn't there.
- 16 Q Now, on February 22nd, which was the Friday before all
- 17 of this happened on the weekend, did y'all smoke crack
- 18 Friday night, February 22nd?
- 19 A Yeah, we smoked a little crack Friday night.
- 20 Q Do you know how much?
- 21 A I don't know -- it's been, like I say, a long time. I
- 22 don't know how much.
- 23 Q And you and Norman have any problems while you were
- 24 smoking crack with each other?
- 25 A Naw, we never had no problems. He would just, you

Hillard Lee Walker
Cross-examination by Mr. Hall.

1 know, get -- he had got laid off work. I had a little bit
2 more money than what he had. You know what I mean?

3 Q Uh-huh.

4 A And, you know, he's a big old guy, and I'm just a
5 little guy. You see what I'm saying? He would just want
6 more crack. And if I had twenty or third dollars he'll say
7 oh, come on, I'm going to get it from my sister right when
8 she comes, I'm going to give it back to you. And that
9 never happened.

10 Q That never happened?

11 A Naw, it never happened, never got paid back. But I
12 always went and got it, you know, or called and got
13 somebody to come and get it.

14 Q Was that the normal practice that somebody would
15 deliver it or you would go get it?

16 A No, yeah, yeah, because he had done something to
17 somebody down the road and he couldn't go to the house no
18 more.

19 Q Talking about the crack dealer.

20 A Yeah.

21 Q So your -- the crack dealer y'all used didn't like
22 him.

23 A No.

24 Q And he --

25 A We had, we had one that we'd call, and he'd come up

Hillard Lee Walker
Cross-examination by Mr. Hall

1 'ere. But the one down at the road, he had done something
2 to them. And, you know, he didn't, the guy didn't, want
3 him down at his house.

4 Q Sometimes he would cajole you or beg you for some
5 money.

6 A Yeah.

7 Q Say I'll pay you back. And you'd give it to him.

8 A Yeah.

9 Q Okay. You heard. I asked Ms. Pack about computer
10 that -- and she said that, yeah, Norman did work on Gwen's
11 computer for money. Is that correct?

12 A Yeah. He --

13 Q Do you know anything about that?

14 A Yeah. He has worked on it, yeah.

15 Q More than one time?

16 A Yeah, more than one time.

17 Q In fact, you said on the 23rd that Norman got \$20 from
18 Norman for a computer. Do you know where Norman got that
19 computer?

20 A No. I have no idea.

21 Q Did he get it -- well, you don't have any idea. I
22 withdraw that.

23 Was it -- did it strike you as unusual that on the
24 24th of February, that Sunday, that Lee went to his
25 sister's?

Hillard Lee Walker
Cross-examination by Mr. Hall

- 1 A That Norman went to his sister's?
- 2 Q I mean Norman went to his -- I apologize. That Norman
- 3 went to his sister's?
- 4 A Do what, now?
- 5 Q Was that unusual?
- 6 A No, it wasn't unusual.
- 7 Q And that's what he'd been doing for at least a few
- 8 months.
- 9 A Yeah.
- 10 Q Now, they asked you. Did he try to contact you at any
- 11 point?
- 12 A No.
- 13 Q There's no way to contact you, was there?
- 14 A Yeah, no way to contact me, no.
- 15 Q His only way of contacting you or anybody to get in
- 16 touch with you would be through somebody else.
- 17 A Yeah, to get in touch with me, would have to be
- 18 getting through somebody else.
- 19 Q Maybe Ms. Pack?
- 20 A Ms. Pack or John or, you know, whoever.
- 21 Q Okay. Now, did John, or John and his wife, come over
- 22 to y'all's that Saturday night about the computer?
- 23 A I think it might have just been John.
- 24 Q Just maybe just John.
- 25 A And he come over. And, like I say, he had a lot of

Hillard Lee Walker
Cross-examination by Mr. Hall

1 ones, because he had, he had said he got this out of his
2 yungan's bank. But that was who he was buying the computer
3 from, for his little grandson, yeah.

4 Q And you don't recall what time that was?

5 A Like I said, it was right at -- you asked me this
6 question awhile ago. It's right at, right close to dark
7 time, you know. It wasn't, wasn't pitch dark, but it
8 wasn't dark.

9 Q After John come over there, did he just come over once
10 that evening?

11 A Yeah, I think just one time, yeah.

12 Q How long after he was there did you go to bed?

13 A I took off and walked down the road and got a piece of
14 crack and come back. And because, like I told you, he
15 can't go down the road. I went and got it and everything.
16 We smoked it. And maybe -- I don't -- a hit or two apiece.
17 Probably about an hour and a half or two hours at the most.

18 Q Maybe two hours after --

19 A Yeah.

20 Q -- John was there you go to bed.

21 A Yeah. 9:30 or 10:00 o'clock, somewhere around there.

22 Q And what was Norman doing when you went to bed?

23 A You asked me that awhile ago too. He was sitting in a
24 chair when I left, when I went, went in there and went to
25 bed. He was still sitting up.

Hillard Lee Walker
Cross-examination by Mr. Hall

1 Q Okay. Was he calm, was he agitated? How was he
2 acting?

3 A Sitting there like he was thinking.

4 Q Did he seem angry about anything?

5 A No.

6 Q Did he say anything to you about wanting to get any
7 more crack cocaine?

8 A No.

9 Q If based on your experience with him, if he had wanted
10 more crack cocaine would he have asked you?

11 A Would he have asked me? Na. We didn't have no
12 money -- we didn't have no money. He knowed I didn't have
13 no way of getting none.

14 Q Were there other times that y'all ran out of money?

15 A Huh?

16 Q Was there other times that y'all smoked a little bit
17 of crack cocaine and ran out of money?

18 A Yeah, yeah.

19 Q And did you both go to bed?

20 A Uh, yeah.

21 Q Now, just to be clear, Norman got a twenty-dollar bill
22 or \$20 -- I assume a twenty-dollar bill -- but \$20 from
23 John for the computer. Did he give you that to go buy the
24 crack cocaine?

25 A Yeah, yeah.

Hillard Lee Walker
Redirect examination by Mr. Gray

1 Q Just got it. Did it have David Ball written on it?

2 A Naw, because it was -- this, that \$20 bill, was in
3 'ere, that, that was after, after this date.

4 He come over and sold the computer to me a day before
5 Gwen had, I mean, sold the computer to him the day before
6 she had died. And I just now told you it was 20 one-dollar
7 bills, or a five or something. It wasn't no twenty-dollar
8 bill.

9 Q Okay. But that computer transaction, selling the
10 computer, was Saturday before Gwen was found on Sunday.

11 A Yeah, before they had told me. They had told me I
12 better go down to Gwen's, yeah. That happened that evening
13 before the 24th. That was the evening of the 23rd.

14 Q Okay. All right. Do you know if Norman ever helped
15 Gwen try to set up a computer in her bedroom?

16 A Never knowed that.

17 Q Okay.

18 MR. HALL: Nothing further.

19 MR. GRAY: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. GRAY

22 Q You said you and Mr. Stoudenmire smoked crack
23 together.

24 Mr. Hall asked you if there's occasion when you would
25 run out of money and you would stop. Are there occasions,

John Glenn
Direct examination by Mr. Gray

1 were there occasions, when you would run out of money and
2 Mr. Stoudenmire would continue smoking crack?

3 A When he run out of money?

4 Q Yes, sir.

5 A When I run out of money?

6 Q Yes, sir.

7 A Well, you know, he -- a lot of times he'd share with
8 me, you know. When we'd run out, we'd both run out most of
9 the time.

10 Q Is there any time that you know of that he would smoke
11 by himself?

12 A Yeah.

13 Q Thank you.

14 MR. GRAY: Nothing further.

15 THE COURT: You may step down.

16 MR. HALL: Nothing further of this witness.

17 THE WITNESS: Do I just need to get down now?

18 THE COURT: Yeah. You can step down.

19 MR. GRAY: The state calls John Glenn, Your Honor.

20 JOHN GLENN, having been first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. GRAY

23 Q Please state your name, sir.

24 A John Glenn.

25 Q And where do you live, sir?

John Glenn

Direct examination by Mr. Gray

1 A 345 Robinson Dairy Road.

2 Q How long have you lived there?

3 A Approximately ten years.

4 Q Are you aware of Gwen Emory?

5 A At first I didn't know her, but after Lee moved in
6 with Norman, that's when I got to know her. And we became,
7 you know, not saying close friends but friends where we
8 would speak to each other if we saw each other.

9 Q Where did Norman live in relation to you?

10 A He lived next door to me, approximately about a
11 hundred feet.

12 Q A hundred feet.

13 A Yes, sir.

14 Q Did you and Norman, excuse me, Mr. Stoudenmire have a
15 close relationship?

16 A At first I was -- you know, we, we had a relationship.
17 And then a problem came up where I told him that I didn't
18 want him back on my property and stuff. And, you know,
19 several months went by. And, you know, he started speaking
20 to me, and I started back speaking to him. And, you know,
21 we started socializing, you know.

22 Q Did you know if Mr. Stoudenmire had an abuse, alcohol
23 abuse, habit?

24 A Well, alcohol, not really. You know, he could, he
25 could handle his alcohol. But, you know, when it came to,

John Glenn
Direct examination by Mr. Gray

1 you know, like, you know, smoking drugs, you know, it was,
2 it was downhill, I'd say.

3 Q You knew he smoked drugs.

4 A Yes.

5 Q What drugs did he smoke?

6 A Crack cocaine.

7 Q And what was he like when he smoked crack cocaine?

8 A Like hyper-like, you know, couldn't sit still, you
9 know, just moving around.

10 Q Being a hundred feet away from Mr. Stoudenmire, do you
11 know how often -- if you know -- and if you don't that's
12 fine -- if you know how often, do you know that he smoked
13 crack?

14 A It was like a weekend thing, you know, when he was
15 working, you know, him and Lee would, you know, smoke then,
16 you know, because, like I say, we stayed so close until we
17 would see the drug dealers coming back and forth, you know,
18 in the yard.

19 Q What was his attitude like while he was not smoking?

20 A He was to me, I'd say, good to people, you know.
21 He would -- if he could have helped you out a little bit,
22 he would, you know. But, you know, from my point of view
23 it was like a Dr. Jekyll and Mr. Hyde. You know, if he got
24 ahold to the drugs he was totally different, you know. And
25 say drinking, you know. It was all right. You know, to me

John Glenn
Direct examination by Mr. Gray

1 seemed like he could handle it.

2 Q Did he ever ask you for money?

3 A Yeah, several occasions, you know. And I knew what,
4 you know, he was going to do with it. So a lot of times I
5 would say no.

6 But on, on that Saturday, the twenty -- what, the
7 23rd, well, anyway him and Lee was over to my house. I had
8 a utility building out there that I was picking up for my
9 kids, you know, put them a pool table and a stereo and a T.
10 V., all of that stuff in there for them to have something
11 where, you know, socialize, them being out in the street,
12 you know, getting in trouble or whatnot.

13 So they was over there helping me, helping me put some
14 paneling in, and ran some electrical wire out there to it
15 so we would have lights out there. And we, we was out
16 there pretty much all day long.

17 It got dark, started getting dark, probably around
18 8:30. So we knocked off, and they went on home. And me
19 and my wife went on in the house.

20 And I am going to say about 9:00 o'clock he asked --
21 he come over and knocked on the door and he wanted to
22 borrow \$20. I said I don't have \$20. He said, well, if
23 you give me \$20 -- if you got \$20 I got a computer over
24 there that you could have for the kids.

25 So I already had one in the house. And I was going to

John Glenn

Direct examination by Mr. Gray

1 go ahead and get it if it worked and put it out there in
2 that building for the kids out there.

3 And I'm going to say approximately 9:00 o'clock I was
4 at his house, me and my wife and my little grandson. And I
5 took the \$20 over there. But it was like Mr. Walker said.
6 It was like a five and ones because I didn't have the
7 money. So we got it out of his little piggy bank, you
8 know, to pay for it because he loved playing games on it,
9 my little grandson and --

10 Q That night when you finished working with
11 Mr. Stoudenmire and Mr. Walker, did you have any more
12 contact with them the next day?

13 A The next morning, Sunday morning, I'm thinking if I'm
14 right, it was about 10:15 or 10:30. He came over to the
15 house there, and actually I was still in the bed. And I
16 heard him when he knocked on the door, so I went to the
17 door.

18 They was out there. They wanted me to go get some
19 wood, which I had agreed to it the day before. So I hooked
20 my trailer up to the van and we went on up the road and cut
21 up some wood and brung it back and unloaded it, and went
22 back and got another load and brung it on back.

23 I'm going to say probably from 10:30 to maybe 11:30
24 was the time that I spunt (sic) with them.

25 Q Okay. I want to ask you about the night before. Now,

John Glenn

Direct examination by Mr. Gray

1 I know you say there was some five and some ones.

2 A Uh-huh.

3 Q Not to disparage construction, but did you -- did the
4 only thing you gave him was that, was money? Did you give
5 him any crack or beer or anything?

6 A No, no, no, because I don't do drugs myself. I have
7 long years ago, and I got off of them. And thank the Lord,
8 you know, I been doing good for the past eight years.

9 Q Did you give them any beer?

10 A Yeah. We, we drunk, I'm going to say, probably a
11 6-pack. And I had a little bottle of liquor. But, you
12 know, we really didn't, you know, fool with that, because
13 I'm not a, a liquor drinker. I just had it out there for
14 company if they came by.

15 Q What kind of beer was that?

16 A It was Natural Light. And the liquor I think was gin,
17 Seagrams gin.

18 Q So between that night, a Saturday, and that Sunday
19 morning you did not see Mr. Stoudenmire or Mr. Walker.

20 A After 9:15 I did not see them any more until that
21 Sunday morning they came over so we can go get the wood.

22 Q Previously there has been some testimony about the
23 fallout or problems. Did you know that Ms. Emory used to
24 pick up Mr. Stoudenmire and Mr. Walker and take them to
25 work?

John Glenn
Cross-examination by Mr. Hall

1 A Yes, sir.

2 Q Now, is there a time when that procedure ever changed?

3 A To my knowledge, naw, because in the morning when she
4 picked up I knew it was early, and it was late in the
5 afternoon, probably like 7:00 or 7:30, sometime when they
6 did get in from work.

7 Q All right. Now, you said you had some children.

8 A Yes, sir. I have a 22-year-old son and a 27-year-old
9 daughter. And my oldest one is 28.

10 Q Now, how many live with you?

11 A The baby boy and my daughter and then her two kids.

12 Q Now, you made a statement about Mr. Stoudenmire and
13 Jekyll and Hyde proclivities.

14 Did you ever give your children instructions when you
15 and your wife were not present at the home?

16 A Yes, we did. We told them if they knocked don't let
17 them in the house, don't let them use the phone or nothing
18 like that, because it have been times that he came and used
19 the phone, but he was calling the drug dealers to bring him
20 his stuff.

21 Q Thank you, sir. No further questions at this time.

22 Any questions Mr. Hall may have.

23 CROSS-EXAMINATION

24 BY MR. HALL

25 Q Did those instructions to your children, adult

John Glenn
Cross-examination by Mr. Hall

1 children, go to Lee also, or just Norman?

2 A It was just Norman.

3 Q Okay. Now, you had spent pretty much Saturday with
4 him.

5 A Yes, sir.

6 Q With Norman and Lee.

7 A Yes, sir.

8 Q And they were -- were they getting paid to do work on
9 your house or just helping you?

10 A No, sir. They was just over there as friends, you
11 know, just helping a friend out.

12 Q All right. And y'all drank a few beers.

13 A Yes, sir. Probably, I'm going to say a 6-pack.

14 Q All right. And you saw no drug use between those two
15 guys with you.

16 A On that day, no, sir.

17 Q I'm assuming if they had pulled out any crack cocaine
18 or something, you'd have thrown them off your property,
19 wouldn't you?

20 A Yes, sir.

21 Q All right. Y'all worked until the evening, until it
22 was getting dark.

23 A Yes, sir.

24 Q All right. And you say at some point, 9:00 or a
25 little after, he was wanting some money. So you came over

John Glenn
Cross-examination by Mr. Hall

1 to look at a computer.

2 A Yeah, but it was about 9:00 when we went over to his
3 house, me and my wife and little grandson.

4 Q Okay. And I assume you didn't just walk in and hand
5 him the money and walk out with the computer. Did you plug
6 it up to make sure it powered on and stuff?

7 A Well, he had it on. He was showing me where he had
8 upgraded it at and everything. He said -- you know, which
9 I already had the internet service. So all I had to do was
10 just plug it up, and it'll work. But from what he showed
11 me over there that night it did work.

12 Q Okay. What was he like at that time?

13 A At that time there he was probably just like he was
14 when we was out there working, because he hadn't, I mean,
15 you know, he had just left out from over to the house and
16 went home. So to my knowledge, you know, he was acting
17 normally like we, you know, was out there when we was doing
18 the work.

19 Q He didn't appear to you he was on drugs at that point,
20 does he?

21 A No, sir.

22 Q He wasn't under the influence of alcohol, was he?

23 A No, sir, because he might have had two beers. Just
24 like I said, it was a 6-pack that, you know, we was
25 drinking on.

John Glenn
Cross-examination by Mr. Hall

1 Q Now, how long did it take him to show you the computer
2 at his house?

3 A Probably about five minutes, because at 9:15 I was
4 back at home.

5 Q All right. And so it would take you less than a
6 minute to walk from his house to your house, even carrying
7 a computer, right?

8 A Yes, sir.

9 Q All right. Do you know where Ben Nevins lives?

10 A Yes, sir.

11 Q And you knew where Gwen Emory lived.

12 A Yes, sir.

13 Q Is she kind of half way between you and Mr. Nevins?

14 A Yes, sir, uh-huh.

15 Q Okay. And the distance between -- is Norman a little
16 bit further away or is he a little bit closer to Gwen's
17 house than you?

18 A Might as well say he's just about the same distance,
19 because he's, he's like, I'm going to say, a hundred feet
20 from where my home is. His home was just next door.

21 Q So is his house a hundred feet further away than
22 Gwen's --

23 A No, from my house.

24 Q Yes, sir. I know. But what I'm asking you is if
25 you're coming down the road, Robinson Dairy Road, from

John Glenn
Cross-examination by Mr. Hall

1 Highway 146 --

2 A Uh-huh.

3 Q -- do you get to his house first or your house first?

4 A Norman.

5 Q Norman's. And then your house. And then some
6 distance on down was Gwen's.

7 A Yes, sir.

8 Q Okay. That's all I was asking. And on Sunday morning
9 Lee and Norman came over to get the wood, correct?

10 A They come to get me so we could go get the wood, yes,
11 sir.

12 Q Okay. But they had helped you on Saturday. You're
13 going to help them get some wood on Sunday.

14 A Yes, sir.

15 Q All right. What was he like, what was Norman like, on
16 Sunday morning? Anything unusual?

17 A Very unusual because he's a talkative person. And
18 Sunday morning all we was doing was cutting wood. He
19 wasn't -- to me he wasn't hisself. He wasn't even talking,
20 you know, like he normally -- he, you know, he'd joke
21 around, you know, about my little grandson and stuff. But,
22 you know, that, he was just quiet, you know, and I was
23 just, you know, wondering why.

24 Q What were you -- I assume you're having to cut the
25 trees that are being cut in smaller pieces.

John Glenn
Cross-examination by Mr. Hall

- 1 A Yes, sir.
- 2 Q All right. Was Norman using a chainsaw to do that?
- 3 A I'm thinking he did, and I did too because I had my
- 4 own, and he had one.
- 5 Q Okay. When you're using a chainsaw do you chat with
- 6 people or pay attention to what you're doing?
- 7 A I'm paying attention to what I'm doing, but when we
- 8 got through cutting the wood the chainsaw wasn't running
- 9 then. And, just like I said, he was just quiet, you know.
- 10 We was just loading the wood.
- 11 Q That's hard work though cutting that -- he was running
- 12 a chainsaw. It was kinda hard work, isn't it?
- 13 A Well, the way he's built and I'm built, it wasn't
- 14 hard, I mean, you know.
- 15 Q And this was the total time with him that morning, was
- 16 maybe an hour.
- 17 A An hour or an hour and a half.
- 18 Q Okay. Cut up wood, loaded it up, hauled it, unload
- 19 it, go back down, cut up wood, load it up, haul it and
- 20 unload it.
- 21 A Yeah. I got a tilt trailer. Once we get it on there
- 22 all I have to do is pull the pin out and pull off.
- 23 Q All right. And do you recall what time Norman's
- 24 sister came to pick him up on Sunday?
- 25 A No. I never knew until Lee had told that that's where

John Glenn
Redirect examination by Mr. Gray

1 he was going. And then later on he told me that he go do
2 work from Sunday up until Friday for his, you know, his
3 folks. So, you know, as far as what time she would pick
4 him up or whatnot, I never knew.

5 Q Okay. Had you noticed that he wasn't around during
6 the week for a while?

7 A Yeah. During the week I noticed that he wasn't. And
8 I had started to check on Lee because I had found out that
9 that's what was going on, he was going with his sister. So
10 sometimes, you know, I asked him if he ate or what not and
11 offer him some of our dinner. But, you know, he said he
12 was fine.

13 Q Did you have any contact with him after that Sunday
14 morning?

15 A With Norman?

16 Q With Norman.

17 A Let me see. That Sunday -- that Sunday when her body
18 was found he called a couple of times, but I didn't get to
19 speak to him. He talked to my wife.

20 Q Okay. Fair enough.

21 MR. HALL: No further questions.

22 MR. GRAY: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. GRAY

25 Q Was Mr. Stoudenmire gone from his residence on that

John Glenn
Redirect examination by Mr. Gray

1 Sunday before the police arrived?

2 A Yes, sir.

3 Q Thank you.

4 MR. GRAY: Nothing further, Your Honor.

5 THE COURT: You may step down.

6 Let me see y'all just a minute.

7 (Bench conference held off the record in the presence
8 of the jury but out of the hearing of the jury.)

9 THE COURT: Ladies and gentlemen, now is a convenient
10 time for us to recess for lunch, so we'll do so.

11 As you leave keep in mind my caution previously given.
12 Do not discuss the case; don't conduct any research or
13 investigation; don't permit yourselves to be exposed to any
14 type of information that might relate to the case.

15 And I'll ask that you please report to your jury room
16 at 2:15, at 2:15 this afternoon. Have a good lunch.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Court's in recess until 2:15.

20 (Whereupon, a recess was taken.)

21 THE COURT: Are we ready for the jury?

22 MR. GRAY: Yes, sir, Your Honor.

23 THE COURT: All right. Bring them in.

24 (The following takes place in the presence of the
25 jury.)

Angela Glenn
Direct examination by Mr. Gray

1 THE COURT: Good afternoon, ladies and gentlemen.

2 We are going to continue with the state's
3 presentation.

4 MR. GRAY: Thank you, Your Honor. The state calls
5 Angela Glenn.

6 ANGELA GLENN, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. GRAY

9 Q Please state your name, ma'am.

10 A Angela Glenn.

11 Q Ms. Glenn, are you the wife of Mr. John Glenn?

12 A Yes.

13 Q Where do you live, Ms. Glenn?

14 A At 345 Robinson Dairy Road.

15 Q Was that next door to Mr. Hillard Lee Walker?

16 A Yes.

17 Q Does Mr. Hillard Lee Walker still live there?

18 A No.

19 Q Also known as Lee Walker.

20 A Yeah.

21 Q In February of 2008 did he have a roommate?

22 A Yes.

23 Q And was his roommate Mr. Norman Stoudenmire?

24 A Yes.

25 Q Now, ma'am, at that time how long had Mr. Stoudenmire

Angela Glenn
Direct examination by Mr. Gray

1 and Mr. Walker been living next to you?

2 A It'd been some years since Norman lived beside me.

3 And I don't know how long Lee had been there.

4 Q So Norman was there first.

5 A Uh-huh.

6 Q Were you familiar? You knew Norman Stoudenmire very
7 well?

8 A Yeah.

9 Q Did Mr. Stoudenmire do work for you sometimes?

10 A Yes.

11 Q What type of work, ma'am?

12 A Well, he helped my husband. The only time, you know,
13 he helped my husband rebuild, I mean, do some work on his
14 barn that he had.

15 Q Did he ever do anything for you specifically as far as
16 any handyman work or anything?

17 A No.

18 Q Are you familiar with a Ms. Gwen Emory?

19 A Yes.

20 Q How long had you known her?

21 A A couple of years. I'd seen her, but I didn't really
22 know her personally, but I know, knew of her.

23 Q Now, how far apart was your residence and
24 Mr. Stoudenmire's residence?

25 A About a hundred feet.

Angela Glenn
Direct examination by Mr. Gray

1 Q About a hundred feet. Did you ever have any occasion
2 to pay or give Mr. Stoudenmire money?

3 A One time he had wanted to sell a play station, and I
4 bought it from him for my grandson, but not just like give
5 him money like, no, just, no.

6 Q He never just outright asked you for money.

7 A Well, he had asked my husband to borrow some, but not
8 me.

9 Q Did you know about Mr. Stoudenmire's drug abuse?

10 A Yes.

11 Q How did you know about that, ma'am?

12 A Well, I live right beside of him. I could see what's
13 going on next door. And I used to see like drug dealers
14 that I know that used to come by and, you know, sell it to
15 him. And then I have seen sometimes the way he, you know,
16 act, his change of attitude and stuff.

17 Q What do you mean by that, ma'am?

18 A He was -- sometime Norman was real. He was a real
19 good person. Then when he was, you know -- I could tell
20 when he was using because his attitude changed. He was
21 like be mean or, you know, just.

22 Q I don't have any specific instances. I wasn't there,
23 ma'am. If you could, please tell me what he would do.

24 A Okay. One, one time this, this girl named Denise that
25 used to stay with him, she -- he had got mad at her and

Angela Glenn

Direct examination by Mr. Gray

1 her, her sister, I think, and her brother-in-law. And he
2 got a bat at them and ran them out of the yard. They had
3 come in my yard. And I have seen him and this lady named
4 Mary get into it. And that's it, you know, that's about
5 it.

6 Q Was he under the influence of crack cocaine?

7 A I think so.

8 Q Now, in February of 2008 was Mr. Stoudenmire still
9 living next to you?

10 A Yes.

11 Q Had you seen him any time during that weekend, that
12 Friday or Saturday or that Sunday, use any crack cocaine?

13 A I never seen him use any.

14 Q Okay.

15 A No.

16 Q Did you know? Had you had any idea that he may have
17 been using it that weekend?

18 A What's the weekend?

19 Q February 22nd, 23rd, 24th.

20 A I, I can't say. I don't know.

21 Q All right. Now, on that Sunday I believe is when
22 Ms. Emory, Emory's body, was found, is that right?

23 A Yes, sir.

24 Q About what time if you know was her body found?

25 A Well, around 1:00 I think.

Angela Glenn
Direct examination by Mr. Gray

1 Me and my husband was -- well, I was looking out the
2 door, and I seen all of the police cars and the crime
3 thing. And I told my husband, I said something is going
4 on. I said we need to go see what's going on.

5 So we rode down through there. And I seen them at
6 Gwen's house. And I come back. And we told Lee that
7 something done happened at Gwen's house. I say I don't
8 know what happened, but, you know, all the polices are
9 there. And so we took him back down there.

10 Q So Lee would be Mr. Walker.

11 A Yeah, Mr. Walker.

12 Q Was Mr. Stoudenmire there?

13 A No.

14 Q Was it unusual for Mr. Stoudenmire not to be there on
15 a Sunday morning?

16 A No. I think he usually go to his sister's house or
17 mama's house or something on, on Sundays.

18 Q And how long would he stay gone that Sunday?

19 A Mostly Thursdays or Fridays he has come back.

20 Q Is when he would come back.

21 A Uh-huh.

22 Q Is that the same pattern he followed this week?

23 A Yeah.

24 Q He came back on that Thursday.

25 A No. He didn't. Uh-uh. I had, I hadn't seen him

Angela Glenn
Direct examination by Mr. Gray

1 since that, since that Sunday morning.

2 Q Have you ever seen him at that home since that Sunday
3 morning, February of 2008?

4 A 2008, no.

5 Q All right.

6 A But I talked to him.

7 Q You did talk to him.

8 A Uh-huh.

9 Q He called you?

10 A Yes, sir.

11 Q When did he call you?

12 A He called me that Sunday right after we, you know,
13 found out about Gwen. And Norman had called me and he
14 asked me. He asked me, he say, asked me about where John
15 was at. And I was like, Norman, you ain't going to believe
16 what happened. I said something done happened to Gwen. I
17 said I don't know if -- I don't what happened. I said but
18 all the polices down there. Okay. He said where Lee. I
19 said, well, Lee is down there.

20 So we talked for a second, and then we hung up. And I
21 went back to check on, you know, John and Lee. And they
22 wouldn't let Lee leave.

23 So when I got back Norman had called again. And he
24 asked me did I find out what was going on. And I said, you
25 know, as I know, something happened to Gwen. And he said

Angela Glenn
Direct examination by Mr. Gray

1 have anybody been over to the house, and I said no.

2 Q Been over to what house?

3 A To his house, to Norman's house.

4 And he asked me. And he asked me have anybody taken
5 anything out of Lee's house, I mean, his house. I said no.
6 And so we didn't talk.

7 And then he called back later on, but I didn't get to
8 talk to him. And then the next day he called.

9 Q So how many times did Mr. Stoudenmire call you in
10 total?

11 A From that Sunday to that Tuesday and Wednesday he
12 called several times. I would say about six or seven
13 times.

14 Q Did he ever ask about the condition of Ms. Emory?

15 A He just asked me what happened, and I told him I
16 really didn't know.

17 Q And that was it.

18 A Yeah. The only thing, he was like was anybody, you
19 know, did anybody come over to the trailer there, did they
20 take out anything, or where Lee. That was the
21 conversation.

22 Q That was his --

23 A What I'm saying is did they take anything, have
24 anybody been over to his house, you know, like they was,
25 you know, taking things out or something.

Angela Glenn
Direct examination by Mr. Gray

- 1 Q Had the police been to his house?
- 2 A Yeah. Well, he say anybody. He didn't say the
- 3 police. He just --
- 4 Q He didn't say the police.
- 5 A Yeah.
- 6 Q He just wanted to know if things had been removed from
- 7 his home.
- 8 A Yeah, uh-huh. He didn't say the police. He just
- 9 said --
- 10 Q Did you ever tell him exactly what had happened to
- 11 Ms. Emory?
- 12 A No. I don't, I don't remember. All I said that
- 13 something happened. I didn't know what it was.
- 14 Q Did he ever tell you what he thought had happened to
- 15 Ms. Emory?
- 16 A No.
- 17 Q But he called you repeatedly, at least seven times,
- 18 between the Sunday he left with his sister until that
- 19 Tuesday.
- 20 A Tuesday or Wednesday, yeah.
- 21 Q And you haven't seen him until --
- 22 A I have seen him --
- 23 Q -- today.
- 24 A -- until today.
- 25 Q One second.

Angela Glenn
Direct examination by Mr. Gray

1 (Pause.)

2 Q When he called you the first time --

3 A Uh-huh.

4 Q -- was that after he had left?

5 A Uh-huh.

6 Q Were the police already there when he called the first
7 time?

8 A Yeah. Because why I say that, that's when I had, we
9 had went down there to see what was going on. And then I
10 left John and Lee. And when I come back that's when he
11 called. And the polices was already down there. I'm
12 saying this might have been 1:00 or 1:30 or 2:00.

13 Q Well, do you know what time he left that day on that
14 Sunday?

15 A No. I have no idea.

16 Q Had he ever called you before for updates on anybody
17 else?

18 A No.

19 Q Had he ever called you on a Sunday?

20 A No.

21 Q Had he ever called you on a Monday?

22 A No, not while he was gone like that.

23 Q He never called you when he left to go with his
24 sister.

25 A No.

Angela Glenn
Cross-examination by Mr. Hall

1 Q This was the first time he had ever called you.

2 A Yes. Well, I done talked to Norman before, but not
3 like when he leave like that. He ain't never called.

4 Q Never.

5 A Never.

6 Q Thank you, ma'am.

7 A Okay.

8 Q No further questions. Please answer any questions
9 Mr. Hall may have.

10 CROSS-EXAMINATION

11 BY MR. HALL

12 Q Now, the last thing you said, you said I have talked
13 to him before. So you're talking about on the telephone?

14 A Yeah.

15 Q And I assume, assuming that you mean he was not in his
16 house calling you, but he was somewhere else.

17 A Yeah.

18 Q All right. When he called on that Sunday --

19 A Uh-huh.

20 Q -- did you -- he called to your husband. Did you ever
21 get to find out why he was calling, or did you just say
22 you're not going to believe, something has happened down at
23 Gwen?

24 A Yeah.

25 Q So you don't know why he called really that time, do

Angela Glenn
Cross-examination by Mr. Hall

1 you, other than he asked for John?

2 A He asked for John and --

3 Q And then you told him something's going on.

4 A I say, I say you ain't going to believe it. I
5 didn't -- I just you ain't going to believe this. I say,
6 Norman, something happened to Gwen. I said I don't know
7 what.

8 I thought maybe somebody did something to the horses
9 or broke in. But I said something done happened, you ain't
10 going to believe it. I told him, you know, that.

11 Q Now, did I understand -- I couldn't understand for
12 sure, but did I hear you say you've never seen him smoke
13 crack cocaine?

14 A No. I never seen him smoke it.

15 Q Okay. And on the issue with his girlfriend and her
16 family --

17 A Uh-huh.

18 Q -- you have no idea what had happened.

19 A Denise was wanting to move.

20 Q Okay.

21 A And her, her sister.

22 Q But you don't know what happened in that house before
23 he said y'all need to leave.

24 A No, no.

25 Q Okay. So he told -- there was something, some issue.

Angela Glenn
Cross-examination by Mr. Hall

1 He said y'all get out.

2 A Yeah.

3 Q All right. And that's what you or your husband might
4 do if you had a problem with somebody at your house, tell
5 them to leave, is that correct?

6 A Yeah.

7 Q Okay. If you don't -- if you've not seen him smoke
8 crack cocaine how can you say his attitude's changed after
9 he's been smoking if you don't know he's been smoking?

10 A Well, Norman done told us that he do smoke. You know,
11 he talked to us.

12 Q Well, I understand that.

13 A Yeah.

14 Q But how do you know he's not just in a bad mood, that
15 a girlfriend had gotten him upset or something, anything?

16 A Well, that's just my opinion. You know, I don't --
17 that's what I --

18 Q Okay. Now, the Saturday, the 23rd of February of
19 2008, did you go over to their -- Norman and Lee's?

20 A Yes, sir.

21 Q And your husband -- his summary of the times and
22 everything about the same?

23 A Yes, sir.

24 Q So they had worked.

25 A Yeah.

Angela Glenn
Cross-examination by Mr. Hall

- 1 Q A little bit later y'all went over there.
- 2 A Uh-huh.
- 3 Q Carried the computer back and paid him some \$20.
- 4 A Yeah.
- 5 Q All right. No problems.
- 6 A No.
- 7 Q Nobody had an attitude or anything.
- 8 A No.
- 9 Q It was -- he was just being the nice neighbor selling
- 10 you something. No strange behavior or anything that night.
- 11 A No.
- 12 Q And were you around him Sunday, or were they off by
- 13 themselves?
- 14 A I wasn't around him Sunday.
- 15 Q Probably best not to be around men with chainsaws. I
- 16 do do that work.
- 17 But it's -- do you know how long approximately he had
- 18 been leaving on Sunday and being gone all week? Was it
- 19 weeks or a few months or --
- 20 A I guess weeks because we had asked Lee when we didn't
- 21 see Norman, we asked him where he was. That's how we found
- 22 out that he be going to his sister's or mother or whatever.
- 23 So I don't know how long it had been.
- 24 Q Been going to relatives.
- 25 A Uh-huh, relatives.

Angela Glenn

Redirect examination by Mr. Gray

1 Q But you knew he wasn't working with Lee any more for
2 whatever reason.

3 A Yeah.

4 Q Okay. At least for weeks there's a pattern of him
5 leaving sometime on Sunday to go to the relatives.

6 A Yeah.

7 Q So that wasn't unusual that day.

8 A No.

9 Q And he had called you to your house from somewhere
10 else while he was gone at least once, is that correct?
11 Because you said he called you before and he wasn't calling
12 you from his house.

13 A Yeah.

14 Q All right. No further questions.

15 MR. GRAY: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. GRAY

18 Q When -- after this occasion did Norman ever tell you
19 where he was calling from?

20 A No.

21 Q He never told you.

22 A No.

23 Q Thank you.

24 THE COURT: You can step down.

25 THE WITNESS: Okay. Thank you.

Jason Bryant
Direct examination by Mr. Gray

1 MR. GRAY: The state calls Investigator Jason Bryant.

2 JASON BRYANT, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. GRAY

5 Q Investigator Bryant, where do you work?

6 A I work for the Spartanburg County Sheriff's Office.

7 Q How long have you worked there, sir?

8 A Since 1996.

9 Q What were your primary duties and responsibilities
10 when you started in '96?

11 A When I started in 1996 I worked the road. I was a
12 patrol officer that floated the entire south end of the
13 county.

14 Q And since that time you've moved to different jobs
15 within the sheriff's department, correct?

16 A Absolutely.

17 Q What have you done so far?

18 A I was a field training officer for the Spartanburg
19 County Sheriff's Office Uniform Patrol Division.

20 Then I went to the warrant team which handles fugitive
21 investigations.

22 And from there I went back to the road as a shift
23 supervisor.

24 And from the shift supervisor's position I had the
25 opportunity to become a violent crimes investigator. And I

Jason Bryant
Direct examination by Mr. Gray

1 am a graduate of the defense academy. And I am a graduate
2 of the defense academy for credibility assessment. I also
3 served as a polygraph examiner.

4 THE COURT: Mr. Bryant, you've got your back turned
5 towards the court reporter and you're not using the
6 microphone.

7 THE WITNESS: I'm sorry.

8 THE COURT: She can't hear what you're saying.

9 THE WITNESS: I'm sorry.

10 Q Now, presently what are your duties and
11 responsibilities?

12 A I apologize, sir?

13 Q What are your duties and responsibilities now?

14 A Oh, I'm a violent crimes investigator.

15 Q How long have you had that position, sir?

16 A Since 2004.

17 Q And as a violent crimes investigator what do you do?

18 A I investigate violent crimes, anything. I investigate
19 violent crimes. Anything such as murders, robberies,
20 shootings, serious assault and batteries, anything such as
21 that -- robberies.

22 Q Now, February 24th, I believe, of 2008 were you called
23 out as part of the investigative team for an incident in

24 [REDACTED]

25 A I was.

Jason Bryant
Direct examination by Mr. Gray

1 Q Were you the only investigator assigned to this case?

2 A No, sir, not at all.

3 Q Who else was assigned to this case, sir?

4 A Myself worked the case. Investigator Todd Ruffner
5 assisted with the case. Investigator Chris Durham assisted
6 with the case.

7 Forensically, the lead investigator was Robert
8 Talanges.

9 Sergeant David Hogsed also assisted. Deputy Nix
10 assisted with the crime scene.

11 Also, the coroner's office assisted with the
12 investigation.

13 Deputy and Investigator David Taylor assisted with the
14 investigation -- Sergeant Allen Wood, Investigator William
15 Gary. Numerous investigators.

16 Q Now, as a result of your involvement in this situation
17 there are all of these deputies, investigators and forensic
18 people. Who is the lead on this situation?

19 A I will be the lead investigator.

20 Q And as the lead investigator what do you do?

21 A In a sense what you do in that role is you coordinate
22 with the other investigators, deputies and officers and
23 agencies that help in these investigations.

24 Q Were you in charge of this investigation?

25 A Well, of course I, I report to a supervisor, of

Jason Bryant
Direct examination by Mr. Gray

1 course. But I was the, the lead investigator which handled
2 the coordination of the many different officers.

3 Q Now, once you arrived and were made the lead
4 investigator on this date, February 24th of 2008, what was
5 your first duty? What was your first action?

6 A I responded to the scene at [REDACTED]
7 at which I had already met with the responding officers --
8 Deputy Babb. And I was actually beaten there by the
9 forensic officer, David Hogsed, Sergeant David Hogsed.

10 Q Did you take any pictures?

11 A No, not at all.

12 Q Did you dust for any fingerprints?

13 A Not at all.

14 Q Did you make assignments of duties?

15 A I'm sorry, sir?

16 Q Did you make assignments of duties?

17 A No, sir. Like I say, it's a coordinating role.

18 Q So what did you do exactly?

19 A Once, once I responded on the scene I was briefed by
20 the responding officers and the responding investigators
21 such as from the coroner's office and the responding
22 forensic officers. And then I began to gather information.

23 Q As a result of your gathering information did you
24 interview Mr. Stoudenmire?

25 A I did.

Jason Bryant
Direct examination by Mr. Gray

- 1 Q Was he there at the scene on February the 24th?
- 2 A Not at all.
- 3 Q He was not.
- 4 A No, sir.
- 5 Q Was Mr. Walker present?
- 6 A He was.
- 7 Q Did you gather information from him?
- 8 A I did. I spoke with him there and at the sheriff's
- 9 office.
- 10 Q Who else did you gather information from on
- 11 February the 24th of 2008?
- 12 A I believe we interviewed Ben Nevins also, and Lee
- 13 Walker on that day. Other investigators were dealing with
- 14 other people in regards to it.
- 15 Q All right. Now, you said that some other time you
- 16 spoke to Mr. Stoudenmire.
- 17 A That's correct.
- 18 Q When did you speak to Mr. Stoudenmire?
- 19 A If I could refer to my notes, just give me just one
- 20 moment, please.
- 21 (Pause.)
- 22 A On February the 27th of 2008.
- 23 Q Now, did you speak to him in person or over the phone?
- 24 A Spoke with him in person.
- 25 Q Now, at that time was Mr. Stoudenmire under arrest?

Jason Bryant
Direct examination by Mr. Gray

1 A Not at all.

2 Q Had you had difficulty finding Mr. Stoudenmire up to
3 that point?

4 A He had been out of town.

5 Q Where had Mr. Stoudenmire been?

6 A Florida. Daytona, I believe, where he said he'd --
7 he'd advised Investigator Ruffner he was at.

8 Q So from February the 24th until the time you spoke to
9 him he had been in the State of Florida.

10 A That's correct.

11 Q Now, at that time was Mr. Stoudenmire placed under
12 arrest?

13 A Not at all.

14 Q Who conducted this interview of Mr. Stoudenmire?

15 A On the 27th it was myself and Investigator Ruffner.

16 Q All right. Now, I'm assuming that the investigation
17 continued --

18 A It did.

19 Q -- after the interview.

20 A It did.

21 Q Now, did you at some later time develop enough
22 information to have Mr. Stoudenmire become your primary
23 suspect?

24 A We did.

25 Q Now, once that information was given to you what did

Jason Bryant
Direct examination by Mr. Gray

1 you do?

2 A At that time I had seeked an arrest warrant for
3 Mr. Stoudenmire.

4 Q Now, where was Mr. Stoudenmire located at that time?

5 A At that time he was at No. 9, excuse me, No. 9
6 Springside Avenue in Greenville, South Carolina.

7 Q Is that where you went to arrest Mr. Stoudenmire?

8 A That's correct.

9 Q And what was the date of that arrest?

10 A That was on the 29th.

11 Q February the 29th of 2008.

12 A That's correct.

13 Q Was part of the information that led to
14 Mr. Stoudenmire's arrest having to do with some type of D.
15 N. A. evidence?

16 A It was.

17 Q Now, once you arrested Mr. Stoudenmire did you
18 transport him to the Spartanburg County Jail?

19 A We did.

20 Q Did you make any stops along the way before the jail?

21 A Not at all. Well, we stopped at the sheriff's office.
22 We were transporting him to the sheriff's office. That's
23 where we went.

24 Q Now, during the trip to the sheriff's office did you
25 have a conversation with Mr. Stoudenmire?

Jason Bryant
Direct examination by Mr. Gray

1 A I advised him of his Miranda rights.

2 MR. HALL: If you will note my earlier objection to
3 any questioning at this point.

4 THE COURT: Okay. Note your exception -- note your
5 exception. I don't know that we have gotten there yet, but
6 I will note it.

7 MR. HALL: Yes, sir.

8 Q You Mirandized Mr. Stoudenmire of his rights.

9 A That's correct.

10 Q And how did you do that, sir?

11 A From a pocket card that I carry in my wallet at all
12 times.

13 Q Do you have that card with you?

14 A I do.

15 Q Would you read that, please?

16 A Sure. It's a little bit old and wore out, but it's a
17 suspect's Miranda-rights warning.

18 It's, "You have the right to remain silent. Anything
19 you say can and will be used against you in a court of law.
20 You have the right to talk to an attorney and have him or
21 her present with you while you're being questioned. If you
22 cannot afford to hire an attorney one will be appointed to
23 represent you before any questioning if you wish. You can
24 decide at any time to exercise these rights and not answer
25 any questions at all and make statements. Do you

Jason Bryant
Direct examination by Mr. Gray

1 understand each of these rights as I've explained to you?

2 And having these rights in minds do you wish to talk to us
3 now?"

4 Q Now, you read those rights to Mr. Stoudenmire. Did he
5 appear to understand those?

6 A He did.

7 Q Did he wish to talk to you at that time?

8 A He did.

9 Q Who else was present during the interview with
10 Mr. Stoudenmire in your vehicle?

11 A Myself and Investigator Ruffner.

12 Q Was he present when the Miranda rights were read to
13 Mr. Stoudenmire?

14 A He was.

15 Q Did Mr. Stoudenmire appear to be under the influence
16 of any alcohol or drugs at that time?

17 A Not at all.

18 Q Did Mr. Stoudenmire begin to talk or answer questions
19 at your leisure?

20 A He did.

21 Q Now, according to your, your report this occurred
22 around noon on what, the 29th of February?

23 A That's correct.

24 Q Now, did you ask him any questions in the vehicle?

25 A In the vehicle, basically what we had was small talk

Jason Bryant
Direct examination by Mr. Gray

1 'till we got back to the office -- a rapport-building phase
2 in a sense.

3 Q How long did that trip take from the arrest site to
4 the sheriff's office?

5 A We got back to the sheriff's office about 12:30, so
6 about 40 minutes.

7 Q Once you got to the sheriff's office did you begin
8 the -- I guess the strict interview process with
9 Mr. Stoudenmire?

10 A We went into an interview room, and that's where we
11 began to talk again also or continued to talk.

12 Q Who was present during that interview?

13 A Investigator Ruffner.

14 Q Now, during that time did you discuss with
15 Mr. Stoudenmire the deceased, Ms. Gwen Emory?

16 A I did.

17 Q How did that exchange come about and how did it go?

18 A Well, during the course of the interview he provided a
19 voluntary statement and, and that was about -- I think it
20 ended about 1:20. And he signed the voluntary statement.
21 Then after--

22 Q Let me stop you for one second. Excuse me.

23 I show you what's marked as State's Exhibit No. 1 for
24 identification purposes and ask you if you recognize this.

25 A I do.

Jason Bryant
Direct examination by Mr. Gray

1 Q Now, before that -- did you write that?

2 A This is in my handwriting, and it was written at his
3 request word for word what he advised me.

4 Q Now, did he sign that?

5 A He did.

6 Q Was that witnessed?

7 A It was.

8 Q Who witnessed that statement?

9 A Investigator Ruffner.

10 Q Now, upon -- before he gave that statement was he
11 denied any attempts to go to the restroom?

12 A No, not at all.

13 Q Was he denied any food?

14 A He had a Coke and a pack of crackers, and he sat in
15 the room.

16 Q Did he ask to smoke?

17 A He did.

18 Q Were any threats made to him at that time?

19 A Not at all.

20 Q Now, you say that voluntary statement was signed. Was
21 that the end of the interview process at that time?

22 A No, not at all.

23 MR. GRAY: Your Honor, at this time I move State's
24 Exhibit No. 1 in evidence.

25 MR. HALL: Again, note my earlier objection, Your

Jason Bryant
Direct examination by Mr. Gray

1 Honor.

2 THE COURT: It's admitted over objection.

3 MR. HALL: Thank you.

4 (Statement marked State's Exhibit No. 1.)

5 Q After you finished getting that statement from him
6 what else transpired?

7 A We began to discuss in more detail or further the
8 incident that occurred with Ms. Stoudenmire (sic).

9 Q Did Mr. Stoudenmire give you any more details about
10 that?

11 A He did, he did. And if you don't mind, I'd like to
12 refer to my notes.

13 Q Okay. While you're referring to your notes, you have
14 a written statement. Was there not a second written
15 statement done?

16 A No, sir, not at all.

17 Q Why was that?

18 A He didn't want to put anything else on paper.

19 Q All right. Please continue.

20 A Okay. We got back. And after the statement was taken
21 we then began to speak more of the incident. I was trying
22 to get more information in regards to that. And that's
23 when he had provided me the information that when he smoked
24 crack he had turned into a monster and that he was
25 responsible for Gwen Emory's death. And he didn't want to

Jason Bryant
Direct examination by Mr. Gray

1 provide me with the step-by-step details of what had
2 happened because he tried to put all of that out of his
3 mind or he -- I think in his words he states that he puts
4 that kind of stuff out of his mind but he turns into a
5 monster when he's on crack and he had actually done about
6 \$500 worth of crack cocaine beginning Friday, I believe it
7 was, and \$500.

8 Q That would have been February 22nd of 2008?

9 A Not on the -- it would have been the Friday before the
10 24th. So it'd have been the 22nd.

11 Q All right. Please continue.

12 A And he'd also had a problem with Gwen -- or I
13 apologize -- with Gwen at work that he had advised. And
14 these are his words. I'm sorry. These are his words.

15 That he referred to her as what he called a shit
16 stirrer, and at work, and that he had also made the comment
17 that he didn't deserve to live, he didn't deserve to have a
18 life after this and that he didn't mean to hurt Gwen. He
19 didn't mean to hurt anybody. And that he was -- that he
20 had been taught better than this and that he just turns
21 into a monster when he uses crack cocaine. And it was --
22 I'm sorry. Go ahead.

23 Q What was his demeanor at the time?

24 A During the course of the interview he became very
25 emotional. He would weep at times.

Jason Bryant
Direct examination by Mr. Gray

1 There were certain times in the course of the
2 interview where I would actually -- and if I could slide
3 back and show -- we're in very close as far as that goes.

4 And it wasn't an aggressive interview at all. It was,
5 quite frankly, very emotional. And we were in very close
6 to each other. And he was sobbing and weeping.

7 And at times he became remorseful. And, and I would
8 touch his chest on the areas. And I would ask him what,
9 what was going through your mind when you were putting the
10 knife here, Norman, when you were stabbing her here,
11 Norman. And I would touch him just slightly on those
12 areas. And he would uncontrollably weep, sob and just
13 invoked an emotional response from him.

14 Q Did you ever make any deals with him during that time?

15 A Not at all.

16 Q Did he request any deals?

17 A He did. He had stated that if, if I could get to
18 where it was not a death-penalty situation that he could
19 provide the information. But he was scared of the death
20 penalty. And I advised him that I couldn't make that
21 promise, that that was a decision that would have to come
22 from the 7th Circuit Solicitor and the Court, but I could
23 not make that promise.

24 Q Did he at any time deny being the person responsible
25 for the death of Gwen Emory?

Jason Bryant
Direct examination by Mr. Gray

1 A Not at all.

2 Q Not?

3 A He advised that he was responsible for Gwen Emory's
4 death.

5 Q How many times?

6 A Numerous. In excess of ten.

7 Q Now, I see there State's Exhibit No. 1 which is in
8 evidence.

9 MR. GRAY: Your Honor, I'd like for Detective
10 Vaughn -- Bryant to publish that to the jury.

11 THE COURT: Okay.

12 Q Please read that.

13 A Okay. This is the statement that was provided and
14 signed off at 1:20 p.m. on that date of the 29th.

15 And it's, "Last Friday Dena brought me home. And
16 after she left," excuse me, "me and Lee ordered up some
17 crack. I can't remember, but there was several hundred
18 dollars spent. Both of us stayed up all night smoking. We
19 had been drinking too. That next morning we had went over
20 to John's, and we had went over there to help him in his
21 building. We stayed over there all day till dusk. And we
22 had drank all day, but we did not smoke crack. John gave
23 Lee some money. And I told him I was going to start
24 supper. They left and went down the road. They were gone
25 about 15 minutes, and Lee came back with crack. But I did

Jason Bryant
Direct examination by Mr. Gray

1 not give him any money because I did not have any. We
2 smoked that day and watched T. V. We ran out of cigarettes
3 and beer. So I went next door to John's and he gave me
4 some beer. They were Natural Lights. I was talking to
5 John and Ann about selling a computer, and they gave me \$20
6 and would pay me the rest later. I told them that I would
7 sell it for \$40. And that's what I had in it. When they
8 left I gave the money to Lee, and he went and bought crack
9 with it. Lee came home and we smoked it. We sat around
10 for a little bit. And we ate the chicken. I had one beer
11 left, and Lee had finished his. I got on the computer for
12 a bit and sat in my chair. I watched T. V. and passed out.
13 And I woke up close to 2:00 o'clock and went to bed. If I
14 hurt Gwen I did not intentionally do it. I don't remember.
15 All I remember was taking Lee -- all I remember was that
16 Lee woke up." I apologize. "All I remember was that Lee
17 woke me up at 6:30 and I was at home. We went with and
18 left it out to cut firewood (sic). Statement written by J.
19 Bryant at my request."

20 Q So, again, even in that statement he admits
21 responsibility.

22 A That's correct.

23 Q But he didn't stop there. He went on. You went on
24 with the interview --

25 A Absolutely.

Jason Bryant
Cross-examination by Mr. Hall

1 Q -- for how much longer?

2 A I would say approximately until about 8:30 p.m., give
3 or take a little bit.

4 Q Now, how many days is this after the body of Ms. Gwen
5 Emory was discovered?

6 A This was taken on the 29th and her body was discovered
7 on the 24th.

8 Q And this is after the defendant had come back from
9 Florida.

10 A That's correct.

11 Q Sir, I don't have any more questions for you at this
12 time. Please answer any questions Mr. Hall may have.

13 CROSS-EXAMINATION

14 BY MR. HALL

15 Q So you're saying, "If I hurt her, I didn't
16 intentionally do it, I don't remember doing it," that's an
17 admission.

18 A No, sir. Let me see here if I could refer to it. Are
19 you talking about on his written statement --

20 Q Yes, sir.

21 A -- or his oral statement that he gave me?

22 Q The written statement.

23 A "If I hurt Gwen I did not intentionally do it. I
24 don't remember," is what he stated.

25 Q And that's an admission, you said.

Jason Bryant
Cross-examination by Mr. Hall

1 A That was his words, his voluntary statement. That's
2 what he wanted me to put down.

3 Q But that's what you called an admission. That
4 statement right there of that --

5 A No, sir.

6 Q -- 2-phrase. Two sentences in that statement, is that
7 what you're referring to as that statement he's admitting
8 responsibility?

9 A No, sir. The admissions of the responsibility came in
10 the oral interview which occurred afterwards.

11 Q Okay. So you're saying that statement's not an
12 admission.

13 A Well, no, sir. What I'm saying is, is in his
14 statement he didn't remember doing it. In the interview
15 his memory got a little better.

16 Q And this written statement was within an hour of
17 getting to the sheriff's department.

18 A That's correct.

19 Q And the interview ended sometime after 8:30.

20 A Around 8:30, approximately.

21 Q And I think we established earlier he got to the jail
22 at something after 9:00 o'clock, is that right?

23 A That's correct. He had requested to talk to his
24 sister, and we obliged him, let him use the telephone at
25 the sheriff's office.

Jason Bryant
Cross-examination by Mr. Hall

1 Q Now, in your report from your investigation involving
2 the arrest and interrogation of -- you have what time you
3 got to Greenville, 11:50 a.m., and placed him under arrest
4 and Mirandized him.

5 A Yes, sir.

6 Q And then you got to the sheriff's department at 12:30.

7 A Uh-huh.

8 Q And at 1:20 you have the written statement.

9 A That's correct.

10 Q And then you don't mention any other times.

11 A No, sir.

12 Q So it's not important to make a record of how long
13 that interrogation was?

14 A Well, the jail-booking paperwork had him getting to
15 the jail at 9:20. I remember it being over at about 8:30.
16 He called his sister, and he transported him to the jail or
17 he was transported to the jail.

18 Q Is that the practice, not to just all of a sudden stop
19 when you have -- you're documenting 40 minutes, 50 minutes,
20 later, and then seven hours plus later you don't document?

21 A Generally second voluntary statements are taken, or
22 investigators request them to provide another voluntary
23 statement in regards to the incident once they provide more
24 information.

25 He didn't want to put anything else on paper. That

Jason Bryant
Cross-examination by Mr. Hall

1 would have documented the time. But I did not document the
2 time that the interview was over, but it's documented on
3 the jail paperwork when he went to the jail.

4 Q Let's go back to the first 40 minutes, the Greenville
5 to the sheriff's department.

6 A Uh-huh.

7 Q Small talk.

8 A Yes, sir.

9 Q What's small talk? What did that entail?

10 A We just discussed family, relationships, discussed his
11 family in Greenville, his, if I remember correctly his,
12 relationship with his father. He stated he had came from a
13 good family.

14 Q Okay. But you didn't talk about the case.

15 A No, sir, not until we got into the sheriff's office.

16 Q And in your report you said he requested that this
17 interview not be recorded.

18 A That's correct. What, what I do is basically I give
19 the individuals a choice when I ask for a voluntary
20 statement.

21 I advise them there's several ways of doing this. I
22 could give you the voluntary-statement form and you could
23 write it out yourself; we could audio record the voluntary
24 statement; or I can write it word for word what you say and
25 have you to review the voluntary statement and sign it.

Jason Bryant
Cross-examination by Mr. Hall

1 And that's what he opted for.

2 Q All right. But do you ever record, audio or video,
3 record interviews with potential suspects or witnesses or
4 people who are being charged?

5 A Sure. I've taken audio statements before if they
6 request that manner.

7 Q But if you had that in this case where you said he was
8 accepting responsibility, we would have a recording of it
9 that the jury could hear.

10 A If that's what he wanted to do, sure.

11 Q Is there anything to stop you from recording it
12 anyway?

13 A I wouldn't want to do anything to make them feel
14 uncomfortable and stop the flow of information in the
15 course of an interview.

16 Q So I understand you're saying you didn't want to stop
17 the flow, this 8-hour flow, of information. But would that
18 not give us his exact words instead of your and Todd
19 Ruffner's summary of what he said?

20 A It would have if he'd have been comfortable in doing
21 that.

22 Q So it's just his comfort that kept you from making any
23 recording.

24 A Well, it's his choice. He chose for me to write the
25 voluntary statement for him.

Jason Bryant
Cross-examination by Mr. Hall

1 Q Now, in your experience with the sheriff's department
2 you've not been in narcotics, have you?

3 A I have assisted the narcotics unit and the major crime
4 unit. I was not assigned to the narcotics unit.

5 Q But they routinely video and audio record people in
6 investigations, don't they?

7 A No, sir.

8 Q They don't take confidential reliable informants and
9 put wires and cameras on them?

10 MR. GRAY: Objection, Your Honor.

11 THE COURT: Overruled.

12 Go ahead.

13 Q That happens all of the time, doesn't it?

14 A In certain types of investigations such as a
15 controlled buy, sure.

16 Q So Todd Ruffner could have been wired and recorded
17 everything.

18 A Well, we as violent crime investigators, we normally
19 don't wire ourselves up or anything such as that.

20 Q But the technology is there. Other than just setting
21 a tape player or video camera there, if you want him to
22 keep talking and want that comfort level to stay there and
23 the information to keep flowing, you could have put a wire
24 on Ruffner or Steve Calhoun or Steve Cooper or Allen Wood.

25 A It's possible but never used in that sense.

Jason Bryant
Cross-examination by Mr. Hall

1 Q Now, in this interview I think you talked to him about
2 a tragedy in his life involving a young child, a daughter.

3 A Yeah.

4 Q And he told you how he dealt with that, correct?

5 A In a way.

6 MR. GRAY: Excuse me, Your Honor. May we approach?

7 THE COURT: Yes.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 Q There was a horrible tragic accident involving a young
11 daughter got killed in his presence, or something along
12 that line.

13 A He discussed that with me.

14 Q And he said he deals with that by putting it out of
15 his mind, right?

16 A That, and that fueled his drug use also.

17 Q And his drug use apparently was part of the way he
18 tried to put it out of his mind.

19 A He used drugs to help to, that's correct.

20 Q Now, did he when he referred to the death penalty --
21 you said that was early in the interview.

22 A It was shortly -- the first time he made mention of
23 it, it was shortly after the written voluntary statement.

24 Q You're sure he didn't say y'all are trying to get me
25 the death penalty for something I didn't do?

Jason Bryant
Cross-examination by Mr. Hall

- 1 A Never did those words come out of his mouth.
- 2 Q What were the words that came out of his mouth?
- 3 A Oh my God, oh my God, I could die for this, y'all
- 4 could kill me for this.
- 5 Q And that's one of his admissions?
- 6 A That was his statement in regards to fear for the
- 7 death penalty.
- 8 Q Did he ever say, "I killed her"?
- 9 A He stated that he was responsible for her death.
- 10 Q And I believe you showed him each stab wound, where it
- 11 was.
- 12 A That's correct.
- 13 Q So you're giving him facts of the case, correct?
- 14 A Minimally.
- 15 Q Minimally. But those are pretty important facts,
- 16 where the victim was stabbed.
- 17 A It definitely created an emotional response.
- 18 Q And where was this -- I assume we're talking about
- 19 after the written statement.
- 20 A That's correct.
- 21 Q Where? Was it hour one, two, three, six, seven,
- 22 eight?
- 23 A It was probably around hour two after the voluntary
- 24 statement.
- 25 Q But then again you didn't make note in your report of

Jason Bryant
Cross-examination by Mr. Hall

1 those times when he made these admissions.

2 A I did not make note of the time that I showed him her
3 photos, no, not at all.

4 Q Now, let's go --

5 A But those, that was the time when he did state that I
6 don't deserve a life, I don't deserve to live.

7 Q Let me ask you. To the evidence we've heard lead
8 up -- lead investigator, lead investigator -- so a lot of
9 responsibility on decisions.

10 A More than I knew from the getgo of the trial.

11 Q All right. I assume you knew that there was a hair --
12 I think the testimony was 2 or 3 inches -- taken from the
13 point of entry, what apparently is the point of entry.

14 A That's correct.

15 Q And that was not important enough to analyze?

16 A There was a hair that was analyzed.

17 Q I know there's a hair on the knife. But I'm talking
18 about that hair that Robert Talanges --

19 A I do not recall the hair being there. I don't recall
20 that.

21 MR. HALL: Beg the Court's indulgence, Your Honor.

22 (Pause.)

23 MR. HALL: I just want to show him this to see if it
24 refreshes his memory. May I approach the witness?

25 THE COURT: You may.

Jason Bryant
Cross-examination by Mr. Hall

1 Q I'm handing you what I got in discovery. It's one of
2 the pages that you recovered, item No. 15.

3 A It's the hair strand.

4 Q Okay. And I believe you were here when Officer
5 Talanges testified that, yeah, he recovered that.

6 A Yes, sir. That's correct.

7 Q And that's one of the times you said that was the lead
8 investigator's responsibility to do whatever.

9 A Well, there's a process to that, but that's correct.

10 Q But to your knowledge was there ever anything done?

11 A To my knowledge, no, not with the hair strand. I
12 don't know. I do not know.

13 Q And there were some rolls of film that were taken. Do
14 you recall that?

15 A No, sir. When, when this type of incident happens a
16 lot of times we get a good general basis of what's going on
17 at the scene.

18 When something like this occurs those scenes are held
19 for long, long periods of time. It goes well into after an
20 autopsy is performed. It goes well into several days. It
21 could even actually be several months at times. And
22 investigators are in and out, and forensic people are
23 focusing their energy on that crime scene.

24 As an investigator I knew the individual who was
25 responsible for Gwen Emory's death wasn't at the crime

Jason Bryant
Cross-examination by Mr. Hall

1 scene. Our focus is to find out what's going on, to gather
2 information, and to try to find out who this person was.
3 And, and we go out. We gather information, interview
4 people, talk to people and such as that.

5 Q Now, I will hand you the same sheet. Item No. 21
6 refers to eight rolls of film. To your knowledge was there
7 anything ever done with those rolls of film?

8 A To my knowledge, no, sir. I do not know.

9 Q Now, before you focused on Norman Stoudenmire there
10 were a couple, at least a couple, of other people of
11 interest.

12 A We gather information on everybody, try to.

13 Q And you interviewed two of the people that we've heard
14 from today -- Hillard Lee Walker and Ben Nevins.

15 A Yes, sir. Ben was yesterday, but yes, sir.

16 Q Yeah, yesterday. I apologize. Thank you for
17 correcting me.

18 Did you have a good interview with those people or any
19 problems, everything forthright, or did they take offense at
20 something?

21 A They provided information in regards to that. I think
22 we can all agree Ben Nevins is a little bit different. I'm
23 not going to so it's in a bad way but --

24 Q It's safe to say he didn't get along with you at some
25 point.

Jason Bryant
Cross-examination by Mr. Hall

1 A Well, he, he provided information. And when I wanted
2 more information in regards to their relationship, just
3 like he was yesterday when you asked him the second
4 question, and if you went back for a third question it'd
5 probably went a whole lot different. He, he at times would
6 probably get put out with me.

7 Q Get put out with you.

8 Now, Mr. Walker -- everything went pretty smooth with
9 him, didn't it?

10 A Sure.

11 Q You didn't have to ask him things more than once like
12 we're referring to to try to get a straight answer for one
13 question and have to ask it more than once.

14 A I'm not going to say a straight answer with
15 Mr. Nevins. I'd say a complete answer.

16 Q That is a better word, a complete answer. It's hard
17 to get a complete answer from him. But Mr. Walker was
18 different.

19 A His personality, his demeanor is a whole lot
20 different.

21 Q Now, as far as the evidence -- and I hate to throw
22 more responsibility on you, but that's one of the
23 coordinating things to do, is to see what evidence is being
24 collected, make sure there's a chain of custody. And if
25 there's not, figure out why. And then you or somebody else

Jason Bryant
Cross-examination by Mr. Hall

1 makes a determination of what needs to be tested, is that
2 right?

3 A Well, I'm of course involved in that decision process
4 at times, along with forensic supervisors, the solicitor's
5 office. Several people are.

6 Q I think some things were done long after this case was
7 stopped and closed. With the arrest of Norman Stoudenmire
8 things were still being tested, is that correct?

9 A Sure.

10 Q Some of those were your sheriff's department decisions
11 and some of them were the solicitor's decisions, right?

12 A Correct.

13 Q Okay. Now, I think I asked this of some of your
14 forensic people. But do you know if the drawer where the
15 money was found in that area was printed to see if there
16 were any other fingerprints?

17 A I was not present when any processing of that area was
18 done. I couldn't answer that.

19 Q Thank you. Do you recall any print cards from that in
20 your --

21 A I wouldn't have seen the print cards.

22 Q But they would have noted it, would they not?

23 A Correct.

24 Q You don't recall seeing any notes from them of that.

25 A I don't, I don't recall. I don't have that

Jason Bryant
Cross-examination by Mr. Hall

1 information.

2 Q Okay. And in the -- looking for the picture frame.

3 But were you aware that there was a partial print lifted
4 from this?

5 A There was, there was some information in regards to a
6 partial print that had possibly been lifted.

7 Q Do you know if that was compared to Mr. Stoudenmire,
8 Mr. Walker, Mr. Nevins or anybody else?

9 A And I'm no expert. And of course forensic people
10 could testify to this better. So please be patient with
11 me.

12 It was entered into AFIS, and that is a, a fingerprint
13 analysis in a sense. But those prints have to be of a
14 certain quality.

15 Fingerprint to my knowledge and I, I'm no expert by no
16 means or anything such as that, but there's so many
17 different variables in regards to the type of surface or
18 the condition of an individual's hands, or, you know, if I
19 do that right there I'm not going to leave a fingerprint,
20 and it's going to smudge it. And those smudges, once
21 they're entered into AFIS or anything it's -- a lot of
22 times you'll see a result. And what this is is not of AFIS
23 quality, or the print is actually not in good enough --

24 Q My question if I might -- do you know if it was
25 compared to any of the individuals?

Jason Bryant
Cross-examination by Mr. Hall

1 A From --

2 Q I know they've already testified they got entered into
3 AFIS. We don't know what, if anything, happened there.

4 But do you know if it is compared to Mr. Stoudenmire,
5 Mr. Walker on Mr. Nevins, Ms. Emory or anybody else?

6 A I don't think the quality was well enough to compare
7 it to anybody.

8 Q But you don't know that, do you?

9 A I didn't compare it. I wouldn't know what I's looking
10 at at a fingerprint.

11 Q But you would have known what a report looked like
12 saying we --

13 A Sure.

14 Q You know, but you didn't see that report...

15 A But the quality level may not have been there.

16 Q It may not have been but it may have been. You did
17 not see any kind of report.

18 A No. If it had been, then it would have stated that it
19 was or Investigator Talanges would have stated that it was
20 of AFIS quality.

21 Q I believe he said he turned it over to Hugh Murphy.

22 A Right.

23 Q Who is your print man.

24 A That's correct.

25 Q Looks at the prints, determines whether or not it's

Jason Bryant
Redirect examination by Mr. Gray

1 quality and then puts it on AFIS, or say it's not enough.

2 And he's the man that makes that determination?

3 A He is.

4 Q Okay. And I believe the testimony was he entered it
5 into AFIS.

6 A I'm sorry, sir?

7 Q I think his -- 'Talanges' testimony was that Hugh
8 Murphy put it on AFIS or entered it on AFIS. Okay.

9 A Once you get into AFIS and what you get out, you can
10 enter a lot of stuff into AFIS and comes back --

11 MR. HALL: Your Honor, that's not responsive to my
12 question.

13 THE COURT: Sustained.

14 MR. HALL: No further questions.

15 MR. GRAY: Just briefly.

16 REDIRECT EXAMINATION

17 BY MR. GRAY

18 Q In this case you said that some D. N. A. information
19 led to this defendant being a suspect. And Mr. Hall has
20 asked you about the comparison of evidence. Did you get D.
21 N. A. information from this defendant?

22 A I apologize. I couldn't hear you.

23 Q Was D. N. A. information taken from this defendant?

24 A It was.

25 Q Was D. N. A. information taken from Mr. Walker?

Jason Bryant
Redirect examination by Mr. Gray

1 A It was.

2 Q Was D. N. A. information taken from the victim?

3 A It was.

4 Q Was D. N. A. information taken from Mr. Nevins?

5 A It was.

6 Q And was all of that compared?

7 A It was.

8 Q And I know you're not an expert and can't testify to
9 the results, but those type of comparisons were done.

10 A That's correct.

11 Q Thank you. Nothing further.

12 MR. HALL: Nothing further.

13 THE COURT: You may step down.

14 The court reporter needs a break, so we're going to
15 take one.

16 Please go to your jury room. Don't discuss the case.

17 We'll bring you back in just a few minutes.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: Court's in recess for 15 minutes.

21 (Whereupon, a recess was taken.)

22 THE COURT: Have y'all got something to take up before
23 the jury comes in?

24 MR. GRAY: No, sir, Your Honor.

25 THE COURT: Okay. Bring them in.

Todd William Ruffner
Direct examination by Mr. Gray

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: All right. Mr. Gray.

4 MR. GRAY: Thank you, Your Honor.

5 The state calls Deputy Investigator Todd Ruffner.

6 TODD WILLIAM RUFFNER, having
7 been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. GRAY

9 Q Please state your name, sir.

10 A Todd William Ruffner.

11 Q What are your primary duties and responsibilities?

12 A I am assigned to the investigative division of the
13 Spartanburg County Sheriff's Office.

14 Q How long have you had that responsibility?

15 A I have been an investigator since December of 2005.

16 Q Now, on February of 2008 were you called to Robinson
17 Dairy Road?

18 A Yes, sir, I was.

19 Q Now, what was your role in that investigation?

20 A I was assisting Investigator Jason Bryant with the
21 investigation.

22 Q You were not the lead investigator.

23 A No, sir.

24 Q Prior to your duties in the past five years -- do you
25 have any previous law enforcement experience?

Todd William Ruffner
Direct examination by Mr. Gray

1 A Yes, sir, I do.

2 I started with the sheriff's office June 18th of 2001.
3 I was assigned to the uniform patrol division after
4 graduation from the South Carolina Criminal Justice
5 Academy.

6 After about two and a half years there I moved to the
7 crime scene unit and worked crime scene investigations
8 until I moved to criminal investigation.

9 Q Thank you, sir.

10 After you were assisting Investigator Bryant with this
11 case did you perform any independent investigation on your
12 own?

13 A Not independent. I did stuff in conjunction with the
14 investigation, talking to witnesses and other individuals.

15 Q Did you ever talk to a Mr. Ben Nevins?

16 A Yes, sir, I did.

17 Q Now, in your discussion with Mr. Ben Nevins were you
18 aware of some D. N. A. evidence in this case?

19 A During the conversation with him I was not aware there
20 was D. N. A. collected in this case.

21 Q All right. During the investigation were you ever
22 aware that some D. N. A. had been collected?

23 A Yes, during the investigation it was learned that some
24 had been.

25 Q As a result of that do you collect any D. N. A. from

Todd William Ruffner
Direct examination by Mr. Gray

1 Mr. Nevins?

2 A Yes, sir, I did.

3 Q How did you collect that D. N. A.?

4 A I collected D. N. A. from Mr. Nevins using a buccal

5 swab collection kit the sheriff's office purchases. The

6 kit is a -- comes in an envelope, Manila envelope, small.

7 Inside that is a like a cardboard paper small book

8 with a set of gloves and also instructions. You fill the

9 book out and follow the instructions. And then you swab

10 the inside cheek, left and right, of the person for saliva

11 and skin cells.

12 Q I show you what's been marked as State's Exhibit No.

13 39 and ask you if you recognize that. It's going to be

14 difficult to see through that.

15 A This is the sheriff's office evidence envelope. If I

16 hold it up to a light there is an envelope inside that is

17 the approximate size of the buccal swab collection kit

18 envelope.

19 Q Is that the one from Mr. Ben Nevins?

20 A Yes, sir, it is.

21 Q I hand you a property sheet. Is there a signature

22 anywhere on that property sheet?

23 A Yes, sir, it is. It is at the bottom of the property

24 sheet as the impounding officer.

25 Q So you're the one who actually took the swabs from Mr.

Todd William Ruffner
Direct examination by Mr. Gray

- 1 Nevins, is that correct?
- 2 A Yes, sir. It is.
- 3 Q You are the one that put it in the envelope?
- 4 A Yes, sir. I did that in Mr. Nevins' presence.
- 5 Q And you're the one who turned that into evidence, is
- 6 that correct?
- 7 A Yes, sir, that is correct.
- 8 Q And you signed the property sheet saying that you did
- 9 all of that.
- 10 A Yes, sir. That is correct.
- 11 Q Now, once you sealed it and put it into evidence, have
- 12 you touched it again?
- 13 A No. I did not.
- 14 Q Now, also being aware of some D. N. A. evidence did
- 15 you do a buccal swab, I believe it's called, from
- 16 Mr. Stoudenmire?
- 17 A Yes, I did.
- 18 Q Was that done voluntarily by Mr. Stoudenmire?
- 19 A Yes. He gave his consent for us to take a D. N. A.
- 20 sample from him via those means.
- 21 Q There was no problem with that.
- 22 A No, sir. There was not.
- 23 Q And you performed it the exact same way.
- 24 A I performed it the exact same way following the
- 25 instructions provided with the kit.

Todd William Ruffner
Direct examination by Mr. Gray

1 Q Now, where was that taken?

2 A That was done in Simpsonville at [REDACTED] Circle,
3 I believe is the address -- Twinleaf Way.

4 Q Okay, okay. I'm going to show you what is State's
5 Exhibit No. 35 and ask you if you recognize that.

6 A This is the sheriff's office envelope that is folded
7 over. And it is the buccal swab or buccal swab from Norman
8 Stoudenmire.

9 Q And you performed the exact same actions that you had
10 with Mr. Nevins.

11 A Yes, sir. I did.

12 Q Did you also sign a property sheet?

13 A Yes, sir. I did. That is my signature at the bottom
14 under impounding officer.

15 Q And, again, once you got the buccal swabs you turned
16 them into evidence, correct?

17 A That is correct.

18 Q Did you tamper with them in any way?

19 A No, sir, I did not. The envelope that the buccal
20 swabs come in was sealed in Mr. Stoudenmire's presence.

21 There's actually an envelope sleeve that the sterile
22 contents go into that is sealed with a piece of red
23 evidence tape. And then the Manila envelope is also sealed
24 with evidence tape. And that was done in his presence.

25 Q Thank you, sir.

Todd William Ruffner
Direct examination by Mr. Gray

1 Now, before you did a swab on, to, did a swab on
2 Mr. Stoudenmire, had you interviewed him previous to that?

3 A Myself and Investigator Durham interviewed him the
4 night that Ms. Emory was found.

5 Q Okay. Did you do a, a suspect interview waiver of
6 rights, Mirandize, that sort of thing?

7 A The interview on the 24th was just an interview to get
8 background information on Mr. Walker, Ms. Emory, any
9 possible people they may know -- friends, that type of
10 thing.

11 Q What was the second time you talked to
12 Mr. Stoudenmire?

13 A The second time we talked to him was to get a D. N. A.
14 sample from him. I had attempted the day before and left a
15 business card at that residence to speak with him.

16 Q Was that successful?

17 A The attempt the day before the collection was not. I
18 had left the business card. Later that evening I received
19 a phone call from Mr. Stoudenmire. He indicated he was en
20 route back to Simpsonville from Jacksonville, Florida.

21 Q Now, once he arrived back at Simpsonville did you and
22 Investigator Bryant meet up with him?

23 A We did.

24 Q Where did you meet up with him?

25 A At the address in Simpsonville, [REDACTED] Way,

Todd William Ruffner
Direct examination by Mr. Gray

1 which is his sister's house.

2 Q At that time did you interview him?

3 A Briefly, just talked to him again prior and after the
4 collection. And he stated much of the same then that he
5 did to myself and Investigator Durham about friends and
6 associates.

7 Q Is that when he was arrested?

8 A No, that is not when he was arrested.

9 Q So there was just a conversation at that time.

10 A Yes. That is correct.

11 Q Did you notice any physical markings on him at that
12 point?

13 A At that time I did notice a small red mark on his neck
14 which appeared to be a scratch to me. It was on the right
15 side.

16 When we were speaking with him he was seated at a --
17 at the table, dining room table. He was to my left.
18 Investigator Bryant was to my right. I was at the head or
19 bottom of the table.

20 Q Did you ever take a picture of that scratch?

21 A Regrettably, no.

22 Q Did you ever note that anywhere in your reports?

23 A I did note that in my investigative report, but we did
24 not photograph him.

25 Q Thank you.

Todd William Ruffner
Direct examination by Mr. Gray

1 Now, had you talked to him that day or at some later
2 time about his presence or nonpresence at Ms. Emory's house?

3 A At that time and also at the time that myself and
4 Investigator Durham interviewed him we asked him had he
5 obviously been to the residence, when was the last time he
6 was there.

7 He said he had been there previously doing computer
8 work for her. But the last time he was there was
9 approximately three weeks prior to the discovery of
10 Ms. Emory's body.

11 Q Three weeks before February 24th.

12 A That is correct.

13 Q That was the last time he told you he had been in that
14 home.

15 A Yes.

16 Q Now, did you ever conduct another interview with
17 Mr. Stoudenmire with Mr. Bryant?

18 A Yes, sir, we did at the Spartanburg County Sheriff's
19 Office.

20 Q Is that when he was Mirandized?

21 A He was Mirandized after being arrested in Greenville
22 in Mr. Detective Bryant's vehicle.

23 Q Now, on the way back from his arrest point to the
24 sheriff's office was an interview taking place?

25 A Just small talk, talking about him and family and

Todd William Ruffner
Direct examination by Mr. Gray

1 where he was from, where he knew people from, just small
2 talk, nothing that would substantiate anything.

3 Q Also, once you got to the sheriff's office how long
4 did the entire interview take including the written
5 portion?

6 A The entire interview at the sheriff's office?

7 Q Yes, sir.

8 A The interview if I may refer to my notes -- at
9 approximately 11:45 he was placed under arrest.

10 We arrived at the sheriff's office at about 12:30,
11 provided something to eat and drink to him. And the
12 interview began at approximately 12:36.

13 I would say it ended at about 8:30, but I was not in
14 the room the entire time. I left probably two or three
15 hours after the initial written statement to do paperwork.

16 Q During the time that you were in the room was he ever
17 threatened?

18 A No, he was not.

19 Q Was he ever promised anything?

20 A No, he was not.

21 Q What was his demeanor?

22 A He was very emotional during the interview. At times
23 he would become overwhelmed with emotions and cry.
24 Sometimes he would be unable to, to speak due to the
25 emotions.

Todd William Ruffner
Direct examination by Mr. Gray

1 Q And you witnessed the written statement. Did he ever
2 give a second written statement?

3 A No, he did not.

4 Q Why not?

5 A He just declined to write anything else on paper. I,
6 I couldn't tell you why he decided not to. It was his
7 decision.

8 Q At any time did he ever decide he wanted to stop
9 talking?

10 A No, he did not.

11 Q And he did accept responsibility for the demise of
12 Ms. Gwen Emory.

13 A Yes, he did several times.

14 Q How did he do that?

15 A In my view the acceptance of responsibility was a
16 statement he made regarding the death penalty. He told us
17 he would tell us he murdered Gwen Emory if we could
18 guarantee him he would not get the death penalty.

19 Investigator Bryant told him that we could make no
20 such promises, that that is only at the discretion of the
21 solicitor and the Court.

22 He also made several statements as to I accept
23 responsibility for this, I did this. But he wouldn't give
24 any further details than that.

25 It almost seemed once we wouldn't guarantee him

Todd William Ruffner
Cross-examination by Mr. Hall

1 anything he just didn't want to give details. He just -- I
2 don't want to say he shut down, but his excuse would be I
3 just can't remember, I turn into a monster when I smoke
4 crack, I can't remember.

5 Q Did he ever say, "I didn't do this"?

6 A No, he never said he didn't do it.

7 Q Thank you. No further questions. Please answer any
8 questions Mr. Hall has.

9 CROSS-EXAMINATION

10 BY MR. HALL

11 Q Actually that statement that was taken on the 29th was
12 the second written statement, wasn't it?

13 A The total one from him, yes, it was. Investigator
14 Durham took one from him.

15 Q And do you remember when that was?

16 A It would have been when we spoke to him if I can refer
17 to my notes. That was the 24th. We began talking to him
18 at approximately 2005, which is 8:05.

19 At the conclusion of that interview Detective Durham
20 wrote a written statement for him. I would have to see
21 that to tell you the exact time the statement was
22 completed.

23 Q Do you have your notes from that interview?

24 A I do.

25 Q And that's where he told you he had been in the house

Todd William Ruffner
Cross-examination by Mr. Hall

1 some times and about three weeks ago.

2 A Yes, sir.

3 Q Did he tell you what he was doing in the house?

4 A I'll read it to you. We asked Norman if he recalled
5 the last time he was in Gwen's house. Norman stated they
6 really didn't hang out with her but he was probably there
7 about three weeks ago working on a computer for her.

8 Q Did he say where in the house he was working?

9 A At one point during the interview he said that he had
10 been in her bedroom looking for a phone jack.

11 Q Just curious. In the investigation did anybody see if
12 there was a phone jack in the bedroom?

13 A Yes. There was a phone jack in the bedroom. I
14 believe it was under the window to the left side of the bed
15 if I'm not mistaken.

16 Q Did you check the headboard to see if there was one
17 back there or anywhere else?

18 A I did not personally check the headboard, no, sir.

19 Q Now, to your knowledge based on what he said he was in
20 Florida and he came back to give you a buccal swab, D. N.

21 A. sample.

22 A Yes. That is correct.

23 Q Consented to that and no problems.

24 A Yes. That is correct.

25 Q And I believe you said he was in Jacksonville.

Todd William Ruffner
Cross-examination by Mr. Hall

- 1 A That is what he told me.
- 2 Q All right. But he definitely didn't run. He came to
- 3 Spartanburg.
- 4 A Yes, sir. He did come back to Spartanburg.
- 5 Q And he cooperated.
- 6 A Yes, sir.
- 7 Q And on the 29th after he was arrested both you and
- 8 Investigator Bryant stated that he pulled out his pocket
- 9 card and read him his rights.
- 10 A Yes. That is correct. He removed the pocket card
- 11 from his wallet.
- 12 Q And you were in here when he read it.
- 13 A I was sitting next to him when he read it.
- 14 Q In front of him when he read it. He read the
- 15 actual -- he pulled the actual card out and read it for the
- 16 jury.
- 17 A Yes.
- 18 Q Did y'all get a rights waiver form for that day?
- 19 A No, sir, we did not.
- 20 Q When you took -- when Investigator Durham on the
- 21 24th took his statement did he sign a waiver that day?
- 22 A No, sir, he did not. We were at his residence and it
- 23 was unnecessary. It was merely background questions for
- 24 other people. And he was not in custody.
- 25 Q But there's no real reason you didn't do a waiver

Todd William Ruffner
Cross-examination by Mr. Hall

1 before this nine -- 8-or-9-hour interview.

2 A Actually there is. He'd already been advised of his
3 rights. And through the small talk we were building
4 rapport from him. And we did not want to interrupt the
5 flow of information from him or communication with him. He
6 had simply been advised. And it would have been redundant
7 to advise him a second time.

8 Q But it would have been a piece of paper with his
9 signature on it saying I've been read my rights and I
10 understand them.

11 A Yes, sir.

12 Q And that would have stopped the flow just like the
13 recording would have stopped the flow.

14 A Potentially.

15 Q All right. On the 29th you said he said, Norman said,
16 that he would accept responsibility if you wouldn't give
17 him the death penalty.

18 A He said he would tell us he murdered Gwen if we could
19 guarantee him he wouldn't get the death penalty.

20 Q Did he ever say I killed her, I stabbed her? Did he
21 ever say I accept responsibility for stabbing her, anything
22 like that?

23 A He said I accept responsibility for her death, for her
24 dying.

25 Q But he never said I did it.

Shamika Sanders
Direct examination by Ms. Poulos

1 A He never outright would say he stabbed her. He
2 accepted responsibility.

3 Q But he never said he killed her. He never said I did
4 it.

5 A Aside from those other statements, no, sir.

6 Q Now, I know you're not the lead investigator, but you
7 were involved in this.

8 Do you know if anything was ever printed around that
9 drawer, the bathroom drawer, with money in it?

10 A I have no idea. Investigators generally leave the
11 scene. And forensic technicians are responsible for
12 processing. I would have no way of knowing if they did
13 unless I read one of their reports.

14 Q All right. Thank you. No further questions.

15 MR. GRAY: No redirect.

16 THE COURT: You may step down.

17 MS. POULOS: Your Honor, the state calls Officer
18 Shamika Sanders.

19 SHAMIKA SANDERS, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. POULOS

22 Q Please state your name for the record.

23 A Shamika Sanders.

24 Q And where are you currently employed?

25 A I'm currently employed with the Greenville Police

Shamika Sanders
Direct examination by Ms. Poulos

- 1 Department, Greenville, South Carolina.
- 2 Q How long have you been employed with the Greenville
- 3 Police Department?
- 4 A Approximately ten months.
- 5 Q And back on February the 24th of 2008 were you
- 6 employed with the Spartanburg County Sheriff's Office?
- 7 A Yes, I was.
- 8 Q And what were your primary duties and responsibilities
- 9 at that time?
- 10 A I was assigned to the crime scene unit. I assisted in
- 11 forensic investigations.
- 12 Q How did you first become involved in this case?
- 13 A I believe in this case I was notified to respond to
- 14 the Spartanburg County -- I'm sorry -- Spartanburg Regional
- 15 Morgue.
- 16 Q And what was that for?
- 17 A To administer -- I'm sorry -- not to administer but to
- 18 photograph and document anything taken at the autopsy.
- 19 Q So you attended the autopsy of the victim.
- 20 A Yes.
- 21 Q And who was the autopsy performed by?
- 22 A It was administered by Dr. David Wren.
- 23 Q And you said that was at Spartanburg Regional.
- 24 A Yes.
- 25 Q Now, did you obtain a sexual assault kit from

Shamika Sanders
Direct examination by Ms. Poulos

1 Dr. Wren?

2 A Yes, I did.

3 Q And could you describe what that kit looked like?

4 A The kit comes in a small, maybe 11-by-8, box. The
5 contents inside of it are instructions for collecting any
6 type of bodily fluid, pubic hairs, vaginal smears, any type
7 of D. N. A. evidence. I believe there's also a packaging
8 for cutting fingernail scrapings as well.

9 Q Officer Sanders, I'm showing what's been marked for
10 identification purposes as State's Exhibit 37. Do you
11 recognize what I'm handing you?

12 A Yes.

13 Q And what is that?

14 A It's a sexual assault evidence collection kit.

15 Q Okay. And was that the kit that you took from
16 Dr. Wren?

17 A Yes, it is.

18 Q Is there a signature anywhere on that box?

19 A It is. It's on the back of the box under the chain of
20 custody listed.

21 Q I'm showing you what has been marked as State's
22 Exhibit 32 for identification purposes. Do you recognize
23 that?

24 A Yes. This is actually one of the packages inside the
25 collection kit for fingernail scrapings.

Shamika Sanders
Direct examination by Ms. Poulos

- 1 Q Okay. And did you witness Dr. Wren take the
2 fingernail scrapings from the victim?
- 3 A Yes, I did.
- 4 Q And what was done with that pouch?
- 5 A Like I said, it comes inside the actual collection
6 kit. The pouch is sealed. Once Dr. Wren collects the
7 fingernail scrapings it's sealed and placed back in the
8 box.
- 9 Q Okay. And has that box been sealed?
- 10 A It is. It's sealed with evidence tape as you can see
11 here.
- 12 Q Okay. Now, I believe that you have in your -- beside
13 you a sheet, a property sheet.
- 14 A Yes.
- 15 Q Would you please refer to that? What is that property
16 sheet for?
- 17 A This is to document the chain of custody of any
18 evidence that's collected. It documents the date and time
19 impounded and the impounding officer.
- 20 Q And does your signature appear on that sheet?
- 21 A It is. It's at the impounding officer.
- 22 Q And what is the date and the time?
- 23 A The date is February 24th of 2008 at approximately
24 12:01.
- 25 Q And you stated earlier that the box was sealed when it

Shamika Sanders
Direct examination by Ms. Poulos

1 came into your possession.

2 A Yes.

3 Q Did it appear tampered with or was the seal broken?

4 A No.

5 Q What did you do with the kit then?

6 A Once the kit is collected we take it back to the
7 sheriff's office. We secure it in a small refrigerator
8 where it needs to stay refrigerated until it's then
9 collected again.

10 Q And was that kit in your care and custody the whole
11 time between the time you took it from Dr. Wren until it
12 was placed in the refrigerator and secured?

13 A Yes, it was.

14 Q Did you ever touch it again?

15 A No, I did not.

16 Q Showing you what's been marked as State's Exhibit 31
17 for identification purposes, the contents. Do you
18 recognize what's in the packet?

19 A These are the actual contents from the sexual assault
20 kit.

21 Q Okay. Can you describe what each of those are?

22 A In this case this one is a vaginal smear, oral and
23 rectal. This is rectal swabs which is collected from the
24 rectum area. This is vaginal swabs collected from the
25 vaginal area. Again, another rectal swab. This one is for

Shamika Sanders
Direct examination by Ms. Poulos

1 bodily, miscellaneous bodily, fluid. This one is bite
2 marks. That was the last one.

3 Q And are those individual packages, are they sealed?

4 A They are.

5 Q And that is placed into the packet that you have in
6 your hands, which is the larger packet. Is that then
7 sealed?

8 A Yes.

9 Q Okay. And then that larger packet, is that placed
10 into the kit box?

11 A It is.

12 Q And, once again, you said that that was sealed.

13 A Right.

14 Q Are Dr. Wren's initials on the seal?

15 A You're talking about on the box here, yes.

16 Q Officer Sanders, I'm showing you what's been marked as
17 State's Exhibit 34 for identification purposes. Do you
18 recognize what I'm handing you?

19 A It's a known blood sample.

20 Q And is that of the victim?

21 A The victim's name on it is Gwendolyn Emory.

22 Q And was that also included in the kit?

23 A It is. It's part of this kit.

24 Q Okay. Thank you. Please answer any questions
25 Mr. Hall may have for you.

Robert Rosenberg
Direct examination by Mr. Gray

1 MR. HALL: No questions.

2 THE COURT: You may step down.

3 MR. GRAY: The state calls Deputy Rosenberg.

4 ROBERT ROSENBERG, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. GRAY

7 Q Please state your full name, please.

8 A I'm Officer Robert Rosenberg.

9 Q What are your primary duties and responsibilities?

10 A Currently I'm employed at the Spartanburg County
11 Sheriff's Office. I'm assigned as an evidence custodian.

12 Q As the evidence custodian what do you do, sir?

13 A We take in evidence that's delivered from crime scenes
14 and we secure them and hold them in a safe and secure area
15 until they're needed for court or to be sent to SLED.

16 Q Do you sometimes also transport items from SLED back
17 to the sheriff's office?

18 A Yes, we do.

19 Q And those go back to the evidence room.

20 A Yes, sir.

21 Q Now, obviously there's different types of evidence for
22 different types of crime. How are different things stored
23 in the evidence area?

24 A How are different items --

25 Q Yes, sir. Like when somebody brings in a weapon, how

Robert Rosenberg
Direct examination by Mr. Gray

1 is that stored?

2 A We follow Colea (sic) glide -- guidelines. Weapons
3 are boxed up. They're secured in a certain lock-down room,
4 which is inside of another room which is locked down, which
5 is inside of our evidence room, which is locked down with
6 an alarm.

7 The same with drugs. It has a separate room. It's
8 inside of another room, which is inside of our evidence
9 division, which is locked down with an alarm.

10 Q To your right right there, sir, is a sexual assault,
11 kit, different numbers corresponding to it, the state I. D.
12 numbers. How would that be stored in your office?

13 A Everything would be -- this would come in in the box.
14 I would not deal with this at all because it would be in a
15 sealed box, which has the seals on these boxes.

16 They're brought into us by using another officer, and
17 we store them in a secure area in our evidence room, which
18 is a refrigerator.

19 Q All right. Now, this box that you're talking about
20 here, this was brought to you, I believe, by Officer
21 Shamika Sanders, is that correct?

22 A Yes, sir. From what I understand -- let me make sure
23 I read this right -- I picked this up out of the
24 refrigerator. There's a secure refrigerator. It's locked
25 down in I. D. And I picked it up out of that refrigerator,

Robert Rosenberg
Direct examination by Mr. Gray

1 and I brought it into our evidence room.

2 Q Now, I see there's some notation here on this.

3 A Yes, sir.

4 Q How is this box secured and how is that refrigerator
5 secured?

6 A The refrigerator has a lock on it.

7 Q Who has access to this refrigerator?

8 A The I. D. officers and the evidence officers.

9 Q At this time was Ms. Sanders an I. D. officer?

10 A Yes, sir.

11 Q No other personnel have access to this.

12 A No, sir.

13 Q Now, when she placed that in that refrigerator it was
14 secure then.

15 A Yes, sir.

16 Q And you took it out. Was that box still intact with
17 all of the items still in there?

18 A This box, this box itself, when I received it, one
19 seal on one side was broken. It -- what I did was reseal
20 beside it and date and initial it and signed it.

21 You cannot open this box with one seal broken. The
22 only way you can open it is if both seals had to be broken.
23 Only one side was broken.

24 Q Are you confident that box had not been opened or
25 broken or tampered with in any way when you received it?

Robert Rosenberg
Direct examination by Mr. Gray

1 A Yes, sir. I'm very confident of that.

2 Q And what did you do with it once you put the other
3 seal on it?

4 A I documented that -- I document in the paperwork what
5 I had done. And then I entered it into our computer and
6 then secured it in our refrigerator in evidence.

7 Q And your testimony refers to State's Exhibits 34, 37
8 and 31, is that correct?

9 A Yes, sir. I do not open this box under any
10 circumstances. These would have been inside the box. I
11 only take the box and its contents.

12 Q All right, sir. I also want to ask you about a
13 collection swab from Mr. Hillard Walker.

14 A Yes, sir.

15 Q Hold on one second.

16 A Okay.

17 (Pause.)

18 Q Hold on one second. All right. Now, you have a
19 property sheet there in front of you, sir.

20 A Yes, sir.

21 Q Who brought Mr. Walker's buccal swabs in there to the
22 evidence room?

23 A Officer Tim Davis delivered it to Officer
24 Westmoreland.

25 Q To Westmoreland.

Robert Rosenberg
Direct examination by Mr. Gray

- 1 A Yes, sir.
- 2 Q And is your name on that evidence sheet anywhere?
- 3 A Yes, it is.
- 4 Q And what did you do with this evidence? That's
- 5 State's Exhibit No. 36?
- 6 A This evidence was returned from SLED on 6/19 of '08.
- 7 I picked it up at SLED and brought it back and filed it in
- 8 with the rest of the evidence we were storing in evidence.
- 9 Q Is this basically the same condition it was in when it
- 10 came from SLED?
- 11 A Yes, sir. Sealed and unopen.
- 12 Q Heat sealed and unopen.
- 13 A Yes, sir.
- 14 Q All right. There's also a buccal swab collection kit
- 15 that has a SLED number on here. Looks like No. 8. I
- 16 believe that refers to Mr. Stoudenmire, State's Exhibit
- 17 No. 35.
- 18 Is your signature anywhere on that property sheet
- 19 regarding the D. N. A. swabs collected from Mr. Stoudenmire?
- 20 A No, sir.
- 21 Q It's not.
- 22 A No, sir.
- 23 Q All right. Who is on that sheet?
- 24 A Officer Westmoreland, Officer Smith, Agent Perry from
- 25 SLED and Officer Westmoreland.

Robert Rosenberg
Direct examination by Mr. Gray

1 Q Thank you very much, sir. That's what I needed to
2 know.

3 And Mr. Nevins -- Mr. Nevins. I believe that's State's
4 Exhibit No. 39. Is your name on that property sheet
5 regarding Mr. Nevin's buccal swabs?

6 A Yes, sir, it is. I returned it from SLED on 6/19 of
7 '08.

8 Q Is this basically the same condition it's in?

9 A Yes, sir. I brought it back to evidence and put it
10 with the other, with the evidence.

11 Q That's State's Exhibit No. 39.

12 A Yes, sir.

13 Q Thank you, sir.

14 MR. GRAY: One moment, Your Honor.

15 (Pause.)

16 Q Let me ask you a question, sir. Exhibit No., State's
17 Exhibit 33, do you recognize that?

18 A Do I recognize? This looks like it is -- okay. I
19 tell you. Actually SLED officers should be telling you
20 what this is.

21 Q Okay. That's fine. Never mind.

22 All right. Thank you very much.

23 A Yes, sir.

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

25

Robert Rosenberg
Cross-examination by Mr. Hall

1 CROSS-EXAMINATION

2 BY MR. HALL

3 Q Now, the refrigerator is not a -- in I. D. -- I think
4 you said -- that this section --

5 A There are two refrigerators. One's in I. D. and one
6 is in evidence.

7 Q And you retrieved this from I. D.'s.

8 A Yes, sir.

9 Q And it is just a regular refrigerator but has a lock
10 on it.

11 A Has a lock on it, yes, sir.

12 Q Okay. So you don't slide it in like you do some
13 evidence.

14 A No, sir.

15 Q You open it up. You have to be an I. D. officer to
16 get into it.

17 A To get into it, yes, sir. You have to be an I. D.
18 officer to get into that area or an evidence officer to get
19 into that area.

20 Q Okay.

21 A It is not open to the public.

22 Q We don't need to go through that.

23 A Okay.

24 Q I'm just saying but there's a refrigerator in I. D.
25 where you got this from.

Robert Rosenberg
Cross-examination by Mr. Hall

1 A Yes, sir.

2 Q When did you notice that part of it was broken?

3 A When I retrieved it that morning.

4 Q Okay. And you resealed it.

5 A Yes, sir. I put a seal on the side of it, another
6 seal on the side of it.

7 Q And you initialed it.

8 A Yes, sir.

9 Q Any idea how that -- that's not a Kevlar tape is it?
10 It's just tape.

11 A It's an easy-tear tape. It's not like standard tape.
12 It just -- if you -- I don't know how to say this. If you
13 misadjust the box it actually could tear the tape. If
14 something heavy is set on one side of it, it can move the
15 box and it can tear.

16 Q So you're certain there's no way to open that box with
17 one side taped and one side open.

18 A No, sir.

19 MR. HALL: No further questions.

20 MR. GRAY: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 MR. GRAY: The state calls Tom Smith.

23

24

25

Tom Smith
Direct examination by Mr. Gray

- 1 TOM SMITH, having been first
2 duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. GRAY
4 Q Just briefly. Deputy Smith, how long have you worked
5 at the sheriff's office?
6 A Been in law enforcement in Spartanburg County for 32
7 years.
8 Q All right. Any experience before that?
9 A No, sir.
10 Q Thank you. You have a property sheet in front of you,
11 sir.
12 A Yes, sir.
13 Q What is that property sheet regarding?
14 A It's reference to a buccal swab collection kit from
15 Norman Stoudenmire.
16 Q All right. Now, on that buccal swab collection kit
17 from Mr. Stoudenmire, what did you do in regards to that?
18 A I received it from our evidence technicians and
19 carried it to SLED on 2/28/08.
20 Q Did you do any sealing of the buccal swabs?
21 A It was a sealed unit when I brought it down there. I
22 turned it over to Nikki Perry, and she sealed it in a
23 vacuum bag and took charge of it.
24 Q Did you ever go inside the bag?
25 A No, sir.

Jack Westmoreland
Direct examination by Mr. Gray

1 Q Is this an accurate -- is that No. 35, State's Exhibit
2 No. 35? Is that an accurate representation of what you
3 took and when it was sealed at SLED?

4 A Yes, sir. It has my initials on it and it's dated.

5 Q And as you said, it was sealed once you got to SLED.

6 A Yes, sir.

7 Q Was it tampered with you, by, in any way?

8 A No, sir.

9 Q And where did you receive this from?

10 A Spartanburg County Sheriff's Office evidence.

11 Q Thank you, sir. No further questions.

12 MR. HALL: No questions.

13 THE COURT: Step down.

14 MR. GRAY: The state calls Jack Westmoreland.

15 JACK WESTMORELAND, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. GRAY

18 Q Mr. Westmoreland, where do you work?

19 A Spartanburg County Sheriff's Office.

20 Q And what are your primary duties and responsibilities
21 there?

22 A For now I'm assigned to evidence.

23 Q You work with Deputy Rosenberg.

24 A I do.

25 Q Did you have occasion on this case to take in a number

Jack Westmoreland
Direct examination by Mr. Gray

1 of pieces of evidence?

2 A I did.

3 Q Do you have your property sheets with you, sir?

4 A I do.

5 Q Did you sign a property sheet taken in a sexual -- a
6 handling, yeah, handling of a sexual assault kit from
7 Shamika Sanders?

8 A I took it out of the evidence refrigerator and took
9 it, transported it, to SLED.

10 Q You transported it to SLED.

11 A Yes, sir.

12 Q And that would have to do with State's Exhibits 34,
13 32, I believe 37, and 31 and any other items contained in
14 that.

15 A Yes, sir. It was a contained box when I took it to
16 SLED just like this. I believe they would be inside the
17 box.

18 Q And you didn't take anything else out of the box.

19 A No, sir.

20 Q You didn't open the box or seal the box.

21 A No, sir.

22 Q All right. Now, as far as the buccal swab collection
23 kit from Mr. Ben Nevins.

24 A Yes, sir.

25 Q Okay. From Mr. Nevins, what did you do in regards to

Jack Westmoreland
Direct examination by Mr. Gray

1 Mr. Nevins?

2 A It was turned in by Officer Ruffner. I signed it in
3 and I also transported it to SLED.

4 Q You also transported to SLED. Is there anything
5 indicating on here that you transported it to SLED?

6 A Yes, sir.

7 Q What is that?

8 A It's my name and date. And it's my initial up here,
9 and also dated.

10 Q And that's State's Exhibit No. 39.

11 A Yes, sir.

12 Q And that was sealed when you took it down to SLED.

13 A Correct.

14 Q And was it again heat sealed once you got it to SLED?

15 A Correct.

16 Q Thank you, sir.

17 And Mr. Hillard Walker.

18 A Yes, sir.

19 Q Okay. I believe that's State's Exhibit No. 36. And
20 you received that.

21 A I received it from Tim Davis and transported it to
22 SLED.

23 Q All right. Now, what indicates that you transported
24 this to SLED?

25 A The same information. My name and date's on it in two

Jack Westmoreland
Direct examination by Mr. Gray

1 places where it was sealed by SLED.

2 Q And on that you signed a property sheet also.

3 A Yes, sir. I transported it to SLED.

4 Q Thank you, sir.

5 And Mr. Stoudenmire. That would be State's Exhibit
6 No. 35.

7 A Yes, sir.

8 Q Now, what did you do in that case with this piece of
9 evidence, sir?

10 A I received it from Todd Ruffner and entered it into
11 the computer system and transported it to SLED also.

12 Q Again, how would you indicate that you transported
13 this to SLED? I see you took it in.

14 A I took it in. I'm sorry. Hang on one second. I
15 might have read that wrong. I'm sorry. I did not
16 transport it to SLED. Looks like Thomas Smith transported
17 that to SLED. I took it in.

18 Q All right.

19 A And I brought it back from SLED.

20 Q You brought it back from SLED.

21 A Brought it back from SLED, yes, sir.

22 Q Was it tampered with in any way or heat sealed? Was
23 it still heated sealed when you brought it back from SLED?

24 A Yes, sir, just like it is now.

25 Q Did you tamper with it in any way when it was turned

Jack Westmoreland
Cross-examination by Mr. Hall

1 into you in evidence?

2 A No. It was sealed.

3 Q And these are the buccal swabs of Mr. Storman Noud
4 (sic) -- Norman Stoudenmire.

5 A Correct.

6 Q Thank you.

7 MR. GRAY: No further questions of this witness, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. HALL

11 Q You didn't have to retape anything up, did you?

12 A No, sir.

13 Q All right.

14 MR. HALL: No further questions.

15 MR. GRAY: Nothing further of this witness, Your
16 Honor.

17 The state calls Randy Bogan.

18 RANDALL EUGENE BOGAN, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. GRAY

21 Q Please state your name, sir.

22 A Randall Eugene Bogan.

23 Q Where do you work, sir?

24 A The Spartanburg County Coroner's Office.

25 Q And how long have you worked there?

Randall Eugene Bogan
Direct examination by Mr. Gray

1 A Approximately two years with the coroner's office.

2 Q And where did you work before that?

3 A I retired with Spartanburg County Sheriff's Office
4 after 25 years.

5 Q Twenty-five years of law experience -- 27 years of law
6 enforcement?

7 A Yes, sir, total.

8 Q Thank you.

9 Now, at the coroner's office what are your primary
10 duties and responsibilities?

11 A We go to -- we actually investigate deaths. And also
12 I have a particular duty of collecting the blood and
13 transporting it to SLED for analysis.

14 Q Now, what blood would you be transporting to SLED for
15 analysis?

16 A Whenever we have a case or the county, city, any
17 municipality in the county actually has a case, and if
18 there is or not an autopsy done, blood is drawn from that
19 person, and either it's taken to SLED by me or sent to a
20 private lab by me as well.

21 Q February of 2008 were you involved in a case of a
22 victim, Gwen Emory?

23 A Yes, I was.

24 Q Now, who is the gentleman that performed the autopsy
25 on Mr. (sic) Emory?

Randall Eugene Bogan
Direct examination by Mr. Gray

1 A Dr. David Wren.

2 Q Now, Dr. Wren when he draws blood for testing, is that
3 the only thing he does?

4 A No, sir. He does a full autopsy on a lot of cases to
5 include drawing blood and getting pieces of liver tissue
6 from the decedent.

7 Q Now, that blood once it is drawn by Dr. Wren and the
8 piece of liver, what is that blood and liver tested for?

9 A Basically toxicology, anything that's in the system,
10 and also gives us a quantitative analysis of what is in the
11 system at the time of death.

12 Q Layman's terms you're looking for any alcohol or drugs
13 in the system.

14 A Yes, any alcohol or drugs or anything of that nature.

15 Q That would be located primarily in the blood and/or
16 the liver.

17 A That's correct.

18 Q Now, after that piece of liver is taken and the blood
19 is drawn what is done with those items?

20 A Depending on who draws the blood. Dr. Wren always
21 gets the liver in most cases because the autopsy is being
22 performed.

23 However the morgue technician working at the time has
24 drawn the blood. I've seen them draw blood before and also
25 the pathologist, Dr. Wren, at autopsy draw blood.

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1 Whenever they drew it he in turn will immediately hand
2 it to the -- his assistant, the morgue technician working
3 at that time. She will in turn put it in a refrigerator
4 that's in the morgue. And the refrigerator has a lock on
5 it which is locked back. And then I go and I retrieve the
6 blood and the liver from that refrigerator.

7 Q In this case the blood and liver tissues were taken
8 from the victim and put in the morgue refrigerator, is that
9 correct?

10 A That is correct.

11 Q And that is locked.

12 A That's correct.

13 Q Now, once it is placed there, you say you retrieve it
14 from the morgue refrigerator.

15 A That's correct.

16 Q Do you immediately take it to SLED?

17 A Not necessarily. Some -- sometimes I have other
18 things going on. And a lot of times there could be as many
19 as 15 or 20 samples that I retrieve from the refrigerator.

20 Therefore before I go to SLED I actually collect it
21 from the morgue, take what items go to a private lab and
22 ship them to a private lab. Anything going to SLED I take
23 over to our office, which is an evidence room which is also
24 locked. There's a refrigerator in it.

25 I place the blood and/or both blood and liver into a

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1 bag, and I heat seal the bag with the decedent's name on
2 the bag and place it into the refrigerator. And of course
3 it's locked in the evidence room.

4 Q Did you do that in this case?

5 A Yes, sir, I did.

6 Q All of the steps you just mentioned.

7 A Yes, sir, I did.

8 Q Now, did you take that heat-sealed bag with the
9 decedent's name down to SLED?

10 A Yes, sir, I did.

11 Q Do you have a property sheet in front of you?

12 A Yes, sir, I do.

13 Q When did you take that heat-sealed bag to SLED?

14 A The offense date was 2/24 and the -- on 2/26 I took it
15 to SLED and Nikki Perry -- there's five or six ladies that
16 are located in the log-in area as it's called who, who
17 receives all of blood and any type of evidence from any
18 scenes. She actually received this from me at 10:38 a.m.

19 Q Did you have any further involvement in the testing or
20 toxicology of these samples or items?

21 A No, I did not.

22 Q Did you -- we've seen other items that have been
23 retrieved by the sheriff's office. Did you go back to SLED
24 and retrieve any other items?

25 A No, I did not.

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1 Q Why is that, sir?

2 A Normally whenever toxicology is done -- they have
3 actually told me that anything in toxicology is disposed
4 of. And I, in fact, called one of the chemists in
5 toxicology, and they stated to me that, yes, it had been
6 disposed of -- anything because it is a biohazard. They do
7 the testing on it, and then they dispose of it.

8 Q Besides Nikki Perry you're the person in the chain on
9 this, on these particular items of toxicology of Ms. Gwen
10 Emory, is that correct?

11 A That is correct.

12 Q Thank you. No further questions. Please answer any
13 questions Mr. Hall may have.

14 A Yes, sir.

15 MR. HALL: No questions of this witness.

16 THE COURT: You may step down.

17 THE WITNESS: Thank you, Your Honor.

18 MR. GRAY: May we approach, Your Honor?

19 THE COURT: You may.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 THE COURT: Ladies and gentlemen, those are all of the
23 witnesses we have available today. We kind of got a little
24 bit faster than we thought maybe we would. And the others
25 are from out of town and have a professional schedule that

1 won't allow them to come on that short notice. So we'll
2 resume in the morning at 9:30.

3 Keep in mind my caution. No discussions, no
4 investigation, no exposure to any type of information.

5 Do have a good evening, and please report to your jury
6 room at 9:30 in the morning, 9:30 in the morning.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: Court's in recess until 9:30 in the
10 morning.

11 END OF PROCEEDINGS MARCH 30, 2010

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Dr. John David Wren
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1 (Proceedings March 31, 2010)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Any matters to address before
5 the jury is brought in?

6 MR. GRAY: Not from the state, Your Honor.

7 MR. HALL: None from the defense, Your Honor.

8 THE COURT: Okay. Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the state was
13 still in the midst of their presentation. So we'll
14 continue with that this morning.

15 Ms. Poulos.

16 MS. POULOS: Thank you, Your Honor. The state calls
17 Dr. John David Wren.

18 DR. JOHN DAVID WREN, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MS. POULOS

21 Q Please state your full name for the record.

22 A John David Wren.

23 Q And, Dr. Wren, were are you currently employed?

24 A I'm a pathologist that's a member of Carolina's
25 Pathology Group. I am currently the laboratory medical

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1 director at Spartanburg Regional Medical Center and at
2 Spartanburg Hospital for Restorative Care. And as such I
3 work there.

4 Q How long have you been licensed to practice?

5 A I obtained my temporary medical license in 1979. I
6 can't remember whether it was June or February.

7 Q Would you tell the jury about your educational
8 background and any certifications that you have?

9 A Well, I have a bachelor's degree, a master's degree
10 and a doctor of philosophy degree in chemical engineering
11 from Clemson University.

12 I have an M. D. degree from the Medical University of
13 South Carolina.

14 I did a combined anatomic and clinical pathology
15 residency at the Medical University of South Carolina. I
16 started on February the 1st, 1979, having graduated or
17 fulfilling my requirements for my M. D. degree earlier than
18 other members of my class.

19 I did the residency and completed all requirements for
20 my combined anatomic and clinical pathology residency by
21 the middle of October of 1982, whereupon I came to work
22 here at the, at Spartanburg with, at that time, Spartanburg
23 Pathology Associates.

24 While I was at the Medical University I was assistant
25 medical examiner in Spartanburg County, I mean, in

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1 Charleston County. I did forensic autopsies one weekend a
2 month and filling in for the clinical, I mean, for the
3 forensic pathologists when they had to go out of town for
4 various trials.

5 MR. HALL: Your Honor, we're very familiar with Dr.
6 Wren's qualifications. We can stipulate to his
7 qualifications to testify as an expert about this autopsy.

8 THE COURT: So you're agreeing to stipulate to his
9 qualifications as a forensic pathologist?

10 MR. HALL: Yes, sir.

11 THE COURT: All right. Ms. Poulos, do you have any
12 other questions you want to ask him? You still can examine
13 him about his qualifications if you wish to.

14 MS. POULOS: No, sir, Your Honor.

15 THE COURT: Okay. All right. The parties have
16 stipulated that Dr. Wren is qualified as an expert in the
17 field of forensic pathology.

18 Q Dr. Wren, do you recall the body of a 15 year --
19 51-year-old woman by the name of Gwendolyn Emory being
20 brought to Spartanburg Regional Medical Center on February
21 the 24th of 2008?

22 A Yes.

23 Q And prior to the autopsy did you prepare a sexual
24 assault kit on the victim?

25 A At the beginning of the autopsy, I did. I did this

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1 autopsy late at night on the 24th of February.

2 Q Can you briefly explain to the jury exactly what a
3 sexual assault kit is?

4 A Well, it's a, an assault kit prepared by SLED, which
5 is basically a medical kit for -- it's used even in the
6 emergency room when someone as a victim of sexual assault
7 comes in.

8 It has a prepackaged questionnaire for the physician
9 to fill out. It also has various bags, blood vials and
10 other items that are used to collect any evidence that may
11 be present.

12 It has a bag for clothing. It has a bag for the
13 underpants if the person has one -- has some on.

14 And then it asks for fingernail scrapings. It asks
15 for blood, for D. N. A. for the, of the individual. It
16 asks for various swabs that are examined for spermatozoa.
17 And it has special containers in which any trace evidence
18 should be placed. And all of that is done by the examining
19 physician. And we use those in cases where it appears to
20 be necessary to have one, and collect those items and label
21 them.

22 Q Dr. Wren, did you also take scrapings from the
23 victim's fingernails?

24 A Yes.

25 Q Can you explain to the jury what that process

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1 involves?

2 A Well, as we -- a general autopsy follows basically an
3 examination of a rape victim in which the clothing is
4 collected first.

5 The next thing we do is we examine the body after it's
6 been unclothed to see if there's -- under what's called a
7 Wood's lamp, which is an ultraviolet light which fluoresces
8 under certain conditions including -- if semen happened to
9 be on the body we can see that under the Wood's lamp. And
10 we take a saline soaked Q-tip essentially and collect that
11 evidence.

12 And then we collect any trace evidence that may be on
13 the body examination.

14 And then the next thing we do is take fingernail
15 scrapings. We take a -- I usually use a -- some of them
16 have a plastic -- most of the kits have a little plastic
17 scraper that one can use to scrape under the fingernails
18 similar to any type of fingernail scraper. And we scrape
19 that whatever is under the fingernail on one hand, seal it
20 up, label it. And then on the other hand, seal it up and
21 label it.

22 And then after that we pull hairs from the head --
23 front, back, sides and top. And then we pull pubic hair
24 for comparison to any -- well, I'm sorry.

25 Before that we comb the pubic hair if there's any

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1 pubic hair and collect those. And then we pull hair that's
2 attached, put it in a separate container for SLED to
3 examine based on what is in the combings. And then after
4 that we then do the autopsy.

5 Q Dr. Wren, I'm showing you what has been marked for
6 identification purposes as State's Exhibit 32. Do you
7 recognize this?

8 A Yes. This is a -- the envelope in which we place the
9 fingernail scrapings. Both of them are placed together,
10 but they are collected in separate containers and labeled
11 right and left.

12 And they're folded up with the -- in this case I can't
13 tell without opening it, but I think there's a piece of
14 wood from a Q-tip that I used for that one, because it's a
15 little bit easier to get that up under the fingernail
16 because these plastic ones are pretty thick and pretty
17 wide, which are much more difficult to use.

18 And then we place that in there and seal them up, date
19 it and time it and tell whether we collected it or not.

20 This, these fingernail clippings are dated 2/24/08 at
21 2140 p.m. which is 9:40 p.m.

22 Q And, Dr. Wren, I'm showing you what's been marked for
23 identification purposes as State's Exhibit 34. Do you
24 recognize that?

25 A Yes. This is a blood sample that was collected during

Dr. John David Wren
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1 the autopsy on 2/24/08.

2 Q Did you collect that sample, Dr. Wren?

3 A Yes. I collect all the blood.

4 Q Okay. I'm showing you what's been marked for
5 identification purposes as State's Exhibit 31. Do you
6 recognize this?

7 A Yes. This is the large envelope that has several
8 things in it. It's called the D. N. A. section. It has a
9 known blood from the patient, miscellaneous body fluid
10 envelope in case we have some body fluids that I described
11 taking the saline swabbings of it. We have a bite-marks
12 envelope in case we have any bite marks we see.

13 We do a vaginal and oral and a rectal pap smear for
14 those that are -- just like a pap smear is done in a
15 doctor's office.

16 We do vaginal swabs. We take a Q-tip and insert it in
17 the vagina and collect any swabs that are -- any fluid
18 that's present. We dry that and put it in another
19 envelope.

20 We do oral and rectal the same way. And then we do
21 the fingernail scrapings. They're all placed in this
22 container for D. N. A. evidence.

23 And in this case there's a vaginal-swabs envelope with
24 two Q-tips in it. I can feel them -- rectal. There's also
25 two Q-tips in it. Oral. There's two in it.

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1 There was no body fluids collected, and I wrote none
2 on there for not being done. And then the bite marks,
3 there were no bite marks. And I wrote none on that, why
4 they weren't collected.

5 Those would have been put in here along with the, with
6 the known blood, which is this envelope; and the fingernail
7 scrapings, which were this envelope, and then sealed with a
8 tamperproof seal. And those are my initials saying that I
9 put them all in there and sealed it myself.

10 Q Okay. Dr. Wren, I'm handing you what's been
11 identified as State's Exhibit 37 for identification
12 purposes. Do you recognize that?

13 A Yes. This is the sexual assault kit that I described.

14 I forgot to tell you. These are the vaginal, oral and
15 rectal pap smears that were sent to SLED.

16 This is the sexual-assault collection kit that's
17 provided. And in that kit are all of these things, along
18 with collection kit instructions in case one's not familiar
19 with what to do.

20 A crisis intervention envelope, I mean, tells where in
21 different counties the -- where you can contact them.

22 This is the questionnaire which is mainly for the
23 examining physician in the emergency room. These are
24 supplemental instructions. And then medical exam release
25 forms that the patient in case a person was alive would

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1 have had to sign. All of that, along with the other things
2 that are in that kit, are all placed in the, in the kit and
3 then sealed with the tamperproof seal.

4 And I signed those too. And I transferred those to S.
5 L. Sanders of -- I can't read. Well, that's the person's
6 written name. They printed it and wrote it. And I
7 transferred it to them at one minute after midnight on the
8 25th of February. And those are taken by the next person
9 in the chain of custody.

10 Q And, Dr. Wren, prior to the autopsy did you also draw
11 a sample of the victim's blood for toxicology?

12 A Yes.

13 Q And can you describe from what part of the body you
14 drew that blood from?

15 A Well, I probably can't tell you exactly where I pulled
16 it from because this person had bled a lot. I probably
17 took it from several locations.

18 Generally speaking, one tries to take it from as far
19 away from the heart as possible simply because there's
20 what's called a redistribution phenomenon. After death if
21 a drug concentrates in a certain tissue, and often in the
22 heart it will concentrate after death, the mechanisms that
23 increase that concentration are inactive. So the blood --
24 the drug if there's one present will diffuse out of the
25 place where it's more highly concentrated into the blood.

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1 And we'll get a falsely elevated measurement of what the
2 blood level was at the time of death.

3 So we try to take the blood from as far away from the
4 heart as we can. We usually start with the femoral
5 arteries and veins which are in the leg, in the crease of
6 the leg. And then we try the inferior vena cava, then the
7 aorta within the abdomen. Both of those are within the
8 abdomen. And then we move more proximally as far as we
9 can.

10 I usually don't label exactly where they're from, but,
11 at any rate, I probably got this from the aorta because she
12 bled considerably into her chest cavity and into her
13 pericardial sac, which is the encasing around the heart.

14 Q Dr. Wren, did you put those samples in some sort of
15 vial?

16 A I try to collect three for the coroner, and those are
17 transferred to the -- well, actually we put them in a
18 locked refrigerator. And then the coroner collects those
19 on a periodic basis and sends those for examination.

20 In cases of homicides and accidental road deaths or
21 any type of road death those are sent to SLED along and --
22 with infant autopsies or children's autopsies, are sent to
23 SLED routinely.

24 Q Dr. Wren, did you also take pieces of the victim's
25 liver as part of your --

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1 A Yes. We routinely save liver and freeze it in the
2 refrigerator in case we -- it's necessary in some cases
3 when the blood is exhausted or we need further evaluation
4 of a level, we will also take liver samples to be examined.
5 And those are frozen also.

6 Q And just to be clear, Dr. Wren, you said that those
7 samples are taken into the refrigerator.

8 A They're put in a locked refrigerator in the morgue.

9 Q Yes, sir. Now, Dr. Wren, did you also perform an
10 autopsy on the victim, Gwen Emory?

11 A Yes, I did.

12 Q And was that autopsy performed at Spartanburg
13 Regional?

14 A Yes, it was.

15 Q After the autopsy did you produce a report detailing
16 the procedure and the results?

17 A Yes.

18 Q Is that a copy of the report in your hands?

19 A Well, actually I have two copies. I might have three.
20 No. Actually I have a full copy that came out of the
21 morgue file.

22 We keep all coroners cases in the morgue in a locked
23 room in a file. We don't send those to the hospital
24 records. The original copy is sent to the coroner. I keep
25 a copy, a copy of the autopsy.

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1 The original worksheet, which is the sheet that I use
2 while I'm doing the autopsy, records weights and any other
3 notes I might have. And then we, and then I attach a copy
4 when it comes from SLED, any toxicology results. Anything
5 I receive is put in the, in that file.

6 And then the other one was one that I didn't have a
7 copy of this one. The solicitor's office came, but they
8 provided me with their copy of the autopsy, which, by the
9 way, does not have the -- is what they got from the
10 coroner, I guess. It doesn't have the worksheet in it, but
11 it does have a cause-of-death sheet that I fill out for the
12 coroner at the time of the autopsy. I do not keep a copy
13 of that.

14 Q Can you for the jury explain just briefly the general
15 process that you go through when performing an autopsy?

16 A Well, I've already described the external examination
17 except for the fact that we document any external injuries
18 that may be present. If there were any trace evidence
19 collected, I would have done that.

20 After all of that is done evidence is collected. We
21 then wash the body to make sure we don't -- if it happens
22 to be dirty or if it happens to be a lot of blood over the
23 body, we will wash it off to see if we see any other
24 injuries.

25 Then after that we do a, what's called a, either a

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1 crutch-shaped or Y-shaped incision beginning at the
2 shoulders.

3 We reflect the adipose tissue, the fat and the skin,
4 away from the body to expose the musculature. And we
5 expose the musculature because sometimes one can have
6 injuries to the musculature beneath the adipose tissue or
7 the fat that we cannot see externally. So we reflect it
8 off, then look at that.

9 And then we remove the chest plate from the body and
10 do an internal examination much like the external
11 examination documenting what abnormalities are there.

12 We then remove the organs and examine those as any
13 surgical pathologist would do on organs or tissues removed
14 during surgery, collect pertinent pieces of the tissue that
15 may have pathology in them.

16 We submit some for microscopic examination. We keep
17 the other tissue for as long as we can in a save container,
18 it's called, that's in that room that has autopsy reports
19 that I was telling you about in a locked room in case we
20 need any other tissue to examine based on what we see in
21 the microscopic examination when we receive sections of
22 that tissue on microscopic slides.

23 And then we examine the brain by reflecting the scalp
24 and removing the calvarium and examining the brain. That's
25 basically what an autopsy consists of.

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1 Q Do you recall what type of clothes Ms. Emory had?

2 A In the morgue she only had on a pair of slightly blood
3 soiled white bikini type panties. That was all she had on
4 when I did the autopsy.

5 Q How many total wounds did you find on the body?

6 A She had four -- four stab wounds. She had some
7 abrasions and little contusions and other things.

8 Q Dr. Wren, would you describe the location of each of
9 those four stab wounds?

10 A She had one stab wound in the anterior-left-biceps
11 area; she had one in her left upper breast; she had one
12 between her breasts and one at the inferior border of her
13 right breast.

14 Q How deep were those, each of those wounds?

15 A The wound to the arm was three-quarters of an inch
16 deep as best can be determined.

17 The wound to her left upper breast was 1.25 inches in
18 length. I'm sorry. 1.5 inches in depth.

19 The one to her midline was 1.4 inches deep, and the
20 one to her right lower breast was at least one inch.

21 Now, the reason these are not exact is because there
22 are spaces between the tissues. And one cannot tell
23 exactly where the, for instance, if you stabbed the lung,
24 you can't tell whether the chest was expanded or collapsed
25 when the person was stabbed.

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1 So if the person's chest was expanded, after they die
2 the lung collapses somewhat. So we can't tell exactly how
3 thick it was, but we can tell how the maximum it was,
4 except there's another detractor in that. If you don't see
5 a hilt mark in a stab wound you can't say how long the
6 blade was. You can only say it was at least that long. It
7 could have been ten times that long or it could have been
8 half an inch longer than the depth. One cannot tell
9 exactly when you don't see the hilt mark.

10 So those mean, those depths mean, that this, the
11 weapon, had to be at least one and a half inches long,
12 probably longer. And it was -- one measures the length of
13 the wound. In the arm it was 68 hundredths of an inch long
14 and six hundredths wide, width.

15 It had a sharp edge. And that sharp edge was
16 superior, meaning that the weapon was held in the hand, if
17 the blunt edge of the weapon were towards the knuckles,
18 then that person would have had to stab the person with the
19 sharp edge toward their head.

20 The one in the medial breast was 65 hundredths of an
21 inch long and seven hundredths of an inch wide, about the
22 same width. The sharp edge was superior in this case also.

23 The one in the midline was 72 hundredths-inch long, or
24 the length of it. And it was only 500 hundredths of an
25 inch wide. And that sharp edge was also superior.

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1 And the one in the right lower breast was 91
2 hundredths of an inch long, almost an inch long. And it
3 was five hundredths of an inch wide. And it had -- I
4 didn't say which way it was -- where the sharp edge was
5 oriented. But it had a blunt edge also. I could tell if I
6 looked at the photographs that we have.

7 But, nevertheless, all three of these -- all four of
8 these stab wounds were with a single-edged blade that was
9 longer than 1.5 inches in length. And the width of the
10 blade, the blade -- I mean the, the length of the blade, if
11 you want to call it -- not the length but the width of the
12 blade would have been somewhere between up to 91 hundredths
13 of an inch long -- and I have to explain why I say that in
14 just a minute -- and from five hundredths to seven
15 hundredths of an inch wide, meaning the width of the blade
16 itself.

17 I hope I've explained that satisfactory, because you
18 have a length of the blade, how long the blade is from the
19 handle to the tip. You have the length of it, which is how
20 long the blade is from the blunt edge to the sharp edge.
21 And then the width is how wide the blade is, the thinnest
22 measurement.

23 Now, when you're doing, when you're doing any type of
24 wound to the body, particularly stab wounds and gunshot
25 wounds, there's a variable that, that comes into effect.

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1 Naturally when a person is deceased the skin is going
2 to be loose. It's going to -- unless it's distended by
3 bleeding it's going to be loose and lax. And it's going to
4 return to its sort of natural position.

5 So when you measure a wound there's a 25 percent
6 variation approximately in the, in the measurement, for
7 instance, if we have a wound that's one inch either long or
8 in diameter, then depending on whether the skin was
9 stretched or loose at the time of the, of the infliction,
10 then it could, the weapon that inflicted that or the
11 projectile or the, or the blade that inflicted that could
12 have been 1.25 inches, which is 25 percent of one, or it
13 could have been three-quarters of an inch.

14 So one can only get an approximate measurement. And
15 then if you compare the weapon or the projectile or the
16 blade with that wound, then you can say it's consistent.
17 You can't say that's it, but you can say it's consistent.

18 In some cases you can tell my hilt marks or imprints
19 from guns that this gun more than likely or this weapon
20 more than likely inflicted that. But one can't say that
21 this is it unless there's D. N. A. evidence that connect
22 the two.

23 Q Thank you, Dr. Wren.

24 Did you determine which wound was the fatal wound?

25 A The one to her midchest. It went through the

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1 ascending aorta, which is the big vessel that comes out of
2 the heart. It was within the pericardial sac.

3 There's tissues between the two lungs in the
4 mediastinum, it's called, the place between the lungs and
5 behind the heart where the esophagus and the descending
6 aorta go through.

7 But it went into the pericardial sac. It lacerated
8 the aorta within the pericardial sac and caused what's
9 called a hemopericardium, blood collecting around the heart
10 within that sac. And it also because of the bleeding, it
11 spilled out into both lung cavities.

12 Q Now, you testified earlier that you took fingernail
13 scrapings from the victim. How long in your opinion would
14 it take to transfer those scrapings from underneath the
15 fingernails?

16 A Do you mean how long would they stay there?

17 Q Yes, sir.

18 A Well, I have never seen any data on that. I can only
19 say that probably in my opinion they probably wouldn't stay
20 unless a person continually never cleaned their fingernails
21 and they never grew and they just caked up under this. You
22 can see in some people.

23 I would say that once you washed your hands several
24 times and did any other type of manipulations it probably
25 wouldn't stay there, I would imagine, no more than three

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1 days to a week.

2 Q So would taking a shower and washing your hair
3 transfer any type of D. N. A. from underneath the
4 fingernails?

5 A Oh, it would. It would remove what was there loosely,
6 yes.

7 Q Dr. Wren, is there any way that D. N. A. or any
8 other -- anything under the fingernails could survive for
9 two or three weeks?

10 A Like I said, I don't think so unless one got it under
11 there and then, say, dug in a garden and was doing some
12 type of labor where you got grease or something like that
13 under it and never cleaned them. I don't, I don't think
14 so.

15 Q And based on the autopsy within a reasonable degree of
16 medical certainty were you able to form an opinion as to
17 the cause of death of Ms. Emory?

18 A Yes. She had, she had, she had 200 cc's, at least 200
19 cc's of blood within her pericardial sac. She had 300 in
20 her left pleural cavity.

21 And, let's see. I just saw it -- 250. I'm sorry.
22 300 in her right pleural cavity and 250 in her left, plus
23 the 200 in her heart. That adds up to nine -- 750 cc's,
24 which as a rule of thumb that's about three units of packed
25 red blood cells.

Dr. John David Wren
Direct examination by Ms. Poulos

1 When you're talking about packed red blood cells,
2 that's what, what you see hung when, when they're giving
3 blood. But that's not the actual blood volume that was
4 necessary to get those packed cells.

5 When you get 250 cc's of packed cells, which is
6 removing the serum or the plasma from that blood, then you
7 usually collect a little over 400.

8 So she lost three, or probably five, units of blood,
9 not counting what might have been lost. So I attributed
10 not counting what was in the mediastinum, which is blood
11 collecting that you can't measure, because there's tissues
12 in there too.

13 So I attributed her cause of death as internal
14 hemorrhage secondary to multiple stab wounds to the body,
15 and particularly the chest.

16 Q Dr. Wren, excuse me.

17 A In particular the chest.

18 Q Thank you.

19 And, Dr. Wren, based on your experience with these stab
20 wounds how long would it have taken for Ms. Emory to bleed
21 out?

22 A Well, you bleed real fast from your aortas, as fast as
23 heart is beating. And of course it depends on how wide the
24 wound is. If you completely lacerated the aorta every bit
25 of that blood would not be going anywhere.

Dr. John David Wren
Direct examination by Ms. Poulos

1 In this case it wasn't a big wound. So it would have
2 taken her ten to 15 minutes, I would imagine. And some --
3 I need to add in some cases you can just from the trauma,
4 one can get a sudden cardiac arrhythmia from the trauma to
5 the heart or to the nerves that go through there. And we
6 usually can't find those, those nerves, very easily.

7 But one can die very quickly too. But she would have
8 bled out in at least 15 minutes. I'm not saying exactly
9 when she'd have lost consciousness though.

10 Q Dr. Wren, can you briefly explain what lividity is to
11 the jury?

12 A Once a person dies the vessels in the body can become
13 incom -- incompetent. They do not keep the blood within
14 that, that vessel.

15 And as the blood starts to leak out it settles in the
16 tissues. And it of course depends on gravity. It flows to
17 the lowest point in the body. And when that happens one
18 can see a discoloration of the tissues from the blood being
19 seen through the tissues and that settling of the blood
20 after death.

21 Generally speaking the blood, that lividity, will
22 start about four hours after death. It becomes fully fixed
23 in 12 hours. And it stays there forever unless someone
24 turns the body over. Then it can settle in the other
25 direction as long as there's blood within the vasculature.

Dr. John David Wren
Direct examination by Ms. Poulos

1 So one can tell the position a person died in if it's long
2 enough for the lividity to start.

3 Not unfrequently when bodies are brought to the morgue
4 and they're found face down or sitting up or hanging or
5 whatever position they are, we place them on the, usually
6 place them on the, morgue table, what's called supine,
7 meaning that the back is down. And more blood will, will
8 settle in that, in the back in that case.

9 But if it's fixed in the front, then you know the
10 person at one time was laying there long enough with the,
11 with the front of the body down to have collected that
12 blood.

13 Q And did the victim appear to have lividity, within the
14 victim?

15 A Yes. She had -- I said that she had some anterior
16 nonblanching livor mortis, which is lividity. And there
17 were areas of pressure dependency from apparent bed
18 clothing. Anything that presses against the tissues as
19 that lividity forms will leave a blanched area because it
20 sort of presses the tissue and moves the blood to the side.
21 So one can tell that a person was lying on some type of
22 clothing.

23 Now, I just said bedclothing because she didn't have
24 anything on except her panties. It could have been from a
25 shirt or whatever else she might have had on at that time.

Dr. John David Wren
Cross-examination by Mr. Hall

1 And then she had some on the left side of her face
2 with some pressure blanching of the skin which is, if it's
3 resting against something, it of course keeps the blood
4 from settling in that area.

5 And then she had some in the back because she'd been
6 lying on her back for a while in the morgue when I started
7 the autopsy.

8 Q Thank you Dr. Wren. Please answer any questions
9 Mr. Hall may have for you.

10 CROSS-EXAMINATION

11 BY MR. HALL

12 Q Dr. Wren, she asked you about lividity. Let's, let me
13 ask you about rigor mortis. Can you tell the jury what
14 that is?

15 A Rigor mortis is stiffening of the body after death.
16 It usually starts -- depends on the amount of lactic acid
17 that might have been produced prior to death. It depends a
18 little bit on temperature. It basically depends on how
19 active that person was leading up to the death.

20 I guess the best way to explain it is if one shoots a
21 deer and it doesn't kill it right away and it runs for half
22 a mile before it collapses, it's built up a lot of lactic
23 acid. And it's had a lot of activity of the musculature.
24 That will cause livor mortis, I mean, rigor mortis to start
25 quicker.

Dr. John David Wren
Cross-examination by Mr. Hall.

1 But generally speaking it starts at about four hours.
2 It becomes fixed at 12 hours. And it starts to disappear
3 in about 24 hours. And that depends a little bit on
4 temperature. It also depends a little bit on how cold the
5 body is after it's brought to the morgue.

6 There's other factors. It does not constitute an
7 estimate of the time of death contrary to what people say
8 or might think.

9 In fact, I might add there's no known method of
10 determining the time of death except if a person is
11 witnessed to die or they have a Holter monitor, which we
12 have had some cases where they had a Holter monitor because
13 the cardiologist was checking their heart rate, and see if
14 they had any arrhythmias and their heart stops while they
15 had the monitor on. That way we can tell exactly what time
16 that person died, or at least their heart stopped.

17 But there's no -- there's some rules of thumb but no
18 definite way to determine exactly what time a person died
19 contrary to what "C. S. I." tries to say.

20 Q Thank you, Dr. Wren. I watch it too.

21 And the lividity and rigor, would that be affected by,
22 say, if a person is lying on a heated waterbed that's set at
23 80-plus degree?

24 A That will affect that as well as decomposition, yes.

25 Q And it would speed it up or slow it down?

Dr. John David Wren
Cross-examination by Mr. Hall

1 A It'll speed it up. In fact, I have, I have, I have
2 seen in my career -- I have seen photographs of a man that
3 in Dallas -- most of the people here are old enough to
4 remember when Dallas had this severe heat wave ten or 15
5 years ago and it got up to 110 or 12 degrees in the city
6 for several days.

7 There's an instance of a man whose daughter talked to
8 him 40 minutes before she got to the scene. And he was in
9 extreme heat, and he looked like he'd been dead a week. I
10 mean, he decomposed that fast because of the temperature of
11 his body, as well as the temperature of the surroundings.

12 Q So the lividity rigor, decomposition if you're in a
13 heated place, you know, 65 or 75 degrees, somewhere in
14 there, and when you're lying on another heat source --

15 A That would cause it to occur quicker, yes.

16 Q All right. Now, in the sexual assault kit --

17 A Yes.

18 Q -- you put all of this in there, all of this is in
19 here.

20 A Well, there's some other items that sometimes were put
21 in there. But if clothing is wet or there's a lot of it,
22 you can't get it all in there.

23 There is a hole list -- I don't see that list -- it
24 might be in here -- of other things that might be put in
25 there.

Dr. John David Wren
Cross-examination by Mr. Hall

1 You know, basically, the protocol says you collect the
2 outer clothing. Collection of outer clothing. Wet or damp
3 clothing should be air dried before packaging.

4 They've got a bag for that. Most of the time you
5 can't put clothing in a box like this. But in case they
6 have a little bit, we will put it in a box if it wasn't wet
7 because if it's wet, of course fungus will grow on it and
8 it'll be unpleasant to examine.

9 Then we have miscellaneous materials that were
10 collected either on the body or at the crime scene. There
11 are drawings in case you want to -- there's a place for
12 drawings. There's bite marks.

13 And these other things I've gone through. And/but I
14 didn't see those other things in here. So usually in
15 coroner's cases when we have a death, I usually don't put
16 the clothing in there because it has to be processed before
17 it's put up. So I give that to the police authorities that
18 come to the scene.

19 Q And let me ask you. The box. There's a, looks like
20 paper on top of the box --

21 A And sealed.

22 Q -- and sealed. That's when it comes to you, and
23 seals?

24 A It's sealed on the sides. It's sealed on both sides.
25 And to get in it we have to of course cut those or tear

Dr. John David Wren
Cross-examination by Mr. Hall

1 them loose. And then we reseal it with the red evidence
2 strips and initial it.

3 One can see. In this case my initials, this is my
4 writing on, on two of these, the ones that were put on
5 initially. And then I initial these others, bags here.

6 Q Your initials isn't on this third piece of tape.

7 A No. That's county forensics. They evidently -- I
8 have no idea what, why that's on there. He may have put it
9 on there when he transferred it to SLED. He may not have.
10 I don't know.

11 Q He's testified about that already.

12 A Okay.

13 Q All right. So based on your answering my question and
14 the story of the Dallas, temperature can affect how long a
15 person appears to have been dead. That's one of the
16 reasons you don't ascribe a time of death. Is there so
17 many variables?

18 A There are a lot of variables, yes.

19 Q And temperature is one of those major variables.

20 A Right.

21 Q And heat can make it look like somebody's been dead
22 longer than maybe they were.

23 A Yes.

24 Q All right.

25 A And cold can make it appear they've not been dead very

Dr. John David Wren
Cross-examination by Mr. Hall

1 long. You've probably have seen pictures of people buried
2 in a permafrost up in Canada where they found them 150
3 years later. And if you looked at that person you'd say,
4 well, he'd probably been dead three weeks.

5 Q Yes. Now, you testified that cleaning your hands and
6 body real well will remove D. N. A. material under.

7 Well, let me ask first. You have no idea what you can
8 get out from under the fingernails, do you?

9 A Pardon?

10 Q You have no idea what you are scraping or taking out
11 from under the fingernails.

12 A Usually there's very little under them. You know,
13 most people that I've autopsied and done scrapings on, they
14 have relatively clean fingers. And sometimes you don't see
15 anything except a little bit of keratin, which is the body
16 products of the, of the fingernail.

17 Q Okay.

18 A Sometimes you'll see a little bit of blood if their
19 fingers are bloody.

20 I didn't look in these envelopes. I don't know
21 what's, I don't know what's, what's, left in these
22 envelopes, but they are resealed.

23 So they would describe. SLED when they opened it up,
24 they should have described. I've never seen the
25 examination, but they should have described what was there

Dr. John David Wren
Redirect examination by Ms. Poulos

1 and how much was there.

2 Q Yes, sir. But even if somebody takes a shower or bath
3 and cleans their hands, if they come in contact with, say,
4 something that another person has touched, they can pick up
5 some materials on their hands.

6 A Probably a little bit, yeah.

7 Q Yes, sir. And if that person, say, is a manual
8 laborer, works with their hands, and their hands are
9 rougher, they're going to pick up more things than somebody
10 who has the smooth, soft, manicured hands, is that correct?

11 A Yeah, I guess. I would imagine so.

12 Q No further questions.

13 REDIRECT EXAMINATION

14 BY MR. POULOS

15 Q Dr. Wren, if the victim had scratched someone would
16 that D. N. A. be transferred and be located underneath the
17 fingernails?

18 A Yes.

19 Q That's all I have. Thank you Dr. Wren.

20 MR. HALL: Nothing further.

21 THE COURT: You may step down. Thank you.

22 MR. GRAY: The state calls Nikki Perry.

23

24

25

Nicole Renee Perry
Direct examination by Mr. Gray

1 NICOLE RENEE PERRY, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. GRAY

4 Q Please state your full name, ma'am.

5 A Nicole Renee Perry, P-E-R-R-Y.

6 Q And where do you work, ma'am?

7 A I'm currently employed with the South Carolina Law
8 Enforcement Division, commonly known as SLED.

9 Q And what are your duties and responsibilities there?

10 A I'm a forensic technician in the evidence control
11 department. We log in and package evidence brought into
12 the SLED lab for forensic analysis.

13 Q On -- I want to show you what's been marked State's
14 Exhibit No. 35 and ask you do you recognize any markings on
15 that.

16 A I do. I recognize the yellow label affixed to the
17 front of the heat-sealed pouch, the lab number, L08-03001,
18 item No. 8.

19 Q All right. I show you a copy of a report and see if
20 you -- well, do you see that lab number? What does that
21 No. 8 out to the side mean?

22 A When items are evidence are brought into the lab in my
23 department, evidence control. We log in the case
24 information, and we give each item of evidence that's
25 brought in it's own unique item number. And this was No. 8

Nicole Renee Perry
Direct examination by Mr. Gray

1 that was brought into the lab.

2 Q I'm also going to show you a copy of a chain of
3 custody. And do you see your name on that chain of custody
4 anywhere?

5 A I do. This appears to be a Spartanburg County
6 Sheriff's Office chain of custody, and I did sign.

7 Q And you received that from the Spartanburg County
8 Sheriff's Office?

9 A Yes, sir, I did.

10 Q And that would be this same item, this L08-03001, No.
11 8.

12 A Yes, sir.

13 Q And what is that exactly?

14 A If I may refer to my chain of custody, item No. 8
15 brought into the lab is described as a buccal swab from
16 Norman Stoudenmire.

17 Q All right. And at that point you would turn that over
18 to someone for testing.

19 A That is correct.

20 Q Would this be heat sealed when it comes into SLED, or
21 does SLED do that?

22 A When an item of evidence comes into SLED --
23 Spartanburg County would have brought it in this envelope,
24 which is sealed and is brought in to me.

25 We -- in evidence control they will also provide us

Dr. John David Wren
Cross-examination by Mr. Hall

1 with a SLED forensic services request form. And that
2 details all of the case information, as well as a second
3 page details the items that they're bringing in and the
4 exam that they're requesting.

5 I will then place their sealed envelope in a SLED
6 heat-sealed pouch where I will heat seal it. And I will
7 have the submitting officer initial and date across the
8 heat seal and sign and date the front and the back.

9 Q And those, I believe, are provided to Ms. Lindsay
10 Thompson.

11 A That is correct.

12 Q And what does Lindsay Thompson do with SLED?

13 A Lindsay Thompson is a D. N. A. analyst at our SLED
14 lab.

15 Q And, like you say, that would have remained sealed
16 until it gets to her.

17 A That is correct.

18 Q Thank you. No further questions at this time. Please
19 answer any questions Mr. Hall may have.

20 CROSS-EXAMINATION

21 BY MR. HALL

22 Q Now, as a forensic technologist, when you received
23 this, everything that comes in has to be sealed, correct?

24 A Most cases, yes.

25 Q But a buccal swab definitely has to be sealed in some

Dr. John David Wren
Cross-examination by Mr. Hall

1 way.

2 A It came in sealed, yes, sir.

3 Q But that's your procedure. You want those type of
4 things for D. N. A. sealed when they --

5 A Right. It would be sealed. They wouldn't just hand
6 me --

7 Q Like a sexual assault kit is supposed to be sealed.

8 A Correct.

9 Q All right. Is it SLED policy -- what's SLED policy if
10 you get a sexual assault kit that doesn't have that red
11 tape on the side?

12 A We would notate that a rape kit that came in -- they
13 should notate that it was not sealed.

14 Q And make a notation -- then like if I can just use
15 this one for an example -- on one side you've got one piece
16 of tape and one side you've got two pieces of tape.

17 A Right.

18 Q Would that be unusual?

19 A That would not be unusual. It would seal. Whether
20 it's one piece of tape on one side or two if it's sealed
21 when it --

22 Q What about on one side where there's two pieces of
23 tape and one of those pieces of tape is already broken?

24 A On the other if it's still sealed when it comes into
25 SLED, the other piece of tape, it is still considered

Tracy Allen McKinnon
Direct examination by Mr. Gray

1 sealed.

2 Q So if you've got two matches, piece of tape, one's
3 broken and one's not, and then another piece of tape, that
4 is still acceptable.

5 A It would still be sealed if it was sealed on both
6 sides.

7 Q No further questions.

8 MR. GRAY: Nothing further of this witness, Your
9 Honor.

10 THE COURT: You may step down.

11 MR. GRAY: The state calls Tracy McKinnon.

12 TRACY ALLEN MCKINNON, having
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. GRAY

15 Q Mr. McKinnon, please state your full name.

16 A Tracy Allen McKinnon.

17 Q And what is your occupation and profession?

18 A I am a forensic toxicologist for the South Carolina
19 State Law Enforcement Division, more commonly referred to
20 as SLED.

21 Q How long have you had that position, sir?

22 A Approximately four years.

23 Q What education, qualifications, do you have as a
24 forensic toxicologist?

25 A I've got a bachelor of science degree with a major in

Tracy Allen McKinnon
Direct examination by Mr. Gray

1 chemistry from the University of North Carolina at
2 Charlotte. I've also got a master's of science, forensic
3 science, degree with a forensic toxicology major from
4 Arcadia University which is outside of Philadelphia,
5 Pennsylvania.

6 Q Have you had any additional training in this area?

7 A Yes, I have. I routinely attend continuing education
8 both in-house and at our -- we've got a forensic toxicology
9 meeting that we regularly attend on a yearly basis. And
10 I'm also a board certified forensic toxicologist.

11 Q Now, as part of your duties do you test blood samples
12 for contaminants or alcohol, or what exactly?

13 A As a forensic toxicologist I analyze blood and urine
14 or other bodily tissues or samples for the presence or
15 absence of drugs or poisons. And then I interpret those
16 findings to coroners, law enforcement agencies or courts of
17 law.

18 Q And how many of these tests have you performed?

19 A Since I've been employed several hundred.

20 Q Have you previously testified in court as a
21 toxicologist?

22 A Yes, I have.

23 Q How many times, sir?

24 A Five or six times.

25 Q Have you been certified as an expert in toxicology?

Tracy Allen McKinnon
Direct examination by Mr. Gray

1 A Yes, I have.

2 MR. GRAY: At this time I would move that he be rated
3 as an expert in forensic toxicology and testing of blood or
4 alcohol or other items.

5 MR. HALL: No objection.

6 THE COURT: He is so qualified.

7 MR. GRAY: Thank you, sir.

8 Q You have there I believe in your hand -- is that a
9 copy of your report regarding Ms. Gwendolyn Emory?

10 A Yes. I do have a copy of that report.

11 Q Now, the blood that you tested, did that come from
12 Ms. Gwendolyn Emory?

13 A The blood that I tested, the test tube of blood that I
14 received, was labeled Emory, Gwen.

15 Q Did that come from your SLED investigator box, or how
16 was it delivered to you?

17 A It would have come to me from the sexual assault kit
18 that was taken at autopsy.

19 Q The one that Dr. Wren just testified to.

20 A Correct.

21 Q And when it came to you was that sealed, that blood
22 sample?

23 A Yes, that sample was sealed.

24 Q Had it been tampered with in any way?

25 A There was no indication of any tampering.

Tracy Allen McKinnon
Direct examination by Mr. Gray

1 Q And when you got that blood sample did you open it?

2 A Yes, I did.

3 Q Once you opened that blood sample what did you do as a
4 forensic toxicologist?

5 A It's our protocol at SLED that any time that there is
6 a violent death, which would include homicide, suicides or
7 any traffic fatalities, we do what's called a volatile's
8 analysis where we're looking for ethanol, which is drinking
9 alcohol. And also we do a common-drugs-of-abuse drug
10 screen.

11 Q Did you perform that on this sample of Ms. Emory?

12 A Yes, I did perform that, those analyses on the sample.

13 Q And how did you perform those analyses?

14 A Basically, I just take a small amount of blood from
15 the sample that's given from the test tube and analyze
16 those on different instruments in the lab, which will
17 basically screen to tell me whether or not something's
18 there or not there. And if something is there, then I'll
19 actually confirm that it's there by another method and then
20 quantitate how, exactly how, much is there.

21 Q Exactly what did you screen for this sample of blood
22 from Ms. Emory?

23 A I'm -- for this sample, for the volatile's analysis,
24 which includes ethanol, I tested for ethanol, methanol,
25 acetone and isopropanol. And she was negative for all four

Tracy Allen McKinnon
Direct examination by Mr. Gray

1 of those compounds.

2 Q Is that a result of a report that you did?

3 A Yes, it is.

4 Q And you're reading from that report.

5 A I am reading directly from the report.

6 Q And what's the lab number on that report, sir?

7 A It's L08-03001.

8 Q And she tested negative for ethanol, methanol, acetone
9 and iso --

10 A Isopropanol, which is rubbing alcohol.

11 Q By negative, what do you mean exactly?

12 A That means that there was no trace or any indication
13 that she had any of those substances in her blood at the
14 time that the -- that the blood was drawn.

15 Q Now, did you test for anything else in her body?

16 A Yes, I did. I also tested for what we refer to as our
17 common-drugs-of-abuse screen, which includes analyzing for
18 amphetamines, benzodiazepines, which is a class of sedative
19 hypnotic drugs -- methamphetamine, oxycodone, cannabinoids,
20 which is essentially marijuana; and also cocaine metabolite
21 and opiates, which is a class of drugs used for pain
22 management.

23 Q And what was the result of those tests?

24 A For each of those classes of drugs or specific
25 analities it was negative for all, all of them.

Tracy Allen McKinnon
Cross-examination by Mr. Hall

1 Q So she had no cocaine, no opiates, no marijuana, no
2 oxycodone or amphetamines in her system at all.

3 A Correct, at least none that we could detect based on
4 our sensitive methods.

5 Q Thank you, sir. Please answer any questions Mr. Hall
6 may have.

7 CROSS-EXAMINATION

8 BY MR. HALL

9 Q Just simply put, the results of your test, you can't
10 say that she had been drinking or doing any of those drugs.
11 She was clean of all of that stuff.

12 A At the time that the blood was drawn there was nothing
13 in her blood that we would have detected for our protocol.

14 Q Thank you very much.

15 MR. HALL: No further questions.

16 THE COURT: You may step down.

17 MR. GRAY: The state calls Ms. Lindsay Thompson.

18 LINDSAY PAGE THOMPSON, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. GRAY

21 Q Ma'am, please state your full name.

22 A My name is Lindsay Page Thompson, T-H-O-M-P-S-O-N.

23 Q Thank you, ma'am.

24 Where do you work?

25 A I currently work for the South Carolina Law

Lindsay Page Thompson
Direct examination by Mr. Gray

1 Enforcement Division, commonly known as SLED.

2 Q And what are your current duties and responsibilities
3 at SLED?

4 A I am a forensic D. N. A. analyst.

5 Q How long have you had that position, ma'am?

6 A I have been employed for about three and a half years
7 as a D. N. A. analyst.

8 Q What is your educational background?

9 A I have a bachelor's degree with a major in forensic
10 science, as well as biology, and a minor in chemistry.

11 I also have a master's in biology with a forensic
12 science D. N. A. concentration.

13 I also have had statistical training course work, as
14 well as molecular biology, biochemistry and genetics, which
15 are all required for D. N. A. analyst.

16 Q Do you perform any updates yearly or monthly?

17 A Yes. We're required to complete continuing education
18 every year. And also we complete training under the
19 supervision of a court-qualified analyst when we're first
20 hired at SLED.

21 Q At the present time do you hold any certifications?

22 A I am certified by SLED to perform D. N. A. analysis.

23 Q Now, how many of these analyses have you performed in
24 the past, ma'am?

25 A I, I have no idea what number. Several hundred.

Lindsay Page Thompson
Direct examination by Mr. Gray

1 Q Have you ever testified in court regarding the results
2 of these analyses?

3 A Yes, I have about seven or eight times.

4 Q Have you ever been qualified as an expert as a result
5 of your educational background and analysis and expertise
6 to testify as a D. N. A. analysis, analyst, excuse me, in
7 court?

8 A Yes. I have all of those times.

9 Q All of those times.

10 A Yes.

11 Q And that all occurred in South Carolina.

12 A Yes, in South Carolina.

13 MR. GRAY: At this time, Your Honor, I'd like to move
14 that she be considered an expert in D. N. A. analysis.

15 MR. HALL: No objection.

16 THE COURT: She is so qualified.

17 MR. GRAY: Thank you.

18 Q Ma'am, did you perform D. N. A. analysis in regards to
19 lab No. L08-03001?

20 A Yes, I did.

21 Q All right. I have a number of items here I'm going to
22 show you. And I have some gloves there for you if you need
23 them.

24 A Thank you.

25 Q Do you have a copy of your report with you?

Lindsay Page Thompson
Direct examination by Mr. Gray

1 A I do.

2 Q I'm going to start with this item that's been marked
3 as State's Exhibit No. 37 and ask if you recognize that.

4 A The specific item here?

5 Q Yes, ma'am.

6 A I do not recognize this item. When it comes into SLED
7 with the evidence processing technician it will be opened
8 and separated into the individual pouches which have this
9 appearance. They contain several small envelopes inside.

10 This would be sealed when she opened this box, and
11 each of these would be sent in a separate heat-sealed pouch
12 to the department that they needed to be analyzed by.

13 Q And I'm going to ask you. When you received the items
14 that you needed to test were they sealed?

15 A Yes, they were.

16 Q I show you some items, No. 32, State's Exhibit No. 32,
17 and ask if you recognize that.

18 A Yes, I do.

19 Q What is that, ma'am?

20 A This would be the fingernail scrapings collected from
21 the victim, Gwendolyn Emory.

22 Q I'm also going to ask you about item No. 33, State's
23 Exhibit No. 33, and ask if you recognize those.

24 A Yes. When the blood from the kit is submitted to us,
25 it's submitted to us in the liquid form in a lavender top

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1 tube.

2 At that point we would take a piece of filter paper.
3 We would put it in a secure environment and pour the liquid
4 blood onto that and allow it to dry.

5 A few days later we would come back to it, take a
6 portion of that to run and get the D. N. A. analysis from
7 that.

8 Q I'm sorry. Go ahead.

9 A So this is the envelope in which I put that filter
10 paper. So I filled out all of this information on it. And
11 I removed the label from the actual tube that the liquid
12 blood was in and taped it to the front of this envelope.

13 Q So this item, excuse me, item 32 and 33 would have
14 come from the sexual assault kit.

15 A Yes.

16 Q And these are items that you tested and sealed.

17 A Correct. When I opened them they were sealed. And I
18 retaped them after I performed my analysis.

19 Q Okay. I ask you about this item, 083001, No. 1. And
20 what is that exactly, now?

21 A This is the heat-sealed pouch that would contain item
22 No. 1, which in this case item No. 1 was the sexual assault
23 evidence collection kit from Gwendolyn Emory.

24 Q That would be State's Exhibit No. 37.

25 A A portion of, a portion of State's Exhibit No. 37, the

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1 portion that would come for D. N. A. analysis. The portion
2 that would go to tox would have been in a separate
3 heat-sealed pouch and sent directly to tox.

4 Q All right. So this item No. 32 is what you tested.

5 A Yes, I did test item 32.

6 Q Thirty-three you also tested.

7 A I also tested State's Exhibit 33, yes.

8 Q State's Exhibit No. 34, do you recognize that at all?

9 A Yes. State's Exhibit No. 34 is the plastic envelope
10 and padding that liquid blood from Gwendolyn Emory would
11 have come in. I would have taken it out of here and poured
12 it on filter paper and then placed in my own envelope once
13 it was dried.

14 Q Keep those together, please.

15 Now, this is State's Exhibit No. 35. I believe you
16 have a different lab number. Could you read that?

17 A Yes. This is lab No. L08-03001, No. 8. So it would
18 be item No. 8 as submitted to SLED -- SLED's item No. 8.

19 Q And on your records what does that denote, that No. 8?

20 A No. 8 is just the number that's assigned by our
21 evidence technicians when that item is brought in for
22 processing.

23 By my report what I have listed as No. 8 is a
24 buccal -- buccal swabs from Norman E. Stoudenmire.

25 Q And, again, there's a number on here on State's

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1 Exhibit No. 33, a 1.1. What is that number?

2 A Item 1.1, Emory, is the SLED item No. 1.1. It's also
3 indicated on the back on the yellow label here as
4 L08-O3001. That's the lab number so we know which case
5 we're talking about. And then No. 1.1 is a specific item
6 number for this item.

7 Q And that would be considered the standard, I believe.

8 A Yes. This is the Gwendolyn Emory standard, and this
9 would be Norman Stoudenmire's standard.

10 Q And 33 you say came out of what's been marked as
11 State's Exhibit No. 34.

12 A Yes. State's Exhibit No. 33 was originally packaged
13 in a tube in State's Exhibit No. 34.

14 Q I'm also going to show you State's Exhibit No. 32 and
15 ask you if you recognize that.

16 A Yes. State's Exhibit No. 32 is our item No. 1.6.
17 That's SLED's item No. 1.6 listed as the fingernail
18 scrapings.

19 Q Please describe that to me. What you mean by that
20 fingernail scrapings, ma'am?

21 A During the collection of a sexual assault evidence
22 collection kit we request that the examiner collect
23 scrapings or clippings of the victim's fingernails.

24 If that person for some reason had scratched the
25 perpetrator, then that person's D. N. A. may be under their

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1 fingernails. And so we request for them to make that
2 collection so that we can run a D. N. A. analysis to
3 determine if anybody's D. N. A. other than the victim is
4 under her -- his or her fingernails, the victim's
5 fingernails.

6 Q And that was sealed when you received it?

7 A Yes, it was.

8 Q And still sealed right now?

9 A It does have a piece of tape on it right now, yes.

10 Q Now, I noticed there is a yellow piece of tape on the
11 front. What is that, again?

12 A That is the SLED lab label. Again, it tells you the
13 SLED lab case number and tells you the specific item, item
14 number for this piece of evidence.

15 Q Now, just for clarification, every piece of evidence
16 tested by you or somebody from SLED regarding Ms. Emory's
17 case would have the same case number?

18 A Yes. It should all have the same case number as
19 submitted under the same case, same investigation case.

20 Q And that will be L08-03001.

21 A Yes. That is correct.

22 Q And the numbers to the side would denote each piece of
23 evidence?

24 A Yes. Each specific item would be the number to the
25 right. It has a number sign, a pound sign, and then a

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1 number. And that would be the actual number for that
2 specific item.

3 Q I'm going to ask you about this piece of evidence,
4 State's Exhibit No. 36, and ask you if you recognize that.

5 A That would be the SLED's lab L-08-03001, item No. 2,
6 which by my records item No. 2 are buccal swabs from
7 Hillard Lee Walker.

8 Q All right. And this would come in a sealed pouch to
9 you untampered with.

10 A Correct. It would come to me. It would be a
11 heat-sealed pouch. And the top would be sealed with the
12 submitting officer's signature or initials and date.

13 This here at the bottom indicates where I actually cut
14 into the pouch. And then I reseal the pouch and put my
15 initials and date.

16 Q And did you do that also with item No. 35?

17 A Yes. It looks like I entered the pouch two times.
18 Here you can see it once on the left and once on the right.
19 And each time I opened the pouch I would also reseal it and
20 put my initials and date.

21 Q I'm going to ask you similar questions about State's
22 Exhibit No. 39.

23 A Okay. State's Exhibit No. 39 is SLED's case No.
24 L08-03001, item No. 4. Item No. 4 by my records is buccal
25 swabs from Ben Carl Nevins. And this would have been

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1 sealed when I received it. And I did enter this package
2 one time.

3 Q And lastly, ma'am, State's Exhibit No. 38.

4 A Finally, State's Exhibit 38 is SLED lab L-08-03001,
5 item No. 3, which by my records is swabs from Gwendolyn
6 Emory.

7 Q Now, you testified about a standard before. What's
8 the difference between this and this 1.1?

9 A Possibly it was submitted as a, an additional standard
10 in her case. I'm not a hundred percent certain.

11 In my analysis I did not perform analysis on this
12 specific standard, it appears, because I had performed an
13 analysis on her other standard.

14 Q Now, what did you perform an analysis on that's in
15 front of you, ma'am?

16 A By my records I performed analysis on item 1.1, which
17 is State's Exhibit 33, Gwendolyn Emory's blood standard.

18 I performed an analysis on the smears in this case
19 which would be the vaginal, oral and rector -- rectal
20 smears that are created when the swabs are collected from
21 those areas of the body.

22 They would then take a sterilized slide, and they
23 would rub that swab on the slide. That would transfer some
24 of the cells that are on that swab onto the slide.

25 When I get it I stain that slide so that I can see the

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1 different types of cells that are present. When I look at
2 those I would determine whether or not I see, I see any
3 spermatozoa. And I would look at those. Usually I look at
4 those if the three swabs, the sets of swabs, are negative
5 for the indication of semen.

6 I also did analyze the vaginal, oral and rectal swabs,
7 the fingernail scrapings, the panties, pubic hair combings,
8 the buccal swabs from Hillard Lee Walker, Ben Carl
9 Neblet -- Nevins and Norman E. Stoudenmire, as well as
10 swabs from a beer can.

11 Q And did you perform analysis and comparison? You have
12 those results in front of you, correct?

13 A I have, yes, I have the results on my reports.

14 Q One moment, please.

15 MR. HALL: No objection.

16 MR. GRAY: Your Honor, at this time I would like to
17 enter into evidence State's Exhibits 32, 33, 34, 35, 36 and
18 39.

19 THE COURT: They are admitted without objection.

20 MR. GRAY: Thank you.

21 THE COURT: Is 38 not in that group?

22 MR. GRAY: No, sir, Your Honor.

23 (Fingernail scrapings of the victim marked State's
24 Exhibit No. 32; blood standard of the victim marked State's
25 Exhibit No. 33; blood sample of the victim marked State's

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1 Exhibit No. 34; buccal swabs of the victim marked State's
2 Exhibit No. 35; buccal swabs of Hillard Lee Walker marked
3 State's Exhibit No. 36; buccal swabs of Ben Nevins marked
4 State's Exhibit No. 39.)

5 Q Ms. Thompson, what were the results of your analysis
6 and comparisons, please?

7 A Okay. In the result section of my report -- may I
8 read directly from that?

9 Q Yes.

10 A "The D. N. A. obtained from the biological material on
11 item 1.6-L -- that would be the fingernail scrapings from
12 the left hand, L -- that is foreign to Gwendolyn Emory
13 matches the D. N. A. profile of Norman E. Stoudenmire. The
14 probability of randomly selecting an unrelated individual
15 having a D. N. A. profile matching this item is
16 approximately one in 950 billion. The D. N. A. obtained
17 from item 1.6-R is a mixture. The major contributor to
18 this mixture is consistent with being Gwendolyn Emory.
19 Norman E. Stoudenmire cannot be excluded as a minor
20 contributor. The partial D. N. A. profile developed from
21 item 1.10 is insufficient for reliable interpretation."

22 Q Now, I just want to ask you a few more questions. You
23 had the standards of Mr. Nevins and Mr. Walker, correct?

24 A That is correct.

25 Q Did you compare those to the fingernail scrapings from

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1 1.6 for Ms. Emory?

2 A Yes, I did make that comparison.

3 Q And you also compared, as you just stated, Mr. Nevins.

4 A Yes, I did.

5 Q And on the defendant, Mr. Stoudenmire.

6 A Yes, as well as Mr. Stoudenmire.

7 Q The only match you found was Mr. Stoudenmire, correct?

8 A That is correct.

9 Q And you said that is one in 950 billion?

10 A Yes. That is correct.

11 Q How many times is that the population of this planet?

12 A 509 billion is approximately 144 times the population
13 of the earth, which is 6.6 billion.

14 Q So it's a pretty good chance that the D. N. A. under
15 Ms. Emory's fingernails belongs to Mr. Stoudenmire?

16 A One in 950 billion is a fairly strong statistic.

17 Q Thank you, ma'am. Nothing further at this time.

18 Please answer any questions Mr. Hall may have.

19 A Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. HALL

22 Q Now, I have -- I received your report this past
23 weekend where you did an analysis last week, I believe, on
24 item -- your item No. 6. I'm not going to go into those.
25 I don't even if it's in evidence. But talking about a

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1 Natural Light beer can.

2 A Yes, sir.

3 Q And did you get any D. N. A. off of that?

4 A Yes, I did get D. N. A. off of item No. 6, the Natural
5 Light beer can.

6 MR. GRAY: Objection, Your Honor. May we approach?

7 THE COURT: Sure.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 Q And did you have a sample that matched that D. N. A.?

11 A Yes, I did.

12 Q And who did it match?

13 A Gwendolyn Emory.

14 Q And in your 950 billion to one, Norman Stoudenmire on
15 the fingernail scraping, can you tell what material that D.
16 N. A. came from other than fingernail scrapings? Can you
17 tell skin, blood, saliva, anything like that?

18 A If there were any visual signs of blood present I
19 would have done a test for blood. So I did not see any red
20 or brown stains on, on, on what I had as fingernail
21 scrapings.

22 And the only body fluids that I do routinely test for
23 are saliva, semen and blood. Other than that -- skin
24 cells, no, we do not have a test to be able to determine
25 skin cells.

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1 Q So you don't know what the material was that you got
2 the D. N. A.

3 A Correct. I only know that that D. N. A. was present.

4 Q From the beer can do you know what material the D. N.
5 A. came from, whether it was saliva or anything else?

6 A I did not perform a test on -- I'm sorry. Let me
7 check to be sure I did not.

8 No. I did not perform a test on any serology. And
9 serology would be the test for body fluids. I did not
10 perform a test on serology. And for item No. 6 I just
11 swabbed the lip area of the can. So I assumed that it was
12 from whoever was drinking that, that beverage. But I do
13 not know for sure.

14 Q Okay. But you can say her D. N. A. was on the can.

15 A Yes, sir.

16 Q But you don't if that was from saliva, from maybe some
17 blood that was mixed in with whatever materials. Nothing
18 that you can look at and say I need to do further tests.
19 It's just D. N. A. materials, some material with D. N. A.
20 in it.

21 A Right. If I had had an indication that there may be
22 blood present I would have tested for that. I did not
23 visualize anything, therefore I did not test for it.

24 Q So in both of these cases you can't tell where that D.
25 N. A. came from, a contributor.

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1 A Correct.

2 Q And you can't tell how it got there.

3 A No, sir, I cannot tell how D. N. A. got somewhere. I
4 just know that it is there.

5 Q You made a point of saying could have come from -- in
6 regards to your 1.6-L -- it could have gotten there from
7 scratchings.

8 A It is possible, yes.

9 Q If just hypothetically, if I had scratched somebody's
10 back I could have got some D. N. A. material.

11 A It's possible, yes.

12 Q As opposed to fighting with somebody and scratching.

13 A Scratching is scratching, yes, sir.

14 Q Can you tell me how long D. N. A. can stay on a beer
15 can -- can be sitting there and you still get a sample? Is
16 it one day, two days or infinity?

17 A There is no way to make that determination. It varies
18 item my item.

19 Q Okay. Can, say, does genetic material that you could
20 get D. N. A. from last any longer on a table, wooden table,
21 versus something with a plastic top, plastic material?

22 A I don't know of any variation.

23 Q Okay. Can D. N. A. be picked up, D. N. A. material,
24 genetic material, be picked up from that person's hand
25 coming in contact with something other than the person that

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Cross-examination by Mr. Hall

1 the D. N. A. came from such as if I have dandruff and my
2 dandruff falls on this table, can that be picked up by
3 somebody and can you get D. N. A. from them?

4 A I would think that would be very highly unlikely
5 because of the amount of D. N. A. that you may shed in
6 dandruff would be very small. And in order to visualize
7 that D. N. A. from under the person's fingernails with
8 their own D. N. A. being present there has to be a
9 substantial amount of that second person's D. N. A. to find
10 their D. N. A., as well as my own under my own fingernails.

11 I would expect my own D. N. A. under my own
12 fingernails. So in order to have somebody else's present
13 and visually be able to detect it it has to be there in a
14 substantial amount.

15 Q What's a substantial amount?

16 A It depends on how much D. N. A. is present under the
17 fingernails over all.

18 Q So there's a lot of variables.

19 A Yes.

20 Q Okay. Say, if somebody is perspiring, does that
21 have their D. N. A.?

22 A It potentially has some of their D. N. A. in it, yes.
23 Some skin cells may be present in their sweat.

24 Q Or if somebody talks and when they talk they spit.
25 Some people do that, especially the times you're eating

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1 something or drinking something. You salivate more, and
2 you could actually have saliva coming out of your mouth.
3 And does that if that goes on a table or something that's
4 made out of plastic, can that last for a period of time?

5 A Yes, it can last.

6 Q Okay. And could somebody else pick that up on their
7 hands by touching that, coming into contact with it, and
8 that be there?

9 A It would be possible but not probable.

10 Q And would it stand to reason somebody with rougher
11 hands would tend to pick up more foreign material than
12 somebody who has smooth manicured hands?

13 A I can't make that determination, sir. I've never seen
14 anything, any analysis, on that.

15 Q But the bottom line is you can't tell us how any of
16 the material you tested got on the -- got to the place
17 where you tested it from.

18 A Right. I cannot make a determination how the D. N. A.
19 got there, only whether or not it is present.

20 MR. HALL: No further questions.

21 MR. GRAY: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. GRAY

24 Q These standards and these items that you tested, the
25 1.6, those are fingernail scrapings, correct?

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Recross-examination by Mr. Hall

1 A 1.6 was fingernail scrapings, yes.

2 Q Which came from under the fingernails of the victim,
3 correct?

4 A Correct, under the fingernails of the victim,
5 Gwendolyn Emory, yes.

6 Q And what's more probable, touching or scratching
7 someone to transfer D. N. A.?

8 MR. HALL: Objection, Your Honor.

9 THE COURT: Sustained.

10 Q He asked you how long something will stay or if you
11 transfer it from a table or whatever. Is it possible to
12 remove that D. N. A. if Ms. Emory, if Ms. Emory had washed
13 her hands?

14 A Yes. I would expect that washing her hands would
15 remove most D. N. A., depending on how well you washed
16 them.

17 Q Or taking a shower or bath.

18 A Yes.

19 Q Or washing your hair.

20 A Yes.

21 Q Thank you, ma'am.

22 MR. GRAY: Nothing further.

23 RECROSS-EXAMINATION

24 BY MR. HALL

25 Q But bathing doesn't necessarily totally remove it.

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1 A It depends on how well someone bathes. I would assume
2 that water and soap would remove D. N. A., yes.

3 Q If they wash well.

4 A Yes.

5 Q And that doesn't stop them from still picking up trace
6 D. N. A. after they would have bathed.

7 A Correct.

8 Q Thank you.

9 MR. HALL: No further questions.

10 THE COURT: You may step down.

11 MR. GRAY: Your Honor, may these witnesses be excused
12 from SLED?

13 THE COURT: They may be.

14 (Whereupon, the witnesses were excused.)

15 MR. GRAY: Your Honor, that's the state's showing.

16 THE COURT: Ladies and gentlemen, that is all of the
17 testimony or evidence to be offered by the state, at least
18 in their case in chief.

19 But before we can go further I've some matters to
20 address with the lawyers. So I'll ask you to please go to
21 your jury room. Do not yet discuss the case. I'll bring
22 you back shortly.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Any motions or other matters to address?

Motions

1 MR. HALL: Yes, sir, Your Honor.

2 I need to go through the motions as it were. I need
3 to make a motion for a directed verdict as viewing the
4 evidence in the light most favorable to the state there's
5 not sufficient evidence from which the jury could find my
6 client guilty.

7 THE COURT: All right. That motion is denied.
8 Any others?

9 MR. HALL: Your Honor, one other thing.

10 I'm going to ask for a recess momentarily so I can
11 speak to my client in some more detail. We've talked both
12 ways the past several weeks of what to present, if
13 anything. And I guess the first thing we need would be to
14 take care of his criminal history and what would be
15 admissible in the event that he did testify.

16 THE COURT: All right. Mr. Gray, what would you
17 propose to introduce by way of convictions for purposes of
18 impeachment in the event the defendant were to testify?

19 MR. GRAY: For purposes of impeachment, Your Honor, we
20 have a 2005 C. D. V. first I would present for impeachment
21 purposes.

22 THE COURT: 2005 C. D. V. first?

23 MR. GRAY: Yes, sir, Your Honor.

24 MR. HALL: Your Honor, we take the position that
25 doesn't fit into Rule 609.

1 THE COURT: How is that allowed under 609?

2 MR. GRAY: Well, Your Honor, depending upon his
3 testimony, whether or not he is a violent person, not a
4 violent person. That C. D. V. conviction I believe shows
5 his violence toward women, Your Honor.

6 Also I have --

7 MR. HALL: If I can be heard on that this -- I know
8 well, and most people know well, that domestic violence can
9 be a threat of violence also, not necessarily any violence.
10 And I believe this was a Spartanburg County conviction
11 and probably -- I assume that the officers in 2005 were
12 here and could have answered any questions probably
13 whichever court it was in, probably got the records of what
14 it was.

15 So that all -- domestic violence are actually of
16 violence. It's just the person, the victim, in my
17 experience, sometimes all it takes is the victim saying I
18 fear for my safety.

19 THE COURT: Well, I mean, there's no way for me to
20 know, or y'all either for that matter unless you
21 investigate it, as to what -- what the circumstances were
22 that related to any individual conviction.

23 But, Mr. Gray, you're not offering it for the purposes
24 of impeachment but for -- to establish a prior bad act. Is
25 that what you're saying?

1 MR. GRAY: Yes, sir. For impeachment, Your Honor. I
2 would offer anything involving dishonesty. And I served a
3 notice on Mr. Hall that involved a 1977 burglary,
4 housebreaking and larceny, a 1991, excuse me, 1996 grand
5 larceny, giving a false name.

6 THE COURT: Well, let's take them one at a time.

7 MR. GRAY: Yes, sir.

8 THE COURT: Give me your first one.

9 MR. GRAY: 1977 burglary, housebreaking.

10 THE COURT: Okay. Mr. Hall.

11 MR. HALL: Your Honor, that is 30 some-odd years ago,
12 33 years ago. I think that's too remote under the rule.

13 And 609 would envision going back ten years.

14 THE COURT: Well, let me ask you this.

15 Under 609(b) was advance written notice given of the
16 state's intention to use that for purposes of impeachment?

17 MR. HALL: Yes, sir, it was.

18 THE COURT: All right. So then the issue is whether
19 it's too remote. What's in between '77 and 2010?

20 MR. GRAY: Between '77 and 2010 there is a 1985
21 failure to stop for police vehicle; 1987, resisting arrest;
22 1988, assault on an officer and resisting arrest; 1999,
23 failure to stop for police and a felony driving under the
24 influence; 1996, grand larceny, petty larceny, shoplifting,
25 receiving stolen goods, another failure to stop; 1999,

1 driving under the influence third offense, two offenses,
2 and a failure to stop for a blue light. And there's a
3 misdemeanor in 2001, but I am sure Mr. Hall would oppose
4 that, of public drunkenness.

5 THE COURT: All right. Give me those that are
6 actually just within the ten years.

7 MR. GRAY: Within the ten years, Your Honor, I believe
8 there would be just the 2001 public drunkenness and 2005 C.
9 D. V. first.

10 THE COURT: All right. Mr. Hall.

11 MR. HALL: Your Honor, for the past ten -- C. D. V.
12 first, that's a 30-day charge. Public drunk, anything from
13 loud, boisterous, cursing. I don't think we've had -- we
14 may have the Sarratt case by then, but could be just
15 cussing. And, Your Honor, I think those are 30-day
16 offenses. I don't, just don't, think the rule envisions
17 that.

18 THE COURT: All right. Well, those that are within
19 the ten years do not appear be permitted for impeachment
20 purposes under 609.

21 As far as the other offenses go, they might be
22 relevant on the issue of impeachment, but they are all
23 outside the ten years. And as I understand the rule and
24 the cases interpreting it, if they're outside the ten years
25 they are presumed to be too remote to have any relevance on

1 the issue of impeachment unless otherwise shown. And I
2 haven't heard or seen anything otherwise shown that would
3 tell me that they are more probative than prejudicial.

4 So those offenses will be excluded too unless they --
5 you know, something were to arise during examination that
6 would cause them to be relevant.

7 MR. HALL: Thank you, Your Honor. If we can have
8 some --

9 THE COURT: The only -- well, let me just say this.
10 The only, the only offense I -- know the '77 offense
11 obviously is the one that ordinarily would be used for
12 impeachment. That clearly is too remote.
13 1996, grand larceny and shoplifting is also -- and
14 petit larceny -- is also clearly acts of dishonesty that
15 would ordinarily be permitted for purposes of impeachment,
16 but they are also outside the ten years. And there are no
17 other offenses that I've been told about that have occurred
18 since 1996 that relate to convictions for crimes involving
19 dishonesty, fraud or deceit. So that's my rationale for
20 excluding those for impeachment purposes.

21 MR. HALL: Thank you, Your Honor.

22 THE COURT: Okay. Anything else?

23 MR. GRAY: No, sir.

24 MR. HALL: Nothing from the defense.

25 THE COURT: All right. Do you need to talk to him

1 about his testimony?

2 MR. HALL: Yes, sir.

3 THE COURT: Do you have any other witnesses you're
4 going to call?

5 MR. HALL: I'm going to talk to him about that too,
6 Your Honor.

7 THE COURT: All right. Let's take 15 minutes.

8 (Whereupon, a recess was taken.)

9 THE COURT: Mr. Hall, have you and your client had the
10 opportunity now to discuss whether or not he wishes to
11 testify in this case?

12 MR. HALL: Yes, sir, we have.

13 THE COURT: Does he indicate to you a preference?

14 MR. HALL: Your Honor, after discussing it with him
15 his decision is that he is not going to testify or offer
16 any witnesses.

17 THE COURT: All right. Mr. Stoudenmire, your lawyer
18 tells me that you do not wish to testify in the trial of
19 this case.

20 Has an explained to you the fact that you being
21 charged with a crime have an absolute right to remain
22 silent? Nobody can make you take the witness stand and
23 testify. Nobody can require that you make a statement or
24 answer any questions.

25 At the same time, if you want to provide this jury

1 with any additional evidence by way of testimony or
2 otherwise now is the only opportunity that you will have to
3 do so.

4 In other words, you can't wait until after the jury
5 has reached a decision and change your mind, because it'll
6 be too late. Now is the opportunity that you have to
7 testify if you wish to. But it's your choice. Nobody can
8 require it.

9 Have you had plenty of time to discuss with your
10 lawyer your right to testify, as well as not testify?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And have you and he discussed the
13 advantages and disadvantages of testifying, as well as not
14 testifying?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you appreciate what those advantages
17 and disadvantages are?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And have you had time to reflect upon your
20 decision as to whether or not you will testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And have you reached a decision?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And what is your decision?

25 THE DEFENDANT: I'm not going to testify.

1 THE COURT: And is that a decision that you reached of
2 your own free will and accord?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Did anybody force you into it?

5 THE DEFENDANT: No, sir.

6 THE COURT: Pressure you into it?

7 THE DEFENDANT: No, sir.

8 THE COURT: Did anybody even suggest that that's the
9 decision that you ought to make?

10 THE DEFENDANT: No, sir.

11 THE COURT: You made that decision on your own after
12 carefully reflecting upon all of the factors associated
13 with such a decision?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And after having fully discussed it with
16 your lawyer?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Do you have any other witnesses you
19 want Mr. Hall to call on your behalf?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. All right. Well, we'll break for
22 lunch and come back and conclude with the summations and
23 deliberations.

24 Okay. Bring the jury in, please.

25 (The following takes place in the presence of the

1 jury.)

2 THE COURT: All right. Ladies and gentlemen, as you
3 know, the state has rested in their presentation. So we'll
4 now proceed with any additional evidence to be offered by
5 the defendant.

6 Mr. Hall.

7 MR. HALL: The state -- the defense rests, Your Honor.
8 We are not going to present any evidence.

9 THE COURT: All right. Ladies and gentlemen, that is
10 all of the testimony and evidence to be offered in the
11 trial of this case; and therefore what remains to be done
12 are the lawyers' final summations, after which I'll
13 instruct you on the law, and then you can begin with your
14 deliberations.

15 That's going to take a little while, and this is a
16 convenient time for us to break for lunch, so we'll do so.
17 We will resume after lunch at 1:45, at 1:45.

18 So you're going to be excused now until 1:45. You are
19 asked to report back to your jury room at that time.

20 In the meantime no discusses about the case, no
21 research, no investigation, no exposure to any type of
22 information that might relate to it.

23 Do have a good lunch, and please be back in your jury
24 room not later than 1:45 this afternoon, 1:45, a quarter
25 till 2:00.

Motions

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: All right. Mr. Hall, do you want to renew
4 your motions?

5 MR. HALL: Yes, sir, Your Honor.

6 Again, we move for a directed verdict of not guilty
7 viewing in the light most favorable to the defense at this
8 point. There's not sufficient evidence from which the jury
9 could find my client guilty.

10 THE COURT: All right. That motion should be and is
11 therefore denied.

12 Any instruction requests by the state?

13 MR. GRAY: Your Honor, we just request murder only. I
14 don't think there's any evidence of manslaughter or
15 involuntary manslaughter. Obviously, the statement of the
16 defendant, expert witness, those type of things, Your
17 Honor.

18 THE COURT: All right. Mr. Hall.

19 MR. HALL: The only thing I would say based on the
20 supposed written statement, No. 2, from which my client
21 says, "If I did it, I didn't mean to do it, I don't
22 remember it," is the only thing that I'd suggest that
23 points towards anything that's been presented that would be
24 manslaughter. "If I did it, I didn't mean to do it." I
25 think I phrased that right. "If I did it, I didn't mean to

1 do it. I don't remember it."

2 THE COURT: Well, is there some evidence that will
3 support a voluntary manslaughter or involuntary
4 manslaughter, I mean, other than the fact that you say --

5 MR. HALL: Other than that, Your Honor, no, sir.

6 THE COURT: Okay. Those requests are declined.

7 The jury will be instructed on the offense of murder
8 only.

9 Any other instruction requests?

10 MR. GRAY: No, sir.

11 MR. HALL: None from the defense, Your Honor.

12 THE COURT: Okay. Court is in recess until 1:45.

13 (Whereupon, a recess was taken.)

14 THE COURT: All right. Are we ready for the jury?

15 MR. GRAY: Yes, sir, Your Honor.

16 MR. HALL: Yes, sir.

17 THE COURT: Okay. Bring them in, please.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: Good afternoon, ladies and gentlemen.

21 As you know, all of the evidence has been received.

22 So you're going to hear from the lawyers in their final
23 summations, after which I'll provide you the instruction on
24 the law. And then you can begin with your deliberations.

25 So please give the lawyers your attention now as they

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1 give you their final summations.

2 Mr. Gray.

3 MR. GRAY: Thank you, Your Honor.

4 Mr. Hall, family, ladies and gentlemen of the jury,
5 thank you for your attention to this delicate matter the
6 past couple of days.

7 We're here about something very serious, the murder of
8 Ms. Gwen Emory of [REDACTED] on February the
9 23rd of 2008. The person accused of that crime is
10 Mr. Norman Stoudenmire.

11 Now, he's not just accused of that crime, ladies and
12 gentlemen. The state, the witnesses, evidence, my
13 co-counsel, we have proved that he did this crime, ladies
14 and gentlemen.

15 At the beginning of this trial you heard from my
16 cocounsel -- not should have, not could have, but must
17 have -- not should have, not could have, but must have.

18 You heard from a number of people. You heard from Ben
19 Nevins. This was the boyfriend of the victim at the time.
20 Unfortunately, Mr. Nevins discovered her body after he'd
21 been there the previous night before.

22 This murder, ladies and gentlemen, fits the definition
23 that the state has given. It's the killing of another
24 person with malice aforethought.

25 It's not like television where it's some

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1 premeditation, some intricate crime that was thought up.
2 Malice -- it is aforethought, some type of intense
3 indifference toward life.

4 It can be a second before it happens, during the act.
5 It's not some creation that Mr. Stoudenmire had to think
6 about this for a number of days. He could have malice
7 aforethought. If he goes and has that malice aforethought
8 and then takes the life of another individual, Ms. Emory,
9 that's considered murder.

10 And that's what happened, ladies and gentlemen,
11 February 23rd. You heard from his roommate who was sitting
12 around smoking crack. You heard from other witnesses about
13 Mr. Stoudenmire and how when he wants crack he wants more,
14 he wants more.

15 You heard from his roommate, Mr. Hillard Walker, say
16 he had his crack and he was fine. He went to bed. Nobody
17 knows where Norman was after that.

18 That's not exactly true. Ms. Emory knows what
19 happened after that. She knows he came down to her
20 address, busted the door. He's a pretty big guy. Busted
21 the door and came into her house and stabbed her once,
22 twice, three, four times. He even went for a fifth and
23 missed and hit the waterbed.

24 One stab wound here, a stab wound here, stab wound
25 here. And this is the one that Dr. Wren told you stabbed

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1 her in the heart where she bled out, not slowly, ten to 15
2 minutes, and her life was gone. She lost 5 liters of
3 blood.

4 Now, you also heard testimony that he busted in the
5 door with such force that it knocked the lock plates off
6 the wall, a piece of the wall. A piece of the door came
7 flying off when he came in the house.

8 He was so intent he didn't go to the bathroom where
9 all the money was. He didn't take a computer that was
10 there. This was burglary. It was one purpose, because,
11 please excuse me, as he confessed to Officer Bryant Ms.
12 Emory liked to stir shit up.

13 She gave him the message he was terminated from his
14 job. You heard Ms. Pack talk about how he would lay out
15 from his job, how he had problems on his job because of
16 substance abuse.

17 You heard his neighbors say that if we're not here,
18 told the daughter, you lock the door, you don't let him
19 come in.

20 You heard him confess to the officers. "I'm a monster
21 when I'm on crack. I am responsible for Gwen's death -- I
22 am responsible for Gwen's death. I am responsible."

23 Now, if we just had some type of one piece of evidence
24 or two pieces of evidence, or three, we may have had a
25 problem here.

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1 We don't have an eye witness. Well, like I said
2 before, we have one, but we have two, because his D. N. A.
3 was left behind during this attack.

4 You heard her boyfriend talk. Came down there to talk
5 to her 8:00 o'clock on Saturday night, couldn't stay long.
6 And, unfortunately, like most men, he had to get home and
7 watch the basketball game. Didn't want to be interrupted.
8 At 8:00 o'clock he leaves.

9 And after she had washed her body, you heard testimony
10 about D. N. A. and washing your body. Just washing your
11 hands, it wouldn't be there. He told these officers,
12 Mr. Stoudenmire did, the last time I was down there was
13 three weeks ago.

14 Not maybe, not should have, not could have. The D. N.
15 A. might still be there. Three weeks ago he said was the
16 last time I was down there but I am responsible for her
17 death.

18 That night he went there with one purpose. Broke in
19 while she was asleep. Mr. Nevins tells you she was getting
20 ready for bed. Blue top. And she had just washed her body
21 getting ready for bed.

22 She's in her waterbed. This big man comes to the
23 entire trailer and busted in the door and stabs her four
24 times, stabbed the waterbed and leaves.

25 Now, Lee -- Hillard Lee Walker told you they'd been

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1 smoking crack. He also told you crack's \$20. You heard
2 Mr. Glenn say that \$20 that he gave to Mr. Stoudenmire was
3 five and some ones.

4 You heard Mr. Walker talk about the shadowbox, the
5 picture frame with David Ball that was shattered.

6 You heard testimony that wasn't on the wall. It
7 didn't fall off the wall by accident. He had such malice
8 in his heart. You heard testimony that shadow box was on
9 the computer table. He walks by and picks it and smashes
10 it and takes the twenty-dollar bill signed by David Ball.

11 Why? It's sad; it's unfortunate. That's the world we
12 live in. He wanted more crack. Not should have, not could
13 have.

14 After he stabbed her he goes back home and gets up the
15 next day. And most people would think you would hear
16 people say he acted like nothing happened.

17 But you heard something different from Mr. Glenn,
18 didn't you? That he was different. Said, excuse me,
19 Mr. Stoudenmire was different. His attitude had changed.
20 He wasn't talkative. He wasn't the same person.

21 He kept up with his normal routine. His sister came
22 and got him that Sunday morning, and they left before the
23 police arrived. The police arrived.

24 And he starts calling Ms. Glenn. What's going on?
25 Anybody coming to my house and taking anything out? Are

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1 the police still there?

2 He called Ms. Pack, the person who fired him, and
3 tells her what happened to Ms. Emory -- the person he had
4 previously threatened, the person he had problems with.
5 And then he goes to Florida.

6 The normal routine is go to my sister's house and help
7 with some work and stay there for the week and on Friday I
8 come back. That's what the Glenns said. He comes back to
9 the house. The Glenns also tell you he left on Sunday,
10 February the 24th, and that was the last time they saw him.

11 The officers tell you he calls back and says I'm in
12 Florida but I'm coming back, I'll see you. He gives a
13 voluntary sample of his D. N. A., and it matches.

14 Officer Ruffner tells you he talks to him one time
15 when he's not under arrest. Sees a scratch on his neck.
16 You heard testimony about D. N. A. under her fingernails,
17 scrapings under her fingernails, not some random touch of a
18 computer key board, of a table. Not could have, not should
19 have, would have.

20 She was in the bed going to sleep, and this man
21 surprised her. She reached up, and she scratched him once.
22 That's a big advantage. But that's all she had time for,
23 because you heard Dr. Wren say that was a fatal blow.

24 You saw the video. She was in the corner of her bed
25 like this. No opportunity to fight, no opportunity to

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1 fight back. She was done in ten to 15 minutes. And he
2 left her laying there bleeding out.

3 It doesn't matter what the temperature of the waterbed
4 was. He left her bleeding out. Not should have, not could
5 have, not what must have happened. What did happen. She
6 turned over in that, her panties and her blue shirt, the
7 blue shirt I'm not going pull out. There's some gloves
8 back there. Covered in blood.

9 Talked about different things in this trial, about him
10 being an addict, about him being a mean crackhead, about
11 his situation even on his street where the local drug
12 dealer wouldn't complete a deal with him. He was
13 desperate. You heard testimony he would beg for money if
14 he needed it.

15 So he had two reasons. He didn't like her because she
16 stirred stuff up, and he needed money. He knew where it
17 was. But he needed it just to keep that high. He needed
18 that \$20 for that crack.

19 So after she dies, after he kills her, he leaves town
20 and comes back and cooperates like nothing's happened.

21 Something did happen. These two gentlemen did their
22 jobs. You're going to hear again, possibly. I don't know.
23 I respect Mr. Hall. He's a good attorney.

24 Should have, could have, would have? What they could
25 have done, what they should have done. I don't know. I

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1 know what they did.

2 They knew this was a D. N. A. case. They got D. N. A.
3 And you know what? They didn't stop there. They talked to
4 Mr. Ben Nevins, the boyfriend, like every good C. S. I.
5 show, you know, it's the boyfriend or it's the husband.
6 They got, they got D. N. A. from him. They talked to the
7 exboyfriend, Mr. Walker. They got D. N. A. from him.

8 They sent Ms. Emory in, blood swabs, buccal swabs,
9 vaginal swabs, all kinds of swabs, scrapings under the
10 fingernails, blood draws. They got her D. N. A. And did
11 they test the D. N. A. Did they keep it? No. As good
12 investigators they sent it to the experts down at SLED.

13 You heard two experts from SLED tell you, two very
14 important ladies. One, the toxicology expert told you that
15 she wasn't drunk. She wasn't high. No marijuana, no
16 cocaine, no alcohol, nothing in her system. She was in bed
17 going to sleep when he burst in on her.

18 No. 2, you heard from an expert, a D. N. A. expert,
19 that the scrapings or the D. N. A. that were under the
20 fingernails of the victim did not match the exboyfriend,
21 did not match the present boyfriend. The chances that they
22 matched the killer, 950 billion to one -- 140 times the
23 population of this planet.

24 Intent, malice, presence and identity. He did it.
25 Not what they should have done, what they could have done.

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1 It's what he did with malice aforethought.

2 He went to that house and busted in that door that
3 night and stabbed this lady four times. And it would have
4 been five if she hadn't moved possibly, rolled over, and
5 left her there to bleed out.

6 Ladies and gentlemen, that's murder in the state of
7 South Carolina when the chances are 950 billion to one. We
8 have his D. N. A. Thank you.

9 MR. HALL: May it please the Court.

10 THE COURT: Mr. Hall.

11 MR. HALL: Solicitor, Mr. Foreman, members of the
12 jury, I want to thank you for your attention through this
13 trial.

14 These trials are never easy for anyone, certainly not
15 the parties involved, but not for the jury either. These
16 are unpleasant things we go through.

17 A lot of hard, hard questions you have to answer to
18 make, do your job. To do your job, as I told you in the
19 opening statements on Monday, you have to pay attention to
20 what's going on, and I think for the most part that's
21 what's happened here. And we appreciate that.

22 I'm not going to spend a whole lot of time talking
23 about the law because the judge is very competent in that
24 and he's going to tell you what the law is. But murder is
25 taking the life of another person with malice aforethought.

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1 But, more importantly, for me and what I'm doing here
2 is who has the burden of proof. In our system a defendant
3 never has any burden of proof, never has to present
4 anything, never has to try to present anything.

5 The burden of proof is entirely on the state to prove
6 the defendant guilty beyond a reasonable doubt, beyond a
7 reasonable doubt, a doubt that would cause you to hesitate
8 to act as a reasonable person to find the person charged
9 guilty.

10 In this case we're talking about the murder of
11 Gwendolyn Emory. And Norman Eugene Stoudenmire, Jr. has
12 been charged. And the state must prove him guilty beyond a
13 reasonable doubt or you have to find him not guilty.

14 Now, we can agree on some things. We know that
15 Gwendolyn Emory was killed from four stab wounds, one of
16 them being fatal, or about sometime around 23rd or 24th of
17 February of 2008.

18 We know she was last seen on Saturday, the 23rd, about
19 8:00 p.m., a little after, maybe a little after. She was
20 found something after 1:00 p.m. on the 24th. No question.

21 We know that this case was investigated by the
22 Spartanburg County Sheriff's Office. They took
23 photographs, collected, took fingerprints and collected
24 other types of evidence.

25 We do know what happened with some of that evidence,

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1 and other parts of the evidence, articles of evidence, we
2 don't know what happened to them. Nothing happened to them
3 apparently. Some of it was virtually forgotten.

4 We heard from Investigator Talanges, said he collected
5 at the entry point, the broken doorjamb that we've heard so
6 much about, a 2-or-3-inch hair that was logged into
7 evidence. And I showed Investigator Bryant the sheet. Oh,
8 yeah, we got that. Nothing was ever done with it.

9 There was a partial print that the testimony was I
10 turned it over to our fingerprint man and he put it on the
11 AFIS. Nothing about comparing that to Norman Stoudenmire,
12 Ben Nevins, Hillard Lee Walker or Gwendolyn Emory, the
13 partial print from the shadowbox that they want you to
14 believe that my client picked up and walked into the room
15 and smashed and turned over and took a twenty-dollar bill
16 from it.

17 Maybe we would've known, maybe we would have known who
18 did that if we had done that print a bit more.

19 And then there was the roll of film. There was eight
20 rolls of film collected for some purpose, but nothing was
21 ever done with them. We don't know what was on there, if
22 it was somebody else's pictures, some other suspect, some
23 other -- something on there, pictures of people, certain
24 person at a certain person's house or property, something
25 that would lead somewhere else. But the decision was made

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1 by the lead investigator for the state not to do anything
2 with those items.

3 Their case, I think we can all agree, is basically
4 based on some D. N. A. and these supposed statements. We
5 have one statement that's written, and then a longer time.
6 We get an oral statement or statements over an 8-plus-hour
7 period.

8 The written statement, which I believe you will have,
9 if I did it, I didn't mean to, I don't remember. And I
10 think Investigator Bryant even said, well, that's really
11 not an admission at one point.

12 From their documentation that was 50 minutes into the
13 interrogation, maybe a little less. Not one hour later,
14 not two hours later, but about seven hours later and maybe
15 a little more the interrogation is finally over.

16 He took responsibility -- he took responsibility. Not
17 once did we hear he said he killed Gwen Emory. He never
18 said I killed her, never said I did it. He accepted
19 responsibility. He took responsibility over a 7-or-8-hour
20 period. What we have is the officers' interpretation of
21 what was said during those times.

22 Now, we don't -- we have a hard copy of that written
23 statement that you can look at. You can see. You can read
24 that.

25 The rest of this interrogation we have the officers

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1 notes, their interpretation. We have no record of those
2 eight hours or so. We don't know the content, context of
3 the words, when they were said, how they were said, in
4 response to what question. We don't have any kind of
5 narrative, asked this question, he said this. We don't
6 have that. We have a summary.

7 But you have to look at the context of the things that
8 were said. There was the testimony is, oh, yes, he did it,
9 said he can block these things out of his mind.

10 Well, didn't he tell you about seeing his daughter
11 tragically killed in front of him and blocks this out of
12 his mind and it's put him on these drugs and alcohol?
13 That's the proper context of that statement.

14 Death penalty. He was worried about the death
15 penalty. We arrested him for murder. And are you
16 surprised that he's worried about the death penalty? He
17 just had a murder warrant served on him.

18 I would think that is fairly common thought for people
19 when they've just been charged with murder, this death
20 penalty. Am I going to get the death penalty? Can you
21 keep me from getting the death penalty?

22 We had two seasoned, experienced officers, violent
23 crime interrogators, 8-plus hours of interrogation. We get
24 one written statement.

25 I asked didn't you want to record it. No. He didn't

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1 want it recorded. Wouldn't it have been better to record
2 it? "We wanted to keep the flow of communication going."

3 Now, had they recorded it we would have several hours
4 of conversations back and forth to hear, to hear exactly
5 what was said. If they had video-taped it, we could see
6 and hear.

7 Remember we saw a video that's 25 or 30 minutes of
8 Ms. Gwendolyn Emory's house. We got to see what the
9 outside of the house looks like. I couldn't tell if the
10 audio was on or not from where I was, but we got to see
11 outside of the house. We got to see the approaches to the
12 house.

13 We actually got to see standing at the house looking
14 at other buildings around. We went into the house. We
15 went through the house. We went into the bedroom. We went
16 into the bathroom. We saw everything Officer Talanges saw.
17 We didn't just have to rely on his notes. We had a video.

18 Now, they took pictures of all of this stuff too, so
19 we had that, but we had a video. You could see everything
20 he saw. We didn't have to rely on his notes and on his
21 memory. We had the hard copy.

22 They chose not to record it. So all we have is he
23 accepted responsibility. They wanted the communication
24 flow to continue. If they had recorded it that flow of
25 communication could be here for you. They chose not to do

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1 it. They stopped that flow of communication as far as it
2 comes to you.

3 We have their notes, their recollection, their
4 interpretation of what he said. We don't know how it was
5 said, the context in which it was said. We don't know. We
6 just have some summary he accepted responsibility.

7 Now, we have also 90, excuse me, 950 billion to one
8 that it's his D. N. A., more than several hundred times, I
9 think, they said in the population of the world.

10 Well, we don't deny that his D. N. A. was there. We
11 don't deny D. N. A. somehow got on him. What we don't know
12 is what kind of material that was. It was just genetic
13 material. We don't know what it was.

14 It didn't look like blood. It didn't look brown or
15 anything like that or she would have tested it for blood.
16 She didn't do that, because it was just some D. N. A.,
17 generic material, in there. We don't know where it came
18 from other than her finger, under her fingernail. We don't
19 know how it got there.

20 Now, they tried to say, well, during the investigation
21 when we talked to him, I believe it's when they got his
22 sample, when he drove, came back from Florida to talk to
23 them and give them a D. N. A. sample, drove back, came back
24 from Florida to talk to them and give them a sample of his
25 D. N. A., said saw a mark on his neck. They didn't

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1 photograph it.

2 A day or so later they arrest him and have him in
3 custody from 12:00 o'clock to 8:30 or so. He's in the jail
4 a little before 9:30. They never took a picture of that
5 mark. I don't know what that was, if it was a scratch,
6 what it was. I don't know why that gentleman like me.
7 It's hard pressed to shave without leaving a mark on your
8 neck. But we don't have a picture of that to see what it
9 was.

10 We had testimony about the beer can. And that's
11 important for a few reasons. It was in -- saw a video of
12 the bedroom in that video. And they collected that and
13 submitted it for D. N. A. It had Gwen Emory's D. N. A. on
14 it.

15 She said she swabbed the top of the can. Gwen Emory's
16 D. N. A. We don't know how long it had been there. What
17 we do know is when they tested her blood she didn't have
18 any alcohol in her system.

19 Ben Nevins when he was down there Friday, excuse me,
20 Saturday evening, so she wouldn't call during the Tennessee
21 game, and I'm not a sports fan, but I know what it's like
22 to be interrupted doing things, so sometimes you take some
23 preempted measures. So he went down there and said she
24 wasn't drinking, she wasn't drinking that night.

25 They were able to pull her D. N. A. off that can. We

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1 don't know how long it'd been there. And I'm not talking
2 bad about her, but she kept her clothes stacked up. It
3 wasn't the neatest house in the world. I'm not criticizing
4 her but just making observation.

5 The bathroom as you recall, things were everywhere.
6 Looks like what my daughter does. Just she uses it and
7 puts it on the counter. When she comes back it's still
8 there. Can't find it, but it's still there.

9 So D. N. A. can last on things. It can be tested
10 later and say that's her D. N. A. I'm not trying to tell
11 you how long it was, but it's apparently more than from
12 Saturday night. It's been there for some time.

13 We do know that Ben, excuse me, that some of the
14 witnesses told us that Norman Stoudenmire worked on Gwen's
15 computers. I think Phyllis said and he charged her for
16 working on the computers.

17 We had the testimony that, yeah, he'd been in the
18 house. I think a couple of other witnesses, yeah, he'd
19 been in the house at some point. There's some testimony
20 they said he had been back to the bedroom moving furniture.

21 If you'll remember Ben's testimony when he went down
22 there to get the C. D.s and hopefully keep her from calling
23 while he's watching Tennessee and whoever play, she was on
24 the computer making C. D.s for him, on the computer making
25 C. D.s.

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1 She was in the bedroom on the bed. A piece of
2 furniture in there, I think the testimony was about trying
3 to move it looking for a phone jack.

4 We had the testimony from Investigator Talanges that
5 he did move the body around on the bed and had to take the
6 shirt off and everything, and then it wasn't until later
7 that he bagged the hands to preserve evidence. We don't
8 know what her hands touched. We had the stiffness already
9 in them. We don't know what her hand came in contact.

10 They're worried about communication, keep that
11 communication flowing. They weren't worried about that
12 hair or that partial print or what that would tell us.
13 Couldn't to stop that flow.

14 Now, he said he is a crack monster, he's a crack
15 monster. We had John and Angela which had differences with
16 in the past that they made up. And they were good
17 neighbors helping each other. And John said, yeah, he's a
18 little different on crack.

19 He was quiet the next day while he's running a
20 chainsaw cutting wood. Not as talkative as normal. Didn't
21 say he was a crack monster.

22 Angela. He can be a little different, had that
23 instance with that girlfriend running her and her family
24 off. Won't you run somebody off your property that's
25 causing a problem? Yeah, going to do that.

Closing arguments

1 Phyllis who doesn't like him, I don't think there's
2 any telling your secrets there, they've had bad blood.
3 Woman said he's threatened me. Sounds like violence. He
4 threatened to turn me into D. S. S. about my daughter.
5 That's a far cry from violent.

6 Talk about the incident. He came by my house asking
7 for money, and he was wired and weird. He'd been drinking.
8 Oh, yeah, he'd been drinking.

9 Not one of those people ever said he got violent
10 trying to get crack cocaine or money for crack cocaine.
11 While I'm talking about crack cocaine, I would kinda think
12 it a badge of honor if a crack dealer didn't want me around
13 his house. I don't know.

14 Let's look at what Lee told us. He was the last
15 person to see Norman on Saturday night. They smoked crack
16 Friday night. They got up and went to John Glenn's house
17 and worked on his building pretty much all day. They drank
18 a few beers.

19 When we asked them about their crack smoking on
20 Saturday night, he said I had \$20. He sold that computer
21 to get \$20. We each have a rock. There's two rocks and
22 two people.

23 Well, what did you do when you finished? Said, well,
24 kind of chilled out, basically what he told you. They had
25 supper. He went to bed. Norman was on the computer.

Closing arguments

1 Asked him what do y'all do when you run out of money
2 and run out of crack cocaine. Said, well, we can't get any
3 more money, can't get any more crack cocaine, just kind of
4 stay there. Chill out and go to bed. What was happening
5 Saturday night?

6 He said something else. He said never known Norman to
7 go up to Gwen's past 9:00 or 10:00 o'clock. This was after
8 9:00, hitting 10:00. He said he went to bed somewhere
9 around 10:00 or 11:00 o'clock.

10 And he never said that Lee -- Lee never said to Norman
11 anything about wanting any more crack after that one rock.
12 So we don't have that crack monster. We have a person who
13 uses crack cocaine and a person who drinks, a person who
14 doesn't like people on his property that's causing trouble.

15 Now, Lee testified about the supposed firing, Gwen or
16 whatever, that somehow there's animosity because Gwen had
17 fired him.

18 Remember what the police said Gwen, as close as firing
19 to firing as she came, is Phyllis says you need to call
20 her. I'm taking -- me and Lee are going to work. You need
21 to call Phyllis. Gwen didn't fire him. Phyllis did.

22 Before I leave, they want to make it sound strange
23 that Norman Stoudenmire called John and Angela's house
24 Sunday afternoon. You remember her testimony. She never
25 found out why he was calling. Need to tell Lee something,

Closing arguments

1 left something on at the -- I don't know. That never got
2 to that.

3 She said there's something going on at Gwen's. What?
4 I don't know. Of course he called back. What's going on?
5 Anything going on at my house? That's not unusual. That's
6 probably what most people would do who couldn't get back to
7 the area.

8 We had Dr. Wren, esteemed Dr. Wren. What he told us
9 was he performed his autopsy. Pretty straightforward. We
10 don't deny that she was stabbed, that she bled out at the
11 aorta.

12 What he was able to tell us, a few things about rigor
13 lividity and decomposition. He told us a story about a guy
14 out in Texas in extreme heat, 40 minutes, and somebody
15 looked like they'd been dead several weeks. And then the
16 other extreme, people dug up from the tundra that been in
17 there for years and years and looked like they'd been dead
18 a couple of weeks.

19 In this case we have a heated waterbed and presumably
20 a heated house. We can't tell any kind of time of death.
21 They won't even try to do that. They don't make a guess at
22 it.

23 We don't know when she died. We know it was sometime
24 between 8:00 on one evening and a little after 1:00 the
25 next. But he said D. N. A. can be picked up or transferred

Jury charge

1 from an object to a person, certainly after showering.
2 Sometimes it depends on how well a person cleans if they
3 clean, whether or not they clean things out from under
4 their fingernails. But it doesn't stop you from coming in
5 contact with something or somebody and getting D. N. A. on
6 them.

7 Nobody could tell us how long D. N. A. could set on a
8 surface, a table, a bed, a keyboard and then be picked up
9 and still be tested. I don't have any information on that.
10 I've not seen anything on that. Doesn't answer that
11 question.

12 When you look at the case, all of it, the things that
13 were done and the things that were not done, could have,
14 maybe. But when you look at it, when you weigh that
15 evidence, what they have proved beyond a reasonable doubt
16 is not that he did it, that he could have done it.

17 And I submit to you there are questions here. There
18 are reasons to hesitate to act. The state has not proved
19 him guilty beyond a reasonable doubt. Thank you.

20 THE COURT: Mr. Foreman and ladies and gentlemen of
21 the jury, you of course have heard and seen all of the
22 evidence in this case, as well as the final summations.

23 So I am now going to instruct you on the law that's
24 applicable. And then you'll be asked to go back and begin
25 with your deliberations. And through that process you'll

Jury charge

1 examine the evidence, decide the facts, apply the law and
2 arrive at a fair and just decision in the case.

3 It is your exclusive duty to determine what the facts
4 are. You do that through your own common-sense examination
5 and evaluation of all of the testimony and other evidence
6 received during the trial of the case.

7 And you 12 jurors alone will decide what weight, value
8 and effect to give to any particular testimony or other
9 evidence in the case. Your sole objective is to simply
10 reach the truth in the matter. And by doing that you will
11 have fulfilled your obligations as jurors, and that is to
12 give both the state and the defendant a fair and impartial
13 trial.

14 Now, in this case, as you know, the defendant has been
15 accused by the prosecutor by way of this indictment with
16 having committed the crime of murder. And the state
17 alleges in the indictment that the defendant, Norman Eugene
18 Stoudenmire, did here in Spartanburg County on or about
19 February the 23rd of 2008 wilfully and with malice
20 aforethought kill Gwendolyn Emory by stabbing her and that
21 she died as a proximate result of that wound.

22 Now, as I've told you, that indictment is not evidence
23 in this case. It's not proof of anything. It does not
24 establish anything.

25 It is simply the means by which any person is brought

Jury charge

1 into this court and is formally accused of a crime. And of
2 course it serves to put a defendant on notice as to what
3 crime the state claims that that defendant has committed.

4 The indictment will be in the jury room, Mr. Foreman,
5 but the reason it's there is because it will serve as the
6 verdict form.

7 You'll notice on the back of the indictment in the
8 lower left-hand corner, you will see the word verdict. And
9 it's beneath that word that you'll indicate the jury's
10 unanimous decision. But other than the indictment serving
11 as the verdict form it serves no purpose so far as you
12 jurors are concerned.

13 Now, as to the allegations in the indictment and the
14 charge contained therein the defendant has entered a plea
15 of not guilty. And as I've told you, that plea of not
16 guilty therefore places upon the state the burden of
17 proving the allegations that they have made against the
18 defendant, the burden of proving each of the essential
19 elements of the crime of murder that they have alleged
20 against the defendant; and therefore the burden is upon the
21 state to establish his guilt to the satisfaction of each of
22 you jurors beyond a reasonable doubt before any verdict of
23 guilty could be returned.

24 The burden is never upon a defendant or a person
25 accused of a crime to prove that they are not guilty or to

Jury charge

1 prove that they are innocent because in many cases that
2 might not be possible. As I told you, the burden is always
3 upon the state because the state has brought this charge
4 against the defendant to prove his guilt beyond a
5 reasonable doubt.

6 And you are further instructed that it is a vital,
7 important and cardinal rule of law that every defendant in
8 a criminal trial --

9 (Pause for juror coughing.)

10 THE COURT: Do you need some water?

11 THE JUROR: No.

12 THE COURT: Are you sure?

13 It is a vital, important and cardinal rule of law that
14 every defendant in a criminal trial, no matter how serious
15 the offense might be for which he stands charged, the
16 person charged shall always be presumed innocent of that
17 charge.

18 That presumption of innocence remains with any
19 defendant, as it does with this defendant, from the time
20 that he is placed under arrest and throughout the course of
21 the criminal process and even throughout the course of the
22 actual trial in the case.

23 And as I believe I told you, that presumption of
24 innocence will be with Mr. Stoudenmire even as you go back
25 to begin your deliberations in this case. And that

Jury charge

1 presumption of innocence will be with them in the jury
2 room, and it'll be with him forever unless you 12 jurors
3 determine that he's no longer entitled to that presumption
4 of innocence.

5 That is after you've carefully considered all of the
6 evidence in the case, and from that evidence you've decided
7 the facts, and upon deciding those facts you apply the law
8 that I will have provided you, if you 12 jurors unanimously
9 determine that his guilt has been proven beyond a
10 reasonable doubt, then he would no longer be entitled to
11 that presumption of innocence. But it's only if, unless
12 and until you are satisfied of his guilt beyond a
13 reasonable doubt that the presumption of innocence would no
14 longer be applicable.

15 Now, while the state does have the burden of proving
16 the defendant's guilt to your satisfaction beyond a
17 reasonable doubt, that doesn't mean that the state has to
18 prove his guilt beyond all doubt or beyond any possible
19 doubt. But it does require the state to prove his guilt to
20 your satisfaction beyond a reasonable doubt.

21 The term reasonable doubt should be given its plain
22 and ordinary meaning. A reasonable doubt is the kind of
23 doubt that would cause a reasonable person to hesitate to
24 act upon the information provided.

25 A defendant in a criminal trial is entitled to any

Jury charge

1 reasonable doubt that arises from the evidence or lack of
2 evidence in a case. And if upon any factual issue
3 essential to a finding of a verdict of guilty you have some
4 reasonable doubt as to how that issue should be resolved,
5 it would be your duty to resolve that reasonable doubt in
6 favor of the defendant.

7 And therefore if upon your consideration of the whole
8 case you have a reasonable doubt as to the defendant's
9 guilt you must resolve that doubt in his favor and return a
10 verdict of not guilty.

11 And, at the same time, after you've considered all of
12 the evidence and decided the facts and applied the law if
13 you have no reasonable doubt as to his guilt, then it would
14 be your corresponding duty to convict the defendant or to
15 find him guilty of the crime for which you have determined
16 has been proven beyond a reasonable doubt.

17 Now, the same law that provides that you are the
18 judges of the facts also provides that I am the judge of
19 the law. That simply means that nobody is going to tell
20 you how to arrive at your determination of fact in this
21 case.

22 You do that, as I believe I've already told you,
23 through the exercise of good judgment and common sense
24 conscientiously applied to the testimony and evidence
25 received during the trial of the case.

Jury charge

1 You must however under your oath as a juror accept the
2 law as I provide it to you as being the law that is
3 applicable in this particular case. And therefore you're
4 never to concern yourself with what you thought the law was
5 before you came to serve as a juror this week or what you
6 think it ought to be.

7 Under your oath as a juror you must simply accept the
8 law as I provide it to you as being the law that you are to
9 apply in this case. And then you simply take that law and
10 you apply it to the facts as you 12 jurors determine those
11 facts to be based upon your common sense examination and
12 evaluation of the evidence.

13 Now, because you are the sole judges of the facts in
14 this case you are therefore necessarily the sole judges of
15 the credibility and the believability of each witness that
16 has testified during the trial.

17 You 12 jurors alone will decide what weight, value and
18 effect to give to any particular witness' testimony or
19 other evidence in the case. Again, your sole objective is
20 to simply reach the truth in the matter, and by doing that
21 you will have fulfilled your obligations.

22 But in assessing a witness' credibility there are
23 several factors which you should consider, and I'm going to
24 list those factors for you.

25 You should consider the demeanor of the witness, that

Jury charge

1 is how the witness appeared to you when the witness
2 testified from the witness stand. Was the witness
3 straightforward in responding to those questions, or was
4 the witness hesitant or evasive in responding to the
5 questions that were asked of the witness.

6 Simply put, did the witness appear to you to be
7 telling the truth and to have knowledge of the facts to
8 which that witness has testified.

9 You should consider whether or not the testimony of a
10 witness is consistent or inconsistent with that witness'
11 own testimony, as well as any other statements that might
12 be made by that witness outside of court.

13 You should also consider whether or not the testimony
14 of a witness is consistent or inconsistent with other
15 witnesses' testimony or other evidence received during the
16 trial of the case.

17 You should also consider how the witness came to know
18 the facts to which a witness has testified. In other
19 words, what was a particular witness' opportunity and
20 ability to perceive the existence of some fact to which
21 they've testified to by having previously used his or her
22 senses. And then what is that witness' ability to be able
23 to come into court and to accurately recollect to you as to
24 what they have previously perceived.

25 You should also consider any bias or prejudice or

Jury charge

1 interest that you find a witness might have in regards to a
2 case. In other words, do you find some reason that a
3 particular witness would come into court and would testify
4 one way or another to help or to hurt one side or the
5 other.

6 You may consider any interest that a witness might
7 have in the outcome of the case if you determine that a
8 witness does have such an interest and you find that that
9 interest would bear upon that particular witness'
10 credibility.

11 You should also consider whether or not the testimony
12 a witness is strengthened, or is it weakened by other
13 testimony or other evidence received during the trial of
14 the case.

15 You as the finders of the facts and you as the judges
16 of the credibility of each witness are permitted to believe
17 as much or as little of what a witness has testified to as
18 you deem is appropriate; and therefore you may believe
19 everything that a witness testified to. You may choose to
20 believe none of it. You may believe one portion of a
21 witness' testimony and reject some other portion of that
22 same witness' testimony.

23 In a given case you could believe one witness as
24 opposed to several, or several as opposed to one. But
25 whatever your good judgment and common sense tells you is

Jury charge

1 the most believable and credible testimony is the testimony
2 you should accept. And you should reject any testimony
3 that you find not to be credible or believable.

4 Again, your sole objective is to simply reach the
5 truth in the matter. And by doing that you will have
6 fulfilled your obligations.

7 Now, while there are various forms of evidence such as
8 testimony, documents, charts, photographs and other types
9 of physical exhibits, there are really only two types of
10 evidence. Either or both of those types of evidence may be
11 used to prove some fact in issue and they may be used --
12 that evidence may be used simply or collectively. But the
13 two types of evidence are direct evidence and
14 circumstantial evidence.

15 Now, direct evidence is the testimony of a person who
16 testifies from actual knowledge of the fact. It is
17 testimony by a person who has perceived the existence of
18 some fact by means of his or her senses, and then they come
19 into court and they testify as to what they have previously
20 seen, heard, or felt for that matter.

21 Circumstantial evidence, on the other hand, is the
22 proof of some other fact or set of facts which taken either
23 singly or collectively may prove the existence of a fact in
24 question as a necessary consequence, that is through an
25 inference.

Jury charge

1 And an inference is simply a deduction of fact that
2 may logically and reasonably be drawn from the proof of
3 some other. It's not a fact proven by the direct testimony
4 of a witness based upon their own personal perception, but
5 it is a fact which might reasonably be drawn from the proof
6 of other facts.

7 In other words, you may infer that a particular event
8 occurred or that a particular fact exists based upon the
9 proof of sufficient factual circumstances which would
10 reasonably warrant your arriving at that conclusion.

11 The law however makes absolutely no distinction
12 between the weight or value to be given to direct evidence
13 or circumstantial evidence, nor is a greater degree of
14 certainty required of circumstantial evidence as opposed to
15 direct evidence.

16 Whatever the type of evidence used to prove any fact
17 in issue, you should consider all of the evidence presented
18 in the case. And after carefully considering and weighing
19 all of that evidence in your minds if you are not convinced
20 of the guilt of the defendant beyond a reasonable doubt,
21 then you must resolve that doubt in his favor and return a
22 verdict of not guilty.

23 Now, in this case, as you know, the defendant is
24 charged with the crime of murder. Murder is a statutory
25 offense. In other words, the legislature has passed a

Jury charge

1 statute defining what constitutes the crime of murder.

2 That definition is set forth in 16-3-10 of the Code of
3 Laws of South Carolina. And that statute provides that
4 murder is the killing of any person with malice
5 aforethought either expressed or implied -- expressed or
6 implied referring to the element of malice.

7 Now, in order for you to find the defendant guilty of
8 the crime of murder it would be necessary that the evidence
9 in this case has established to your satisfaction beyond a
10 reasonable doubt that the defendant did commit some act or
11 acts which proximately caused the death of the decedent,
12 Gwendolyn Emory, and that the killing was done with malice
13 aforethought. Malice aforethought is an essential element
14 of the crime of murder.

15 Malice as an essential element of the crime of murder
16 is a state of mind connoting an ill will and having the
17 intent to do harm, intent referring to a state of mind
18 which directs a person's actions towards a specific object
19 or goal.

20 The term intent would include those consequences which
21 represent the very purpose for which an act is done, as
22 well as for those consequences which are known to be
23 substantially certain to result whether actually intended
24 or not.

25 Malice is a technical term importing wickedness and

Jury charge

1 excluding just cause or legal excuse. It is something
2 which springs from depravity, from a heart devoid of social
3 duty and fatally bent on mischief. It is a state of mind
4 indicating an extreme disregard for or an extreme
5 indifference to human life.

6 Malice may be likewise defined as a state of mind
7 which indicates a formed purpose and design to do a
8 wrongful act under circumstances that exclude any legal
9 right to do it.

10 The words expressed and implied malice do not mean
11 different kinds of malice but merely the manner in which
12 malice may be shown to have existed, that is to say either
13 by direct evidence or by circumstantial evidence implying
14 or inferring the existence of malice.

15 As I told you, an inference is simply a deduction of
16 fact that may logically and reasonably be drawn from the
17 proof of some other fact or set of facts.

18 Malice may be expressed as where there is an expressed
19 threat to kill or where the circumstances show a lying in
20 wait or where the circumstances show directly that the
21 intent to kill was entertained by the killer.

22 Malice may be inferred, though no expressed intent to
23 kill is proven by direct evidence, where the facts and
24 circumstances which have been proven by the evidence in the
25 case satisfy you beyond a reasonable doubt that malice was

Jury charge

1 present in the mind of the killer at the time any killing
2 took place.

3 The existence of malice may be inferred from the
4 circumstances shown to have existed at the time of the
5 event, as often the state of a person's mind can only be
6 proven by circumstantial evidence.

7 Malice as an essential element of the crime of murder
8 does not necessarily require proof of an actual or specific
9 intent to take human life, but rather it means a state of
10 mind accompanying conduct signifying a general malignant
11 recklessness and an extreme disregard for or an extreme
12 indifference to human life.

13 Now, even if the facts proven are sufficient to raise
14 an inference of malice, such an inference would simply be
15 an evidentiary fact to be taken into consideration by you
16 jurors along with all of the evidence received during the
17 trial of this case. And you may give such inferences, if
18 any, such weight, if any, that you determine they should
19 receive.

20 The state is required to prove malice, just as it must
21 prove any other essential element of the crime of murder.
22 And it is for you 12 jurors to determine based upon your
23 review of the evidence whether or not in this case malice
24 has been established beyond a reasonable doubt.

25 It's also essential that there be not only malice, but

Jury charge

1 it must be malice aforethought. The law does not require
2 that malice must exist for any appreciable length of time
3 before the commission of an act proximately causing a fatal
4 result. Indeed, it might be conceived at the very moment
5 that the fatal act is committed.

6 It is sufficient in the law so long as the state does
7 prove beyond a reasonable doubt both the existence of
8 malice and the commission of an act or acts by the
9 defendant which proximately caused the fatal result.

10 You must determine whether or not malice aforethought
11 existed based upon your consideration of all of the
12 evidence in this case and any reasonable inferences that
13 might be drawn from that evidence.

14 While the state must prove beyond a reasonable doubt
15 that a killing did occur and that it was accompanied by the
16 element of malice aforethought in order to establish the
17 crime of murder, it is not necessary that the state prove
18 any motive for such a killing.

19 Motive is not an essential element of the crime of
20 murder which must be proven, although there may be evidence
21 relating to that fact introduced during the trial of the
22 case.

23 You are further instructed that the voluntary
24 consumption by a person of alcohol or of any other
25 intoxicating substance is no defense to the commission of a

Jury charge

1 crime. A person who voluntarily consumes any intoxicating
2 substance in any degree is just as responsible for acts
3 committed while under the influence of those intoxicating
4 substances as he would be if the acts were committed while
5 he was sober or otherwise not under the influence of any
6 intoxicating substance.

7 You are further instructed, and I do emphasize to you,
8 that the fact that a defendant does not testify during the
9 trial of a criminal case is not a circumstance that may be
10 considered by the jury in any way whatsoever in your
11 deliberations or in your determination as to whether or not
12 his guilt has been proven beyond a reasonable doubt.

13 You are not to allow such a fact to weigh in the
14 slightest degree against a defendant, because, as I've told
15 you, the burden is never upon a defendant to prove that he
16 or she is not guilty or to prove that he or she is innocent
17 because in many cases that might not be possible.

18 Because the state has brought the charge against the
19 defendant, the state always has the burden of establishing
20 that person's guilt beyond a reasonable doubt. And
21 therefore you are never to draw any inference or reach any
22 conclusion from the fact that a defendant does not testify
23 during the trial of the case, nor may that fact even be
24 discussed by the jurors while you are engaged in your
25 deliberations and it may be -- it may not be considered in

Jury charge

1 any way whatsoever in your determination as to whether or
2 not his guilt has been proven beyond a reasonable doubt.

3 Now, ladies and gentlemen, I am not in any way
4 concerned with what your decision is, but you are
5 instructed that the verdict of the jury must be unanimous.
6 All 12 of you must be in agreement.

7 So, Mr. Foreman, as you know, you're going to be
8 called upon to preside over the jury deliberations in the
9 jury room simply to ensure that those deliberations are
10 carried out in some orderly fashion.

11 All jurors are expected to participate, because the
12 verdict is a unanimous consensus opinion of all 12 of you
13 jurors. And so all of you will have an equal vote in the
14 result.

15 Mr. Foreman, after you and your fellow jurors have
16 deliberated the case I'm going to ask that you indicate the
17 jury's unanimous decision on the back of the indictment as
18 I indicated to you earlier.

19 In this case you have two potential verdict forms.
20 Those two forms are guilty and not guilty. So whichever
21 that decision is, indicate it in the space provided on the
22 back of the indictment.

23 And there's also a space for you to sign the verdict
24 form. You're the only juror that needs to sign the verdict
25 form. You'll also need to put the appropriate date.

Jury charge

1 I'm told that we have at least two smokers on the
2 jury. We may have others that decide to take it up during
3 deliberations. We will see.

4 If you need to smoke while you are engaged in
5 deliberations you are permitted to do that, but you cannot
6 do it in the jury room. You have to go outside in order to
7 smoke.

8 So if anybody needs to smoke, if you'll let the
9 bailiff know he'll take you outside in order to accomplish
10 that purpose.

11 The jurors are instructed however that deliberations
12 may not take place unless all 12 jurors are present in the
13 jury room so that all may participate. So if at any time a
14 juror is absent for some authorized purpose, then the
15 deliberations must stop. And they may only resume when all
16 are present so that all may participate.

17 Now, during your deliberations there may come a time
18 where you have some question about the facts or you have a
19 question about the evidence or you have a question about
20 the testimony or you wonder if there's some other piece of
21 evidence that exists that you can have that you think might
22 could assist you in resolving the case.

23 All of the evidence that is to be introduced in this
24 case has been introduced. The evidence period is closed.
25 No additional evidence may be received even if it did

Jury charge

1 exist. No additional may be received.

2 So if when the evidence comes back if you think, well,
3 you know, we might need something else, don't ask me about
4 it, because even if it existed you can't have it. You
5 can't have any more evidence.

6 If you have a question about testimony and you think
7 having testimony replayed will assist you in resolving that
8 question, then you can have testimony replayed.

9 I do not have transcripts to provide you of witnesses'
10 testimony, but we can bring you back into the courtroom.
11 And the court reporter will replay a witness' testimony in
12 its entirety or only in part if that's all you need.

13 So, Mr. Foreman, if at any time you have need to have
14 testimony replayed, you'll have to let me know, and which
15 witness it is. And if you need part of it, identify that.
16 If you want to hear all of it, we'll play all of it. But
17 we will have to bring you back into the courtroom for that
18 purpose.

19 If at any time you have a question about the law that
20 you are to apply as I have instructed you, I am permitted
21 to answer those questions.

22 So if you need me to reinstruct you on the entirety or
23 a portion of it, I can. If you need an explanation as to a
24 particular point of law or you need a clarification of a
25 point of law, I am permitted to provide those additional

Jury charge

1 explanations or clarifications.

2 So if at any time, Mr. Foreman, you need to direct
3 something to me, if you'll write it on a piece of paper,
4 give it to the bailiff. He'll provide it to me and I'll
5 respond accordingly.

6 I think that covers everything. So I'm going to ask
7 all of the jurors with the exception of Mr. Sanders if
8 you'll go back to your jury room. But do not get begin
9 deliberations. I need to talk with the lawyers for a
10 moment.

11 If I don't need to bring you back I'll send word by
12 way of the bailiff that you can begin with your
13 deliberations. In that event he'll bring to the jury room
14 all of the exhibits which have been introduced.

15 And to you, Mr. Foreman, he'll also bring the
16 indictment which will serve as the verdict form.

17 So I'll ask the 12 primary jurors to go back to the
18 jury room.

19 And, Mr. Sanders, you can just stay with me in the
20 courtroom.

21 But don't begin deliberations until I send you word to
22 do so.

23 (Whereupon, the jury retired to deliberate at
24 3:05 p.m.)

25 (Whereupon, the alternate juror was excused.)

Verdict

1 THE COURT: Are there any exceptions taken to the
2 instruction or requests for additions to the instruction by
3 the state?

4 MR. GRAY: No, sir, Your Honor.

5 THE COURT: By the defendant?

6 MR. HALL: None from the defense, Your Honor.

7 THE COURT: Let me ask y'all to verify the exhibits
8 before they go back, please.

9 (Whereupon, the exhibits were submitted to the jury at
10 3:10 p.m.)

11 (Whereupon, a recess was taken.)

12 THE COURT: I understand the jury has reached a
13 verdict. Are we ready to receive it?

14 MR. GRAY: Yes, sir, Your Honor.

15 MR. HALL: Yes, sir.

16 THE COURT: Okay. Bring them in.

17 (Whereupon, the jury returned to the courtroom at
18 7:10 p.m.)

19 THE COURT: Mr. Foreman, have you and your fellow
20 jurors reached a unanimous decision?

21 THE FOREMAN: Yes, Your Honor.

22 THE COURT: And have you indicated that decision on
23 the back of the indictment as requested?

24 THE FOREMAN: Yes, sir.

25 THE COURT: Did you sign your name as the foreperson

Verdict

1 and date it?

2 THE FOREMAN: Yes, sir.

3 THE COURT: If you would, please hand that verdict
4 form up by way of the bailiff.

5 You may publish the verdict.

6 THE CLERK: State of South Carolina, County of
7 Spartanburg, State of South Carolina vs. Norman Eugene
8 Stoudenmire, Case No. 2008-GS-42-7014, indictment for
9 murder, the jury finds the defendant, Norman Eugene
10 Stoudenmire, guilty. Signed by the foreperson, Robert
11 Widener, this date 3/31/2010.

12 Ladies and gentlemen of the jury, is this your verdict
13 and still your verdict? If so, please raise your right
14 hand.

15 (Whereupon, all jurors responded in the affirmative.)

16 THE CLERK: So say you all.

17 THE COURT: Does the defendant wish to have the jury
18 polled?

19 MR. HALL: Yes, sir.

20 THE COURT: All right. Poll the jury, please, ma'am.
21 Go ahead.

22 THE CLERK: Ladies and gentlemen of the jury, I will
23 be asking you a question, and that question is is this your
24 verdict and still your verdict.

25 When I call your name, if you would, just answer yes

Verdict

1 or no.

2 Juror No. 95, Kenneth Jones.

3 THE JUROR: Yes.

4 THE CLERK: Juror No. 181, Charles West.

5 THE JUROR: Yes.

6 THE CLERK: Juror No. 37, Betty Compton.

7 THE JUROR: Yes.

8 THE CLERK: Juror No. 48, Todd Duck.

9 THE JUROR: Yes.

10 THE CLERK: Juror 78, James Hawkins.

11 THE JUROR: Yes.

12 THE CLERK: Juror No. 157, Baktawar Singh.

13 THE JUROR: Yes.

14 THE CLERK: Juror No. 151, Joaquin Romero.

15 THE JUROR: Yes.

16 THE CLERK: Juror No. 55 (sic), Stephanie Gist.

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 178, Nathan Wallace.

19 THE JUROR: Yes.

20 THE CLERK: Juror No. 47, Beth Doughtry (sic).

21 THE JUROR: Yes.

22 THE CLERK: Juror No. 182, Robert Widener.

23 THE JUROR: Yes.

24 THE CLERK: No. 136, Kimberly McConnell.

25 THE JUROR: Yes.

Motion and sentence

1 THE CLERK: The jury has been polled.

2 THE COURT: Any other matters that need to be
3 addressed with the jury present?

4 MR. GRAY: No, sir, Your Honor.

5 MR. HALL: No, sir.

6 (Whereupon, the trial jury was excused.)

7 THE COURT: All right. Any matters to address prior
8 to the imposition of sentence?

9 MR. HALL: Your Honor, just briefly make a motion for
10 a verdict of not guilty notwithstanding the verdict of the
11 jury.

12 The jury was out for some four hours. Obviously,
13 there was some question for them that we ask for a verdict
14 of not guilty, notwithstanding the jury verdict, and in the
15 alternative a new trial. Obviously, there was some issues
16 that gave them some concern. And that would be reasonable
17 doubt, Your Honor.

18 THE COURT: What time did you think they were supposed
19 to come back?

20 MR. HALL: I don't know, Your Honor.

21 THE COURT: All right. Each of those motions are
22 denied.

23 Anything else?

24 MR. HALL: Nothing else, Your Honor.

25 THE COURT: Okay. All right. Anything further on

Sentence

1 behalf of the state?

2 MR. GRAY: Just his prior record, Your Honor, if you'd
3 like to hear it.

4 THE COURT: Okay.

5 MR. GRAY: 1997, housebreaking and burglary, larceny,
6 escape. There's a probation revocation in 1983. 1985,
7 habitual traffic offender and failure to stop for a police
8 vehicle. 1987, resisting arrest; 1988, assaulting an
9 officer while resisting arrest; and 1991, failure to stop,
10 felony driving under the influence. Another probation
11 revocation.

12 1996, grand larceny, petty larceny, shoplifting,
13 driving under the influence second offense, receiving
14 stolen goods and failure to stop.

15 1999, there were two counts of driving under the
16 influence third offense and failure to stop for a blue
17 light.

18 2001, public drunkenness; and in 2005 there were two
19 counts of criminal domestic violence first offense.

20 THE COURT: All right. Mr. Hall, do you and
21 Mr. Stoudenmire agree with that record as being accurate?

22 MR. HALL: Yes, sir. That's what's on his N. C. I. C.

23 THE COURT: Okay. Anything you'd like? Anything else
24 from the state?

25 MR. GRAY: No, sir, Your Honor.

Sentence

1 THE COURT: All right. Mr. Hall.

2 MR. HALL: Your Honor, just briefly on his record.

3 The domestic violence, I think you've heard some
4 testimony about a girlfriend he had a problem with. That
5 was a person that these -- the supposed threatening type
6 case.

7 There was no -- any allegation of any physical harm to
8 her. In fact, one of them, I think it was Rick White with
9 the sheriff's department was actually on his way home from
10 Woodruff and saw them arguing. He, Rick, said he was going
11 to take one of them to jail because they're obviously
12 arguing. It was a heated argument. And he volunteered to
13 go as opposed to her going to jail at that point.

14 The resisting arrest, I believe they looked into it.
15 That was -- he was actually running from the police
16 officer. The police officer slipped and fell and hurt
17 himself. And he got charged with that.

18 But just for Norman, Your Honor, he is 51 years old.
19 He does have adult children, and I think four daughters and
20 some grandchildren in the State of Georgia.

21 He's had different family members. He has two sisters
22 here right now that appear in support for him. His mother
23 is an Alzheimer's patient who is from what he tells me, her
24 condition and my experience with my mother and
25 mother-in-law both dying from that, she is in her final

Sentence

1 stages.

2 His father is basically full time watching and taking
3 care of her. And I think she might have been recently
4 moved to a facility or has been in and out of a facility.

5 Your Honor, he is -- had or has had a problem with
6 drugs since -- for decades after he saw a daughter get
7 killed in a tragic accident. And somehow that's how he
8 chose to deal with it.

9 He has times of great productivity, but he has times
10 he falls into drugs and, Your Honor, just note that with
11 the exception of the domestic violence there is no -- and
12 the resisting arrest sounds like it's violent, but it was
13 just an officer who was chasing him, albeit because he was
14 running, but he did not physically assault the officer.
15 The officer fell in that. He really doesn't have a violent
16 history.

17 I don't know if he's going to want to address the
18 Court at any point, or either of his sisters want to
19 address the Court, but, Your Honor, we do ask you to
20 consider even at the minimum sentence of 30 years he will
21 be close to 80 years old before he would even be eligible
22 to get out of prison.

23 THE COURT: All right. Mr. Stoudenmire, do you have
24 anything you'd like to add to what your lawyer has told me?

25 THE DEFENDANT: No, sir.

Sentence

1 THE COURT: All right. On Indictment 2008-7014, an
2 indictment for murder, wherein you have been found guilty
3 by the jury, Sentence of the Court is you, Norman Eugene
4 Stoudenmire, Jr., be confined to the South Carolina
5 Department of Corrections for the period of your natural
6 life.

7 Mr. Stoudenmire, you have a right to appeal the
8 verdict of the jury and the Sentence of the Court. You
9 must file any notice of your intentions to appeal those
10 decisions within ten days of today's date. Mr. Hall can
11 advise you in that respect.

12 END OF REQUESTED TRANSCRIPT OF RECORD

13

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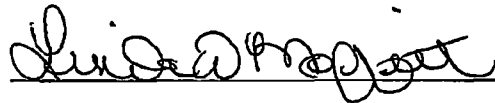
Sentence

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 29th, 30th and 31st days of March 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 29, 2010



Linda D. Moffitt
Circuit Court Reporter

Spartanburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Cole, J. Derham
 TRIAL TYPE : Criminal
 PANEL ID : 2008GS4207014
 COURTROOM JAR

Sorted by: Random Nbr

DESCRIPTION : STATE VS. NORMAN SToudenMIRE Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Jones, Kenneth Glenn	95	W	M	(✓)	(✓)	()	
2 Gilliam, Rory M	63	W	M	(X)	()	()	
3 Rogers, Debra L	149	W	F	(✓)	(X)	()	
4 West, Charles B	181	W	M	(✓)	(✓)	()	
5 Casey, Greer L	30	B	F	(X)	()	()	
6 Compton, Betty H	37	W	F	(✓)	(✓)	()	
7 Duck, Todd L	48	B	M	(✓)	(✓)	()	
8 Hawkins, James W	78	W	M	(✓)	(✓)	()	
9 Singh, Baktawar B	157	A	M	(✓)	(✓)	()	
10 Romero, Joaquin D	151	W	M	(✓)	(✓)	()	
11 Gilbert, Joel K	62	W	M	()	()	()	
12 Hall, Michael D	69	W	M	(X)	()	()	
13 Cole, Leslee M	35	W	F	(✓)	(X)	()	
14 Moss, Leslie S	125	W	M	(✓)	(X)	()	
15 Gist, Stephoni N	65	B	F	(X)	(✓)	()	
16 Wallace, Nathan C	178	W	M	(✓)	(✓)	()	
17 Clayton, Charles D II	31	W	M	(X)	()	()	
18 Doughty, Beth B	47	W	F	(✓)	(✓)	()	
19 Widener, Robert L JR	182	W	M	(✓)	(✓)	()	
20 McConnell, Kimberly L	136	W	F	(✓)	(✓)	()	
21 Sanders, Corey D	154	W	M	(✓)	(✓)	()	
22 Dillard, Lisa A	45	W	F	()	()	()	
23 Rogers, Dianna H	150	W	F	()	()	()	
24 Andrews, Bobbie J	7	W	F	()	()	()	

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NORMAN STOUDENMIRE,

APPELLANT

FINAL BRIEF OF APPELLANT

ROBERT M. DUDEK
Chief Appellate Defender

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Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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1.

The court erred by admitting appellant’s statement into evidence where it was undisputed there was physical contact between the interrogating investigator and appellant, where appellant said he only gave a statement because he was afraid the investigator would hurt him even more, and where it was also undisputed that police intentionally kept appellant’s attorney from being able to see him during the interrogation 5

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STATEMENT OF ISSUES ON APPEAL

Whether the court erred by admitting appellant's statement into evidence where it was undisputed there was physical contact between the interrogating investigator and appellant, where appellant said he only gave a statement because he was afraid the investigator would hurt him even more, and where it was also undisputed that police intentionally kept appellant's attorney from being able to see him during the interrogation?

STATEMENT OF THE CASE

Appellant was indicted by the Spartanburg County Grand Jury for the offense of murder. R. 379. His case was called to trial on March 29, 2010 before the Honorable J. Derham Cole, and a jury. Robert Hall represented appellant. Abel Orlano Gray and Timi Poulos were the assistant solicitors. R. 1.

On March 31, 2010 after over five hours of deliberation the jury found appellant guilty of murder. R. 375, ll. 6-11. Judge Cole sentenced appellant to life imprisonment. R. 376, ll. 1-6.

This appeal follows.

ARGUMENT

The court erred by admitting appellant's statement into evidence where it was undisputed there was physical contact between the interrogating investigator and appellant, where appellant said he only gave a statement because he was afraid the investigator would hurt him even more, and where it was also undisputed that police intentionally kept appellant's attorney from being able to see him during the interrogation

Relevant Facts

Prior to trial a Jackson v. Denno, 378 U.S. 368 (1964), hearing was held. Jason Bryant had been a crime scene investigator at the Spartanburg County Sheriff's Office since 1996.

The murder of appellant's former co-worker and friend, Gwen Emory, occurred on the evening of February 23, 2008 or the morning of February 24, 2008. R. 4, l. 5 – 5, l. 6. Appellant became a suspect in the murder, as did the decedent's boyfriend and her former boyfriend. R. 5, ll. 7-16.

Bryant interviewed appellant on February 29, 2008. Bryant said he met appellant at a residence in Greenville, which was the home of appellant's uncle, and he read appellant his Miranda¹ warnings after he was placed in the patrol car. R. 5, l. 21 – 7, l. 18. Bryant said appellant understood his Miranda warnings, and he maintained appellant never indicated he wanted an attorney. R. 7, l. 2 – 8, l. 24.

Bryant testified appellant gave an oral statement that Bryant reduced to writing. R. 10, l. 16 – 11, l. 12. Bryant also claimed he never threatened appellant or promised him anything. R. 11, l. 22 – 12, l. 3.

Bryant admitted he had physical contact with appellant during the interrogation. However, he sought to down play the amount of force he used: "I slightly touched his chest in the places where Ms. Emory was stabbed at on the left side. . . . to produce an emotional response from Mr. Stoudemire." Bryant testified that appellant, "wept greatly and was remorseful." Bryant denied that he threatened appellant or that he was aggressive with him during the interrogation. R. 16, ll. 12-19.

On cross-examination, Bryant said he did not hear appellant's sister tell him that she would get him a lawyer. Bryant also said he was never told during the interrogation that appellant's attorney was at the police station to advise appellant. However, Bryant admitted if the lawyer was present at the police station interrogation he would have continued the interrogation anyway since he claimed appellant never invoked his right to counsel. R. 20, l. 4 - 21, l. 11.

Bryant also admitted that he was a large man, but he denied using force or threatening appellant. R. 21, l. 16 - 22, l. 11.

Bryant testified that appellant told him he was responsible for the decedent's death "and he blocks that kind of stuff out of his mind." Bryant also offered that appellant told him he suffered from post-traumatic stress syndrome as a result of being raped in prison and the death of his child in an automobile accident. R. 22, ll. 12-23.

Spartanburg County Sheriff's Investigator Todd William Ruffner interviewed appellant on February 27, 2008 and February 29, 2008. He was present when Bryant read appellant his Miranda warning. R. 25, l. 15 - 28, l. 15.

¹ Miranda v. Arizona, 384 U.S. 436 (1966).

Ruffner received a telephone call during the investigation stating that appellant's sister may be hiring an attorney for appellant. R. 29, ll. 4-13. Ruffner said appellant did not give any details about how the victim died but stated appellant said he would accept responsibility for her death if the investigators could guarantee him he would not receive the death penalty. Ruffner testified he told appellant only the solicitor's office could make such a promise. R. 29, l. 7 - 30, l. 22.

Dena Crump was appellant's sister and she was at her uncle's house when appellant was arrested. R. 39, l. 6 - 41, l. 7. Crump said she told appellant she would get him a lawyer in the presence of the investigator. R. 41, l. 11 - 42, l. 11. Crump contacted her daughter so they could retain an attorney for appellant. R. 42, ll. 9-18.

That lawyer was Clyde Louis Pennington, Jr. R. 45, l. 19 - 46, l. 15. Pennington agreed to represent appellant at about 1:00 p.m. on February 29, 2008. Pennington testified that he drove to the police station and told them he was representing "Mr. Stoudemire and I would like to see him." Pennington was never allowed to see appellant and he left the police station at 5:00 p.m. to care for his young children. R. 46, l. 11 - 47, l. 25.

On cross-examination Pennington said the police would not tell him anything other than to confirm that appellant was at the police station. Pennington said he was certain police knew he represented appellant and that he wanted to see him. R. 49, l. 2 - 50, l. 24. Pennington visited appellant in the jail a few days later. R. 52, ll. 10-18.

Appellant took the stand during the suppression hearing in his own defense. Appellant testified he told Ruffner that his sister would be sending an attorney to assist him during questioning. R. 53, l. 11 - 55, l. 16.

Appellant stated that Ruffner “just looked at me like no problem. He didn’t really make much of a comment about it.” R. 55, l. 6-16. Appellant said that the investigators “kept badgering me and just kept insisting and insisting that, that I, that I killed the girl, and I kept telling them, no, I didn’t.” R. 55, ll. 6-23. Appellant said he asked : “Did my attorney ever get there. I had no idea who the attorney was, but I knew my family was sending one.” R. 55, l. 17 – 56, l. 11.

Appellant testified that Investigator Bryant pulled out a picture of the decedent’s body and pounded him in the chest in the places where the decedent was stabbed. R. 57, l. 13 – 59, l. 9. Appellant said that Bryant was very aggressive with him and that he physically hurt him. Ruffner, conversely was not aggressive. R. 59, ll. 6-14. Appellant testified he was scared for his safety and he asked at least every other hour if his attorney had arrived. R. 59, l. 6 – 66, l. 12. Appellant told the trial judge, “I was afraid of his violence. I was trying to do anything I could to get out of there and away from them.” Appellant said this is the only reason he signed the written statement. R. 66, ll. 13-18.

The Judge Rules

Without offering for argument on the facts and the law, the judge ruled immediately after the defense witnesses had testified that appellant’s statement was admissible. The judge reasoned “another person cannot invoke a constitutional right for him [appellant], and in this case he invoked none.” R. 74, l. 14 – 75, l. 6.

Other Trial Evidence

Spartanburg County Sheriff’s Deputy Marc Finley was dispatched to the decedent’s home on February 24, 2008. The mobile home was in a rural area. Finley noticed that the rear door to the double-wide mobile home was open, and it looked like it had been damaged.

R. 76, l. 9 – 80, l. 14. The decedent was found on her bed wearing blue jeans and a t-shirt. She had been stabbed. R. 81, l. 9 – 83, l. 20.

Paramedic David Ravan remembered that the decedent was lying across her bed, there was blood on her side, and that she was stiff. Ravan estimated that such “rigor” occurred about ten to twelve hours after death. R. 89, l. 9 – 93, l. 18. The decedent’s bedroom drawer was open and several loose bills were in the drawer. R 86, ll. 1-25.

Ben Nevins was the decedent’s landlord and he rented her a pasture for her horses. Nevins also had a personal relationship with the decedent. On the day of the murder the decedent gave him some CDs with music on them, and she was supposed to give him another CD the next day. R. 99, l. 15 – 104, l. 3.

When the decedent did not call him the next day he went by her house and he found the door open and damaged. He also saw a broken picture frame on the floor. A twenty-dollar bill that was autographed was found to have been stolen out of the picture frame that was shattered on the floor. Nevins testified that he last saw the decedent on February 23, 2008 at around 8:00 p.m., and she appeared to have just taken a shower. R. 99, l. 15 – 104, l. 3. Nevins said the decedent was dressed the same when she was found dead the next day.

No fingerprints were found of appellant on the picture frame or anywhere in the decedent’s home. Nevins refused to admit on cross-examination that he was jealous that the decedent was dating Hillard Lee Walker, appellant’s roommate. The decedent drove Walker to work each day as she did appellant before he was fired. R. 107, l. 11 – 110, l. 5.

Phyllis Pack, the owner of D & D Masonry, where the decedent was employed testified that appellant also worked for her for seven months to a year. R. 163, l. 3 – 164, l. 9. Without objection, Pack testified that appellant had several altercations with his co-

workers "including myself." She claimed appellant bullied and argued with other employees and he did not want to do his job. R. 164, l. 10 – 165, l. 4. Pack said when she fired appellant he threatened her stating he would "mess me up and call DSS on me and my kids and that kind of stuff." Pack acknowledged she had the decedent break the news to appellant that he was fired. R. 165, l. 8 – 166, l. 16.

Hillard Lee Walker admitted he lived on the same street as the decedent and that they had dated for about six years. The decedent gave Walker a ride to work everyday and she had gotten him the job at D & D Masonry. R. 170, l. 6 – 172, l. 23.

Walker claimed appellant on several occasions borrowed money from the decedent to buy crack cocaine. R. 177, l. 9 – 186, l. 21. Walker also maintained that appellant borrowed money from him for crack and he claimed he just always gave appellant the money because appellant was bigger than him. Walker offered that the crack dealer in the area would no longer sell appellant crack cocaine. R. 187, l. 12 – 193, l. 3.

Defense counsel continuously objected when the solicitor referred to appellant's statement when he moved appellant's inculpatory statement into evidence. R. 232, l. 24 – 233, l. 6; R. 236, l. 23 – 237, l. 4; See Appellant's statement. R. 377.

Investigator Bryant testified in the presence of the jury that appellant told him he "turned into a monster" when he smoked crack cocaine, and "that he was responsible" for the decedent's death. R. 237, l. 2 – 238, l. 7. Bryant also said appellant told him he did not mean to hurt the decedent and that "he didn't deserve to have a life after this . . ." R. 238, ll. 8-22.

Bryant said he asked appellant what was going through his mind when he was stabbing the decedent and he maintained that appellant "uncontrollably wept" and asked for

a guarantee that Bryant would assure "it was not a death-penalty situation . . ." Bryant claimed he told appellant he could not make him any promises. R. 238, l. 15 – 239, l. 23.

The state also introduced evidence that the DNA found underneath the decedent's fingernails on her left hand matched appellant's DNA and the match was approximately one in 950 billion other people. R. 323, ll. 5-21.

Discussion

As seen, Investigator Bryant admitted he had physical contact with appellant during the interrogation. Appellant stated that Bryant hurt him, intimidated him, and that he was scared of the investigator. Appellant further stated that he only signed the statement because he was afraid of the investigator and wanted to get away from him.

In State v. Osborne, 301 S.C. 363, 392 S.E.2d 178 (1990), this Court held that the Sheriff's admission that Osborne would be charged with withholding information or giving the police officer a false statement if she was not forthcoming mandated suppression of her confession. Osborne was told "you don't have to say anything, but if you withhold evidence, you can be charged with a crime." State v. Osborne, 301 S.C. at 366, 392 S.E.2d at 179.

In State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990), this Court held that threats or promises, however slight, mandate suppression of a defendant's statement or confession. In Rochester the Court found that a polygraph examiner telling the defendant it would be in his best interest to tell the truth was neither a threat nor a promise.

Here, the investigator admitted to having physical contact with appellant during the interrogation. This corroborated appellant's testimony that he was physically intimidated by the investigator even though the investigator naturally downplayed the significance of the physical contact. Further, police deliberately kept appellant's attorney from being able to

advise him during the interrogation. The investigator stated he did not have to inform appellant of the attorney's presence because appellant did not invoke his right to counsel. This was nonetheless a factor to consider when determining whether appellant's statement was a knowing, intelligent, and voluntary tendered confession under the totality of the circumstances. See, State v. Hook, 348 S.C. 401, 559 S.E.2d 856 (Ct. App. 2001); State v. Peake, 291 S.C. 138, 139, 352 S.E.2d 487, 488 (1987).

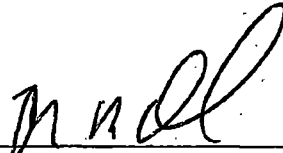
In State v. Hook this Court held that the defendant's statement to his probation officer was inadmissible because his agent expressly threatened to revoke Hook's probationary sentence unless he told the truth. This Court noted that statements given pursuant to threats or under inherently coercive circumstances are not admissible. See, Mincey v. Arizona 437 U.S. 385, 398, 399 (1978); Minnesota v. Murphy 465 U.S. 420, 427 (1984).

The admitted physical contact which corroborated appellant's testimony that he was intimidated and scared of Investigator Bryant, who was a large man, was the explanation for why appellant confessed. This coupled with the investigators deliberately keeping appellant from seeing his attorney showed appellant's statement was entered in such a coercive atmosphere that it should have been suppressed. See, Commonwealth v. Wright, 474 Pa. 92, 376 A.2d 988 (1977) (Defendant's incriminating statement was not admissible where he was struck on the head by policemen with a blackjack.). The trial court erred by admitting appellant's confession.

CONCLUSION

By reason of the foregoing argument, appellant's conviction should be reversed and this case remanded to the Spartanburg County Court of General Sessions for a new trial.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. M. Dudek', is written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of March, 2012.

STATE OF SOUTH CAROLINA
of the Court of Appeals

JOHN L. WILSON, Appellant
vs.
JOHN L. WILSON, Appellee
J. Deane Cole, Circuit Court Judge

The Court,

Remanded,

Writs of Habeas Corpus

Appellate

STATE OF SOUTH CAROLINA

JOHN L. WILSON
Appellant

JOHN L. WILSON
Appellee

JOHN L. WILSON
Appellee

JOHN L. WILSON
Appellee

JOHN L. WILSON
Appellee

JOHN L. WILSON
Appellee

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Whether the court erred by admitting appellant's statement into evidence where it was undisputed there was physical contact between the interrogating investigator and appellant, where appellant said he only gave a statement because he was afraid the investigator would hurt him even more, and where it was also undisputed that police intentionally kept appellant's attorney from being able to see him during the interrogation?

(FBOA, p. 3).

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Whether the trial judge's ruling may be reversed on appeal where substantial evidence was presented during the *in camera* hearing on voluntariness that appellant knew, but did not invoke, his right to have an attorney present during questioning?

RESPONDENT'S STATEMENT OF THE CASE

A Spartanburg County Grand Jury indicted appellant, Norman Stoudenmire, in November 2008 for the murder of Gwendolyn Emory. (R. p. 379). A jury trial was held March 29-31, 2010, before the Honorable J. Derham Cole. The jury convicted appellant as charged. (R. p. 375, lines 6-11). Judge Cole sentenced him to life imprisonment. (R. p. 376, lines 1-6). This appeal follows.

RESPONDENT'S STATEMENT OF FACTS

The victim in this case, Ms. Gwen Emory, was last seen alive on Saturday, February 23, 2008. Ms. Emory was in a casual relationship with neighbor Ben Nevins. Mr. Nevins stopped by Ms. Emory's home at approximately 7:30 or 8:00 p.m., that Saturday and stayed for a short time. Ms. Emory gave Mr. Nevins two music cd's and had promised to call him the next day about a third disc. Ms. Emory did not call Sunday, but while outside clearing part of his property, Mr. Nevins saw her truck by the home, and went inside and called her. After not being able to reach her by phone, Mr. Nevins went to her home at approximately 1:00 p.m. Part of the door was broken, and a broken picture frame was on the floor. He went down the hallway of the home and found Ms. Emory "laying across the bed dead." (R. p. 100, line 3 - p. 101, line 7; p. 104, lines 16-24). Ms. Emory was wearing the same shirt that she had on when he visited Saturday night. (R. p. 103, lines 7-15). The paramedic who had responded to the emergency call after Ms. Emory was found estimated, based on the pooling of blood under the skin on one side, that she had been dead for approximately twelve hours. (R. p. 91, lines 1-18). The pathologist testified Ms. Emory had suffered four stab wounds, one to her left arm, and three to her chest. (R. p. 287, lines 6-13). The wounds would have caused her to "bleed out" in approximately fifteen minutes. (R. p. 294, lines 7-8).

The frame which was broken had held a picture of a singer, and a twenty dollar bill that the singer had autographed at a concert. The autographed twenty dollar bill was missing. (R. p. 105, lines 2-11). Mr. Nevins testified that appellant borrowed money from Ms. Emory:

... They used to borrow money from her all the time. When they got their check they owed their check, most of it, to their boss, because after Gwen stopped loaning them money Phyllis would loan them money at a pretty high rate, interest rate. And when they would get their check they would owe most of their check back to Phyllis.

But Gwen - - later, later I think the reason she come to my house was to not be there when they would come to try to get money.

(R. p. 117B, line 16 - p. 118, line 4).

Phyllis Pack testified that she owned the masonry business where Ms. Emory had been employed. (R. p. 163, lines 6-22). Appellant had also been employed there, along with appellant's roommate, Hillard Lee Walker. (R. p. 163, line 23 - p. 164, line 6; p. 171, line 11 - p. 173, line 11). Ms. Pack had received several reports of appellant having "altercations" with others, and she had run-ins with him as well. (R. p. 164, lines 7-23). She had also seen him on drugs. He came by her home one night while high on crack cocaine, asking for money. (R. p. 165, lines 4-10). Ms. Pack testified that he was "wired," wanted money, and had a gun. (R. p. 167, lines 1-6). Ms. Pack decided to fire appellant. Knowing Ms. Emory gave appellant a ride to work, Ms. Pack instructed Ms. Emory "not to pick him up the next day." (R. p. 165, lines 19-23). Ms. Pack testified:

He had stayed up cracking all weekend and laid out two days previous to that. So the second day I told her just to tell - - don't pick him up and tell him to call me if he had any questions about what was going on.

(R. p. 165, line 21 - p. 166, line 1).

She testified that appellant did call her, and threatened her, stating "he would just mess me up and call D.S.S. on me about my kids and that kind of stuff." (R. p. 165, lines 16-18; p. 166, lines 2-4). After Ms. Emory was found dead, appellant called Ms. Pack, "five

or six or seven phone calls a day every day until the day of the funeral," wanting to know "what was going on, had they arrested anybody, stuff like that." (R. p. 166, lines 8-23).

Hillard Lee Walker testified that both he and appellant used crack. (R. p. 176, lines 1-2). He confirmed that he and appellant both got money from Ms. Pack and Ms. Emory, and that appellant would sometimes go to Ms. Emory's house by himself to get money for crack. (R. p. 176, line 12 - p. 177, line 17). He confirmed that appellant had been in the home and seen the frame with the autographed twenty dollar bill. (R. p. 179, lines 1-22). Mr. Walker testified that he and appellant had been smoking crack the night of Friday, February 23, 2008. (R. p. 181, lines 8-17). Appellant sold part of a computer to another neighbor, "John," and received twenty dollars to use to buy crack. (R. p. 181, lines 20-23). Appellant and Mr. Walker smoked all the crack their money could buy, and Mr. Walker went to bed sometime between 9:00 p.m. and 11:00 p.m. Appellant was still awake. (R. p. 184, line 9 - p. 185, line 16). Appellant would have considered Ms. Emory a possible source for more money for crack, as he had previously gotten money from her in order to purchase crack cocaine. (R. p. 186, lines 3-12). The next morning, Mr. Walker and appellant joined neighbor "John" to cut wood until approximately 11:00 a.m. or 12:00 p.m. Appellant thereafter left to visit his sister. Mr. Walker found out about Ms. Emory later that same day, after appellant had left. (R. p. 186, line 18 - p. 187, line 25).

John Glenn testified that he recalled that appellant had asked for twenty dollars at approximately 9:00 p.m. the night of the 23rd, and that appellant sold a computer to him for the money. (R. p. 201, line 20 - p. 202, line 9). He also recalled the three cut wood the next morning. (R. p. 202, lines 13-24).

Mr. Glenn's wife, Angela Glenn, also testified. Ms. Glenn testified that Ms. Emory's body was found around 1:00 p.m. on Sunday. (R. p. 215, lines 21-25). She testified that after having observed emergency vehicles at Ms. Emory's home, she told Mr. Walker something and happened. She knew appellant had left to visit his sister, which was not unusual. (R. p. 216, line 14 - p. 217, line 4). However, appellant called Ms. Glenn several times to ask what was happening after Ms. Emory's body had been found, and, specifically, if anything had been taken from the home he shared with Mr. Walker. (R. p. 217, line 11 - p. 267, line 24).

Investigator Todd Ruffner testified that he interviewed appellant briefly on the 24th. Appellant met him later, on the 27th, after returning from Florida, and gave a sample for DNA analysis. (R. p. 230, line 18-p. 231, line 10; p. 264, lines 1-23). Investigator Ruffner "notice[d] a small red mark on his neck which appeared to be a scratch ... on the right side." (R. p. 265, lines 11-15).

Investigator Ruffner, with lead Investigator Jason Bryant, arrested appellant on February 29, 2008. He was given his *Miranda* rights after his arrest. (R. p. 232, line 9- p. 233, line 1; p. 266, lines 16-22). While in custody, appellant confessed. He first indicated that, "If I hurt Gwen I did not intentionally do it. I don't remember." (R. p. 377 [State's Exhibit 1, p. 2]). He subsequently indicated:

... when he smoked crack he had turned into a monster and that he was responsible for Gwen Emory's death. And he didn't want to provide me with the step-by-step details of what had happened because he tried to put all of that out of his mind...

(R. p. 237, line 23 - p. 238, line 3).

He admitted smoking a substantial amount of crack the night of the murder, and admitted that he had had a problem with Ms. Emory, calling her a "sh** stirrer." (R. p. 238, lines 5-16).

At the autopsy, the pathologist collected scrapings from under Ms. Emory's fingernails. (R. p. 277, lines 22-24). SLED analyst Lindsay Thompson testified that scrapings from the fingernails on Ms. Emory's left hand contained DNA that matched appellant, and "[t]he probability of randomly selecting an unrelated individual having a D.N.A. profile matching this item is approximately one in 950 billion." (R. p. 323, lines 10-16). Material from the fingernails on the victim's right hand contained a mixture. The major contributor was victim. Appellant could not be excluded as a minor contributor. (R. p. 323, lines 16-20). The samples were also compared to Mr. Nevins and Mr. Walker. Both were excluded. (R. p. 323, line 22 - p. 324, line 8).

ARGUMENT

The facts of record fully and fairly support the trial judge's finding that appellant knew but did not invoke his right to counsel, and his statements were freely and voluntarily given.

Relevant Facts:

After jury selection, the trial judge recognized defense counsel to make his motion to suppress the February 29, 2008 statements. Counsel argued his motion as follows:

... It's based on my client asserting his right to have counsel, when the attorney got there, and that the attorney was there, and the duration of the interrogation while his attorney sat there waiting to talk to him and he asked to speak to his attorney but he was not afforded that opportunity even though he asked.

And I think the attorney never got to speak to him. ...

(R. p. 2, line 25 - p. 3, line 6)(emphasis added).

In response to the motion, the State called Investigator Bryant of the Spartanburg County Sheriff's Office. Investigator Bryant testified that he interviewed appellant on February 29, 2008. (R. p. 5, lines 21-24). The interview produced a written statement that was written by the investigator at appellant's request, and signed by appellant. (R. p. 10, lines 16-19; R. p. 377 [State's Exhibit 1]). The interview also produced several verbal admissions which appellant refused to memorialize in writing and sign. (R. p. 10, line 16 - p. 11, line 21). Appellant also refused to have the statements recorded. (R. p. 11, lines 8-12; p. 23, lines 4-15).

Investigator Bryant testified that he approached appellant at appellant's uncle's home at approximately 11:50 a.m. on February 29, 2008, arrested him, and read appellant his *Miranda* rights. (R. p. 6, lines 6-20; p. 9, line 4; p. 20, lines 7-10). Appellant indicated he

understood the rights but did not ask for an attorney or exercise his right to remain silent. (R. p. 7, lines 19-23; p. 8, lines 15-19). Investigator Bryant with appellant and a fellow officer, Investigator Ruffner, drove to the sheriff's department, arriving at approximately 12:30 p.m. (R. p. 7, lines 24-p. 8, line 12; p. 9, line 5). The interview concluded at approximately 8:00 to 8:30 p.m. (R. p. 9, lines 6-8). Appellant called his sister after the interview, but never asked to call his attorney. (R. p. 9, lines 7-12). Investigator Bryant testified that appellant never told him he had an attorney, nor did any member of appellant's family tell him appellant had an attorney. (R. p. 9, lines 13-18). Appellant became "very emotional ... remorseful at times and emotional" during the interview. (R. p. 12, lines 20-23). Appellant denied he could recall details of the crime, though he admitted that "he turned into a monster when he used crack cocaine." (R. p. 13, lines 1-23). Investigator Bryant testified:

... he could not give me a blow-by-blow in regards to what happened to Gwen Emory because of the amount of crack cocaine that he had used. He had advised me that he'd used about \$500 worth of crack cocaine that day, and once he uses crack cocaine he turns into a monster.

And then he also advised me that he didn't mean to hurt Gwen and that he didn't deserve any kind of a life, he came from a good family. And he was very fearful of the death penalty and he did not deserve to live, is what he had stated.

And during one time when I was speaking with him in regards to the injuries of Gwen Emory, and he became very emotional crying and he couldn't speak at times. But he advised me that he was responsible for her death.

(R. p. 13, lines 1-15).

Appellant also stated that "he was able to black things out of his mind or block things out of his mind." (R. p. 14, lines 5-6). He also stated that he and victim "had had some

problems and some word[s]" and that "she was a sh** stirrer." (R. p. 14, lines 7-10).

Investigator Bryant testified:

... he had stated that he was ... responsible for her death.... He stated that he could not remember any of the how, but he accepted responsibility for her death, and that he had stated that he was responsible for the death of Gwen.

(R. p. 15, lines 16-22).

Investigator Bryant testified several times concerning the emotional nature of the interview. (See R. p. 12 lines 21-22; p. 13, lines 20-21; p. 16, lines 16-17). Investigator Bryant enhanced the emotional response by "slightly touching [appellant's] chest in the places where [victim] was stabbed...." (R. p. 16, lines 4-11). Investigator Bryant testified that the slight touching did, in fact, produce an emotional response: "He wept greatly and was remorseful." (R. p. 16, line 13). The investigator denied, however, any aggression: "It was an emotional interview. It never was an aggressive interview." (R. p. 47, lines 16-17).

On cross-examination, Investigator Bryant testified that appellant "never mentioned an attorney at all." (R. p. 20, line 3). He recalled appellant's sister, Dena, being at the residence where appellant was taken into custody, but denied hearing her say anything about an attorney. (R. p. 20, lines 11-20). He also denied that anyone ever advised him during the interview at the sheriff's department "that an attorney was there for" appellant. (R. p. 20, lines 21-24). Investigator Bryant testified that appellant "never invoked his rights to an attorney." (R. p. 21, line 3).

Investigator Ruffner also testified at the *in camera* hearing on admissibility. He confirmed that appellant was advised of his rights and taken into custody, and that appellant appeared to have understood his rights. (R. p. 27, lines 2-14). Investigator Ruffner testified

that appellant never asked to stop the interview nor did he request an attorney or "make known" that he had hired an attorney. (R. p. 28, line 24 - p. 29, line 6). He was advised by Lorin Williams (of the Spartanburg Co. Sheriff's Department, R. p. 42, lines 6-7),¹ that appellant's "sister may be hiring an attorney for him." (R. p. 29, lines 7-13). Investigator Ruffner testified that the interview was "emotional," and appellant "cried a good bit during the interview." (R. p. 29, line 24 - p. 61, line 1). He also testified:

After 15 or 20 minutes from arriving at the sheriff's department he told us that he would admit to killing [the victim] if we could guarantee him he wouldn't get the death penalty.

Investigator Bryant instructed him that we can't talk about possible sentences on anything, that is at the discretion of the solicitor's office and the Court.

Throughout the interview he would state that he accepted responsibility for it, that he was responsible for it. He would not elaborate on that any further.

(R. p. 30, lines 3-12).

Investigator Ruffner again testified that appellant was made no promises and never requested an attorney, or requested the interview stop. (R. p. 32, lines 12-19). Appellant stated, however, "[t]hat he was responsible for [the victim's] death and that he accepts responsibility for that." (R. p. 32, lines 20-22).

On cross-examination, when asked if he was "absolutely certain that [appellant] never said I want to talk to my lawyer when he gets here," the investigator answered, "I'm certain he did not." (R. p. 33, lines 17-19). Further, he did not remember appellant's sister "saying

¹ A question and response during the *in camera* proceeding tended to indicate Ms. Lorin called Investigator Ruffner during the initial transit. (R. p. 37, lines 19-21).

anything to us when we arrested him" at the uncle's home. (R. p. 34, lines 1-2). Investigator Ruffner also confirmed that appellant was "just lightly touch[ed] where [victim] had been stabbed." (R. p. 36, line 22 - p. 37, line 1). He reiterated, in answer to questions about Lorin William's call and the sister possibly hiring an attorney, that he did not ask appellant about his own assertion of the right counsel after receipt of this information as appellant "had already been advised of his rights and did not ask for one." (R. p. 37, lines 19-25).

In response to the State's case *in camera*, the defense called appellant's sister, Dena Crump, Clyde Pennington, Esq., appellant, and Dan Swad of the Spartanburg County Sheriff's Department.

Ms. Crump testified that at the time of arrest, she told appellant she would contact her daughter "to get a lawyer for him to come up there." (R. p. 40, lines 17-18). She testified that she did not tell anyone else that a lawyer would be coming. (R. p. 42, lines 2-8). Ms. Crump further testified that she spoke with appellant by phone after the interview and told him that "Clyde was up there and they wouldn't let him in." (R. p. 45, lines 2-14).

Mr. Pennington testified that he went to the sheriff's department at approximately 1:00 p.m., and "told them that I would be representing [appellant] and I would like to see him." (R. p. 47, lines 1-8). He stayed until approximately 5:00 p.m. and was unable to talk with appellant. (R. p. 47, lines 11-25).

Appellant testified that, while still at his uncle's home, his sister advised him that she would arrange for an attorney to meet appellant at the jail. (R. p. 54, lines 6-10). Appellant testified:

And I got into the car with the officers. And Mr. Bryant read me my Miranda rights. He asked me if I was willing to talk to him, and I said I had nothing to hide and I had no problems talking to him.

(R. p. 54, lines 11-14).

He testified that he told Mr. Ruffner that his sister said "they would be sending an attorney to talk to me, that I didn't have a problem talking to them but when my attorney got there that I needed him to be there." (R. p. 55, lines 8-13). He also testified that he never stopped the interview "saying I want to talk to my attorney when he gets here." (R. p. 56, lines 3-7). He testified that he was struck in the chest, not gently touched, that it hurt, and that he felt "terroriz[ed]," "scared to death," "scared for [his] safety." (R. p. 59, lines 2-9). Appellant testified he "didn't know if that officer, Bryant, was not going to hurt me physically." (R. p. 59, lines 9-11). Appellant denied he said that he "accepted responsibility." (R. p. 60, lines 2-3). Appellant testified that "[w]ithin an hour" of being arrested, and after arriving at the sheriff's department, he told the investigators that he wanted to talk to his lawyer when the lawyer arrived. (R. p. 60, lines 4-17). He testified that had he been told his attorney was at the sheriff's department, he would have stopped talking and asked to see him. (R. p. 61, lines 14-17). On cross-examination, appellant conceded he did not try to stop the interview and wait for an attorney. (R. p. 62, lines 13-24). He testified that "by me telling them that, asking them when my attorney gets here I need to speak to him, I'm sure that they educated enough to where they would know that I'm meaning I want to talk to my attorney." (R. p. 62, lines 21-24). He confirmed that he had received his *Miranda* rights "a number of times" before this incident, and acknowledged that he understood his rights. (R. p. 62, line 25 - p. 63, line 5). He confirmed that he understood that he could stop talking

with or without counsel being present. (R. p. 63, lines 6-8). He admitted he never tried to stop the interview, and "cooperated with them in every kind of way that I could." (R. p. 63, lines 9-25).

Officer Dan Swad, with booking, testified that appellant was searched at intake at the detention facility at 9:25 p.m. on February 29, 2008. Officer Swad testified that appellant did not ask him if he could "speak to his attorney or call his attorney." (R. p. 74, lines 11-13).

Judge Cole ruled as follows:

... Based upon the testimony and evidence received I do find that the State has established by the greater weight or a preponderance of the evidence that the statement given by the defendant, both orally and written, was freely and voluntarily made, and he was well aware of his constitutional right to remain silent and to have a lawyer present, to have one appointed if he couldn't afford one, and to stop questioning at any time he wished to.

It appears in this case that he never did invoke any of those constitutional rights. Another person cannot invoke a constitutional right for him, and in this case he invoked none.

He was not threatened or promised anything, and I do find that the statements provided were freely and voluntarily made, at least based upon the preponderance of the evidence presented.

(R. p. 74, line 19 - p. 75, line 10).

Appellant made no additional argument. (R. p. 75, line 13). Appellant objected to the statement when introduced at trial. (R. p. 233, lines 2-6; p. 236, line 23 - p. 237, line 4).

Discussion:

The only argument preserved for appeal is the argument made to the trial judge: whether appellant asked for counsel and was denied access to counsel. (R. p. 2, line 25 -

p. 3, line 6). *See, e.g., State v. Stahlnecker*, 386 S.C. 609, 617, 690 S.E.2d 565, 570 (2010) ("For an issue to be properly preserved it has to be raised to and ruled on by the trial court."); *State v. Goodwin*, 384 S.C. 588, 603, 683 S.E.2d 500, 508 (Ct. App. 2009) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial court."). To the extent that appellant has raised this issue in his statement of issue on appeal, and argued that counsel was intentionally kept from appellant, (See BOA, pp. 3, 11 and 12), the issue is preserved for review here. However, to the extent that the issue presented also encompasses an allegation of physical abuse and/or intimidation, that issue is not preserved for appeal as that was not the basis for the motion to suppress, and there is no specific ruling regarding same for this Court to review.

As to the preserved issue, Judge Cole found, as a factual matter, that appellant failed to assert his right counsel. (R. p. 75, lines 3-4). Specifically, Judge Cole found that "[a]nother person cannot invoke a constitution right" for appellant. (R. p. 75, lines 4-6). Thus, because appellant never invoked his right to counsel, there could be no improper denial of access to counsel. As the record well supports this factual finding, Judge Cole's ruling should be upheld.

This Court has set out the standard of review for evaluating a convicted defendant's issue on admissibility of a statement:

The trial court's factual conclusions as to the voluntariness of a statement will not be disturbed on appeal unless so manifestly erroneous as to constitute an abuse of discretion. *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). An appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *Id.* When reviewing a trial court's ruling concerning voluntariness, the appellate court does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply

determines whether the trial court's ruling is supported by any evidence. *State v. Saltz*, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001).

State v. Franklin, 390 S.C. 535, 539, 702 S.E.2d 568, 570-71 (Ct. App. 2010).

Thus, the question at issue here is whether "the trial court's ruling is supported by any evidence." *Id* (emphasis added). This record easily surpasses this minimal bar. Judge Cole's ruling is well supported by the evidence adduced in the pre-trial hearing.

Appellant testified that he understood his rights, and, specifically, that he understood that he could stop talking at any time during the interview, whether or not counsel was present. (R. p. 62, lines 25 - p. 63, line 8). Appellant even conceded that he did not plainly state that he had an attorney. (R. p. 62, lines 13-17). Rather, appellant testified that the officers should have known he wanted to invoke his right to counsel at the station by his stating that he wanted to speak with counsel when counsel arrived at the station. (R. p. 62, lines 21-24). (See also R. p. 55, line 24 - p. 56, line 2). Moreover, even this vague statement in the interview process – a process appellant, admittedly, never tried to stop, nor wanted to stop, (R. p. 63, lines 9-25) – does not indicate that he would invoke his right to counsel and stop talking. See *Davis v. United States*, 512 U.S. 452, 462 (1994) ("we are unwilling to create a third layer of prophylaxis to prevent police questioning when the suspect *might* want a lawyer. Unless the suspect actually requests an attorney, questioning may continue."). Further, the fact of whether such an assertion – especially the assertion as specifically stated in the *in camera* testimony which was clearly given in hope of suppression – was even made was contested. Both Investigator Bryant and Investigator Ruffner testified that appellant never said anything to indicate he had an attorney or was invoking his right to counsel. (R. p. 21, lines 3-8; p. 29, lines 2-6). Investigator Ruffner testified that the most that he knew