

ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Brian M. Gibbons, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRY CATOE,

APPELLANT

APPELLATE CASE NO 2016-000104

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF LANCASTER
4 2012-GS-29-00612
5 State of South Carolina
6 vs.
7 Terry Catoe
8
9 Lancaster, South Carolina
10 January 4-6, 2015
11 Before the Honorable Brian M. Gibbons

12
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15 For the Defendant: Tyree Lee, Justin Jones
16

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18 Official Court Reporter
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PRETRIAL MOTIONS

1 THE COURT: Madam Solicitor?

2 MS. COLLINS: At this time the State of South Carolina
3 calls for trial the case of South Carolina versus Terry
4 Catoe, indictment 2012-GS-29-612, a true billed indictment
5 charging the defendant with the crime of murder. We are
6 prepared to do pretrial matters this morning, the jury
7 panel will be here for qualification at 2:00.

8 THE COURT: Thank you. Mr. Lee, you and Mr. Jones
9 represent Mr. Catoe?

10 MR. LEE: We do, Your Honor.

11 THE COURT: All right. Any -- handed up to me were
12 the voir dire that we had talked about back in chambers,
13 have you added what you needed to add to the voir dire?

14 MR. LEE: We have Your Honor.

15 THE COURT: Okay.

16 MR. LEE: It should be on our handwritten.

17 THE COURT: What are the pretrial issues y'all want to
18 deal with?

19 MS. COLLINS: We have two written statements and two
20 signed Miranda waivers, and testimony regarding a verbal
21 waiver and a verbal statement, four officers are involved
22 so it's a Jackson v. Denno hearing as to those statements.
23 To my knowledge those are the only pretrial matters that
24 need to be addressed.

25 THE COURT: Mr. Lee?

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1 MR. LEE: Your Honor, at the present time that's the
2 only thing I'm aware of.

3 THE COURT: Okay. All right. Then we'll move right
4 into it. Madam Solicitor?

5 MS. COLLINS: Thank you, Your Honor. May it please
6 the Court? Your Honor, the State's first witness is Fred
7 Thompson.

8 THE COURT: Go ahead give me a brief overview before I
9 hear from testimony of each individual witness regarding
10 the statement, kind of give me an idea what I am going to
11 be hearing and that kind of thing.

12 MS. COLLINS: May it please the Court? The facts of
13 this case are as follows: The victim, Linda Massey Gaymon,
14 was found passed away in a home at Starnes Street, an
15 abandoned house here in Lancaster County, South Carolina.
16 Her body was found November 24th of 2012. The
17 investigation ultimately led to Terry Catoe who was charged
18 with the crime of murder. He waived Miranda and gave a
19 statement. He was interviewed twice on February 29th. He
20 came at the request of law enforcement, he was not under
21 arrest at that time, he met with Investigator Fred Thompson
22 and Investigator Danny Bennett at that time. At that time
23 they spoke with him and he signed a written statement that
24 we'll be putting into evidence here shortly, during that
25 statement he admits to having a sexual act with the victim

PRETRIAL MOTIONS

1 for money. He denies he harmed her in any way and says
2 that she was alive and well when he left her and, in fact,
3 was standing by a car.

4 THE COURT: And that was February 29th.

5 MS. COLLINS: February 29th.

6 THE COURT: Of what year?

7 MS. COLLINS: Pardon?

8 THE COURT: Of what year, '12?

9 MS. COLLINS: Of 2012, yes, sir. So he says she was
10 fine when he left her. They began to question him about
11 some inconsistencies and because they were going to do so
12 at that time they Mirandized him. Again, he is still not
13 charged, still not in custody but out of an abundance of
14 the caution they give him a written waivers form and
15 reviewed that with him and he signs that understanding his
16 rights and that he's waiving the rights at that time, and
17 that again is with Fred Thompson and Danny Bennett of the
18 Lancaster County Sheriff's Office. At that time they
19 continued to talk to him, he's waived his rights, he
20 continues to speak with them, but ultimately he says,
21 "Well, that's all I want to say today," as they start to
22 talk to him about scratches on him, et cetera. And so at
23 that time he does not sign a written statement but they
24 would testify about what he said up to that point. Again,
25 his statement was, "That's all I want to say today." After

PRETRIAL MOTIONS

1 conferring with Captain Craig Bailey, the decision was made
2 that he had said enough to have him charged with
3 solicitation of prostitution and he is taken into custody
4 and held pending a written warrant being issued by the
5 magistrate for that the next morning, the next morning
6 being March 1st of 2012. They secure a warrant for
7 solicitation of prostitution the next morning with the
8 magistrate. At that time Investigator Clark Crump as well
9 as Investigator James Whitaker goes to serve him the
10 solicitation of prostitution warrant. When they go into
11 the jail cell, Investigator Crump tells Mr. Catoe, "I have
12 a warrant for your arrest." Mr. Catoe says, "What is it
13 for?" And Investigator Crump says, "It's involving the
14 matter with Linda Massey Gaymon." And the defendant starts
15 asking, "Well, what do you know," starting to indicate that
16 he wants to talk to them. At that time Investigator Crump,
17 as is his habit, immediately says, "If you're going to
18 speak to me I want to Mirandize you," and he reads him his
19 rights from a card that he carried at the time, which is
20 identical to the written Miranda waiver form that you'll
21 have in evidence. The defendant waives his rights, sits
22 down on the jail bunk with Investigator Crump and admits he
23 killed Ms. Massey Gaymon, but says it was part and parcel
24 of rough sex. At that time Investigator James Whitaker as
25 well as Investigator Clark Crump take the defendant to the

PRETRIAL MOTIONS

1 investigator's desk and -- Investigator Whitaker's desk,
2 they go through a written Miranda form, which the defendant
3 reviews with them and he signs a written waiver at that
4 time. And at that time they again question him in detail
5 about this latest statement, and at that time he signs a
6 written statement to that affect saying that he was choking
7 her because she asked him to so that the sex would be rough
8 sex, that she initiated it, that he complied and he thinks
9 that's what caused her to die. At that time they secure a
10 warrant for the murder and he is served again with both the
11 prostitution and the murder warrant. They had not yet
12 served the prostitution warrant when they started talking
13 to him so they served both warrants at that time. That's
14 an overview of what we would be presenting this morning.

15 THE COURT: All right. Thank you. You may call your
16 witness.

17 MS. COLLINS: Thank you. The first witness, Your
18 Honor, is Investigator -- former Investigator Frederick
19 Thompson.

20 The witness, FREDERICK THOMPSON, was first duly sworn

21 And testified as follows:

22 DIRECT EXAMINATION

23 BY MS. COLLINS:

24 Q Good morning.

25 A Good morning.

PRETRIAL MOTIONS

1 MS. COLLINS: Mr. Lee, please bring it to my attention
2 if I'm not speaking loudly enough for you.

3 Q Mr. Lee and I share something in terms of when you're
4 getting older it's a little hard of hearing so if you will,
5 Investigator, please speak directly in the microphone.

6 A I will.

7 Q You are Frederick Thompson; is that correct?

8 A That is correct.

9 Q And at this time I believe that you are employed with
10 a funeral home and serving the citizens when a family
11 member is lost; is that correct?

12 A That's correct.

13 Q You are retired from the Lancaster County Sheriff's
14 Office?

15 A Yes, ma'am, I am.

16 Q During February of 2012, were you employed with the
17 Lancaster County Sheriff's Office?

18 A Yes, ma'am, I was.

19 Q And at that time what was your title and your duties?

20 A I was an investigator with the Lancaster County
21 Sheriff's Office. My duties, I assisted in most of our
22 violent crimes in the county.

23 Q How many years did you serve with law enforcement?

24 A I started in 1997 and retired January 5th of 2000 --
25 yeah, 2013.

PRETRIAL MOTIONS

1 Q Were you involved in the investigation into the
2 allegations that culminated in the defendant, Terry Catoe,
3 being charged with the offense of the murder of Linda
4 Massey Gaymon?

5 A Yes, ma'am, I was.

6 Q And her body was found on Starnes Street in an
7 abandoned home here in Lancaster County, South Carolina; is
8 that right?

9 A Yes, ma'am, it was.

10 Q Therefore within your jurisdiction at the time,
11 correct?

12 A Yes, ma'am, it was.

13 Q Mr. Thompson, through that investigation, did you
14 ultimately have an occasion -- did the investigation lead
15 toward Terry Catoe as a suspect?

16 A Yes, ma'am, it did.

17 Q Do you recognize the defendant, Terry Catoe, here in
18 the courtroom seated by his counsel, Mr. Jones?

19 A Yes, ma'am.

20 Q Did you have an occasion to ask Mr. Catoe to come into
21 the Lancaster County Sheriff's Office to speak with you
22 regarding this crime?

23 A Yes, ma'am, I did.

24 Q You spoke with him on the phone and asked that he come
25 to the sheriff's department?

PRETRIAL MOTIONS

1 A I did, yes.

2 Q Did you -- and he was not under arrest at that time,
3 correct?

4 A No, ma'am, he was not.

5 Q I believe his sister brought him in to see you; is
6 that right?

7 A That's correct.

8 Q And that was on February 9th -- February 29th of 2012,
9 correct?

10 A Yes, ma'am, that correct.

11 Q The body of the victim had been found on February 24th
12 of 2012; is that right?

13 A Yes.

14 Q And I believe her death had been estimated at about
15 1:30 in the morning on February 24th of 2012; is that
16 right?

17 A Yes, ma'am.

18 Q When Mr. Catoe came in to speak with you, where did
19 you speak with him?

20 A We actually spoke in Captain Bailey's office.

21 Q And you were there, correct?

22 A Yes.

23 Q As well as Terry Catoe, the defendant, right?

24 A Yes.

25 Q And was Danny Bennett an investigator at that time

PRETRIAL MOTIONS

1 with the sheriff's department?

2 A Yes, ma'am, he was.

3 Q Was he also there with you?

4 A Yes, ma'am.

5 Q When you met with Mr. Catoe, were you dressed as you
6 are today, in a shirt and tie?

7 A Yes, ma'am.

8 Q Did you have a service revolver on your hip?

9 A Yes, ma'am.

10 Q At anytime was that revolver drawn while you were
11 speaking with him?

12 A No, ma'am, it was not.

13 Q Did you review his Miranda rights with him?

14 A Yes.

15 Q But initially you did not; is that correct?

16 A Initially I did not.

17 Q And again, he was not in custody at that time,
18 correct?

19 A He was not.

20 Q He was free to go, correct?

21 A Yes, ma'am.

22 Q And you explained to him you wanted to speak with him
23 about the circumstances surrounding the death of Linda
24 Massey Gaymon; is that right?

25 A Yes, ma'am.

PRETRIAL MOTIONS

1 Q And he agreed to speak with you; is that right?

2 A He did, yes.

3 Q As he spoke to you did you memorialize on the
4 computer -- did you type down the questions that was were
5 asked of him and what he was saying?

6 A Yes, ma'am, I did.

7 Q And did you ultimately print that out?

8 A Yes, ma'am, I did.

9 Q And did you give him the opportunity to review that?

10 A Yes, ma'am.

11 Q Did you give him the opportunity to make any changes
12 to that?

13 A Yes, ma'am.

14 Q Did he want to make any changes to that?

15 A No, ma'am, it was correct.

16 Q And did he sign that?

17 A Yes, ma'am, he did.

18 Q Thank you. One moment. That was a three page
19 statement; is that correct?

20 A Yes, ma'am.

21 Q Do you have a copy there before you?

22 A I do.

23 MS. COLLINS: I would ask that this be marked as
24 State's Exhibit 1 for the purposes of this hearing.

25

PRETRIAL MOTIONS

1 THE COURT: All right.

2 Q I ask you to look at what has been marked as State's
3 Exhibit 1 for the purposes of this hearing and ask you, is
4 that the original of the statement that the defendant,
5 Terry Catoe, signed after you finished speaking with him on
6 February 29th of 2012?

7 A Yes, ma'am, I believe it is.

8 Q And looking over that original document, that has not
9 been altered in any way since the defendant signed it, is
10 that correct?

11 A That's correct.

12 Q All right. And again, he was not in custody at this
13 time, correct?

14 A He was not.

15 MS. COLLINS: Your Honor, at this time I move this
16 document into evidence for the purposes of this hearing
17 only after which I will ask Mr. Thompson to read it to
18 publish it to the Court.

19 THE COURT: Any objection?

20 MR. LEE: At this point in time, Your Honor, I would
21 not object and just ask a few questions after.

22 THE COURT: Yes, sir. All right. Admitted then in
23 evidence for the purposes of this Jackson versus Denno
24 hearing.

25 MS. COLLINS: All right. Thank you.

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1 Q Mr. Thompson, will you please read that to the Court?

2 And when there's a question state question, and when

3 there's the answer state the answer.

4 A Okay. Question: I have Investigator F. Thompson and

5 Crump, answers, Terry Catoe. First question, "What do you

6 know about the death of the Linda Massey Gaymon? Answer:

7 All I know is what I read in the paper. Question: Have

8 you had any contact with her before her death? Answer:

9 Before Thursday evening I had never seen her before. When

10 I saw her was walking up past" -- I'm sorry -- "When I saw

11 her she was up walking up past Ms. Jackie's, walking up

12 toward Main Street and I came up behind her. When I saw

13 her I thought she was an undercover police officer until I

14 saw the way she was dressed. She was wearing black pants

15 and blue or black shirt, had a pocketbook with her. Just

16 by the way she was dressed I thought she was a prostitute

17 so I propositioned her." Next question, "What did you

18 offer her? Answer: I told her \$10 at first and then she

19 wouldn't take it so I told her that I only had 15 and she

20 took that. I got off the bike and I walked with her and

21 we went to find somewhere to go. Question: Did you find

22 a place for the two of you to go? Answer: We both agreed

23 to go into the yellow house there on the end below Lou's

24 store. She showed me the room that she used -- that she

25 wanted to use, it had a bed or a mattress, she pulled down

PRETRIAL MOTIONS

1 her clothes and kneeled down on the bed. Question: Did
2 she perform oral sex on you or did you have vaginal or
3 anal sex? Answer: She pulled them down and kneeled down
4 on the mattress, she got down on her knees. Question:
5 How long were the two of you in there? Answer: No more
6 than about 15 to 20 minutes. While we were having sex I
7 could feel that the condom broke so I pulled it out and
8 let it go on the floor. Question: What do you mean by
9 let it go on the floor? Answer: I shot off on the floor.
10 Question: Did you ejaculate inside of her at all?
11 Answer: I'm not sure, maybe a drop or two. Question:
12 Did the two of you argue about anything while inside the
13 residence -- inside the house? Answer: No. Question:
14 Did she tell you that the sex was uncomfortable or that
15 she was hurting? Answer: No, sir. Question: What did
16 you do or where did you go after you finished? Answer: I
17 went outside and got on my bike and went up to the end of
18 the road. When I got to the Crenco I looked back and I
19 saw her standing there with a white girl, I think her name
20 is Sherry, they were standing there talking to someone in
21 a dark colored car. I said to myself that they were going
22 to make some money tonight. It was just a dark colored
23 car with tinted windows. I don't know if it was a Chevy
24 or Ford. Question: How do you know Sherry? Answer:
25 From back in the day back when Brooklyn was wide open, she

PRETRIAL MOTIONS

1 was a white girl that I met around 1995 or 1996, at that
2 time she was involved in prostitution. Now she's about 37
3 to 38 and she has lost a lot of weight. Question: Did
4 you speak or talk to Sherry that night? I spoke to her,
5 she was on Brooklyn too. I spoke to her before I spoke to
6 the other lady, she was just walking back and forth.
7 Question: Approximately what time was this when you met
8 with Linda Gaymon? I don't have a phone or watch, it may
9 have been a little after 8:00 p.m. because I was trying to
10 get home to watch a show called Intervention, it comes on
11 at 9:00 p.m. on Direct TV on Wednesday or Thursday nights.
12 I still didn't make it home in time to watch it. Did you
13 go home after you left Brooklyn Avenue?" I'm sorry.
14 Question: "Did you go directly home after you left
15 Brooklyn Avenue? Answer: No. I was on my way home but
16 when I knew I wasn't going to make it home on time I
17 stopped at the hill up by my house, that's where the guys
18 sit around the fire barrel and drinking. Question: Who
19 did you meet with? Answer: The Heaths, they live on
20 Shiloh Unity Road in a trailer. It was Will Heath, James
21 Howard and a couple of our guys were out there. Question:
22 About what time did you leave there? Answer: About 10:30
23 or 11:00 p.m. It may have been a few minutes later,
24 earlier or later. Question: Where did you go after
25 leaving the Heaths? Answer: I went home. Question: Did

PRETRIAL MOTIONS

1 you leave back out anytime? Answer: No, sir. Question:
2 Who could verify that came home that night" -- I guess I
3 left out a word. Answer: "Everybody was asleep and I
4 came in through the window, I kept it unlocked. I talked
5 to my sister, Pam, the following morning, she was walking
6 out of her room when I was going into the bathroom.
7 Question: How do you normally get into the house?
8 Answer: If I get home early enough my sister or her
9 husband would open the door. Question: Have you been
10 completely honest in the statement? Answer: Yes, sir.
11 Question: Are you willing to voluntarily consent to a DNA
12 test to be tested against any DNA that would be found on
13 Linda Gaymon? Answer: Yes, sir."
14 Q All right. And the defendant reviewed that statement
15 with you and he initialed the first two pages and signed
16 the last page in your presence; is that correct?
17 A He did.
18 Q I want to back up and ask you about a couple of
19 things. As to the date on the statement it notes date and
20 time of interview 2/29/12 at 2:23; is that correct?
21 A That's correct.
22 Q Now, you stated that Officer Crump, or Investigator
23 Crump was with you, that's noted in the question line at
24 the very top of the first page, correct?
25 A That's correct.

PRETRIAL MOTIONS

1 Q In the blocks where it shows interviewer, it shows
2 interviewer, Investigator F. Thompson, that would be you,
3 correct?

4 A Yes.

5 Q And also Investigator D. Bennett; is that right?

6 A That's correct.

7 Q Do you recall, were both Danny Bennett and Clark Crump
8 there at the beginning of the statement?

9 A Yes. At the beginning of the statement, yes.

10 Q Did that change?

11 A Yes.

12 Q Did either of them leave in the course of that
13 statement?

14 A Shortly after we started Investigator Crump walked
15 out and did not return.

16 Q But Danny Bennett was there throughout the entire
17 statement, correct?

18 A Yes, throughout the entire statement.

19 Q Now, at the conclusion of having the defendant review
20 that statement with you he initialed and signed as you've
21 stated, what did you do next?

22 A At that time we advised him that there was some
23 inconsistencies so we advised him -- we actually read him
24 his Miranda warning.

25 Q Mr. Thompson, I show you what has now been marked

PRETRIAL MOTIONS

1 State's Exhibit 2 for the purposes of this hearing and ask,
2 do you recognize this document?

3 A Yes, I do.

4 Q What is it?

5 A This is the Miranda warning that I read to Terry
6 Catoe.

7 Q Is that a form that's commonly used by your office?

8 A Yes, it was.

9 Q And it was developed by law enforcement to insure that
10 persons were informed of their Miranda rights, is that
11 right?

12 A That is correct.

13 Q Can you read that form to the Court? Did you read
14 that out loud to the defendant that day?

15 A Yes, I did.

16 Q Can you read that to the Court as you read it to the
17 defendant on that day?

18 A What was the last date -- we actually listed his
19 name, Terry Catoe as suspect. Suspect's rights Miranda
20 warning for Terry Catoe. The last grade completed in
21 school, he indicated 12th. Under the influence of drugs
22 or alcohol, he indicated no, he was not. Can you read and
23 write the english language, he indicated yes, he could.
24 The place this Miranda was read was at the Lancaster
25 County Sheriff's Office, the date was February 29th of

PRETRIAL MOTIONS

1 2012, the time was 3:28 p.m. and the CR case number we put
2 12 -- 0, we did not finish the rest of the case number
3 out. The first thing we read is you have the right to
4 remain silent, he indicated -- he put TC beside it,
5 indicating that he understood. Anything you say can and
6 will be used against you in a court of law, he indicated
7 TC, that he understood. You have a right to talk to a
8 lawyer and have him present with you while you're being
9 questioned, he put TC beside it indicating that he
10 understood. If you cannot afford to hire a lawyer one
11 will be appointed to represent you if you wish, he put TC
12 beside it. You can decide at anytime to exercise these
13 rights and not answer any questions or make any
14 statements, he put TC beside it. In bold print it says,
15 "Do you understand each of these rights I have explained
16 to you?" He put TC indicating that he did. The last
17 question or statement in bold print, "Having these rights
18 in mind are you willing to talk to us at this time?" He
19 put TC. Underneath that it has the waiver of rights, it
20 says, "I have read the statement of my rights and I
21 understand what my rights are. I am willing to make
22 statements and answer questions. I do not want a lawyer
23 at this time. I understand and know what I'm doing. No
24 promises or threats have been made to me and no pressure
25 or coercion of any kind has been used against me, signed

PRETRIAL MOTIONS

1 Terry Catoe, witness Frederick Thompson, witness Danny
2 Bennett.

3 Q Now, as you indicated earlier in the signed voluntary
4 statement, that's p.m. correct?

5 A That's correct.

6 Q I know that your department often used military time,
7 but again just to be clear, that was not 2:33 a.m. it was
8 2:33 p.m. correct?

9 A That's correct.

10 Q And same thing for the Miranda warning, the time was
11 3:28, it doesn't specify p.m. but it was 3:28 p.m. on 2/29;
12 is that right?

13 A Yes, ma'am.

14 Q Now, reviewing back over this, the defendant -- Danny
15 Bennett was present with you the entire time these rights
16 were read to the defendant, correct?

17 A That is correct.

18 Q At the very beginning it talks about are you under the
19 influences of drugs or alcohol and he indicated no,
20 correct?

21 A Correct.

22 Q In your many years of law enforcement, did you have
23 and occasion to interact with citizens and other people who
24 were under the influence of drugs or alcohol?

25 A Yes.

PRETRIAL MOTIONS

1 Q Had you been trained to recognize signs of someone
2 being under the influence?

3 A Yes.

4 Q Did it appear to you that Terry Catoe was not under
5 the influence of any substance that would cause him not to
6 understand what you were saying to him?

7 A He did not appear to be under the influence of
8 anything.

9 Q Did he talk to you and articulate his answers clearly?

10 A He did.

11 Q Did he appear to understand what you were saying to
12 him?

13 A Yes, he did.

14 Q At anytime did he ask you questions about what you
15 were saying to him?

16 A No, he did not.

17 Q Continuing on, you asked him to put the initials TC,
18 being his initials, beside each of those lines to indicate
19 that he had been read those rights and he understood those
20 rights, correct?

21 A Correct.

22 Q At anytime did he say that he did not wish to speak to
23 you?

24 A He did not.

25 Q He still was not under arrest; is that correct?

PRETRIAL MOTIONS

1 A He was not.

2 Q At anytime did he request to have an attorney present
3 with you?

4 A No, ma'am, he did not.

5 Q At anytime were any threats made to him in order to
6 induce his statement?

7 A No, ma'am.

8 Q At anytime were any promises made to him in order to
9 induce his statement?

10 A No, ma'am.

11 MS. COLLINS: At this time I would move State's
12 Exhibit 2, the Miranda warning that was signed by the
13 defendant, into evidence for the purposes of this hearing
14 only.

15 THE COURT: Any objection to this point?

16 MR. LEE: None, other than I might have an objection
17 afterwards, but not --

18 THE COURT: Yes, sir. Admitted into evidence for the
19 purposes of this hearing.

20 Q Now, you continued after that to speak to the
21 defendant, correct?

22 A Correct.

23 Q At that point I believe you indicated you were going
24 to ask him about some inconsistencies; is that correct?

25 A That's correct.

PRETRIAL MOTIONS

1 Q And as you continued to question him, did you write
2 down or type up his answers anticipating preparing a signed
3 statement for his signature at the conclusion?

4 A I did.

5 Q And ultimately the defendant did not wish to sign a
6 signed statement, correct?

7 A That's correct.

8 Q But you had, as he answered each of those questions,
9 typed up his answers; is that right?

10 A Yes.

11 Q And at the conclusion when he indicated he did not
12 wish to speak anymore today, did you ask him, "Well, let me
13 just review these questions and answers with you to make
14 sure that I've got it right to this point?"

15 A Yes.

16 Q And did you review that request with him?

17 A I did.

18 Q In the presence of Craig Bailey?

19 A Yes, I did.

20 Q And he confirmed that you had all of that right to
21 that point; is that correct?

22 A That's correct.

23 Q And did you memorialize that and put that in a typed
24 format --

25 A Yes.

PRETRIAL MOTIONS

1 Q -- for your file?

2 A Yes.

3 Q I'll show you what has been marked as State's Exhibit
4 3 for the purposes of this hearing only. That is a four
5 page document; is that correct?

6 A Yes, ma'am, it is.

7 Q And that is a copy of what you had typed up about your
8 conversations and interview with the defendant on February
9 29th of 2012, correct?

10 A Correct.

11 Q And I believe the first page goes over what was
12 ultimately memorialized and signed in a written statement
13 by the defendant, correct?

14 A Correct.

15 Q And then on the second page you'll see where I've
16 marked an arrow, you noted that he signed the voluntary
17 statement and it was turned over to Captain Bailey and
18 Lieutenant Mike Howell to be added to the case file; is
19 that right?

20 A That is correct.

21 Q Now, thereafter you continued speaking with him and he
22 verbally answered your questions but ultimately did not
23 sign another statement, correct?

24 A Correct.

25 Q But this was a contemporaneous recording of your

PRETRIAL MOTIONS

1 questions and his answers during that time; is that right?

2 A That's correct.

3 Q Therefore at this time I would ask that you read that
4 to the Court that you memorialized at that time as to his
5 verbal answers to you starting at that arrow.

6 A Okay. "T. Catoe signed a voluntary statement and it
7 was turned over to T. C. Bailey and Lieutenant M. B.
8 Howell to be added to the case file. At that time
9 investigators reported to T. Catoe that several
10 inconsistencies were found in his initial statement.
11 Therefore Investigator Thompson read and explained to him
12 his Miranda warning before resuming the interview.
13 Post-Miranda, Thompson asked Catoe to describe what the
14 female was wearing and he provided the same clothing
15 description. Initially T. Catoe reported that the female
16 was wearing a wig. When Thompson confronted T. Catoe
17 about what he had previously stated he reported that he
18 did not say that. Next, Investigator Thompson and
19 investigators questioned T. Catoe about the timeframe that
20 he reported that he encountered the thin white female that
21 he only knows as Sherry and the black female that he later
22 learned to be Linda Massey Gaymon. T. Catoe reported that
23 the time that he reported in the voluntary statement was
24 not completely accurate either after Thompson informed him
25 that a person matching his physical description was seen

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1 in the area in the early morning hours of February 24th of
2 2012.. At that time investigators explained exculpatory
3 evidence to T. Catoe before asking him to give a detailed
4 account of his day in an effort to eliminate him from this
5 incident. Investigators asked T. Catoe to provide names
6 and location of people that would provide testimony as to
7 where he was at the time of" -- I'm sorry -- "at the
8 possible time of death. T. Catoe then stated that he went
9 to Derrick Jordan's house on Shiloh Unity Road around 5:20
10 p.m. on February 23, 2013 after he and Jordan got off from
11 work and they rode down to the projects", put in
12 parenthesis apartments, "to see a person he only knows as
13 Sweet. When asked about Sweet's address T. Catoe reported
14 that she lives in the middle section. According to T.
15 Catoe he and Jordan visited with her for approximately an
16 hour before going back to Jordan's residence on Shiloh
17 Unity Road. T. Catoe reported that Jordan was supposed to
18 have taken him back to Sweet's apartment but after he got
19 home he opted not to. T. Catoe then got on his bicycle
20 and rode down to the New Town area of Lancaster. After
21 getting to the New Town area, T. Catoe coincidentally
22 meets with Sweet again while she was walking around. He
23 used her cellphone to call a drug dealer that he only
24 knows as Joey that he lives -- and that he lives on
25 Memorial Park Road. T. Catoe placed an order for cocaine

PRETRIAL MOTIONS

1 with Joey, but Joey instructs T. Catoe to meet him at Old
2 Mill Grocery because he would not deliver it to the New
3 Town area. T. Catoe and Sweet walked to Old Mill Grocery
4 from New Town, and it takes approximately 30 to 45
5 minutes. They buy the cocaine and then walk back another
6 30 to 45 minutes to an abandoned house in the area of
7 Bob's store and Ellen Dean Hotel on Meeting Street. T.
8 Catoe reports that he and Sweet sits on the porch, uses
9 the drugs and then go their separate ways."

10 Q Let me stop you one minute. Did you ever find out who
11 Sweet was?

12 A I did. I think that I did.

13 Q She was not the victim, Linda Massey Gaymon, correct?

14 A Yes.

15 Q This was another individual entirely, correct?

16 A Yes.

17 Q Please continue?

18 A Okay. "According to T. Catoe he gets on the bicycle,
19 rides through the New Town area again before riding over
20 to Midway. He reported that he comes down Old Landsford
21 Road to the cafe before turning to go up towards Cedar
22 Street. T. Catoe turns right on Cedar and then
23 immediately left onto Ninth Street because his bicycle
24 does not have brakes and didn't want to go down the steep
25 hill that dead-ends on Elm Street. Terry Catoe takes

PRETRIAL MOTIONS

1 Ninth Street to West Arch and cuts through a well born
2 path over to Elm Street while carrying his bicycle on his
3 shoulder. T. Catoe rides his bike across Elm Street and
4 onto 15th Street and takes it up to Brooklyn Avenue. T.
5 Catoe turns left and then encounters the female, Sherry.
6 He speaks with her -- he speaks to her as he is riding
7 back and forth, then moves onto meet Gaymon. When asked
8 about the specifics of that encounter, T. Catoe reports
9 that what he provided in the initial statement was
10 accurate. Investigators asked if he moved the couch that
11 had been placed in front of the house that Gaymon was
12 found inside of, he reported that he had. According to T.
13 Catoe he moved it several times because he was trying to
14 hide his bicycle that he left outside while he was having
15 sexual intercourse with her. Investigators asked T. Catoe
16 to tell them why he did not take his bicycle inside the
17 house with them, and he reported that he just did not.
18 Investigators asked T. Catoe to tell him again about the
19 sexual encounter and if he became agitated during
20 intercourse.

21 Q I'm sorry, you said he became agitated, is it he or
22 she?

23 A I'm sorry, if she became agitated during intercourse.

24 Q Thank you. Continue.

25 A "He reported that they did not get into an

PRETRIAL MOTIONS

1 altercation and that it lasted approximately 15 to 20
2 minutes. Afterwards they walked out together, he walked
3 out first and Gaymon walked out behind him and stood on
4 the porch as he got on his bicycle. Investigators asked
5 T. Catoe if he had any scratches, cuts or bruises. At
6 that time T. Catoe became agitated and stated that William
7 Catoe had informed him earlier that we had asked him and
8 had even checked his arms. T. Catoe stated that he did
9 have a scratch on him. Investigators asked him to tell
10 them how he got it and he reported that as she was walking
11 into the bedroom she slipped and accidentally scratched
12 his arm with her fingernails. Investigators asked T.
13 Catoe to demonstrate how the incident occurred and he
14 reported that he could not because it was too dark. At
15 this time investigators asked T. Catoe to tell them the
16 approximate time for this account of the evening and he
17 reported that it was later than what he had reported
18 earlier. Investigators asked T. Catoe if he" -- go ahead.
19 Q Yes. For the purposes of this hearing you can read
20 the next paragraph? We will exclude this with the jury.
21 A Okay. "Investigators asked T. Catoe if he would
22 submit to a polygraph examination against information that
23 he provided his statement under Miranda and he stated that
24 he would. Investigators asked T. Catoe if he would pass
25 the polygraph and he reported that he did not know.

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1 Investigators asked T. Catoe if he killed Linda Massey
2 Gaymon and after a brief hesitation he reported that he
3 did not. T. Catoe reported several times that he did not
4 kill her before he reported that he was ready to go and
5 that he did not want to talk anymore today."

6 Q And he made it clear, he said he didn't want to talk
7 anymore today; is that right?

8 A Yes, that's exactly what he said.

9 Q Okay. Continue.

10 A "Investigator Thompson asked T. Catoe if he would
11 stay long enough for him, Thompson," which means me, "to
12 report back to him what he had provided in the presence of
13 Captain T. C. Bailey and he agreed. Thompson reviewed the
14 information and afterwards T. Catoe was placed under
15 arrest for solicitation of prostitution."

16 Q Thank you.

17 MS. COLLINS: Your Honor, at this time if I had not
18 done so and I don't think I have, I would move State's
19 Exhibit 3 into evidence for the purpose of this hearing
20 only.

21 THE COURT: Any objection for the purpose of this
22 hearing?

23 MR. LEE: No, Your Honor.

24 THE COURT: Without objection introduced into evidence
25 for the purposes of this hearing.

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1 Q To the best of your memory Danny Bennett was there the
2 entire time the statement was signed, the signing of the
3 Miranda waiver and that statement that you have
4 memorialized of the verbal statement; is that right?

5 A Yes, ma'am.

6 Q And Craig Bailey came in simply for you to read over
7 those answers from the verbal statement and the defendant
8 affirmed that those were correct up to that point that he
9 said didn't want to talk anymore that day; is that right?

10 A Yes, ma'am.

11 Q And again. At no time was the defendant threatened in
12 any way or promised any reward in order for him to waive
13 his rights and give statements whether verbal or written;
14 is that correct?

15 A That's correct.

16 MS. COLLINS: Thank you. Please answer any questions
17 of Mr. Lee.

18 THE COURT: Mr. Lee, your witness.

19 MR. LEE: Thank you, Your Honor. May it please the
20 Court?

21 THE COURT: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. LEE:

24 Q Mr. Thompson, at this particular time did you -- or
25 had Mr. Terry Catoe become more of a suspect rather than

PRETRIAL MOTIONS

1 just a person you were trying to get information from?

2 A Initially you mean like toward the end, or at what
3 point do you mean?

4 Q Well, when you first talked to him -- let me back up
5 just a minute. It's my understanding initially the name
6 William Catoe had come up.

7 A That's correct.

8 Q And through investigation the sheriff's department
9 determined that it wasn't William Catoe, evidently he had
10 alibi witnesses; is that correct?

11 A Yes.

12 Q And then did the name Terry Catoe begin to surface?

13 A Yes.

14 Q So at that time you had a suspicion that perhaps he
15 was involved in it because Ms. Cauthen, this person named
16 Sherry had said she talked to a Catoe person.

17 A Well, she said the person looks like William Catoe.

18 Q And so you had a suspicion that Terry was involved in
19 it?

20 A Yes. But not because of what she said, it was
21 because of other information.

22 Q Okay. You had other information to that affect.

23 A Yes.

24 Q And, in fact, Mr. Catoe did have a bicycle and was
25 riding a bicycle and it had been reported that the

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1 individual that Ms. Gaymon met up with had a bicycle.

2 A Yes.

3 Q So he was just more than just a casual person you were
4 seeking information from.

5 A When he came in for the voluntary statement?

6 Q Right.

7 A We just didn't know for sure.

8 Q But you had a little suspicion though, didn't you,
9 that he might be the person.

10 A I can't honestly say that, we were still trying to
11 gather information.

12 Q But this was several days after the fact.

13 A Yes, sir.

14 Q And you had looked at some other people who didn't pan
15 out.

16 A Yes, sir.

17 Q I think you got a number of tips more or less that
18 other people involved, which obviously some of them were
19 farfetched and fanciful.

20 A Yes, sir.

21 Q And so you brought him in to ask him, or his sister --
22 he came voluntarily; is that correct?

23 A Yes, sir, he did.

24 Q Did you record any of this?

25 A No, sir, I did not.

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1 Q Is that a policy, or at that time was that a policy of
2 the sheriff's department?

3 A At that time it was not a policy.

4 Q Okay. So you didn't record any kind of statements
5 about people so that we would know exactly what they said?

6 A No, sir. We were actually in Captain Bailey's office
7 and we just didn't have that capability in his office.

8 Q You didn't have a hand-held recording or anything of
9 that nature?

10 A No, sir, I didn't have one.

11 Q But you had a computer. I believe you said he was
12 typing some of this as he was telling it to you.

13 A No, sir.

14 Q And you didn't make any effort to try to record it on
15 the computer?

16 A I don't even know if a voice recorder was on that
17 computer.

18 Q So basically -- particularly in this long statement, I
19 believe it's State's Exhibit Number 3 --

20 A Yes.

21 Q -- this was something you later put down from your
22 recollection; is that correct?

23 A No, sir. As we were interviewing, typically what I
24 would do is as I'm asking the question I would type out
25 the question, as they give an answer I would type that

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1 out. And at the very end what we typically do even with
2 the voluntarily statement I just copy and paste everything
3 from the Word document over to the statement form, and
4 that was the plan to do but he indicated he didn't want to
5 talk anymore that day.

6 Q And I can see on the State's Exhibit Number 1 and
7 Number 2 that sort of follows that format. But State's
8 Exhibit Number 3 is kind of a flowing document that says
9 some of those things but has other things in it too.

10 A Yes, sir.

11 Q And did you do that at the same time or did you later
12 come back and say, oh yeah, he said this and --

13 A After he indicated he didn't want to talk anymore
14 that day I just went ahead, I copied and pasted that over
15 to the Word document and just did a complete summary of
16 everything --

17 Q You added the other things to it that had gone on.

18 A Yes, sir.

19 Q Because the statement doesn't say, "I don't want to
20 talk anymore today."

21 A No, sir.

22 Q So that's just really a recollection of what you
23 recall occurring on that particular day. Had you already
24 made the decision to charge him with prostitution -- maybe
25 not you, but other people perhaps?

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1 A Well, no one in the room knew about it other than
2 Investigator Bennett and myself. So I guess before we let
3 him go, before any decision was made that's why I asked
4 him if he wouldn't mind just waiting for a few seconds
5 while I actually reviewed everything with Captain Bailey.

6 Q So you talked to him about it. Who actually made the
7 decision to charge him with prostitution?

8 A Captain Bailey is my supervisor, he made the ultimate
9 decision, but I'm sure it was something that we all
10 discussed.

11 Q Okay. And was that done to kind of keep him there so
12 he didn't leave?

13 A No, sir. A crime had been committed, he broke the
14 law.

15 Q So every time somebody tells you that a crime was
16 committed you go get a warrant for them.

17 A No, sir, not every time. You have to use discretion.

18 Q But in this take he was more than a person of interest
19 and you wanted to make sure he didn't leave.

20 A Yes, sir.

21 Q And so he was charged with prostitution.

22 A Yes, sir.

23 Q How long did it take to get that, do you recall?

24 A This is just my best guess, I cannot tell you for
25 certain, I feel pretty certain that it was very close to

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1 5:00 and our magistrate's office close at that time. So
2 if what I'm telling you is correct, if my memory is
3 correct he was actually placed in our detention that night
4 and a warrant request was done, and the following
5 morning -- I don't know how they're done now, but at that
6 time we would actually type up a warrant request and we
7 would either email it to the magistrate's office or either
8 the following morning we would take it there and they
9 would actually issue the warrant, we would sign it and
10 serve it on the defendant the next morning.

11 Q To your recollection was he served the next morning?

12 A Some time the next day, but I wasn't a part of that.

13 Q And it was just you and -- I know initially you said
14 that Investigator Crump was there.

15 A Yes, sir.

16 Q And then he left at some point in time. Do you know
17 how long after?

18 A Yes, sir. It was shortly after, it wasn't long at
19 all. And I don't know if he had followed another lead or
20 what was going on, we had several things going on at that
21 time, but he was in there for a very short period of time.

22 Q And then it was just you and Investigator Bennett?

23 A Yes, sir.

24 Q And nobody else came in?

25 A No, sir. No one else came in and no one else left.

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1 Q Did y'all just sit there and ask him like you asked
2 these questions or did y'all point out some things to him
3 or challenge some of his statements or --

4 A In the voluntary statement we asked questions,
5 whatever answer he gave is what we typed, it wasn't
6 confrontational at all, we just wanted to get any
7 information he may have had. After he finished and he
8 indicated that what he told us was completely accurate, we
9 asked him to review it, make any changes that were needed.
10 I don't think any changes were needed, he read over it,
11 signed it and at that time is when I told him there's some
12 inconsistencies, there's some things that are not matching
13 to what we know already. At that time is when I read him
14 his Miranda when I knew that we were going to actually
15 challenge him on some of the questions or some of the
16 statements that we made.

17 Q So you advised him of Miranda twice, first when you
18 started and then --

19 A No. During the voluntary statement we asked
20 questions and let him give an answer, we didn't read him
21 his Miranda at that time, it was voluntary. He came in on
22 his own free will and accord.

23 Q So there was no Miranda given initially.

24 A Yes, that's correct.

25 Q But y'all did suspect him as possibly being involved . .

PRETRIAL MOTIONS

1 in this.

2 A Like I said earlier, I didn't know for certain
3 because we had received so many different names and so
4 many different scenarios, I couldn't say for certain when
5 he came in, I really didn't know.

6 Q Let me see -- it may have slipped my mind what you
7 told me. Did you advise him of his Miranda rights at the
8 end when you said we've got to talk to you about these
9 other statements, or exactly when -- did that come at the
10 end of his statement?

11 A As soon as we finished the voluntary statement, the
12 initial statement when he came in on his own free will and
13 accord there was no Miranda given, we asked him questions
14 and he answered questions. After he signed that statement
15 I said, "Well, Terry, let me read you your Miranda because
16 we've got to ask you about some inconsistencies." At that
17 time I was pretty certain that he was our guy so I knew
18 that I had to press him to ask him more direct questions
19 about killing Linda Massey Gaymon, so that's when I
20 knew -- Investigator Bennett and I knew we had to read him
21 his Miranda.

22 Q And that's when you decided to get a warrant for him
23 for prostitution.

24 A Yes, sir. After he admitted that he did solicit
25 prostitution.

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1 MR. LEE: If I can have just a moment, Your Honor?

2 THE COURT: Okay.

3 (Break in proceedings.)

4 Q You talked with Mr. Catoe about hiding the bicycle and
5 about the couch.

6 A Yes, sir.

7 Q Do you remember saying anything to him along the lines
8 of, "Well, if you moved that couch we're going to have your
9 DNA?"

10 A I may have said that. I can't say for certain I said
11 that, but if he touched it his DNA would be on it.

12 Q And do you remember him saying, "Well, you better
13 check it for her DNA too because she helped me move it?"

14 A He may have said that, I really can't say for
15 certain.

16 Q But you might have said that.

17 A May have.

18 MR. LEE: That's all I have, Your Honor.

19 MS. COLLINS: Briefly.

20 REDIRECT EXAMINATION

21 BY MS. COLLINS:

22 Q Solicitation of prostitution is a crime, is it not?

23 A Yes, it is.

24 Q The defendant had made an admission that he had
25 solicited prostitution with Linda Massey Gaymon, correct?

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1 A Correct.

2 Q That he had offered her money for sex and that she had
3 accepted it, he'd given her money for sex and they had sex;
4 is that correct?

5 A That's correct.

6 Q So the point of charging him with solicitation of
7 prostitution wasn't simply to hold him overnight to talk to
8 him further, was it?

9 A No, it wasn't.

10 Q He had admitted to a crime and he was charged with a
11 crime, correct?

12 A That's correct.

13 Q And he was held until a warrant could be issued by the
14 magistrate for that crime; is that right?

15 A Yes, ma'am.

16 MS. COLLINS: Nothing further.

17 THE COURT: Any recross?

18 MR. LEE: No recross.

19 THE COURT: Thank you, sir, you may step down. Let's
20 take a brief recess.

21 (A break was taken.)

22 THE COURT: Call your next witness.

23 The witness, THOMAS CRAIG BAILEY, was first duly sworn
24 And testified as follows:

25 DIRECT EXAMINATION

PRETRIAL MOTIONS

1 BY MS. COLLINS:

2 Q State your name, please.

3 A Thomas Craig Bailey.

4 Q What's your occupation?

5 A Investigator with the sheriff's office.

6 Q You are the captain of the investigative division; is
7 that correct?

8 A Yes, ma'am.

9 Q You were here during the testimony just now of former
10 investigator Fred Thompson; is that right?

11 A I was.

12 Q You have before you State's Exhibit 3 which is in
13 evidence for the purposes of this hearing; is that right?

14 A Yes, ma'am.

15 Q You were here when Investigator Thompson explained
16 that that was a memorialization of the verbal questions and
17 answers given by the defendant, Terry Catoe, on 2/29'2012;
18 is that right?

19 A Correct.

20 Q If you'll look on page two where that first arrow is,
21 through the last page, page four, again, that was testified
22 to by Fred Thompson. Do you remember going into the
23 investigation room where Mr. Catoe was being interviewed by
24 Investigator Thompson and Investigator Bennett on 2/29 of
25 2012?

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1 A Yes, ma'am. My office actually is the interview
2 room, so anytime we have to -- there's an interview to be
3 conducted and all I usually just get booted until they can
4 do their interviews.

5 Q And this is in the old sheriff's department, correct?

6 A Yes, ma'am.

7 Q Y'all moved to the new facility when?

8 A Two years ago, I guess.

9 Q The question I have for you is the verbal statement
10 that was given by Terry Catoe as testified to just now by
11 former Investigator Fred Thompson and where he ended and
12 said he didn't want to say anymore today, were you present
13 when Fred Thompson read that back to him from his computer
14 and asked him to affirm if he had everything correct at
15 that point? Did Investigator Thompson have you come in and
16 listen to --

17 A No. Fred came in there, we were talking about it, he
18 explained everything, I don't think I was actually there
19 when he signed it.

20 Q No. Okay. He signed -- let me hand you these. He
21 signed the written statement, State's Exhibit 1.

22 A Uh-huh.

23 Q Then he signed, you'll see it came thereafter
24 time-wise, the Miranda waiver form, do you see that?

25 A Yes.

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1 Q But then he went through and asked him further
2 questions, and if you'll look at page four of the written
3 summary of the verbal statement given by the defendant.

4 A Okay.

5 Q Do you see where it says, "I asked him if he would
6 stay until I brought Captain Bailey in and had him review
7 with him."

8 A Okay.

9 Q Do you remember that, that they had you in there and
10 he reviewed with him?

11 A Yes.

12 Q And so he reviewed -- Mr. Thompson reviewed with Mr.
13 Catoe, the defendant, what he had told him and Mr. Catoe
14 confirmed that he had gotten it correct; is that right?

15 A Correct.

16 Q And that was in your presence?

17 A It was.

18 Q Okay. And it was at that point that he was then
19 charged with solicitation of prostitution, correct?

20 A Correct.

21 Q But because a magistrate was not available the written
22 warrant was not obtained until the next morning, correct?

23 A Correct.

24 Q But he was taken into custody on solicitation of
25 prostitution at that time, correct?

PRETRIAL MOTIONS

1 A Correct.

2 Q But in your presence the defendant did confirm that
3 that summary as read by Fred Thompson, that those answers
4 were correct that he'd given verbally, right?

5 A Exactly.

6 MS. COLLINS: Thank you. Please answer any questions
7 of Mr. Lee.

8 CROSS EXAMINATION

9 BY MR. LEE:

10 Q Captain Bailey, let me just so that I can -- they were
11 using your office; is that correct?

12 A Yes. We had -- we actually had -- the place was so
13 small we actually had investigators hot seat the desk,
14 there would be two investigators sharing one desk.

15 Q I can remember how it was, and I remember your daddy
16 when he was a captain in the detectives, that's giving my
17 age away but that was a long time ago. Let me ask you
18 this, did they come -- Investigator Thompson or the other
19 investigator, Whitaker, did any of them leave and come talk
20 to you and say, "Look, this guy is saying such and such,"
21 or did you know what was going on before?

22 A Mostly just bits and pieces.

23 Q So they would leave --

24 A We tried to give them as much privacy as we can when
25 they are interviewing, it was distracting enough just to

PRETRIAL MOTIONS

1 stay on task.

2 Q As the captain they would keep you informed sort of
3 where it was going and what they thought was happening?

4 A Whenever the opportunities were there.

5 Q And sometimes you would maybe give them advice, "Well,
6 why don't you ask about this?"

7 A Sometimes, yes.

8 Q And you think some of that may have happened some
9 during this --

10 A Sure.

11 Q And when Mr. Catoe was asked is this correct, was he
12 asked, "Is this absolutely correct? Do you want to add
13 anything?" Or was he just asked, "Is this correct that you
14 signed here?"

15 A I don't remember offhand. I just know he said, "Is
16 this correct," and, "Yeah." But exact wordage I don't
17 know.

18 Q So he may have only been referring to there's nothing
19 that's not correct in there, it may have been there may
20 have been other things that may have been discussed but
21 they weren't put in there.

22 A No. I don't think when he was asked that he was
23 saying is this correct how you want your statement to be.

24 Q But he didn't say -- I mean, by saying that he wasn't
25 necessarily implying that, "yeah, when I told you all of

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1 these other things and they're not in there," he just said
2 the piece of paper is correct.

3 A Correct. He's saying what was on your paper is
4 correct.

5 Q All right. And did you then make the decision to,
6 "Well, let's go ahead and charge him with prostitution?"

7 A Yes, sir.

8 MR. LEE: That's all I have, Your Honor.

9 THE COURT: All right.

10 MS. COLLINS: No further questions.

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

12 MS. COLLINS: The State's next witness is Danny
13 Bennett.

14 The witness, DANNY BENNETT, was first duly sworn and
15 Testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q Mr. Bennett, I'll ask that you speak directly into the
19 microphone, Mr. Lee and I are both a little hard of
20 hearing. Your name is Danny Bennett; is that correct?

21 A That's correct.

22 Q You're a retired investigator with the Lancaster
23 County Sheriff's Department; is that right?

24 A That's correct.

25 Q And you were employed with the Lancaster County

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1 Sheriff's Department in February of 2012; is that right?

2 A That's correct.

3 Q You assisted in the investigation into the death of
4 Linda Massey Gaymon, which resulted in the defendant, Terry
5 Catoe, being charged with the crime of murder; is that
6 right?

7 A That's correct.

8 Q Were you present on February 29, 2012 when the
9 defendant came in and gave a statement to Fred Thompson?

10 A That's correct.

11 Q I want to show you what's been marked as State's
12 Exhibit 1 that's in evidence for the purpose of this
13 hearing. Now, Mr. Bennett, I know you have been to the eye
14 doctor this morning and your eyes were dilated. Are you
15 able to see that?

16 A Yes, ma'am, I can see it.

17 Q All right. Very good. If you will look over State's
18 Exhibit 1. Were you present when Investigator Thompson
19 spoke with the defendant, Mr. Catoe, and ultimately Mr.
20 Catoe signed that last page and initialed those first two
21 pages as his written statement?

22 A Yes, ma'am.

23 Q All right. And at that time the defendant was not
24 under arrest, correct, at that time?

25 A He was not.

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1 Q I want to show you what's been marked now as State's
2 Exhibit 2. You and Mr. Thompson told Mr. Catoe at that
3 time that y'all were going to have to ask him about some
4 inconsistencies, and therefore at that time even though he
5 still wasn't under arrest Investigator Thompson read him
6 his Miranda rights; is that right?

7 A That's correct.

8 Q And Investigator Thompson did that in your presence
9 and reviewed with the defendant that written form, State's
10 Exhibit 2, as to each of his Miranda rights and he
11 initialed that he understood each of those rights as Mr.
12 Thompson reviewed them in your presence; is that correct?

13 A That's correct.

14 Q And ultimately the defendant signed the waiver at the
15 bottom waiving his Miranda rights and agreeing to speak
16 with the two of you; is that right?

17 A That's correct.

18 Q And the defendant signed that in your presence,
19 correct?

20 A Yes, ma'am, correct.

21 Q And Mr. Thompson signed as a witness and you signed at
22 the bottom as a witness I believe; is that right?

23 A That's correct.

24 Q At anytime, Mr. Bennett, did either you or Mr.

25 Thompson make any threats to the defendant in order to

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1 induce his statement?

2 A No, ma'am.

3 Q At anytime did either of you make any promises to the
4 defendant of any reward of any type in order to induce his
5 Miranda waiver and his statement?

6 A No, ma'am.

7 Q Did the defendant answer your questions freely and
8 voluntarily?

9 A That's correct.

10 Q And at anytime did the defendant act like he was
11 confused or didn't understand his rights and the waiver of
12 the rights?

13 A No, ma'am.

14 Q At anytime did the defendant ask for an attorney?

15 A No, ma'am.

16 Q And the defendant waives those rights and agreed to
17 continue speaking to yourself and Mr. Thompson, correct?

18 A That's correct.

19 Q Now, at that time Investigator Thompson continued to
20 ask questions of the defendant and he continued to verbally
21 answer them in your presence, right?

22 A That's correct.

23 Q But ultimately at the conclusion of that verbal
24 question and answer session, the defendant stated he didn't
25 want to say anything further today; is that right?

PRETRIAL MOTIONS

1 A That's correct.

2 Q And he did not wish to sign a written statement as to
3 that second verbal answer and questions period, right?

4 A That's correct.

5 Q Now, I don't know if you were here, I'm going to hand
6 you what's been marked as State's Exhibit 3 and show you on
7 the beginning of the second page where Investigator
8 Thompson has memorialized that verbal exchange that was not
9 signed in written statement by the defendant, but it
10 contains the substance of that verbal conversation after
11 the written Miranda rights form was signed, and I believe
12 you and I met last week, you had an opportunity to review
13 that; is that correct?

14 A Yes, ma'am.

15 Q All right. And to the best of your knowledge is that
16 a true and accurate representation of the verbal questions
17 that were asked of the defendant and the verbal answers he
18 gave after signing that written Miranda rights form?

19 A It is.

20 Q And at the conclusion when the defendant indicated he
21 did not wish to say anything further today on that day, did
22 Investigator Thompson ask him, "Well, let me just bring in
23 Captain Bailey so I can review with you what you've told me
24 just so to make sure that I've got this part right since
25 you're not signing the statement?" Do you remember that?

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1 A Yes, ma'am.

2 Q And did he review with the defendant those questions
3 and answers and the verbal portion that's memorized in
4 pages two and three of State's Exhibit 3, and did the
5 defendant affirm that he had gotten those answers correct?

6 A Yes, ma'am.

7 Q And that was all in your presence on 2/29 of 2012?

8 A That's correct.

9 MS. COLLINS: Thank you, Mr. Bennett. Mr. Bennett, if
10 you will, please answer any questions of Mr. Lee.

11 CROSS EXAMINATION

12 BY MR. LEE:

13 Q Mr. Bennett, when you were talking to Mr. Catoe, if
14 you or Investigator Thompson or both of you left to confer
15 with Captain Bailey, was anybody in the room with Mr.
16 Catoe?

17 A I stayed with Mr. Catoe, I didn't leave.

18 Q You never left at all.

19 A No, sir.

20 Q Was any discussion with Mr. Thompson between the three
21 of you about "It sounds like he's admitted to prostitution"
22 or anything of that nature?

23 A No, sir.

24 Q Let me ask you -- so when he made that statement of "I
25 don't want to talk to you anymore today," he hadn't been

PRETRIAL MOTIONS

1 told, "Well, we're going to charge you with prostitution,
2 you're not going home today."

3 A Not at that time I don't think so.

4 Q Okay. And then when he was taken -- as soon as they
5 came in and told him -- who told him, "You're going to be
6 charged with prostitution?"

7 A I believe Fred did, and I'm not 100 percent sure of
8 that.

9 Q That's after he left and talked to Captain Bailey and
10 then came back and said --

11 A Yeah.

12 Q And then when he told him that, do you know if he made
13 any comments or anything, Mr. Catoe that is?

14 A Did Mr. Catoe make any comment?

15 Q Right.

16 A I don't think so.

17 Q But up until Investigator Thompson came back in again,
18 there was nothing that said "we're going to arrest you
19 today" or anything?

20 A Not that I'm aware of, no.

21 Q And I asked this of Investigator Thompson and I'll ask
22 you and I think he said he just didn't remember about any
23 comments about, you know, if you moved that sofa you'd
24 better tell us because your DNA is going to be on it?

25 A I remember some discussion about the sofa and I

PRETRIAL MOTIONS

1 remember it was placed over the door of the building where
2 the incident took place, but I don't remember any
3 specifics about it. It's been four years, I just don't
4 remember.

5 Q Sure, I understand that. So you don't remember if he
6 said, "Well, you'd better check it for her DNA," either?

7 A I really don't.

8 Q But you remember there was some conversations in the
9 discussions about a sofa being moved and put over at the
10 door.

11 A Yeah.

12 Q And I think everything that's on State's Exhibit
13 Number 3, which is the four page document, that was just a
14 recollection of -- and actually I think Investigator
15 Thompson said he actually typed it up, that's just a
16 recollection of what went on.

17 A That's correct.

18 MR. LEE: I have nothing further, Your Honor.

19 MS. COLLINS: No further questions of this witness.

20 (Break in proceedings.)

21 MS. COLLINS: State's next witness is Clark Crump.

22 The witness, CLARK CRUMP, was first duly sworn and
23 Testified as follows:

24 DIRECT EXAMINATION

25

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1 BY MS. COLLINS:

2 Q You are Clark Crump; is that correct?

3 A Yes, ma'am.

4 Q You've been here this morning hearing the testimony of
5 this case?

6 A Yes, ma'am.

7 Q As you heard, Mr. Lee and I are a little hard of
8 hearing so if you will speak into the microphone.

9 A Yes, ma'am.

10 Q You heard the testimony of Fred Thompson; is that
11 correct?

12 A That's correct.

13 Q I want to hand you State's Exhibit 1, which at the
14 very top of that signed written statement for February
15 29th, 2012, it states question, Fred -- F. Thompson and C.
16 Crump. Do you see that?

17 A Yes, ma'am.

18 Q Do you recall, Mr. Crump -- you are a retired
19 investigator with the sheriff's office; is that right?

20 A That's correct.

21 Q May I refer to you as Mr. Crump?

22 A Sure.

23 Q Do you recall, Mr. Crump, were you present during the
24 initial part of that statement?

25 A Yes, ma'am, at the very beginning of it.

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1 Q But you had to leave before ultimately the time came
2 for him to sign; is that correct?

3 A It was way before.

4 Q So it was witnessed by Danny Bennett and Fred
5 Thompson, correct?

6 A Yes, ma'am.

7 Q I want to show you now what has been marked as State's
8 Exhibit 4 for identification purposes. Do you recognize
9 that document?

10 A Yes, ma'am.

11 Q Is that a signed written Miranda waiver form?

12 A Yes, ma'am.

13 Q Is that dated 3/1 of 2012?

14 A Yes, ma'am.

15 Q Is that your signature on the bottom?

16 A Yes, it is.

17 Q You and Investigator James Whitaker witnessed the
18 signature to that waiver of Terry Catoe, the defendant, on
19 March 1st, 2012; is that right?

20 A That's correct.

21 Q Before we get to that I want to back up and ask you,
22 were you involved in the investigation of this case, or was
23 your involvement limited to 2/29 and 3/1 of '12?

24 A It was fairly limited to just the couple of days
25 there.

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1 Q All right. On March 1st, 2012, were you and
2 Investigator Whitaker asked by Captain Craig Bailey to
3 serve a solicitation of prostitution warrant upon the
4 defendant in the jail at the detention center here?

5 A Yes, ma'am.

6 Q And when y'all went to take that solicitation of
7 prostitution warrant to be served on the defendant, can you
8 tell the Court what happened at that time?

9 A Well, he was in one of the private cells up at the
10 front of the jail, we were escorted back there by a
11 corrections officer and informed him that -- actually
12 informed him that Investigator Whitaker was going to serve
13 the warrant on him, he asked what it was for, I told him
14 that it was related to Ms. Gaymon, or Ms. Massey. And he
15 said, "What's going on?" And I said, "I really can't tell
16 you, we're just here to serve the warrant on you." He
17 asked me again to talk to him and again I told him, "I
18 can't. If you want to talk anymore I need to Mirandize
19 you," and at that time I read him his rights and we went
20 forward.

21 Q All right. You read him his rights on a Miranda
22 rights waiver card?

23 A Yes, ma'am.

24 Q That was issued to you and that you kept on you when
25 you served with the department?

PRETRIAL MOTIONS

1 A Yes, ma'am.

2 Q And was that card -- those rights stated identical to
3 the Miranda rights waiver form that you have there in
4 State's Exhibit 4?

5 A Yes, ma'am.

6 Q And you read each of those rights to him?

7 A Yes, ma'am.

8 Q And did he confirm that he understood those rights?

9 A Yes, ma'am.

10 Q Did he at that time indicate that he wished to waive
11 those rights and speak to you there at the cell?

12 A Yes, ma'am.

13 Q And what did he say to you briefly there in the cell?

14 A Well, he wanted to know what was going on with the
15 investigation and I asked him what did he know about it,
16 and he began to tell me that he was actually, in fact,
17 with the victim. I asked him, "Were you involved with her
18 sexually as you said in your statement to Investigator
19 Thompson?" He said that he was. And I asked him, "Were
20 you involved in her death?" And he said that he was.

21 Q At that point what did you do?

22 A I asked him if he was willing to go up front to the
23 investigator section so that we could actually take this
24 down in a written statement.

25 Q And what did he respond?

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1 A He insinuated that he would.

2 Q And that was all in Investigator Whitaker's presence
3 also?

4 A Yes, ma'am.

5 Q So the three of y'all -- you and Investigator Whitaker
6 then took Mr. Catoe up to the investigative section of the
7 sheriff's department at that time?

8 A That's correct.

9 Q This was at the old facility before you were at the
10 new facility, right?

11 A Yes, ma'am.

12 Q And so at that time where did y'all go, to
13 Investigator Whitaker's desk, I believe?

14 A Yes, ma'am.

15 Q Was the defendant still shackled?

16 A Yes, ma'am.

17 Q But was he cuffed, do you recall?

18 A No, ma'am.

19 Q When y'all got to Investigator Whitaker's desk then, I
20 know you had read from your card the Miranda rights, did
21 you then review the written Miranda form, or you or
22 Investigator Whitaker in your presence review the written
23 Miranda waiver form with the defendant?

24 A Yes, ma'am.

25 Q Of course, the defendant had been in jail overnight,

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1 correct?

2 A That's correct.

3 Q And so to your knowledge he was not under the
4 influence of any alcohol or drugs, correct?

5 A No, ma'am.

6 Q And he did not at anytime appear to be confused, did
7 he?

8 A No, ma'am.

9 Q Did he appear to understand the rights that you and
10 Investigator Whitaker were reading to him?

11 A Yes, ma'am.

12 Q At anytime did he ask for any clarification of those
13 rights?

14 A Yes, ma'am.

15 Q Did he initial beside each of those rights as you read
16 them out loud to him?

17 A Yes, he did.

18 Q And I say you, it was you or Investigator Whitaker, do
19 you recall whom?

20 A I would have read him his rights from the sheet, and
21 as I read him each one he would have initialed it.

22 Q All right. And by one of them you've got the word
23 r-e-a-d for either read or read written beside it. Which
24 portion of the rights is that?

25 A That would be line item number five, "You can decide

PRETRIAL MOTIONS

1 at anytime to exercise these rights or not answer any
2 questions or make any statement." However, I would like
3 to correct the record, I did not write that, Mr. Catoe
4 wrote read, r-e-a-d. Whenever I would Mirandize someone I
5 would ask him to write that there beside that statement,
6 couple of things, that they could read, that they
7 understood and that they were voluntarily giving the
8 statement by writing read.

9 Q "All of the rights were read out to them, correct?

10 A That's correct.

11 Q It was just your habit for that one in particular that
12 you would ask that they write r-e-a-d and reflect that all
13 of them had been read to him, correct?

14 A That's correct.

15 Q At anytime were any threats made to the defendant to
16 induce him to waive his Miranda rights and give a
17 statement?

18 A No, ma'am.

19 Q At anytime time were any promises made to the
20 defendant to induce him to waive his Miranda rights and
21 give a statement?

22 A No, ma'am.

23 Q The rights were read out loud to him as written there
24 on the page on State's Exhibit 4 each and every one?

25 A Yes, ma'am.

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1 Q And the time is noted at 3:28 on -- I'm sorry, I'm
2 reading State's Exhibit 2 -- the time was noted -- what was
3 the time?

4 A 3:51 when it began.

5 Q So 3:51 on March 1st of 2012; is that correct?

6 A That's correct.

7 Q And you know y'all often use military time, but the
8 3:51, that was in fact p.m. correct?

9 A It is. The bottom was noted p.m. but it wasn't at
10 the top. But it was p.m. yes, ma'am.

11 Q Very good. And at the conclusion the defendant signed
12 that waiver of rights in your presence and in the presence
13 of Investigator Whitaker, correct?

14 A Yes, ma'am.

15 Q And Investigator Whitaker, I believe, signed the first
16 witness line and you signed the second one; is that right?

17 A That's correct.

18 Q And after the defendant signed that waiver, he
19 indicated that as noted on the written waiver form that he
20 wished to waive his rights and speak with both of you,
21 correct?

22 A That's correct.

23 Q And at that time were questions asked of the defendant
24 and did the defendant respond to those questions?

25 A Yes, ma'am.

PRETRIAL MOTIONS

1 Q And at the conclusion of that interview, were those
2 questions and answers typed up and reviewed with the
3 defendant and --

4 A Yes, ma'am.

5 Q And I'm going to show you --

6 MS. COLLINS: At this time I move State's Exhibit 4,
7 the Miranda waiver form that was signed on 3/1 of 2012 into
8 evidence for the purposes of this hearing only.

9 MR. LEE: No objection.

10 THE COURT: Without objection so entered.

11 Q Referring to State's Exhibit 5, which I've just handed
12 to you, that's a three page document, is it not?

13 A Yes, ma'am.

14 Q And is that the signed written statement that was
15 taken from the defendant on 3/1 of 2012 immediately after
16 he signed the written Miranda waiver form, State's Exhibit
17 4?

18 A Yes, ma'am.

19 Q And it notes, questions, the statement to investigator
20 C. Crump and Investigator J. Whitaker, that's yourself and
21 James Whitaker, you were the ones conducting the interview
22 with the defendant Terry Catoe, correct?

23 A Yes, ma'am.

24 Q Now, do you recall who was typing up the responses?

25 It says the questions were by C. Crump, were the questions

PRETRIAL MOTIONS

1 by you and Whitaker was typing?

2 A Yes, ma'am.

3 Q Now, I note at the top there appears to be a clerical
4 error I want ask you about. The date on the top right
5 corner of these three pages shows 4/1 of 2010, is that a
6 clerical error?

7 A Yes, ma'am, I assume so. It definitely was not then.

8 Q Case number in fact was 12-06837, correct?

9 A I would have to look at the file but I believe it
10 would be, yes, ma'am.

11 Q That's reflected on the top of this form, right?

12 A Yes.

13 Q And so clearly 4/1 of 2010 predated this by two years
14 and is in error, right?

15 A Yes.

16 Q But this signed statement took place after the written
17 Miranda waiver that was signed by the defendant in State's
18 Exhibit 4 on 3/1/12 in your presence, correct?

19 A That's correct.

20 Q As you asked the questions and Mr. Catoe made the
21 answers, you said Investigator Whitaker was typing up the
22 questions and responses; is that right?

23 A Yes, ma'am.

24 Q And at the conclusion of the interview was that
25 printed out and he was allowed to review these three pages

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1 before he signed them?

2 A Yes, ma'am.

3 Q And at the bottom it says, "I have read or read to me
4 the above statement and it's true and correct as best I
5 recall and I received a copy of this statement;" is that
6 right?

7 A Yes, ma'am.

8 Q And the defendant signed each of these pages in your
9 presence?

10 A Yes, ma'am.

11 Q And Investigator Whitaker signed the first witness
12 line on each page and you signed the second witness line on
13 each page; is that correct?

14 A Yes, ma'am.

15 MS. COLLINS: At this time I move State's Exhibit 5
16 into evidence for the purposes of this hearing.

17 THE COURT: Without objection?

18 MR. LEE: No objection.

19 THE COURT: Without objection so entered.

20 Q The very top paragraph again goes into his Miranda
21 rights again. Was that read out loud to him before he
22 signed?

23 A Yes, ma'am.

24 Q All right. If you will, please read questions and
25 answers starting with question Investigator C. Crump for

PRETRIAL MOTIONS

1 purposes of the record at this time.

2 A Question; Investigator C. Crump; answer, Terry Catoe.

3 You want me to follow the whole statement?

4 Q Continue, yes.

5 A Question. "Have you been read your Miranda rights?"

6 Answer. "Yes." Question. "Having those rights in mind,

7 are you willing to give a statement?" Answer is yes.

8 "Question. On 2/29 of 2012, you gave a statement to

9 Investigator F. Thompson and Bennett that on 2/24 of 2012

10 you had sexual relations with Linda Massey Gaymon; is that

11 true." Answer. "Yes." Question. "What type of sex did

12 you have with Linda Massey Gaymon?" Answer. "It was

13 anal." Question. "What location did you have a sexual

14 relationship at with Linda?" Answer. "In an abandoned

15 house in the circle behind the store on Brooklyn in an

16 abandoned yellow house." Question. "Did you use a couch

17 in the abandoned house to block the doorway?" Answer.

18 "Yes, I used it to block the doorway. I told the

19 Investigator Thompson that I used it to hide my bike."

20 Question. "In what position was Linda during the sex?"

21 Answer. "During the vaginal sex we were doggy style and

22 she wanted to turn over for the anal sex on her back, she

23 wanted it anal." Question. "At anytime during the sex

24 act or acts did you start choking her? Yes. She asked me

25 was I into hard core sex, and I said, 'What are you

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1 talking about? And she said, 'Here,' and placed my arm
2 across her neck and my forearm across her neck. She was
3 looking at me and then she turned her head to the side
4 looking away from the wall." Question. "How long did you
5 have sex with her anally with your forearm across her
6 neck?" About 20 to 25 minute was his answer. Question.
7 "Did you have an orgasm?" Answer. "Yes." Question.
8 "Did Linda have an orgasm?" Answer. "I don't know."
9 Question. "Tell me what happened after your orgasm?"
10 Answer. "After I nutted I put my clothes on, I think the
11 damage was already done." Question. "By damage, what do
12 you mean?" Answer. "She was already about to go out, she
13 was just lying there moaning. I asked her what was wrong
14 and she did not say anything, I got scared and left."
15 Question. "Did you pay for the sex, and if so, how much
16 when did you pay? Yes, I did, I paid her \$15." Question.
17 "When did you pay her and where did she put the money?"
18 Answer. When she pulled her clothes down I gave her the
19 money, I don't know where she put the money, if she put it
20 in her bar (sic) or not" -- I think that was bag.
21 Question. "What was she wearing if you can remember? She
22 was wearing black pants and a blue or black shirt."
23 Question. "What were you wearing?" Answer. "I had on
24 blue jeans, a white shirt and a gray hoodie." Question.
25 "Was Linda alive when you left her?" Answer. "Yes, sir,

PRETRIAL MOTIONS

1 I guess she was." Question. "You said you guess. How
2 did you know she was alive?" Answer. "Her leg was moving
3 and she was lying on her side and her eyes were open when
4 I left." Question. Did she ever yell out, 'You don't
5 have to do that?" Answer. "Yes. She yelled out
6 something when I first put it in her ass. The first time
7 I put it in without asking, we were doing it doggy style."
8 Question. "When did the condom break?" Answer. "When I
9 was in her ass." Question. "Have you been honest in this
10 statement?" Answer. "Yes, sir. Are you willing for us
11 to photograph your whole body?" Answer. "Yes."
12 Question. "Are you willing to take a polygraph behind the
13 statement?" Answer. "I'm not comfortable with the
14 polygraph." Question. "Is there anything that you would
15 want to add to this statement?" Answer. "I'm sorry that
16 it happened, I wish I could take it back and I wish she
17 were still here today."

18 Q Thank you.

19 MS. COLLINS: Your Honor, obviously, we would leave
20 out the next to the last question and answer regarding the
21 polygraph when it's in front of the jury and we would
22 redact what goes back to the jury, but for purposes of this
23 hearing I wanted the witness to read it in its entirety.

24 Q Mr. Crump, at anytime giving the statement did the
25 defendant say he didn't wish to speak to you anymore?

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1 A No, ma'am.

2 Q At anytime did he ask for an attorney?

3 A No, ma'am.

4 Q And at the conclusion when the statement was printed
5 out and given to him to sign, did y'all allow him to read
6 over that statement?

7 A Yes, ma'am.

8 Q And did you tell him if he wanted to make any changes
9 that he could?

10 A Yes, ma'am.

11 Q And did you, in fact, tell him if he wanted to
12 handwrite anything he could on that last page?

13 A Yes, ma'am.

14 Q There's plenty of room there; is that right?

15 A Yes, ma'am.

16 Q And the defendant did not ask to make any changes; is
17 that right?

18 A No, ma'am, he did not.

19 Q He signed the bottom of each and every page in your
20 presence, correct?

21 A Yes, ma'am.

22 MS. COLLINS: Thank you. Please answer any questions
23 of Mr. Lee.

24 MR. LEE: May it please the Court?

25 THE COURT: Yes, sir.

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1 CROSS EXAMINATION

2 BY MR. LEE:

3 Q Investigator Crump, my understanding is you were
4 involved from the initial investigation, is that correct,
5 or some part of it?

6 A Very little. I was assigned to major crimes and
7 violent crimes and would assist. This was basically
8 Investigator Thompson's case, I was brought in to help
9 with this for these particular couple of days. I don't
10 really remember why it was shifted like it was, but
11 anyway, I was asked to help.

12 Q Okay.

13 A Other than this interview and just being briefed on
14 the facts of the case, I didn't have a whole lot of
15 involvement.

16 Q So you originally came into the cell to serve a
17 warrant or either a --

18 A To witness Investigator Whitaker serve the warrant.

19 Q He was going to serve it and you were just there as a
20 witness.

21 A Yes, sir.

22 Q Was there any suspicion at that time that, okay, he's
23 done some more than just involved in prostitution or --

24 A Like I say, I was not involved with the case in total
25 before then, but there was some indication he could be

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1 responsible, yes, sir.

2 Q So y'all sort of had an idea that maybe he was
3 responsible for her death.

4 A There was some indication he could have been
5 involved.

6 Q Okay. And if I understood correctly what you said was
7 that you and Investigator Whitaker went in to serve the
8 warrant on him and he said something about, "What's this
9 for?" And did y'all say, "This is for prostitution," or --

10 A I really didn't have much of a chance. He began
11 asking about the particulars of the case and I informed
12 him that I really couldn't talk about the case unless he
13 was willing to waive his Miranda rights.

14 Q So you said you couldn't talk to him unless he waived
15 his rights.

16 A I couldn't talk -- either ask or answer any questions
17 about this case in particular.

18 Q And then did he say, "Well, I'm willing to do that,"
19 or --

20 A He asked two or three times, and I finally said -- I
21 pulled my Miranda card out of my wallet and I said, "Let
22 me read you your rights so you can understand," and I read
23 him his rights and then began to tell him.

24 Q Did he seem anxiousness that he wanted to tell you
25 something?

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1 A I don't know if anxiousness would be the proper way
2 to phrase it, but he was more interested I think in what
3 we knew than anything else at that particular time.

4 Q But as you said, you weren't one of the lead
5 investigators on it so you really couldn't tell him a whole
6 lot; is that correct?

7 A Well, I think he wanted to know some particular stuff
8 about some of the forensic evidence that I just had no
9 idea about at the time.

10 Q So you read him the Miranda warnings off the card?

11 A Yes, sir.

12 Q Did he then tell you some things?

13 A I think his first initial statement was -- or
14 indication was he shook his head affirmative up and down
15 as to yes, and I was there. And I said, "Well, tell me
16 what happened." And he told me basically that he'd paid
17 her for sex just like he'd told Investigator Thompson, and
18 that it got rough and it didn't turn out well -- I think
19 he said it didn't turn out well, and that's when I asked
20 him to go up front.

21 Q Did he say then that she told him -- he said something
22 about rough sex?

23 A Yes, sir.

24 Q And then you decided well, we'd better take him up
25 here and get him in a more formalized setting to talk to

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1 him.

2 A Well, we wanted to be able to record it, or not
3 record it, but be able to type the statement out if he was
4 willing to.

5 Q Did y'all ever record any statements?

6 A No, sir.

7 Q But Officer Whitaker was typing as he was talking?

8 A As I was asking the questions and Mr. Catoe was
9 answering them, Investigator Whitaker was typing them.

10 Q Was this on a desktop or a laptop?

11 A It would have been on a desktop I'm quite certain.

12 Q And that's when he then gave you the statements about
13 what happened on the case.

14 A Yes, sir.

15 Q When you -- I guess I'm being -- because an officer is
16 typing it at the same time you're almost able
17 instantaneously to give him something to look at when he
18 finishes the statement.

19 A Well, it's my standard practice to actually turn the
20 screen to where the interviewee could see it and read it
21 from there and read what was actually printed out to read
22 it, so they actually verified it twice.

23 Q So at that point in time it's not like we'll bring
24 this back to you in a little while and he has a chance to
25 think about it. He --

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1 A No, it was in time.

2 Q And then when you asked him -- do you remember exactly
3 how you asked him, is this correct, or --

4 A Is what correct?

5 Q The statement.

6 A I had him read it and had him -- actually I'm quite
7 certain I had him read it on the screen and had him read
8 the actual typed-out statement, Exhibit Number 5, and then
9 when he's asked, "Have you been honest in this statement?
10 Yes, sir," that's him saying that's his statement.

11 Q And if I could just -- if I may approach? I didn't
12 bring my copy up here. And I think he then made a comment
13 "I'm sorry this happened" or something to that affect, "I
14 wish I could take it back or undo it," or something to that
15 affect?

16 A "I'm sorry that it happened, I wish I could take it
17 back, I wish she was still here today."

18 Q And that's all he added I think you've said.

19 A Well, that was not -- actually not an addition, that
20 was all typed out. And he was asked, "Have you been
21 honest in this statement? Yes, sir." And then when he
22 read it, have you been honest in this statement, answer,
23 yes, sir, is confirming what he already said, so that was
24 not added.

25 Q Okay. And then I think somewhere in there it says is

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1 there anything you want to add or something to that effect?

2 A Yeah, that's the last question. But it's not added
3 after he reviews the statement, it's actually part of the
4 statement.

5 Q So in other words that was put in there, he said no,
6 and then it was printed out and then he looked at it --

7 A He didn't say no, he said he's sorry it happened and
8 he wished he could take it back.

9 Q Oh, okay. But the document was printed out and he has
10 an opportunity to review it and it's not "Here is the
11 statement, is there anything you want to add to it?"

12 A Well, he was aware of his statement -- like I said,
13 he would have reviewed it on the computer screen and aware
14 of what the statement was and aware of the total statement
15 before he signs it.

16 Q And I think you said something about he was told he
17 could write it out?

18 A No. There's room once the statement is typed out --
19 if he had decided to add something after the statement was
20 printed that he would have been able to do it here should
21 he have chose to do so.

22 Q But that's not on the form that says if you want to
23 write your own statement or add anything you can write it
24 down here.

25 A The opportunity would have presented itself.

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1 Q Okay. But it's not part of the form where it says add
2 this -- or if you want to add something put it here.

3 A Well, there's a question that asks is there anything
4 you want to add to this statement.

5 Q But the statement doesn't say you may add it below or
6 anything like that?

7 A No. It doesn't indicate where you can add what you
8 want to say, but it does say you can add.

9 Q And I believe you said you -- this was in the old
10 building, you just escorted him from the lockup section to
11 the sheriff's department?

12 A Yes, sir.

13 Q And he wasn't handcuffed at that point?

14 A Well, jail policy is he would have been shackled
15 certainly, I don't believe he would have been handcuffed,
16 I'm not really certain. He definitely would not have been
17 handcuffed when we were interviewing him, not then at that
18 time.

19 Q Did you y'all go ahead and serve him with the
20 prostitution warrant?

21 A I think it was served after the statement.

22 Q Did you already have the other murder warrant at that
23 time or do you know?

24 A Not to my knowledge, I do not think we had it at that
25 time.

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1 MR. LEE: If I might have just a moment, Your Honor.

2 THE COURT: All right.

3 (Break in proceedings.)

4 MR. LEE: That's all I have Your Honor.

5 MS. COLLINS: No further questions for this witness,
6 we ask that he be excused if he wants to be until Wednesday
7 at 9:00.

8 THE COURT: Any objection to that?

9 MR. LEE: No, Your Honor.

10 THE COURT: You're free to leave until 9:00 Wednesday.

11 MS. COLLINS: Your Honor, the last witness for this
12 hearing is Mr. James Whitaker.

13 The witness, JAMES WHITAKER, was first duly sworn and
14 Testified as follows:

15 DIRECT EXAMINATION

16 BY MS. COLLINS:

17 Q Would you state your name for the record?

18 A James E. Whitaker.

19 Q What is your current occupation?

20 A Detective Sergeant Investigator for Pageland Police
21 Department.

22 Q And Detective, did you used to be an investigator with
23 the Lancaster County Sheriff's Department?

24 A Yes, ma'am.

25 Q What years did you work there?

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1 A I worked with Lancaster County Sheriff's Office from
2 2001 to 2013.

3 Q Were you involved in the investigation into the
4 allegations culminating in Terry Catoe being charged with
5 the murder of Linda Massey Gaymon on February 24th of 2012?

6 A Yes, ma'am.

7 Q I'm going to show you what's been admitted into
8 evidence for the purposes of this hearing.--

9 MS. COLLINS: And Judge, I believe I moved to admit 5
10 for the purposes of this hearing as well as 4 and if I did
11 not I do so at this time.

12 THE COURT: I think you did but it's admitted.

13 Q I'll hand you that. Let me ask you, Detective
14 Thompson -- I'm sorry, not Thompson, Whitaker, forgive
15 me -- you have been present during the testimony of Mr.
16 Crump, correct?

17 A Yes, ma'am.

18 Q And you heard his testimony regarding being present
19 during an interview with the defendant on March 1st of
20 2012; is that right?

21 A Yes, ma'am.

22 Q If you will please refer to State's Exhibit 4 before
23 you. Let me back up before I get to that. Were you asked
24 by Captain Craig Bailey to serve the defendant with a
25 warrant for solicitation of prostitution on March 1st of

PRETRIAL MOTIONS

1 2012?

2 A Yes, ma'am, I was.

3 Q And did Clark Crump go with you to serve that warrant?

4 A Yes, ma'am, he did.

5 Q And the defendant had been held in custody overnight
6 at the jail pending the written warrant being issued and
7 signed by the magistrate; is that correct?

8 A Yes, ma'am.

9 Q And when you and Investigator Crump at that time went
10 on March 1st of 2012 to serve the defendant with the
11 solicitation of prostitution warrant, you were both
12 present, you and Mr. Crump, right?

13 A Yes, ma'am.

14 Q And you heard his testimony in regard to at the
15 beginning of serving him with that warrant that the
16 defendant wanted to talk to y'all; is that right?

17 A Yes, ma'am.

18 Q And Mr. Crump stopped him and read him verbally from a
19 card in his pocket his Miranda rights; is that correct?

20 A Yes, he did.

21 Q And you were present during that time?

22 A Yes, ma'am, I was.

23 Q And did the defendant at that time indicate he wished
24 to waive his Miranda rights, although he indicated he
25 understood them, he wished to waive them and he wished to

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1 give y'all a statement; is that right?

2 A Yes, ma'am.

3 Q And at that time, did he indicate that he had been
4 involved with having rough sex with the victim, Linda
5 Massey Gaymon, and that it had gone wrong and she had
6 ultimately died?

7 A Yes.

8 Q And at that time did y'all ask him if -- Mr. Catoe if
9 he wanted to go with you and Mr. Crump to your desk in the
10 investigative section at the sheriff's department to give a
11 written statement?

12 A Yes. We asked him if he would go to the
13 investigator's side.

14 Q And did Mr. Catoe indicate that yes, he did want to do
15 that?

16 A Yes, ma'am.

17 Q And at that time did y'all escort him to your desk?

18 A Yes, ma'am.

19 Q And when you got him to your desk, did you remove his
20 handcuffs at that time?

21 A Yes, ma'am, I took his handcuffs off at that time.

22 Q Were you and Mr. Crump dressed similarly at that time
23 to how y'all were dressed today?

24 A Yes, ma'am.

25 Q Did y'all both have service revolvers on?

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1 A No, ma'am.

2 Q At anytime was the defendant threatened in any way in
3 or to induce his Miranda waiver or his giving of a
4 statement?

5 A No, ma'am, he wasn't.

6 Q At anytime were any promises made to the defendant in
7 order to induce his Miranda waiver and his giving of a
8 statement?

9 A No, it wasn't.

10 Q Turning to State's Exhibit 4 in front of you, were
11 those rights on that written Miranda waiver form read out
12 loud to the defendant on March 1st, 2012?

13 A Yes, ma'am.

14 Q And at the top of that form it indicates a time. What
15 is that time?

16 A 3:51.

17 Q And that was 3:51 p.m. on March 1st?

18 A Yes, ma'am.

19 Q And did the defendant at anytime indicate that he had
20 any questions about the rights that were being read to him?

21 A No, ma'am.

22 Q Did he initial beside each right as they were read out
23 loud to him?

24 A Yes, ma'am.

25 Q And he wrote the word read beside one of those rights;

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1 is that correct?

2 A Yes, ma'am. Because he also -- we also had him read
3 that out to us.

4 Q You had him read that one out to you?

5 A Yes, ma'am.

6 Q And which right was that?

7 A Number five.

8 Q Read it out loud.

9 A "You can decide at anytime to exercise these rights
10 and not answer any questions or make any statement."

11 Q And so he read that out loud to y'all?

12 A Yes, ma'am.

13 Q And by doing so you knew that he had told you
14 correctly that he could, in fact, read and write the
15 english language?

16 A Yes, ma'am.

17 Q At anytime did the defendant request an attorney?

18 A No, ma'am, he did not.

19 Q At the conclusion of the rights being read to him did
20 he indicate he wished to waive those rights and give a
21 statement?

22 A Yes, ma'am.

23 Q And again, no threats had been made or any promises
24 made at anytime in order to induce him to waive those
25 rights and give a statement?

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- 1 A No promises.
- 2 Q And no threats.
- 3 A No threats.
- 4 Q And did the defendant then sign under the waiver of
- 5 rights?
- 6 A Yes, ma'am, he did.
- 7 Q Was that also read out loud to him?
- 8 A Yes, ma'am.
- 9 Q And do you witness his signature?
- 10 A Yes.
- 11 Q You signed the top line, I believe?
- 12 A Yes, ma'am, I did.
- 13 Q And Mr. Crump signed as Investigator Crump witnessing
- 14 on the second line Mr. Catoe's signature?
- 15 A Yes.
- 16 Q All right. So he after that Miranda rights form was
- 17 read and signed moving on, a question and answer session
- 18 began, correct?
- 19 A Yes.
- 20 Q During that question and answer session, Mr. Crump
- 21 asked the questions as Investigator Crump at that time and
- 22 you typed up the questions and answers on your computer?
- 23 A Yes, ma'am.
- 24 Q That was at your desk?
- 25 A At my desk.

PRETRIAL MOTIONS

1 Q And I want you to look over State's Exhibit 5. At the
2 conclusion of the question and answer session, was that
3 typed out and printed out onto a three page document?

4 A Yes, ma'am.

5 Q And that is State's Exhibit 5 there in front of you?

6 A Yes, ma'am.

7 Q And those questions and answers were reviewed in
8 written form with the defendant?

9 A Yes, ma'am.

10 Q And at that time did you indicate to him that he -- or
11 did you tell him that he could make any changes or
12 additions or scratch anything out that he wanted to?

13 A Yes, ma'am. Well, the last question is the question,
14 "Is there anything you want to add to this statement?"
15 And before it was printed out he had the opportunity to
16 add anything or say anything or make any statements or
17 anything about the incident.

18 Q And did he want to add anything?

19 A The only thing he added, "I'm sorry that it happened,
20 I wish I could take it back, I wish she was still here
21 today." That's the only thing he desired to answer. But
22 the last question was kind of a catch-all question to if
23 anything that we might have gotten that he wanted to tell
24 us about the incident, that question gives him the
25 opportunity to make that statement.

PRETRIAL MOTIONS

1 Q And while you read over it with him before it was
2 printed out, if he had told you, "No, that's not quite
3 right," would you have made those changes?

4 A Yes, ma'am.

5 Q And so once it was printed out he reviewed it again
6 with y'all?

7 A Yes, ma'am.

8 Q And he ultimately signed, I think, the bottom of each
9 of the pages in your presence, pages one, two and three,
10 indicating that that was a correct rendition of the
11 questions and answers?

12 A Yes, ma'am.

13 Q At anytime during the taking of that statement did the
14 defendant indicate that he wished to stop giving answers to
15 you?

16 A No, ma'am, he did not.

17 Q At anytime during the taking of that statement did the
18 defendant ask for an attorney?

19 A No, ma'am, he did not.

20 Q At the conclusion of the statement of the defendant
21 signing the three page written statement and you and Mr.
22 Crump witnessing it, did y'all then escort him back to his
23 jail cell?

24 A Not immediately.

25 Q He was subsequently escorted back to his cell,

PRETRIAL MOTIONS

1 correct?

2 A Yes, ma'am.

3 Q And after -- based upon the statement that he had
4 given at that time, was a charge and arrest warrant for the
5 charge of murder secured by Investigator Danny Bennett?

6 A Yes, ma'am.

7 Q And did Captain Craig Bailey ask you to serve the
8 defendant with both prostitution -- solicitation of
9 prostitution warrant and the murder warrant at this time?

10 A Yes. The subject -- I mean, the defendant was still
11 at my desk at the time.

12 Q Oh, okay. And you served him with both of those
13 warrants at that time?

14 A Yes, ma'am.

15 Q And then he was escorted back to his cell, correct?

16 A He was given a telephone call while he was at my desk
17 to call his family.

18 Q And after that he was escorted back to his cell,
19 correct?

20 A Yes, ma'am.

21 Q Thank you. And again, State's Exhibit 5 is a true and
22 accurate reflection of all of the questions and answers
23 that the defendant gave during his interview on March 1st
24 of 2012, correct?

25 A Yes, ma'am.

PRETRIAL MOTIONS

1 Q And at the top right corner of each of these three
2 pages it actually shows a date from April of 2010; is that
3 correct?

4 A Yes, ma'am.

5 Q Is it that a clerical error?

6 A That is a clerical error. On my desk top computer
7 for some reason the date was locked in and it was one of
8 the things that couldn't be changed. There's a line there
9 for the case number and you type it in, there's a line
10 there for the date but for some reason that date was
11 locked in and couldn't be adjusted or changed.

12 Q Thank you for clarifying that. And again, so this
13 written statement was prepared and signed after the
14 defendant signed his written Miranda waiver on March 1st of
15 2012 in your presence?

16 A Yes, ma'am.

17 MS. COLLINS: Thank you. Please answer any questions
18 of Mr. Lee.

19 THE COURT: Mr. Lee?

20 MR. LEE: Thank you, Your Honor. May it please the
21 Court?

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. LEE:

25 Q Investigator Whitaker, let me ask you, I didn't quite

PRETRIAL MOTIONS

1 understand the last thing about it, you said something.
2 about that date?

3 A The date on the Exhibit 5?

4 Q Right.

5 A Yes, sir.

6 Q That was from a previous form, it was put in on a form
7 or --

8 A Yes, sir. The forms are put on the computer and for
9 some reason on my desktop computer the date was locked
10 where you cannot come back and put the cursor on and
11 change the date.

12 Q So it was from some previous statement the date was
13 put on there.

14 A Yes.

15 Q Did this occur in your office or in Captain Bailey's
16 office?

17 A This occurred at my desk.

18 Q And you were -- you typed that in and I think you said
19 as the question was asked I assume you type the question in
20 and then you typed his answer in.

21 A Yes, sir.

22 Q What was his demeanor during this period of time? Was
23 he upset, crying, do you recall?

24 A I don't recall if he was -- I don't think he was
25 crying, I can't tell you if he was upset or not.

PRETRIAL MOTIONS

1 Q You said it appeared he was upset?

2 A I can't tell you if he was upset or not.

3 Q I realize this was four years ago. Let me ask you --

4 and of course, you were concentrating on typing the --

5 A Yes, sir.

6 Q But he did say at the end, "I'm sorry this happened,"

7 or whatever he said on that last question, "wish she was

8 still here," or something to that effect.

9 A He stated, "I'm sorry that it happened, I wish I
10 could take it back, I wish she was still here today."

11 Q So it appeared had he some remorse? Okay.

12 MR. LEE: Your Honor, if I may have just a moment.

13 THE COURT: All right.

14 (Break in proceedings.)

15 MR. LEE: That's all I have, Your Honor.

16 MS. COLLINS: No further questions.

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

18 MS. COLLINS: We would ask that he be excused to

19 return on Wednesday morning at 9:00.

20 THE COURT: All right, so ordered. Any further
21 witnesses?

22 MS. COLLINS: No further witnesses from the State.

23 THE COURT: Hand me the evidence introduced.

24 MS. COLLINS: Yes, Your Honor. I'll hand all of these
25 five exhibits up to you at this time.

PRETRIAL MOTIONS

1 THE COURT: Mr. Lee, do you intend to offer any
2 evidence at this time?

3 MR. LEE: Your Honor, we do not. I would just object
4 to the admission of these to the jury for the record to
5 protect his rights in this matter, but we don't intend for
6 the defendant to testify.

7 THE COURT: All right. Well, let me take this matter
8 under advisement over lunch, I want to review the
9 statements. I know a lot of stuff has been testified to
10 about what was said, what was initialed, I want to take the
11 opportunity to read these and I'll make my decision on the
12 record as soon as we get back from the lunch recess. Why
13 don't we recess for lunch until 1:45? I think the jury is
14 coming in at 2:00?

15 MS. COLLINS: Yes, sir.

16 THE COURT: All right. I'll just do that down there.
17 Anything else I need to know?

18 MS. COLLINS: Judge, I think the jury will start
19 assembling before 2:00, I'm a little bit concerned about
20 you announcing that in front of them.

21 THE COURT: We'll hold them until I finish.

22 (A lunch recess was taken and court resumed at 1:50
23 P.m. in the jury assembly room.)

24 THE COURT: We're back on the record in the pretrial
25 matters. All right. I have reviewed State's Exhibits 1

PRETRIAL MOTIONS

1 through 5 for the purpose of the Jackson versus Denno
2 hearing, and based upon the testimony and evidence
3 presented I find by a preponderance of the evidence that
4 the defendant's statements were knowingly, voluntarily and
5 intelligently made with full knowledge of his rights under
6 Miranda. I find that the defendant received and understood
7 his Miranda rights, as such the Court finds that the
8 statements are admissible in the trial of the case. Of
9 course, your objection is preserved --

10 MR. LEE: Thank you, Your Honor.

11 THE COURT: -- throughout the testimony and
12 introduction of that admission. Of course, you can make
13 your contemporaneous objection at the time.

14 MR. LEE: Yes, sir.

15 THE COURT: Before we let in the jury panel looking
16 through the requested voir dire I have some standard ones,
17 of course, I'll ask. I was kind of surprised that neither
18 one of you asked me to ask the jury if they'd ever heard
19 about this case or read any news reports about this case or
20 any media about it.

21 MR. LEE: Your Honor, I had a few other things --

22 THE COURT: Would that include that one?

23 MR. LEE: And that is one of them, yes, sir.

24 (Break in proceedings.)

25 THE COURT: You may call the case.

VOIR DIRE

1 MR. NEWMAN: State calls case 2012-GS-29-612, State
2 versus Terry Catoe for the charge of murder.

3 THE COURT: All right. Thank you. Now, ladies and
4 gentlemen of the jury panel, we're about to begin the trial
5 of the case called the State of South Carolina versus Terry
6 Catoe who has been charged with the crime of murder.
7 Before we select the jury, let me explain to you there were
8 several questions I will go over with you, but let me kind
9 of explain to you who all is involved in this and how all
10 of this works. Seated to my left, your right, is the
11 solicitor, that's what we call prosecuting attorneys in
12 South Carolina, other states call them DA's or district
13 attorneys or states attorneys, in South Carolina we call
14 them solicitors, I'm going to have the solicitor introduce
15 everybody at his table to you at this point in time.
16 Solicitor, if you'll do that.

17 MR. NEWMAN: Again, I'm Randy Newman, your elected
18 Solicitor. This is Deputy Solicitor Lisa Collins,
19 Investigator Keith Lewis with the solicitor's office, and
20 Captain Craig Bailey with the Lancaster County Sheriff's
21 Office.

22 THE COURT: All right. Thank you. And the defense
23 has defense lawyers as well, so at this time I am going to
24 have them -- they're to my right, which is to your left,
25 I'm going to have them introduce themselves and anybody at

VOIR DIRE

1 their table. Mr. Lee?

2 MR. LEE: Thank you, Your Honor. May it please the
3 Court? My name is Tyree Lee, I'm a deputy public defender
4 from Chester, but I serve in the whole circuit within our
5 circuit. Mr. Catoe, the defendant, is here where me. We
6 have Mr. Justin Jones, who is also from the public
7 defender's office. And this will compose the defense team.

8 THE COURT: All right. Thank you, Mr. Lee. Now,
9 ladies and gentlemen, I'm going to read the allegations
10 which are made in this indictment so you'll have a general
11 understanding of what this case is about because it's --
12 you need to know that before I start asking you some of
13 these questions that you're required to answer if they're
14 applicable to you. And I'll remind you that you are still
15 under oath. The allegation is that on February 24th, 2012
16 Mr. Catoe in Lancaster County did feloniously, willfully
17 and with malice aforethought kill and murder Linda Massey
18 Gaymon by choking the victim's neck during a sexual
19 assault, and the victim did die as the proximate cause
20 thereof. That's the legal definition of what the State has
21 alleged the defendant did. Now, the defendant has pled not
22 guilty and is presumed innocent until proven guilty beyond
23 a reasonable doubt by the State of South Carolina. Okay.
24 And I'll get into that more specifically in the event you
25 are chosen to be on this trial jury. All right. Now, I do

VOIR DIRE

1 have several questions for you to possibly answer if
2 they're applicable to you, and just like during the
3 qualification process if the question does apply to you I'm
4 going to need you to stand. Okay. The first question I'm
5 going to ask you is what's your juror number. Okay. So
6 try to make sure you have your card with you, it will tell
7 you what your jury number is. If you don't know the juror
8 number, and that's okay, you can just give me your last
9 name and we'll go from there. All right. And these
10 questions will be in no particular order. So the first
11 question, is any member of the jury panel related by blood
12 or marriage or have any close personal or social
13 relationship with any of the attorneys involved in this
14 case? They've just introduced themselves to you. If so,
15 please stand. All right. No response. Has any member of
16 the jury panel ever been -- has any member of the jury
17 panel or their immediate family belonged to any
18 organization whose primary purpose is the furtherance of
19 victims rights? These are groups such as MADD, SADD or
20 Citizens Against Violent Crime or Fraternal Order of Police
21 or Highway Troopers Association, anything like that? If
22 this applies to you, please stand, if you're a contributor
23 to or any member of any organization like that. Okay. All
24 right. Yes, sir?

25 THE JUROR: I'm retired from the New York City Police

VOIR DIRE

1 Department, I do contribute to the union and so on and so
2 forth.

3 THE COURT: What's your juror number, sir?

4 THE JUROR: 100.

5 THE COURT: Would that affect your ability to be fair
6 and impartial?

7 THE JUROR: Probably not.

8 THE COURT: Thank you, sir, you may be seated. And
9 that will always be the other question I ask after you
10 answer the question is will that affect your ability to be
11 fair and impartial. Okay. All right. The next question,
12 is any member of the jury related by blood or marriage or
13 have a close personal or social relationship to the alleged
14 victim in this case, Linda Massey Gaymon, or the defendant
15 in this case, Mr. Terry Catoe? If so, please stand. All
16 right. We'll go first -- we'll go front to the back. Yes,
17 ma'am, juror number?

18 THE JUROR: I'm not sure but my last name is Catoe.

19 THE CLERK: Twenty-three.

20 THE COURT: Juror number 23. Yes, ma'am?

21 THE JUROR: He's my cousin.

22 THE COURT: He's your cousin?

23 THE JUROR: Yes, sir.

24 THE COURT: All right. Thank you, ma'am, you will be
25 excused from the trial of this case. You may be seated.

VOIR DIRE

1 Yes, ma'am?

2 THE JUROR: I've been knowing him for years and we had
3 a relationship a long time ago..

4 THE COURT: Knowing him who?

5 THE JUROR: Terry.

6 THE COURT: Mr. Catoe?

7 THE JUROR: Mr. Catoe.

8 THE COURT: All right. Just a personal social
9 relationship?

10 THE JUROR: Yeah.

11 THE COURT: All right. And how long have you known
12 him?

13 THE JUROR: About ten or 15 years.

14 THE COURT: Would that affect your ability to be a
15 fair and impartial juror?

16 THE JUROR: No.

17 THE COURT: All right. Thank you, ma'am. What is
18 your juror number?

19 THE JUROR: 90.

20 THE COURT: Juror 90. Yes, sir?

21 THE JUROR: Number 84.

22 THE COURT: Juror number 84. Yes, sir, Mr. Lewis?

23 THE JUROR: I have a personal relationship with the
24 Gaymon family and Massey family. I have got a personal
25 relationship with a daughter by her niece.

VOIR DIRE

1 THE COURT: Is that an ongoing relationship right now?

2 THE JUROR: Yes, sir.

3 THE COURT: Sir, would that affect your ability to be
4 a fair and impartial juror?

5 THE JUROR: Yes, sir.

6 THE COURT: Thank you, sir. You can be seated. You
7 will be excused from the trial of this case, just remain
8 with us. All right anybody else with that question? All
9 right. Next question, has any member of the jury panel
10 read or heard any discussion or publicity about this case,
11 that's either on the media or reading any news accounts in
12 the paper or anything about that? If so, please stand.
13 All right. No response. Is any member of the jury panel
14 or your immediate family related by blood or marriage to
15 any member of law enforcement? If so, please stand. I
16 believe retired detective, your wife is retired as well
17 from the --

18 THE JUROR: No.

19 THE COURT: All right. No response. Next question,
20 has any member of the jury panel or your immediate family
21 or a close family friend ever been victim of a violent
22 crime? If so, please stand. Okay. Sir, in the front,
23 juror number?

24 THE JUROR: Sixty-two.

25 THE COURT: All right. How does this question apply

VOIR DIRE

1 to you?

2 THE JUROR: My stepdaughter was raped by her father.

3 THE COURT: How long ago did that happen?

4 THE JUROR: Five years.

5 THE COURT: Sixty-two?

6 THE JUROR: My stepdaughter was raped by her father.

7 THE COURT: And this occurred how long ago?

8 THE JUROR: Five or six years ago.

9 THE COURT: Has that case been prosecuted?

10 THE JUROR: Yes, sir.

11 THE COURT: Has that case been concluded?

12 THE JUROR: Yes, sir.

13 THE COURT: Was that case prosecuted in Lancaster

14 County?

15 THE JUROR: Yes, sir.

16 THE COURT: Would that affect your ability to be fair

17 and impartial?

18 THE JUROR: Yes, sir.

19 THE COURT: All right. Thank you, sir, you can be

20 seated. That's juror number 62. Yes, ma'am, juror number?

21 THE JUROR: Forty-two.

22 THE COURT: Okay. Ms. Dudley, how does this question

23 apply to you?

24 THE JUROR: My mother was brutally murdered.

25 THE COURT: How long ago did this happen, ma'am?

VOIR DIRE

1 THE JUROR: Five years ago.

2 THE COURT: And did that happen in Lancaster County?

3 THE JUROR: Chesterfield County.

4 THE COURT: Has that case been prosecuted?

5 THE JUROR: Yes.

6 THE COURT: So it was prosecuted by another
7 solicitor's office?

8 THE JUROR: Yes.

9 THE COURT: Would that affect your ability to be fair
10 and impartial?

11 THE JUROR: No.

12 THE COURT: Thank you, ma'am, you may be seated. Yes,
13 sir?

14 THE JUROR: 120.

15 THE COURT: All right. How does this question apply
16 to you?

17 THE JUROR: I had a cousin that was actually a
18 Lancaster sheriff's deputy at one time, he was shot trying
19 to be helpful to someone that he thought that needed it,
20 his name was Ray Knight.

21 THE COURT: Do you remember how long ago this
22 happened?

23 THE JUROR: I don't know, probably about ten years ago
24 I would say.

25 THE COURT: All right. Would that affect your ability

VOIR DIRE

1 to be fair and impartial?

2 THE JUROR: Probably not.

3 THE COURT: Thank you, sir, that's juror number 120.

4 Any other responses on that question? All right. Thank

5 you. Does any member of the jury panel have any legal

6 education or legal training? If so, please stand. Yes,

7 ma'am, you're a lawyer I believe I heard you say?

8 THE JUROR: I am.

9 THE COURT: What's your juror number?

10 THE JUROR: 117.

11 THE COURT: Would the fact that you're a lawyer keep

12 you from being fair and impartial?

13 THE JUROR: No, sir.

14 THE COURT: Thank you, you may be seated. Have any of

15 you or a member of your immediate family ever been charged

16 with or been a victim in a case involving an allegation of

17 murder? If you've previously responded to -- I think one

18 or two of you responded to the previous voir dire question

19 concerning that, just stand again if this applies to you.

20 All right. I already know what each one of your responses

21 would be on that. Thank you, that's juror number 62 and

22 juror number --

23 THE JUROR: Forty-two.

24 THE COURT: Juror number 42, thank you. All right.

25 Next question, has any member of the jury panel or a member

VOIR DIRE

1 of your immediate family ever been charged with or been the
2 victim in a case involving the allegation of manslaughter?
3 If so, please stand. No response. Have any of you or a
4 member of your immediate family ever been charged with or
5 been the victim in a case involving allegations of a
6 violent assault? If so, please stand. No response. This
7 case may involve testimony of sexual acts, private body
8 parts and bodily functions in detail. Would such testimony
9 upset you so that you would not be able to serve as a juror
10 or render an impartial verdict? If this applies to you,
11 please stand. No response. Has any member of the jury
12 panel ever served on a trial jury before? If so, please
13 stand. No response. I'm sorry, yes, sir, juror number?
14 THE JUROR: Six, I think, John Baker.
15 THE COURT: Yes, sir. Have you served on a trial jury
16 before?
17 THE JUROR: Yes, sir. I served on a murder case here
18 in Lancaster, I believe it was 1978.
19 THE COURT: Do you remember what the verdict was?
20 THE JUROR: Guilty of involuntary manslaughter and I
21 believe the defendant's last name was Hammond.
22 THE COURT: Thank you, sir. Would that affect your
23 ability to be fair and impartial?
24 THE JUROR: Absolutely not.
25 THE COURT: Thank you, sir. That's juror number six.

VOIR DIRE

1 Yes, ma'am?

2 THE JUROR: Juror 17.

3 THE COURT: Juror number 17, Ms. Bundy.

4 THE JUROR: On a murder trial.

5 THE COURT: How long ago was that?

6 THE JUROR: I think it was 2011 or 2012.

7 THE COURT: Was it here in Lancaster County?

8 THE JUROR: Yes, sir.

9 THE COURT: And what was the verdict?

10 THE JUROR: Guilty.

11 THE COURT: Would that affect your ability to be fair

12 and impartial?

13 THE JUROR: No.

14 THE COURT: Thank you, ma'am. Yes, sir?

15 THE JUROR: Been several years back on a reckless

16 driving, they had a trial on it.

17 THE COURT: What's your juror number?

18 THE JUROR: Fifty-seven.

19 THE COURT: Would that affect your ability to be fair

20 and impartial?

21 THE JUROR: No.

22 THE COURT: What was the verdict, do you remember?

23 THE JUROR: No.

24 THE COURT: Okay. All right. Anybody else on that

25 one? Yes, sir?

VOIR DIRE

1 THE JUROR: Sixty-one. I served probably 12 years
2 ago, I'm not sure, in Cabarrus County on a theft trial, and
3 the response was guilty.

4 THE COURT: Would that affect your ability to be fair
5 and impartial in this case?

6 THE JUROR: No, sir.

7 THE COURT: All right. Thank you. All right.
8 Anybody else on that question? Any further voir dire from
9 the State?

10 MR. NEWMAN: None from the State, Your Honor.

11 THE COURT: Any further from the defense?

12 MR. LEE: No, Your Honor.

13 THE COURT: I always do have one question I would like
14 to ask and I would like to ask it right now, this is kind
15 of an all encompassing one. Is there any member of the
16 jury panel who has a religious or philosophical or moral
17 reason why they could not be fair and impartial in this
18 case? If so, please stand. No response. Thank you,
19 ladies and gentlemen. At this time the clerk's office is
20 going to have to generate a potential list -- I'm sorry, I
21 did forget -- I knew I forgot to ask this, I found the
22 other sheet of paper. You found yours, too, Madam
23 Solicitor, and Mr. Lee, I see you looking at yours as well.
24 There's a list of potential witnesses. Okay. And I'm
25 going to break up the list into five people. Just because

VOIR DIRE

1 I say all of these names doesn't mean they're all going to
2 testify and this is in no particular order, so don't place
3 any emphasis on the order in which I say the names. These
4 are the names of people who may be testifying in this case.
5 And the question at the end is going to be do you have a
6 close personal or social relationship with any of these
7 people, or are you related by blood or marriage with any of
8 these people. Okay. So here is the names. Angela Massey.
9 Christina Massey. Ricky Sistare. Sherry Cauthen. Ross
10 also known as Rosie Hall. Okay. Yes, sir, your juror
11 number 84?

12 THE JUROR: Yes, sir.

13 THE COURT: You previously answered that question.
14 Thank you, sir, you can be seated. The next five names are
15 Captain Greg (sic) Bailey with the Lancaster County
16 Sheriff's Office. Christy Hendrix, formerly Christy
17 Massey, former deputy coroner for Lancaster County.
18 Lieutenant Mike Howell with the Lancaster County Sheriff's
19 Office. Investigator Jason Catoe with the Lancaster County
20 Sheriff's Office. Lieutenant Christy Rogers with the
21 Lancaster County Sheriff's Office. Does anybody have a
22 close personal or social relationship with any of those
23 people or related by blood or marriage? No response. Next
24 five names, Investigator Jeff Steele. Charles Crump.
25 Danny Bennett. Frederick or Fred Thompson. James

VOIR DIRE

1 Whitaker. All of these are associated with the Lancaster
2 County Sheriff's Department, and James Whitaker is
3 currently working for the Pageland Police Department. Does
4 anybody have a close personal or social relationship or
5 related by blood or marriage to any of those people?
6 Lastly, Ann Horton with the Lancaster County Sheriff's
7 Office. Dr. Janice Pat Ross with Newberry Pathology. And
8 Lilly Gallman, DNA Department with SLED. Anybody know
9 those people? All right. No response. Now, any further
10 voir dire? That was on me. Any further voir dire?

11 MR. LEE: No, Your Honor.

12 THE COURT: Thank you. Five for the State and ten for
13 the defense. Let's take about a 15 minute recess while the
14 clerk prepares the names.

15 (A recess was taken.)

16 THE COURT: While we were on a brief recess I have
17 been made aware of two matters that we can go ahead and
18 deal with. Solicitor, you indicated that juror --

19 MR. NEWMAN: 113.

20 THE COURT: -- number 113, Mr. Reid. Where are you,
21 sir? Mr. Reid, apparently you and the solicitor go back
22 some ways, I guess you've known him on a personal
23 relationship?

24 THE JUROR: Yeah.

25 THE COURT: Would that affect your -- were y'all just

VOIR DIRE

1 friends in the past?

2 THE JUROR: Yeah.

3 THE COURT: Would that affect your ability to be fair
4 and impartial?

5 THE JUROR: No, sir.

6 THE COURT: And yes, ma'am, what is your juror number?

7 THE JUROR: Twenty-seven.

8 THE COURT: Yes, ma'am?

9 THE JUROR: I just realized that Lawyer Jones and I
10 are related, his grandfather and my father are first
11 cousins.

12 THE COURT: That would make y'all second cousins,
13 maybe third cousins, maybe with a once removed in there.
14 Would that affect your ability to be fair and impartial?

15 THE JUROR: No, it wouldn't.

16 THE COURT: Thank you for the disclosure. We will
17 proceed with striking a jury then. Mr. Clerk?

18 THE CLERK: If I call your name please stand. Juror
19 number 127, Douglas Starnes. What say the State?

20 MR. NEWMAN: Please present the juror.

21 THE CLERK: Defendant?

22 MR. LEE: Swear the juror.

23 THE JUROR: Juror 120, Henry Singleton. What say the
24 State?

25 MR. NEWMAN: Please present the juror.

VOIR DIRE

1 THE CLERK: Defendant?

2 MR. LEE: Please excuse the juror in this case.

3 THE CLERK: Juror 58, Christy Gowan. What say the
4 State?

5 MR. NEWMAN: Please present the juror.

6 THE CLERK: Defendant?

7 MR. LEE: Swear the juror, please.

8 THE CLERK: Juror 83, Alexander Lair. What say the
9 State?

10 MR. NEWMAN: Please present the juror.

11 THE COURT: Defendant?

12 MR. LEE: Please swear the juror.

13 THE CLERK: Juror 45, Eric Everall. What say the
14 State?

15 MR. NEWMAN: Please present the juror.

16 THE CLERK: Defendant?

17 MR. LEE: Swear the juror, please.

18 THE CLERK: Number two, Ronnie Adams. What say the
19 State?

20 MR. NEWMAN: Please present the juror.

21 THE CLERK: Defendant?

22 MR. LEE: Swear the juror, please.

23 THE JUROR: Juror 16, Sharon Brunson. What say the
24 State?

25 MR. NEWMAN: Please present the juror.

VOIR DIRE

1 THE CLERK: Defendant?

2 MR. LEE: Please swear the juror.

3 THE CLERK: Juror 12, Charlene Boggs. What say the
4 State?

5 MR. NEWMAN: Please present the juror.

6 THE CLERK: Defendant?

7 MR. LEE: Excuse this juror, please.

8 THE JUROR: Juror ten, Himanshu Patel. What say the
9 State?

10 MR. NEWMAN: Please present this juror.

11 THE CLERK: Defendant?

12 MR. LEE: Please swear the juror.

13 THE CLERK: Juror 107, Denise Pettit. What say the
14 State?

15 MR. NEWMAN: Please present this juror.

16 THE CLERK: Defendant?

17 MR. LEE: Please excuse the juror in this case.

18 THE CLERK: Juror 44, Braeden Evans. What say the
19 State?

20 MR. NEWMAN: Please present this juror.

21 THE CLERK: Defendant?

22 MR. LEE: Please swear the juror.

23 THE CLERK: Juror 17, Cathy Bundy. What say the
24 State?

25 MR. NEWMAN: Please present this juror.

VOIR DIRE

1 THE CLERK: Defendant?

2 MR. LEE: Please excuse the juror in this case.

3 THE CLERK: Juror 116, Dana Rusalem. What say the
4 State?

5 MR. NEWMAN: Please present this juror.

6 THE CLERK: Defendant?

7 MR. LEE: Please swear the juror..

8 THE CLERK: Juror three, Christopher Adema. What say
9 the State?

10 MR. NEWMAN: Please present this juror.

11 THE CLERK: Defendant?

12 MR. LEE: Please swear the juror.

13 THE CLERK: Juror 91, Rebecca McMackin. What say the
14 State?

15 MR. NEWMAN: Please present this juror.

16 THE CLERK: Defendant?

17 MR. LEE: Please excuse the juror in this case.

18 THE CLERK: Juror 122, Denise Smith. What say the
19 State?

20 MR. NEWMAN: Please present this juror.

21 THE CLERK: Defendant?

22 MR. LEE: Please swear the juror.

23 THE CLERK: Juror 27, Robbin Clyburn. What say the
24 State?

25 MR. NEWMAN: Please excuse this juror.

VOIR DIRE

1 THE CLERK: Juror 111, Jake Price. What say the
2 State?

3 MS. COLLINS: What number, please?

4 THE CLERK: 111.

5 MS. COLLINS: Thank you.

6 MR. NEWMAN: Please excuse this juror.

7 THE CLERK: Juror 22, Jeffrey Cato. What say the
8 State?

9 MR. NEWMAN: Please present this juror.

10 THE CLERK: Defendant?

11 MR. LEE: Excuse the juror, please.

12 THE CLERK: Juror 137, Erin Thornton. What say the
13 State?

14 MR. NEWMAN: Please present this juror.

15 THE CLERK: Defendant?

16 MR. LEE: Please swear the juror.

17 THE COURT: Two alternates, one and two strikes.

18 THE CLERK: Juror 113, Frederick Reid. What say the
19 State?

20 MR. NEWMAN: Please present the juror.

21 THE CLERK: Defendant?

22 MR. LEE: Excuse the juror.

23 THE CLERK: Juror 135, Holly Terry. What say the
24 State?

25 MR. NEWMAN: Please present this juror.

VOIR DIRE

1 THE CLERK: Defendant?

2 MR. LEE: Please swear the juror.

3 THE CLERK: Alternate two. Juror 71, Courtney

4 Johnson. What say the State?

5 MR. NEWMAN: Please present this juror.

6 THE CLERK: Defendant?

7 MR. LEE: Please swear the juror.

8 THE COURT: Thank you. Any matters of law regarding

9 jury selection from the State?

10 MS. COLLINS: No, Your Honor. Thank you.

11 THE COURT: From the defense?

12 MR. LEE: No, Your Honor.

13 THE COURT: All right.

14 (The remaining jurors were excused and proceedings
15 moved back to the courtroom.)

16 THE COURT: Y'all just keep standing just for a
17 second. Madam Clerk, if you would go ahead and swear the
18 jury in.

19 (The jury was sworn.)

20 THE COURT: Ladies and gentlemen, we're not actually
21 going to be starting the actual trial today. Okay. Just
22 take a deep breath, relax. I wanted to get you in here
23 before you left for the day and kind of charge you, and
24 when I say charge that means I'm giving you an order
25 basically or telling you how to conduct yourselves from

1 this point forward until the end of the trial. Okay. And
2 before I do that let me give you what I call my
3 professionalism charge just so you kind of understand --
4 I'll explain the mechanics of everything tomorrow to you,
5 but I want you to understand what it means to be a juror.
6 Okay. Now, the trial -- before we start tomorrow I want to
7 tell you that the trial is probably going to be different
8 from what you might expect. Many people don't have a
9 chance to attend actual court sessions as you're doing now,
10 much less participating in them as a juror as you are doing
11 right now so they think that what they see on TV or in the
12 movies or what they read in books is what trials are always
13 about. I will tell you that while sometimes trials may be
14 full of high drama, intense action and riveting
15 circumstances from what you see on Matlock or shows like
16 that, it is usually not that way. This trial is not for
17 entertainment, ladies and gentlemen. It's a fundamental
18 part of our democracy to make sure that justice is done
19 before the parties before the Court, the State of South
20 Carolina and the defense. And making sure that justice is
21 done and searching for the truth can sometimes be an often
22 slow, deliberate and repetitive process, the opposite of
23 what you may have seen in movies or on TV. Now, this
24 courtroom, this beautiful courtroom and this courthouse is
25 a place of honor dedicated to the preservation and

1 protection of citizens rights through what many have called
2 the greatest justice system ever created. The attorneys
3 who will be appearing before you are advocates for the
4 parties they represent, but first and foremost they're
5 officers of this Court sworn to uphold the integrity and
6 fairness of our judicial system, and to help you in your
7 search for the truth. You should expect the lawyers then
8 to be professional, competent and ethical in the
9 representation of their client's interests. Remember, you
10 just took that oath to try this case and to reach a fair
11 and just verdict, so you are also expected to be
12 professional, reasonable and ethical. Thank you for
13 accepting this important responsibility. And I'm going to
14 recharge you this tomorrow but I wanted to do this before
15 we break today since you are going to go home today,
16 talking about your duty as a juror. Now, until I advise
17 you to start or begin your deliberations when you discuss
18 your possible verdict, you must not discuss this case with
19 anyone including your fellow jurors. You can't discuss it
20 until the very end when I tell you you can. You can't
21 discuss it with friends, you can't discuss it with family
22 members, and certainly not anyone else in this courtroom or
23 anybody else involved in this case. Now, I'm not naive,
24 certainly you can tell your spouse or whoever you live
25 with, "Yeah, I'm on the jury, the Judge says I can't talk

1 about it though," that's all you've got to say. Okay. You
2 cannot go on the Internet and on Twitter or Facebook or any
3 other social media site and talk about being on the jury
4 and do independent research on the case. Don't go on
5 Google and type in the names of the people involved in this
6 case, because if you do so you're violating your oath you
7 just took. Because see, your verdict has to be based
8 solely on the evidence which is testimony, people talking,
9 what they're going to say under oath, as well as the
10 physical exhibits which may come into evidence, your
11 verdict must be based solely on that and that comes from
12 this witness stand and in this courtroom. So all of this
13 other stuff that you may read about or hear about, that has
14 nothing to do with your role as a juror. So under your
15 oath you are not to discuss this with anybody else and
16 you're not to do what I just told you not to do. Now,
17 during the trial do not read, listen to or watch any news
18 reports about this case. You know, I know you may have the
19 TV on and you're cooking dinner and you see something come
20 up, please turn it off or mute it. Okay. After the case
21 is submitted to you you must discuss it only in the jury
22 room with your fellow jurors. Now, here is the catchall,
23 if anybody attempts to talk with you about this case in
24 violation of what I just told you, let me know and I'll
25 take care of it. Okay. I haven't had to do that, came

1 close one time but didn't have to do that. So remember,
2 your role as a juror is going to be the fact-finders in the
3 case, I'll tell you about this tomorrow, but how can you be
4 fact-finders and be fair and impartial when you consider
5 stuff outside of the courtroom? You can't. You have to
6 consider only the evidence received in this courtroom. So
7 that's all I wanted to caution you about today as you
8 leave. I want you back in your jury room tomorrow morning
9 at 9:30. Madam Solicitor, is that good?

10 MS. COLLINS: Yes, Your Honor.

11 THE COURT: Mr. Lee?

12 MR. LEE: Yes, sir.

13 THE COURT: And then what will happen tomorrow morning
14 I'll get you back in here, you've already been sworn, I'll
15 give you my little pretrial spill and then the lawyers will
16 be able make opening statements to you and we'll get right
17 into it. Okay. Thank you very much, y'all are free to
18 leave.

19 (The jury left the courtroom.)

20 THE COURT: Anything further from the State today?

21 MS. COLLINS: Yes, Your Honor. Respectfully in that
22 the case has now been called we would ask that the
23 defendant be taken into custody for the balance of the
24 trial.

25 THE COURT: Mr. Lee?

1 MR. LEE: Your Honor, I would ask the Court not to do
2 that. Mr. Catoe has been out on bond -- the case is almost
3 four years old, he's been out for three years. I have
4 never had any problems getting him to come see me. In
5 fact, he had some transportation problems and we made
6 arrangements where I would go to Rock Hill and meet him.
7 He's living in Rock Hill so he is not going to have any
8 contact with the victim's family or anything of that
9 nature, I've never heard any allegations that he's done
10 anything like that. He knows how serious this is, he knows
11 what can happen and that the case will go on whether he's
12 here or not and he can be convicted in his absence, and I
13 think he understands that. If he's taken into custody,
14 Judge, he will go back to the law enforcement center here,
15 back to the detention center, they've got to process him
16 in, that's going to cut down on the time I can talk to him
17 this afternoon and it will be a hardship on us to be able
18 to do that. I quite frankly don't think he's going to go
19 anywhere. He does have family here in Lancaster County and
20 he can -- I think at some point he was planning on staying
21 with them. We would just ask the Court to allow him to
22 stay out on bond, he's not been a problem since he's been
23 out.

24 THE COURT: Anything further from the State?

25 MS. COLLINS: Your Honor, the obligation of the

1 bondsman ends when the case is called for trial. The jury
2 has been sworn and jeopardy has attached. As the defense
3 attorney has said, it has been pending some time, they've
4 had all of these years to prepare for it and one night in
5 jail is not going to affect that. Respectfully it's a
6 murder charge, he's facing life in prison, we would ask
7 that he be held. The case has been called, the bondsman is
8 no longer obligated and we would ask that he be held in
9 custody.

10 THE COURT: I'll keep him in custody. Take him into
11 custody.

12 MS. COLLINS: Thank you.

13 THE COURT: All right. Court adjourned for the day,
14 see you in the morning.

15 (The case recessed for the day and resumed on January
16 5, 2016 at 9:30 a.m.)

17 MR. LEE: I would ask that the State witnesses be
18 sequestered. I understand -- I think she's got the
19 evidence custodian and maybe one other person that she did
20 not want sequestered and I don't have any problem with
21 that.

22 THE COURT: All right. Madam Solicitor?

23 MS. COLLINS: Your Honor, I certainly would ask that
24 case agent Captain Craig Bailey as well as evidence
25 technician Ann Horton stay in. I do have some concerns

1 about that just because Mr. Lee and I had discussed that
2 ahead of time and yesterday we didn't have them
3 sequestered, and in fact, I also sent emails to all of the
4 witnesses last night and told the witnesses that were here
5 yesterday that the witnesses have not been sequestered,
6 you're welcome to come back, I told them they definitely
7 needed to be back to testify. So I'm very concerned that
8 while my back is turned having represented that to them on
9 the basis of what was said yesterday that they may end up
10 coming in and I don't see that to catch that. I'll do my
11 best to do that, I'm sure my staff will assist me to do
12 that, Captain Bailey and, of course, Solicitor Newman and
13 the victim advocate, but I'm very worried about that. I
14 don't want that to be a basis for excluding those witnesses
15 when we told them that on the representation of Mr. Lee not
16 making that motion.

17 MR. LEE: And I understand and I apologize. Like I
18 said, it's just one of those things you -- as the trial
19 progresses a little bit you realize that maybe I should
20 have done that.

21 THE COURT: I'm going to grant the motion with the
22 exception of the agent in charge of the investigation and
23 evidence tech. To the extent that any other State's
24 witnesses come in, Frankie is back there, just make eye
25 contact with her, if they walk in not realizing they're

1 under that sequestration order they can just step out, it's
2 not going to be a problem.

3 MS. COLLINS: Thank you, Judge.

4 THE COURT: All right. Anything else?

5 MS. COLLINS: At this time we would ask the
6 witnesses -- Ms. Massey, you can stay in because you're
7 first and other witnesses to step out into the hallway area
8 or one of those adjacent rooms, other than Ms. Horton and
9 Captain Bailey. Other than that we're ready to proceed.

10 THE COURT: All right. Thank you. Where are the news
11 media? Are you with the Lancaster News? I saw you using
12 that big camera and I heard a click. I don't want that to
13 happen and I want to make sure you understand that under no
14 circumstances the jury can be photographed or videoed or
15 anything.

16 (The jury returned to the courtroom.)

17 THE COURT: All members of the jury are present.
18 Ladies and gentlemen, let me first apologize to you, I
19 violated my own charge that I gave you yesterday, I was
20 late this morning and I have no excuse and I'm throwing
21 myself on the mercy of the Court. Okay. And I decided I
22 would be merciful with me this time but it ain't going to
23 happen again. Okay. So I apologize to you for that. Like
24 I told you yesterday, let me give you a brief outline about
25 how a trial proceeds. First, the State will make an

1 opening statement to you. And an opening statement is not
2 evidence, it's simply an outline to help you understand
3 what the State believes the evidence will show. The
4 defense may, if they wish, present an opening statement but
5 they don't have to, and I'll talk more about that as the
6 case proceeds. Now, following opening statements you will
7 then hear testimony from various witnesses as well as
8 receive evidence in the case. This will consist of
9 testimony from various State's witnesses as well as any
10 physical evidence which may be introduced into evidence.
11 Now, following the completion of testimony the attorneys
12 again will have an opportunity to make what is called a
13 closing argument or a statement to you. This is also not
14 evidence, but this is an opportunity for the attorneys to
15 summarize the case to you from their respective points of
16 view. Now, following the closing arguments that's when I
17 will instruct you on the law of South Carolina as it
18 pertains to the issues which have arisen in this case.
19 Now, when I've completed my instructions to you, that's
20 when you will begin and -- be permitted to begin your
21 deliberations in order to reach a verdict. Now, as you
22 know, ladies and gentlemen, this is a criminal case that's
23 been brought by the State of South Carolina. The State has
24 charged the defendant, Terry Catoe, with the offense of
25 murder. The charge against Mr. Catoe is contained in this

1 indictment. Now, this piece of paper, this indictment, is
2 not evidence of anything, it's simply the description of
3 the charge that's been made by the State against the
4 defendant. Now, the defendant has pled not guilty to this
5 charge and is presumed innocent unless and until proven
6 guilty by the State by what is called beyond a reasonable
7 doubt. I will explain this to you in more detail at the
8 end when I charge you the law, but I will tell you at this
9 time a reasonable doubt is the kind of doubt that would
10 cause a reasonable person to hesitate to act. A defendant
11 has the right not to testify and a defendant never has to
12 prove innocence or present any evidence. The burden of
13 proof is always upon the State of South Carolina. Now, it
14 is your duty, ladies and gentlemen, as jurors to decide
15 from the evidence presented in this courtroom what the
16 facts are, what happened. You and you alone are the judges
17 of the facts. I'm the judge of the law, you're the judge
18 of the facts. You will hear the evidence, decide what the
19 facts are, and then you will apply those fact to the law
20 which I give you and that's how you reach your verdict, and
21 in doing so you must follow the law that I give you whether
22 you agree with the law or not. Don't take anything that I
23 say or do during the trial as indicating what -- as
24 indicating what I think the evidence is or what your
25 verdict should be. Now, just like rules which govern

1 sports and other activities, we have certain rules of
2 evidence in court which control what can be received into
3 evidence. I know all of you have watched various TV court
4 shows or movies or read books where you see lawyers stand
5 up and go "objection." Okay. The reason they do that is
6 because they -- the lawyers are calling to the attention of
7 the Court a possible, a possible violation of the evidence
8 rules. So when a lawyer asks a question or offers
9 something into evidence and the lawyer on the other side
10 thinks that it's not permitted by those rules of evidence
11 that lawyer may object. Now, if I overrule the objection,
12 if I say overruled, that means that a question can be
13 answered or the exhibit may be received. If I what's
14 called sustain the objection, that means the question
15 cannot be answered or the exhibit cannot be received. Now,
16 whenever I do sustain an objection you must ignore the
17 question or the existence of the exhibit and you must not
18 guess or speculate what the answer would have been or what
19 the exhibit would have shown. And the reason we do that,
20 ladies and gentlemen, since you are the judge of the facts,
21 we want to make sure that you get the best evidence
22 possible and that's why we have these rules of evidence and
23 that's why I have to rule on the admissibility of certain
24 stuff. Okay. And sometimes it may be necessary for me to
25 request that you leave the courtroom while I discuss

1 certain legal issues with the attorneys. Again while
2 you're back there if I ask you to leave the courtroom,
3 don't speculate about what we're talking about or why you
4 were asked to leave the room. Again, this is simply a
5 procedure that all courts use and all courts require when
6 certain legal issues arise. Rather than make you get up
7 back and forth to your jury room if it's possible I'll have
8 the lawyers -- if I need to I'll have the lawyers approach
9 the bench so I can discuss certain things with them in
10 private. Again, if I ask them to step up to the bench or
11 if I ask you to leave the courtroom, don't think that
12 anybody is trying to hide anything from you or keep any
13 evidence from you, this is simply a procedure used to make
14 sure you get the best evidence possible to make your true
15 and lawful verdict. Okay. Now, in deciding the facts in
16 this case you're going to have to decide which witnesses to
17 believe and which witnesses not to believe, this is called
18 credibility of a witness or believability of a witness.
19 You can believe everything a witness says or only part of
20 it or none of it. Now, ladies and gentlemen, during the
21 trial you're not going to be allowed to take notes
22 concerning the testimony of the witnesses. It is for this
23 reason I urge you to pay close attention to the witnesses
24 when they're testifying so you can accurately discuss the
25 facts when you start deliberating. In addition at the end

1 of the trial you're going to have to make your decisions
2 based on this evidence presented, based upon your
3 recollection of the witnesses testimony, based upon your
4 recollection of the demeanor of the witness when that
5 witness was testifying. You're not going to have a written
6 transcript of the trial to consult and it's very difficult.
7 and time consuming for my court reporter down there to read
8 back or play back lengthy testimony, so please pay close
9 attention as the trial develops. Now, until I advise you
10 to begin your deliberations, remember I said this
11 yesterday, this is the last thing I told you, you must not
12 discuss this case with anybody including your fellow
13 jurors, certainly not friends, family members or anybody
14 else involved in this case. Don't go on any social media,
15 don't look for information about this case when you're on
16 breaks, don't do any independent research, ignore any media
17 coverage of this proceeding, because remember, your verdict
18 must be based solely on what happens in this witness chair,
19 this testimony you receive and exhibits you receive. I
20 don't want people reported so that's why you can't listen
21 to it or look at it. If anybody tries to talk to you in
22 violation of this charge I just gave you, let me know and I
23 will handle it. It's important, ladies and gentlemen,
24 finally that you keep on open mind and not decide any issue
25 in this case until all of the evidence has been presented,

1 until both parties have made their closing statements to
2 you and until I have instructed you on the law of the case.
3 It's your solum responsibility to determine the guilt or
4 innocence of the defendant, and your verdict must be based
5 solely on the evidence as it is presented to you in this
6 trial and on the law as I instruct you at the close of the
7 trial. Thank you very much again for serving the State of
8 South Carolina and Lancaster County in this very important
9 endeavor. We will now proceed with opening statement.

10 Thank you. Madam Solicitor?

11 MS. COLLINS: Thank you, Your Honor. May it please
12 the Court?

13 THE COURT: Yes, ma'am.

14 MS. COLLINS: The last time that Linda Massey Gaymon
15 was seen alive by her family was about 9:30 in the evening
16 on February 23rd of 2012. They saw her that evening, they
17 saw how she was addressed in a long sleeved dark T-shirt
18 and blue sweat pants and black shoes, and that she was
19 walking away from the home alone as she sometimes did. She
20 was about my age, about 53. The last time that Linda
21 Massey Gaymon was seen by a friend of hers was the early
22 morning hours, the next morning, about 1:30 in the morning
23 on February 24th of 2012, that friend was Sherry Cauthen.
24 They saw each other now near some abandoned homes near
25 Starnes Street. And earlier Sherry Cauthen had been

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1 approached by an African-American man riding a bicycle.
2 Sherry Cauthen had been asked by this man would she go in
3 one of the abandoned houses and have sex with him for money
4 and she had said no. She saw that man approach her friend,
5 Linda, saw them talk, and saw them walking off together,
6 and that's the last time that any of her friends saw Ms.
7 Linda alone. The last words of Ms. Linda Massey Gaymon
8 that her friend, Sherry Cauthen, heard was in the form of a
9 scream, saying, "Don't, you don't have to do that," and
10 crying out for a nearby neighbor named Bop Hall. The last
11 time the defendant, Terry Catoe, saw Linda Massey Gaymon
12 was after he concluded a sexual act that included forcing
13 himself on her anally, at which time she defecated, having
14 vaginal sex with her, and then returning to anal sex, by
15 his words, 20 to 25 minutes with his forearm across her
16 neck, after which as he later told law enforcement, he knew
17 the damage had been done, that she was going out and he
18 left her nude from the waist down, breasts exposed with her
19 shirt and bra pulled up, and he left her there alone on a
20 mattress in the filth and the disarray of that abandoned
21 house on Starnes Street where her body was later found the
22 next morning by Ricky Sistare. Ricky Sistare will come in
23 and testify that the next morning he's going to the store
24 and he kind of noticed that there was a couch up in front
25 of the door of that abandoned home, he didn't really take

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1 note of it too much then, kind of saw it out of the corner
2 of his eye, but that afterwards when he's coming back from
3 the store that it comes to his attention and he's like,
4 "What is that couch doing up in front of door like that?"
5 Because he knew those homes, he was familiar with the area,
6 familiar with that abandoned home and the other abandoned
7 homes around it, and the couch is turned on one arm propped
8 up against the door blocking the doorway. And Ricky
9 Sistare being the good citizen that he is, goes up to the
10 home, sees that he can go up under the couch to go into it
11 and sees there's a body, he sees the nude buttocks and
12 immediately backs out, sees there's a body line on the
13 mattress, isn't sure if someone is just sleeping or is
14 actually passed away. He comes out, sees his friend Marion
15 Stevens, who unfortunately is now passed away, he called
16 him Manor, he told Mr. Manor, Marion Stevens, about it who
17 then went in the home, checked her, comes out and says,
18 "She's dead, it's a lady, she's dead," and he calls 911.
19 Law enforcement responds. Law enforcement goes up under
20 the mattress -- up under the couch, nothing is touched or
21 altered at that point, they confirm that there's a female
22 partially nude dead there on the mattress. And they get
23 the rescue squad to come out, the deputy coroner to come
24 out and confirms she's dead. Law enforcement talks to
25 Ricky Sistare and Marion Stevens, and as is the case

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1 anytime a citizen goes into a crime scene they get what are
2 called elimination standards, DNA swabs from their cheeks
3 just in case their DNA as they entered the crime scene
4 might happen to be found there later so they can be
5 eliminated, so they get that. Ultimately the investigation
6 leads to Terry Catoe, and you'll hear testimony about that.
7 You'll hear how Sherry Cauthen initially thought that this
8 was a relative of Terry Catoe's named Willie Catoe who she
9 knew, but ultimately the investigation of law enforcement
10 led to Terry Catoe, he was the one that rode the bike in
11 that area and ultimately he gives them statements about
12 that. You will hear that DNA swabs from bodily fluids
13 found on the victim's body on her hip and her thigh area
14 matched DNA from the defendant, Terry Catoe. This is an
15 adult case, we're going to talk about adult things. I
16 appreciate you coming from your homes and your families and
17 your jobs to bring justice to this courtroom today. We're
18 going to have to talk about body parts, we're going to have
19 to talk about bodily functions like defecation, like
20 ejaculation, like DNA from seminal fluid. Terry Catoe
21 ultimately gives two statements to law enforcement that are
22 signed and a verbal statement that's not signed. When they
23 interviewed him he initially says, "Well, I saw that lady,
24 it was around 9:00 in the evening on February 23rd and we
25 had sex together. I offered her \$10 to have sex with me in

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1 this home and she turned it down, I offered her \$15 and she
2 took it, she accepted that proposition and we went into the
3 home and we had sexual relations and at the end of it I
4 left, she left. I turned around and saw her talking to
5 somebody in a car with dark windows, and Sherry Cauthen,
6 the white lady that he'd spoken to earlier was standing
7 there beside Ms. Linda who was African-American. That's
8 what Terry Catoe says in his first statement. He's
9 arrested for solicitation of prostitution because he has
10 admitted to that by his statement of offering sex and
11 receiving sex for money. And the next day when he is
12 served with the written warrant for that, he waives his
13 rights and he gives a second statement. I ask that you
14 listen closely to both statements, listen to how they
15 changed because they do change. And in his second
16 statement Terry Catoe tells law enforcement, "Well, oh,
17 yeah, we did -- she did yell out and scream or protest
18 about the anal sex because she wasn't ready at first." And
19 he says, "And I did put my arm across her neck -- I put my
20 forearm across her neck during the anal sex because she
21 wanted it that way. She suggested 'Do you like rough sex?
22 I am like -- I respond --" these are Terry Catoe's words,
23 "What do you mean?" And he said she puts, for \$15, his arm
24 across her neck and that he engages with his forearm across
25 her neck with anal sex with Ms. Linda for 20 to 25 minutes,

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1 and that at the end he knows, as he says, the damage has
2 been done, and that he gets up, he does see a leg move and
3 kind of moan and then he leaves her there. He leaves her
4 there and he leaves the couch blocking the doorway of the
5 home. Listen closely to his words and how they changed.
6 It has been said that all that the truth asks, but all that
7 it requires, all that it demands is to be heard, it wants
8 to be heard, it wants to come out. And I submit to you as
9 you hear the statements given by the defendant to law
10 enforcement, that little bit by little bit more the truth
11 is coming out. The word verdict means to speak the truth,
12 and at the end of this case we will ask you for a verdict
13 that speaks the truth. And I submit to you that when the
14 evidence has been all before you and you deliberate and you
15 consider it, that the truth will be that the defendant
16 murdered Ms. Linda that night, because murder is defined as
17 the killing of another person with malice aforethought.
18 His Honor will instruct you on the law to be applied at the
19 end of this case, but it doesn't require premeditation like
20 some states do. Malice aforethought is defined -- malice
21 means an evil intent of hostility, and aforethought can be
22 instantly, the instant before the act, in that instant
23 before the act. You won't get to hear the testimony of
24 Linda Massey Gaymon, she won't be able to come in and tell
25 you in her words what happened that night in the last

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1 moments of her life, but her body will give testimony to
2 you because her body will give evidence of the struggle and
3 the fight for her life that she put up. The evidence will
4 show that she scratched the defendant, you've heard of the
5 verbal protest, that she scratched the defendant, a nail on
6 her hand was broken, the defendant's DNA cannot be excluded
7 from DNA found under her fingernails, and that she
8 defecated in the course of the act such that her feces was
9 not simply around her anus but also around her vaginal area
10 and up in her vaginal vault. You'll hear testimony from
11 the biologist, the doctor that did autopsy as to bruising,
12 the bruising indicating strangulation and the cause of
13 death being asphyxiation, suffocation by strangulation,
14 that the blood vessels of the eyes burst, which is called
15 petechia, indicative again of death by asphyxiation or
16 depravation of oxygen by strangulation. You will hear
17 about other bruises, too. You will hear how the deputy
18 coroner observed a bruise to the left eye. You will hear
19 how the doctor that did the autopsy observed a bruise to
20 the forehead and some bruises to other areas of the
21 victim's body. I submit to you at the end of this case
22 when you deliberate that the truth will be that the
23 defendant offered Ms. Linda \$15, ten at first, rejected,
24 15, that he went into the home with her but there's no
25 evidence that he ever paid her, no money was every found

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1 either on her person or in her clothing or on back or on
2 the scene at all. And that she protested the attempted
3 anal, she struggled, she cried out, she screamed, she
4 scratched him, she defecated and he got angry, and he
5 overcame her and he choked her and he had sex with her
6 vaginally and anally by his words for 25 minutes with his
7 forearm across her throat. And I submit to you the
8 evidence will be that's not rough sex by a woman being paid
9 \$15 because she wants that, that's by a man who is angry
10 that she has defecated on him and his intent is to subdue
11 her and control the situation and to control her, and he
12 did, and he took her life. He killed another person, Ms.
13 Linda, and he did it with malice, with evil intent and
14 hostility, aforethought, instantly, and he murdered her.
15 Thank you for leaving your jobs and your homes and your
16 families to bring justice to this courtroom.

17 THE COURT: All right. Thank you, Madam Solicitor.
18 Mr. Lee?

19 MR. LEE: Thank you, Your Honor. May it please the
20 Court?

21 THE COURT: Yes, sir.

22 MR. LEE: Ladies and gentlemen, I'm not going to take
23 a lot of time to go over some things with you. I do want
24 to tell you this, though, and I apologize, you know, every
25 course that I've ever attended on legal -- what you should

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1 do in the courtroom tells you memorize your facts such that
2 you can talk to the jury and explain things to them. But
3 you know, I have been doing this for over 40 years and I've
4 represented a lot of people, and I'm sorry, sometimes I
5 just don't think about things and so I have to depend on
6 notes, and I do apologize for having to do that. You know,
7 over that period of time one thing I take pride in is that
8 I was the first attorney in Chester to use a computer in my
9 law practice, and I looked at you and we saw your ages and
10 things when you were on the panel and I realized that most
11 of you didn't -- if you deal with computers now you didn't
12 deal with those kind of computers that I had back then.
13 You know, we didn't have little pretty icons that you could
14 move a cursor over and touch them and a program opens up
15 and does what you want it to do, we had to type in what we
16 wanted the computer to do, the program and then it didn't
17 do anything until we told it to, when we pushed the return
18 buttons, which made it then operate. Whether we used a
19 spreadsheet or whether we used a word processing program it
20 had to do that. And this was one of the things that you
21 are going to have to do as jurors. You're going to hear
22 evidence, and His Honor has already told you, nothing I say
23 is evidence here, nothing that the solicitor says is
24 evidence, it's only what comes off of that witness stand
25 that's evidence, and there are two sides to each story.

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1 But you're going to have to be like those old computers and
2 you've got to hold all of that in your mind and not act on
3 it until such time as you've been told and instructed you
4 can do that, and that's a difficult thing to do because
5 human nature is such that we act on what we see and what we
6 hear. Through the many years that the human race has been
7 around, that's how we survive, we wouldn't be here today if
8 we didn't see that tiger coming through the bushes and
9 decided that we needed to run, things of that nature. It's
10 just hard to do that because we do it, but as jurors you're
11 going to have to do that. Now, we're going to make it a
12 little bit easier for you, and although the solicitor has
13 still got to prove this, and she has got to prove it, we're
14 not going to deny that Terry wasn't there, and we're not
15 going to deny that through their actions Ms. Gaymon died,
16 so those two things are going to make it easier for you to
17 make a decision. What you've got to determine is was it
18 murder? Was it malice aforethought, killing of another
19 human being with malice aforethought? You're going to hear
20 a lot of stuff. The State, of course, is going to put
21 their case up first and that's why it's so important to
22 withhold any judgment until you hear everything. And
23 they're not going to paint the defendant in as nice a light
24 as possible, but I think even from their evidence you're
25 going to see that there's not proof beyond a reasonable

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1 doubt that it happened the way that the State is trying to
2 allege that it did. I know that you have -- the things is,
3 just because the State says it's something doesn't mean
4 that it happened that way, you've got to be convinced
5 beyond a reasonable doubt. His Honor will give you some
6 definitions at the end of what the legal definitions are,
7 we'll both tell you what we think the definitions are.
8 We'll point out things that we think are important to give
9 you some food for thought more or less, things that you
10 need to listen to. Solicitor touched on it and I do too,
11 I'm sorry, you're going to hear some very ugly things.
12 You're going to hear some things -- the Judge in qualifying
13 all of the jurors asked if there was anybody who couldn't
14 give a person a fair trial just because they heard things
15 that dealt with bodily parts, body functions, things of
16 that nature, and you all said that you could and I'm sure
17 that you can. Just because it's not nice and it's not
18 sugar-coated, don't think that that makes it any worse.
19 The State is going to give you -- you'll have the
20 indictment, His Honor has told you the indictment itself is
21 only a piece of paper, it sets out what the State says it
22 has to prove and intends to prove, but they again have to
23 prove all of the elements on that indictment, all of the
24 things they allege beyond a reasonable doubt. If they
25 don't then you have a right to say you didn't prove it to

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1 me, and that's one of the things that you have to do. Now,
2 we picked you because we felt that you were the best people
3 to judge what happened. Again, the State has to prove the
4 evidence to you, they have to convince you beyond a
5 reasonable doubt, not just that it might have happened that
6 way, not even that it probably happened that way, but
7 basically that I'm convinced beyond a reasonable doubt it
8 happened that way. And you will have a right and
9 obligation, in fact, to come back and to say you didn't
10 prove it against him, you didn't prove it beyond a
11 reasonable doubt. And quite frankly that's what a lot of
12 cases come down to, is that the proof just doesn't fit. So
13 you'll hear the evidence as I said. The only evidence is
14 what is going to come from that witness stand over there.
15 Anything I say, anything the solicitor says, we're just
16 advocating our particular part of the case to you. I know
17 that you'll listen, that you'll pay attention to it and
18 that you will give it a true and fair verdict when the time
19 comes for it. Thank you, ladies and gentlemen.

20 THE COURT: Thank you, Mr. Lee. The State can call
21 its first witness.

22 MS. COLLINS: Thank you, Your Honor. The State calls
23 Angela Massey. Ms. Massey, if you will please come
24 forward.

25 The witness, ANGELA MASSEY, was first duly sworn and

ANGELA MASSEY - DIRECT

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MS. COLLINS:

4 Q Would you please state your name for the record?

5 A Angela Massey.

6 Q And that's a good volume. Mr. Lee and I are both a
7 little hard of hearing, so again, please speak into the
8 microphone. Ms. Massey, what was your relationship to
9 Linda Massey Gaymon?

10 A My aunt.

11 Q She was your aunt and you are her niece?

12 A Yes, ma'am.

13 Q Did y'all live together?

14 A Yes, ma'am.

15 Q You lived together at the time of her death?

16 A Yes, ma'am.

17 Q And that home was here in Lancaster, South Carolina?

18 A Yes, ma'am.

19 Q When did you last see Ms. Linda alive?

20 A About 9:30 Thursday night, she left my house.

21 Q The night of February 23rd of 2012?

22 A Yes, ma'am.

23 Q And you said it was about 9:30 p.m.?

24 A I would say about 9:30.

25 Q And what was she doing when you last saw Ms. Linda?

ANGELA MASSEY - DIRECT

1 A We was all talking and sitting around my table and
2 she just said she was going to walk off and step out.

3 Q I'm sorry, I couldn't hear you.

4 A She said she was going to walk off and step out for
5 awhile.

6 Q And if you could, if you could please lean forward
7 like that, that's very helpful. So she said she was going
8 to walk out and step off --

9 A Step out for awhile, yeah.

10 Q And do you remember what she was last wearing?

11 A She had a jogging suit, dark colored sweatpants,
12 blue, maybe some tan looking shoes or something, sweat
13 jacket, little thin shirt up under there.

14 Q Were the shoes flat shoes?

15 A Flat shoes.

16 Q Tan you say?

17 A Uh-huh, casual.

18 Q And she had on sweat pants?

19 A Yes, ma'am.

20 Q Dark colored?

21 A Dark colored.

22 Q And some kind of jacket and some shirt up underneath
23 there?

24 A Yes, ma'am.

25 Q Did you see if the shirt was long sleeved or short

ANGELA MASSEY - DIRECT

- 1 sleeved?
- 2 A No, ma'am.
- 3 Q Okay. Do you recall whether or not she had on a wig
- 4 or a hair piece?
- 5 A She had a wig on, she always wore a wig.
- 6 Q And what did the wig look like, do you remember?
- 7 A Like a bob cut with red streaks in it.
- 8 Q Was it dark hair?
- 9 A Dark, yes, ma'am.
- 10 Q Dark blackish hair with red streaks and a little bob
- 11 haircut?
- 12 A Yes, ma'am.
- 13 Q We say bob, but kind of chin length?
- 14 A Right.
- 15 Q And when she left your home, the home you shared with
- 16 her walking, did she leave walking alone?
- 17 A Yes, ma'am.
- 18 Q And when you last saw Ms. Linda, was she healthy?
- 19 A Very.
- 20 Q She didn't appear to have any injuries at that time?
- 21 A No, ma'am.
- 22 Q You didn't observe any bruises on her at that time; is
- 23 that right?
- 24 A No, ma'am.
- 25 Q Did you next receive a phone call later or a visit

ANGELA MASSEY - DIRECT

1 from law enforcement?

2 A No. Later part of the day they had been calling
3 trying to get in touch with us and trying to see if they
4 knew that was her.

5 Q The next day, February 24th?

6 A Yeah, probably about 3:00 or 4:00.

7 Q And do you remember describing for them and the
8 coroner's office what you had last seen wearing?

9 A Yes, ma'am.

10 Q Last had seen her wearing?

11 A Yes, ma'am.

12 Q Just as you've told us today?

13 A Right.

14 Q And did you tell them the last time you had seen her
15 just as you've told us today?

16 A Yes, ma'am.

17 Q And Ms. Massey, the next time that you were able to
18 see your Aunt Linda was that there at the funeral home?

19 A Yes, ma'am.

20 Q All right.

21 MS. COLLINS: Ms. Massey, thank you for coming today,
22 please answer any questions of Mr. Lee.

23 THE COURT: Mr. Lee.

24 MR. LEE: Thank you, Your Honor. May it please the
25 Court?

ANGELA MASSEY - CROSS

1 THE COURT: Yes, sir.

2 CROSS EXAMINATION

3 BY MR. LEE:

4 Q Ms. Massey, I'm sorry for the loss of your aunt. Let
5 me ask you this, and I think the Solicitor asked you, you
6 said you lived with your aunt?

7 A She lived with me.

8 Q She lived with you. Okay. And how long had she lived
9 with you?

10 A Off and on for probably about a year.

11 Q Did she live other places, do you know, or --

12 A No more than my other sister's house.

13 Q But on this particular day she was living with you.

14 A Right.

15 Q And you said about 9:30 she said something about, "I'm
16 going to go out for awhile?"

17 A She was going to leave, right.

18 Q Were you -- you didn't hear anything else until the
19 police called you about 3:00?

20 A Yes, sir.

21 Q Were you concerned about her?

22 A Of course.

23 Q But you hadn't called anybody or anything?

24 A I hadn't called anybody. Because at the time my
25 boyfriend's father had died and we was coming back from a

ANGELA MASSEY - CROSS

1 funeral, so I didn't know anything until I got back to
2 town.

3 Q So you don't know if anybody -- did you just assume
4 that your aunt was still there?

5 A I assumed that she was still alive, because when she
6 left my house she was alive.

7 Q I mean, but did you assume she came back to your
8 house?

9 A No, sir, because when I left she wasn't there.

10 Q About what time did you leave?

11 A I left -- Friday morning?

12 Q Uh-huh.

13 A About 12.

14 Q About 12:00. So you hadn't seen her from like 9:30
15 that night until like 12:00 the next morning; is that
16 right?

17 A I haven't seen her no more. When she left my house
18 at 9:30 at night I haven't seen her no more until the
19 burial.

20 Q But what I'm asking you is she didn't come back to
21 your house before you left.

22 A To go to the funeral? No, sir, she didn't.

23 Q Okay. And did that give you any concern?

24 A No, not really. Because she would go and stay
25 sometimes but she comes back.

ANGELA MASSEY - CROSS

1 Q She would be gone at times sometimes for some period
2 of time and then --

3 A Yeah, couple of days.

4 Q Okay. When you -- do you recall, or do you know, did
5 she have any bruises or anything of that nature that you
6 could see?

7 A No, sir.

8 Q This was before she left.

9 A Right. No, sir.

10 Q Okay.

11 MR. LEE: Your Honor, if I might have just a moment.

12 THE COURT: Okay.

13 (Break in proceedings.)

14 Q When she left I believe you said she had on some type
15 of long sleeved garment?

16 A Yes, sir.

17 Q And a jacket?

18 A Yes, sir.

19 Q Okay.

20 MR. LEE: That's all I have, Your Honor.

21 MS. COLLINS: No further questions.

22 THE COURT: Thank you, ma'am, you can step down. Call
23 your next witness.

24 MS. COLLINS: The State's next witnesses is Ms. Sherry
25 Cauthen.

SHERRY CAUTHEN - DIRECT

1 The witness, SHERRY CAUTHEN, was first duly sworn and
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MS. COLLINS:

5 Q Now, Ms. Sherry, I'm a little hard of hearing, I think
6 Mr. Lee might be, so if you can lean forward to the
7 microphone and speak in it so everybody can hear you.

8 A Yes, ma'am.

9 Q Thank you. What's your name, please?

10 A Sherry Renee Cauthen.

11 Q Okay. You're going to have to lean forward just like
12 I'm doing.

13 THE COURT: We need longer microphones in the
14 courtroom.

15 MS. COLLINS: I don't think that chair moves to well
16 so just sit on the edge and lean right in.

17 Q You are Sherry Cauthen; is that right?

18 A Yes, ma'am.

19 Q And do you live in Lancaster County?

20 A Yes, ma'am.

21 Q How long have you lived here in Lancaster?

22 A For about ten or 11 years or longer.

23 Q Can you lean forward just a little bit more?

24 A Okay.

25 Q Did you know Ms. Linda Massey Gaymon?

SHERRY CAUTHEN - DIRECT

- 1 A Yes, ma'am, I did.
- 2 Q And did you see Ms. Linda on February 24th of 2012?
- 3 A Yes, ma'am.
- 4 Q And that was during the early morning hours?
- 5 A Yes, ma'am.
- 6 Q Do you recall about what time that was?
- 7 A It was early, about 1:00 or 2:00 in the morning.
- 8 Q 1:00 or 2:00 in the morning?
- 9 A Yes, ma'am.
- 10 Q And when you saw Ms. Linda, had you seen someone else
- 11 just before seeing Ms. Linda.
- 12 A Yes, ma'am, I seen a guy on a bicycle.
- 13 Q And what did he look like?
- 14 A I couldn't tell you what he looked like, but I spoke
- 15 to a person who I thought it was.
- 16 Q And who did you think it was?
- 17 A William Catoe.
- 18 Q And can you tell us please what Mr. William Catoe
- 19 looks like? In other words I take it he's a man; is that
- 20 right?
- 21 A Yes, ma'am.
- 22 Q And what race is he?
- 23 A He was black.
- 24 Q Okay. And so to describe him, how did you know him?
- 25 A I used to date William a long time ago, about two,

SHERRY CAUTHEN - DIRECT

1 three or four years ago.

2 Q And that was two, three or four years before 2012?

3 A Yes, ma'am.

4 Q So several years ago now?

5 A Uh-huh.

6 Q And this man you saw was riding on a bike?

7 A Yes, ma'am.

8 Q And that was during the early morning hours between

9 1:00 and 2:00 a.m. on February 24th?

10 A Yes, ma'am.

11 Q 2012?

12 A Uh-huh.

13 Q And did the man speak with you?

14 A Yes, ma'am.

15 Q And what conversation did y'all have?

16 A Well, he asked me would I go in and be with him in

17 the house and I told him I didn't go in abandoned houses

18 because I was trying to straighten my life out, and then

19 after that I turned around and was walking toward Crenco.

20 And then after that I turned around and walked toward 15th

21 Street, and then I kept walking and dude on a bicycle

22 turned around and went the other way in the opposite

23 direction. And when I turned around I walked up toward

24 15th Street and I heard somebody call my name and when I

25 got up to 15th Street it was Linda Massey, she was on this

SHERRY CAUTHEN - DIRECT

- 1 side off 15th Street and I was on the other side. I asked
2 her what did she want, she said, "Girl, I'm tired." I
3 said, "If you're tired" -- excuse my french -- I said,
4 "Take your black ass home if you're tired."
- 5 Q Were y'all friends?
- 6 A Yes, ma'am.
- 7 Q Y'all spoke that way in a friendly way to each other?
- 8 A Yes, ma'am.
- 9 Q And did she laugh?
- 10 A Yes, ma'am.
- 11 Q And you laughed?
- 12 A Uh-huh.
- 13 Q And then what happened?
- 14 A And she said, "Girl, I'm tired, I need me a fix and a
15 ride home." I said, "Is there anything I can do?" And
16 she said, "No." So the dude on the bicycle wouldn't go no
17 further from 15th Street to the store, Poppy Louie's Store
18 right there on the forks of Brooklyn. So I turned around,
19 she done crossed over 15th Street to where I was at and
20 she was behind me, and I turned around three times and
21 asked her was she okay and she told me yeah.
- 22 Q And when you said she, are you talking about Ms.
23 Linda?
- 24 A Ms. Massey, yes, ma'am.
- 25 Q Go ahead.

SHERRY CAUTHEN - DIRECT

1 A And when I kept turning around the dude on the
2 bicycle finally stopped and her and him was talking and he
3 was on the road, she was on the sidewalk, and I turned
4 around and she told me she said, "Girl, don't turn around
5 no more, just go ahead, you're messing me up from getting
6 me a ride and a fix." So I just kept walking. Next thing
7 you know -- excuse me -- I looked out the corner of my eye
8 and they had disappeared. I wasn't even close to Poppy
9 Louie's Store and I heard her scream Bop Hall and saying,
10 "Man, you don't have to do that," and that was it. After
11 that I walked to the curve right there on Brooklyn and I
12 looked up at God and said, "God, should I go check on
13 Linda or should I just keep walking?" So I just kept
14 walking. Next morning I woke up to go to the store to get
15 me a Nab and a soda and I seen Buck Sanders, I called him
16 and I said "Buck, what happened? He said, "Sherry, they
17 found somebody dead in them houses." I said, "Oh God, I
18 hope it wasn't Linda Massey because," she was the last
19 person I seen. And he told me, he said --

20 Q Well, let me stop you there, because again, you can
21 testify as to what you observed and saw. But let me back
22 up, there's a couple of things I want to ask you about if
23 you'll bear with me.

24 A Uh-huh.

25 Q So when the guy on the bicycle asked you about going

SHERRY CAUTHEN - DIRECT

1 into the abandoned houses, were you near the abandoned
2 house on Starnes Street?

3 A No. I was right there at the two-story apartments
4 where that big tree is where they cut off at.

5 Q But the big tree is kind of near the back of those
6 abandoned houses on Starnes Street?

7 A They're at the front of the road.

8 Q I can't hear you.

9 A It's on the front of the road on Brooklyn.

10 Q And so here is Brooklyn and then the road, Starnes
11 Street, goes up in a little cul de sac; is that right?

12 A Right before you get to the store right there at the
13 forks of Brooklyn.

14 Q Okay. But you knew which abandoned houses he was
15 referring to, didn't you?

16 A I knew what houses he was referring to, yeah.

17 Q And there's several abandoned houses right there
18 together, right?

19 A There's six of them.

20 Q Now, when you saw the man on the bike after you turned
21 him down talking to Ms. Linda, how far were they from the
22 abandoned houses?

23 A About what?

24 Q About how far were they were the abandoned houses?

25 Were they within walking distance to the abandoned houses

SHERRY CAUTHEN - DIRECT

1 at that point?

2 A When I spoke to Ms. Massey?

3 Q When you saw Ms. Linda and the guy on the bicycle
4 talking to each other.

5 A No. They were at the top of 15th Street, that's
6 where he started talking to her on the top of 15th and
7 they was walking behind me..

8 Q And they were walking behind you?

9 A He got off his bicycle and was walking with her.

10 Q Was he rolling the bike beside them?

11 A Yes, ma'am.

12 Q So he was walking, she was walking, he was rolling his
13 bike. And you saw them talking to each other?

14 A Yeah.

15 Q And they were still within walking distance of these
16 abandoned houses, right?

17 A Yes, ma'am. I'm sorry, yes, ma'am.

18 Q And so when you last turned to look back, you didn't
19 see them anymore; is that right?

20 A No, I didn't.

21 Q But you said shortly after that you hear Ms. Linda cry
22 out something; is that right?

23 A Yes, ma'am.

24 Q And so was that just a few minutes later? How long
25 was that?

SHERRY CAUTHEN - DIRECT

1 A It didn't take long. It happened so fast, I wasn't
2 expecting to hear anything like that, I was going home but
3 it just happened so fast.

4 Q And Ms. Sherry, bear with me, tell me one more time
5 what you heard Ms. Linda call out.

6 A To me she said Bop Hall, but it sounded like she was
7 just crying out for help, because Bop Hall stays right
8 behind the abandoned houses where all of that had
9 occurred.

10 Q And the guy you saw on the bike clearly wasn't Bop
11 Hall, right?

12 A No, ma'am.

13 Q And you said earlier when you testified you heard her
14 say, I believe, and you correct me because you're the
15 witness, I'm not, you heard "Ah, ah?"

16 A Yes.

17 Q And when you say ah, ah, what are you saying there?
18 What are you doing?

19 A She was gagging or something to me.

20 Q Okay. What did you hear her say then?

21 A I didn't hear her say nothing after that, it was
22 over.

23 Q Do you recall giving a statement to Fred Thompson and
24 Craig Bailey indicating you heard her say something to the
25 effect of "You don't have to do that?"

SHERRY CAUTHEN - DIRECT

1 A Yes, ma'am.

2 Q Okay. All right. But in addition to that you heard
3 her say, as you said, she was crying out for someone you
4 knew lived in the area named Bop Hall?

5 A Yes, ma'am.

6 Q And you heard her gagging?

7 A That's what it sounded like to me.

8 Q All right.

9 A It happened so fast, Ms. Collins, it did.

10 Q Can you give us an estimate from the last time you saw
11 her with the guy on the bike to when you heard her crying
12 out?

13 A It wasn't long. I'm just saying, it wasn't long
14 after I turned my back the last time I seen her to when I
15 seen her holler, it didn't take long. I ain't never --
16 nuh-uh, it didn't take long.

17 Q Would you say less than ten minutes?

18 A It was less than that.

19 Q Less than five minutes?

20 A Uh-huh.

21 Q Thank you.

22 MS. COLLINS: One moment, please.

23 (Break in proceedings.)

24 MS. COLLINS: No further questions. Please, Ms.

25 Sherry, answer any questions Mr. Lee might have for you.

SHERRY CAUTHEN - DIRECT

1 THE COURT: Mr. Lee?

2 MR. LEE: Thank you. May it please the Court?

3 CROSS EXAMINATION

4 BY MR. LEE:

5 Q Ms. Cauthen, I may have to ask you some things over
6 because I really couldn't hear very well what you were
7 saying.

8 A Uh-huh.

9 Q And you correct me if I'm wrong on this. I think you
10 said that you had -- were walking on the this street,
11 Brooklyn Street.

12 A Yes, sir.

13 Q And it was about 1:30 in the morning?

14 A Uh-huh. Yes, sir.

15 Q And where had you been?

16 A I was just walking, I had hadn't been nowhere. I was
17 just coming from home and I was walking up that way.

18 Q Do you do this a lot at night, that time of the day?

19 A I used to, yes, sir.

20 Q And I think you said you ran into somebody who was on
21 a bicycle or walking a bicycle?

22 A He was riding a bicycle, yeah.

23 Q And that you thought that this was somebody by the
24 name of William Catoe?

25 A That's who I spoke to and the person spoke to me back

SHERRY CAUTHEN - CROSS

1 and said "Hey, Sherry" so that's who I assumed it was,

2 yes, sir.

3 Q Of course it was dark there.

4 A Yes, sir.

5 Q And he made a proposition or said something about --

6 A Yeah.

7 Q And what was it you told him?

8 A I told him no, that I didn't do that stuff no more, I
9 was trying to straighten my life out.

10 Q So at one time you had done that sort of thing but you
11 didn't do it anymore.

12 A Yes, sir, I did.

13 Q Then where did you go?

14 A Huh?

15 Q Where did you go?

16 A Where did I go?

17 Q Once you told him you weren't interested.

18 A I turned around and went back up 15th Street and
19 that's when I heard Ms. Massey -- first I didn't know that
20 was her until I got up to 15th Street and I heard her call
21 my name and I looked and I said, "What in the hell do you
22 want?" And she said she was tired. And I said, "Well,
23 take your black ass home," just being friendly, because
24 that's the way we talked to each other because I knew Ms.
25 Massey real good.

SHERRY CAUTHEN - CROSS

1 Q And I believe you gave two statements, right, to the
2 police, two written statements?

3 A Yes, sir.

4 Q And on the other written statement, the second written
5 statement that was given on the 28th, do you remember
6 telling the officers that you thought that she looked like
7 she was high or intoxicated?

8 A She was intoxicated, yes, sir.

9 Q Okay. So during this period of time you thought
10 that -- you knew her real well and she appeared that way to
11 you.

12 A Uh-huh.

13 Q And then you said -- the first statement you gave I
14 believe you gave that on the 24th, that was the morning --
15 the day the body was found?

16 A That's when I talked to Mr. Thompson.

17 Q And when you gave that statement what -- you said
18 you -- you said that she said -- she hollered out and
19 said -- on that statement you said she said "Stop."

20 A She just hollered out my name, that's all.

21 Q No, not when she talked to you, when they were in the
22 house.

23 A Nuh-uh.

24 Q You didn't say that?

25 A It's been so long, sir, I really don't remember what

SHERRY CAUTHEN - CROSS

1 I said, but I can say what I think she said.

2 Q Let me just to refresh your memory if I might pass
3 this up.

4 A Yeah. She hollered "Bop Hall," and she said, "Stop,
5 man, you don't have to do that." And that's when she
6 screamed and told the person "You don't have to do that."

7 Q But you didn't say that in the first statement; did
8 you? Let me draw your attention --

9 A But I know she said that because I wasn't there, but
10 I just passed by and heard her holler, that's all I can
11 say.

12 Q You just heard her holler something, you're not sure
13 exactly what she hollered. But the first statement -- and
14 the statement was given closer to when this happened.

15 A Uh-huh.

16 Q The first -- and that first statement that you gave
17 the police what you basically said was she just said,
18 "stop."

19 A Yes, sir.

20 Q Okay. And then you gave them another statement about
21 four days later?

22 A Uh-huh.

23 Q Okay. And in that statement that's when you made some
24 comment, that's when you said you thought she was high or
25 intoxicated. And you knew her well enough to say that that

SHERRY CAUTHEN - CROSS

1 could have been a possibility?

2 A Yes, sir.

3 Q And that's the one that you said that she made some
4 comment -- let's see -- that's when she said, "No, don't do
5 this," and she screamed out for Bop Hall.

6 A Yes, sir.

7 Q But you're saying now you're not sure exactly what she
8 said.

9 A I said what I said was on paper.

10 Q Okay. And then did you think she was in some kind of
11 trouble?

12 A I just thought -- not being funny, I just thought
13 they was having sex and it was the wrong way or something,
14 that's what I thought. But I didn't know that Linda was
15 getting murdered in that house, period, I wasn't expecting
16 nothing like that to happen to her.

17 Q On the second statement you don't say anything about
18 hearing any gargling or anything of that nature or any --
19 it's just she said something about Bop Hall.

20 A Uh-huh.

21 Q And you think it was maybe five minutes later after
22 you saw them?

23 A It was probably less than that, because it didn't
24 take no time. After I seen -- I didn't seem them get out
25 but I looked out of the corner of my eye and they had

SHERRY CAUTHEN - CROSS

1 disappeared, and after they had disappeared after I looked
2 out of the corner of my eye it wasn't even two or three
3 minutes she started screaming and saying "Bop Hall," and
4 "Ah, ah, man, you don't have to do that." And I didn't
5 know, I thought they was having sex or whatever, but it
6 happened so fast.

7 Q Okay. So you don't think it was any length of time or
8 anything of that, it was just you saw them -- nobody drug
9 her into the house that you could see.

10 A I didn't see none of that. I just know they was
11 walking behind me and when I looked back they was gone,
12 and after I looked back it wasn't no time -- I wasn't even
13 halfway to Papa Louie's Store in the curve of the road and
14 she started screaming.

15 Q How far away from where you were is this house?

16 A I couldn't tell you a distance.

17 Q How about in relation to this courtroom?

18 A It was like from here to where Ms. Collins is at.

19 Q So just a very short distance?

20 A Yes, sir.

21 Q You're sure it couldn't have been further than that?

22 A It could have been a little further but that's the
23 distance that I feel like it was.

24 Q When you gave the police the first statement you
25 didn't tell them anything about this, right?

SHERRY CAUTHEN - CROSS

1 A About what?

2 Q About her calling Bop Hall.

3 A Yeah, I did.

4 Q But I just showed you the statement. Do you want to
5 look at the statement again? You didn't tell them anything
6 about that the first time.

7 A I told Fred Thompson and I told the other detective.

8 Q But then on the later statement that's written down
9 that's when you said it was something like four days later.

10 A Uh-huh.

11 Q But in the first statement we agreed you didn't say
12 anything about that.

13 A I don't know which statement I put it on but I know I
14 said that.

15 Q Okay. But it could have been the second one, you
16 didn't say it on the first one.

17 A I don't remember which one it was, sir.

18 Q Now, let me ask you, on this, there are a lot of
19 ladies that engage in prostitution along that street.

20 A Yes, sir.

21 Q And so you know that this man that you ran in to, he
22 propositioned you and you told him you didn't do that
23 anymore.

24 A That's right. I was trying to straighten my life
25 out, that's right.

SHERRY CAUTHEN - CROSS

- 1 Q Do you know Terry Catoe?
- 2 A Yeah, I know Terry.
- 3 Q Had you once maybe known him and gone with him or --
- 4 A I've been knowing Terry a long time.
- 5 Q Did you ever have sex with him?
- 6 A No, sir. He's a good friend of mine but I ain't
- 7 never engaged in nothing like that with him.
- 8 Q And then once you heard her call that out you went on
- 9 home or went some place else?
- 10 A When I went to the curve of the road -- when I heard
- 11 that I went right back to the curve, I looked up at God
- 12 and asked him -- I talked to him and I said, "Should I go
- 13 see what's wrong with her or should I keep walking?" I
- 14 kept walking and went back up 15th Street.
- 15 Q But you didn't go back there to the house or anything.
- 16 A No, sir.
- 17 Q You just assumed they were having sex in the house.
- 18 A Yes, sir.
- 19 Q All right. Let me ask you, when you -- later you
- 20 heard about somebody being found there; is that right?
- 21 A Yes, sir. One of my friends, Buck Sanders, I called
- 22 him because I didn't know what was going on and I seen him
- 23 coming down the road, because I had just left from Crenco
- 24 Store, and he told me that they found a body in the house.
- 25 Q And did you talk to the police then or did you --

SHERRY CAUTHEN - CROSS

1 A I called Fred Thompson and talked to him because I
2 knew his number and I know him very well.

3 Q So you knew him real well and you called him and you
4 talked, and that's when they took the first statement.

5 A Yes, sir.

6 Q And then at a later time -- did they come to you or
7 you go to them?

8 A I went to Fred.

9 Q You went to them?

10 A Uh-huh.

11 Q They didn't come back to you.

12 A No.

13 Q But you say just shortly -- very shortly after they
14 went out of your sight, that that's when you heard some
15 yelling or something.

16 A Yes, sir, I did.

17 Q Okay. Do you go into that neighborhood a lot?

18 A I used to, yes, sir.

19 Q I mean, how about this time, did you go -- these
20 houses are built in kind of a little circle.

21 A Yeah.

22 Q Have you ever walked through there or walked there --

23 A I used to go to the little path, but not --

24 Q But on this occasion you hadn't walked.

25 A No, sir.

SHERRY CAUTHEN - CROSS

1 Q But you said they went out of your sight and in
2 probably less than five minutes I think you said that you
3 heard some noise or some screaming or something of that
4 nature.

5 A Yes, sir.

6 Q And then you didn't call out or anything or say,
7 "Linda, do you need any help, or --

8 A I was too scared because I didn't know what was going
9 on.

10 Q So did you go -- there's a store that stays open all
11 night there, is that not --

12 A Crenco does, yeah.

13 Q It's not like right next door but it's not very far
14 down the street.

15 A Papa Louie's was closed.

16 Q I'm sorry.

17 A The store was closed where I was close to, it was
18 Papa Louie's place.

19 Q Did you know any of the people that lived around
20 there?

21 A Yeah. That's where I stayed, around that area.

22 Q Did you know who lived right across the street from --

23 A There wasn't nobody staying across the street at the
24 time.

25 Q How about right next door, there was a house next

SHERRY CAUTHEN - CROSS

1 door?

2 A I don't know who stays next door to that house.

3 Q Were they occupied though or were they --

4 A The one across the street from the tree where they
5 had went off to, there didn't nobody stay there at the
6 time, they were remodeling that house.

7 Q But there were some houses right there that people did
8 live in.

9 A Uh-huh, yes, sir.

10 Q And you didn't run up on any of those porches and beat
11 on the door or anything or say something is happening or
12 anything of that nature?

13 A No, sir, I didn't.

14 Q You just figured they were just having sex there?

15 A Yes, sir.

16 MR. LEE: Your Honor, if I might just have a moment.

17 THE COURT: Yes, sir.

18 (Break in proceedings.)

19 Q Now, Ms. Cauthen, I initially passed a document up to
20 you, I want to ask you if you can identify that?

21 MS. COLLINS: I would like to see that please, Mr.
22 Lee, before you hand it to the witness just so we'll be
23 looking at the same thing. Thank you very much.

24 Q Ask you if you can identify that?

25 A What do I do to identify it?

SHERRY CAUTHEN - CROSS

1 Q Do you know what that is? Look at the top and there's
2 a date on it -- well, it is difficult to find, if I might
3 point it out to you. This is the date right here.

4 A February 24, 2012.

5 Q Okay. And is this your signature at the bottom of it?

6 A Yes, sir.

7 Q And this says voluntarily statement?

8 A Uh-huh.

9 Q And there are how many pages there?

10 A Three.

11 Q And did you sign each one of them at the bottom of it?

12 A Uh-huh.

13 Q If I said this is your first statement, would you
14 dispute that?

15 A Uh-huh. No.. Get it -- excuse me, I get it confused.

16 But yeah, that's it.

17 Q That's the first statement that you gave?

18 A Yeah.

19 MR. LEE: We would ask that this be marked for
20 identification and move to have it admitted into evidence.

21 MS. COLLINS: No objection.

22 THE COURT: Without objection introduced as Defense 1.

23 (The statement was received as Defense 1.)

24 Q And Ms. Cauthen, let me ask you on this document if
25 you can identify that? Again, that has a date right there.

SHERRY CAUTHEN - CROSS

1 A February 28th of 2012.

2 Q And this one doesn't have your signature on the first
3 page but has it on the second page.

4 A Uh-huh.

5 MR. LEE: Let me just ask -- we mark that for
6 identification.

7 MS. COLLINS: No objection. No objection to that
8 being admitted either if he's offering that for admission.
9 Is that the second statement?

10 MR. LEE: That's the second statement.

11 MS. COLLINS: No objection whatsoever.

12 THE COURT: Without objection then entered as Defense
13 2 into evidence.

14 (The statement was received as Defense 2.)

15 Q And Ms. Cauthen, besides giving these statements, have
16 you talked with any of the police officers or anything
17 since then?

18 A Yes, sir.

19 Q But you talked to the prosecutor today or yesterday.

20 A Yes, sir.

21 MR. LEE: Your Honor, if I might just have one more
22 minute.

23 THE COURT: Okay.

24 (Break in proceedings.)

25 Q Let me ask you, Ms. Cauthen, between the first

SHERRY CAUTHEN - CROSS

1 statement where you say you had just heard that the body
2 was found in the house and on the second statement, did you
3 know how she died or anything connected with it?

4 A No, sir.

5 Q You just knew she still had died?

6 A I just know that they found the body and she was
7 dead, but I didn't know how she died or nothing.

8 Q And I think you said that -- and you haven't talked to
9 anybody since then up to right before the trial.

10 A No, sir, nuh-uh.

11 MR. LEE: That's all.

12 THE COURT: All right. Any redirect?

13 MS. COLLINS: Just very briefly, Judge.

14 REDIRECT EXAMINATION

15 BY MS. COLLINS:

16 Q I'm going to give you a chance to hold these while I
17 ask you questions about them that Mr. Lee was asking you
18 about. There you go, Ms. Cauthen. Defense Exhibit 1 right
19 there on the top, I believe, do you see where it says the
20 little blue Defense Exhibit 1? If you will turn to the
21 second page of that, that's your first statement that you
22 gave to Fred Thompson; is that right?

23 A Yes, ma'am.

24 Q On February 24th; is that right?

25 A Uh-huh.

SHERRY CAUTHEN - CROSS

1 Q And do you see where there you told Mr. Fred Thompson,
2 an investigator at the sheriff's department, he asked, "Did
3 you see Linda anymore after that?" And you said, "No. I
4 heard her holler shortly after she walked in there, they
5 didn't hardly have time to do anything;" is that right?

6 A Uh-huh.

7 Q Is that what you told Investigator Thompson? You need
8 to speak up a little bit.

9 A Yes, ma'am.

10 Q And also he said, "What did you hear her say?" And
11 you said, "I heard her say stop;" is that right?

12 A Yes, ma'am.

13 Q And then on the second statement that you gave to
14 Captain Craig Bailey and Investigator Bennett on February
15 28th, do you see that, Defense Exhibit 2, do you see that
16 piece of paper? It has a little blue to it.

17 A Yes, ma'am.

18 Q On the second page in the middle --

19 A I've got you.

20 Q You told them, the officers, then that you saw them
21 walk past the old tree and you stood there a minute looking
22 at them, is that right? Was that correct?

23 A I didn't look at them. I looked out the corner of my
24 eye and they had walked by it but I didn't stare at them.
25 When I looked out of the corner of my eye they had walked

SHERRY CAUTHEN - CROSS

1 past that tree.

2 Q And in fact, I think you say that in the very last
3 line, "They disappeared from my sight," isn't that right?

4 A Yes, ma'am.

5 Q And then you told them it wasn't five minutes and she
6 screamed, right?

7 A Yes, ma'am.

8 Q She screamed, "No, don't do this;" is that right?

9 A Yes, ma'am.

10 Q And that she screamed out for Bop Hall; is that right?

11 A Yes, ma'am.

12 Q And I know this was upsetting for you to find out
13 later that she had died that night, wasn't it?

14 A Yes, ma'am.

15 Q And to find out that she was found dead in that area
16 in one of those homes near where you had last seen her,
17 that was very upsetting, wasn't it?

18 A Yes, ma'am.

19 Q And you're telling the jury that at the time you
20 thought it was an issue just of sex; is that right?

21 A Yes, ma'am. Because I wasn't expecting nothing like
22 that.

23 Q But when you say she cried out for Bop Hall, you're
24 saying that now in hindsight she was crying out for help?

25 A Yes, ma'am.

SHERRY CAUTHEN - CROSS

1 Q Thank you, Ms. Cauthen.

2 A You're welcome.

3 THE COURT: Anything further for this witness?

4 RECROSS EXAMINATION

5 BY MR. LEE:

6 Q Ms. Cauthen, when you said -- I think you said before,
7 and correct me if I'm wrong, you weren't sure that she said
8 Bop Hall, that's just what you thought -- you heard it as
9 that.

10 A I can't hear you. What did you say?

11 Q When you said she called out for Bop Hall --

12 A Uh-huh.

13 Q -- I think you had testified earlier that you weren't
14 sure that that's what she actually was saying, you just
15 thought that's the way you heard it. She could have said
16 something else and you just thought that was what it was?

17 A Yes, sir.

18 Q And this was like 1:30 up in the morning?

19 A Uh-huh.

20 Q Had you been asleep before that or --

21 A No.

22 Q You'd been up? How long had you been up?

23 A I don't remember. I don't keep up -- I'm not being
24 smart, I just don't keep up with how many hours I was up.

25 Q Had you been up a long period of time or just --

SHERRY CAUTHEN - CROSS

1 A I had just left the house, because I stay right there
2 on Louisa Street right close to where it had happened at.
3 I wasn't up that long, I had just came out of the house.

4 Q And I think you said, and correct me again if I'm
5 wrong, that you hadn't talked to anybody else about this.

6 A No, sir.

7 MR. LEE: That's all I have.

8 MS. COLLINS: Nothing further.

9 THE COURT: All right. Thank you, ma'am, you can step
10 down. All right. Ladies and gentlemen of the jury, we are
11 going to take a midmorning recess at this point in time. I
12 do not want you to discuss the case when you go back to
13 your jury room. Before we do that, I'm going to go ahead
14 and appoint a foreman of the jury, Mr. Patel, I'm
15 appointing you as foreman of the jury. It will be your
16 duty to preside over the deliberations of the jury when you
17 are able to deliberate, you will also be the jury's
18 spokesperson here in court. And it will be your duty to
19 write the verdict but, of course, as I'll tell you at the
20 end of the trial you cannot write on the verdict form until
21 the jury has reached a unanimous verdict. Okay. So you
22 will be the foreman of the jury, thank you very much.
23 Y'all can head on back to your jury room now for your
24 break.

25 (The jury left the courtroom.)

SHERRY CAUTHEN - CROSS

1 THE COURT: Anything prior to the recess?

2 MS. COLLINS: No, Your Honor.

3 MR. LEE: No, sir.

4 THE COURT: All right. We are in recess.

5 (A recess was taken.)

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

7 MS. COLLINS: Ready, Your Honor.

8 MR. LEE: Yes, sir.

9 (The jury returned to the courtroom.)

10 THE COURT: All members of the jury are present.

11 Madam Solicitor, you can call your next witness.

12 MS. COLLINS: Thank you. May it please Court? The
13 next witness for the State is Ricky Sistare.

14 The witness, RICKY SISTARE, was first duly sworn and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q Am I saying your last name right, is it Sistare or
19 Sistar?

20 A Sistare, yes, ma'am.

21 Q What is your full name, please?

22 A Ricky Edward Sistare.

23 Q And that's a good volume, if you'll keep that up,
24 we're a little hard of hearing, that would be perfect. And
25 do you live here in Lancaster County?

RICKY SISTARE - DIRECT

1 A Yes, ma'am.

2 Q How long have you lived here in Lancaster County,
3 Ricky?

4 A About -- I moved in with mom about 15 years ago.

5 Q And I want to direct your attention to the morning of
6 February 24, 2012. Okay. I need to speak up, too, don't
7 I? Can you hear me now?

8 A Ma'am?

9 Q Can you hear me?

10 A Just barely, I'm hard of hearing.

11 Q Okay. Can you hear me now?

12 A Yes, ma'am.

13 Q I want you to think back to the morning of February
14 24, 2013. Okay?

15 A Yes, ma'am.

16 Q Do you remember walking by the abandoned houses on
17 Starnes Street that morning?

18 A Yes, ma'am. I go down there almost everyday going to
19 the store.

20 Q On that morning you were going to the store?

21 A Yes, ma'am.

22 Q And on the way to the store did you notice anything
23 special about those abandoned houses?

24 A It was -- I found a suspicious -- I was wondering why
25 the couch was propped up against the door of the

RICKY SISTARE - DIRECT

1 apartment.

2 Q And you say propped up, was it propped up the way
3 people normally would sit on it, or was it standing on one
4 side?

5 A There was not a door on the apartment, ma'am, and the
6 couch was propped up like this up against the door and I
7 kept walking. And I went to the store and I wondered -- I
8 stopped by there and talked to Andy and them at the
9 scrapyard for about 45 or 50 minutes and it kept going
10 through my mind why was that couch propped up there.

11 Q And was it propped up long-ways?

12 A Long-ways, like this up against the door.

13 Q So it was on one arm and the other arm was pointing to
14 the sky?

15 A Yes, ma'am, like this up against the doorway.

16 Q All right. So you noticed it going on to the store.
17 Did you stop at that time going on to the store?

18 A No, ma'am.

19 Q When you came back from the store, did you stop and
20 check it out?

21 A Yes, ma'am.

22 Q What did you do, Mr. Sistare?

23 A I come back and -- I come back from the store and I
24 wondered -- I didn't know, I thought somebody might be
25 done stole something or whatever. And I go up there next

RICKY SISTARE - DIRECT

1 to the couch and I stoop under the couch and I go in the
2 apartment, and when I got in the apartment you go -- here
3 is the living room, back here is the kitchen and here is
4 the old bedroom and there was an old mattress laying
5 there, and all I seen was somebody laying there. They
6 didn't have no clothes on, and I'm a shy person anyway, so
7 I turned around and I walk out.

8 Q All right.. Let me ask you, when you ducked up under
9 the couch, did you have to move it at all to go in?

10 A No, ma'am. I just stooped up under it, went --

11 Q And while you were inside -- you called it an
12 apartment, was it an apartment or a house?

13 A Ma'am?

14 Q Was it an apartment or a house?

15 A Apartment.

16 Q It was an apartment? Okay. When you went up in there
17 you didn't touch anything inside?

18 A I didn't touch nothing, no, ma'am.

19 Q Okay. And did you happen to notice any money lying
20 around inside at all?

21 A Ma'am?

22 Q Did you see any money lying around inside?

23 A No, ma'am. I didn't even walk in the bedroom, I
24 just -- once I seen somebody laying there I turned around
25 and walked out.

RICKY SISTARE - DIRECT

1 Q And when you walked back out, did you duck back under
2 the couch?

3 A Yes, ma'am.

4 Q You didn't have to move the couch at all; is that
5 right?

6 A No. I come out -- I went back out the way I come in.

7 Q And when you went back out, did you see somebody and
8 tell them about what you'd just seen inside?

9 A Yes, ma'am. My buddy and his aunt was coming up the
10 path. The same way I go to the store there's people
11 walking through there everyday.

12 Q And what was your buddy's name?

13 A His name was Maynor Stevens.

14 Q And he's now passed away; is that correct?

15 A He's been passed away about two years, yes, ma'am.

16 Q But that day you said you saw him and his aunt?

17 A Ma'am?

18 Q That day you saw him and his aunt?

19 A Yes, ma'am.

20 Q Did you tell him what you had seen inside?

21 A I told him that there was either somebody laying in
22 there, I didn't know if they was either drunk, passed out,
23 on drugs, whatever I said, but there's somebody laying
24 there on the mattress. And I walked -- because it was
25 drizzling rain and I walked down here and sat on the porch

RICKY SISTARE - DIRECT

1 on this other apartment right next to the house right next
2 to my street. And he comes in there and tells me, he
3 said, "Rick, that's a girl and she" and he told me she was
4 deceased. I mean, he felt her pulse.

5 Q So he told you she was deceased?

6 A Ma'am?

7 Q He told you she was deceased?

8 A He told me that the girl was deceased.

9 Q And as far as you know did he then call 911?

10 A His aunt did, his aunt was with him.

11 Q And when the police came out later, did they talk to
12 you about what you had seen?

13 A Yes, ma'am.

14 Q And did they explain to you that anytime a citizen
15 goes into a crime scene they have to get a DNA swab just to
16 rule them out? Did they tell you that?

17 A Ma'am?

18 Q Did they take a DNA swab from your cheek?

19 A Yes, ma'am. This was on a Friday, they come down
20 there that Saturday morning and got it, yes, ma'am.

21 Q And they had explained that to you, and I think Mr.
22 Marion Stevens too, that anytime a citizens goes in a crime
23 scene they need to do that. They explained that, didn't
24 they?

25 A I can see your lips moving but I can't hardly hear

RICKY SISTARE - DIRECT

1 you:

2 THE COURT: You can pick up that microphone and hold
3 it.

4 MS. COLLINS: I think I'm good, Judge, thank you.

5 Q The police told you when they went to take your cheek
6 swab that since you were a citizen that went in a crime
7 scene that they had to take your DNA just to --

8 A Yes, ma'am, just because I went in there.

9 MS. COLLINS: Thank you. Mr. Sistare, please answer
10 any questions of Mr. Lee.

11 THE COURT: All right, Mr. Lee?

12 MR. LEE: Thank you, Your Honor. May it please the
13 Court?

14 CROSS EXAMINATION

15 BY MR. LEE:

16 Q Mr. Sistare, can you hear me?

17 A I'm kind of hard of hearing, sir.

18 Q You're familiar with that area?

19 A Yes, sir.

20 Q That particular house, is it used by people for
21 drinking, drugs, sex?

22 A Yes, sir.

23 Q So it's sort of a nuisance spot for the neighborhood?

24 A Yes, sir.

25 Q If you can't hear me you tell me. Okay?

RICKY SISTARE - CROSS

1 A Okay.

2 Q Do you know before you went by there that day the last
3 time you had gone by that house?

4 A Did I what, sir?

5 Q Before the day that you went by there and saw the body
6 in there, do you know how much earlier it had been or the
7 last time you'd been by there before that time?

8 A I went by there the day before that. I go there
9 about two or three times a day, yes, sir.

10 Q Let me ask you about that sofa or couch. Was it
11 always up on the porch or was it down on the ground?

12 A No, sir. It's been laying out there in the yard for
13 about three or four months.

14 Q So it was down on the ground. The sofa was down on
15 the ground?

16 A Yes, sir, laying out there next -- here is the
17 apartment, the couch was laying right next -- there's a
18 bunch of briars out here and here is the steps, and the
19 couch has been laying out there for about three or four
20 months, and when I went by there that morning it was
21 propped up against the door.

22 Q Okay. Would it be more appropriate to say that
23 outside the door there was like a stoop rather than a
24 porch? Do you know what I'm talking about?

25 A Sir?

RICKY SISTARE - CROSS

1 Q In front of the door on the house there's a little
2 section that you can step out on if you come out the door,
3 would it be more appropriate to say that was a stoop or was
4 it a porch that went the length of the house?

5 A It's kind of a porch, a brick porch, then there's a
6 set of steps.

7 Q It's not a very big porch though, right?

8 A No, sir.

9 Q And you said the first thing that attracted your
10 attention was that you -- as you walked by you saw the
11 couch or sofa up on that little porch?

12 A Yes, sir.

13 Q You didn't think anything of it right then, you left
14 and went and got your items from the -- did you go to
15 Crenco or did you go to a different --

16 A Crencos (sic).

17 Q And then you came back. And I think you said that it
18 was bothering you that that couch was up there.

19 A Yes, sir.

20 Q And so you went up and you ducked around it and then
21 you went in the house.

22 A Yes, sir.

23 Q And you went all of the way across the living room?

24 A No. I got -- as soon as you walk in the apartment,
25 here's the living room, here's a bedroom, here's a

RICKY SISTARE - CROSS

1 bedroom, here's the kitchen, I got just enough where I
2 could see in that bedroom there and I see, then I turn
3 around and walk out.

4 Q And you saw somebody's legs then, and body in there?

5 A Their tail, legs, yes, sir.

6 Q And you didn't know if anybody else had been in there
7 before you.

8 A No, sir.

9 Q And then I think later you said you met up with Mr.
10 Stevenson.

11 A Yes.

12 Q And he went in -- did he go inside the house
13 completely? Did you go with him or you let him go?

14 A No, sir. I was too scared to go back in there.

15 Q And then you said he came out and said there is
16 somebody's body in there or something like that. Now, did
17 you talk to the sheriff's department?

18 A Yes, sir.

19 Q And did you give them a statement?

20 A Yes, sir, I did.

21 Q And I'm going to pass this up.

22 MR. LEE: And this is his statement.

23 Q Let me ask you if you'll look at this. Is that the
24 statement you gave the police?

25 A That's what I seen when I was with the solicitor -- I

RICKY SISTARE - CROSS

1 told Danny that I seen a man -- that man the day before
2 that go in the apartment, I didn't know -- he had a girl
3 with him but I did not see the girl.

4 Q Okay.

5 A All I seen was the man because he turned around and
6 looked at me, yes, sir.

7 Q And this was a man I think you described him, you
8 described the man to the officer?

9 A Yes, sir. He had on a -- I remember it like it was
10 yesterday, he had on a pair of blue jeans, a red shirt and
11 he had a little old goatee and he was balled-headed
12 because he turned around and looked at them and I kept
13 walking because I don't bother them people.

14 Q You saw two people go in -- a man and a woman go into
15 the apartment?

16 A I'm not exactly sure if it was a woman or not, I
17 didn't see. I just seen -- there was somebody in front of
18 him but she -- they done went in and he turned around and
19 looked at me, yes, sir.

20 Q But you thought it might have been a woman.

21 A I'm not sure, I can't say.

22 Q Okay. You just saw someone going in in front of him.

23 A Yes. It might have been a man for all I know, I
24 don't know.

25 Q And this was the -- was this the day before the body

RICKY SISTARE - CROSS

1 was found or --

2 A Day before that.

3 Q Okay. All right. Do you have any idea about what
4 time that was?

5 A It was some time that evening, I can't remember what
6 time and I don't carry a watch.

7 MR. LEE: We move for this to be entered into
8 evidence.

9 MS. COLLINS: No objection.

10 THE COURT: Without objection entered as Defense next
11 in order.

12 (The statement was received as Defense 3.)

13 Q And I think you said, Mr. Sistare, that a lot of
14 people use that, or people use that for drinking, for
15 drugs, for sex, is that what you understand?

16 A I guess, sir. I mean, that --

17 Q And I think you said in your statement about what time
18 of day was this that you went by there the first time?

19 A It was probably about a little after 10:00.

20 Q Okay. Some time up in the morning.

21 A Yeah, it was on up in the morning.

22 Q And the sofa was moved -- it moved from -- somebody
23 had moved it from the yard onto the porch.

24 A Onto the porch, yes, sir.

25 Q And leaned it up against the door. Okay.

RICKY SISTARE - CROSS

1 MR. LEE: Your Honor, if I may have just a moment.

2 THE COURT: All right.

3 (Break in proceedings.)

4 MR. LEE: That's all I have, Your Honor.

5 REDIRECT EXAMINATION

6 Q Mr. Sistare, I'm going to hand you your statement.

7 Have you got your glasses?

8 A Yes, ma'am.

9 Q All right. That statement there, that one page
10 statement you said you gave to Danny Bennett after you
11 found the body, correct?

12 A Ma'am?

13 Q You told Mr. Lee that you told Danny what's in that
14 statement after you found the body; is that right?

15 A Yes, ma'am.

16 Q And that's your signature at the bottom; is that
17 right?

18 A Yes, ma'am.

19 Q But in that statement the first few lines it talks
20 about, "I walked by the house where the woman was found,"
21 do you see that three lines down?

22 A Yes, ma'am.

23 Q "I walked by the house where the woman was found and
24 she and a black man were going in the house, he was walking
25 behind the woman." And then you describe that man; is that

RICKY SISTARE - CROSS

1 correct?

2 A No, ma'am. That was the boy and whatever I seen the
3 day before, that's what I tried to tell Danny.

4 Q So even though it's not clear in the statement you're
5 explaining now that that was the day before; is that
6 correct?

7 A The day before that, yes, ma'am.

8 Q And that, in fact, you don't know if the person in
9 front of the man you described was a man or woman; is that
10 right?

11 A I don't know.

12 Q And you certainly aren't saying that that person in
13 front of the man you described was even the lady you saw --
14 or whoever you saw on the mattress; is that right?

15 A I have no idea. I didn't see them, I seen the boy
16 because he turned around and looked at me. That's the
17 reason I described to Danny what he had on.

18 Q But again, that was the day before.

19 A The day before that, yes, ma'am.

20 MS. COLLINS: Thank you so much.

21 MR. LEE: Nothing else.

22 THE COURT: Thank you, sir, you can step down. Call
23 your next witness.

24 MS. COLLINS: Judge, I ask this witness be excused.

25 THE COURT: All right. Sir, you're free to leave.

MIKE HOWELL - DIRECT

1 MS. COLLINS: The next witness is Lieutenant Mike
2 Howell.

3 The witness, MIKE HOWELL, was first duly sworn and
4 testified as follows, on:

5 DIRECT EXAMINATION

6 BY MS. COLLINS:

7 Q Would you please state your name for the record?

8 A My name is Mike Howell.

9 Q Lieutenant Howell, if you would, please speak as you
10 are in the microphone nice and loud so we can all hear.

11 What is your occupation?

12 A I work for the Lancaster County Sheriff's Department,
13 I work in the investigations division.

14 Q And how long have you been with law enforcement?

15 A Around 17 years.

16 Q And your title is lieutenant, am I right?

17 A It is.

18 Q In 2012 what was your title?

19 A I'm lieutenant at the time as well, I believe.

20 Q And what duties do you have as a lieutenant over the
21 investigative division?

22 A Working case loads, following up on how it's shipped
23 out to each investigators and their daily roles.

24 Q In February of 2012, did you have an occasion to
25 respond to Starnes Street in regard to a body being found

MIKE HOWELL - DIRECT

- 1 in an abandoned home there?
- 2 A Yes, ma'am, I did.
- 3 Q And you went to the home on Starnes Street in response
- 4 to that call?
- 5 A Yes, ma'am.
- 6 Q And did you see the body therein?
- 7 A Yes, ma'am, I did.
- 8 Q And that house is within Lancaster County, South
- 9 Carolina, correct?
- 10 A Yes, ma'am.
- 11 Q And therefore within your jurisdiction, correct?
- 12 A Yes, ma'am.
- 13 Q Were you one of the first officers there?
- 14 A Myself and Investigator Thompson pretty much got
- 15 there at the same time, we both -- I remember pulling up
- 16 and both of us getting out and entering the home together.
- 17 It wasn't like I was waiting on him or he was waiting on
- 18 me, it was pretty much simultaneous.
- 19 Q When you approached the home, did you notice a couch
- 20 in front of the doorway?
- 21 A Yes, there was a couch. It didn't have a door, but
- 22 there was a couch propped up to the entrance of the door,
- 23 but it wasn't like it had it all shut off, we went in up
- 24 under the opening and cleared the house.
- 25 Q All right. I would like to show you what has been

MIKE HOWELL - DIRECT

1 marked as State's Exhibits 6, 7 and 8 and ask you please to
2 look at those pictures.

3 A Okay.

4 Q And do those three pictures fairly and accurately
5 depict the front of the home where the body was found on
6 2/24 of 2012?

7 A Yes, ma'am.

8 Q And do they fairly and accurately depict the position
9 of the couch in front of the doorframe area?

10 A Yes, ma'am, they do.

11 MS. COLLINS: At this time I would move State's
12 Exhibits 6, 7 and 8 into evidence.

13 MR. LEE: No objection, Your Honor.

14 THE COURT: All right. Without objection entered into
15 evidence.

16 (The photos were received as State's 6-8.)

17 Q I would like to show you State's Exhibit 6. Do you
18 see that on the screen in front of you?

19 A It's not on up here. It's on now.

20 THE COURT: Do y'all have the monitor on your monitor
21 up there?

22 Q So this is State's Exhibit 6. This is an exterior
23 shot of the home where the body Ms. Linda Massey Gaymon was
24 found on 2/24 of 2012; is that correct?

25 A Yes, ma'am.

MIKE HOWELL - DIRECT

1 Q And this is some distance from the home. You can
2 barely make out in the darkened doorframe something turned
3 on its side; is that right?

4 A Yes, ma'am. Are you talking where the couch is
5 sitting up?

6 Q Yes.

7 A Yes, ma'am.

8 Q I'm going to show you State's Exhibit 7 that's in
9 evidence, that's more of a close-up of the doorway with the
10 couch in front of it; is that correct?

11 A Yes, ma'am.

12 Q And that's the condition of the couch when you went up
13 to the home, correct?

14 A Yes, ma'am.

15 Q And you said you ducked -- you were able -- you didn't
16 have to move the couch, you were able to duck up behind it
17 and enter the home; is that right?

18 A Yes, ma'am. There was enough room, myself and Fred,
19 Investigator Thompson, went in the opening without
20 disturbing the couch.

21 Q I'm going to show you State's Exhibit 8, which is a
22 picture from the inside looking back out where the couch is
23 kind of blocking the doorway. Was that how it was when you
24 saw it that morning?

25 A Yes, ma'am.

MIKE HOWELL - DIRECT

1 Q So y'all did not have to move it at all, y'all were
2 able to come in through that little gap; is that right?

3 A Yes, ma'am.

4 Q Now, did EMS respond to the scene?

5 A Yes, ma'am, they did.

6 Q And ultimately the deputy coroner also responded to
7 the scene, correct?

8 A Yes, ma'am.

9 Q And through your investigation you learned there had
10 been citizens who had found the body and y'all spoke with
11 Ricky Sistare and Marion Stevens; is that right?

12 A Yes, ma'am, we did.

13 Q And did you explain to them, Lieutenant Howell, that
14 since they were citizens that had entered a crime scene
15 that it was normal protocol to have to take DNA samples or
16 cheek swabs from them just to rule out if their DNA
17 happened to be found on the scene; is that right?

18 A Yes, ma'am, I did.

19 Q And did both of those gentlemen, Mr. Sistare, who just
20 testified, and Marion Stevens, consent to that?

21 A They both did.

22 Q And I believe you are now aware that Mr. Stevens is
23 now dead; is that correct?

24 A Yes, ma'am, he is.

25 Q When they consented to taking of the cheek swabs, did

MIKE HOWELL - DIRECT

1 you submit those into evidence?

2 A I did.

3 Q One moment. I would like to show you what's been
4 marked as State's Exhibits 9 and 10, and ask you to look at
5 those items. First of all State's Exhibit 9, the label is
6 on the back. Can you see through the plastic, Lieutenant
7 Howell? Does that appear to be the cheek swab that was
8 obtained from Ricky Sistare?

9 A Yes, ma'am, that I can tell from the outside. That's
10 what's supposed to be on the inside.

11 Q So you would have collected that with the consent of
12 Mr. Sistare and turned it into evidence at the sheriff's
13 department, correct?

14 A Yes, ma'am.

15 Q And the evidence technician with the sheriff's
16 department is Ms. Ann Horton; is that correct?

17 A Yes, ma'am.

18 Q And the other, that's State's Exhibit 10, I believe,
19 the other plastic envelope?

20 A Yes, ma'am.

21 Q And that State's Exhibit 10, does that appear to be
22 the envelope with the cheek swab, the DNA swab taken from
23 Marion Stevens collected by you and turned into evidence?

24 A Yes, ma'am. That's what it has on the outside.

25 Q All right.

MIKE HOWELL - DIRECT

1 MS. COLLINS: Your Honor, we'll have other witnesses
2 testify, but at this time I move these two items into
3 evidence.

4 THE COURT: Any objection?

5 MR. LEE: No objection.

6 THE COURT: Without objection entered into evidence as
7 marked.

8 (The DNA evidence was received as State's 9 and 10.)

9 Q Do you happen to recall the time that law enforcement
10 was dispatched to the scene?

11 A I don't remember the exact time. I know we got there
12 really quick, I want to say less than two minutes, it was
13 very fast.

14 Q May I just hand you a front page of the incident
15 report to refresh your memory?

16 A Yes, ma'am.

17 Q If you'll look and see, when were y'all dispatched to
18 the scene?

19 A Dispatched date 2/24 of 2012, dispatch time was
20 11:00, time arrived 11:01.

21 Q And I think the complainant is listed as Marion
22 Stevens; is that right?

23 A Yes, ma'am.

24 Q And once y'all arrived on the scene, was the scene
25 then secured by the sheriff's department?

MIKE HOWELL - DIRECT

1 A Yes, ma'am, it was.

2 Q And law enforcement personnel was there as well as
3 EMS, the rescue squad and the coroner's office; is that
4 right?

5 A Yes, ma'am.

6 Q Thank you. There are several abandoned homes in that
7 little circular drive of Starnes Street; is that right?

8 A Yes, ma'am.

9 Q And they had been described earlier as an apartment,
10 but are they just little homes?

11 A I would describe them as a shotgun house, we say
12 shotgun houses, they're not really big homes. They are
13 all like the same size and it's like in a little circle.

14 Q But it's not like an apartment, like a strip mall
15 where it has a doorway, doorway, or a motel, there's
16 individual little homes; is that right?

17 A Yes, ma'am.

18 Q And the house that she was found in, I think it was
19 estimated that that address was but they really --
20 since there wasn't a door there really wasn't an address
21 number on that home, correct?

22 A I don't remember how they come up with a number, I
23 just know it was first square house on the right in that
24 circle.

25 Q And all of those homes were abandoned there; is that

MIKE HOWELL - CROSS

1 correct?

2 A Yes, ma'am.

3 MS. COLLINS: Thank you, Lieutenant. Please answer
4 any questions of Mr. Lee.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Mr. Lee?

7 MR. LEE: Thank you, Your Honor. May it please the
8 Court?

9 CROSS EXAMINATION

10 BY MR. LEE:

11 Q Lieutenant Howell, I believe you said you actually
12 went into the house.

13 A Yes, sir, I did.

14 Q And you saw the body in the back bedroom?

15 A Yes, sir, it was a body in the back bedroom.

16 Q Okay. Do you know how far you had to go across the
17 living room before you could look into the bedroom and see
18 the body?

19 A No, sir, I couldn't give you a -- it's not far.

20 Q Could you see it when you came in the front door?

21 A The best I remember, I think I had to make a little
22 way in before I could see it but I'm not 100 percent how
23 far until I seen it.

24 Q And there was a -- how would you describe that house
25 as far as the inside?

MIKE HOWELL - CROSS

1 A The best I remember of the house is it's an abandoned
2 home just left with trash and other things. Only thing I
3 remember mostly is where she was at, and I know there was
4 a mattress. But as far as saying anything else --

5 Q Kind of a trash dump? I mean, there was just stuff
6 laying all over the house?

7 A As I remember there was beer bottles and stuff but I
8 can't remember exactly which room those things would be
9 in.

10 Q And the room itself, did you process the room or did
11 someone else come in and --

12 A No, sir. CSI did our processing.

13 Q They came in and did the actual processing of where
14 things were and that sort of thing.

15 A Yes, sir.

16 Q And how was it determined that she was actually dead?

17 A EMS, but I could tell she had been there for a little
18 bit.

19 Q And did EMS come in and put some cardiac things where
20 they check to see if there was any kind of heartbeat?

21 A I assume they did, I can't answer for them.

22 Q You weren't there -- if they did you weren't there
23 when they did it. Okay. At this particular house, how far
24 is it off of Brooklyn Street?

25 A It's not far, people walk by it. It's not that great

MIKE HOWELL - CROSS

1 of a distance.

2 Q If I were to suggest 60 feet would you say maybe
3 that's correct?

4 A I don't know. I like to look before I say how many
5 feet, but it's not far.

6 Q Maybe as far from this room is long or --

7 A Could be or it could be a little bit shorter.

8 Q Were there shrubs and things grown up around it or --

9 A Being close to what, four years, I can't remember
10 exactly what's on the outside of it.

11 Q And then the -- are all of those houses in that little
12 cul de sac, are they all abandoned?

13 A The best I remember nobody was living in any of them,
14 they were all rundown pretty hard.

15 Q And then there wasn't -- y'all pulled in and you took
16 the photos that have been introduced into evidence, and
17 then took other photos and --

18 A I didn't take any photos. Those photos, I'm
19 assuming, come from maybe CSI. Myself and Investigator
20 Thompson, we went in, located Ms. Gaymon and then stopped,
21 there was nobody else in the house. At that time we was
22 trying to preserve evidence the best we could.

23 Q And there was a sofa leaning up against the door?

24 A Yes, sir, there was.

25 Q Is there a standard sized sofa? Did it appear to

MIKE HOWELL - CROSS

1 be --

2 A It appeared to be a normal sized sofa.

3 Q The weight would be the same as a regular sofa?

4 A Well, there wasn't no cushions, no outer part, it was
5 just the flat part.

6 Q The frame -- there was nothing to say this was heavier
7 or lighter than a normal sofa?

8 A I didn't grab it or anything.

9 Q And it was at least would you say six feet tall or
10 maybe longer than that?

11 A I don't know. It's your standard sofa, you could
12 probably sit three people on it.

13 Q Okay. Three people sitting on it.

14 A Yeah.

15 Q Enough of it to kind of lean up against the door but
16 not go through the door.

17 A Right.

18 MR. LEE: Your Honor, if I might have just a minute.

19 THE COURT: Okay.

20 (Break in proceedings.)

21 MR. LEE: That's all I have, Your Honor..

22 MS. COLLINS: Nothing further. Thank you. We ask
23 that this witness be excused.

24 THE COURT: All right. Thank you, sir, you are free
25 to leave. Call your next witness.

CHRISTY HENDRIX - DIRECT

1 MR. NEWMAN: State calls Christy Hendrix.

2 THE COURT: All right.

3 The witness, CHRISTY HENDRIX, was first duly sworn and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. NEWMAN:

7 Q Please state your name for the record.

8 A Christy Massey Hendrix.

9 Q Massey, is that your maiden name?

10 A Yes.

11 Q Any relation to the victim in this case?

12 A No, sir.

13 Q What is your current occupation?

14 A Registered nurse at Palmetto Health Richland.

15 Q Now, how long have you worked in the field of
16 medicine?

17 A I have been in the field of medicine since 2003.

18 Q How long have you been a registered nurse?

19 A Been a registered nurse since June of 2005.

20 Q Now, did you have any prior medical experience before
21 becoming a registered nurse?

22 A I worked as a LPN, started in November of 2003.

23 Q Okay. Now, what was your occupation in 2012, in
24 February of 2012?

25 A I was a registered nurse. I also -- at that time I

CHRISTY HENDRIX - DIRECT

1 was the deputy coroner for the Lancaster County Coroner's
2 Office.

3 Q When did you become a deputy coroner?

4 A In February of 2011.

5 Q Were you appointed to that position?

6 A Yes.

7 Q By whom?

8 A Mike Morris.

9 Q And is he the elected coroner?

10 A He is.

11 Q Now, in addition to your medical training and
12 experience, did you receive any additional training in
13 order to become a deputy coroner?

14 A Yes, I did.

15 Q What is that?

16 A I had a lot of on-job training. I volunteered and
17 did ride-a-longs and helped with several cases when I
18 worked in the emergency room with the bodies.

19 Q Now, you told us your current occupation is a RN, so
20 you're no longer deputy coroner; is that correct?

21 A That's correct.

22 Q And why is that?

23 A I had a child, I had a baby and wanted to take more
24 time with my family and the baby.

25 Q And about when did you leave that position?

CHRISTY HENDRIX - DIRECT

- 1 A November of 2013. I'm sorry, November of 2014.
- 2 Q So in February of 2012 when this case happened you
- 3 were serving as deputy coroner?
- 4 A I was.
- 5 Q What are the duties of a deputy coroner?
- 6 A We determine the cause and manner of death.
- 7 Q Okay. Now, as deputy coroner were you involved in the
- 8 investigation that we are currently in court for regarding
- 9 the death of Ms. Linda Massey Gaymon?
- 10 A Yes, sir.
- 11 Q What did you first do in your capacity as coroner on
- 12 this case?
- 13 A I arrived on the scene around 11:20 and I was briefed
- 14 by law enforcement that was on the scene.
- 15 Q Who all was on the scene when you arrived?
- 16 A There was various law enforcement agencies on scene
- 17 and EMS on scene at the time.
- 18 Q Okay. Are you responsible for what I would call the
- 19 coroner's report?
- 20 A Yes, sir.
- 21 Q Did you complete a coroner's report in this case?
- 22 A I did.
- 23 Q I'm going to show you what's been marked as State's
- 24 Exhibit 11. Do you recognize that document?
- 25 A I do.

CHRISTY HENDRIX - DIRECT

1 Q Is that your coroner's report?

2 A It is.

3 Q Is that your signature on that coroner's report?

4 A Yes, it is.

5 Q Is it exactly the way you printed that coroner's
6 report?

7 A Yes, sir.

8 Q Anything changed about it?

9 A No, sir.

10 MR. NEWMAN: Your Honor, at this time I move State's
11 Exhibit 11 into evidence.

12 THE COURT: Any objection?

13 MR. LEE: No objection.

14 THE COURT: Without objection entered into evidence.

15 (The coroner's report was received as State's 11.)

16 Q Now, in this report I see it says medical treatment
17 rendered, EKG. Is that word asystole?

18 A Asystole.

19 Q And what does that mean?

20 A That means there was no heart rate or rhythm found.

21 Q And do you check that or does EMS check that?

22 A EMS checks that.

23 Q Now, this sight on Starnes Street, this home, was this
24 identified as the scene where the victim died?

25 A Yes, sir.

CHRISTY HENDRIX - DIRECT

- 1 Q So the body didn't appear to have been moved there?
- 2 A No, sir, it didn't.
- 3 Q Is that home here in Lancaster County?
- 4 A It is.
- 5 Q When you arrived at the scene you said law enforcement
- 6 and EMS was there. Was the rescue squad there at the time?
- 7 A They were not there at the time.
- 8 Q They showed up later?
- 9 A I had to call them.
- 10 Q Was Mike Howell there?
- 11 A He was.
- 12 Q Now, walk us through, what do you do at the crime
- 13 scene.
- 14 A First I get on scene and I get briefed by law
- 15 enforcement who were already there. And on this
- 16 particular case we waited on the CSI, the crime scene
- 17 unit, to get there and we all did a walk-thru of the house
- 18 at the same time.
- 19 Q Okay. And during your walk-thru, is that when you
- 20 confirmed that the victim was dead?
- 21 A Yes, sir.
- 22 Q I know law enforcement took photos. Did you take
- 23 photos as well?
- 24 A Yes, sir, I did.
- 25 Q Did you take photos inside and outside?

CHRISTY HENDRIX - DIRECT

1 A Mostly just inside.

2 Q Could you describe for the Court how you entered the
3 home?

4 A Entered through the front door of the home into the
5 living room area, and then went, turned to the right where
6 the back bedroom was where the decedent was found.

7 Q When you entered the home was anything blocking the
8 door?

9 A Sorry, yes. There was a couch leaning against the
10 door.

11 Q Did you have to duck down and go up under the couch?

12 A Yes, sir, I did.

13 Q Describe to us the victim's body, how you observed it
14 at the scene.

15 A She was lying on her left side on a mattress that was
16 lying on the floor, left arm was underneath her head,
17 right arm was kind of bent back to the side, and her left
18 leg was fully extended out away from the body and the
19 right knee was bent around her chest.

20 Q How was she dressed?

21 A Nothing from the waist down. She had a gray and
22 black striped shirt and a black bra and they were both up
23 above her breasts.

24 Q Pulled up above her breasts?

25 A Yes.

CHRISTY HENDRIX - DIRECT

1 Q Now, I see in your report that rigor was moderate.

2 A Yes, sir.

3 Q Is that correct?

4 A Yes, sir.

5 Q Can you tell us what rigor is?

6 A Rigor is the stiffening of the joints and muscles of
7 the body and it occurs after death.

8 Q What is the significance of rigor in your line of
9 work?

10 A It helps us determine the time of death.

11 Q And were you able to determine a time of death in this
12 particular case?

13 A Yes, sir. We did an approximated time of death.

14 Q And what was that time?

15 A The approximated time of death was 2:00 a.m. on
16 February 23rd.

17 Q Did you check -- what was the temperature of the body?
18 You don't have to give me an exact -- was it warm or was it
19 cool?

20 A It was approximately -- it was really cool, it was
21 probably about 60 degrees.

22 Q Now, another term in your report --

23 A And I'm sorry, I said the wrong date on the time of
24 date, it was the 24th.

25 Q 2/24, and what was the time?

CHRISTY HENDRIX - DIRECT

1 A 2:00 a.m. approximately.

2 Q So early that morning.

3 A Uh-huh.

4 Q And another term on your report is livor?

5 A Livor.

6 Q Tell me what livor is.

7 A That's the pooling of the blood inside of the body,
8 and it usually goes to like a dependent part of the body
9 or like the lower portion of the body where the body is
10 laying.

11 Q How does that occur? Is that like when the heart
12 stops pumping the blood, it just all pools together?

13 A Yes, sir.

14 Q So it is pooling inside, not outside the body.

15 A Yes, sir.

16 Q Now, did you examine the victim's body there on the
17 scene?

18 A I did.

19 Q And tell us what you observed on the body. Well, let
20 me be specific, did you observe any fecal matter around the
21 anal and vaginal area?

22 A I did, yes, sir.

23 Q This is another one of those medical terms, I may not
24 be pronouncing it right. I actually Googled this term and
25 it told me how to pronounce it, petechia.

CHRISTY HENDRIX - DIRECT

1 A Yes, sir.

2 Q Tell me what that is.

3 A That's like the blood capillaries, when they rupture
4 it creates like a little red pinpoint spot.

5 Q What were blood capillaires?

6 A It's blood vessels in the eyes.

7 Q Where? In the eyes?

8 A In the eyes. Petechia can be anywhere in the body
9 but we noted it in her eyes.

10 Q And what is that indicative of?

11 A Usually it's indicative of lack of oxygen and trauma
12 to the area.

13 Q So would that be consistent with a strangulation?

14 A Yes.

15 Q Okay. And you mentioned there's fecal matter around
16 anal and vaginal areas. Was this left as-is on the body?

17 A It was.

18 Q So the body was not cleaned off at all before it was
19 transported to the coroner's office?

20 A No, sir.

21 Q And was it cleaned off at the coroner's office before
22 it was sent off to autopsy?

23 A No, sir, it was not.

24 Q Did you observe any bruises on the victim's body at
25 the scene?

CHRISTY HENDRIX - DIRECT

1 A Yes,. sir.

2 Q Tell me about those.

3 A There were a couple of areas you had -- refer to my
4 notes for a minute. She had bruising to the left eye,
5 then there was also some bruising to the inner portion of
6 the lip on the lower right side.

7 Q Okay. Any bruises near around her thigh?

8 A Yes. You had some bruising to the inner thighs on
9 the back side, and a large bruise was noted to the right
10 thigh.

11 Q How about her forehead?

12 A She had --

13 Q I believe I'm on the second full page..

14 A There's a small mark -- I'm sorry -- noted to the
15 forehead on the right eye, and I had that the left eye was
16 swollen and had some black discoloration noted underneath
17 the eye.

18 Q Did you notice any bruises around her neck?

19 A Yes. There was discoloration around her neck,
20 bruising around the neck area.

21 Q Were there any noticeable injuries to the victim's
22 hands?

23 A Yes. She had a broken fingernail on the thumb of the
24 left hand.

25 Q Now, you observed this petechia, broken fingernail,

CHRISTY HENDRIX - DIRECT

1 bruises on the body, did you suspect that she died as a
2 result of violence?

3 A Yes, sir.

4 Q Any blood on the scene?

5 A There was just a small amount coming from the corner
6 of her mouth we found on scene.

7 Q Now, does the coroner's office or sheriff's department
8 or EMS or any of y'all on scene have the technique to look
9 for body fluids on crime scene?

10 A Yes, sir, the CSI unit does.

11 Q That's the sheriff's office CSI unit?

12 A Sheriff's office.

13 Q Were you present when the CSI team searched for these
14 fluids?

15 A Yes, sir.

16 Q How do they do that?

17 A They close all of the windows and doors, or block it
18 off and make the room completely dark, then they have
19 special glasses that they wear and they use the UV
20 lighting to examine the body.

21 Q And with that UV lighting if there's fluids what
22 happens?

23 A It illuminates.

24 Q And did you see fluid on this victim?

25 A Yes, sir.

CHRISTY HENDRIX - DIRECT

1 Q Where at?

2 A It was on the back of the right side.

3 Q Near her hip and thigh area?

4 A Near her hip and thigh area, yes, sir.

5 Q Did you notice any type of print on the victim's
6 buttocks?

7 A Yes, sir.

8 Q And that illuminated as well?

9 A It did.

10 Q What was it shaped like?

11 A It appeared -- there was two. One appeared to being
12 like a hand mark and one appeared to being like a shoe
13 print.

14 Q A shoe print on her buttocks?

15 A On her buttocks.

16 Q Did you find any weapons at the scene that you know?

17 A No, sir, not that I know of.

18 Q Do you know of any items that were found near the
19 victim's body?

20 A There was a black purse found and a black and red
21 wig.

22 Q Any other clothing?

23 A There was a pair of navy blue sweat pants and a pair
24 of tan Sperry shoes.

25 Q Did you see a wig on the scene?

CHRISTY HENDRIX - DIRECT

- 1 A Yes, sir.
- 2 Q What color?
- 3 A It was black and it had red streaks.
- 4 Q Now, in a case like this how do you identify the body?
- 5 A There was -- inside the black purse that was near her
- 6 body there was an identification card driver's license,
- 7 the photo ID matched her, and also there was a description
- 8 of the body given to us by her cousin, or niece, I'm
- 9 sorry. Christina Massey and Angela Massey gave us a
- 10 description.
- 11 Q And did that description match this person?
- 12 A It did.
- 13 Q Did she tell you what she was wearing?
- 14 A They did.
- 15 Q And that matched?
- 16 A Yes, sir.
- 17 Q Now, you mentioned the victim's purse found near the
- 18 body. Do you know of any money found in the purse or
- 19 around the purse?
- 20 A No, sir, no money was found.
- 21 Q Any money found on the body?
- 22 A No, sir.
- 23 Q Can you describe for a moment the interior of the home
- 24 just altogether? What was it like?
- 25 A It was cluttered, it was like complete disarray.

CHRISTY HENDRIX - DIRECT

1 There were empty beer cans, empty beer bottles, empty
2 liquor bottles, ceiling debris was falling down,
3 insulation. Multiple unused condoms and used condoms were
4 all throughout the home.

5 Q Now, what else do you have to do before you move the
6 body?

7 A We have to make sure all of the evidence is collected
8 that needs to be collected on scene, and then we call for
9 the volunteer rescue squad to come and then we put the
10 decedent in a body bag.

11 Q Do you take measurements of the body and --

12 A Yes, sir. I don't, but the CSI unit does the
13 measurements and all.

14 Q And was this body, in fact, moved?

15 A It was.

16 Q Where was it moved to?

17 A It was moved to our morgue at the coroner's office.

18 Q Were you there at the morgue when the body was
19 delivered?

20 A Yes, sir.

21 Q And from the coroner's office, what did you do with
22 the body?

23 A We sent it to Newberry Pathology.

24 Q Did you make that call?

25 A Yes, sir.

CHRISTY HENDRIX - DIRECT

1 Q What is Newberry Pathology?

2 A They do all of our forensic autopsies.

3 Q So was it sent straight from the coroner's office, or
4 did it stay overnight, or how --

5 A It stayed overnight at the morgue.

6 Q Is that a secure place?

7 A It is.

8 Q Is it locked?

9 A It is.

10 Q And who has access to it?

11 A Just the coroner's office personnel and staff.

12 Q So basically you, Coroner Morris and the other deputy
13 coroners.

14 A Yes, sir.

15 Q And this body was not cleaned up at the coroner's
16 office, it wasn't cleaned up on the scene, sent exactly the
17 way you found it?

18 A Yes, sir.

19 Q When was the autopsy scheduled?

20 A It was scheduled for the following morning at 9:00
21 a.m.

22 Q Was that February 25th?

23 A It was.

24 Q And who transports the body to Newberry?

25 A At the time it was the rescue squad, Lancaster County

CHRISTY HENDRIX - DIRECT

1 Volunteer Rescue Squad.

2 Q Do you go along with them?

3 A I do not. They usually have a member from the
4 sheriff's office CSI Unit to accompany them down.

5 Q To your knowledge did, in fact, a member of law
6 enforcement go with the body?

7 A They did.

8 Q Do you know who that was?

9 A It was Jeff Steele.

10 Q And from the autopsy, do you then receive a written
11 report?

12 A I do.

13 Q And who is the doctor who did the autopsy?

14 A Dr. Ross.

15 Q And you did, in fact, receive that report?

16 A I did, yes, sir.

17 Q Now, after receiving that report do you then sign the
18 death certificate?

19 A Yes, sir, I do.

20 Q In order to get a death certificate do you have a
21 death notification form?

22 A Yes, sir.

23 Q I'm going to show you what's been marked as State's
24 Exhibit 12. Do you recognize that form?

25 A Yes, sir, I do.

CHRISTY HENDRIX - DIRECT

1 Q And what is this form?

2 A That's the transit form that we have to carry -- has
3 to be with the body at all times.

4 Q Okay. And there's a date of death on this form?

5 A Yes, sir.

6 Q There's a time of death on this form?

7 A Yes, sir.

8 Q What is the time of death on this form?

9 A Approximately 2:00 a.m.

10 Q On what date?

11 A 2/24 of 2012.

12 Q Is that your signature on this form?

13 A It is.

14 Q You made this form?

15 A Yes, sir, I did.

16 Q Has it been altered in any way?

17 A No, sir, it has not.

18 MR. NEWMAN: Your Honor, at this time I move State's

19 12 into evidence.

20 MR. LEE: No objection.

21 THE COURT: Without objection entered into evidence.

22 (The death certificate was received as State's 12.)

23 Q Now, after the autopsy what happens to the body?

24 A It's brought back to the morgue and then released to
25 the funeral home of the family's choice.

CHRISTY HENDRIX - DIRECT

1 MR. NEWMAN: Beg the Court's indulgence.

2 THE COURT: All right.

3 (Break in proceedings.)

4 MR. NEWMAN: Ms. Hendrix, that's all I have. Please
5 answer anything Mr. Lee has.

6 THE COURT: Mr. Lee?

7 MR. LEE: Thank you, Your Honor. May it please the
8 Court?

9 THE COURT: All right.

10 CROSS EXAMINATION

11 BY MR. LEE:

12 Q Ms. Hendrix, I believe you said your training was you
13 had been an LPN and then you got your RN?

14 A Yes, sir.

15 Q And then you served as the deputy coroner for some
16 period of time, and I don't know if I understood how long.

17 A From February of 2011 until November of 2014.

18 Q And during this period of time, did you -- I'm
19 assuming as deputy coroner you went to a lot of death
20 scenes?

21 A Yes, sir.

22 Q And what is one of the natural occurrences that often
23 happens when a body -- when a person dies, what happens?

24 A You have cessation of life, you have no more breath
25 sounds, no more breathing, the heart stops. You get

CHRISTY HENDRIX - CROSS

1 rigamortis, which is the stiffing of joints and muscles.

2 And then depending on where the body is laying then you

3 have livor mortis, which is the pooling of the blood

4 inside the body.

5 Q Quite often do the bowels evacuate because of the

6 death, the sphincter muscles release and --

7 A They can at times.

8 Q And then they release fecal matter and I assume urine

9 also?

10 A At times it can.

11 Q It's not unusual.

12 A Not in every circumstance it's not.

13 Q Okay. Let me ask you then, you said -- and I asked

14 Lieutenant Howell and he sort of said this place was like a

15 dump, it was like -- there was trash and there was all

16 kinds of items around, and he didn't actually go into the

17 scene where the body was, but you went in there and you

18 found a number of things there or saw a number of things?

19 A Yes, sir.

20 Q And I mean, condoms, liquor bottles, things of that

21 nature?

22 A Yes, sir.

23 Q So would it be safe to say this place was being used

24 by any number of people for sex, drinking, maybe drugs? I

25 don't know, you may not have seen any indication of that.

CHRISTY HENDRIX - CROSS

1 A I didn't see any indication of that, just seen the
2 empty bottles and stuff.

3 Q But you did see liquor bottles or beer bottles and
4 things of that nature.

5 A Yes, sir.

6 Q And you mentioned that when they shined the light that
7 what you saw -- there was some fecal matter on her hip,
8 or you thought there was something that looked like a
9 fingerprint or a handprint?

10 A Yes, sir.

11 Q You also saw something that you said you thought might
12 have been a shoe print.

13 A Uh-huh.

14 Q Did you measure it?

15 A I did not, the CSI unit did.

16 Q Do you know if they took any pattern or anything?

17 A I'm not familiar with that.

18 Q Was it your opinion it was a shoe print or did
19 somebody say that's what this looks like?

20 A It appeared to look like that to me.

21 Q But you don't know how big it was or anything.

22 A No, sir.

23 Q And you said that you'd noticed there were a pair of
24 pants on the floor, or the sweat pants were on the floor.

25 A Yes, sir.

CHRISTY HENDRIX - CROSS

- 1 Q And that the wig was on the floor.
- 2 A Yes, sir.
- 3 Q Were there other items of clothing not related to her
- 4 laying around in the house?
- 5 A Not that I recall.
- 6 Q And you found her purse or something?
- 7 A Yes, sir.
- 8 Q And you got the ID card out of that?
- 9 A We did, yes, sir.
- 10 Q Did you look any further or open up anything or open
- 11 up any envelopes or anything of that nature in the purse?
- 12 A No, sir.
- 13 Q You just -- once you got the ID card that's all as far
- 14 as you were concerned you did with the purse is just to get
- 15 the identification.
- 16 A Uh-huh.
- 17 Q And the rescue squad actually does the transportation
- 18 of the body.
- 19 A They did at the time, yes, sir.
- 20 Q And you mentioned something about seeing a bruise on
- 21 the hip?
- 22 A Yes, sir.
- 23 Q You didn't do anything other than just look -- you
- 24 don't do an autopsy, you don't --
- 25 A I don't, no, sir.

CHRISTY HENDRIX - CROSS

1 Q You don't remove the skin to see what type of
2 contusion or anything of that nature.

3 A No, sir.

4 Q It just looked like a dark area to you.

5 A Yes, sir.

6 Q And, of course, you saw some things around the neck
7 and the head.

8 A Yes, sir.

9 Q And the only blood you saw was -- it was a small
10 amount trickling out of the mouth?

11 A Yes, sir.

12 Q And you saw bruising around the head and the neck and
13 things of that nature.

14 A Yes, sir.

15 MR. LEE: Your Honor, if I might have just a moment?

16 THE COURT: Okay.

17 (Break in proceedings.)

18 Q The bruise that you saw on the hip, could you
19 determine or did it appear to be the same age as the bruise
20 on the neck, or could you tell?

21 A I couldn't tell, I just noted the bruising.

22 Q It could have been some time earlier?

23 A I couldn't determine how long they had been there.

24 Q You just thought it looked like a bruise there.

25 A Yes, sir.

CHRISTY HENDRIX - CROSS

1 MR. LEE: That's all I have.

2 THE COURT: Any redirect?

3 MR. NEWMAN: Briefly.

4 REDIRECT EXAMINATION

5 BY MR. NEWMAN:

6 Q When we were talking about this print on the buttocks
7 area we were talking about bodily fluids that fluoresce.

8 A Uh-huh.

9 Q What type of bodily fluids fluoresce in these lights?
10 I just want to clear it up because I think we were talking
11 about bodily fluids --

12 A It appeared to be semen and other bodily fluids that
13 showed on the UV lighting.

14 Q So it was not fecal matter.

15 A Not on the UV lighting, no, sir.

16 MR. NEWMAN: No further questions.

17 THE COURT: All right. Thank you, ma'am, you can step
18 down, you are free to leave.

19 MS. COLLINS: I think our next witness will be
20 somewhat lengthy, Your Honor, I think this might be a good
21 time to break for lunch.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, we'll go ahead and take a lunch recess at this time,
24 it's now right at 12:30 and the lawyers -- I think we have
25 an out of town witness coming in; is that correct?

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1 MS. COLLINS: Yes, Judge.

2 THE COURT: We have an out of town witness coming in
3 and the lawyers have asked for some time to speak with the
4 witness prior to resumption of her formal testimony so
5 y'all are going to have a little bit longer lunch than I
6 normally do. How about 2:20? That's close to two hours so
7 if you need to go home you've got time to do that if you
8 live in outlying areas or not, be back in your jury room at
9 2:20. Okay. Thank you very much. Do not talk about the
10 case, don't talk to anybody about the case, don't do any
11 independent research on the case.

12 (The jury left the courtroom.)

13 THE COURT: Anything else on the record?

14 MS. COLLINS: No, Judge.

15 MR. LEE: Nothing else.

16 (A lunch recess was taken.)

17 THE COURT: Anything before we bring the jury in?

18 MS. COLLINS: No, your Honor.

19 MR. LEE: No, sir.

20 THE COURT: Okay. Bring the jury in.

21 (The jury returned to the courtroom.)

22 THE COURT: All right. All members of the jury are
23 present. I hope you had a good break, good lunch. Call
24 your next witness.

25 MS. COLLINS: Thank you, Your Honor. The State's next

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1 witness is Dr. Janice Ross, known as Dr. Pat Ross.

2 The witness, JANICE ROSS, was first duly sworn and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. COLLINS:

6 Q Hello, Dr. Ross.

7 A Good morning.

8 Q Would you please state your full name for the jury?

9 A Janice Edwards Ross.

10 Q And Dr. Ross, Mr. Lee and I are struggling a little
11 bit in our old age with a little bit of deafness so if you
12 could just speak directly into the microphone I would
13 appreciate it.

14 A Yes.

15 Q Dr. Ross, can you tell me, what is your occupation?

16 A I am a forensic pathologist.

17 Q What is a pathologist?

18 A A pathologist is a doctor. I have been through the
19 University of South Carolina to get my Bachelor's Degree
20 and then four years of medical school to get my M.D. Then
21 I went into the area of pathology as opposed to pediatrics
22 or surgery. A pathologist learns how to identify diseases
23 and diagnose diseases using a microscope and using
24 laboratory testing. We are also trained how to do an
25 autopsy to find the cause of death. A forensic

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1 pathologist is further trained to identify patterns of
2 injury and identifying causes of death and manners of
3 death pertinent to legal matters such as homicides,
4 suicides and accidents.

5 Q So your specialty as a doctor then is in the field of
6 forensic pathology?

7 A Yes.

8 Q And you are certified and licensed to be a doctor here
9 in South Carolina?

10 A Yes.

11 Q How many autopsies have you performed during your
12 career?

13 A Over 6,000.

14 Q Have you ever been qualified to testify as an expert
15 witness in a court of law in the field of forensic
16 pathology?

17 A Yes.

18 Q And how many times would you estimate you would have
19 testified as an expert witness in that field?

20 A In South Carolina over 200.

21 MS. COLLINS: Your Honor, at this time I would offer
22 Dr. Ross as an expert witness in the field of forensic
23 pathology.

24 THE COURT: Any further voir dire?

25 MR. LEE: No, Your Honor, we believe she's qualified

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1 to testify.

2 THE COURT: Thank you. Ladies and gentlemen, at this
3 time I'm going to qualify Dr. Ross as an expert in the
4 field of forensic pathology. What that means is that's
5 simply an evidentiary issue for you to deem it as you wish
6 to deem it as the finder of fact in this case. You can
7 believe everything an expert says, some of it or none of
8 it. You judge an expert's opinion -- just because somebody
9 is an expert in something doesn't mean that their opinion
10 is better than another expert which may be called, so you
11 consider all of that when you're determining credibility of
12 a witness. Okay.

13 MS. COLLINS: Thank you, Judge.

14 Q Dr. Ross, did you perform a forensic autopsy on the
15 body of Linda Massey Gaymon on February 25th of 2012?

16 A Yes.

17 Q At approximately what time?

18 A 8:30 a.m.

19 Q And that autopsy was performed at the request of the
20 Lancaster County Coroner's Office; is that correct?

21 A Yes.

22 Q Where did you perform the autopsy?

23 A At the morgue at Newberry County Memorial Hospital.

24 Q Was the body of Ms. Gaymon brought to you there by
25 staff of Lancaster County Coroner's Office?

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1 A Yes.

2 Q And did a member of law enforcement, specifically Jeff
3 Steele of the Lancaster County Sheriff's Department CSI
4 department come to the autopsy?

5 A Yes.

6 Q How was the body clothed when you received it?

7 A She was -- had a long sleeve black and white sweat
8 shirt on which had been pulled up above her breast area,
9 and I believe that is it.

10 Q Do you have a reference to a bra also being pulled up
11 above her breast area?

12 A Yes, black and ivory floral bra.

13 Q Were the shirt and bra removed and given to law
14 enforcement as evidence?

15 A Yes.

16 Q Was there any money at all recovered when the shirt
17 and the bra were removed?

18 A No.

19 Q Did you retrieve any bodily fluids from the body of
20 the victim during the autopsy and give those samples to a
21 law enforcement officer for testing?

22 A Yes. We did what we call a rape kit. We also took
23 blood and other body fluids to send to SLED for toxicology
24 and for rape kit testing.

25 Q The bodily fluids that are removed, do they include

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1 the blood of the victim?

2 A Yes.

3 Q Do they also include, is it vitreous fluid?

4 A Vitreous, the fluid in the eye. And also we had
5 urine and gastric tissue, gastric material.

6 Q I would like to show you what's been previously marked
7 that I've shown to defense counsel as State's Exhibit 13
8 for identification purposes, and ask you, is that a true
9 and accurate copy of the autopsy report that you prepared
10 after conducting the autopsy in this case?

11 A Yes, it is.

12 Q Thank you.

13 MS. COLLINS: Your Honor, at this time I move State's
14 Exhibit 13 into evidence.

15 MR. LEE: No objection.

16 THE COURT: Without objection introduced into
17 evidence.

18 (The autopsy report was received as State's 13.)

19 Q Now, Dr. Ross, I imagine when you conduct an autopsy
20 that you closely examine the body of the victim; is that
21 correct?

22 A Yes.

23 Q Do you have there the victim's date of birth as noted
24 on the report?

25 A We were given the date 1958.

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1 Q Was there a date of injury noted?

2 A February 24, 2012.

3 Q And an estimated time of death?

4 A Just a.m. I don't know exactly.

5 Q On that same date, 2/24 of '12?

6 A Correct.

7 Q You've already stated the autopsy occurred the next
8 morning at 2/25/12 at about 8:30 a.m. correct?

9 A Yes.

10 Q What was the height and estimated weight of the
11 victim?

12 A The height was 65 inches, which is five feet, five
13 inches. We don't have a scale in the morgue so we
14 estimated the weight to be at least 145 pounds.

15 Q Dr. Ross, can you tell us what injuries did you
16 observe to the body of the victim?

17 A Yes. We found some bruising and we found petechia in
18 the eyes. Petechia is caused from strangulation when
19 there's pressure on the front of the neck and the veins
20 that bring blood back down to the heart are blocked. So
21 pressure builds up behind it and causes little red
22 petechia, what we call petechia, because there's little
23 red blood cells are pushed out of the capillaires, small
24 vessels, you can see those in the eyes. And somebody who
25 is deeply pigmented, you can also see them in the face --

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1 in the skin of the face, but sometimes if it is a lot of
2 pigmentation you can't see that. We found bruising around
3 the left eye, and petechia also could be some bruising of
4 the left eye.

5 Q So there was petechia evident in both eyes; is that
6 correct?

7 A Yes.

8 Q But in addition to the petechia there was also
9 bruising on the left area?

10 A Yes.

11 Q And would that be consistent to blunt trauma to that
12 left eye area?

13 A Yes.

14 Q And tell me about any other injuries that you
15 observed.

16 A There were some bruising on the inside of the lips
17 which could be pressure against the teeth. There was some
18 abrasion -- abrasion is just the scraping of the surface
19 of the skin -- around the left side of the neck that went
20 down across towards the right chest. Those are the ones
21 we found externally.

22 Q And I'm going to talk to you about internally in a
23 minute, I want to back up just a little bit. You raised
24 your hand -- since we don't have video cameras just for
25 purposes of record -- you raised your hand up towards your

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1 mouth when you indicated about the area of the lips.

2 Again, was that indicative of blunt trauma to the lip area?

3 A Yes.

4 Q Would that be consistent with someone's hand being
5 held up against the lips of the victim with some force?

6 A It could be, yes.

7 Q And in terms of the external injuries that you
8 observed to the neck area, you said externally that you
9 observed areas to, I believe, the left side of the victim's
10 neck; is that right?

11 A Yes.

12 Q And continued on some across the right chest?

13 A Yes..

14 Q The upper chest?

15 A Correct.

16 Q Now, as a scientist, of course, a forensic
17 pathologist, you don't simply look on the external area,
18 you actually peel back layers of the skin and observe the
19 injuries as they are evident inside; is that right?

20 A Yes.

21 Q Before we get there, let me ask you, did you observe
22 any trauma to the forehead of the victim?

23 A Externally no, but we did internally.

24 Q Well, let me go ahead and ask you about that.

25 Internally when you pulled back the skin, did you observe

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1 some trauma to the forehead of the victim?

2 A Yes.

3 Q What did you observe?

4 A It was just some bruising right in the middle --
5 right close to where the hairline starts called the
6 frontal area of the scalp in the midline, but there was no
7 pattern to it.

8 Q Would that be consistent with possible blunt trauma to
9 that area of the victim's head?

10 A Yes.

11 Q Tell me what you saw internally when you peeled back
12 the skin area around the neck and throat of the victim.

13 A We found bruising in the muscles in the front of the
14 larynx, in front of the voice box, and we found a lot of
15 bruising behind the larynx or the voice box indicating
16 pressure in that area. One of the cartilages of the
17 larynx was also fractured.

18 Q Did you observe bruising to both sides of the neck?

19 A Yes, on both sides of the midline.

20 Q Internally?

21 A Yes.

22 Q Talk to me about the level of bruising that you saw
23 internally on the neck. Would that be consistent with
24 simple -- for example, if I were to hang myself, would it
25 be consistent with that or did you see something more so

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1 showing a greater level of force?

2 A It's consistent with a significant force. When
3 people hang themselves the rope goes across the front of
4 their neck, I think maybe one case out of 39 years have I
5 seen any kind of bruising there. You don't bruise
6 yourself when you hang yourself and you don't fracture
7 your larynx, you don't fracture your neck.

8 Q So even with my body being a dead weight if I were to
9 hang myself, you wouldn't see the level of bruising that
10 you observed in this case?

11 A That's correct.

12 Q So what you observed in this case in the neck area
13 would indicate a greater assertion of force in that area,
14 correct?

15 A Correct.

16 Q Did you observe other bruises on the body of the
17 victim?

18 A There was a small circular bruise on the front of the
19 right thigh, and a very small one on the back of the right
20 elbow.

21 Q I believe your report notes, as you stated, the small
22 circular contusion or bruise of the right lateral thigh and
23 a smaller one in the right lower medial thigh; is that
24 correct?

25 A Yes.

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1 Q You mentioned doing a sexual assault examination kit,
2 or a rape kit. Did you observe -- first of all let's talk
3 about, did you observe fecal matter on the body?

4 A Yes. When we looked at the external genitalia, the
5 vagina and anus area we saw that there was a lot of fecal
6 material around the anus and also around the vagina and
7 actually inside the vagina.

8 Q And I noted on page two at the bottom of your report
9 you stated that was much fecal matter around both the anus
10 and vagina and within the vagina; is that correct?

11 A Correct.

12 Q And when someone passes away, can sometimes the
13 intestines void so that feces is excreted from the body?

14 A Yes, that does happen.

15 Q Does it always happen or just sometimes?

16 A Just sometimes.

17 Q If that were to happen, if I were to pass away and
18 that happen to my body, would the fecal matter be on the
19 exterior around the anus area?

20 A Yes.

21 Q What would cause that fecal matter then to be, if it
22 were me, up inside my vaginal vault?

23 A It would have to be something pushing it up there.

24 Q So there would have to be something pushing it up into
25 the vaginal vault after the defecation occurred?

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1 A Correct.

2 Q Did you clean off the fecal matter away from the anus
3 and the vagina?

4 A Yes.

5 Q And did you observe any injuries to the vagina itself?

6 A Yes. There was some bruising of the lower vagina and
7 some -- actually a small tear around the anus.

8 Q So a small tear around the anus. And I think you
9 indicate an abrasion of the lower inner -- is it the
10 introitus of the vagina?

11 A Yes, introitus just means opening.

12 Q All right. And what would that indicate to you?

13 A Some blunt force injury.

14 Q Blunt force injury not only to the vagina but also to
15 the anus?

16 A Correct.

17 Q Dr. Ross, what are defensive wounds?

18 A Defensive wounds are usually found on the anterior or
19 posterior forearms or hands where someone is trying to
20 defend themselves as it states.

21 Q And did you observe any injuries to the hands of the
22 victim?

23 A No.

24 Q Did you observe any injuries to any of her
25 fingernails?

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1 A One of the fingernails was broken..

2 Q Was that her left thumb?

3 A Yes.

4 Q And in the course of doing your examination, did you
5 clip all of the fingernails of the victim's body and give
6 those fingernail clippings to law enforcement for evidence?

7 A Yes.

8 Q You don't swab up under the nails yourself, you
9 actually just clip the nails and separate them into
10 right-hand and left-hand; is that right?

11 A That's correct.

12 Q And then you give those to law enforcement?

13 A Yes.

14 Q And I believe you've already stated this, but in
15 conducting a sexual examination kit, did you do a swab up
16 within the vaginal area and within the anus area itself?

17 A Yes.

18 Q And submitted that to law enforcement also?

19 A Correct.

20 Q Dr. Ross, do you have an expert opinion to a
21 reasonable degree of medical certainty of the cause of
22 death of Ms. Linda Massey Gaymon?

23 A Yes.

24 Q What is that opinion?

25 A Asphyxia, which means to take away oxygen due to

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1 strangulation.

2 Q What is your expert opinion as to the length of time
3 it would have taken the victim to die from asphyxiation by
4 strangulation?

5 A Four to five minutes.

6 Q And how quickly could someone pass out with the degree
7 of force exerted on the neck that you observed when you
8 examined the neck area internally?

9 A You can pass out and go unconscious within five to
10 eight seconds. This has been noted with people who hang
11 themselves and set up an actual movie camera to watch it.
12 You can see they're unconscious that quickly, but it takes
13 four or five minutes to actually die.

14 Q Did you provide a copy of your autopsy report to the
15 coroner's office?

16 A Yes.

17 Q As noted on page three of your report, and you've
18 already stated that your opinion as to the cause of death
19 was asphyxia by strangulation. On page three if you could
20 then again once more review for us, you've got evidence for
21 the strangulation, what is that? If you'll read that
22 paragraph.

23 A The multiple petechia in both eyes with confluent
24 petechia on the left, contusions of the inner lips,
25 contusions of the strap muscles, which are the muscles on

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1 the front of the voice box, and over the soft tissue of
2 posterior larynx, the back of the voice box. There's a
3 fracture -- probable fracture that didn't turn out to be a
4 fracture of the thyroid cartilage, which is one of the
5 cartilages of the larynx.

6 Q Dr. Ross, at the conclusion of your report you note
7 that you've drawn fluids to be submitted for a toxicology
8 examination; is that correct?

9 A Yes.

10 Q And you note that you've stated the causation, but
11 that you reserve the right once those specimens are
12 analyzed through toxicology to possibly alter or amend your
13 opinion; is that right?

14 A Yes. Sometimes we don't get the toxicology back for
15 several weeks.

16 Q Did you subsequently receive a toxicology from SLED
17 after those fluids from her body were analyzed?

18 A Yes, I did.

19 Q And did the findings in those reports alter your
20 expert opinion as to the cause of death of the victim being
21 asphyxiation by strangulation?

22 A I guess -- Lancaster sends their fluids to --
23 toxicology to NMS, this also went to SLED. But anyway,
24 the answer to your question is the results did not change
25 my conclusion of the cause of death.

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1 Q So your conclusion remains, even after having reviewed
2 those toxicology results, it remains that based upon your
3 observation of the body of the victim, that the victim
4 died, she would have died within four to five minutes
5 maximum of asphyxia by strangulation?

6 A Correct.

7 Q Thank you.

8 MS. COLLINS: One moment, please.

9 (Break in proceedings.)

10 MS. COLLINS: Thank you. Please answer any questions
11 of Mr. Lee.

12 THE COURT: Mr. Lee, your witness.

13 MR. LEE: Thank you, Your Honor. May it please the
14 Court?

15 CROSS EXAMINATION

16 BY MR. LEE:

17 Q Dr. Ross, I apologize, I may jump back and forth from
18 different parts of what you talked about. Let me just ask
19 you something from the first, when you say blunt force
20 trauma, is that essentially soft tissue comes into contact
21 with something hard or --

22 A It could. It just means that area of the body was
23 hit by something, or hit -- or part of the body hit
24 something on a fall or whatever. But there was a
25 collision of some instrument or soft tissue with enough to

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1 bruise the area of the body.

2 Q It doesn't always mean that one person hit another
3 person and that was what happened.

4 A Correct. We look for patterns of injury to see if
5 there's any indication of a bat, a baseball bat or
6 something like that. But in this case there was no
7 pattern.

8 Q Okay. If someone were to strike another person with
9 say their fist without a ring on or anything of that
10 nature, would there be any type of pattern to that or would
11 there just be the whole area?

12 A No pattern.

13 Q Let me ask you, you indicated that there was an injury
14 to the head and you pointed out -- could you point out
15 again sort of where that injury was to the crown, I guess,
16 to the --

17 A To the forehead, the frontal scalp. If you start
18 right where the hairline starts, right in that area in the
19 middle of the scalp.

20 Q And I think we were talking a little earlier about --
21 and you used the term that there was sort of a circular
22 area where people tended to get injuries if they fell or
23 something of that nature?

24 A Yes. If someone is standing up and falls down, the
25 head will hit the floor in what we call the hat line area

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1 where a hat would sit on your head, so if there's a bruise
2 in that area it could be from a fall.

3 Q And was this bruising in that area?

4 A Yes.

5 Q And as we come down there's an indication, I think,
6 that there was maybe some type of a bruising on one of the
7 eyes around the left eye?

8 A Correct.

9 Q Was there anything -- any indication, any bones broken
10 or anything like that?

11 A No bones broken.

12 Q And then there was another one around the lower lip, I
13 believe.

14 A Yes. On the inside of the lip, yes.

15 Q Any significance to that being on the inside?

16 A No. It's just -- again, we couldn't see anything on
17 the outside but there was a lot of pigment there so it
18 might have hidden it.

19 Q If someone would have struck someone on the lip, would
20 it have normally split the lip or injured someone on the
21 outside?

22 A It could.

23 Q And you didn't see any, is that my understanding?

24 A Correct.

25 Q You mentioned two little circular bruising or

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1 abrasions on the elbow or the inside of thigh?

2 A There's a lot on kind of the front lateral, front
3 side of the right thigh.

4 Q And could that -- any idea what that might have been
5 caused by?

6 A Again there's no pattern on those, it's hard to say.

7 Q But there was not a large --

8 A Correct.

9 Q There's been some testimony here earlier that there
10 was some bruising on the hips and also that there was
11 something that looked like a footprint or shoe print on one
12 of the hips. Did you see any of that?

13 A I did not see that when I got the body, no.

14 Q When the body is brought to you it hasn't been washed
15 or anything of that nature, has it?

16 A No, it has not.

17 Q The injury to the neck, did you see any pattern to
18 suggest fingerprints or anything of that nature?

19 A Again, there was no pattern so I couldn't say.

20 Q Could someone have received these type of injuries by
21 one person putting their elbow on the ground and putting
22 their weight on the other part of the arm and cause enough
23 pressure to injure someone?

24 A It's possible if there was enough weight behind it.

25 Q Okay. Let me ask you -- move on to the --

JANICE ROSS - CROSS

1 unfortunately the parts that we hate to talk about and deal
2 with. But you mentioned that you found some fecal matter,
3 of course, around the anus.

4 A Correct.

5 Q And then there was some found around the vagina and in
6 the vagina.

7 A Correct.

8 Q If someone were to have anal intercourse with an
9 individual and then have vaginal intercourse, would that
10 account for the transfer of fecal matter into the vagina?

11 A Yes, it would.

12 Q Let me ask you, it's my understanding that the opening
13 to the vagina and the opening to the anus, there's not a
14 lot of distance between the two; is that correct?

15 A That's correct.

16 Q And in fact, sometimes in child birth there's an
17 incision made to increase the size of the birth canal so
18 that -- there's not a lot difference -- not a lot of area
19 between the two.

20 A Correct.

21 Q And my understanding as part of the process, what you
22 did was you clipped the fingernails and then they were put
23 in a container or something and -- each hand separately and
24 then they were sent for an analysis?

25 A Correct.

JANICE ROSS - CROSS

1 Q Could -- and you only noticed one fingernail that was
2 maybe broken or something of that nature?

3 A Yes.

4 Q If material was gotten from the fingernails, DNA
5 material, could it have only been gotten from a scratch
6 against another person?

7 A It's not my expertise, but it could be just from --
8 not necessarily from the scratch.

9 Q Let me back up and ask you, could somebody perhaps
10 that was engaged in sex, could they have touched themselves
11 and gotten some DNA material from themselves and from their
12 sexual partner?

13 A Yes.

14 Q And you got -- if I understand correctly you got a
15 copy of the toxicology report back?

16 A That's correct.

17 Q Did it show any drugs or alcohol?

18 A Yes. There was cocaine present and byproducts of
19 marijuana.

20 Q And this was from the blood samples that you took from
21 the victim; is that correct?

22 A That's correct.

23 MR. LEE: Your Honor, if I might just have a minute.

24 THE COURT: Yes, sir.

25 (Break in proceedings.)

JANICE ROSS - CROSS

1 Q Dr. Ross, there's something I think that's called
2 sexual asphyxiation, or erotic asphyxiation?

3 A Yes.

4 Q And I understand under erotic is quite often someone
5 is basically choking themselves with an item, would that be
6 correct?

7 A Yes. They set up an elaborate type of noose type of
8 thing that constricts the vessels in the neck and there's
9 a release mechanism if they go unconscious.

10 Q Is your understanding that the choking produces an
11 enhanced sexual orgasm, is that the reason people do it, I
12 guess?

13 A Yes, it's a heightened sense of --

14 Q Have you heard of other people -- two people, one
15 person choking the other person to produce that same
16 heightened sense of orgasm?

17 A Yes.

18 Q And the same type situation occurs where they get
19 choked out is one term, I guess, that's used, and that
20 causes them to have a higher sexual orgasm. The person who
21 experiences the heightened orgasm, would I be correct in
22 saying it is the person who is being choked and not the
23 person whose is doing the choking?

24 MS. COLLINS: Your Honor, I'm going to object at this
25 point. I believe this may be outside the expertise of Dr.

JANICE ROSS - REDIRECT

1 Ross in terms of forensic pathology. He's asking about the
2 level of orgasm and whose is it greater than, the one being
3 choked or the one choking.

4 THE COURT: I'll overrule the objection. You can go
5 ahead and answer it, Dr. Ross:

6 A It's my understanding that the person being choked is
7 the person who would have the heightened orgasm.

8 MS. COLLINS: That's all I have.

9 THE COURT: Any redirect?

10 MS. COLLINS: Briefly.

11 REDIRECT EXAMINATION

12 BY MS. COLLINS:

13 Q You stated that that was your understanding but you
14 have not had training specifically on that issue of for
15 whom the orgasm is greater on that circumstance, have you?

16 A No, I have not.

17 Q Dr. Ross, Mr. Lee asked you in terms of the trauma to
18 the lip he said that if someone was struck or hit on the
19 lip it could result in a split lip and your answer was it
20 could, correct?

21 A Yes.

22 Q But that does not necessarily mean that it would, just
23 simply that it could result.

24 A Correct.

25 Q And you indicated -- and I believe more than

JANICE ROSS - REDIRECT

1 indicated, actually testified earlier that the trauma that
2 you observed to the lip could be consistent with someone
3 putting their hand over the mouth or lip of the victim with
4 some degree of force; is that correct?

5 A Yes.

6 Q Mr. Lee asked you if you observed a shoe print or a
7 foot print on the body of the victim and you testified you
8 did not see such a print; is that correct?

9 A That's correct.

10 Q Did you illuminate the body of the victim with the UV
11 light during your examination?

12 A No.

13 Q Mr. Lee asked you if it would be possible if there
14 were enough weight behind it for one arm over the victim's
15 neck being placed by someone could result in the level of
16 force that you observed and you said it would be possible;
17 is that correct?

18 A Yes.

19 Q If there were enough force you said; is that correct?

20 A Correct.

21 Q But it could also be consistent with hands, either one
22 hand like this or both hands, is that correct, what you
23 observed?

24 A Yes.

25 Q I realize you stated you did not observe a pattern in

JANICE ROSS - RECROSS

1 terms of the fingers were spread, but it's your testimony
2 that that trauma could be consistent with that as well as
3 the scenario described by Mr. Lee; is that right?

4 A Yes.

5 MS. COLLINS: Thank you. One moment.

6 (Break in proceedings.)

7 MS. COLLINS: Thank you very much, Dr. Ross, for being
8 here today.

9 MR. LEE: Just one more follow-up, Your Honor?

10 THE COURT: Yes.

11 RECROSS EXAMINATION

12 BY MR. LEE:

13 Q Dr. Ross, when you say it could be, what you're saying
14 is that's a possibility but there may be something else
15 also?

16 A That's correct.

17 MR. LEE: Okay. Thank you.

18 THE COURT: All right. Thank you, ma'am, you can step
19 down, you are free to leave. Call your next witness.

20 MS. COLLINS: Thank you. Judge, I believe our next
21 witness is Lilly Gallman from SLED.

22 The witness, LILLY GALLMAN, was first duly sworn and
23 testified as follows:

24 DIRECT EXAMINATION

25

LILLY GALLMAN - DIRECT

1 BY MR. NEWMAN:

2 Q Good afternoon.

3 A Goods afternoon.

4 Q Please state your name for the record.

5 A My name is Lilly Smalls Gallman.

6 Q Ms. Gallman, where are you employed?

7 A I'm employed with the South Carolina Law Enforcement
8 Division as a forensic DNA analyst.

9 Q And how long have you been with the South Carolina Law
10 Enforcement Division?

11 A January 17th would be 26 years.

12 Q South Carolina Law Enforcement Division, is that known
13 as SLED?

14 A Yes, it is.

15 Q Okay. And you said you're a DNA analyst.

16 A Yes.

17 Q Is that the extent of your role at SLED or you do
18 other things?

19 A At this time, yes, forensic DNA analysis is my
20 assigned duty.

21 Q Tell the jury a little bit about your education and
22 how you got to be a DNA analyst.

23 A I have a degree in Biology from the University of
24 South Carolina. Once I received my degree I continued
25 working in the area of analytical or genetics,

LILLY GALLMAN - DIRECT

1 specializing in genetics where I did sequencing of DNA and
2 cloning of DNA. As I said, I began working with the South
3 Carolina Law Enforcement approximately 26 years, which was
4 January 17th of 1990. Since that time I have attended FBI
5 DNA type of schools, and I've also been trained in the
6 area of serology, which is the identification of body
7 fluids. I have also attended the South Carolina Criminal
8 Justice Academy to become a certified police officer.

9 Q And do you have to take continuing education classes
10 as part of your training?

11 A Yes. Each year we take classes for our certification
12 and also to follow the guidelines as a DNA analyst.

13 Q Okay. Now, we've all heard DNA especially since we
14 see it on TV all of the time. Can you explain to the jury,
15 what is DNA?

16 A Well DNA is considered to be the blueprint of the
17 body, it stands for deoxyribonucleic acid, that's why we
18 just say DNA. Everyone's DNA is unique except for
19 identical twins. And since that's the case that your DNA
20 is unique, if there's a body fluid found at a particular
21 crime scene we're able to extract that DNA, or get the DNA
22 out of that body fluid and to develop a DNA profile from
23 that evidence, and then known standards from either the
24 victim or subjects in a particular case are submitted to
25 us and we compare the DNA profile developed from the

LILLY GALLMAN - DIRECT

1 evidence to the standards from the victim or subject to
2 determine whether we have a match or we do not have a
3 match.

4 Q So DNA is not just magical, you don't just find DNA on
5 a person's body or a broken window and put it in your
6 computer and find out who done it, you've got to have
7 something to compare it to; is that correct?

8 A That's correct.

9 Q How many DNA analyses (sic) have you performed in your
10 career?

11 A Thousands.

12 Q Have you ever been qualified as an expert in the
13 courts of this state?

14 A Yes, I have.

15 Q How many times have you testified as an expert in
16 South Carolina?

17 A Over 60.

18 MR. NEWMAN: Your Honor, at this point I would offer
19 Ms. Gallman as an expert witness in the field of DNA
20 analysis.

21 MR. LEE: No objection.

22 THE COURT: Without objection then she's so qualified.
23 Ladies and gentlemen, let me further expound on what I
24 instructed you last time on expert witnesses, and I will
25 give you a specific instruction when I am charging you the

LILLY GALLMAN - DIRECT

1 law. The rules of evidence usually don't permit witnesses
2 to testify as to the opinions or conclusions. Usually a
3 witness testifies about what he or she heard, saw, smelled,
4 that type of thing. But when a witness has sufficient
5 education or experience or has become an expert in some
6 art, science or profession, that witness may state -- and
7 has been qualified as an expert, that witness may state an
8 opinion as to any relevant and material matter. Now,
9 again, you need to consider that expert opinion in relation
10 to all of the evidence in the case, and you can give it the
11 credibility you think it deserves. An expert witness'
12 testimony is to be given no greater weight than any other
13 witness simply because the witness is an expert, you just
14 consider it in the big scheme of things. Okay. Thank you
15 very much.

16 Q Did you perform DNA analyses on items that were
17 submitted to SLED related to the death of Linda Massey
18 Gaymon?

19 A Yes, I did.

20 Q I'm going to hand you this package. Does that look
21 familiar to you?

22 A Yes, it does. It appears to be the sexual assault
23 kit, which is item -- the package is item number A.

24 Q I believe this is the sexual assault kit. This would
25 be --

LILLY GALLMAN - DIRECT

1 A This item number A is --

2 Q This would be items five through ten.

3 A These are the items where the swabs were taken from
4 the victim's body.

5 Q And would you have sealed that in those packages?

6 A Yes. On the side where I opened the package, I heat
7 sealed it, and then I placed the date that I did it and my
8 initials.

9 Q And since there are multiple items in there, are they
10 each sealed individually inside that bag?

11 A Yes. They would be sealed individually and then
12 placed inside the plastic bag.

13 Q I'm going to let you open that bag up.

14 A This particular item was submitted to SLED previously
15 and it was in this particular packaging when it was
16 returned to SLED for further testing, then it was placed
17 in this new packaging, so you see two plastic bags. The
18 reason why you do this is this was the first packaging and
19 this is the second.

20 Q So you reseal it -- once you're done with it you
21 reseal it and send it back to law enforcement; is that
22 correct?

23 A That's correct. These are the individual packing for
24 the swabs that were taken from the victim's body. They
25 were labeled as to say item number five, which was the

LILLY GALLMAN - DIRECT

1 swab -- there are quite a few -- it's the wet swab of
2 stain of the left upper thigh coming from the victim.

3 Q If you just go through each one of them and tell us
4 what it is.

5 A This is item number three, which is the wet swab of
6 stain on the right buttocks to the left of the stain
7 number one, which really when I get it I have no idea what
8 stain number one is, I just go by the packaging as to what
9 was submitted to me. This is item number seven, which is
10 the wet swab of stain on right buttocks to the right of
11 stain number one. Item number one, which is a wet swab of
12 stain on the right buttocks under the pattern stain. And
13 this is item number 11, which is the wet swab of stain on
14 left thigh four inches below buttocks. And 13, which is
15 also wet swab from right hip of the victim.

16 Q And are those in the same condition as they were when
17 you sent them back to law enforcement?

18 A Yes. I usually seal it with tape and then I put it
19 in the packaging that it came out of and then heat seal
20 the outer package. It comes out much easier than it goes
21 back in.

22 MR. NEWMAN: Your Honor, at this time I move to admit
23 State's Number 14 into evidence.

24 MR. LEE: No objection.

25 THE COURT: Without objection introduced into

LILLY GALLMAN - DIRECT

1 evidence.

2 (The DNA evidence was received as State's 14.)

3 Q I'm going to show you two more items while we're at
4 it, and you don't have to open these. Do you recognize
5 what that is? Of course, you can open it if you have to.

6 A This container contains the swabs that would be from
7 the sexual assault kit. It has got rectal swabs, oral
8 swabs, vaginal swabs in here, also microscopic smears to
9 look for the presence of sperm in here, also.

10 Q Is that in the same condition as it was when you sent
11 it back to law enforcement?

12 A Yes, the seal is still intact.

13 Q I'm going to hand you this last one and see if you
14 recognize that.

15 A Yes. Those packaging contains the fingernail
16 scrapings from the victim, and I sealed it in the same
17 manner, date it and my initials.

18 Q It's in the same condition as it was when you sent it
19 back to law enforcement?

20 A Yes, it's still sealed.

21 MR. NEWMAN: Your Honor, at this time I move to admit
22 State's 15 and 16.

23 MR. LEE: No objection.

24 THE COURT: Without objection those are introduced
25 into evidence.

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1 (The packages were received as State's 15 and 16.)

2 Q All right. Let's talk about some of these. Now, tell
3 me, you mentioned swabs from the thigh and swabs from the
4 buttock. Tell the jury, what is a swab?

5 A A swab is basically just a Q-tip that either you
6 could use it wet or dry, in this particular case I
7 received wet and dry swab from the same area. So if
8 there's a -- might be possibly that there's body fluid
9 that's found on a person's body, it would be swabbed with
10 either wet or dry. But it basically just looks like a
11 Q-tip with a longer stick on it.

12 Q Now, items -- you have your report in front of you?

13 A Yes, I do.

14 Q Okay. Items five and six, what are those swabs from?

15 A The swabs are the wet and dry swab of stain on left
16 upper thigh just below buttocks.

17 Q So that's from the left upper thigh of the victim, Ms.
18 Gaymon.

19 A Yes.

20 Q Did you find DNA on those swabs?

21 A Well, the first thing I did with the swabs is test
22 them for the presence of semen, and what we're looking for
23 is called P30 which is found in abundance in semen, I
24 tested for that and it was positive. And then the next
25 step I went on to develop a DNA profile from the semen

LILLY GALLMAN - DIRECT

1 that was found on the swabs.

2 Q And did you, in fact, develop a profile?

3 A Yes, I did.

4 Q And did you find a match for that profile?

5 A Yes.

6 Q And who was the match on that profile?

7 A I'm reading from my report. The partial DNA profile
8 available from the semen on item 5-6 matches the DNA of
9 Terry Catoe. The probability of randomly selecting an
10 unrelated individual having a DNA profile matching the
11 semen on this item is approximately one in 700 billion.

12 Q So you would have to have 700 billion people before
13 you found another one, is that what you're saying?

14 A Yes, outside of the 700 billion..

15 Q Swabs 7 and 8, where are those swabs from?

16 A Items 7-8 is the wet and dry swab of stain on right
17 buttocks to the right of stain number one. I also found
18 semen on those swabs and then I developed a DNA profile.

19 Q Did you find a match on those?

20 A Yes, I did.

21 Q Who was that match to?

22 A Terry Catoe.

23 Q And what is the --

24 A Probability?

25 Q Right.

LILLY GALLMAN - DIRECT

1 A I'll just read the paragraph from my report. The DNA
2 profile developed from the semen on item 7-8 matches the
3 DNA of Terry Catoe. The probability of randomly selecting
4 an unrelated individual having a DNA profile matching the
5 semen on this item is approximately one in 3.2
6 quintillion.

7 Q Now, I don't even know how much a quintillion is. I
8 assume that's a whole lot more than a billion.

9 A Yes, it is.

10 Q A lot more zeros.

11 A Yes, it is.

12 Q Now, items 9 and 10, where are those swabs from?

13 A 9-10 is swabs wet and dry from right hip. I also
14 found semen on those swabs and then went on to develop a
15 DNA profile.

16 Q Okay. And did you get a match on that profile?

17 A Yes.

18 Q And who was it?

19 A Terry Catoe.

20 Q And what's the probability on that one?

21 A It's one in 25 billion.

22 Q Now, let's move to item 18. Item 18 is fingernail
23 clippings on the victim. Were you able to do some DNA
24 profile off those fingernail clippings?

25 A Yes. I'm sorry, my report is 12 pages long.

LILLY GALLMAN - DIRECT

1 Q That's fine, take your time.

2 A Yes, I did. Item 18 is the right-hand fingernail
3 clippings from the victim.

4 Q Okay.

5 A And from my report the DNA obtain from item 18 is a
6 mixture of at least two individuals, the DNA profile of
7 the major contributor to this mixture is consistent with
8 victim Linda Gaymon. Terry Catoe cannot be excluded as a
9 minor contributor to this mixture.

10 Q Can you explain to the jury, what is a major
11 contributor and a minor contributor?

12 A When you have an item where there's more than two
13 individuals there it's called a mixture obviously, and
14 then you look at a profile and see whether you can
15 distinguish whether there's more of one person and less of
16 the other. And when you have a mixture where there's more
17 of one person you say that that person was the major
18 contributor. And since it is the victim's fingernail
19 scrapings, it's not uncommon for that person to be the
20 major contributor because it belongs to that person. And
21 then you can have a minor contributor who is there but in
22 a small amount.

23 Q Okay. So as a minor contributor it did match to Mr.
24 Catoe?

25 A He could not be excluded as a minor contributor.

LILLY GALLMAN - DIRECT

1 Q He could -- I'm sorry, could not be excluded.

2 A That's correct.

3 Q Now, you also got some swabs from some other folks,
4 did you not?

5 A Yes, I did. I got known standards from other
6 individuals.

7 Q Did you get standards from a William Catoe?

8 A Yes, I did.

9 Q From a Ricky Sistare?

10 A Yes.

11 Q From a Marion Stevens?

12 A Yes, I did.

13 Q Now, did you check those against these fingernail
14 clippings?

15 A Yes. I compared all known standards that were given
16 to me against the DNA profile from the evidence in this
17 case.

18 Q Well, Terry Catoe could not be excluded from these
19 fingernails. Were these three guys, were they excluded?

20 A Yes, they were.

21 Q By being excluded that means it is not their DNA; is
22 that right?

23 A No. I did not detect their DNA from the fingernail
24 scrapings.

25 Q Were you able to determine whose DNA was under the

LILLY GALLMAN - DIRECT

1 victim's fingernails on the left hand?

2 A Yes. The DNA obtained from item 19 is a mixture of
3 at least two individuals. The DNA profile with the major
4 contributor is consistent to the victim, Linda Gaymon.
5 But for the partial DNA developed of the minor contributor
6 was insufficient for interpretation, meaning that I didn't
7 have enough information there to give an opinion on who
8 the minor contributor could be.

9 Q Okay. Now, on items 20.1 and 20.2, those are vaginal
10 swabs, correct?

11 A Yes, that's correct.

12 Q Now, were you able to develop a DNA profile off of
13 20.1 and 20.2?

14 A Yes, I was.

15 Q Was there any foreign DNA on 20.1 and 20.2 other than
16 that of the victim?

17 A No, there was not.

18 Q Item 20.5 is rectal swabs. Was there any foreign DNA
19 developed on 20.5?

20 A Not what's considered to be the non-sperm fraction.
21 When we do -- when we have a sexual assault we attempt to
22 separate the sperm -- the sperms from the epithelial
23 cells, which would be the swabs that would be coming --
24 with the cells that would be coming from the victim. In
25 this particular case on the non-sperm fraction, which is

LILLY GALLMAN - DIRECT

1 the cells, epithelial cells coming from the victim there
2 was no one foreign to her. But when you look at the sperm
3 fraction, no human DNA was developed from that, so there
4 was no one in the sperm fraction of 20.5.

5 Q Okay. So out of everything that was sent to you from
6 law enforcement, all of these swabs, was there any DNA
7 found other than Mr. Terry Catoe or Ms. Gaymon?

8 A In reference to the swabs and the evidence taken from
9 her body, it was just the victim, Ms. Gaymon, and the
10 subject, Mr. Terry Catoe.

11 Q And from the evidence taken from her body, does
12 Mr. William Catoe, Ricky Sistare and Marion Stevens, they
13 were all excluded; is that correct?

14 A That's correct.

15 Q So no other DNA on her body that we know of other than
16 Mr. Catoe.

17 A Yes, and hers.

18 MR. NEWMAN: Beg the Court's indulgence.

19 THE COURT: All right.

20 (Break in proceedings.)

21 Q I'll show you what's been marked as State's 9. Can
22 you identify what that is?

23 A This is the item number 22, but I can't tell you
24 exactly -- this is the buccal swab from Ricky Sistare.

25 Q And that's the buccal swab that you checked?

LILLY GALLMAN - DIRECT

- 1 A Yes. A buccal swab is a Q-tip type -- the same with
2 cotton on the end and a long stick, but that's what a
3 buccal swab is. It's taken from the inside of the mouth.
- 4 Q I'll show you State's Exhibit 10 as well, and just ask
5 you to identify it as well.
- 6 A This is the buccal swabs from Marion Stevens.
- 7 Q Okay. And that's the buccal swab that you tested?
- 8 A Yes, this is SLED item number 21.
- 9 Q Now, I'm going to show you what has been marked as
10 State's 17, you can probably read through the package, if
11 you could just identify that.
- 12 A This is the buccal swab from William E. Catoe.
- 13 Q And is that what you checked?
- 14 A Yes.
- 15 Q And is it in the same condition as it was when you
16 returned it?
- 17 A Yes. I heat-sealed it and put the date and my
18 initials on the packaging.
- 19 Q Okay. And I'm going to show you what has been marked
20 as item 18. And again, you can probably read through the
21 package there to identify that.
- 22 A This is SLED item number 30. This is the buccal swab
23 from Terry Catoe.
- 24 Q And I'll show you what's been marked as State's 19 and
25 ask you if you can identify that?

LILLY GALLMAN - DIRECT

1 A This is SLED item number 17.1.1. And the reason why
2 it has point one point one, the original tube of blood,
3 instead of having a buccal swab from the victim we had
4 blood coming from the victim, toxicology examined it and
5 gave -- and then we had a portion submitted to us as item
6 17.1, and then once the blood is placed on a cloth that's
7 why it's in a coin envelope like this to dry, it's
8 given -- that's where the extra one is coming from. So
9 the blood that's on a cloth dried in this envelope as item
10 17.1.1 from the victim, Linda Gaymon.

11 Q And is that what you tested?

12 A Yes, it is.

13 Q Are these items in the same condition as they were
14 when you returned them to law enforcement?

15 A Yes.

16 Q Okay.

17 MR. NEWMAN: Your Honor, at this time I move State's
18 17, 18, 19 into evidence.

19 MR. LEE: No objection.

20 THE COURT: Without objection introduced into
21 evidence.

22 (The packages were received as State's 17-19.)

23 MR. NEWMAN: Thank you, Ms. Gallman. Please answer
24 anything Mr. Lee has.

25 THE COURT: Mr. Lee, your witness.

LILLY GALLMAN - CROSS

1 MR. LEE: Thank you, Your Honor. May it please the
2 Court?

3 THE COURT: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. LEE:

6 Q Ms. Gallman, I want to just ask you a couple of
7 questions if I can. In relation to the fingernail
8 clippings, I understand they come to you right-hand,
9 left-hand, but are the fingernail clippings themselves
10 separated into fingers?

11 A No, they're not. All of the clippings are clipped
12 off and placed in one envelope, and then what I do is I
13 swab them, I swab each one of them on the same swab and
14 then use that to test for DNA.

15 Q Okay. And on those clippings that you got, I believe
16 you said that from the left hand is just insufficient to
17 test, insufficient material to test, or what was that?

18 A There was material there that was -- the major
19 contributor was the victim. But what was left for as the
20 minor contributor did not give enough information to do an
21 interpretation from, so I couldn't say whether somebody
22 was included or excluded from that particular fingernail
23 scraping.

24 Q Would that be because there wasn't a lot there?

25 A There was not a lot from the minor contributor.

LILLY GALLMAN - CROSS

1 Q Okay. But you weren't able to determine which person
2 that might have been, is that correct, on that one?

3 A That's correct. It was not enough information from
4 the minor contributor to give an interpretation from the
5 results.

6 Q So it could have been anybody or --

7 A Yes.

8 Q It could have been anybody.

9 A Yes.

10 Q And on the other one, the right hand, I think you said
11 that basically came down to that you couldn't exclude him,
12 you couldn't conclude him but you couldn't exclude him
13 either, would that be a fair statement?

14 A I couldn't exclude him. Because the information that
15 was there says that I could not exclude him, unlike with
16 William Catoe or with the other two individuals, I could
17 exclude them, but with Mr. Terry Catoe I could not.

18 Q Let me ask you, and you may have already answered this
19 in a fashion, you're not talking about a lot of material
20 that you're working with, are you?

21 A What I'm looking at is fingernail clippings with the
22 fingernails clipped off and then each one I wet a swab and
23 I go across that swab. So no, you don't get a whole lot
24 of material, but it's still tested because you don't ever
25 know how much information you can get from that.

LILLY GALLMAN - CROSS

1 Q Can you tell whether these are skin cells or is it
2 just something that has the victim's or an individual's DNA
3 on it?

4 A I can't tell if all of it is just skin cells, but I'm
5 going with basically they are skin cells since it's from
6 the fingernails, but I can't tell because I did not test
7 it for other body fluids.

8 Q Okay. It could have been if somebody -- a victim
9 touched herself she could have gotten it from -- she could
10 have gotten the material from other body fluids that she
11 came in contact with?

12 A It's possible as was stated, there was not a lot of
13 sample there so I didn't test it for other body fluids, so
14 that could be possible.

15 Q In other words, it doesn't necessarily mean that
16 somebody was scratched, it could mean that it came from --
17 and then we're talking about sexual intercourse from
18 touching some part of the body that had DNA in it.

19 A I'm sorry?

20 Q We've had a lot of discussion about bodily fluids and
21 things of that nature here but I'm still sort of squeamish
22 about talking about it. Are you saying that it could be
23 from some other source other than skin cells?

24 A It could have because I didn't test it for body
25 fluids since I had such a small sample.

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1 Q And I think -- was there an exclusion factor on that
2 one?

3 A On item number --

4 Q 18.

5 A Eighteen? Exclusion factor as in?

6 Q Well, you gave one for 5 and 6 as one in 700 billion.

7 A Oh, the probability.

8 Q Probability, I'm sorry.

9 A It was a mixture, as I said, and a major contribute
10 (sic) came from the victim, and the minor I could not
11 exclude Terry Catoe. There was only a small amount from
12 the minor and the stat was one in three.

13 Q So in that case you really can't say -- you can't
14 exclude him, but you can't say it is his either; is that
15 correct?

16 A Well, there's other factors that come in that are
17 involved that based on our protocol there's information I
18 could not include when I was generating the frequency of
19 that particular event, so that's why the stats are one
20 three. The information there, once I compared Mr. Catoe's
21 DNA profile to the information from the minor contributor
22 I could not exclude him, and once I could not exclude him
23 then I went on to give you the probability of that
24 particular event.

25 Q Okay. Let me ask you, what is trace DNA? We hear

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1 that term a lot.

2 A Trace means that it's a small amount of sample there.

3 A lot of times when we're looking at a burglary and they
4 swab from a doorknob or from a window seal then we call
5 that as trace DNA because you actually don't see anything
6 there, but a swab is taken to test to see if there's a
7 possibility that you can derive from that who the subject
8 might be in the case.

9 Q And so in other words, this is my understanding is
10 that anytime we touch something some of our cells are
11 transferred to that object and that may be picked up in
12 something like trace DNA?

13 A Not necessarily so that every time you touch
14 something, but the possibility that you transfer it is
15 there, that's why it's tested.

16 MR. LEE: Thank you very much.

17 THE COURT: Any redirect?

18 MR. NEWMAN: Nothing further, Your Honor. Ask that
19 she be excused.

20 THE COURT: Thank you ma'am, you may step down, you
21 are free to leave. Ladies and gentlemen of the jury, we
22 will take our midafternoon recess. Don't talk about the
23 case, we'll get you back in here in about ten or 15
24 minutes. Okay?

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

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1 (The jury returned to the courtroom.)

2 THE COURT: All right. All members of the jury are
3 present. Call your next witness.

4 MS. COLLINS: Thank you, Your Honor. The State's next
5 witness is Ann Horton. Ms. Horton, if you will come
6 forward and be sworn.

7 The witness, ANN HORTON, was first duly sworn and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. COLLINS:

11 Q Please state your name.

12 A My name is Ann Horton.

13 Q Ms. Horton, if you could pull that microphone a little
14 bit closer to you and speak right into it. What is your
15 occupation?

16 A I am the evidence custodian for the Lancaster County
17 Sheriff's Office.

18 Q And what are the duties of the evidence custodian
19 there at the sheriff's department?

20 A When an officer collects any evidence he brings it to
21 our location in the crime scene and evidence building, it
22 is secured in a locker there. And I am the person that
23 opens those lockers, gives each piece of evidence a unique
24 number so that it can be transferred -- I can watch the
25 transfer from person to person and do a chain of custody

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1 on that, and then I may take that evidence to SLED to be
2 tested, I may send it through our own lab to be tested,
3 and it's bar-coded and checked in and checked out just
4 like a library system so I know each person who has
5 touched that piece of evidence.

6 Q How long have you been in law enforcement?

7 A I have been with them for six and a half years.

8 Q And how long have you served as evidence custodian at
9 the sheriff's department?

10 A For six and a half years.

11 Q So in February of 2012 you were serving in that
12 capacity?

13 A Yes, ma'am, I was.

14 Q Did you receive various items of evidence from various
15 members of law enforcement in this case?

16 A I did.

17 Q And pursuant to your duties as evidence custodian, did
18 you take them, log them into evidence and keep them as
19 evidence in your department?

20 A Yes, I did.

21 Q And as needed, did you transport certain items to SLED
22 for analysis?

23 A Yes, I did.

24 Q And when analysis of these various items were
25 completed, did you retrieve those items and bring them back

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1 here?

2 A I did.

3 Q Can you tell me, was any money at all recovered from
4 the scene at Starnes Street and placed into evidence to
5 your knowledge?

6 A No. No money was recovered that I received from
7 Starnes Street.

8 Q And was any money at all recovered from the victim's
9 body at the autopsy and placed into evidence that you're
10 aware of?

11 A I received no submission of any money from the
12 autopsy.

13 Q I want to show you -- I tried to have these lined up
14 so we can go straight through them. State's Exhibits 9 and
15 10 -- and I believe all of these are already in evidence.
16 The first one, can you tell me what Exhibit 9 is? Is that
17 a DNA standard from one of the citizen witnesses?

18 A Yes, it is. This is a buccal swab or a DNA standard
19 from Ricky Sistare.

20 Q And was that taken by Lieutenant Mike Howell and
21 submitted to you for evidence?

22 A Yes, it was.

23 Q And as we stated, you took that to SLED to be analyzed
24 and compared to the DNA recovered from the victim's body
25 and then retrieved after that analysis?

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1 A I did.

2 Q And the next item, item ten, is that a buccal swab
3 that is a known DNA standard from the citizen witness
4 Marion Stevens that found the body?

5 A Yes, it is.

6 Q And that was also recovered by Lieutenant Mike Howell
7 and placed into evidence with you; is that correct?

8 A Correct.

9 Q And you also transported that to SLED for DNA analysis
10 and then retrieved it at the conclusion of that; is that
11 right?

12 A Yes, I did.

13 Q This next exhibit, Ms. Gallman from DNA just testified
14 to, it's State's Exhibit 14. There's a piece of paper on
15 that. Is that kind of a coversheet to that exhibit?

16 A It is. This is a laboratory evidence release receipt
17 and it is signed by me that I picked it up and it is
18 signed by Amy Stevens who released the piece of evidence
19 from me at SLED.

20 Q And to your knowledge all of those items in that bag
21 were turned into evidence by law enforcement after they
22 were duly collected in the course of the investigation in
23 this case?

24 A Yes, they were.

25 Q And you preserved them and took them to SLED for

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1 analysis, and when the analysis was completed you retrieved
2 it and put it back into custody with your department; is
3 that right?

4 A That is correct.

5 Q All of the items listed there on that coversheet, to
6 the best of your knowledge, are they contained within that
7 plastic bag that's marked as State's Exhibit 14?

8 A Yes, it is. I know that because this says container

9 A and SLED has marked this as container A.

10 Q Okay. Thank you.

11 MS. COLLINS: Your Honor, with the Court's permission
12 since this is a coversheet, I would like to staple this to
13 the corner of this bag.

14 MR. LEE: No objection.

15 THE COURT: Without objection you can do at that.

16 Q The next exhibit is State's Exhibit 15, I would like
17 to show you this. And what is that item that is already in
18 evidence?

19 A This is the contents of a criminal sexual assault
20 kit. This would have had to have been collected at the
21 autopsy and it was brought to me by Jeff Steele who was
22 there for the autopsy, he submitted them to our evidence
23 and then I took it to SLED for it to be analyzed.

24 Q All right. Very good. Thank you. State's Exhibit
25 16, which is already in evidence, can you tell us what that

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1 item is, please?

2 A These are fingernail clippings from the right and
3 left hand of Mrs. Gaymon and they were collected by Dr.
4 Ross at the autopsy. Jeff Steele submitted them to me and
5 I took them to SLED for analysis and picked them up.

6 Q Thank you. I believe you were here when those were
7 referenced during the testimony of Ms. Gallman from the DNA
8 department; is that right?

9 A Yes.

10 Q I show you now what's been marked as State's Exhibit
11 17, and ask you, what is that item, please?

12 A This is a buccal swab which is a standard -- a known
13 standard for Mr. William Lee Catoe.

14 Q All right. And I believe that was collected by
15 Investigator Danny Bennett and submitted to your
16 department; is that right?

17 A Yes.

18 Q And you transported that to SLED to be compared to DNA
19 evidence taken from the victim's body; is that right?

20 A That's correct.

21 Q And then retrieved it after that analysis was done?

22 A That is correct.

23 Q And buccal standard, again, we've heard a buccal is a
24 Q-tip but it's on a longer wooden stick; is that right?

25 A It is.

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1 Q And the buccal swab, it's just rubbed up on the inside
2 of the cheek to get those cells for a DNA sample; is that
3 right?

4 A The epithelial cells are obtained from the inside of
5 the cheek. I do not do those, our crime scene
6 investigators do, but after they are dried I have those
7 and send them to SLED.

8 Q You receive them then.

9 A I do.

10 Q And by a known standard, by that as opposed to just
11 having some DNA and not knowing -- not knowing who it
12 belongs to, if you were to take my epithelial, or inside
13 cheek swabs, that's a known standard because you would know
14 and put on the form that it was known to be mine; is that
15 correct?

16 A That is correct.

17 Q And State's Exhibit 18, which is already in evidence,
18 I ask you, what is that item, please?

19 A This is a known standard or a buccal swabs cheek
20 cells from Terry Catoe.

21 Q Thank you. And I believe Lieutenant Christy Rogers of
22 CSI collected that after he consented to the submission of
23 that, and she submitted that to your department and you
24 thereafter forwarded that to SLED for analysis and then
25 retrieved it after that analysis was completed; is that

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1 correct?

2 A That is correct.

3 Q And finally, State's Exhibit looks like 19, what is
4 that?

5 A This is what we call a dried blood standard when Dr.
6 Ross retrieved a known blood standard from Ms. Gaymon
7 during autopsy. I took that -- well, Jeff Steele took it
8 from her, he submitted it to me, I took it to SLED and
9 then they put this on a cloth to make a dry standard. The
10 reason they do this is because this will last much longer
11 than what a tube of blood would last and we are able to
12 hold on to this longer.

13 Q I want to go back very briefly to Number 14, which was
14 that big packet that we've now attached the coversheet and
15 just ask you, contained therein I believe are numerous
16 swabs that are taken predominately from the hip and thigh
17 area of the victim, the area that illuminated under the
18 ultraviolet or UV light; is that correct?

19 A That is correct.

20 Q And it appears from your knowledge, from you keeping
21 the custody log, that those swabs were taken at the
22 coroner's office where the body had been taken after
23 removal from the crime scene and swabbed by the crime scene
24 unit, I believe Lieutenant Christy Rogers who later
25 submitted them into evidence with you; is that right?

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1 A That is correct.

2 Q And those were the items, as you heard the testimony
3 of Ms. Gallman, that ultimately matched the DNA of Terry
4 Catoe, the seminal fluid found on the hip and thigh area;
5 is that correct?

6 A That is correct.

7 MS. COLLINS: Again, Your Honor, it's my understanding
8 that all of these items are in evidence, if not we would
9 certainly move them into evidence at this time, but I
10 believe they already are.

11 MR. LEE: We have no objection if they weren't.

12 THE COURT: To the extent it hasn't been moved into
13 evidence the defense has no objection, then they will be
14 subsequently moved into evidence, those particular items.

15 MS. COLLINS: Thank you very much.

16 Q Now, Ms. Horton, finally there were various items that
17 were also recovered from this crime scene. You've heard
18 testimony that it was cluttered house, that there was
19 various clothing, and unfortunately used condoms, unused
20 condoms, different beer cans and things in the house. But
21 there were other items that were recovered and placed into
22 evidence that you have still in your custody if the defense
23 were to want to show them to the jury, correct?

24 A That is correct.

25 Q And in fact, you've heard reference -- you've been in

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1 here today during the entire testimony as custodian of
2 evidence, you heard testimony about the victim's black with--
3 red streaks wig; is that correct?

4 A Yes.

5 Q And her black purse; is that correct?

6 A That is correct.

7 Q And you have all of that in evidence but we also have
8 pictures of those to show to the jury; is that correct?

9 A That is correct.

10 Q Thank you.

11 MS. COLLINS: Please answer any questions of Mr. Lee.

12 THE COURT: Mr. Lee?

13 MR. LEE: Thank you, Your Honor. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. LEE:

18 Q Ms. Horton, you say you have other items other than
19 the DNA items and things of that nature, clothing items?

20 A Yes, that is correct.

21 Q And do you inventory -- when you get an item and it
22 has got more than one part, do you inventory that item?

23 A Yes, we do inventory what we have.

24 Q Did you inventory her purse?

25 A Yes, we do.

ANN HORTON - CROSS

1 Q Was there anything in the purse that was unusual?

2 A I don't recall anything unusual.

3 Q Let me ask you specifically then, did you find a spoon
4 in that purse?

5 A I do not have that supplement with me to know. There
6 were several people in the room when we inventoried that
7 purse and there's a supplement in our case that gives
8 exactly what we found in that purse, and I am sorry, I do
9 not remember at this time. But we can get that supplement
10 and I will be glad to read it for you.

11 MS. COLLINS: And may it please the Court? Through
12 the discovery process we've provided that to Mr. Lee and
13 Lieutenant Christy Rogers prepared that inventory and she
14 will testify first thing in the morning.

15 MR. LEE: That's fine, Your Honor. That's all I have
16 of her.

17 THE COURT: Thank you, ma'am, you may step down. Call
18 your next witness.

19 MS. COLLINS: Thank you, Judge. The next witness and
20 last witness that we anticipate for today is Jeff Steele.

21 The witness, JEFF STEELE, was first duly sworn and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLLINS:

25 Q Would you please state your name?

JEFF STEELE - DIRECT

1 A Jeff Steele.

2 Q What is your occupation?

3 A I'm a crime scene investigator with the Lancaster
4 County Sheriff's Office.

5 Q What are your duties as a member of the crime scene
6 investigation unit of the sheriff's department?

7 A It's to respond to incident locations or scenes,
8 process the scenes by taking photographs, collect evidence
9 and try to aid in the investigation.

10 Q How long have you been a full-time officer with law
11 enforcement here for Lancaster County?

12 A Full-time for about 14 or 15 years.

13 Q Have you served with CSI during all of your years with
14 law enforcement?

15 A No, ma'am.

16 Q How many years have you served with CSI?

17 A For about the past seven years.

18 Q What did you do for your first seven years of law
19 enforcement?

20 A Patrol division.

21 Q Prior to being a full-time officer with Lancaster
22 County Sheriff's Department, did you have other law
23 enforcement experience before that?

24 A Yes, ma'am, I did.

25 Q How many years and doing what?

JEFF STEELE - DIRECT

1 A I was a reserve officer with the Lancaster County
2 Sheriff's Office for about ten years.

3 Q So altogether your experience as a law enforcement
4 officer is about 25 years?

5 A Yes, ma'am.

6 Q What special training do you have to receive to serve
7 as a member of the crime scene investigation unit?

8 A Well, we were sent to the National Forensics Academy
9 at the University of Tennessee, we graduated from there in
10 ten weeks in their residency program, which gives us a
11 national certification. On top of that also we do monthly
12 training. We do webinars through the University of West
13 Virginia, we also do training with the IAI, International
14 Association Identification, and go to classes anytime we
15 can get a class in our field.

16 Q Do you receive special training, for example, in
17 fingerprints?

18 A Yes, ma'am. Fingerprints, reconstruction, blood
19 stain pattern analysis and shooting reconstruction.

20 Q Were you involved in the investigation of the case
21 currently before the Court which resulted in the defendant,
22 Terry Catoe, being charged with the murder of Linda Massey
23 Gaymon?

24 A Yes, ma'am, I was.

25 Q Investigator Steele, what did you first do as part of

JEFF STEELE - DIRECT

1 the investigation team in this case?

2 A I was summoned to the location by Lieutenant Christy
3 Rogers, when I first arrived I was briefed about the
4 incident.

5 Q Is Lieutenant Rogers over the entire CSI unit?

6 A Yes, ma'am, she is.

7 Q And when you arrived she briefed you as to what was
8 going on, what y'all had found?

9 A Yes, ma'am.

10 Q And you said you went to the Starnes Street location;
11 is that right?

12 A Yes, ma'am.

13 Q Now, was this an abandoned home on Starnes Street?

14 A Yes, ma'am. It appeared to be an abandoned home in a
15 circular pattern with some other abandoned houses.

16 Q These are small houses; is that right?

17 A Yes, ma'am.

18 Q This was kind of a very light creamy yellow?

19 A Yes, ma'am.

20 Q And all of these abandoned houses are within Lancaster
21 County, South Carolina, correct?

22 A Yes, ma'am, they are.

23 Q And therefore within your jurisdiction, correct?

24 A Yes, ma'am.

25 Q We've heard the address , or , did this

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1 particular house actually have a number on it?

2 A No, ma'am, I didn't see no numerics.

3 Q But all of the abandon homes you said are here within
4 the county within your jurisdiction, correct?

5 A Yes, ma'am.

6 Q Was the Starnes Street site identified as the scene
7 where it appeared the victim had, in fact, died?

8 A Yes, ma'am.

9 Q In other words, the body did not appear to have been
10 moved; is that correct?

11 A Yes, ma'am.

12 Q Is the house on Starnes Street -- let me back up. Let
13 me show you a few pictures. I first want show you what's
14 already in evidence as State's Exhibits 7, 8, 6 -- 6, 7 and
15 8 and ask you, do those appear to be true and accurate
16 representations and photographs of the house on Starnes
17 Street where the body of the victim was found on February
18 24th of 2012?

19 A Yes, ma'am, it is.

20 Q I want to show you some additional photographs. I
21 want to show you now what's been marked as State's Exhibits
22 20 through 26, and ask you, do you recognize those
23 photographs?

24 A Yes, ma'am, I do.

25 Q All right. And are those all photographs of the

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1 exterior of the home where the body of the victim was found
2 on Starnes Street?

3 A Yes, ma'am.

4 Q And are all of those fair and accurate depictions of
5 the exterior of the home as you observed it to be when you
6 arrived at the scene of the crime on February 24th of 2012?

7 A Yes, ma'am.

8 THE COURT: Your Honor, at this time I move State's
9 Exhibits 20 through 26 into evidence.

10 MR. LEE: No objection.

11 THE COURT: Without objection introduced into
12 evidence.

13 (The photos were received as State's 20-26.)

14 Q So backing up again to what's already in evidence as
15 States Exhibits 6 through 7. This is a view of the
16 exterior of the front of the home as you observed at the
17 time you arrived on February 24th, 2012; is that correct?

18 A Yes, ma'am.

19 Q And there's a couch standing up on one arm in front of
20 the doorframe; is that correct?

21 A Yes, ma'am.

22 Q And this is a closer view of the front door with the
23 couch in front of the doorframe, correct?

24 A Yes, ma'am.

25 Q When you arrived, was that couch still in front of the

JEFF STEELE - DIRECT

1 doorframe?

2 A Yes, ma'am, it was.

3 Q And were you able to duck underneath it and enter the
4 home?

5 A Yes, ma'am.

6 Q It did not have to be moved?

7 A No, ma'am.

8 Q And that's a shot of the interior of the house looking
9 back at the doorframe where the couch is; is that correct?

10 A Yes, ma'am.

11 Q Were you there when the couch ultimately was later
12 moved?

13 A I was but I can't remember seeing it moved. But it
14 was moved, I assume, by the coroner transport team.

15 Q We see that there were no cushions in the photographs.
16 When you saw it, did it appear that actually the seat area
17 was somewhat rotted out?

18 A Yes, ma'am.

19 Q Was it basically the frame of the couch?

20 A Yes, ma'am.

21 Q All right. And turning to what's just been admitted
22 into evidence, again, the exterior of views of house, this
23 is State's Exhibit 20, this is the back rear left of the
24 house; is that correct?

25 A Yes, ma'am.

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1 Q This is State's Exhibit 21, the left side of the home
2 coming from the rear; is that correct?

3 A Yes, ma'am.

4 Q State's Exhibit 22. Again, you're just circling
5 around and seeing again -- you can see the front door now
6 from that angle from the left side of the home; is that
7 correct?

8 A Yes, ma'am.

9 Q Is your monitor on?

10 A Yes, ma'am.

11 Q State's Exhibit 23. Again, were you the one -- you
12 were the one taking these pictures, correct?

13 A Yes, ma'am.

14 Q So again, we're just showing the jury, continuing to
15 walk around the home. This is from the right front corner
16 of the home looking back at the home, correct?

17 A Yes, ma'am.

18 Q And that was 23. State's Exhibit 24, as you continue
19 around the right corner of the front of the home to the
20 right-hand side we now see what appears to be another
21 exterior door; is that correct?

22 A Yes, ma'am.

23 Q And unlike the front doorframe, this actually has a
24 door in it, correct?

25 A Yes, ma'am.

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1 Q And later I believe there will be a picture of that
2 closed door from within; is that right?

3 A Yes, ma'am.

4 Q And again to your recollection, was there a board
5 placed across the inside of that side door such that no one
6 could use that as an entrance?

7 A That's correct.

8 Q And that little area right here back behind it, is
9 that like a little outside shed attached to the house?

10 A Yes, ma'am. That's an attached storage area and
11 there's no door on it at all.

12 Q There's no door coming to the outside at all?

13 A No, ma'am.

14 Q And there's no door inside that storage area that goes
15 up into the house; is that correct?

16 A That's right.

17 Q So the only possible entrances to the house would be
18 the side door, which was boarded from within, correct?

19 A Yes, ma'am.

20 Q And the front where that couch was blocking the
21 doorframe, correct?

22 A Yes, ma'am.

23 Q State's Exhibit 25. Again, circling on around we see
24 a better view now of that attached shed again with no
25 exterior door on it, correct?

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1 A That's right.

2 Q But again, you're saying there's no internal door that
3 goes up into the house from that internal shed.

4 A That's correct.

5 Q And finally, State's Exhibit 26, this is circling back
6 around, we're now back around the back of the property; is
7 that right?

8 A Yes, ma'am.

9 Q And again, I said yellow, of course compared to that
10 bright yellow crime scene tape it looks more beige, but its
11 again a beigeish (sic), very, very light yellow house,
12 correct?

13 A Yes, ma'am.

14 Q So when you first arrived you were briefed by
15 Lieutenant Rogers and you took photographs of the exterior
16 of the home, correct?

17 A Yes, ma'am.

18 Q And then what did you do? What does processing a
19 crime scene mean?

20 A That's when we go in and we actually collect physical
21 evidence that may aid in the investigation.

22 Q And before you processed and start collecting evidence
23 that might aid in the investigation, do you also take
24 photographs of the interior of the home?

25 A Yes, ma'am. We photograph and sometimes even video,

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1 in this case we did both.

2 Q And since the video depicts the remains and the body
3 of the deceased we have still photos, but you've looked at
4 both of those and the still photos are accurate depictions
5 of the scene with the body of the victim for her dignity
6 purposes cropped out, correct?

7 A Yes, ma'am.

8 MS. COLLINS: I've already shown these to Mr. Lee.

9 And Mr. Lee, I'll be glad to show them again to you if you
10 would like.

11 Q I want to show you now, Investigator Steele, what has
12 been marked as State's Exhibits 27 through 36 and ask you
13 to look through those, if you will.

14 A Okay.

15 Q Do all of those appear to be accurate photographs and
16 depictions of the scene, the interior of the scene on
17 Starnes Street where you found -- you and law enforcement
18 found the body of Linda Massey Gaymon on 2/24 of 2012?

19 A Yes, ma'am, it is.

20 Q And other than having been cropped to eliminate the
21 body of the victim as lying on the mattress, again, they
22 have not been edited in any way; is that correct?

23 A Yes, ma'am.

24 Q And those are all photographs that you took; is that
25 correct?

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1 A Yes, ma'am.

2 Q Would you tell me those numbers, the first and last
3 again? Is it 27 through --

4 A That's number 27.

5 Q And what's the last one?

6 A 36.

7 MS. COLLINS: Thank you. I move 27 through 36 into
8 evidence at this time, Judge.

9 MR. LEE: No objection.

10 THE COURT: Without objection entered into evidence.

11 (The photographs were received as State's 27-36.)

12 Q Let's just walk through these for the jury if we
13 could. First Exhibit 27. Is this one of the first rooms
14 you see once you come and duck under the couch and go in?

15 A Yes, ma'am.

16 Q Where was this room, to your left or your right, do
17 you remember?

18 A That's the immediate as soon as you walk in the front
19 door, that's going to be what somebody probably used to be
20 a den or a living room area.

21 Q This was not the room where the body of the victim was
22 found; is that correct?

23 A Yes, ma'am.

24 Q We see that part of the ceiling and insulation is
25 coming down; is that right?

JEFF STEELE - DIRECT

1 A Yes, ma'am.

2 Q But it did not appear to you that actually there was
3 any leaking of the roof; is that right?

4 A No, ma'am.

5 Q The room was dry inside the best you remember; is that
6 right?

7 A Yes, ma'am.

8 Q And State's Exhibit 28 next. Would that be as you're
9 turning away from that room and looking straight down the
10 hall?

11 A Yes, ma'am.

12 Q I see a refrigerator, so that would be the kitchen
13 ahead of you; is that correct?

14 A Yes, ma'am.

15 Q Or am I wrong on that?

16 A That's just looking straight down toward that
17 hallway, yes, ma'am.

18 Q If you will, Investigator, turn that microphone a
19 little bit towards you, I'm a little hard of hearing. Next
20 we've got State's Exhibit 29. Tell us what this is a
21 picture of.

22 A This is a picture of that exterior door that you seen
23 in the kitchen area of the residence, this is the interior
24 section of that door that's boarded with a -- got a board
25 across it barring it from it being opened.

JEFF STEELE - DIRECT

1 Q So again to the best of your knowledge, no entry could
2 be made of the home through this door; is that correct?

3 A That's correct.

4 Q And next we have State's Exhibit 30. Now, I see here
5 in this picture a mattress; is that right?

6 A Yes, ma'am.

7 Q Is this a photograph of the interior of the room where
8 the body of Linda Massey Gaymon was found?

9 A Yes, ma'am, it is.

10 Q And in fact, is that the mattress where Mrs. Gaymon's
11 body was found?

12 A Yes, ma'am.

13 Q And right here we've cropped, but her body would be to
14 the right over here of the mattress, right?

15 A That's correct.

16 Q But still on the mattress, correct?

17 A Yes, ma'am.

18 Q And right here we have an item. Do you know what this
19 item is here that I'm pointing to?

20 A That's a wig.

21 Q And right here, this item beside the mattress?

22 A A shoe.

23 Q Next I'm going to show you State's Exhibit 31, just
24 another picture of the interior of the room where the body
25 of the victim was found; is that correct?

JEFF STEELE - DIRECT

- 1 A Yes, ma'am.
- 2 Q Again, we've cropped this, but on State's Exhibit 32
3 you can see the bottom of the mattress there, correct?
- 4 A Yes, ma'am.
- 5 Q And again just another angle where you've got here
6 something labeled one. Do you recall what that was?
- 7 A Yes, ma'am. That's -- we put the evidence marker
8 there to represent the black purse that you can see there
9 right by it.
- 10 Q So would that be the black purse right there?
- 11 A Yes, ma'am.
- 12 Q And then we've got four by the wig; is that correct?
- 13 A Yes, ma'am.
- 14 Q And this is again -- I see that shoe right behind
15 number four; is that right?
- 16 A Yes, ma'am.
- 17 Q And this is just showing the proximity to the mattress
18 here, correct?
- 19 A That's correct.
- 20 Q And next we've got State's Exhibit 33, which is also
21 again then cropped, but we can see here this top left
22 corner of the mattress here behind four where the wig is
23 and the shoe, correct?
- 24 A Yes, ma'am.
- 25 Q And I see some other things back here, looks like

JEFF STEELE - DIRECT

1 number two might be marking where -- is that perhaps packet
2 with a condom?

3 A Yes, ma'am.

4 Q That was unopened; is that right?

5 A That's either a open or unopened, we collected both.

6 Q There were numerous of those types of items throughout
7 this area, correct?

8 A Yes, ma'am.

9 Q How would you describe the general condition of the
10 home particularly this room where the body of the victim
11 was found?

12 A It was in total disarray. You've got trash, like
13 liquor bottles, cans, clothing items just all over the
14 place.

15 Q And you would say there were multiple used condoms?

16 A Yes, ma'am, multiple used, multiple wrappers which
17 were eventually collected.

18 Q Back here I see we've got a five and a six, do you
19 happen to recall what that was marking?

20 A Five is going to be a liquor bottle, and number six
21 is going to be a premium brand condom wrapper.

22 Q Now, here we have got State's Exhibit 34. And what's
23 being shown, again, the marker one to the left of which is
24 the purse of the victim, correct?

25 A Correct.

JEFF STEELE - DIRECT

1 Q And if I recall correctly the mattress would be over
2 here to the right; is that correct?

3 A That's correct.

4 Q Now, the purse is shown kind of open, is that how it
5 was when you saw it?

6 A Yes, ma'am.

7 Q And that purse was taken and collected and put into
8 evidence, correct?

9 A Yes, ma'am.

10 Q And later I believe Lieutenant Rogers inventoried in
11 our presence, I was there as well as yourself and Ms.
12 Horton, the contents of that purse at my request, correct?

13 A That's correct.

14 Q And, of course, we'll hear from her tomorrow. State's
15 Exhibit 35 appears to be someone's gloved hand holding a
16 South Carolina Identification Card of Linda Massey Gaymon;
17 is that correct?

18 A Yes, ma'am.

19 Q Is that your hand holding that?

20 A No, ma'am.

21 Q Do you recall whose was?

22 A I believe that is Deputy Coroner Christy Massey.

23 Q And the deputy coroner -- that was an item, an ID card
24 retrieved from the black purse that we saw on the floor
25 there; is that correct?

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1 A Yes, ma'am, it was.

2 Q And to the best of your knowledge that was the
3 identification card of the deceased whose body was found
4 there at Starnes Street; is that correct?

5 A Yes, ma'am.

6 Q And that ID card, you saw deputy coroner get that out
7 of the purse in your presence?

8 A Yes, ma'am.

9 Q And finally here we have a closeup in State's Exhibit
10 36 of the wig of the victim; is that right?

11 A Yes, ma'am.

12 Q And I can see here some -- to me it looks kind of some
13 grayish but it's black and I think some there is some red
14 streaks down here; is that correct?

15 A Yes, ma'am.

16 Q And here again is that shoe; is that right?

17 A Yes, ma'am.

18 Q Now, are you familiar with these types of shoes?

19 A No, ma'am. It just looks like a Spurrier (sic) type
20 shoe.

21 Q Is that similar to like Dockers?

22 A Like a lounge.

23 Q Just like a flat shoe.

24 A Yes, ma'am.

25 Q Thank you.

JEFF STEELE - DIRECT

1 MS. COLLINS: And again I believe, Judge, I have moved
2 these in.

3 THE COURT: They're in.

4 MS. COLLINS: Thank you.

5 Q Now, let's talk about what it means to process the
6 scene and gathering various items of evidence.

7 A Okay.

8 Q Did you actually take measurements of the location of
9 the victim's body there on the mattress, for example, how
10 far her arm might be from the wall, et cetera?

11 A Yes, ma'am, we did.

12 Q And you prepared a report, or Lieutenant Rogers
13 prepared a report?

14 A Lieutenant Rogers prepared a report..

15 Q And we'll talk to her about that then. But you were
16 present, though, when those measurements were being made?

17 A Yes, ma'am.

18 Q You've already stated you were present when Deputy
19 Coroner Christy Massey, came to the scene, I know she
20 looked at the ID card. Were you there when she examined
21 the body of the victim?

22 A Yes, ma'am, I was.

23 Q Can you describe, Investigator, describe the victim's
24 body as you yourself observed it to be at the scene?

25 A I entered the room, I noticed a black female victim

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1 laying across the bed, she was facing east to west, her
2 head was facing the east wall. She was laying on her left
3 side with her left foot extended slightly off the
4 mattress, her right foot back bent slightly at the knee
5 just short of the bottom of the mattress. Her body was
6 leaning slightly to the right with her left arm extended
7 out from her body, and her right arm bent at the elbow
8 with her hand up toward her face. She was nude from the
9 waist down, the only clothing items that she had on was a
10 black bra and striped shirt that was pushed up exposing
11 her right breast.

12 Q And she was laying on her left side you said?

13 A Yes, ma'am.

14 Q What examination of the victim's body was done there
15 at the crime scene?

16 A Excuse me?

17 Q What examination of the victim's body was done right
18 there at the crime scene?

19 A Myself and Christy Massey examined the body for any
20 external injuries. We noticed some slight bruising to the
21 top of her head and some swelling around her eyes, we also
22 noticed a little small amount of blood running from the
23 left side of her lip. Once we started noticing these
24 things Christy Massey started checking her eyes, once
25 checking her eyes she noticed a distinct pattern of

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1 petechia in her eyes, which is usually an indication
2 there's some kind of obstruction in the airway, it could
3 be a sign of asphyxia or whatever. At that point we
4 decided we would start checking the rest of the body. We
5 thought we might be dealing with some type of sexual
6 assault based on the body's position and we decided to go
7 into other means to examine the body.

8 Q Were her eyes actually closed when y'all first saw
9 her?

10 A Yes, ma'am.

11 Q Does Deputy Coroner Massey have to lift the lid of
12 each eye to observe the petechia on the inside?

13 A Yes, ma'am.

14 Q Did you observe, was there fecal matter around the
15 lower body of the victim?

16 A Yes, ma'am. We seen a brown/tan fluid that gave the
17 appearance of being fecal matter.

18 Q And, of course, fecal matter being stool or solid
19 waste from the body as opposed to urine; is that correct?

20 A Yes, ma'am.

21 Q And that would come from the anus, correct?

22 A Yes, ma'am.

23 Q Did you observe that to be not only around the anus
24 but also around the vagina?

25 A Yes, ma'am, I did.

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1 Q And, of course, the body of the victim was not cleaned
2 off at that time; is that correct?

3 A That's correct.

4 Q It's preserved exactly like that and moved to the
5 coroner's office, but again, the fecal matter is not
6 cleaned off so that the doctor who does the autopsy can see
7 it exactly in that condition; is that correct?

8 A That's correct.

9 Q There was no fecal matter actually found on the
10 mattress itself; is that correct?

11 A No, ma'am.

12 Q Were there bruises observed to the victim's body at
13 the scene other than what you've already described? I
14 think you described one to the top of the head or the
15 forehead, is that correct --

16 A Yes, ma'am.

17 Q -- around the eye area? Did you observe anything to
18 the lip area?

19 A No, ma'am, just the trickle of blood. There was a
20 little bit of swelling there and we noticed some bruising
21 around the neck area, top portion of the neck.

22 Q The trickle of blood, there was no pooling, there was
23 just a little trickle of blood running out the left lip; is
24 that correct?

25 A That's correct.

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1 Q Left corner of the mouth. Did you observe -- do you
2 have a special technique to check for bodily fluids at the
3 crime scene?

4 A Yes, ma'am, we do.

5 Q Tell us about that. How do you do that?

6 A We have an instrument called an alternate light
7 source, what it does, it emits a powerful light in wave
8 lengths -- different wave lengths. These wave lengths are
9 filtered down using a barrier, for us it's a pair of
10 goggles, when you use that it interacts with the bodily
11 fluids. Certain fluids, especially in sexual assaults,
12 tend to be naturally fluorescent in nature, so when you
13 illuminate them with a light source it causes them to
14 basically go up and you're able to view them without being
15 able -- without the light source you would not be able to
16 sometimes see these fluids at all.

17 Q Not to be indelicate but we're all adults here, what
18 type of bodily fluids, especially with sexual assaults as
19 you stated, would you expect to fluoresce under that
20 alternate light source?

21 A You would be looking for semen, vaginal discretion,
22 anything of that nature.

23 Q Okay. The alternate light source, is that also called
24 a UV or ultraviolet light or is that something different?

25 A There's a portion inside the light that goes into

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1 that particular type of wave length, yes, ma'am.

2 Q Do y'all have to darken the interior of the home by
3 putting sheets or something up in front of the windows when
4 you use that?

5 A Yes, ma'am. The more darkness the better you would
6 be able to control that lighting to get a better view.

7 Q And you did that in this case?

8 A Yes, ma'am, we did.

9 Q Were those types of bodily fluids seen when you used
10 the alternate light source on the victim's body?

11 A Yes, ma'am, they were.

12 Q And where on the victim's body did that fluoresce?

13 A Generally on the right hip and buttocks area down
14 toward the thigh, we noticed that inside the residence.

15 Q And that would be indicative to you of bodily fluids
16 secreted during the course of a sexual assault, or sexual
17 interaction?

18 A Yes, ma'am.

19 Q Did you see any impression that you -- was there any
20 impression that you observed there in the stain of that
21 bodily fluid that fluoresced on the victim's hip or thigh?

22 A Yes, ma'am.

23 Q What was that?

24 A We was unable to determine. We thought it may
25 originally be a footwear impression but there was not

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1 enough detail for us to make a comparison on it.

2 Q And where was that? Was that on the hip or the thigh,
3 or do you recall?

4 A Between the hip and thigh, right there kind of at the
5 bottom edge.

6 Q On her right hip area?

7 A Yes, ma'am.

8 Q Was there any other type of impression? At anytime
9 did y'all think that you might have observed some other
10 type of impression there on that fluid?

11 A Yes, ma'am.

12 Q What was that?

13 A During our examination with the ALS, or the alternate
14 light source, we noticed some areas that appeared to have
15 some ridge detail that we thought may be a latent print.
16 We attempted to lift a latent print but we were unable to
17 actually get enough detail to be able to make a
18 comparison.

19 Q Were there any weapons found at the crime scene?

20 A No, ma'am, there were not.

21 Q We've talked about the items and seen them in the
22 pictures located in the victim's body, that included a wig,
23 a black purse, shoes and clothing, correct?

24 A Yes, ma'am.

25 Q Do you recall some of the clothing being dark blue

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1 sweat pants?

2 A Yes, ma'am.

3 Q After the measurements had been taken of the victim's
4 location at the crime scene and the photos made, was the
5 victim's body then taken to the coroner's officer here in
6 Lancaster?

7 A Yes, ma'am, it was.

8 Q Did you and Lieutenant Rogers then go to the coroner's
9 office for further examination of the body of the victim in
10 better lighting conditions?

11 A Yes, ma'am, we did.

12 Q And when you arrived there again, the body had not
13 been cleaned or altered in any way, correct?

14 A That's correct.

15 Q It had been taken from the crime scene at the request
16 of Deputy Coroner Massey by the rescue squad, I believe,
17 directly to the morgue area, the secure area at the
18 coroner's office; is that right?

19 A That's correct.

20 Q So when you arrived there with Lieutenant Rogers, were
21 swabs taken from the hip and thigh area of the victim's
22 body at the coroner's office for suspected bodily fluids?

23 A Yes, ma'am.

24 Q That was done in your presence by Lieutenant Rogers?

25 A Yes, ma'am.

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1 Q Were those submitted into evidence for Ann Horton
2 ultimately to take them into custody and then later take
3 them to SLED for DNA analysis?

4 A Yes, ma'am.

5 Q And to your knowledge those swabs were submitted later
6 for DNA analysis; is that correct?

7 A That's correct.

8 Q No swabs were taken by either you or Lieutenant Rogers
9 of the interior body cavities of the victim there at the
10 morgue; is that right?

11 A That's correct.

12 Q That is reserved for the formal sexual examination kit
13 that's conducted by the doctor who is doing the autopsy; is
14 that right?

15 A That's correct.

16 Q Because again, y'all didn't disturb or touch the fecal
17 matter that was there on the exterior of the anus and the
18 vagina in any way, correct?

19 A That's correct.

20 Q So y'all didn't push it up into the cavities, it was
21 just left there untouched; is that right?

22 A That's correct.

23 Q You only swabbed the hip and the thigh area, correct?

24 A That's correct.

25 Q You submitted these various items such as the wig, et

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1 cetera, that were collected in evidence into the
2 custodian -- into the custody of Ann Horton, the evidence
3 custodian; is that right?

4 A That's correct.

5 Q That would include the shoes, the wig, the purse, the
6 dark sweat pants, et cetera; is that right?

7 A That's correct.

8 Q Did you at anytime -- it's fair to say, it is not,
9 that y'all were going through this area with a fine tooth
10 comb, am I right?

11 A That's correct.

12 Q Because at that time you didn't have a suspect, did
13 you?

14 A That's correct.

15 Q But you know from having served in evidence for some
16 many years and CSI that SLED, because they do analysis
17 throughout the state, they actually limit the number of
18 items that are turned into them for analysis; is that
19 right?

20 A That's correct.

21 Q And for that reason you knew that you start initially,
22 with the body itself, correct?

23 A That's correct.

24 Q And anything on the body such as the fluoresced fluids
25 on the hip and thigh, correct?

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1 A That's correct.

2 Q And then you move to the area such as the wig and the
3 purse that's in that close proximity to the victim's body;
4 is that right?

5 A That's correct.

6 Q And then you moved out a little further in that room,
7 correct?

8 A That's correct.

9 Q But you took pictures throughout the house, correct?

10 A Correct.

11 Q At anytime did you see any money whatsoever there
12 inside of that home?

13 A No, ma'am.

14 Q So you never saw \$10 or \$15?

15 A No, ma'am.

16 Q You never saw any folded money at all in that home?

17 A No, ma'am.

18 Q You accompanied the body of the victim to Newberry
19 Pathology for the autopsy, correct?

20 A That's correct.

21 Q You were there when her bra and shirt were actually
22 cut off and removed by Dr. Ross in the course of performing
23 the autopsy, correct?

24 A That's correct.

25 Q At anytime did you see any money recovered from the

JEFF STEELE - DIRECT

1 body of the victim?

2 A No, ma'am.

3 Q The contents of the purse were later inventoried by
4 Lieutenant Rogers, correct?

5 A That's correct.

6 Q Did you ever observe any folding money of any kind
7 retrieved from that purse?

8 A No, ma'am.

9 Q We've talked about you accompanying the body. You
10 observe the autopsy itself, correct?

11 A That's correct.

12 Q And as Dr. Ross did things such as clip the
13 fingernails of both hands of the victim, she submitted
14 that -- well, she didn't submit it into evidence, she would
15 put the left-hand clippings in an envelope, right-hand
16 clippings in an envelope and she would give that to you as
17 the law enforcement officer there for you to place them
18 into evidence with the evidence custodian when you returned
19 to Lancaster Sheriff's Department; is that right?

20 A That's correct.

21 Q Same thing when she did the rape kit and took a swab
22 of the interior of the vagina and the interior of the anus
23 and the interior of the oral cavity of the victim, she put
24 that into an envelope and gave that to you to be submitted
25 to SLED -- the evidence custodian who would drive it then

JEFF STEELE - DIRECT

1 to SLED, correct?

2 A That's correct.

3 Q All of that for DNA analysis, correct?

4 A That's correct.

5 Q While you were there you actually would take
6 photographs during the course of the autopsy as permitted
7 by Dr. Ross, correct?

8 A That's correct.

9 Q Dr. Ross drew bodily fluids from the victim's body for
10 toxicology analysis for any drugs, for known DNA standards
11 derived from the blood of the victim to be submitted to
12 SLED, correct?

13 A That's correct.

14 Q And she drew that blood and also the fluids from the
15 eyes, I think they're called vitreous fluids, and she gave
16 that to you and you submitted it to Ann Horton, evidence
17 custodian who later took it to SLED for analysis; is that
18 right?

19 A That's correct.

20 Q You observed the broken nail to the thumb of the
21 victim's left hand, correct?

22 A That's correct.

23 Q Did you subsequently take photographs of the
24 defendant, Terry Catoe, on February 29th of 2012 at the
25 Lancaster County Sheriff's Office?

JEFF STEELE - DIRECT

1 A Yes, ma'am, I did.

2 Q At the time did you observe any scratches to his body?

3 A Yes, ma'am, I did.

4 Q I previously have shown these to Defense Attorneys Lee
5 and Jones, and I show you what has been marked as State's
6 Exhibits 37 to 44 and ask you, do you recognize what those
7 are photographs of?

8 A These will be the photographs I took that day of Mr.
9 Catoe.

10 Q Those are photographs that you took of the defendant,
11 Terry Catoe, on February 29th of 2012 at the Lancaster
12 County Sheriff's Department; is that right?

13 A That's right.

14 Q He'd come in at that time to speak with Investigator
15 Fred Thompson, I believe; is that correct?

16 A That's correct.

17 Q And you've taken various pictures. I would like you
18 to first circle what caused you to take pictures of those,
19 and then I want to put them on the overhead. But there's a
20 way we can do it on the overhead but then it doesn't
21 memorialize that for the record so that's why I'm asking
22 you to do it with this marker.

23 A (Witness complies.)

24 Q Thank you. While you do that, can I ask you -- if you
25 can do two things at once, I'm sure you can, Investigator.

JEFF STEELE - DIRECT

1 Are those fair and accurate depictions of the body of the
2 defendant, Terry Catoe, as you observed it on February 29th
3 of 2012?

4 A Yes, ma'am.

5 Q And they haven't been altered or edited in any way
6 other than you marking them now?

7 A No, ma'am.

8 MS. COLLINS: And at this time I would move these into
9 evidence.

10 THE COURT: Without objection introduced as States's
11 next in order.

12 (The photos were received as State's 37-44.)

13 Q Thank you for doing that. And so you have circled
14 with the marker the areas of the body that drew your
15 attention such that you took a photograph of that part of
16 the defendant's body; is that right?

17 A That's correct.

18 Q I'm going to show you first what has been marked -- or
19 is in evidence as State's Exhibit 37, ask you to take a
20 look at that. What was that a picture of?

21 A That appeared to be a scratch mark on the forearm
22 area, the right forearm area.

23 Q And again, this would have been February 29th, so this
24 would have been approximately five days after the incident
25 on February 24th, correct?

JEFF STEELE - DIRECT

- 1 A That's correct.
- 2 Q Turning to State's Exhibit 38. Is this a photograph
3 of the defendant's arm?
- 4 A Yes, ma'am.
- 5 Q And again, what have you circled there?
- 6 A That's that same scratch area I showed you, just a
7 closer view.
- 8 Q I show you what's been marked as State's Exhibit 39.
9 At this point the defendant has his shirt off; is that
10 correct?
- 11 A That's correct.
- 12 Q And you've circled something that appears to me to be
13 the back of his right arm; is that correct?
- 14 A That's correct.
- 15 Q And what is that?
- 16 A Again, that appeared to be some type of scratch mark
17 just above the elbow area of the right arm.
- 18 Q Did it appear to you to be approximately the same
19 stage of healing as the first one?
- 20 A Excuse me?
- 21 Q Did it appear to be about the same stage as the first
22 one?
- 23 A Yes, ma'am.
- 24 Q About the same age to you? Next State's Exhibit 40.
25 Is this a close-up of that scratch that we just saw that

JEFF STEELE - DIRECT

1 was right there above the elbow on the right arm?

2 A Yes, ma'am.

3 Q State's Exhibit 41. Again, this is the right arm and
4 you've circled some area to the top of the right forearm;
5 is that correct?

6 A That's correct.

7 Q And what did that appear to be to you?

8 A That's a couple of scabbed over areas.

9 Q I think we've got a closer view of that. Let's take a
10 look at this, this is State's Exhibit 42. Is that a better
11 close-up view of that? Can you see that?

12 A Yes, ma'am.

13 Q Does that appear to be a closer view of that scabbed
14 over area?

15 A That is, that's correct.

16 Q Now, as I'm looking at immediately to my right of the
17 scabbed over area there appears to be another area that's
18 kind of a scratched area, or an area that doesn't have a
19 scab over it. Do you see what I'm referring to?

20 A Yes, ma'am.

21 Q Was that also a fresh wound?

22 A Yes, ma'am.

23 Q Next I would like to show you State's Exhibit 43,
24 which I believe is just a further close-up of that same
25 area, correct?

JEFF STEELE - DIRECT

1 A That's correct.

2 Q And you see here the scabbed over area, correct?

3 A That's correct.

4 Q And then immediately to the right of that, again, all
5 at the top of the right forearm we've got a kind of a
6 rougher area that doesn't have a scab, but you can see the
7 top layer of skin has been scratched off, correct?

8 A That's correct.

9 Q Finally, State's Exhibit 44, I believe it goes this
10 way. Is that again, just another view of a scratched area
11 that you observed? I think it might coincide with one of
12 the other ones below the tattooed area of Mr. Catoe?

13 A Yes, ma'am. That's around the bicep area, front area
14 of the bicep.

15 Q Were all of these appeared to you to be scratches?

16 A Yes, ma'am.

17 Q And all of these are fair and accurate depictions of
18 scratches to the body of the defendant, Terry Catoe, as you
19 personally observed them and took photographs of them on
20 February 29th of 2012 at the Lancaster Sheriff's
21 Department?

22 A That's correct.

23 Q Thank you.

24 MS. COLLINS: One moment please, Judge.

25 (Break in proceedings.)

JEFF STEELE - CROSS

1 MS. COLLINS: Nothing further. Please answer any
2 questions of the defendant.

3 THE COURT: Mr. Lee?

4 MR. LEE: Thank you, Your Honor. May it please the
5 Court?

6 CROSS EXAMINATION

7 BY MR. LEE:

8 Q Lieutenant Steele, let me ask you something first,
9 I've discussed this with the solicitor. Let me ask you, if
10 you can -- this is an overview, it was taken from Google
11 Earth of the crime scene area. Could you look at that and
12 see if you can identify that?

13 A Yes, sir, that appears to be Starnes Street.

14 Q Could you say that's a true and accurate
15 representation of Starnes Street? There's two little
16 things, one there is like a push-pen that's in a house and
17 then there's another one that says . Other than that,
18 does it appear to be correct?

19 A It looks like it. It's hard to tell from this angle,
20 yes, sir.

21 Q And the push-pen, would that be in the house that
22 we're talking about?

23 A The push-pen is at the top of the first house on the
24 right there.

25 Q And that house was the first house on the right as you

JEFF STEELE - CROSS

1 pull into Starnes Street?

2 A That's correct.

3 MR. LEE: Your Honor, we would just move this for
4 identification.

5 MS. COLLINS: I have no objection to it being marked
6 or it coming into evidence.

7 THE COURT: Do you want to introduce it then?

8 MR. LEE: We would introduce it then.

9 THE COURT: Introduced then as Defendant's next it
10 order.

11 (The map was received as Defendant's 6.)

12 Q And this is just from your experience in that area,
13 that appears to show the correct relationship between the
14 houses and where they are located and their relationship to
15 the street and things of that nature?

16 A Yes, sir.

17 Q Let me ask you some other questions. You mentioned
18 some things, and I may have not gotten the name correctly,
19 is that alternative light source, is that?

20 A Alternate light source.

21 Q Alternate light source. And that's where it shines a
22 blue light in this case to identify certain things?

23 A Yes, sir.

24 Q And then y'all took a large number of photographs, and
25 actually you did a video if I'm not mistaken. So when --

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1 would you say when there's a murder case that y'all go all
2 out, that you try to get as much evidence as you can?

3 A Yes, sir.

4 Q And you do record things by photograph and video and
5 then look for things with this sophisticated equipment.

6 A Yes, sir. If needed, yes, sir.

7 Q And I think you said that there was some kind of mark
8 on the hip but at first you thought it was a shoe but you
9 weren't able to determine any pattern to it?

10 A There was a pattern, we just weren't able to get
11 enough detail to confirm that it was a shoe and footwear
12 impression.

13 Q Okay. It could have been something else.

14 A Yes, sir.

15 Q Okay. And did you gather up the items from the house
16 that were associated with the -- that you believe that were
17 associated with this crime?

18 A I associated several items from within the room where
19 the body was found, yes, sir.

20 Q And then you took them and turned them into evidence.
21 Were you there when the purse was inventoried?

22 A Yes, sir.

23 Q Was there anything unusual in that purse that you
24 wouldn't think of being in a purse?

25 A Not really, just standard stuff. Other than there

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1 was a spoon in there that possibly had been used for some
2 drug use.

3 Q As a drug use spoon, or sometimes people call it a
4 crack spoon burned on the bottom side?

5 A Yes, sir.

6 MR. LEE: That's all I have.

7 MS. COLLINS: No further questions.

8 THE COURT: Thank you, sir, you can step down. Ladies
9 and gentlemen of the jury, we've now reached a good point
10 to call it a day. I'm going to remind you of the charge I
11 gave you yesterday and earlier today before you went to
12 lunch, we're far into the trial now, so again, there may be
13 some media coverage of this and you are not authorized and
14 cannot look at any media coverage of this. Because
15 remember, you have been sworn to decide this case only from
16 the testimony and evidence received in this courtroom, so
17 under your oath you are held to that standard. In addition
18 don't do any independent research, don't talk to anybody
19 about the case, even yourselves, you haven't got it yet and
20 you can only talk about it once you actually get the case
21 and I tell you you can start talking about it. Okay. I
22 want you to have a wonderful evening, I want you to be back
23 here tomorrow morning at 9:30, and I promise you I will be
24 on time this time. Y'all have a good evening.

25 (The jury left the courtroom.)

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1 THE COURT: Anything else before we adjourn for the
2 day?

3 MS. COLLINS: No, Your Honor. Thank you.

4 MR. LEE: Nothing.

5 THE COURT: All right. See y'all in the morning at
6 9:30. We're in recess.

7 (Court recessed for the evening and resumed at 9:30
8 A.m. on Wednesday, January 6, 2016.)

9 THE COURT: I believe we're waiting on a juror, but
10 are there any issues y'all need to bring up to me before we
11 bring the jury in here momentarily?

12 MS. COLLINS: No, Your Honor. Thank you.

13 THE COURT: Mr. Lee?

14 MR. LEE: Nothing that I know of, Your Honor.

15 (The jury returned to the courtroom.)

16 THE COURT: All members of the jury are present. Good
17 morning, ladies and gentlemen, I hope you had a nice
18 evening and a good morning so far. We'll jump right into
19 it this morning. Solicitor, you may call your next
20 witness.

21 MR. NEWMAN: The State calls Lieutenant Christine
22 Rogers.

23 The witness, CHRISTINE ROGERS, was first duly sworn
24 and testified as follows:

25 DIRECT EXAMINATION

JEFF STEELE - CROSS

1 BY MR. NEWMAN:

2 Q Good morning. Please state your name for the record.

3 A Christine Michelle Rogers.

4 Q And Ms. Rogers, where are you employed?

5 A The Lancaster County Sheriff's Office.

6 Q And what is your title at the sheriff's office?

7 A I'm lieutenant supervisor over crime scene and
8 evidence.

9 Q So is that you're like the head over the crime scene
10 unit?

11 A Yes, sir, I am.

12 Q And what are your duties as a head of the crime scene
13 unit?

14 A In addition to supervising both evidence and crime
15 scene, I'm also a crime scene investigator. We only have
16 three crime scene investigators total, so I also take
17 call. So if there's a call for crime scene while I'm
18 either on duty or on call then I'll respond and I'll
19 document and process crime scenes.

20 Q And did you hold that same position in February of
21 2012?

22 A I did.

23 Q How long in your career have you been a full-time
24 officer?

25 A Full-time officer for 19 years this month.

CHRISTINE ROGERS - DIRECT

1 Q And how long have you served with the crime scene
2 investigation unit?

3 A I have done crime scene investigation full-time since
4 2011, I did part-time crime scene starting in 2001.

5 Q Did you have to receive any special training to be a
6 member of this CSI unit?

7 A Yes, sir, I did. In addition to completing an
8 internship with SLED's crime scene unit, which is the
9 state police, I also attended and graduated the National
10 Forensics Academy, which is in Tennessee, it's a ten week
11 course.

12 Q So are you nationally certified?

13 A I am through the International association for
14 Identification as a crime scene investigator.

15 Q Okay. And since becoming nationally certified, do you
16 have to receive continuing education classes?

17 A Absolutely. We train every year as much as we can.
18 Forensic sciences is continually updating and evolving and
19 we have to continue to learn as we do our jobs to do the
20 best of our ability.

21 Q Now, do you have certifications in different areas
22 such as -- like I know Mr. Steele said he did blood spatter
23 and reconstruction, what types of things are you certified
24 in?

25 A As part of the ten week course at the National

CHRISTINE ROGERS - DIRECT

1 Forensics Academy we learn hands-on to the point of
2 they'll blow up a car in front of you just to help you
3 learn how to work a post-blast investigation. Some of the
4 main things we focus on are crime scene photography,
5 latent print processing, identification and comparison,
6 blood stain pattern analysis and crime scene
7 reconstruction. So we cover all of those topics at the
8 National Forensic Academy.

9 Q Okay. Now, were you involved in the investigation of
10 this case involving the murder of Linda Massey Gaymon?

11 A I was.

12 Q What did you first do as a part of this case?

13 A I was on duty that morning and I heard radio traffic
14 from Investigator Fred Thompson asking for a crime scene
15 investigator to come to a scene on Starnes Street, I
16 didn't know at the time what the call was in reference to,
17 but I went ahead and responded. When I got to the scene I
18 already saw -- there was crime scene tape already securing
19 the scene, there were deputies present on the scene and I
20 saw Investigator Thompson and Lieutenant Howell both close
21 to a house -- the first house on the right on Starnes
22 Street. So I met with Lieutenant Howell, and he told me
23 what they'd learned so far about the body of a female
24 victim being found in an abandoned house in the bedroom.
25 He described her state, her position to me, and even

CHRISTINE ROGERS - DIRECT

1 though we didn't know at the time the cause of death, we
2 thought it best to get a search warrant. We thought the
3 death was suspicious so we decided to get a search warrant
4 before we -- the crime unit started their investigation.

5 Q Now, when you entered the home and investigated the
6 body, did you determine that the body died there where it
7 was in that house on Starnes Street?

8 A It was my belief that the event had occurred there.
9 I saw nothing to suggest that the body had been moved post
10 incident.

11 Q Okay. And that home was in Lancaster County, correct?

12 A Absolutely.

13 Q And what do you do at a crime scene as far as
14 processing the scene? What does processing the scene
15 entail?

16 A Well, a lot of what we do is going to be dictated by
17 the scene. Every scene is going to be different but we're
18 going to do certain elements every time, and part of that,
19 the most important part is documenting the scene exactly
20 the way it is before we do anything, before anything is
21 moved, before any processing is done. And documentation
22 would include measuring, taking photographs, possibly
23 taking videos and just documenting everything with notes
24 before we ever start processing.

25 Q Were you present on the scene when Deputy Coroner

CHRISTINE ROGERS - DIRECT

1 Christy Massey was there?

2 A I was. I left the scene a short time, other deputies
3 remained on scene to secure it and keep anyone out of it.
4 I left the scene to help Investigator Whitaker prepare a
5 search warrant request, and when I got back I asked
6 Investigator Steele to meet me there as well. Anytime our
7 unit works a homicide we don't work with any less than two
8 investigators, so I asked him to come meet me at the
9 scene. And Christy Massey was there also with the
10 coroner's office, she was deputy coroner at the time and
11 she was there when I got back.

12 Q Can you describe the victim's body, how you observed
13 it?

14 A Yes, sir. In this house, the only furniture item in
15 the whole house -- it's an abandoned house -- was a bare
16 mattress and what I describe as the back right corner of
17 the house. The victim was lying on the mattress on her
18 left side, her knees were bent, one of her feet was
19 hanging just off of the edge of the mattress, the other
20 was very close to the edge. Her head was lying on her
21 left arm, and her right arm was bent to where her hand was
22 close to her face. She was naked from the waist down, the
23 only thing she had on was a black and I think it was a
24 white striped long sleeved shirt, and it and a black bra
25 were pulled up to where her right breast was exposed.

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1 Q Tell us how you checked the body for bodily fluids.

2 A Due to the victim's state of undress where she was
3 found we considered very seriously the possibility that
4 she was the victim of a sexual assault, so we used an
5 alternate light source to search the body for all kinds of
6 evidence. An alternate light source is just -- it's a
7 piece of equipment that has a light source, in our case
8 it's a Z9 bulb. It uses a series of filters to produce
9 lights in different wave lengths. And what we're
10 searching for is any bodily fluids, hairs and fibers,
11 trace evidence, in this case we were really looking for
12 bodily fluids, and some bodily fluids fluoresce so that's
13 what we're looking for in the alternate light source is
14 just to help us visualize that better and help us locate
15 areas of possible evidence.

16 Q And did you swab those -- do you take a sample of
17 those fluids?

18 A Yes, sir. We didn't swab at the scene. It's very
19 difficult to use an alternate lights source when you can't
20 control the light that's coming in, and some of these
21 windows were broken out in this house and you had light
22 coming in and we couldn't control that very well there.
23 So we opted to have the body removed from the scene after
24 we'd done a number of things to document its position,
25 measurements, even measuring things in the room to the

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1 victim's body just to position her in the room. And we
2 opted to have her removed with the assistance of the
3 coroner's office to their morgue and then we did some more
4 work with the body when we got there.

5 Q Now, did you take the samples yourself?

6 A I did. We used the alternate light source at the
7 coroner's office again to view these florescent stains
8 that we saw on the victim's buttocks and on her thighs,
9 and we used this light -- first we photographed them again
10 just to make sure we're documenting where those stains
11 are, and then I used sterile swabs to swab samples of
12 these stains for evidence.

13 Q And we're calling it bodily fluids. What are we
14 looking for when we look for bodily fluids?

15 A When we're looking for bodily fluids you could be
16 looking for semen, saliva or vaginal fluids.

17 Q And those swabs, you turned those into evidence. I'm
18 going to show you State's Number 14. Do you recognize
19 that? And there's a coversheet on there, there's a lot of
20 items in the bag.

21 A Yes, sir, I do.

22 Q Are those the swabs that you took?

23 A These are the swabs I took at the coroner's office.

24 Q Are you aware of these being sent to SLED?

25 A Yes, sir, I'm aware that they were.

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1 Q Are you aware of being checked for DNA at SLED?

2 A Yes, sir.

3 Q Are you aware of any match that came out of that?

4 A Yes, sir, I am.

5 Q Did you get -- tell the jury who that DNA matched.

6 Who was the match on that DNA?

7 A Lily Gallman, who is a DNA expert for SLED, was the
8 one that analyzed our swabs and compared them against DNA
9 standards that were collected from the defendant, and
10 these swabs that she analyzed were a match to semen -- the
11 semen swabs were a match to the defendant, Terry Catoe.

12 Q Okay. And y'all also got comparison swabs from other
13 individuals as well; is that correct?

14 A Yes, sir, we did.

15 Q And were those individuals ultimately included from
16 the DNA match?

17 A Yes, sir. There were three total other males and
18 they were excluded as contributors to the DNA profile
19 developed from the semen swabs, yes, sir.

20 Q Now, as far as sending items to SLED, this house was
21 full of items we see from photos, you can't send all of
22 that stuff to SLED, can you?

23 A No, sir.

24 Q They limit what you can -- how many items can you
25 send?

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1 A Because of SLED's enormous backlog in the DNA
2 department, and this is every agency in the state that
3 does not have their own DNA lab, which is most sending
4 numerous items to SLED for analysis, so there's quite a
5 backlog, they limit us on a homicide to only five items of
6 DNA evidence. We can submit other things but for DNA
7 specifically it's limited to five.

8 Q You mentioned backlog. How long does it take on
9 average when you send in a DNA something for comparison,
10 how long does it take you to get it back?

11 A It depends. I'm still waiting on DNA results from
12 probably four years ago. If it's not a homicide we're
13 talking years, two, three or more years. They outsource,
14 they send certain cases out to other labs in the nation to
15 get it analyzed. But for homicides, unless we've
16 requested a rush it still could be six months to a year to
17 get results.

18 Q And you talked about processing the scene and taking
19 measurements of the body and things like that, once all of
20 that is done is that when you transport the body?

21 A Once we feel like we've sufficiently documented the
22 position of the body with measurements, again,
23 photographs, video, whatever we're doing at the scene,
24 then we can remove the body. We consider at that time is
25 there any tangible evidence that may be lost when the body

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1 is transferred as well, so we think about that before we
2 allow the body to be removed.

3 Q So as crime scene investigator, do you make the call
4 when they move the body?

5 A Yes, sir.

6 Q Okay. And did you go along with the body to the
7 coroner's office?

8 A Yes, sir. We followed along a short time after the
9 body was transported.

10 Q Now, there were multiple items in the home. Describe
11 the items that were found in close vicinity of the body.

12 A In the same room with the victim -- and those details
13 are in Investigator Steele's report because a lot of that
14 he documented before I made my way to the room. But close
15 to the victim's body was a black purse, there was a black
16 wig on the floor, a number of clothing items right there
17 kind of in front of that mattress. There were condom
18 wrappers, there were condoms that were found on the back
19 side of the bed on the floor.

20 Q Did you find items belonging to the victim?

21 A We did.

22 Q And what items were those?

23 A The black purse in particular we identified as
24 belonging to the victim because of some of the contents.
25 The purse contained a social security card, a debit card

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1 and a South Carolina ID card in the name of Linda Massey
2 Gaymon.

3 Q Now, this purse, did you inventory that purse?

4 A Yes, sir. We would have done a cursory search of it
5 at the scene, but later -- and as a matter of fact a
6 couple of weeks ago when we were discussing this case
7 again we wanted to make sure there was no money in the
8 purse, we did a complete inventory, took everything out
9 again, photographed everything that was in the purse, the
10 only money we found in the purse was a single penny.

11 Q So no folding money?

12 A No, sir.

13 Q No paper money?

14 A No folding money found at the scene or in the purse.

15 Q Did you -- I guess as head of the crime scene you are
16 Jeff Steele's boss, is that correct, kind of?

17 A Yes, sir.

18 Q You're his supervisor. Did you assign him to attend
19 the autopsy?

20 A I did.

21 Q Did you receive a request from Investigator Bennett to
22 obtain a DNA sample from Terry Catoe?

23 A Yes, sir. Investigator Bennett called me and asked
24 me to come to Captain Bailey's office. He let me know
25 that they had obtained Terry Catoe's consent for us to

CHRISTINE ROGERS - DIRECT

1 collect a DNA standard from him. When I got to Captain
2 Bailey's office I think Investigator Thompson was there
3 too, I asked Terry Catoe if he had indeed consented to us
4 collecting a DNA standard from him and he told me that he
5 did. I also checked to make sure the consent to search
6 form was signed by Mr. Catoe, and it was.

7 Q I'm going to show you State's Exhibit 18. There's an
8 envelope in there, you can probably see through the bag.

9 Do you recognize what that is?

10 A Yes, sir. It's buccal swabs collected from the
11 defendant, Terry Catoe.

12 Q Is that the swabs you collected?

13 A Yes, sir, I did.

14 Q And you saw -- you know that was his signature on the
15 consent form?

16 A I didn't witness him signing it, I believe it had
17 already been signed when I got there.

18 Q But you checked to make sure it was signed.

19 A Yes, sir.

20 Q Now, did you receive another request from Investigator
21 Bennett as far as taking some photos of the defendant?

22 A I was asked -- I think it was Captain Bailey that
23 asked me to come to his office to photograph the
24 defendant, and I did take some photographs.

25 Q Was this at the detention center?

CHRISTINE ROGERS - DIRECT

1 A I believe he'd been brought up to Captain Bailey's
2 office, it was actually in Captain Bailey's office.

3 Q And this was after Investigator Steele had already
4 taken some photos; is that correct?

5 A I can't recall whether his photos were before or
6 after mine, I believe mine were taken on March 1st of
7 2012.

8 Q I'm going to show you State's -- what's been marked
9 for ID as State's 45 through 55 and see if you recognize
10 those photos. And I'm sorry, while you're doing that if
11 you will take this -- well, first do you recognize those
12 photos?

13 A I do.

14 Q Is that the photos you took?

15 A Yes, sir, they are.

16 Q Will you take this blue pen and circle injuries to Mr.
17 Catoe for the reason that you were taking the photo?

18 MR. NEWMAN: Your Honor, if it please the Court, I'm
19 going to turn this system on and when I do those blinds
20 will lower, once it comes up I'll raise the blinds back.

21 THE COURT: Okay.

22 Q Are you finished?

23 A Yes, sir.

24 Q Is this a true and accurate copy of the photos that
25 you took?

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1 A Yes, sir. I don't see that they've been altered in
2 anyway besides me adding blue marks on them and them being
3 cut.

4 Q Okay.

5 MR. NEWMAN: Your Honor, at this time I move State's
6 45 through 55 into evidence.

7 MR. LEE: No objection.

8 THE COURT: Without objection introduced into
9 evidence.

10 (The photos were received as State's 45-55.)

11 Q Let me show you State's 50. Is that the defendant,
12 Terry Catoe?

13 A Yes, sir, it is.

14 Q And you took that photo?

15 A I did.

16 Q Are there any injuries in this photo?

17 A No, sir. It's just to make sure we identify the
18 person who is the subject of our photographs.

19 Q Speaking of identification, do you see the defendant
20 in this courtroom?

21 A I do, sir.

22 Q Where is he at?

23 A He's sitting at the defense table with a black and
24 red plaid shirt.

25 Q Thank you. State's 53 shows the defendant's hands.

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- 1 Any injuries to his hands?
- 2 A No, sir.
- 3 Q State's 52, you've got something circled on his
- 4 shoulder; is that correct?
- 5 A Yes, sir.
- 6 Q What does that show?
- 7 A There were some what I identified as bruising or
- 8 bruises on his shoulder and then a mark, a red mark.
- 9 Q This is State's 51. Is that the same bruises?
- 10 A Yes, sir.
- 11 Q That is a close-up?
- 12 A Yes, sir.
- 13 Q State's 54, what does that show?
- 14 A That's a scratch mark on the back of the left arm
- 15 above the elbow.
- 16 Q On the back of the left arm?
- 17 A Yes, sir.
- 18 Q This is State's 55. Is that an arm as well?
- 19 A Yes, sir. In the back of the right arm another
- 20 scratch mark.
- 21 Q So he had scratch marks on both arms?
- 22 A Yes, sir.
- 23 Q What is that?
- 24 A Some more scratches on the arm.
- 25 Q And that's State's 45. State's 46, what does that

CHRISTINE ROGERS - DIRECT

1 show?

2 A More pictures of scratches on the arm of Mr. Catoe.

3 Q These pictures were taken on what date?

4 A March 1st.

5 Q So a little over a week after the event.

6 A Close to a week.

7 Q This is 47. Is that a bruise or a scratch?

8 A I believe what I noted on the arms were scratches.

9 Q And I believe 48, is that the same arm?

10 A That's the right arm, inner forearm.

11 Q And State's 49, is that the right arm as well?

12 A I believe that's the right arm, inner right arm.

13 Q Ms. Rogers, you prepared a report as part of your CSI
14 duties?

15 A Yes, sir, I do.

16 MR. NEWMAN: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 (Break in proceedings.)

19 Q I'm going to show you what's been marked for
20 identification as State's 56. Do you recognize that
21 document?

22 A Yes, sir. It's the report that I completed for our
23 scene response and processing.

24 Q That's your report?

25 A Yes, sir.

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1 Q You produced it?

2 A Yes, sir.

3 Q Has it been altered in any way?

4 A I haven't read that entire document but it doesn't
5 appear to be. It appears to be my report.

6 MR. NEWMAN: Your Honor, at this time I move State's
7 56 into evidence.

8 MR. LEE: Without objection.

9 (The report was received as State's 56.)

10 MR. NEWMAN: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Break in proceedings.)

13 Q Ms. Rogers, I'll hand you up another document that's
14 been marked for identification as State's 57. Do you
15 recognize that document?

16 A Yes, sir. It's Investigator Steele's supplemental
17 report from the scene.

18 Q Now, do you -- you're his supervisor, do you read
19 these reports when they submit them?

20 A I do.

21 Q Do you approve them?

22 A I do.

23 Q Okay. Is this a true and accurate account of his
24 report?

25 A Yes, sir, from what I can tell.

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1 Q Does it look like it has been altered in any way?

2 A No, sir. It looks like it's printed from our system.

3 MR. NEWMAN: Your Honor, at this time I move State's
4 57 into evidence.

5 THE COURT: Without objection introduced into
6 evidence.

7 (The supplemental report was received as State's 57.)

8 Q No, let's just go back just a minute. The swabs you
9 talk about that you took off of the victim, where at on her
10 body did you get those swabs from?

11 A Again, we use the alternate light source to see areas
12 of fluorescence on the victim's skin, and what we were
13 seeing was predominantly on the victim's right buttocks
14 and on her left thigh.

15 Q Okay. When did you receive a final DNA for this
16 particular case?

17 A The most recent report was in December, early
18 December, I believe, maybe December 7th, I'm not positive,
19 but --

20 Q Of this year?

21 A The most recent report, that's correct.

22 MR. NEWMAN: That's all of the questions I have.
23 Please answer anything Mr. Lee has.

24 THE COURT: Mr. Lee?

25 MR. LEE: May it please the Court?

CHRISTINE ROGERS - DIRECT

1 CROSS EXAMINATION

2 BY MR. LEE:

3 Q Lieutenant Rogers, I believe you said you're the head
4 of the CSI unit for lack of another term?

5 A Yes, sir, I am.

6 Q And I'm assuming you all have vehicles; is that
7 correct?

8 A Yes, sir, we do.

9 Q Are they just automobiles or do they have like a truck
10 or van type thing?

11 A They're utility vans, work vans.

12 Q And all of you drive those, you keep your equipment in
13 those.

14 A Yes, sir, we do.

15 Q And you mentioned the alternate light source and
16 things, y'all have considerable amount of equipment to
17 check the crime scene; is that correct?

18 A Yes, sir. I believe we do have a good amount.

19 Q And very sophisticated material?

20 A Yes, sir.

21 Q And you put extra effort -- if it's a homicide you put
22 extra effort into that.

23 A Yes, sir. We usually use more manpower and
24 equipment.

25 Q Okay. I believe you mentioned something that y'all

CHRISTINE ROGERS - CROSS

1 went through the items there and you found a wig and a
2 purse?

3 A Yes, sir.

4 Q And did you look at the purse at the time that you
5 were in the house or inventory it, or did you do that at a
6 later date?

7 A We didn't do a complete inventory at the scene. I
8 know we got the ID out of the purse to identify it as
9 belonging or associated with the victim, but we didn't do
10 a complete inventory until much later.

11 Q In fact, maybe a week ago.

12 A It was, I believe, December 17th is when we did a
13 complete inventory.

14 Q So some time later.

15 A Yes, sir.

16 Q And in that you found some other items that were
17 identified with the deceased?

18 A Yes, sir.

19 Q ID card or something else?

20 A Debit card, ID card and social security card all in
21 the victim's name, yes, sir.

22 Q And was there also an envelope with her name and
23 address on it?

24 A Yes, sir, a piece of mail.

25 Q And was the mail in the envelope?

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- 1 A Yes, sir, I believe it was.
- 2 Q Was there also in that envelope wrapped in tissue
- 3 paper a spoon?
- 4 A Yes, sir.
- 5 Q And a spoon that has a burned side to it?
- 6 A Yes, sir, there was.
- 7 Q Have you seen those type of items before?
- 8 A Absolutely.
- 9 Q And what does that generally involve?
- 10 A We normally associate it with drug use.
- 11 Q And would you say that's sort of hard drug use, not
- 12 the like smoke marijuana type drug use?
- 13 A You certainly wouldn't smoke marijuana with a spoon,
- 14 no, sir.
- 15 Q Okay. And again, that was in an envelope that had the
- 16 deceased's name on the envelope.
- 17 A Yes, sir.
- 18 Q You took, I think you said, all of these photographs
- 19 that have been admitted into evidence under your name; is
- 20 that correct?
- 21 A Which photos?
- 22 Q The ones that you were asked to identify --
- 23 A Yes, sir. Of the defendant, yes, sir.
- 24 Q And you're not trained as a medical person; are you?
- 25 A No, sir, I don't have medical training.

CHRISTINE ROGERS - CROSS

1 Q So as far as -- you could see something that looks
2 like a scratch but when it occurred you can't say, is
3 that --

4 A No, sir. I cannot date the time the injury occurred.

5 Q And would you say that everybody perhaps heels
6 differently, or you may not know the answer to that.

7 A No, sir. I couldn't say at what rate someone would
8 heal.

9 Q And these -- you don't know when these particular
10 scratches or things occurred.

11 A No, sir. They appeared to be healing scratches.

12 Q And I think you said this was several days around the
13 first of the month?

14 A I took my photos around March the 1st. The event
15 occurred, or the body was found February 24th.

16 Q And in your report I see a word that jumps out at me
17 with a stained -- a ridge pattern?

18 A Yes, sir.

19 Q Is that just distinguished between something that has
20 some marks in it and say like a flat surface? I mean, does
21 that distinguish between the two?

22 A When we document ridge detail in our reports, what
23 we're referring to is a pattern that we're seeing that we
24 think could be either a fingerprint, a palm print or
25 possibly a footprint, a bare foot, we're talking about

CHRISTINE ROGERS - CROSS

1 ridged skin.

2 Q So that's what you're talking about. It's not a flat
3 smudge like this paper would be where there's nothing on
4 it, you could see some lines?

5 A In a part of my report that you're referencing the
6 ridge detail is a pattern that we're seeing, not
7 necessarily raised up but a pattern on the surface of the
8 skin that we think could have been on the fingerprint --

9 Q And you said could have been, you don't really know
10 what it is unless you find a match would you say?

11 A Yes, sir.

12 MR. LEE: Your Honor, if I might have just a moment?

13 THE COURT: Okay.

14 (Break in proceedings.)

15 Q Let me just reiterate, you didn't find any scratches
16 on Mr. Catoe's hands or --

17 A No, sir. On the hands I noted no injury.

18 Q Okay. There was some kind of a bruise on the
19 shoulder?

20 A Yes, sir.

21 Q But you can't say where that came from or anything,
22 just a little darker patch of skin?

23 A No, sir. The purpose was just documenting the
24 injuries that I saw.

25 MR. LEE: Okay. Thank you.

CHRISTINE ROGERS - CROSS

1 THE COURT: All right. Any redirect?

2 MR. NEWMAN: Briefly.

3 DIRECT EXAMINATION

4 BY MS. COLLINS:

5 Q Ms. Rogers, when y'all put items into evidence, what
6 does that mean?

7 A We have a process of submitting items into evidence
8 where we list everything out on a form, we note the time
9 it was collected, the time and date that we're submitting
10 it. And then if the evidence custodian is not there
11 physically when we're ready to turn them in we would give
12 them to Ann Horton or Brittney Hudson, which is our second
13 evidence custodian now, if they're not there we have
14 secured lockers that we put them in and drop the key to
15 where only the evidence custodian the next day can access
16 them, no one else can access them and tamper with them or
17 change them in any way.

18 Q So all of the evidence, including this purse that was
19 submitted into evidence, would be secured in the evidence
20 locker, or evidence vault, for any length of time, however
21 long it's stored; is that correct?

22 A Yes, sir. After they're removed from the evidence
23 lockers by the evidence custodian, if they're not being
24 sent to the state lab they're secured in evidence storage
25 and access is limited to only individuals in my unit, no

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1 one else has access to those items. And they stay in
2 shelf until they're either needed in court or they collect
3 dust.

4 Q Mr. Lee asked you about your equipment and the quality
5 of your equipment. That's forever changing, isn't it?

6 A Yes, sir.

7 Q Technology gets better and better every year. Would
8 you say you have better equipment now than you had back in
9 2012?

10 A To a degree, yes, sir.

11 Q And different equipment maybe?

12 A Some different, yes, sir.

13 MR. NEWMAN: No further questions.

14 MR. LEE: No questions.

15 THE COURT: Thank you, ma'am, you can step down.

16 State can call its next witness.

17 MS. COLLINS: Thank you, Your Honor. The next witness
18 for the State is Frederick Thompson.

19 The witness, FREDERICK THOMPSON, was first duly sworn
20 and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. COLLINS:

23 Q Would you please state your name for the record?

24 A My name is Frederick Thompson.

25 Q And what is your current occupation?

CHRISTINE ROGERS - REDIRECT

1 A I'm an apprentice for Stewart Funeral Home.

2 Q And how long have you been there at the funeral home?

3 A About two years.

4 Q What was your occupation in 2012?

5 A I was a sheriff's deputy at the Lancaster County
6 Sheriff's Office.

7 Q You were an investigator with the investigative
8 division?

9 A Yes, ma'am, I was.

10 Q Is that similar to a detective?

11 A Yes, ma'am, it is.

12 Q How long were you with law enforcement, Mr. Thompson?

13 A About 16 years.

14 Q And you've retired now?

15 A Yes, ma'am.

16 Q And you've moved on to serving our citizen in other
17 ways and their families.

18 A Yes, ma'am.

19 Q In February of 2012, though, you were an investigator
20 with the sheriff's department you stated; is that correct?

21 A That's correct.

22 Q In the course of your duties with the sheriff's
23 department, did you have an occasion to assist with the
24 investigation into the allegations against the defendant
25 here, Terry Catoe, resulting in him being charged with the

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1 murder of Linda Massey Gaymon?

2 A Yes, ma'am.

3 Q You were one of the first officers on the scene I
4 believe; is that right?

5 A Yes, ma'am.

6 Q You responded to the call about a dead body found in
7 the home on Starnes Street on February 24th of 2012; is
8 that right?

9 A That's correct.

10 Q You got to the home, I believe, with lieutenant Mike
11 Howell; is that correct?

12 A Yes, I did.

13 Q And after the home was secured you, I believe, spoke
14 with Ricky Sistare, one of individuals who had found the
15 body; is that right?

16 A Yes, ma'am, just briefly.

17 Q You later also spoke with Sherry Cauthen; is that
18 right?

19 A Yes, ma'am, I did.

20 Q And you ultimately spoke with William Catoe, who Ms.
21 Cauthen had initially identified as the person she had seen
22 in the darkened area of Starnes Street on a bike; is that
23 right?

24 A Yes, ma'am.

25 Q During the course of your investigation you ruled

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1 William Catoe out as a suspect; is that correct?

2 A Yes, I did.

3 Q You became aware that he was actually a relative of
4 Terry Catoe; is that correct?

5 A I did.

6 Q But that Terry Catoe, the defendant, is the one that
7 rode the bike in the area, correct?

8 A Yes, ma'am, that's correct.

9 Q William Catoe didn't even own a bike; is that correct?

10 A He did not.

11 Q You also asked William Catoe if he had any scratches
12 on him and you confirmed that he did not; is that right?

13 A Yes, ma'am.

14 Q But out of an abundance of caution you obtained a DNA
15 sample from William Catoe, you and Investigator Danny
16 Bennett, to rule him out as to any possibility of
17 contributing any DNA on the body of the victim; is that
18 right?

19 A That's correct.

20 Q And that was submitted into evidence, correct?

21 A Yes, it was.

22 Q Were you present when Danny Bennett collected that?

23 A Yes, ma'am, I was.

24 Q I believe it's already in evidence but I will show it
25 to you. Bear with me just one minute. I show you what's

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1 already in evidence as State's Exhibit 17, I think you can
2 read there through the plastic. Does that appear to be the
3 buccal swab or cheek swab, as I call it, of the DNA swab of
4 Willie Catoe that was collected with his consent by Danny
5 Bennett in your presence?

6 A Yes, ma'am, it appears to be.

7 Q Thank you. And that was submitted into evidence for
8 comparison with that found on the victim's body; is that
9 right?

10 A That's correct.

11 Q So ultimately the investigation led to Terry Catoe,
12 the defendant who is present here in court; is that
13 correct?

14 A Yes, ma'am.

15 Q Do you recognize Mr. Catoe?

16 A Yes, ma'am, I do.

17 Q And when the investigation pointed then in his
18 direction, did you reach out to him and ask him to come to
19 the sheriff's department and speak with you?

20 A Actually I reached out to him before we knew that he
21 was a suspect, and then while interviewing I asked him to
22 come in to speak with me.

23 Q Very good. And did he come in and speak with you?

24 A Yes, ma'am, he did.

25 Q And that, I believe, was on February 29th of 2012; is

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1 that right?

2 A Yes, ma'am.

3 Q How did he get to your department?

4 A His sister brought him up.

5 Q His sister brought him to the department?

6 A Yes, ma'am.

7 Q And at that time he was not under arrest; is that
8 correct?

9 A He was not.

10 Q You were going to speak with him and interviewed him;
11 is that right?

12 A Yes, ma'am.

13 Q And was Danny Bennett present with you at that time?

14 A Yes, ma'am, he was.

15 Q And when you first started speaking to him on 2/29 of
16 '12, Investigator Clark Crump was also there; is that
17 correct?

18 A Yes, ma'am, he was.

19 Q But Danny Bennett was there the entire time; is that
20 right?

21 A Yes, ma'am, he was.

22 Q After you first started talking to him, I believe,
23 Clark Crump had to leave but Danny Bennett stayed the whole
24 time?

25 A Yes.

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1 Q When he came in to speak with you on 2/29/12, where in
2 the department did you speak with him?

3 A We were actually in Captain Craig Bailey's office.

4 Q Is this at the old sheriff's department?

5 A Yes, ma'am.

6 Q This is before y'all had the nicer new facility?

7 A Yes, ma'am, it was.

8 Q As we do here, have a nice facility here. And at that
9 time when you spoke with him, did you ask him certain
10 questions?

11 A I did.

12 Q And did he give you answers?

13 A He did.

14 Q And as he was giving you answers, were those answers
15 being typed up on a computer?

16 A Yes, ma'am, they were.

17 Q And ultimately did you print out those questions and
18 answers?

19 A I did, yes.

20 Q And did you show him those questions and answers and
21 ask him if that was a correct memorialization of the
22 questions that were asked of him and what he told you?

23 A Yes, ma'am, I did.

24 Q And did he ultimately sign that?

25 A He did.

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1 Q And that was a voluntary statement, correct?

2 A Yes, it was.

3 Q I'm going to show you what's previously been marked as
4 State's Exhibit 1 and ask you, do you recognize that
5 document?

6 A Yes, ma'am, I do.

7 Q And what is that document?

8 A This is a voluntary statement that we conducted of
9 Terry Catoe.

10 Q Is that actually the one that Mr. Catoe reviewed with
11 you after he spoke and answered your questions and he
12 signed that?

13 A Yes, ma'am, it is.

14 Q I believe he initialed the first two pages in your
15 presence and he signed the last page; is that correct?

16 A Yes, ma'am, he did.

17 Q And that's the original that he gave; is that correct?

18 A It is.

19 MS. COLLINS: Your Honor, at this time I move State's
20 Exhibit 1 into evidence at this time.

21 MR. LEE: Just preserving my previous objection.

22 THE COURT: Previous objection noted, previous
23 objection overruled. That document will come into evidence
24 as State's 1.

25 (The statement was received as State's 1.)

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1 MS. COLLINS: Thank you. At this time I would ask
2 that the witness publish that statement by reading the
3 questions and answers to the jury. Of course, they will
4 have it later during deliberations?

5 A Okay. The beginning of it is, "I, Terry Catoe,
6 understand that I do not have to say anything and I
7 volunteer the following information of my own free will
8 and for whatever purpose it serves -- it may serve." He
9 indicated that, "I can read and write and I have completed
10 the 12th grade in school. Questions were asked by
11 investigators F. Thompson and Crump, answers were given by
12 Terry Catoe. First question: "What do you know about the
13 death of Linda Massey Gaymon?" Answer: "All I know is
14 what I read in the paper." Question: "Had you had any
15 contact with her before her death?" Answer: "Before
16 Thursday evening I had never seen her before. When I saw
17 her she was walking past Ms. Jackie's walking up towards
18 Main Street and I walked up behind her" -- I'm sorry, "I
19 came up behind her. When I first saw her I thought she
20 was an undercover police officer until I seen the way she
21 was dressed. She was wearing black pants and a blue
22 shirt, or black or blue shirt and a pocketbook with her.
23 Just by the way she was dressed I thought that she was a
24 prostitute so I propositioned her." Question: "What did
25 you offer her?" Answer: "I told her \$10 at first and she

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1 wouldn't take that so I told her that I only had 15 and
2 she took that. I got off the bike and walked with her and
3 we went to find somewhere to go." Question: "Did you
4 find a place for the two of you to go?" Answer: "We both
5 agreed to go into the yellow house there on the end down
6 below Lou's store, she showed me the room that she wanted
7 to use, it had a bed or a mattress. She pulled down her
8 clothes and kneeled down on the bed." Question: "Did she
9 perform oral sex on you or did you have vaginal or anal
10 sex?" Answer: "She pulled them down and kneeled down on
11 the mattress, she got down on her knees." Question: "How
12 long were the two of you in there?" Answer: "No more
13 than 15 or 20 minutes. While we were having sex I could
14 feel the condom break so I pulled it out and let it go on
15 the floor." Question: "What do you mean by let it go on
16 the floor?" Answer: "I shot off on the floor."
17 Question: "Did you ejaculate inside of her at all?"
18 Answer: "I'm not sure, maybe a drop or two." Question:
19 "Did the two of you argue about anything while inside the
20 house?" The answer was no. Question: "Did she tell you
21 that the sex was uncomfortable or that she was hurting?"
22 Answer: "No, sir." Question: "What did you do or where
23 did you go after you finished?" Answer: "I went outside,
24 got on my bike and went up the road. When I got to the
25 Crenco I looked back and I saw her standing there with a

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1 white girl, I think her name is Sherry, they were standing
2 there talking to someone in a dark colored car. I said to
3 myself they were going to make some money tonight. It was
4 just a dark colored car with tinted windows, I don't know
5 if it was a Chevy or a Ford." Question: "How do you know
6 Sherry?" Answer: "From back in the day, back when
7 Brooklyn was wide open. She is a white girl that I met
8 around 1995 or 1996. At that time she was involved in
9 prostitution, now she is about 37 or 38 and she has lost a
10 lot of weight." Question: "Did you speak or talk to
11 Sherry that day?" Answer: "I spoke to her, she was on
12 Brooklyn too and I spoke to her before I spoke to the
13 other lady, she was just walking back and forth."
14 Question: "Approximately what time was it when you met
15 with Linda Gaymon?" Answer: "I don't have a phone or a
16 watch, it may have been a little after 8:00 p.m. because I
17 was trying to get home to watch a show called
18 Intervention, it comes on at 9:00 p.m on Direct TV or
19 Wednesday or Thursday nights. I still didn't make it home
20 on time to watch it." Question: "Did you go directly
21 home after you left Brooklyn Avenue?" Answer: "No. I
22 was on my way home but when I knew that I wouldn't make it
23 home on time I stopped at the hill up my house, that is
24 where the guys sit around the fire barrel and drink."
25 Question: "Who did you meet with?" Answer: "The Heaths,

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1 they live on Shiloh Unity Road in a trailer, it was Will
2 Heath, James Howard and a couple of more guys out there."
3 Question: "What time did you leave there?" Answer:
4 "Around 10:30 or 11:00 p.m. It may have been a few
5 minutes later or earlier." Question: "Where did you go
6 after leaving the Heath's?" Answer: "I went home."
7 Question: "Did you leave out at anytime?" Answer: "No,
8 sir." Question: "Who could verify that you came home
9 that night?" Answer: "Everybody was asleep and I came in
10 through the window, I kept it unlocked. I talked to my
11 sister, Pam, the following morning, she was walking out of
12 her room when I was going to the bathroom." Question:
13 "How did you normally get into the house? How do you
14 normally get into the house?" Answer: "If I get home
15 early enough my sister or her husband would open the
16 door." Question: "Have you been completely honest in
17 this statement?" Answer: "Yes, sir." Question: "Are
18 you willing to voluntarily consent to be tested against
19 the DNA that was found on Linda Gaymon?" And the answer
20 was "Yes, sir."
21 Q Thank you. Now, I want to ask you -- and I still call
22 you Investigator Thompson instead of Mr. Thompson so bear
23 with me. And the end of the first page is the question,
24 "Did she perform oral sex on you or did you have vaginal or
25 anal sex," and then the next page the answer at the very

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1 top is, "She pulled them down and kneeled on the mattress,
2 she got down on her knees." I just wanted to make sure,
3 there's no pages missing, that's the complete statement.
4 It's a little unresponsive to your question but that is the
5 complete statement.

6 A Yes, ma'am, this is the complete statement.

7 Q That was his answer in response to the question about
8 what type of sex; is that right?

9 A That's correct.

10 Q Thank you very much. After you took that statement of
11 the defendant and he reviewed it and initialed the first
12 two pages and signed the last page, did you then want to
13 speak to him further?

14 A Yes, ma'am, I did.

15 Q And at that time what was the purpose of speaking to
16 him further?

17 A We noticed that there was some inconsistencies in his
18 statement and we had to ask him more direct questions
19 concerning his knowledge or involvement.

20 Q And because of that, these inconsistencies that you
21 noted and you felt like you needed to ask more pointed
22 questions, did you read him his Miranda rights?

23 A Yes, ma'am, I did.

24 Q Now, what are Miranda rights?

25 A It has been so long since I've had to think about

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1 this. You know, Miranda basically advises you of -- I
2 hate to say you can answer the question with a question,
3 or answer it the same way -- it advises you of your right
4 to remain silent, your right to have an attorney present
5 with you if you would like to. Just to ensure that your
6 rights are not violated, to make sure that you're giving
7 this statement knowing that you may incriminate yourself.

8 Q And you also advised them of their right if they want
9 to to have an attorney with them during questioning; is
10 that right?

11 A Yes, ma'am.

12 Q And that if they can't afford an attorney one would be
13 appointed for them?

14 A Yes, ma'am, it would be.

15 Q And the purpose of those rights is to make sure that
16 they understand that they do have the right to remain
17 silent but they can give that up if they wish to; is that
18 right?

19 A Exactly, yes.

20 Q And you read the defendant his rights, correct?

21 A I did.

22 Q And Danny Bennett was present with you; is that right?

23 A Yes, ma'am, he was, yes.

24 Q And I'm going to show you State's Exhibit Number 2.

25 Is that the form that you used to read him his rights and

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1 have him initial and ultimately sign the waiver?

2 A It is.

3 Q And is that one that had been developed by your
4 department?

5 A Yes, ma'am, it is.

6 Q And if you will, did he -- when you first meet with
7 them, or at that point when you're reviewing his Miranda
8 rights, do you ascertain like the nature or extent of his
9 education?

10 A Yes, ma'am, we did.

11 Q And what did he tell you was the extent of his
12 education?

13 A He completed the 12th grade.

14 Q The purpose of that is to make sure he is educated
15 enough to understand what you're talking about with his
16 rights; is that correct?

17 A That's correct.

18 Q And tell me further, do you ascertain whether or not
19 he's under the influence of any alcohol or drugs?

20 A Yes, ma'am, we did.

21 Q You actually asked him that; is that correct?

22 A I did, yes.

23 Q And he indicated he was not; is that right?

24 A That's correct.

25 Q In addition to asking him, I'm sure that as an officer

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1 you've experienced and interacted and seen people that are
2 under the influence of alcohol or drugs; is that correct?

3 A Yes, ma'am.

4 Q And at the time I'm sure you're also observing him so
5 that in your own opinion you could ascertain whether or not
6 you felt he was under the influence if he didn't want to
7 admit it to you; is that right?

8 A Yes, ma'am.

9 Q And did he appear to you to be under the influence of
10 alcohol?

11 A He did not.

12 Q At anytime did he act confused when you were talking
13 to him about his rights?

14 A He did not.

15 Q At anytime did he ask you for further explanation of
16 his rights?

17 A No, ma'am.

18 Q If he would have done so, would you have given him
19 further explanation?

20 A Yes, ma'am.

21 Q Can you read the form to the jury?

22 MS. COLLINS: I do move State's Exhibit 2 into
23 evidence at this time and then I'll ask that the witness
24 publish it.

25 THE COURT: Any objection to State's Number 2.

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1 MR. LEE: Just the previous objection.

2 THE COURT: Previous objection noted and overruled.

3 (The Miranda form was received as State's 2.)

4 Q Please read that to the jury. Of course, they'll have
5 is later to look at.

6 A Lancaster County Sheriff's Office, Barry S. Faile,
7 Sheriff. Suspect's rights and Miranda warning for Terry
8 Catoe. Grade last completed in school, indicated 12th.
9 Under the influence of drugs or alcohol, he indicated no.
10 Can you read and write the english language, he indicated
11 yes. The place of this interview was the Lancaster County
12 Sheriff's Office, the date of this interview was February
13 29th, 2012. The time that I read this Miranda form to him
14 was 3:28 p.m. The case number is listed on here. "You
15 have the right to remain silent." TC is actually
16 initialed it for Terry Catoe. "Anything you say can and
17 will be used against you in a court you of law." The
18 initials TC are written beside there as well. "You have a
19 right to talk with a lawyer and have him present with you
20 while you are being questioned." The initials TC were
21 written beside it. "If you cannot afford to hire a lawyer
22 one will be appointed to represent you before any
23 questioning if you wish." The letters TC were initialed
24 beside it. "You can decide at anytime to exercise these
25 rights and not answer any questions or make any

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1 statements." The initials TC was placed beside it. "Do
2 you understand each of these rights that I have explained
3 them to you?" The initials TC were written beside it.
4 "Having these rights in mind are you willing to talk to us
5 at this time?" The initials TC were written beside it.
6 The waiver of rights reads as follows: "I have read the
7 statement of my rights and I understand what my rights
8 are. I am willing to make a statement and answer
9 questions. I do not want a lawyer at this time. I
10 understand and know what I'm doing. No promises or
11 threats have been made to me and no pressure or coercion
12 of any kind has been made against me. Signed, Terry
13 Catoe, witness Frederick Thompson, witness Danny Bennett."
14 Q Very good. Thank you. So as noted here there were no
15 threats made to the defendant at anytime in order to induce
16 him to waive his Miranda rights and give further statement;
17 is that correct?
18 A That's correct.
19 Q And no promises were made to him by either you or
20 Investigator Bennett or Investigator Crump, anyone in your
21 presence --
22 A None at all.
23 Q -- in order to induce the statement; is that correct?
24 A No, ma'am, none.
25 Q After the defendant was read his rights and reviewed

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1 them with you and he signed and y'all witnessed his
2 signature, did he then continue to answer questions?

3 A Yes, ma'am, he did.

4 Q As you did the first time, did you memorialize the
5 questions that were being asked of him and the answers that
6 he was giving by typing them up on the computer?

7 A Yes, ma'am, I did.

8 Q Were you yourself doing that?

9 A Yes, ma'am.

10 Q So was Investigator Bennett asking the questions and
11 you were typing or y'all both were kind of doing that a
12 little bit?

13 A I was doing all of the typing but he and I both were
14 asking the questions.

15 Q Okay. And ultimately afterwards just as you did the
16 first time, did you get to the point where you were going
17 to print it out and do a written statement?

18 A Yes, ma'am.

19 Q And at that time did Mr. Catoe indicate he did not
20 wish to sign a written statement at that time?

21 A Yes, ma'am.

22 Q But you did memorialize that in a written form,
23 correct?

24 A Yes, ma'am, I did.

25 Q And did you ask him, "Well, I understand you don't

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1 want to sign the statement but can I at least bring Captain
2 Craig Bailey in and review with you what I've written up
3 just so you can confirm that I've got it right so far;" is
4 that right?

5 A Yes, ma'am, I did.

6 Q And he indicated to you, he said that would be fine?

7 A Yes, he did.

8 Q And did you get Captain Craig Bailey?

9 A I did.

10 Q And you brought him and Danny Bennett was still there,
11 right?

12 A He was.

13 Q And reviewed from the computer, or did you actually
14 print it out what you had reviewed so far?

15 A I can't remember whether I read from the computer or
16 just from memory. We did go over it -- more than likely I
17 read from the computer but I can't --

18 Q So you reviewed it with him and he did confirm that
19 that was a correct rendition of the subsequent questions
20 after his Miranda waiver had been done of the questions you
21 asked and the answers he had given; is that correct?

22 A Yes, ma'am.

23 Q And that ended the interview for that day, correct?

24 A Yes, ma'am.

25 MS. COLLINS: One moment, please.

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1 THE COURT: Okay.

2 (Break in proceedings.)

3 Q I would like to show you, Mr. Thompson, what has been
4 marked as State's Exhibit 3 and ask you, is that what you
5 prepared on your computer as you formed the questions and
6 asked the questions of the defendant and he gave the
7 answers?

8 A Yes, ma'am.

9 Q And I believe that's four pages; is that right?

10 A Yes, ma'am, it is.

11 Q I think the first page kind of covers what ultimately
12 was put into a written statement that he signed; is that
13 right?

14 A Yes, ma'am.

15 Q And then on the second page I believe it notes where
16 you then read him his Miranda rights to ask him pointed
17 questions about what you felt were inconsistencies; is that
18 right?

19 A That's correct.

20 Q And so I think on the second page is where you kind of
21 begin with the questions and answers subsequent to the
22 Miranda warning and waiver; is that right?

23 A Yes, ma'am.

24 Q And those were -- that was a report that you prepared
25 while he was giving the answers, and you ultimately did

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1 confirm with him that that was a correct rendition of that
2 and then you later printed that out; is that correct?

3 A Yes, ma'am.

4 Q And even though he didn't want to sign it, you kept
5 that to memorialize the questions and answers that had been
6 given; is that right?

7 A Yes, ma'am.

8 MS. COLLINS: Your Honor, at this time I move State's
9 Exhibit 3 into evidence.

10 THE COURT: Previous objection noted and overruled,
11 admitted into evidence.

12 (The statement was received as State's 3.)

13 Q And at this time I would ask that you publish that to
14 the jury from the point I believe on page two, and I've
15 actually drawn a little arrow there after he signed the
16 voluntary statement and you come back and ask him. And
17 then you'll read through -- thank you very much, that way
18 we won't cover what you've already covered.

19 A "T. Catoe signed a voluntary statement and it was
20 turned over to Captain T. C Bailey and M. B. Howell to be
21 added to the case file. At that time investigators
22 reported to T. Catoe that several inconsistencies were
23 found in his initial statement, therefore investigator
24 Thompson read and explained to him his Miranda warnings
25 before resuming the interview. Post Miranda, Thompson

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1 asked T. Catoe to describe what the female was wearing and
2 he provided the same clothing description. Initially T.
3 Catoe reported that the female was wearing a wig. When
4 Thompson confronted T. Catoe about what he had previously
5 stated, he reported that he did not say that. Next,
6 investigators questioned him, T. Catoe, about the
7 timeframe that he reported that he encountered the thin
8 white female that he only knows as Sherry, the black
9 female he learned to be Linda Massey Gaymon. T. Catoe
10 reported that the time that he reported in the voluntary
11 statement was not completely accurate either after
12 investigators informed him that a person matching his
13 physical description was seen in the area in the early
14 morning hours of February 24, 2012. At that time
15 investigators explained exculpatory evidence to T. Catoe
16 before asking him to give a detailed account of his day in
17 an effort to eliminate him from this incident.
18 Investigators asked T. Catoe to provide names and
19 locations of people that could provide testimony as to
20 where he was at the possible time of death. T. Catoe then
21 stated that he went to Derrick Jordan's house on Shiloh
22 Unity Road around 5:20 p.m. on February 23rd of 2012 after
23 he -- indicating Jordan -- had gotten home from work and
24 they rode down to the projects, which is Palmetto Street
25 Apartments, to see a person that he only knows as Sweet.

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1 When asked about Sweet's address T. Catoe reported that
2 she lives in the middle section. According to T. Catoe he
3 and Jordan visited with her approximately an hour before
4 going back to Jordan's residence on Shiloh Unity Road."

5 Q Can I stop you for just one second?

6 A Yes.

7 Q Did you later ascertain who Sweet was?

8 A I was not. I think that I may have, let me check my
9 notes really quick.

10 Q I guess my question just is, did you determine that
11 Sweet was a lady but, in fact, was not the victim, Linda
12 Massey Gaymon?

13 A Yes, that's correct, she was not Linda Massey.

14 Q I just wanted to make sure that wasn't a nickname for
15 her. Thank you, please continue.

16 A "T. Catoe reported that Jordan was supposed to have
17 taken him back to Sweet's apartment but after he, Jordan,
18 had gotten home he opted not to. T. Catoe then the got
19 onto his bicycle and rode down to the New Town area of
20 Lancaster. After getting to New Town T. Catoe
21 coincidentally meets with Sweet again while she was
22 walking around. He used her cellphone to call a drug
23 dealer that he only knows as Joey and that he lives on
24 Memorial Park Road. He placed an order for cocaine with
25 Joey but Joey instructs T. Catoe to meet him at the Old

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1 Mill Grocery because he would not be delivering to the New
2 Town area. T. Catoe and Sweet walked to the Old Mill
3 Grocery from New Town and it takes approximately 30 to 45
4 minutes, they buy the cocaine and then walk back another
5 35 to 45 minutes to an abandoned house in the area of
6 Bob's Store and the Ellen Dean Hotel on Meeting Street.
7 T. Catoe reports that he and Sweet sit on the porch, use
8 the drugs and then go their separate ways. According to
9 T. Catoe he gets on his bicycle and rides through the New
10 Town area again before riding over to Midway. He reports
11 that he comes down Old Landsford Road to the cafe before
12 turning onto -- before turning to go back up towards Cedar
13 Street. T. Catoe turns right onto Cedar and then
14 immediately left onto Knight Street because his bicycle
15 does not have brakes and he did not want to go down the
16 steep hill that dead-ends on Elm Street. T. Catoe takes
17 Knight Street to West Arch and then cuts through a well
18 worn path over to Elm Street while carrying his white
19 bicycle on the shoulder. T. Catoe rides his bicycle
20 across Elm Street and onto 15th Street and takes it up to
21 Brooklyn Avenue. T. Catoe turns left and then encounters
22 the female Sherry. He speaks to her as he is riding back
23 and forth, then moves onto meet Gaymon. When asked about
24 the specifics of that encounter, T. Catoe reported that
25 what he provided in the initial statement was accurate.

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1 Investigators asked if he moved the couch that had been
2 placed in front of the house that Gaymon was found inside
3 of, he reported that he had. According to T. Catoe he
4 moved it several times because he was trying to hide his
5 bicycle that he left outside while he was having sexual
6 intercourse with her. Investigators asked T. Catoe to
7 tell them why he had not taken his bike inside the house
8 with him and he reported that he just did not.

9 Investigators asked T. Catoe to tell them again about the
10 sexual encounter that he and if she had become agitated
11 during intercourse. He reported that they did not get
12 into any altercation and that it lasted approximately 15
13 to 20 minutes. Afterwards they walked out together, he
14 walked out first and Gaymon walked out behind him and
15 stood on the porch as he got on his bicycle. Investigator
16 asked T. Catoe if he had any scratches, cuts or bruises.

17 At that time T. Catoe became agitated and stated that
18 William Catoe had informed him earlier that we had asked
19 him and had even checked his arms. T. Catoe stated that
20 he did have a scratch on his arm. Investigators asked him
21 to tell them how he got it, and he reported that as she
22 was walking into the back bedroom she slipped and
23 accidentally scratched his arm with her fingernail.

24 Investigators asked T. Catoe to demonstrate how the
25 incident occurred and he reported that he could not

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1 because it was dark. At that time investigators asked T.
2 Catoe to tell them an approximate time for this account of
3 the evening" -- I'm sorry. "At this time investigators
4 asked T. Catoe to tell them an approximate time for this;
5 account of his evening and he reported that it was later
6 than what he had reported earlier. Investigators asked T.
7 Catoe if he killed Linda Massey Gaymon, and after a brief
8 hesitation he reported that he did not. T. Catoe reported
9 several times that he did not kill her before he reported
10 that he was ready to go and that he did not want to talk
11 anymore today. Investigator Thompson asked if he would
12 stay long enough for him," meaning myself, "to report back
13 to him what he had provided in the presence of Captain T.
14 C. Bailey and he agreed. Thompson reviewed this
15 information and afterwards T. Catoe was placed under
16 arrest for solicitation of prostitution."

17 Q Thank you. At that time the defendant was charged
18 with solicitation of prostitution. You had reviewed with
19 Captain Bailey after the defendant confirmed that yes,
20 those were his answers that you read back from the
21 computer, you reviewed with Captain Bailey about the
22 issuance or taking the defendant into custody for
23 solicitation of prostitution; is that right?

24 A Yes, ma'am, that's correct.

25 Q Because by his statement of admitting that he had

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1 asked someone to have sex for money and that he'd offered
2 her money for sex, solicitation of prostitution is a crime,
3 correct?

4 A It is, yes.

5 Q And therefore he was charged with that, correct?

6 A Yes, ma'am.

7 Q And at that time he was taken into physical custody
8 pending the issuance of a written warrant before the
9 magistrate the next morning; is that right?

10 A Yes, ma'am.

11 Q And ultimately was he also asked about giving consent
12 to give a DNA sample from his cheek, a buccal swab?

13 A Yes, ma'am.

14 Q And did he consent to that?

15 A He did.

16 Q Did you witness his signature to that?

17 A I did, yes.

18 MS. COLLINS: I ask that be marked -- that this be
19 marked as the next State's Exhibit.

20 Q Would like to ask you to look at what we've marked as
21 State's 58 and ask you, do you recognize that document?

22 A Yes, I do.

23 Q And what is that?

24 A This is a consent to search form.

25 Q And that is consenting to a DNA sample being taken

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1 from the defendant, Terry Catoe?

2 A Yes, ma'am, it was.

3 Q And did you review that with him?

4 A I did.

5 Q And did he ultimately -- after you finished reviewing
6 his rights to not consent, did he agree and consent to the
7 taking of the DNA sample?

8 A Yes, he did.

9 Q And did he sign that consent form in your presence?

10 A He did, yes.

11 Q Did you sign underneath to the left witnessing it?

12 A I did.

13 Q And then Investigator Danny Bennett also signed that?

14 A He did.

15 MS. COLLINS: I move this into evidence at this time,
16 Your Honor.

17 MR. LEE: No objection.

18 THE COURT: Without objection introduced into
19 evidence.

20 (The form was received as State's 58.)

21 Q After the defendant signed this consent form and gave
22 his consent to his DNA cheek swab being taken, did y'all
23 ask, you and Investigator Bennett, that Christy Rogers,
24 Lieutenant Rogers from the CSI unit, come in and take that
25 cheek swab sample?

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1 A Yes, ma'am.

2 Q And she came in and did that in your presence?

3 A Yes, ma'am.

4 Q And she did that of the defendant who's seated here in
5 the red and black shirt with defense counsel, she took the
6 cheek swab of DNA in your presence, correct?

7 A Yes, she did.

8 Q So it could be compared to any DNA recovered from the
9 body of the victim; is that right?

10 A Yes, ma'am.

11 Q I believe some photographs were also made of the
12 defendant's body, correct?

13 A Yes, ma'am, they were.

14 Q And then the defendant was placed in jail at that time
15 pending the issuance of a written warrant for solicitation
16 of prostitution; is that right?

17 A Yes, ma'am.

18 MS. COLLINS: One moment.

19 (Break in proceedings.)

20 MS. COLLINS: I believe those are all of my questions,
21 I'm just interested to make sure I have all of the exhibits
22 back here for Mr. Lee and I've got them a little out of
23 order so I ask the Court's indulgence.

24 (Break in proceedings.)

25 MS. COLLINS: Thank you. Please answer any questions

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1 of Mr. Lee.

2 THE COURT: Mr. Lee, your witness.

3 MR. LEE: Thank you, Your Honor. May it please the
4 Court?

5 CROSS EXAMINATION

6 BY MR. LEE:

7 Q Detective Thompson, I think you said you'd been an
8 officer for 16 years; is that right?

9 A Yes, sir.

10 Q And you may have said how long you had been an
11 investigator.

12 A I came into investigations, I think it was around
13 maybe 2001 or 2002. I actually came there -- it was
14 community policing, what we called a resident deputies, I
15 was assigned to the investigation division at that time.

16 Q So you had been an investigator for since around 2001,
17 did you say, or thereabouts?

18 A Around 2001 or 2002, somewhere around that timeframe.

19 Q And your total time was about 16 years?

20 A Yes, sir.

21 Q Let me ask you, have you ever found it unusual for
22 somebody to when you're questioning them to give one
23 statement and then come back and give another statement
24 which implicates them a little more, and then maybe even
25 come back and give a third statement that they'll basically

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1 tell you everything?

2 A That's not uncommon.

3 Q And a lot of times people will do that, they
4 eventually get to the point where they do tell you what
5 happened?

6 A Yes, sir.

7 Q At some point in this process you asked Mr. Catoe if
8 he would consent to giving you some buccal swab samples; is
9 that correct?

10 A Yes, sir.

11 Q Did he object to that?

12 A No, sir, he did not.

13 Q And I believe when you first talked to him he may not
14 have come on his own but somebody brought him voluntarily
15 to the sheriff's department.

16 A Yes, sir, he did.

17 Q Do you know about what time he arrived?

18 A Let me look at the -- the voluntary statement --
19 because when he came in we brought him right back, so let
20 me tell you. It was probably right around 2:30 in the
21 afternoon.

22 Q Okay. And he gave a statement at three something?
23 I'm trying to see if I can see on the exhibits what time.

24 A He gave the voluntary statement, which started around
25 2:30 and we finished -- it took us about an hour, and then

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1 after that is when we actually read the Miranda, so the
2 time on that was 3:28.

3 Q And that's when he began to suspect that perhaps he
4 wasn't being completely truthful with you.

5 A Yes, sir.

6 Q Let me ask you, I think you said -- either you or one
7 of the other officers sits at a computer while you're
8 talking and he's typing in what is said.

9 A I was actually typing this interview.

10 Q Did you record it?

11 A No, sir, I did not.

12 Q Do you not have the equipment to record?

13 A At that time in Captain Bailey's office we didn't
14 have any type of recording equipment.

15 Q Would you object if I were to tell you that Wal-Mart
16 has recorders for like \$25?

17 A I wouldn't object to that at all, it's the truth.

18 Q So y'all just didn't record; is that correct?

19 A No, sir. That just wasn't a common practice for us.

20 Q But the officers who testified here before, you've got
21 these really sophisticated crime scene investigation
22 things, but when you're talking to somebody you don't even
23 have a \$25 recorder to record their --

24 A It wasn't issued through our department.

25 Q Okay. Did y'all have a cellphones at that time?

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1 A Yes, sir, we did.

2 Q Did you have cellphones that were able to record?

3 A At the time I don't even think those phones that we
4 had at that time -- they were the older flip phones, only
5 supervisors I think at that time had smart phones. But
6 most of us, we actually had smaller department issued
7 phones.

8 Q But y'all did have phones, though.

9 A Yes. In the investigation division we did have
10 phones assigned to us.

11 Q And then you had this system that you went through
12 where you put a question and then an answer and then a
13 question and an answer.

14 A Yes, sir.

15 Q Was there any discussion that would go on before you
16 would type the question or the answer?

17 A Well, often times we would just seek clarity, say
18 "What do you mean by that?" So when I type it out I don't
19 have -- what I would typically do is I would type my
20 statements out and I would ask questions because I knew
21 that one day we would be here and the jury would need to
22 understand, and I would typically take a little time to
23 ask for clarity with answers if they were willing to give
24 more details.

25 Q Did you put those into the statement? In other words,

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1 if they give you one answer and you had a question about it.
2 and you asked them, did you put that into the statement?

3 A Yes, sir.

4 Q And my understanding is he gave you this initial
5 statement where, which is -- I believe it's State's Exhibit
6 Number 1. It was not a suspect's statement.

7 A That's correct.

8 Q He gave you that. It had some suspicions or questions
9 at which point you then read him his Miranda rights.

10 A Yes, sir.

11 Q And then did he object after that and say, "I don't
12 want to talk anymore?"

13 A Later on when I actually asked him some more directed
14 questions, that's when he said he didn't want to talk
15 anymore that day.

16 Q But he'd already put most of the stuff that you had
17 put in State's Exhibit --

18 A It was the four page document.

19 Q The four page document. It was easier for me to refer
20 to it that way than to look for the number. He'd already
21 given you that information; is that correct?

22 A Yes, sir, he had.

23 Q Why did you change the format on that? On that that's
24 kind of like you're not question and answering, you're just
25 kind of he said this at this point in time, he did this, he

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1 said this.

2 A Well, there are actually two different forms. The
3 plan was that particular day is once I would type
4 everything out in a Word document at that time and once we
5 finished the interview I would actually copy and paste it
6 over into the sheriff's office address. If we had the
7 volunteer form, we actually had another form for the
8 suspect in a particular case, they were copied and pasted
9 over into that document, give it to him to review and sign
10 it, and then we submitted it. But toward the end of the
11 interview he said he didn't want to do that, he didn't
12 want to talk anymore that day. So I just basically did a
13 summary of what we discussed in that second interview.

14 Q Okay. And at some point in time he said, "I don't
15 want to say anything else?"

16 A Yes, sir. He said he didn't want to talk anymore
17 that day.

18 Q Do you know about what time that was? Was it getting
19 late in the day?

20 A This is just my guess because we had to actually wait
21 until the following day to get the warrant, it was
22 probably really close to 5:00.

23 Q So it had been going on -- you're talking to him had
24 been going on for some time, two and a half or three hours,
25 something like that or longer maybe?

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1 A Probably closer to two, maybe two and a half hours.

2 Q Okay. And you said -- I think you may have said that
3 you found out -- at some point in time you later found out
4 who this person Sweet was? It's not Ms. Gaymon, but --

5 A No, it's not Ms. Gaymon, but I don't know. We talked
6 to so many different people, I didn't list her name in a
7 report but I may have found out who she was.

8 Q Would you have talked to her to clarify or to say,
9 "Did you actually talk to him and what did y'all do?"

10 A I don't have it in my report. It's highly possible
11 that I didn't run across her, I really can't remember off
12 the top of my head.

13 Q And I believe he told you that when he left her he
14 rode his bicycle around for awhile, and then at some point
15 in time he got off of a street or a road went down a path?

16 A Yes, sir.

17 Q And that he picked his bicycle up?

18 A Yes, sir.

19 Q And put it on his shoulder?

20 A Yes, sir.

21 Q And then I assume it was the end of the path or
22 wherever -- at some point in time he got back on the
23 bicycle again.

24 A Yes, sir.

25 Q And do you remember him saying anything -- you asked

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1 him about picking up the sofa and moving the sofa?

2 A Yes, sir, I did ask him about that.

3 Q Do you recall anything about him saying that Ms.

4 Gaymon helped him do that?

5 A I don't have that listed in my report. But actually

6 we talked for about two and a half hours, I was pretty

7 adamant about typing everything -- as much as I can that

8 they were saying but I just don't have that listed on my

9 report.

10 Q Could he have said that?

11 A It's quite possible he could have.

12 Q And you were at the crime scene.

13 A Yes, sir.

14 Q That was not a small sofa.

15 A No, sir, it wasn't a small sofa. But it wasn't --

16 it's kind of hard to get into name brands -- it wasn't as

17 if it was something you would buy from Tyndall's it was

18 more on the lower end.

19 Q But it was enough when it was leaned over to block the

20 door completely I think some officers have said that they

21 had to duck under to go into the house.

22 A That I don't remember, I can't say whether they did

23 or not.

24 Q I'm just asking you for the size of the sofa.

25 A Size of the sofa? I would say it was a love seat. I

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1 don't know if it would have been big enough for three or
2 two cushions, I know it was a nice sized couch.

3 Q A nice sized couch?

4 A Yes, sir.

5 Q And, of course, it was in bad repair.

6 A Yes, sir.

7 Q And he basically in talking with you he gave -- and
8 you said he did not sign the second form of State's Exhibit
9 Number 2.

10 A That's correct.

11 Q And it wasn't in a format like this is what you said
12 question and answer, didn't have a place to sign, is that
13 not correct?

14 A It would have been -- if he would have agreed to sign
15 it, it would have been in another form very similar to the
16 voluntary statement, it would have said he was going to do
17 this voluntarily, it would have had Miranda warnings and
18 some other things on it as well.

19 Q Did you normally do that, sort of just type up more or
20 less a memorandum to be used about what's going on and then
21 if they say they'll sign a statement or they'll do it and
22 then you move it over into the other format?

23 A What I would typically do -- and then again, this has
24 been several years since then -- what I would typically do
25 in all of my statements I would always type it in a Word

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1 document just to make sure that the spelling is correct,
2 punctuation is correct and then I would always transpose
3 it over into a voluntary statement or into a suspect's
4 statement. And when I knew -- when he told me that he
5 would not sign the suspect's statement form, I just
6 continued to doing a Word document.

7 Q But some of this is what you have on the State's
8 Exhibit Number 3. It wouldn't make sense if you would have
9 just transferred it over, you would have had to reformat it
10 to a get it into a question and answer --

11 A Yes, sir.

12 Q -- response. I think you said there may be things in
13 there, he told me this happened or that happened or things
14 of that nature.

15 A Yes.

16 Q Did you do what we sometimes refer to, you and the
17 other detectives there, sort of lean on him in the sense of
18 saying, "Well, you know that's not true, you know that
19 didn't happen?"

20 A Post-Miranda, absolutely. After we read him his
21 Miranda absolutely, that was the whole purpose. We knew
22 then that he was not being truthful and we needed to get
23 the information, so we definitely -- it wasn't as
24 easygoing as the first interview. We needed the truth.

25 Q So you obviously didn't beat him up or anything like

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1 that?

2 A No, sir.

3 Q But you put some pressure on him to come clean and to
4 explain things more?

5 A Yes, sir.

6 MR. LEE: Your Honor, if I might have just a moment.

7 THE COURT: Sure.

8 (Break in proceedings.)

9 Q Do you recall -- and I asked you a question a minute
10 ago about Mr. Catoe saying anything about Ms. Gaymon
11 helping him with the sofa, did he specifically say or did
12 you say, "You know, if you moved that sofa we're going to
13 get your DNA off of it?"

14 A I don't remember saying that. But the truth of the
15 matter is if he touched it his DNA would be there, but I
16 don't remember saying that.

17 Q And do you recall maybe perhaps him saying, "Well,
18 you'll find hers on there too?"

19 A I can't say for certain if that's what he said, but I
20 don't know.

21 Q He might have said that but you just can't recall.

22 A No, sir, I can't.

23 MR. LEE: That's all I have, Your Honor.

24 MS. COLLINS: Briefly.

25 REDIRECT EXAMINATION

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1 BY MS. COLLINS:

2 Q Of course, if DNA of the defendant was found on the
3 sofa it would just indicate that at some point in time he'd
4 touched that sofa, correct?

5 A That's correct.

6 Q It wouldn't necessarily indicate whether or not he
7 touched it on this occasion or a prior occasion; is that
8 right?

9 A That's correct.

10 Q And the same thing if the victim's DNA had been found
11 on the sofa, it would just indicate that at some point in
12 time she had touched the sofa, correct?

13 A Exactly, yes.

14 Q And not necessarily on this occasion, correct?

15 A Yes.

16 MS. COLLINS: Thank you, nothing further.

17 THE COURT: Thank you, sir, you can step down. Ladies
18 and gentlemen, let's take a mid-morning recess, please do
19 not talk about the case. Thank you very much.

20 (The jury left the courtroom.)

21 THE COURT: Anything before we take a recess?

22 MS. COLLINS: Yes, Your Honor. But I can do it after
23 the recess if you want to recess first.

24 THE COURT: What is it?

25 MS. COLLINS: There was something that was redacted

1 from the last page of the four page document, State's
2 Exhibit 3. I had reviewed that with Mr. Lee, I think it's
3 a reference to the willingness of the defendant to take a
4 polygraph, and, of course, the witness did not read that
5 out because he knew not to read that out. But we've
6 prepare a redacted form to replace the last page of the
7 original so what goes back to the jury does not show that
8 paragraph. I have shown it to Mr. Lee, I would ask to
9 replace the last page of State's Exhibit 3 with this one
10 that does not show that. Then if we could take that last
11 page of the original and make it State's Exhibit, I think
12 we're at 59, and I would not have that go back but I want
13 it as an exhibit.

14 THE COURT: We'll make that Court's Exhibit 1.

15 MS. COLLINS: Perfect, thank you.

16 THE COURT: Subject to your continuing objection then
17 you do agree -- even though your position is the document
18 should not come into evidence you do agree that it should
19 be redacted however.

20 MR. LEE: That's correct, Your Honor. If it goes back
21 we would like the redacted version.

22 THE COURT: Okay. And you agree with that redacted
23 version even though I overruled your objection.

24 MR. LEE: I do, Your Honor, I have read it.

25 THE COURT: All right. Y'all take care of that then.

1 MS. COLLINS: And Judge, along that same line, State's
2 Exhibit 5 has a reference at the very last page on the
3 willingness to take a polygraph, we've also redacted that.
4 And I again would do the same thing with that exhibit of
5 replacing this redacted version on the original that will
6 go back to the jury and ask that the original last page of
7 State's Exhibit 5 will become Court Exhibit 2.

8 THE COURT: All right.

9 MR. LEE: And the same as previously, Your Honor, we
10 would object to it being admitted but --

11 THE COURT: In the event it is you want it admitted
12 that way.

13 MR. LEE: That's correct.

14 THE COURT: Okay. We'll take a recess.

15 (A recess was taken.)

16 THE COURT: All right. Let's bring the jury in.

17 (The jury returned to the courtroom.)

18 THE COURT: All members of the jury are present.

19 MS. COLLINS: The next witness for the State, Your
20 Honor, is Danny Bennett.

21 The witness, DANNY BENNETT, was first duly sworn and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLLINS:

25 Q Would you please state your name?

1 A Danny Bennett.

2 Q Mr. Bennett, you've got a nice strong voice and I'm a
3 little hard of hearing, if you could just speak into that
4 microphone we can all hear you. Thank you. What was your
5 occupation in February of 2012?

6 A Investigator with the Lancaster County Sheriff's
7 Office.

8 Q Are you currently retired?

9 A Yes, ma'am.

10 Q And how long were you with the sheriff's department?

11 A I think about 13 years maybe.

12 Q How long were you a law enforcement officer?

13 A About 13 years.

14 Q Do you recall when you were an investigator with the
15 sheriff's department that you were involved in the
16 investigation into the allegations that resulted ultimately
17 in Terry Catoe being charged with the murder of Linda
18 Massey Gaymon?

19 A Yes.

20 Q Do you recall if you were present on February 29th of
21 2012 when Mr. Catoe came in, Terry Catoe, the defendant,
22 and gave a statement to yourself and Fred Thompson?

23 A Yes, ma'am.

24 Q I would like to show you what's been marked as State's
25 Exhibit 1. When Mr. Catoe came in at first he was not read

DANNY BENNETT - DIRECT

1 his Miranda rights; is that right?

2 A That's my understanding, yes.

3 Q And at first he just signed that involuntary statement
4 and I believe you might have witnessed that, is that
5 correct, if you recall?

6 A Now, this is the statement between Thompson and
7 Crump.

8 Q Yes, sir. But if you see at the very top where it
9 says also Investigator Bennett.

10 A Right.

11 Q Were you present then too?

12 A Yes, ma'am.

13 Q And did you witness the defendant initialing those
14 first two pages and then signing the first and last page as
15 his voluntary statement?

16 A Yes, ma'am.

17 Q And Mr. Bennett, I would like to show you then State's
18 Exhibit 2. After Mr. Catoe signed what you've got as
19 State's Exhibit 1, did you and Mr. Thompson, who was
20 investigator also at that time, read the defendant his
21 Miranda rights?

22 A Yes, ma'am.

23 Q And State's Exhibit 2 that's already in evidence that
24 you have there before you, is that the Miranda form that
25 you and Investigator Thompson reviewed with the defendant?

DANNY BENNETT - DIRECT

- 1 A That's correct.
- 2 Q And did he initial beside each right indicating that
- 3 he had been read those rights?
- 4 A He did.
- 5 Q Did he appear to you to be under the influence of
- 6 alcohol or drugs?
- 7 A No, ma'am.
- 8 Q Did he appear to you confused in any way?
- 9 A Not at all.
- 10 Q Did he appear to understand what y'all were telling
- 11 him?
- 12 A Yes, ma'am.
- 13 Q Did he state that had he a 12th grade education, I
- 14 believe?
- 15 A Yes, ma'am.
- 16 Q At anytime was he promised anything or threatened in
- 17 any way in order to induce his waiver of Miranda rights and
- 18 giving of a statement?
- 19 A No, ma'am.
- 20 Q At the conclusion of the review of his Miranda rights,
- 21 did the defendant sign the written waiver of his Miranda
- 22 rights?
- 23 A He did.
- 24 Q He agreed to give a statement at that time?
- 25 A Yes, ma'am.

DANNY BENNETT - DIRECT

1 Q So he agreed to continue to talk to you and
2 Investigator Thompson at that time?

3 A That's correct.

4 Q Did you see the defendant sign at the bottom of the
5 Miranda rights waiver form that's State's Exhibit 2?

6 A Yes, ma'am.

7 Q And did you sign as a witness?

8 A I did.

9 Q And Investigator Thompson also signed as a witness; is
10 that correct?

11 A That's correct.

12 Q Now, Mr. Catoe continued to talk to you and
13 Investigator Thompson; is that right?

14 A Yes, ma'am.

15 Q And at the conclusion of continuing to talk with
16 y'all, at that time he didn't want to sign another
17 statement that day; is that right?

18 A That's correct.

19 Q But he did sign, I believe, a form agreeing for his
20 DNA to be collected; is that right?

21 A Yes, ma'am.

22 Q I'll show you what's in evidence as State's Exhibit
23 58. Was that consent to search form reviewed with the
24 defendant?

25 A Yes, ma'am.

DANNY BENNETT - DIRECT

1 Q And did he sign agreeing for y'all to take what I call
2 a cheek swab, a buccal DNA swab?

3 A He did.

4 Q And he signed that in your presence?

5 A Yes, ma'am.

6 Q And you and Investigator Thompson witnessed that; is
7 that correct?

8 A Yes, ma'am.

9 Q After he signed that, did you ask Lieutenant Christy
10 Rogers of CSI unit to come in and take that cheek DNA swab?

11 A That's correct.

12 Q She did that in your presence of the defendant whose
13 seated here?

14 A Yes, ma'am.

15 Q Terry Catoe? All right. Now, Mr. Bennett, did you
16 respond to the scene when the body of Ms. Linda was found?

17 A I did.

18 Q That abandoned house on Starnes Street, do you
19 remember it?

20 A Yes, ma'am.

21 Q Do you remember that there was a couch standing on one
22 end in front of the front doorframe?

23 A That's correct.

24 Q Were you there when the couch was removed ultimately
25 after everybody had gone in and did what they needed to do,

DANNY BENNETT - DIRECT

1 were you there when the couch was later removed from that
2 front door area?

3 A Yes, ma'am.

4 Q Did you assist with that or you were just present, or
5 do you remember?

6 A I really don't remember.

7 Q Had that couch, was it kind of rooted out?

8 A Yeah.

9 Q And to your memory, did it weigh very much?

10 A As well as I recall it wasn't that heavy, but it was
11 wet, but it wasn't that much.

12 Q It was wet but not much to it?

13 A I didn't think so.

14 Q You said it wasn't that heavy? All right.

15 MS. COLLINS: One moment please.

16 (Break in proceedings.)

17 Q Later after the defendant gave a subsequent statement
18 on March 1st of 2012, the very next day after you and
19 Investigator Thompson spoke with him, did Captain Craig
20 Bailey ask you to go in the front of the magistrate and
21 secure a warrant charging the defendant with the murder of
22 Ms. Linda?

23 A That's correct.

24 Q Thank you.

25 MS. COLLINS: One moment.

DANNY BENNETT - DIRECT

1 Break in proceedings.)

2 MS. COLLINS: Thank you, Mr. Bennett, for coming
3 today. Please answer any questions from Mr. Lee.

4 THE COURT: Mr. Lee?

5 MR. LEE: Thank you, Your Honor. May it please the
6 Court?

7 CROSS EXAMINATION

8 BY MR. LEE:

9 Q Investigator Bennett, you said you were there at the
10 scene and you saw the sofa leaning up against the door or
11 leaning up against where the door would have been?

12 A That's correct, yeah.

13 Q And it was long enough that it didn't go through the
14 door, in other words, it leaned up against the top part of
15 where the door would have been and then the bottom was down
16 on the -- not steps, but on the little porch?

17 A As well as I remember it was outside of the house,
18 yeah.

19 Q Okay. Would it be fair to say that was like a three
20 person sofa where three people could have sat if it were in
21 good shape?

22 A I believe it was a full size, yeah.

23 Q Do you recall off hand how many people it took to move
24 it out of way?

25 A I really don't. I know we moved it but I don't

DANNY BENNETT - CROSS

1 remember who had their hands on it, I really don't.

2 Q Would it have taken at least two people, though, to
3 move it?

4 A It would have been easier for two, yeah.

5 MR. LEE: If I might have just a moment, Your Honor.

6 (Break in proceedings.)

7 MR. LEE: That's all I have. Thank you.

8 MS. COLLINS: Nothing further. We ask that this
9 witness be excused.

10 THE COURT: Thank you, sir, you can leave if you want.
11 Call you next witness.

12 MS. COLLINS: The State's next witness is former
13 investigator Carl Crump.

14 The witness, CLARK CRUMP, was first duly sworn and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q Would you please state your name?

19 A Clark Crump.

20 Q Mr. Crump, you've got a nice strong voice, I'm a
21 little hard of hearing so if you would just as you are
22 speak up so everyone would hear you I would appreciate it.

23 A All right.

24 Q Thank you. And what was your occupation in 2012?

25 A I was an investigator three with the Lancaster County.

DANNY BENNETT - CROSS

1 Sheriff's Office.

2 Q How long had you been -- how long were you with law
3 enforcement?

4 A Fifteen years.

5 Q And are you now retired?

6 A Yes, ma'am.

7 Q What do you do now?

8 A I'm a 50 year old college junior.

9 Q And what are you studying?

10 A Ministerial studies.

11 Q Well, Mr. Crump -- and I may slip up and still call
12 you Investigator Crump if you will bear with me, I want to
13 direct your attention back to February and March of 2012.

14 A Okay.

15 Q And in March of 2012, specifically March 1st of 2012,
16 did you have an occasion to speak with the defendant, Terry
17 Catoe?

18 A Yes, ma'am.

19 Q You know what? Let me back up one more day. On
20 February 29th of 2012, were you present at the beginning of
21 an interview, a voluntary statement with Investigator Fred
22 Thompson and Investigator Danny Bennett and the defendant,
23 Terry Catoe?

24 A Yes, ma'am.

25 Q And you had to leave during the beginning of that; is

CARL CRUMP - DIRECT

1 that correct?

2 A It was very early on in it, yes, ma'am.

3 Q But to your knowledge Investigator Thompson and Danny
4 Bennett were there the entire time?

5 A Yes, ma'am.

6 Q But the next day on March 1st of 2012, were you asked
7 to accompany James Whitaker to the jail cell to serve Mr.
8 Catoe with the warrant for -- the written warrant for
9 solicitation of prostitution?

10 A Yes, ma'am, I was.

11 Q That had been secured that morning with the magistrate
12 on duty, I believe; is that right?

13 A Yes, ma'am.

14 Q And when you and James Whitaker went to the jail cell
15 to serve Mr. Catoe with that warrant, can you tell the jury
16 what happened?

17 A Well, Mr. Catoe was in one of the front cells of the
18 private cells awaiting to be served with the warrant. We
19 were escorted to the cell by a officer, we identified
20 ourselves and identified Mr. Catoe and began telling him
21 that we had a warrant in connection with what he had been
22 placed under arrest for and were there to serve it on him.

23 Q And how did he respond to that?

24 A Well, he asked what it was for and I said, "Well,
25 we're fixin' to get into that." And actually Investigator

CARL CRUMP - DIRECT

1 Whitaker was going to serve a warrant, and he asked me
2 again what was the warrant about and I again told him
3 "Investigator Whitaker is fixin' to tell you."

4 Q And did the defendant then indicate that he wished to
5 talk with y'all further?

6 A Yes, ma'am. He began to ask about the case in
7 particular. I told him that due to circumstances, him
8 being in custody and him being involved and being a
9 suspect in this crime that I really couldn't talk to him
10 about it unless he wanted to waive his rights to an
11 attorney.

12 Q And at that time did he indicate that he did wish to
13 waive his rights and speak?

14 A Yes, ma'am. I asked him once again was he sure and
15 he did and at that time I Mirandized him.

16 Q And when you say you Mirandized him, did you at that
17 point use the written Miranda waiver that he signed or did
18 you use a card in your pocket or --

19 A No, ma'am. I kept a Miranda card, or a suspect's
20 rights card was in my wallet, it was the same as what was
21 on the written form and I would pull them out and read
22 them whenever it was necessary.

23 Q And were those cards issued to all of the officers so
24 that you would have it handy so that you could read it
25 verbatim and make sure that you covered everything as

CARL CRUMP - DIRECT

1 required?

2 A Yes, ma'am.

3 Q And so you pulled out your card at that time?

4 A That's correct.

5 Q And you reviewed all of the Miranda rights with him at
6 that point; is that correct?

7 A Yes, ma'am.

8 Q And you say those are identical to the Miranda waiver
9 written form, right?

10 A Yes, ma'am.

11 Q Just on smaller size?

12 A That little credit card type sized.

13 Q And after you read him all of the Miranda rights, did
14 the defendant indicate that he understood?

15 A Yes, ma'am.

16 Q And did he state that he still wanted to talk to you
17 and waive his rights?

18 A Yes, ma'am.

19 Q And Whitaker was there the whole time?

20 A That's correct.

21 Q And did y'all sit down on one of the bunks right
22 there?

23 A Yes, ma'am. I sat down on the bunk beside him and
24 started talking to him.

25 Q And what at that time did the defendant say?

CARL CRUMP - DIRECT

1 A He began to ask me what happened and I said, "Well,
2 you tell me what happened," and he began to tell me what
3 happened.

4 Q And did he tell -- give you a summary indicating that
5 they had had sexual relations?

6 A A fairly detailed summary, yes, ma'am.

7 Q And at some point did you say, "Well, let's go in and
8 type this up so you can review it and sign it?"

9 A Yes, ma'am. We probably talked two, three minutes at
10 the very most, pretty much got the nuts and bolts of what
11 he wanted to say and then I asked him if he would be
12 willing to step up front from the detention center up
13 front to the sheriff's office, old sheriff's office, to
14 actually take the statement down and type it down.

15 Q And to the best of your memory, the nuts and bolts as
16 you said of what he said to you verbally was that the
17 victim had wanted rough sex and that he'd choked her in the
18 course of sex, is that about right?

19 A Yes, ma'am.

20 Q And so at that time did you and Investigator Whitaker
21 escort the defendant from his jail cell back into the
22 investigative division to Whitaker's desk to take a written
23 statement?

24 A Yes, ma'am.

25 Q And when y'all did so, when you got to Whitaker's

CARL CRUMP - DIRECT

1 desk, did you uncuff his hands so you could review the
2 forms and sign them?

3 A I believe Investigator Whitaker did, but it would be
4 standard that he would have been uncuffed, yes, ma'am.

5 Q I would like to show you what's been marked as State's
6 Exhibit 4 and ask you, do you recognize that document?

7 A Yes, ma'am. It was our Miranda warnings.

8 Q So is that the written Miranda warning form that you
9 reviewed in detail with the defendant, Mr. Catoe, in
10 Investigator Whitaker's presence and have him initial it
11 and ultimately sign when he waived his rights?

12 A Yes, ma'am.

13 Q And that was all there at Whitaker's desk?

14 A Yes, ma'am.

15 Q And the defendant did initial all of those lines and
16 sign in front of you; is that right?

17 A That's correct.

18 Q Signed indicating he wished to waive his rights?

19 A Yes, ma'am.

20 Q And you witnessed his signature?

21 A Yes, ma'am, I did.

22 Q And so did Investigator Whitaker; is that right?

23 A Yes, ma'am.

24 THE COURT: I would move State's Exhibit 4 into
25 evidence at this time.

CARL CRUMP - DIRECT

1 MR. LEE: Your Honor, I would reserve my --

2 THE COURT: Objection noted and overruled, admitted
3 into evidence.

4 (The Miranda form was received as State's 4.)

5 Q If you would please review that form and read it out
6 loud for the jury. Of course, they'll have it later but
7 for now purposes could you read it out to them?

8 A Well, it's a standard -- you've probably seen it on
9 TV, you've got a right to remain silent is basically with
10 what this is. But it starts out -- it's on Lancaster
11 County Sheriff's Office letterhead, it has suspect's
12 rights, Miranda warning typed out and it would be for who
13 in this case would be Terry Catoe. It's got the place,
14 the time and the date. But it begins -- it has got
15 actually seven different items typed out. The first one
16 is, "You have the right to remain silent." Second being,
17 "Anything you say can and will be used against you in a
18 court of law." The third, "You have a right to talk to a
19 lawyer and have him present with you while you're being
20 questioned." Number four, "If you cannot afford to hire a
21 lawyer, one will be appointed to represent you before any
22 questioning if you wished. You can decide at anytime to
23 exercise these rights and not answer any questions or make
24 any statements." Each one of these as we go over them the
25 suspects or whomever would initial each one saying that

CARL CRUMP - DIRECT

1 they've been read to them. I always, in particular on
2 number five, "You can decide at anytime to exercise these
3 rights, not answer any questions or make any statements,"
4 I would have them actually not just initial it but beside
5 that I would have them write "read" because I would
6 actually turn the form to them, and have them to read that
7 line and when they would write read on it that would mean
8 they read it and, of course, they understood it because
9 they'd read it. It demonstrated to me that they could
10 read and they could understand what was going on, and
11 again, when you get a chance to review the form you would
12 see read on the form. Number six, "Do you understand each
13 of these rights as I have explained them to you?" And
14 number seven, "Having these rights in mind, are you
15 willing to talk to us at this time?" And then it includes
16 with a waiver of rights, which reads in paragraph form, "I
17 have read these statements of my rights and I understand
18 what my rights are. I am willing to make a statement and
19 answer questions. I do not want a lawyer at this time. I
20 understand and know what I am doing. No promises or
21 threats have been made to me and no pressure or coercion
22 of any kind has been used against me." And then it would
23 be witnessed, timed and signed.

24 Q And what was the date and time that it was signed at
25 the bottom?

CARL CRUMP - DIRECT

1 A The day was March 1st of 2012, and the time was 3:52
2 p.m.

3 Q And at the top I think it shows when you start with
4 the form, is it 3:51?

5 A It is, 3:51 time that we began.

6 Q And it doesn't show p.m. but that was p.m. correct?

7 A Yes, ma'am.

8 Q And you witnessed, you signed as well as Investigator
9 Whitaker at the bottom as witnesses?

10 A Yes, ma'am.

11 Q And so as you've explained to us even though that one
12 line is the only one that has r-e-a-d, or read written
13 beside it, that all of them were read out loud, correct?

14 A Yes, ma'am.

15 Q Either by yourself or that one line by the defendant,
16 correct?

17 A Yes, ma'am. They would have been read line by line
18 and the initial.

19 Q And at the top I believe you asked him about his
20 education; is that right?

21 A Well, not on this form, that may be on the actual
22 statement itself.

23 Q Okay. Well, let me ask you this: Does it not have
24 the top left corner about his schooling and about is he
25 under the influence of alcohol or drugs?

CARL CRUMP - DIRECT

1 A No, ma'am. Understand, at this time he was in the
2 detention center and all of that stuff would have been a
3 matter of record and he would have been in the detention
4 center as far as under the influence of any kind of
5 intoxicant.

6 Q And obviously you have interacted as a law enforcement
7 officer before with people that may have been under the
8 influence of either drugs or alcohol; is that correct?

9 A Yes, ma'am.

10 Q On many occasions I imagine.

11 A Many occasions.

12 Q And, of course, you observed him also and he did not
13 appear to be under the influence of either alcohol or
14 drugs; is that right?

15 A No, ma'am, he did not.

16 Q At anytime did he appear to be confused?

17 A No, ma'am.

18 Q At anytime did he indicate to you that he wanted to
19 have an attorney present?

20 A No, ma'am.

21 Q At anytime did he indicate to you that he wished not
22 to sign that form and to exercise his rights?

23 A No, he did not.

24 Q So at anytime were any promises made to him or any
25 threats made to him in order to encourage him or cause him

CARL CRUMP - DIRECT

1 to waive his rights and to speak with you and sign that --
2 ultimately his next statement?

3 A No, ma'am.

4 Q Thank you. Now, you did after he signed that form
5 continue to speak with him and asked him questions and he
6 gave answers, correct?

7 A Yes, ma'am.

8 Q And that was at Investigator Whitaker's desk?

9 A Yeah. The Miranda form as well as the statement form
10 would have been at Investigator Whitaker's desk.

11 Q And Investigator Whitaker at his desk, he was typing
12 up the questions and answers as you were asking them and
13 the defendant was answering them; is that right?

14 A Yes, ma'am.

15 Q And then afterwards did Investigator Whitaker print
16 out what he had memorialized?

17 A Yes, ma'am.

18 Q And had it in a statement form and y'all reviewed it
19 with the defendant?

20 A That's correct.

21 Q Did you give the defendant the opportunity to tell him
22 he could make any changes if he wished or make any
23 additions or scratch anything out?

24 A Yes, ma'am.

25 Q And did he want to do that? Did he want to make any

CARL CRUMP - DIRECT

1 changes?

2 A No, ma'am.

3 Q And ultimately did the defendant sign the bottom of
4 each and every page?

5 A Yes, ma'am, he did.

6 Q I think that was a three page form?

7 A I believe so.

8 Q And you signed as a witness as did Investigator
9 Whitaker; is that correct?

10 A That's correct.

11 Q I would like to show you what's been marked as State's
12 Exhibit 5 and ask you, Mr. Crump, do you recognize that
13 document?

14 A Yes, ma'am, I recognize it.

15 Q And what is that document?

16 A It's a post-Miranda statement of Terry Catoe.

17 Q And he signed the bottom of each of those pages in
18 your presence and it was witnessed by Investigator
19 Whitaker?

20 A Yes, ma'am.

21 MS. COLLINS: At this time I would move State's
22 Exhibit 5 into evidence.

23 THE COURT: Continuing objection noted, overruled,
24 admitted into evidence.

25 (The statement was received as State's 5.)

CARL CRUMP - DIRECT

1 Q And at this time I would like to publish it for the
2 jury by having you read that in detail. I know that's a
3 little tedious and the jury will have it later during
4 deliberations, but for their purposes now.

5 THE COURT: Any objection to that?

6 MR. LEE: No, Your Honor.

7 A Complete the beginning with the pre --

8 Q Yes.

9 A Starting at the top left, County of Lancaster, State
10 of South Carolina, case number 1206837. "I, Terry Catoe,
11 give freely and voluntarily this statement to Investigator
12 C. Crump, Investigator J. Whitaker who have identified
13 themselves as officers of the Lancaster County Sheriff's
14 Office, Lancaster, South Carolina. I have been advised
15 that I do not have to make this or any other statement and
16 that what I say can be used against me in a court of law.
17 I have been advised that I have a right to counsel with an
18 attorney of my choice and if I'm financially unable to
19 obtain an attorney the Court will appoint an attorney to
20 represent me. I have not been threatened or promised any
21 reward to make this statement and I do so voluntarily. I
22 understand I have the right to stop answering questions at
23 anytime, and I hereby waive these rights." And then it
24 will begin with a question and answer, question and
25 answer. The first question is actually question

CARL CRUMP - DIRECT

1 Investigator C. Crump, answer Terry Catoe, that's who's
2 asking the questions and who's answering the questions.
3 First question. "Have you been Mirandized -- have you
4 been read your Miranda rights?" Answer. "Yes." Second
5 question. "Having those rights in mind, are you willing
6 to give a statement?" His answer was yes. Third
7 question -- I'm sorry, fourth question. "On 2/29 of 2012
8 you gave a statement to Investigator F. Thompson and
9 Investigator Bennett that on 2/24 of 2012 you had sexual
10 relations with Linda Massey Gaymon, is that true?" His
11 answer was yes. Question. "What type of sex did you have
12 with Linda Massey Gaymon?" Answer, "It was anal."
13 Question. "What location did you have sexual relationship
14 at with Linda?" Answer. "It was in an abandoned house in
15 the circle behind the store on Brooklyn Avenue, an
16 abandoned yellow house." Question. "Did you use the
17 couch at the abandoned house to block the doorway?"
18 Answer. "Yes, I used it to block the doorway. I told
19 Investigator Thompson that I used it to hide my bike."
20 Question. "What position was Linda during the sex?"
21 Answer. "During the vaginal sex we were doggy style and
22 she wanted to turn over for anal sex on her back and she
23 wanted it anal." Question. "At anytime during the sex
24 act or acts did you start choking her?" Answer. "Yes.
25 She asked me to, asked me if I was into hard core sex. I

CARL CRUMP - DIRECT

1 said 'what are you talking about?' And she said 'here,'
2 and placed my arm across her neck with my forearm across
3 her neck, she was looking at me and then she turned her
4 head away to the side looking at the wall." Question.
5 "How long did you have sex with her anally with your
6 forearm across her neck? About 20 to 25 minutes."
7 Question. "Did you have an orgasm?" Answer. "Yes."
8 Question. "Did Linda have an orgasm?" Answer, "I don't
9 know." Question. "Tell me what happened after your
10 orgasm?" Answer. "After I nutted I put my clothes on, I
11 think the damage was already done." Question. "By
12 damage, what do you mean? She was already about to go
13 out, she was just lying there and moaning. I asked her
14 what was wrong and she did not say anything, I got scared
15 and left." Question. "Did you pay for the sex, and if so
16 how much and when did you pay? Yes, I did, I paid her
17 \$15. When did you pay her and where did she put the
18 money?" Answer. "When she pulled her clothes down I gave
19 her the money, I don't know where she put the money, if
20 she put it in her bar or not." Question. "What was she
21 wearing if you can remember? She was wearing black pants
22 and a blue or black shirt." Question. "What were you
23 wearing? I had on blue jeans and a white shirt and a gray
24 hoodie." Question. "Was Linda alive when you left her?
25 Yes, sir, I guess she was." Question. "You said you

CARL CRUMP - DIRECT

1 guess, how did you know if she was alive?" Answer. "Her
2 leg was moving and she was lying on her side and her eyes
3 were open when I left." Question. "Did she ever yell
4 out, 'you don't have to do that?' Yes. She yelled out
5 something when I first put it in her ass. The first time
6 I put it in without asking her we were doing it doggy
7 style." Question. When did the condom break?" Answer.
8 "When I was in her ass." Question. "Have you been honest
9 in the statement? Answer. "Yes, sir." Question. "Are
10 you willing for us to photograph your whole body?"
11 Answer. "Yes." Question. "Is there anything you wanted
12 to add to this statement?" Answer. "I'm sorry that it
13 happened, I wish I could take it back, I wish she was
14 still here today." That concludes the statement.
15 Q Thank you for reading that. And again, that last page
16 has a quite a bit of space to the end. And again, when it
17 was printed out the defendant was offered the opportunity
18 not necessarily there but anywhere if he wanted to make any
19 additions or changes to that statement; is that correct?
20 A Yes, ma'am.
21 Q And he did not do so; is that correct?
22 A No, he did not.
23 Q He signed it as it was printed out, correct?
24 A Correct.
25 Q At one point in regard to the money you said the word

CARL CRUMP - DIRECT

1 I didn't know if she put it in her bar or not, b-a-r, did
2 you hear that?

3 A Yes, ma'am.

4 Q And do you know if that was referring to bra, b-r-a,
5 or bag, b-a-g, or do you know?

6 A I believe that was a typo and he was talking about
7 her bra.

8 Q Okay. Thank you.

9 MS. COLLINS: One moment, please.

10 (Break in proceedings.)

11 MS. COLLINS: Thank you. Please answer any questions
12 of Mr. Lee.

13 THE COURT: Mr. Lee?

14 MR. LEE: Thank you, Your Honor. May it please the
15 Court?

16 CROSS EXAMINATION

17 BY MR. LEE:

18 Q Investigator Crump, I think you said you were there to
19 serve a warrant on him, is that correct, that was your
20 initial involvement with him?

21 A Well, I was there with Investigator Whitaker, he
22 would have been the one who would have served the warrant.

23 Q He was actually the one who was actually going to
24 serve the warrant.

25 A Yes, sir.

CARL CRUMP - DIRECT

1 Q Did you ever go to the crime scene?

2 A No, sir, I didn't. Well, let me -- I didn't go to
3 that -- I've been to that house several times but to that
4 particular crime scene, no, sir.

5 Q Okay. Was it a house that -- was it being used by
6 people for sex and drinking and maybe drugs?

7 A I know it was abandoned, I have no idea what it was
8 being used for.

9 Q And you did the typing; is that correct?

10 A No, sir.

11 Q Officer Whitaker did it?

12 A Yes, sir.

13 Q And you asked the questions?

14 A Yes, sir.

15 Q Did y'all record anything?

16 A No, sir. You mean by audio or video recording?

17 Q Right.

18 A No, sir.

19 Q Is there any reason y'all didn't do that?

20 A Well, at the time we didn't have the capabilities.
21 You've got to understand, this was in our old building
22 before we moved to the new building and we just didn't
23 have the capabilities at the time.

24 Q Would you dispute me if I said that I think probably
25 Wal-Mart has small recorders for maybe \$25?

CARL CRUMP - CROSS

1 A I would assume they do, yes, sir.

2 Q So to have a recorder wouldn't have cost a lot of
3 money.

4 A Just following policy, sir, at the time we did not
5 have the capability.

6 Q Well, you mean y'all just didn't do it.

7 A At the time there was no capability to record a
8 statement of any kind at the Lancaster County Sheriff's
9 Office.

10 Q When you first went with Investigator Whitaker, I
11 believe you said he started asking him some questions or
12 indicated he wanted to talk some more?

13 A He meaning Investigator Whitaker?

14 Q No, Mr. Catoe.

15 A When did he start asking questions -- I don't
16 understand what you're asking me.

17 Q When you went with Investigator Whitaker when he was
18 going to serve the warrant, Mr. Catoe started indicating
19 that he might want to talk some more?

20 A Well, he began to ask questions, yes, sir.

21 Q And at that point you said, "Wait a minute, if you
22 want to talk some more I need to read you your rights," and
23 that's when you read him his rights.

24 A When he started asking specifically about the case,
25 yes, sir.

CARL CRUMP - CROSS

1 Q And then you took him back to Captain Bailey's office?

2 A No, sir.

3 Q Y'all sat there on the bed, I mean on the bunk.

4 A I talked to him for a little while on the bed, yes,
5 sir.

6 Q And then y'all went back to the office to take a
7 statement?

8 A Not to Captain Bailey's office.

9 Q Where did you go?

10 A We went to Investigator Whitaker's desk.

11 Q Did you know at that time he was going to give you a
12 confession and tell you what happened?

13 A At which time?

14 Q When you went back to get the written statement.

15 A After I talked with him on the bunk?

16 Q Right.

17 A Yes, sir, he admitted it in the jail cell.

18 Q And he starting telling -- do you remember anything he
19 told you?

20 A He just began to ask what had happened and I told him
21 that he needed to tell me what happened, that I had not
22 been to the crime scene myself. I did know that the
23 evidence would indicate -- would be able to identify
24 whomever did it and then that's when he wanted to start
25 talking.

CARL CRUMP - CROSS

1 Q And did he say, "Well, I did it," or did you just get
2 the impression that wait a minute, we need to leave --

3 A I think he said I can tell you what happened.

4 Q Oh, okay. And you knew by that that he probably was
5 going to --

6 A That was a pretty good indication, yes, sir.

7 Q -- give a confession. Okay. And did you follow-up --
8 you asked him how long you thought that took and he said 20
9 to 25 minutes. That seems like a lot of time to be having
10 sex, even the type of sex he's talking about. Did you
11 question him any further about that?

12 A About the length?

13 Q Yeah.

14 A No, sir. I was taking his statement as he gave it.

15 MR. LEE: That's all I have Your Honor.

16 THE COURT: Anything further?

17 MS. COLLINS: Yes, Your Honor, briefly.

18 REDIRECT EXAMINATION

19 BY MS. COLLINS:

20 Q Mr. Lee asked you about going to serve the warrant and
21 I think I just never concluded, after the defendant signed
22 State's Exhibit 5 that you had, was a warrant secured for
23 murder?

24 A Yes, ma'am.

25 Q And at that time did Investigator Whitaker in your

CARL CRUMP - REDIRECT

1 presence serve him with both the prostitution --
2 solicitation of prostitution warrant and the murder
3 warrant?

4 A Yes, ma'am.

5 Q So at the first time y'all hadn't ever actually got to
6 the point of serving him actually with the prostitution
7 warrant, correct?

8 A No. The statement essentially interrupted that
9 process.

10 Q Okay.

11 MS. COLLINS: Thank you, nothing further.

12 MR. LEE: That's all.

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

14 MS. COLLINS: The next witness is James Whitaker.

15 The witness, JAMES WHITAKER, was first duly sworn and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. COLLINS:

19 Q Please state your name.

20 A James E. Whitaker, Jr.

21 Q And Mr. Whitaker, you have a very strong voice, I'm a
22 little hard of hearing so if you will continue to speak
23 directly into the microphone I would appreciate it.

24 A Yes, ma'am.

25 Q And what was your occupation in 2012?

JAMES WHITAKER - DIRECT

1 A Investigator for the Lancaster County Sheriff's
2 Office.

3 Q And what is your occupation now?

4 A Detective for the Pageland Police Department.

5 Q How long have you been with law enforcement?

6 A Right at 19 years.

7 Q And how long were you a law enforcement officer with
8 the Lancaster County Sheriff's Office?

9 A For thirteen years.

10 Q And so again, back in February and March of 2012, you
11 were an investigator, I believe, with the Lancaster County
12 Sheriff's Department?

13 A Yes, ma'am.

14 Q And did you have an occasion to speak with the
15 defendant, Mr. Terry Catoe here in the courtroom, on March
16 1st of 2012?

17 A Yes, ma'am.

18 Q And was Clark Crump, who just walked out as you were
19 walking in, was he an investigator with your department at
20 that time too?

21 A Yes, he was.

22 Q And was he present when you spoke with Mr. Catoe?

23 A Yes, ma'am, he was.

24 Q Had you been asked by Investigator Craig Bailey to
25 serve a warrant that had been issued by the magistrate

JAMES WHITAKER - DIRECT

1 charging the defendant with solicitation of prostitution?

2 A Yes, ma'am, I was.

3 Q And did you go to where he was being held physically
4 in the jail to serve him with that written warrant?

5 A Yes, ma'am.

6 Q And was Investigator Clark Crump with you?

7 A Yes, ma'am.

8 Q And when y'all went into the jail cell for you to
9 serve him with that warrant, did you actually get to the
10 point of serving him there in the jail with that warrant at
11 that time?

12 A No, ma'am, we did not.

13 Q Did he start asking questions about the investigation?

14 A Yes, he did.

15 Q Did he indicate that he wished to speak with y'all
16 further?

17 A Yes, ma'am.

18 Q And did Investigator Crump stop him and say, "Well, if
19 you're going to speak with us I need to read you your
20 Miranda rights again?"

21 A Yes, ma'am, he did.

22 Q And you were present as Investigator Crump read him
23 his Miranda rights, I believe, from the card that he had in
24 his pocket?

25 A Yes, ma'am.

JAMES WHITAKER - DIRECT

1 Q And were all of those rights the same that are
2 ultimately on the written Miranda form he later signed at
3 your desk?

4 A Yes, ma'am, they are.

5 Q And as Investigator Crump read him those rights from
6 the card, at the conclusion of that, did the defendant
7 state that he wished to waive his rights and he wanted to
8 speak with y'all further?

9 A Yes, ma'am.

10 Q And at that time, I believe, did the defendant sit
11 down on the jail bunk with Investigator Crump when you were
12 present and he indicated that he wanted to tell y'all what
13 had happened?

14 A Yes, ma'am.

15 Q And so ultimately y'all took him from the jail cell, I
16 believe, in your presence, you and Mr. Crump escorted Mr.
17 Catoe to your desk at the investigative section of what was
18 then the sheriff's department, correct?

19 A Yes, ma'am.

20 Q Y'all weren't in the new facility at the time?

21 A No, I wasn't.

22 Q And when you got to your desk, you sat at your desk at
23 your computer; is that right?

24 A Yes, ma'am.

25 Q And did Investigator Crump review with him or did you

JAMES WHITAKER - DIRECT

1 review with him this written Miranda waiver form?

2 A Investigator Crump, yes, ma'am.

3 Q I'm going to show you State's Exhibit 4 that is in
4 evidence and ask you, do you recognize that form?

5 A Yes, ma'am, I do.

6 Q And is that the written Miranda waiver form that you
7 and Investigator Crump reviewed with Terry Catoe at your
8 desk at the old sheriff's department on March 1st of 2012?

9 A Yes, ma'am.

10 Q And at that time did y'all have the defendant initial
11 for you as each of those rights were read to him?

12 A Yes, ma'am.

13 Q And you had the defendant -- actually I think Mr.
14 Crump had the defendant write the word read or read,
15 r-e-a-d, beside one of them and had him read it out loud to
16 indicate that he could actually read?

17 A Yes, ma'am.

18 Q And that way y'all were sure that he could read and
19 that he understood the rights that were being shared with
20 him?

21 A Yes.

22 Q And then ultimately did the defendant sign -- did
23 y'all review with him the written waiver at the bottom of
24 that form?

25 A Yes, we did.

JAMES WHITAKER - DIRECT

1 Q And the defendant signed that in your presence?

2 A Yes, ma'am.

3 Q And you witnessed his signature as did Investigator
4 Crump; is that right?

5 A Yes.

6 Q At anytime, Mr. Whitaker, was the defendant threatened
7 in any way or promised anything in order to cause him to
8 waive his Miranda rights and sign that form?

9 A No, he wasn't.

10 Q At anytime was he threatened in any way or promised
11 anything in order to induce him to give a statement to
12 y'all?

13 A No, he wasn't.

14 Q And after signing that form, did the defendant then
15 give a statement?

16 A Yes, he did.

17 Q Investigator Crump asked questions and the defendant
18 answered those questions in your presence?

19 A Yes, ma'am.

20 Q And were you comfortable that he understood all of his
21 rights and all of those questions?

22 A Yes, ma'am.

23 Q At any time did appear confused?

24 A No, he did not.

25 Q At anytime did he ask for an attorney?

JAMES WHITAKER - DIRECT

1 A No, ma'am, he did not.

2 Q Did you type up on the computer as Investigator Crump
3 was sitting there at your desk also with Mr. Catoe, and Mr.
4 Crump asked the questions and Mr. Catoe did the answers and
5 you were typing?

6 A Yes, ma'am.

7 Q And did you later print that out and the defendant
8 sign that?

9 A Yes, ma'am.

10 Q I'm going to show you State's Exhibit 5 and ask you,
11 is that a copy of the three page form that ultimately you
12 printed out from your computer and the defendant signed
13 there in your presence at the bottom of each page and it
14 was witnessed by your signature on Investigator Crump's
15 signature?

16 A Yes, ma'am.

17 Q I want to ask you what appears to me at least to be a
18 clerical error. In the upper right-hand corner of that
19 there's a date, can you read that date?

20 A Yes, ma'am, 4/01/2010.

21 Q And I believe that date is on each of those pages; is
22 that right?

23 A Yes, ma'am.

24 Q But despite that error, clearly that would have
25 predated this happening by two years, correct?

JAMES WHITAKER - DIRECT

- 1 A Yes, ma'am.
- 2 Q And above that I think it even says the case number
3 and it says 12 dash something, correct?
- 4 A Yes, ma'am.
- 5 Q And the case number, the first part 12 indicates 2012,
6 correct?
- 7 A Yes, ma'am.
- 8 Q And so the date that that statement was taken was
9 actually the date that is directly reflected on State's
10 Exhibit 4, the Miranda waiver form, correct?
- 11 A Yes, ma'am, on 3/1 of 2012.
- 12 Q So that even though it has the date 4/1/2010 on
13 State's Exhibit 5 was after State's Exhibit 4; is that
14 right?
- 15 A Yes, ma'am.
- 16 Q Thank you. Now, reviewing that form there -- and it
17 has already been entered into evidence and read to the
18 jury, again, those were the answers that you put down that
19 the defendant gave to the questions of Mr. Crump, correct?
- 20 A Yes, ma'am.
- 21 Q And after that question and answer session you printed
22 it out, did y'all give the defendant the opportunity to
23 read over that and tell him he could make any changes, make
24 any additions, deletions, scratch out anything, basically
25 make it his own document before he signed it?

JAMES WHITAKER - DIRECT

1 A Yes, ma'am. He read it on the computer screen and
2 once it was printed out.

3 Q And did he want you to make any changes?

4 A No, ma'am. The last question was his opportunity to
5 make any statement.

6 Q And at the last question he talks about how he's
7 sorry.

8 A Yes, ma'am.

9 Q All right. And so without any further additions and
10 not any deletions he did sign each of those pages as you've
11 already stated?

12 A Yes, ma'am.

13 Q And y'all witnessed it, right?

14 A Yes, ma'am.

15 Q You witnessed him signing the pages?

16 A Yes, ma'am.

17 Q At that time was Investigator Bailey informed of the
18 statement and at that time was the defendant allowed to
19 make a call to his family?

20 A Yes, ma'am, he was.

21 Q And then after that call, did y'all escort him back to
22 his jail cell?

23 A Served the warrant on him and escorted him back.

24 Q And at that time I believe, because y'all work as a
25 team, that Investigator Bennett had actually gone to the

JAMES WHITAKER - DIRECT

1 magistrate who at that time was on duty and gotten now the
2 warrant for murder of the defendant being charged with the
3 murder of Ms. Linda Massey Gaymon; is that right?

4 A Yes, ma'am.

5 Q And so at that point after getting that physical
6 warrant on murder, did you take both warrants yourself in
7 the presence of Investigator Crump back in the jail cell
8 and serve Mr. Catoe with both of those warrants?

9 A Yes, sir.

10 Q Thank you.

11 MS. COLLINS: Please answer any questions of Mr. Lee.

12 THE COURT: Mr. Lee, your witness.

13 MR. LEE: Thank you, Your Honor. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. LEE:

18 Q My understanding, Investigator Whitaker, was that
19 Captain Bailey was the one who asked you to serve the
20 warrant on Mr. Catoe; is that correct?

21 A Yes, sir.

22 Q And how does that work actually when you serve the
23 warrant?

24 A What do we do?

25 Q Right?

JAMES WHITAKER - CROSS

1 A We advise them who we are and read the arrest warrant
2 to them.

3 Q And then does he have to sign it or anything?

4 A No, sir, we sign it.

5 Q So the defendant doesn't have to sign it?

6 A There's nowhere on the warrant for the defendant's
7 signature.

8 Q Okay. Let me ask you, can you identify this item?

9 A Yes, sir. It appears to be a copy of the arrest
10 warrant for Mr. Catoe for prostitution.

11 MR. LEE: I would ask to mark that for identification
12 and then.

13 MS. COLLINS: I have no objection to it being
14 admitted.

15 THE COURT: All right. We'll go ahead and admit the
16 document. Do you want it admitted, Mr. Lee?

17 MR. LEE: Yes, Your Honor.

18 THE COURT: We'll admit that then as defendant's next
19 in order.

20 (The warrant was received as Defendant's Exhibit 5.)

21 Q And Officer Whitaker, if you would let me give that
22 back to you. Most of that is a form, is that not correct?
23 It's issued by the State, I assume.

24 A It's issued by the State, yes, sir.

25 Q But then there are some things that you put in on it,

JAMES WHITAKER -- CROSS

1 in other words, you put in the offense and you put in a
2 little bit about supposedly what happened and put forms of
3 background for the offense.

4 A For the affidavit?

5 Q Right, yeah. Would you read the affidavit portion of
6 that, please?

7 A The affidavit part?

8 Q That's correct.

9 A "On 2/24/12 of defendant, Terry Catoe, paid Linda
10 Massey Gaymon \$15 to commit sexual acts. This incident
11 occurred at Starnes Street in Lancaster County, South
12 Carolina. Catoe has implicated himself in the statements
13 to investigators and others are witness to prove the
14 same."

15 Q And the actual affiant on that is not yourself, it's
16 another officer; is that correct?

17 A Yes, sir, it is.

18 Q But that part of it, it's supposed to be true; is that
19 correct?

20 A Say again?

21 Q The affidavit part of it is supposed to be true; is
22 that correct?

23 A Yes, sir.

24 Q Do you know what happened with that warrant? Did Mr.
25 Catoe receive a sentence and serve time?

JAMES WHITAKER - CROSS

- 1 A I have no idea, sir.
- 2 Q Okay. That's fine. It's my understanding y'all
- 3 didn't record anything.
- 4 A Excuse me?
- 5 Q You didn't record anything while he was talking.
- 6 A No, sir, we did not.
- 7 Q You're now working for the Pageland Police Department?
- 8 A Yes, sir.
- 9 Q As an investigator?
- 10 A Yes, sir.
- 11 Q Do y'all record anything in Pageland?
- 12 A Yes, sir. Now we do, yes, sir.
- 13 Q Would you be surprised if I told you that the little
- 14 Chester County -- or not Chester County, but the Chester
- 15 City Police were recording things over six years ago?
- 16 A The question is would I be surprised?
- 17 Q Yeah.
- 18 A No, sir.
- 19 Q But y'all didn't do it here in Lancaster.
- 20 A Not at that time we did not.
- 21 Q Mr. Catoe is the one who approached y'all about
- 22 talking; is that correct?
- 23 A Yes, sir.
- 24 Q And then he evidently made enough -- gave enough
- 25 information to where you and Officer Crump -- not Officer

JAMES WHITAKER - CROSS

1 Crump, but -- well, I believe it was officer Crump, wasn't
2 it? It was you and officer --

3 A Me and Officer Crump together when we did the
4 interview?

5 Q He gave you enough to where you knew he was getting
6 ready to tell you what had happened or you suspected that.

7 A I'm sorry, was that during the interview or during --

8 Q When you first went to the jail cell and --

9 A He questioned about what was going on and about the
10 case and officer -- excuse me, Investigator Crump advised
11 him that if he wanted to talk about the case he couldn't
12 talk unless he'd been Mirandized.

13 Q And at that point he sort of spilled the beans, he
14 told you what had happened.

15 A Yes, sir.

16 Q And during this time when he was talking, the last
17 statement he says, "I'm sorry this happened, I'm sorry that
18 she's not here anymore," did he appear to you to be
19 remorseful, that he was sorry about that?

20 A I don't know, sir, if he was or not.

21 Q But he did say he was?

22 A Yes, sir.

23 MR. LEE: If I may have a moment, Your Honor.

24 THE COURT: Okay.

25 (Break in proceedings.)

JAMES WHITAKER - CROSS

1 MR. LEE: That's all I have, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. COLLINS:

4 Q Mr. Whitaker, Mr. Lee asked you in terms of Pageland
5 making recordings, do you know if they were doing so in
6 February of 2012?

7 A I have no knowledge of that.

8 Q Do you still have the Defense Exhibit 5, the
9 prostitution warrant there in front of you?

10 A Yes, ma'am.

11 Q Looking at the affidavit section, I believe that was
12 signed by Joseph Catalano -- I don't know how to say his
13 name.

14 A Catalano.

15 Q Catalano -- who was an officer there at the time; is
16 that right.

17 A Yes, ma'am.

18 Q And y'all all worked as a unit, of course.

19 A Yes.

20 Q And again, you'd been asked to serve this warrant,
21 correct?

22 A Yes, ma'am.

23 Q And do you see in the affidavit, I think you've
24 already read it, that it states, and Mr. Lee asked you if
25 this is true, is based upon Catoe implicating himself. In

JAMES WHITAKER - REDIRECT

1 fact, it says Catoe has implicated himself in statements to
2 investigators; is that right?

3 A Yes, ma'am.

4 Q Okay. Now, that's a copy in evidence of the warrant
5 for prostitution that you served upon the defendant. I
6 want to show you now --

7 MS. COLLINS: I ask that this be marked now as the
8 next State's Exhibit, I think we might be at 59.

9 Q I want to show you what has been marked now as State's
10 Exhibit 59. Do you recognize what that's a copy of?

11 A A copy of the murder warrant for Mr. Catoe.

12 Q And is that a copy of the murder warrant that you
13 served on Mr. Catoe on March 1st of 2012?

14 A Yes, ma'am.

15 Q At the bottom of that where it says signature of the
16 issuing judge, do you recognize that Judge's signature?

17 A I want to say it's Judge Deese.

18 Q But in any event it has a judge code underneath
19 because so many lawyers and judges write as we do; is that
20 right?

21 A Yes. That's Judge Vecchio, I see it now.

22 Q And then turning to the other, the prostitution
23 warrant, is that a different judge and different code on
24 the bottom of that?

25 A Yes. That was signed by Judge Vann Richardson.

JAMES WHITAKER - REDIRECT

1 Q Because y'all have different magistrates come in, they
2 take shifts like y'all do, and like one would be in there
3 in the morning for the prostitution warrant and one would
4 be there later for the murder warrant?

5 A Yes, ma'am.

6 Q And any other warrants y'all might happen to have for
7 any other people; is that right?

8 A Right.

9 Q So that's a true and correct copy of the murder
10 warrant that you served on Terry Catoe on March 1st of 2012
11 charging him with the death of Ms. Linda Massey Gaymon; is
12 that right?

13 A Yes, ma'am.

14 MS. COLLINS: Your Honor, at this time I move State's
15 Exhibit 59 into evidence.

16 MR. LEE: No objection.

17 THE COURT: Without objection introduced into
18 evidence.

19 (The warrant was received as State's 59.)

20 Q And as Mr. Lee did for the prostitution warrant, will
21 you please read the affidavit section of the murder
22 warrant?

23 A "The defendant, Terry Catoe, did on 2/24 of 2012 with
24 malice aforethought cause the death of Linda Massey Gaymon
25 while at Starnes Street in Lancaster County. The

JAMES WHITAKER - REDIRECT

1 defendant did choke the victim's neck during a sexual
2 assault causing the victim's death. Investigators with
3 the Lancaster County Sheriff's Office have obtained
4 physical evidence from the scene as well as the defendant
5 and witness statements to collaborate the above stated
6 facts."

7 Q Thank you.

8 MS. COLLINS: Nothing further.

9 MR. LEE: Nothing further, Your Honor.

10 THE COURT: All right. Thank you, sir, you can step
11 down, you are free to leave. The State can call its next
12 witness.

13 MS. COLLINS: The State's next witness is Captain
14 Craig Bailey.

15 The witness, CRAIG BAILEY, was first duly sworn and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. COLLINS:

19 Q Okay. Would you please state your name?

20 A Captain Craig Bailey.

21 Q And you've been in here long enough to know that I'm
22 hard of hearing so thank you for speaking up. And what is
23 your occupation?

24 A I am captain over investigations.

25 Q And that's with the Lancaster Sheriff's Department?

JAMES WHITAKER - REDIRECT

1 A Lancaster County Sheriff's Office.

2 Q And how long have you been a law enforcement officer?

3 A Twenty-six years.

4 Q How long have you served as captain over the
5 investigation unit of the sheriff's department?

6 A Since probably 2010.

7 Q Now, you've been present as case agent during this
8 entire time; is that right?

9 A Yes, ma'am.

10 Q As captain of the investigation unit, you were over
11 the investigative unit in February of 2000 and March of
12 2012 when this crime was being investigated; is that right?

13 A Yes, ma'am.

14 Q Did you respond to the crime scene at the time that on
15 February 24th of 2012 when Ms. Linda's body was found?

16 A I did.

17 Q And when you went out there, did you see the couch
18 standing up in the doorframe?

19 A I did.

20 Q Did you observe the couch?

21 A Yes, ma'am.

22 Q You just stated that, I apologize. And what was the
23 condition of the couch?

24 A It was about what you would think you would find in
25 old abandoned houses, ratty, torn up, nasty, propped

CRAIG BAILEY - DIRECT

1 against the wall.

2 Q And to your knowledge, was it very heavy?

3 A I never laid hands on it. I would look at it and
4 think it's not like -- some couches and you would think,
5 "Man, it would take three people to get this thing in the
6 house." It's just a little old cheap, nasty couch.

7 Q But it's long, it's a regular sized couch, correct?

8 A Correct.

9 Q As far as the frame, the length. But it appeared to
10 have been sitting out for a long time?

11 A Yes, ma'am.

12 Q Now, you've heard in terms of questions that were
13 asked about Ms. Sherry Cauthen, remember Ms. Sherry Cauthen
14 that came in and testified the other day?

15 A Yes, ma'am.

16 Q And were you present when she was interviewed the
17 second time?

18 A I was.

19 Q Do you remember her demeanor?

20 A Scared.

21 Q Is that unusual for a citizen witness?

22 A No, ma'am. It's not unusual for anybody to be scared
23 when they talk to us, but, I mean, someone in Sherry's
24 position is going to be even more scared than most people.

25 Q What is that position?

CRAIG BAILEY - DIRECT

1 A Sherry -- I mean, Sherry was a prostitute. She had a
2 terrible drug habit and she fed her habits through
3 prostitution, which puts her in the streets. She lives in
4 that neighborhood, she's going to stay in that
5 neighborhood, she can't go anywhere else. It's not like,
6 "The neighbors are mad at me now, I'm gonna pick up and
7 move across town," she don't have that option. She's at
8 the bottom of her life, she's in dire straits, she's in a
9 bad position.

10 Q Now, there's been a lot of questions about the
11 equipment of the sheriff's department. How long have y'all
12 been in your new facility?

13 A Approximately two and a half to three years.

14 Q So back in February and March of 2012, what was that
15 facility like?

16 A It was very outdated, it was crowded, we had
17 investigators sharing desks. It was pretty bad, we were
18 in bad shape.

19 Q And you've heard questions regarding the equipment.
20 Certainly the equipment has improved as well as the space,
21 correct?

22 A Absolutely. Back then my office was the interview
23 office, and anytime you had to talk to victims, witnesses,
24 whatever they used my office and I would just step out or
25 go to the weight room or do whatever, we just did what we

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1 had to do. Now we have -- each have our own office, we
2 have interview rooms that are actually set up with camera
3 and audio, it's a lot nicer.

4 Q Okay. And are you aware that there are still agencies
5 throughout the state that no longer -- not that no longer,
6 that do not video or audio statements made by witnesses or
7 defendants?

8 A Exactly. There's a lot of agencies that do not do
9 that. And SLED, for instance, the State Law Enforcement
10 Division, have up to a billion dollar budgets, whatever, I
11 can't imagine what their budgets are, but for the most
12 part they do not audio or video their statements.

13 Q But even though y'all weren't audio or videoing back
14 in 2012 with a Wal-Mart recorder or whatever you could have
15 paid for, y'all did allow the defendant to review the
16 statements before he signed it and make any changes that he
17 wished to make, correct?

18 A Correct.

19 Q And you would have given him a piece of paper to write
20 his own statement if he would have asked for that, wouldn't
21 you?

22 A Absolutely. That's the way these are set up.

23 Q At the conclusion of his statements at the first
24 statement on February 29th of 2012, did Investigator
25 Whitaker speak with you about what the defendant had told

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1 him, and I believe it was Investigator Danny Bennett, about
2 paying money to Ms. Linda or offering to pay her money for
3 prostitution?

4 A They did.

5 Q And at that time did you authorize is it Catalano --

6 A Catalano.

7 Q I still can't say it -- to get a warrant for
8 solicitation of prostitution?

9 A I did.

10 Q And I say get a warrant, actually they go before a
11 magistrate and they sign an affidavit and the magistrate
12 signs that warrant, correct?

13 A Correct.

14 Q So by getting a warrant they are requesting one and
15 the Judge issues it, right?

16 A Yes, ma'am.

17 Q And then finally after the statement that was secured
18 by Investigator Crump and also Investigator Whitaker who we
19 just heard from on March 1st of 2012, did they speak with
20 you and did you ask Danny Bennett then as part of your team
21 to go and ask the magistrate based upon what had been told
22 about getting a warrant for the charge of murder?

23 A I did.

24 Q And Investigator Bennett did so?

25 A Yes, ma'am.

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1 Q And he did secure a warrant charging the defendant
2 with the murder of Linda Massey Gaymon with malice
3 aforethought; is that correct?

4 A Yes, ma'am.

5 MS. COLLINS: Thank you. One moment, please.

6 (Break in proceedings.)

7 MS. COLLINS: No further questions. Please answer any
8 questions Mr. Lee may have.

9 MR. LEE: May it please the Court?

10 THE COURT: Yes, sir.

11 CROSS EXAMINATION

12 BY MR. LEE:

13 Q Captain Bailey, let me ask you, you said you knew --
14 either knew or knew of Ms. Cauthen; is that correct?

15 A Yes, sir.

16 Q And that she had been practicing prostitution and had
17 a drug problem, which unfortunately sometimes leads to that
18 to support the drug habit.

19 A It just seems that prostitution and drugs run
20 hand-in-hand.

21 Q When she made the second statement she was nervous,
22 scared, jumpy -- she looked a little jumpy when she
23 testified yesterday.

24 A Her nerves are tore up. Like I said, that lady has
25 to live -- she lives in that neighborhood. It's not like

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1 she can pick up her roots and go somewhere else, she's .

2 going to have to live day in and day out.

3 Q But she was excited would you say, or just --

4 A I would just use the term scared to death to talk to

5 us. Matter of fact, I'm very surprised that she came

6 forward and told anything, most people in that

7 neighborhood that are a witness to crimes, they're scared

8 to death to talk.

9 Q And that was when -- you witnessed it when she gave

10 her second statement, is that correct? And I understand

11 from what you were saying that your office I would assume

12 since you were the captain, you were the only person that

13 was in that particular office and it was used as an the

14 interview room.

15 A It was my office/interview room/whatever we --

16 Q Yeah. What a did y'all do? You said if somebody

17 wanted to interview somebody you went -- I didn't quite

18 understand.

19 A They had a common area like with Coke machines and

20 Pepsi machines that didn't have any doors and I would just

21 sit in there and do my paperwork or whatever.

22 Q So you had the ability to do some work there.

23 A Yeah, I could get out of my office. There was only

24 like a couple of offices that even had a door, mine being

25 one of them. So it was an obviously choice, "Y'all take

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1 my office so you can shut the door and you won't have
2 interruptions," that type thing.

3 Q And the solicitor asked you if you knew today if there
4 were police officers or police departments or sheriff's
5 departments that still didn't tape anything?

6 A Yes, sir.

7 Q Were there sheriff's or police officers during that
8 time in 2012 that did?

9 A Some did. I think the problem came into the
10 logistics, what do you do with the recordings and stuff
11 like that, that was always their problem. The dollar
12 value of getting a \$25 recorder and going in there and
13 record something, that's minute. The problem is how do
14 you store that information and bring it to a courtroom
15 four years later and say, "Hey, this is how we got it, and
16 how do we prove we didn't edit it and how do we prove we
17 didn't cut it up and chop it up and make different things
18 out of it." The price was minute, the problem is how do
19 you get it into the courtroom.

20 Q Yeah. But it would be fairly simple to prove that it
21 hadn't been edited. There are forensic people that could
22 look at those things and say -- the famous gap in the Nixon
23 tapes where they were able to tell that things were gone.
24 That's really not a problem -- wouldn't have been a
25 problem, would it?

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1 A Me personally, I begged for it for a long time
2 because I wanted the recordings, but somebody got lawyers
3 involved and it got complicated, so --

4 Q Because somebody might ask a question of didn't he say
5 so and so, and it's on the tape that he did say so and so,
6 is that not correct?

7 A I guess. Even like this Miranda form right here,
8 this has been used for years and years and years and it's
9 just typed words on a piece of paper, you see how
10 complicated this has gotten to get in here, so I guess
11 that's the problem.

12 Q I understand. And you understand the problem that I'm
13 having is that somebody may say something but it's not
14 typed on the form and you don't -- it's just their word
15 that they said it, but if you record it and you hear them
16 say it then there's not a problem.

17 A I guess with the typed, though, if you look at that
18 at the end of it we give them a place to sign and their
19 signature, it's kind of hard for me to copy that
20 signature, but it would be easy for me to leave a section
21 out of a recording, I guess. I guess that's the whole
22 argument.

23 Q Okay. But also people couldn't hear what was said to
24 the -- people couldn't -- if there was something that was
25 on there there's no proof that they said it if it's just

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1 written.

2 A I guess that's true. But I've always been the
3 proponent of the audio and video because the way somebody
4 says something is often time more important than the words
5 they actually say.

6 Q And you can actually see if they're saying, "Yeah, I
7 did this," or if they're saying, "I'm sorry," you could see
8 how they are actually reacting to it too?

9 A You're right.

10 MR. LEE: If I may have one moment.

11 (Break in proceedings.)

12 MR. LEE: That's all I have. Thank you.

13 MS. COLLINS: No further questions of this witness.

14 THE COURT: Thank you, sir, you can step down. If I
15 can have the lawyers approach.

16 (Bench conference was held.)

17 THE COURT: We're going to go ahead and break for
18 lunch at this point. It's 12:25, we'll take a little
19 shorter lunch today until 1:45, that's still over an hour
20 to give most of you in the outlying areas time to go home
21 if you need to rather than eat up here. Remember what I
22 said about what you can do while you're on the lunch
23 recess, don't talk to anybody about the case. If you see
24 somebody that you recognize from this courtroom don't talk
25 to them, because remember, innocent conversations can

1 easily be misunderstood, especially in a small community
2 like Lancaster where there's only so many places to eat
3 during lunch. Okay. So we're not being rude to you if we
4 don't talk to you, we're just complying with the proper
5 procedure. Y'all have a good lunch and I want you back in
6 your jury room at 1:45. Okay.

7 (The jury left the courtroom.)

8 THE COURT: All right. Anything before we break?

9 MS. COLLINS: Not at this time.

10 THE COURT: All right. We will -- let's start
11 promptly at 1:45.

12 (A lunch break was taken.)

13 THE COURT: Bring the jury in.

14 (The jury returned to the courtroom.)

15 THE COURT: All members of the jury are present.

16 Madam Solicitor, you may call your next witness.

17 MS. COLLINS: Thank you, Your Honor. May it please
18 the Court? Thank you for the time over the lunch period to
19 reflect upon what we've presented thus far, and at this
20 time the State respectfully rests its case.

21 THE COURT: The State has rested. Ladies and
22 gentlemen of the jury, I now have certain matters, legal
23 matters to take up with the lawyers outside of your
24 presence. Remember, y'all are the judge of the facts and
25 I'm the judge of the law, so I do have several items to

1 discuss with them outside of your presence. Again, don't
2 speculate what we're talking about because I'm the judge of
3 the law. Okay. Don't talk about the case because you
4 haven't heard everything yet. Okay. Y'all may go back to
5 your jury room.

6 (The jury left the courtroom.)

7 THE COURT: All right. Mr. Lee, let me hear from you
8 in regards to any motions.

9 MR. LEE: Thank you, Your Honor. May it please the
10 Court? Your Honor, at this time for the record I would
11 make a motion for a directed verdict based on the evidence
12 being admitted over my objection and any other objections
13 that I might have made during the course of the trial.

14 THE COURT: All right. Reply from the State?

15 MS. COLLINS: Just briefly, Your Honor. We would ask
16 that you rule that there has been evidence presented by the
17 State sufficient to send this case to the jury and deny the
18 defendant's motion for a directed verdict. If at any
19 particular time you need any further argument with
20 specificity as to the charge of murder I'm prepared to do
21 that.

22 THE COURT: I think I've heard what would amount --
23 considering the evidence in the light most favorable to the
24 State, I believe there is substantial circumstantial
25 evidence as well as direct evidence in the form of the

1 statements introduced over defense objection to allow the
2 case to go to the jury, so I will respectfully deny your
3 motion for a directed verdict. Any other motions at this
4 time, Mr. Lee?

5 MR. LEE: No, Your Honor.

6 THE COURT: All right.

7 (Break in proceedings.)

8 THE COURT: Mr. Catoe, if you would please stand.

9 (The defendant was sworn.)

10 THE COURT: Thank you, sir, you can be seated. Mr.
11 Jones, slide that microphone over to your client, please?
12 You can stay right where you are, just make sure you speak
13 into the microphone. Okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Catoe, at this time I'm going to
16 explain to you certain rights which you have. If you don't
17 understand what I'm telling you, please let me know and I
18 will be glad to explain what I'm telling you in more
19 detail. Okay. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: We've now reached the stage of the trial,
22 the State has rested so now it's time for you to present
23 your defense or your case if you want to. Now, you have
24 the right to claim the protections given to you by the 5th
25 Amendment of the United States Constitution which says that

1 no person shall be compelled in any criminal case to be a
2 witness against himself. What that means is that you do
3 not have to testify and you cannot be required to testify
4 in this case. Now, if you want to testify you can but
5 nobody can make you testify against your will. This is a
6 personal and a constitutional right that you have, do you
7 understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Nobody can give up this right except for
10 you, do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Now, if you do decide to
13 testify you will be subject to the same rules that govern
14 other witnesses during cross examination. Just like your
15 lawyer has done with the State's witnesses he may try --
16 the lawyer for the State may try to cross you up or present
17 inconsistencies in your testimony, you know, and try to
18 hurt your believability in front of the jury. Do you
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: In addition if you've been convicted of
22 any crimes involving dishonesty or false statement or for
23 any previous crimes punishable by imprisonment for more
24 than one year and the Court determines that the probative
25 value of admitting this evidence outweighs its prejudicial

1 effect, the solicitor will be able to introduce your
2 criminal record to try to attack your credibility. Do you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Solicitor, are there any prior crimes of
6 Mr. Catoe which the State would intend to seek to impeach?

7 MS. COLLINS: Yes, sir, there are several. May it
8 please the Court? The defendant was convicted in Lancaster
9 Municipal Court, he pled guilty to the crime of shoplifting
10 on July 11th of 2007. He also pled guilty and convicted of
11 shoplifting second offense on January 9th of 2008 in
12 Lancaster Municipal Court. He pled guilty on January 9th
13 of 2008 to the charge of possession of stolen goods second
14 offense. And he also has a conviction, he pled guilty to
15 the charge of furnishing contraband to county or municipal
16 prisoners. Actually the indictment is such that he did
17 attempt to furnish to a prisoner some cigarettes, and that
18 was from March of 2008, he pled to that in April of 2008,
19 that's the felony that carries up to five years. I have
20 certified true copies of all of those convictions from the
21 municipal court as well as here in this general sessions
22 court.

23 THE COURT: Okay. So the State would seek to have
24 those prior convictions admissible for the purpose of
25 attacking his credibility if he were to testify.

1 MS. COLLINS: Yes, sir, I would.

2 THE COURT: All right. Sir, you understand that
3 that's what the State could potentially -- I haven't ruled
4 on it yet because it may not come up, but that's what the
5 State could seek to impeach your testimony on.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If you do decide to testify, Mr. Catoe,
8 this decision must be made freely, voluntarily and
9 intelligently knowing and understanding what your rights
10 are under the 5th Amendment to the Constitution. Now, if
11 you decide not to testify I will specifically instruct the
12 jury that they could not give the fact that you didn't
13 testify any consideration whatsoever, and that there is to
14 be absolutely no prejudice to you because of you exercising
15 that right, do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: In fact, I'll tell them that they can't
18 even bring it up when they're deliberating. Okay. Do you
19 understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, have you talked with your attorney or
22 both of your attorneys about whether or not you should
23 testify?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you need anymore time to speak with

1 your attorneys about that?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you going to testify?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. And Mr. Lee, Mr. Jones, do
6 both of you agree with your client not testifying?

7 MR. LEE: Your Honor, we've talked with him, of
8 course, on one side there are pluses and the other side
9 there are minuses. We've told him that it is his decision
10 to make on that. We've given him both the positive things
11 that we see and the negative things that we see and I
12 believe he understands it and he's the one who made the
13 choice on that. We agree with him in the sense that he
14 made the choice and that that's what he wants to do.

15 THE COURT: Okay. Mr. Jones?

16 MR. JONES: I concur with what Mr. Lee says, Your
17 Honor.

18 THE COURT: Does the defense intend to present any
19 other defense other than those documents entered into
20 evidence?

21 MR. LEE: No, Your Honor.

22 THE COURT: So no other witnesses then will be called
23 by the defense?

24 A That's correct.

25 THE COURT: Okay. Thank you. Thank you, Mr. Catoe,

1 thank you for answering my questions. All right. Now,
2 let's move on to -- now that I understand what the evidence
3 is going to be let's talk about the specific charge. Let
4 me tell you what I intend on charging because I have my
5 proposed charge sitting in front of me. Okay. I'm going
6 to move just to the boiler plate stuff. And when I say
7 boiler plate stuff I mean I'm going to talk about the
8 function of the jury, the function of the trial judge,
9 credibility. I will explain again what an expert witness
10 is. I'm going to talk about direct and circumstantial
11 evidence. I forget the name of the case which came down
12 talking about substantial circumstantial evidence. I will
13 also still use my example of the winter night lawn type
14 thing. All right. Any problems so far from anybody?

15 MR. LEE: Not so far, Your Honor.

16 THE COURT: Presumption of innocence is boiler plate.
17 Again, when I say boiler plate I don't mean that in a
18 derogatory term, I just mean that's the usual thing the
19 Court charges. I'm going to charge about the failure of
20 the defendant to testify, I'm going to charge about
21 reasonable doubt. I'm going to charge about criminal
22 intent. I'm going to charge statement of defendant, talk
23 about the statements and whether or not -- the standard
24 charge on that. I'm going to talk about prior inconsistent
25 statements of some of the witnesses. Then I'm going to

1 define murder. On murder one of the things that I'm
2 thinking about -- talk to me about the inference of malice
3 where the deed is done with a deadly weapon, whether or not
4 hands can be considered a deadly weapon. Let me hear from
5 the State on that.

6 MS. COLLINS: I do request, Your Honor, that you
7 charge the jury that malice may be inferred from the use of
8 a deadly weapon, and that a hand or fist may be a deadly
9 weapon depending upon the circumstances and manner and
10 means of its use, wounds inflicted and other relevant
11 factors, that it is up to the jury to decide if a hand or a
12 fist is a deadly weapon. And to that end -- I drew that
13 language directly from the charge I know that the preface
14 to the charge is on the judicial website.

15 THE COURT: Let me read this to you --

16 MS. COLLINS: Yes, sir.

17 THE COURT: -- just to save us some time. This is
18 what I intend on charging, Mr. Lee, unless you convince me
19 otherwise. Of course, everything about expressed malice up
20 to this time, and then when I get to the inferred part.
21 Malice may be inferred from conduct showing a total
22 disregard from human life. Inferred malice may also arise
23 when the deed is done with a deadly weapon. Now, there's
24 no evidence in the record, and the defendant has indicated
25 he is not testifying, there's no evidence in the record

1 that I know of which would show any self-defense or any
2 mitigating circumstances and I therefore intend on charging
3 the deadly weapon language there, so that's my finding on
4 that. It goes on -- my charge will go on to say a deadly
5 weapon is any article, instrument or substance which is
6 likely to cause death or great bodily harm. A hand or fist
7 is not normally considered a deadly weapon. However, under
8 some circumstances depending on the manner and means of its
9 use, the wounds inflicted and other relevant facts, a hand
10 or a fist may be considered a deadly weapon. It is for
11 you, the jury, to decide in this case beyond a reasonable
12 doubt whether or not a hand or fist is a deadly weapon.. Do
13 I charge voluntary? Let me open that up.

14 MS. COLLINS: Your Honor, I do request that you charge
15 voluntary manslaughter and I've prepared an argument on
16 that.

17 THE COURT: Let me hear from you.

18 MS. COLLINS: As to the elements there, that the
19 defendant took the life of another in sudden heat of
20 passion and on sufficient legal provocation, I understand
21 that both must be present at the time of the killing. I
22 would contend that the sudden heat of passion could be that
23 certainly there was a verbal disagreement and argument, the
24 witness heard the victim scream out and holler as she
25 stated. There was evidence of a physical struggle

1 consistent with the victim scratching the defendant, the
2 defendant was scratched apparently, or there would be
3 enough evidence for the jury, if they considered it to be,
4 that he was scratched on multiple occasions. There was
5 evidence that the victim defecated, and while the victim is
6 not alive to say at what point she defecated, the jury
7 could take from the evidence presented either that she
8 defecated immediately in response to the defendant
9 struggling with her, that she defecated on him, that he got
10 angry and that that's a type of assault for her to do that
11 on him and that he responded with sudden heat of passion
12 and anger in response to that. Of course, she could have
13 defecated after he entered her anally and then he entered
14 here vaginally, and then of course, the statement of the
15 defendant would be consistent with that. He never says in
16 his statement at what point she defecates. The coroner
17 says the fact that sometimes people do defecate as a result
18 of death, that the bowels evacuate from the body, sometimes
19 they don't, but that would just have the feces on the
20 outside of the body around the anus area. The fact that
21 they are up inside the vaginal vault would indicate to her
22 that there was continued activity to push it up inside the
23 vaginal vault. I would submit that the jury could from the
24 facts presented, from the evidence presented, take the
25 verbal dispute, that the verbal objection by the victim

1 coupled with the victim scratching the defendant, coupled
2 with ultimately she defecates, and of course, with him
3 attempting the sexual act and then he becomes enraged and
4 loses controlled temporarily, which is the sudden heat of
5 passion, and that he therefore at that time pinned her
6 down, choked her when -- and the doctor said she couldn't
7 see a pattern whether with both hands or one hand or with
8 his arm, and that he choked her, and then at that time
9 overcame her and completed the sexual act until he
10 ultimately withdrew from her and ejaculated. And that
11 would be my argument. I'm well aware that the supreme
12 court has come out with a case recently of Clarence Cook
13 versus State of South Carolina case, Your Honor may have
14 it, I have a copy if you need it.

15 THE COURT: What was the date of that?

16 MS. COLLINS: That was in December of 2015, December
17 9th. I have a copy. But, Your Honor --

18 THE COURT: Yeah, hand that up to me.

19 MS. COLLINS: I would submit respectfully that that is
20 very -- it is markedly different from the fact pattern.
21 That involved a shooting and an assertion of the defendant
22 of self-defense. I've handed up three cases actually, and
23 I will get to the first two in a minute, but I'll put Cook
24 on top. But Your Honor, that case toward the end they are
25 distinguishing in the Lowery decision and they're saying in

1 Lowery there was a verbal dispute, there was a physical
2 dispute and then ultimately the struggle. And here in this
3 particular case the defendant objected to the charge of
4 voluntary and the State asked for and the Trial Court
5 charged it over the objection of the defense and they
6 ultimately convicted on the voluntary. But in this case,
7 Your Honor, it involved a shooting and the State had argued
8 that in the terms of the short, swift motion of firing a
9 gun would be like a sudden heat of passion and the Court
10 said clearly that that would be the case often in any case
11 where the defendant is charged with firing a weapon. Our
12 case is markedly different to that end. And that's the
13 first two cases that I handed up. I've done a lot of
14 research trying to find a very similar fact pattern, the
15 closest I came to was State v. Sams. State v. Sams was a
16 decision by our supreme court in 2014 where the defendant
17 was convicted of voluntary manslaughter after he strangled
18 the victim, a man with whom he was having an altercation.
19 The main point of the Sams case is that the defendant
20 appeals his conviction for voluntary because he wanted an
21 involuntary charge, the Court did not charge involuntary.
22 And while that's the thrust of the Sams opinion as to
23 whether or not he was entitled to an involuntary, I find it
24 of particular note to this Court that nowhere in the
25 opinion do any of the parties or any of the justices

1 indicate that even voluntary shouldn't have been charged.
2 They look at the fact when someone strangles someone and it
3 goes on for a period of time, in this case the defendant
4 indicated he had strangled the person for about ten
5 minutes, and they say that's just not a brief type thing,
6 and that involuntary in that case shouldn't be charged.
7 Nowhere do they say there's no question of whether
8 voluntary should have been charged, and again ultimately he
9 was convicted of voluntary. It's interesting in Sams --
10 finally I would note that in that opinion they cite a case
11 from Illinois that I printed off and handed up to the Court
12 too, that case is the Leach case. And in the People v.
13 Leach case, I handed that up just because that again is of
14 interest because that involved a struggle between a
15 defendant and his wife where he strangled her and killed
16 her. And while in that case they're also looking at the
17 issue of whether or not involuntary should be charged on
18 page 11 through 14 at the end of that decision that fact
19 pattern was basically a man comes home, is tired, the wife
20 is sitting in the bed nude and she's smoking a cigarette
21 and they get into an argument and she wants to go on and on
22 and he just wants to go to bed. He's like, "Let's just put
23 it to rest, we'll talk about it tomorrow, I'm just tired
24 and I want to go to bed." And she finally leans over to
25 put out her cigarette and she puts it out on his hand then

1 said, "Oops, I didn't mean to do that.." And then from
2 there they get into an altercation and he ultimately
3 strangles her. I find that of interest because this
4 escalated from a scratching to a choking, that you have a
5 very similar fact pattern here and was of note, the case
6 People v. Leach case, that's quoted in the Sams case but
7 not on this proposition. But what's of interest is at the
8 very end of tat on page 13 and 14 where they talk about,
9 you know, the trier of fact, whether it's is the Judge or
10 jury, is not obligated to accept a defendant's exculpatory
11 claim or a balled assertion by the defendant in terms of "I
12 just didn't mean to kill her," that as Your Honor will
13 instruct the jury, the trier of fact, they can believe all
14 or part of a witness' testimony, it's their decisions of
15 what is in evidence they believe or they don't believe.
16 And that's why I would submit that they've got a lot of
17 circumstantial evidence to consider as to how they believe
18 the facts played out and what supports a decision, and I
19 would ask very respectfully that you charge both voluntary
20 and murder. If anything, and we'll reach this in a minute,
21 I would submit I'm not sure that it meets the specific
22 requirements for involuntary.

23 THE COURT: Go ahead and argue involuntary because
24 that's going to be -- that's going to be the issue.

25 MS. COLLINS: As to involuntary, the elements are

1 either the defendant unintentionally killed the victim
2 without malice, but while engaged in an unlawful activity.
3 You have here -- which -- unlawful activity which does not
4 naturally tend to cause death or great bodily injury.
5 Although the defendant might argue although he was engaged
6 in the unlawful activity of prostitution, it would not --
7 sex between consenting adults would naturally tend to cause
8 death or great bodily injury, that's true as to the sex
9 act. But part and parcel to the sex act is the "rough sex"
10 that the defendant in his statement indicated that the
11 victim requested and that he gave her with the arm across
12 her neck for 20 to 25 minutes. And I would submit that
13 clearly that does naturally tend to cause death or great
14 bodily injury --

15 THE COURT: But wouldn't that in turn support a charge
16 of involuntary? Couldn't the jury believe that, you know,
17 not that it was an act, that his story they were having
18 sex, she asked for it rough and so he obliged her, but he
19 knew or should have known that that could cause death and
20 sure enough it did?

21 MS. COLLINS: I would submit that if this was an act
22 that did not involve the exchange or the offer of money,
23 did not involve the prostitution, that illegal activity,
24 then yes. If you've got two consenting adults and one
25 says, "I like it rough, do it this way," and it turns out

1 that way, that's fine, but here you have got while engaged
2 in an unlawful activity. And he certainly was engaged in
3 an unlawful activity, which makes the second elements, the
4 second possibility of involuntary also inapplicable because
5 that one would be the defendant unintentionally killed the
6 victim without malice.

7 THE COURT: But isn't the State's theory that -- well,
8 is the State's theory that this was prostitution gone
9 bad -- because y'all talked about the \$15 not being
10 found -- or is it the State's theory she was just sexually
11 assaulted and then killed?

12 MS. COLLINS: Your Honor, I believe the State's theory
13 is that while there's no indication the defendant dragged
14 the victim into the home, that he induced her into going to
15 the home, whether it was from, as she indicated, Sherry
16 Cauthen, "I'm going to get my fix," whether he offered her
17 drugs, or by his statement, he offered her \$15. I'm not
18 convinced that he ever paid her, that he ever even had that
19 money on him, and I believe Solicitor Newman will be
20 arguing in his closing that his theory is when they get in
21 the house he doesn't have the money and he doesn't pay her,
22 he begins the assault, the assault begins with an anal
23 assault. And again, Sherry Cauthen indicated almost
24 immediately -- her testimony is almost immediately that she
25 hears her cry out, "No, you don't have to do that," and

1 that she appears to be, I think her word was gagging, it
2 may have been gurgling. And so I would submit that our
3 argument is they engage in a verbal dispute, she's
4 protesting verbally, she scratches him, and then at that
5 point he puts his hand over her mouth. Dr. Ross testified
6 about the pressure on the lips indicated the blunt force
7 trauma covering her mouth area, and that then the defendant
8 continued and began choking her, and that during the course
9 of choking her in response to the scratching he assaults
10 her anally, she defecates on him, he becomes more angry, he
11 becomes more enraged and continues to assault her,
12 continues to choke her, as he stated, for 20 to 25 minutes
13 resulting in her death.

14 THE COURT: I understand. Let me hear from Mr. Lee
15 then. Mr. Lee, first question, do you agree with the
16 charge of voluntary?

17 MR. LEE: Your Honor, we would have an objection on
18 that.

19 THE COURT: What about involuntary? How can I charge
20 involuntary without charging voluntary?

21 MR. LEE: I'm sorry, I didn't hear you.

22 THE COURT: How can I charge involuntary without
23 charging voluntary?

24 MR. LEE: Your Honor, my argument for involuntary is
25 that, I mean, it seems to fit the facts if the facts were

1 there that he went in -- they went in -- there's, of
2 course, inferences that can be drawn from both sides of the
3 statements that have been given as to how quickly it
4 happened or things of that nature. But my feeling is that
5 the involuntary situation, the jury can easily find that
6 based on the facts that have been presented that it was a
7 sex act. And the solicitor is alleging all of these things
8 but there's really no proof of the other things that
9 happened, I mean, I don't think in the defendant's
10 statement, I could be wrong, but I don't remember him
11 saying anything about her defecating on him.

12 THE COURT: Hang on a second. To prove involuntary
13 manslaughter the State must prove beyond a reasonable doubt
14 that the defendant unintentionally killed the victim
15 without malice, but while engaged in an unlawful activity
16 not naturally tending to cause death or great bodily harm,
17 or that the defendant unintentionally killed the victim
18 without malice while engaged in a lawful activity with
19 reckless disregard for the safety for others. The State is
20 saying that, look, it's clear this wasn't a lawful activity
21 so it wouldn't apply. What's your argument about that?

22 MR. LEE: Your Honor, I think it's a situation where
23 it was a reckless activity. It would certainly, of course,
24 be for the jury to determine that he understands that this
25 was not going to be just sex, that there could have been an

1 injury or death.

2 THE COURT: So the unlawful activity of prostitution
3 wouldn't generally cause great bodily injury or death. I
4 see what you're saying.

5 MR. LEE: That would be our position.

6 THE COURT: The second part of the definition.

7 MR. LEE: Yes, sir.

8 THE COURT: I agree with you on that, I'll charge
9 involuntary. Talk to me about voluntary.

10 MR. LEE: Your Honor, of course this recent case that
11 just came down last month, the Cook case, the facts of it
12 are different. It involves a shooting or self-defense and
13 things of that nature. But I think the supreme court is
14 once again reiterating the elements that have to be
15 necessary which, of course, are sudden heat and passion and
16 upon a sufficient legal provocation. I don't know that
17 there's enough evidence that there was sudden heat and
18 passion. We've got evidence that somebody said something,
19 nobody was there to be able to see what exactly happened.
20 And Your Honor, I just think that it's a situation where
21 that case was the defendant was indicted for murder and
22 nothing else, and then that's exactly what we have in this
23 case, that it's not a fall back for the State, that if we
24 can't get him for murder we can get him for involuntary
25 which the State should indict him for involuntary if that's

1 the case. But I don't think there's enough to say that
2 there was a sudden heat of passion that occurred and what
3 caused it is sufficient legal provocation. I can't see
4 anything that required him to do that. We don't have any
5 evidence that that's what she did, that she defecated on
6 him and that's what caused it.

7 THE COURT: Couldn't the jury make that -- that's not
8 a big leap to make from everything they've heard. In the
9 grand scheme of things, couldn't the jury determine that
10 that's why he got mad and showed her, you know? That's
11 essentially what the State is arguing, let's say that that
12 was the impetus of the strangulation, that she defecated on
13 him and he got mad and took his revenge so to speak.

14 MR. LEE: I think -- of course they could make that
15 leap, I just think that there's contrary evidence which
16 would we would, of course, argue to them about that, that
17 it couldn't happen that way.

18 THE COURT: And then again, they could believe that it
19 was an accident.

20 MR. LEE: That's true, yes, sir. But that -- I just
21 don't think there's enough to say that the passion that's
22 required in legal provocation are there.

23 THE COURT: All right. I'm going to charge all three,
24 I'm going to charge murder, voluntary and involuntary, and
25 that is the ruling of the Court. I think y'all's position

1 is thoroughly protected in the record. Y'all come look at
2 the verdict form I have here and we will all run to the
3 restroom and then we will do closing arguments.

4 (A recess was taken and the jury returned to the
5 Courtroom.)

6 THE COURT: All members of the jury are present.
7 Thank you very much for your patience. Mr. Lee, you may
8 call your witness.

9 MR. LEE: Thank you, Your Honor. May it please the
10 Court? Your Honor, we have no witnesses.

11 THE COURT: The defense rests?

12 MR. LEE: The defense rests, yes, sir.

13 THE COURT: Defense rests. Nothing in reply?

14 MS. COLLINS: No, Your Honor.

15 MR. LEE: Your Honor, I would just for the record
16 renew the previous motions that I made.

17 THE COURT: Yes, sir. All of the defense's positions
18 are protected in the record. Thank you, Mr. Lee. All
19 right. Ladies and gentlemen of the jury, we've now reached
20 the stage of the proceeding where the -- or the proceedings
21 today where all of the evidence has been submitted and all
22 of the witnesses who would be testifying have testified.
23 We will now proceed into what's called the closing
24 arguments where the lawyers for each side will be able to
25 make arguments to you as to the way they view what the

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1 evidence has shown. At the conclusion of the arguments
2 that's when I will instruct you on the law, and after you
3 have received that, that's when you will finally begin to
4 start deliberating on your verdict. Okay. Please pay very
5 close attention to the lawyers. Thank you very much. Mr.
6 Lee?

7 MR. LEE: Thank you, Your Honor. May it please the
8 Court?

9 THE COURT: Yes, sir.

10 MR. LEE: Mr. Foreman, ladies and gentlemen of the
11 jury, this has been a long case and I appreciate the
12 attention that you've given to it, and hopefully we'll soon
13 have it ready to go to you. We are in the stage of what we
14 sometimes call the final arguments or the closing
15 arguments. And I'm sure the solicitor will agree with me
16 on this, anything that the solicitor says or that I say is
17 not evidence, this is the same standard that we mentioned
18 to you when we first opened up the case. All of the
19 evidence came from the witness stand and there will be some
20 documentary evidence and that's all of the evidence in the
21 case. The State doesn't -- or rather the defense doesn't
22 have to prove anything. You know, one of our treasured
23 heritages in this country is that everyone is presumed
24 innocent until they are proven guilty, and the defendant
25 doesn't have to do anything. And His Honor will instruct

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1 you later that Mr. Catoe doesn't have to do anything, he
2 doesn't have to testify, and he, in fact, has chosen not to
3 testify and His Honor will explain that to you in the
4 fact -- what significance you should give to that, if any.
5 It's sort of awkward in the way we do things in that I go
6 first, the defense goes first. And one of the reasons for
7 that is the State has the burden so they should be able to
8 be given the opportunity to go last. But it creates a
9 little bit of a problem, and what that is is I have to tell
10 you things that I think are important, but in the same
11 token I have to try to imagine what the State is going to
12 say to try to cover those, and I may not. But what I hope
13 is that you will apply your own knowledge, your own
14 experiences in life and you will apply that to what is
15 being said, what could happen. Now, what's actually been
16 proven in this case? That Ms. Gaymon died, that she died
17 as a result of something that somebody did to her, and that
18 that was Mr. Terry Catoe who did that. As I told you from
19 the very start those are things we're really not
20 challenging. You have heard theories on what you think
21 might have happened, but you're going to be the judge of
22 the facts, you're going to be the ones to say, "Well, I
23 don't think that happened," or, "I don't think that could
24 have happened like that," or, "Maybe that did happen that
25 way," and you're going to be the person to do that. And

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1 His Honor will charge the law to you, specifically what the
2 law is, but murder basically says that the person died as a
3 result of something caused by the other person and it was
4 caused by malice aforethought, and that's a legal term that
5 His Honor will define to you what that means. And he'll
6 charge you some other things that you can decide and look
7 at, and he's going to give you the legal definitions of all
8 of those things. But there's been nothing -- the State is,
9 I think, going to try to say that this happened because of
10 something that happened from anger that Mr. Catoe had in
11 this case, that he was angry with something that went on,
12 and I would submit to you, ladies and gentlemen, there's
13 been no evidence that he's an angry person. There's been
14 no evidence that he's done this sort of thing, that he does
15 this sort of thing. You have -- there really was only two
16 people that were there, Ms. Gaymon, and unfortunately she
17 can't testify, and Mr. Catoe and he's chosen not to
18 testify. So you have to look at the other things and
19 circumstantial evidence. His Honor is going to charge you
20 what the law says about circumstantial evidence, but
21 basically it's evidence that you can give a reason for but
22 you have to eliminate all the other possibilities that
23 could happen for the circumstantial evidence to be good or
24 be significant. The only person who has a close knowledge
25 of what happened is Sherry Cauthen and she testified from

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1 the stand up here. She wasn't in the room, she didn't see
2 what happened, she knew Ms. Gaymon, she misidentified Mr.
3 Catoe and thought that he was his uncle. You know, that's
4 one thing I think you have to look at. It was dark but she
5 thought it was his uncle because she had a relationship
6 with him and she thought that's who she was talking to, and
7 I would submit to you that's the first little question you
8 know, what's going on that she thinks it's Mr. Catoe's
9 uncle and not Mr. Catoe. She says that she came up the
10 street -- she's out at 1:30 or 2:00 in the morning, and I
11 think that's one thing you have to look at is what is
12 somebody doing, particularly a young lady, out walking
13 around at that time of the morning, that a person came up
14 to her and talked with her and then said, "Will you have
15 sex with me?" And she said, "No. I don't do that anymore
16 and I don't want to be involved in that." And you heard
17 Officer Bailey say that, well, she was known to be involved
18 in prostitution. She has a drug problem and she's known to
19 the officers as having a drug problem. She's over in that
20 area, she's moving around, she looks at some point in time
21 and she sees Ms. Gaymon and recognizes her and she says,
22 "What are you doing?" And she says, "I'm out," she says,
23 "I don't know, I'm just tired." And she tells here, "You
24 ought to go home." And she doesn't do that unfortunately.
25 And at some point in time she sees somebody on a bicycle

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1 come up and talk to Ms. Gaymon and she sees them leave with
2 indication that anybody is being drug anywhere or forced to
3 go. They're leaving, they're walking together, they go
4 around the corner. And we have submitted to you a
5 photograph of that area so that you can see, she sees them
6 go around to a house. Under her version of what happens
7 she almost instantaneously hears some noise going on, that
8 she hears something to the effect, "No, don't do that," and
9 you can read the statements. But evidently she's not too
10 concerned that she runs up to the store or screams herself
11 or goes and beats on a house that's occupied to try to get
12 somebody to come there, and that's basically all she says
13 in her first statement. Now, four days later she comes
14 back to the sheriff's department. Captain Bailey says she
15 was nervous, she was anxiousness, she was concerned, she
16 was scared, and she gives another statement. This
17 statement she's more pronounced in what is going on, "Oh, I
18 heard somebody scream, I heard somebody say, 'don't do
19 that, you don't have to do that,'" words to that affect.
20 And then she says she hears somebody gurgling or gargling
21 or making some type of choking sound, that's after the
22 fact, after she's found out what happened to the lady. And
23 I think you need to look at those statements and you need
24 to ask yourselves why did she not say that the first time?
25 If she heard that she should have told the police that the

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1 first time. She's not being charged with anything so why
2 not tell them that? And I would submit to you, ladies and
3 gentlemen, that her mind produced that, that she didn't
4 actually hear it, otherwise she would have told the police
5 the first time, and in this particular case she's now
6 embellishing on the facts somewhat. Captain Bailey says
7 she's well known to be a drug addict, that she's actually
8 used prostitution to support her habit. It's unfortunate
9 she's found herself in that situation, but I think you need
10 to look at that statement. She's the only other person
11 that's really around and that can say anything. You know,
12 nobody else comes along until the next morning. The house,
13 there's a sofa. The question is when I tried to say it was
14 a heavy sofa they want to say it was rotted out, it
15 couldn't be very heavy. But everybody has admitted that
16 sofa -- and you could see from the pictures, it's a long
17 sofa. It's a sofa so much that three people could sit on
18 it I think one of the officers said, so it's a big sofa.
19 Now, if you assume that Mr. Catoe was really a very big
20 strong person, maybe he could do something with it, but you
21 know, from yourselves and moving, it takes at least two
22 people to move a sofa. It's extremely difficult no matter
23 what the weight is, it's unwieldy. So I asked one of the
24 officer, I said, "Did he say anything about Ms. Gaymon
25 helping him move the sofa?" And he says, "Well, he might

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1 have said something like that." And let me back up just a
2 minute, and if I didn't say it beforehand, if I say
3 something and you remember it coming from the witness stand
4 differently, or if the solicitor says something and you
5 remember it being differently, you go with what you
6 remember because you're the tries of fact. If I misstate
7 something or he misstates something, you go with what you
8 remember hearing. But I think that's what was said, that
9 he made a comment about, "Well, if you can get my
10 fingerprints or DNA out of it, you ought to be able to get
11 hers because she helped me put it up there." But Mr.
12 Catoe, his name surfaced, he shows up the first time from
13 what the police say. At first he says, "I don't know
14 anything but what I've read in the newspaper," and then he
15 comes around and says, "Well yeah, I was with her. We had
16 sex. I offered her some money for sex, we went in this old
17 house, we had sex and then I left." Now, the officer said
18 in his many years of experience that's not an unusual
19 thing, for a person to say -- to give a statement one time
20 and basically put themselves out of it and then on further
21 questioning come back and then tell the truth, tell them
22 what happened. And that's not an unusual thing, that's
23 sort of human nature. I mean, how many of you -- some of
24 you have children and or you can remember when you were a
25 child and get confronted by your parents, "I didn't do

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1 that, I didn't do that. Well, maybe I did." It's just
2 human nature to do that sort of thing. So the big thing
3 about Terry Catoe is he voluntarily came to the sheriff's
4 department the first time, he gave them a statement. It
5 wasn't correct, but he could have said, "Uh oh, they're on
6 to me, let me go to Charlotte, let me go to Atlanta, let me
7 go wherever I can go," he could have. But he didn't. He
8 came to the sheriff's department and he talked to the
9 deputies and he gave them a statement, so that's in his
10 benefit. You can look at those statements. You can also
11 look at -- and again, I don't quite understand why they're
12 doing it the way they were doing it back then, where they
13 typed while they're doing the statements then, the question
14 and answer, that doesn't allow somebody to explain
15 something, you know. Mainly when you're asked a question
16 you're mainly answering it in as few words as you can, but
17 that's the way they were doing it. He gave them a
18 statement. And, in fact, then he talks to, I believe it's
19 Officer Thompson, and talks to him some about it, and
20 basically tells him other things that he did. He mentions
21 that he's riding a bicycle around, at some point he goes to
22 a trail or something that's not big enough to ride on and
23 he puts the bike on his shoulder. And, you know, the
24 officer made a big point of, "Well, on his shoulder there's
25 some bruises." And I think you can infer from that that he

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1 probably got those bruises by carrying his bicycle around
2 on his shoulder. There's nothing that indicated that that
3 happened in the house or anything of that nature. But he
4 tells them -- you can look at these statements, they'll go
5 back in the jury room with you and you can look at them and
6 see what went on. The State has asked a lot of times about
7 the money, did anybody find any money. They want to allege
8 that he either didn't pay her or he took the money when he
9 found out that Ms. Gaymon was dead. But I would submit to
10 you, ladies and gentlemen, there were at least two other
11 people who went in that house before the police got there,
12 two that we know of, and anybody could have picked up the
13 money if it was laying there. These are things you have to
14 look at in making a determination of what happened.
15 They're trying to allege that Mr. Catoe struck her.
16 They're going to come up with this idea that in the process
17 of the sexual activity that she defecated on him and that
18 enraged him. Again, we don't have any evidence that he's
19 that kind of person, that has not been put up, but that
20 that made him then go ahead and kill her, that he either
21 struck her or things of that nature. But Dr. Ross said she
22 had an injury on her head, and I think she called it the
23 hat line where a hat would sit, somewhere about the hair
24 line thereabouts, and she had an injury on one side of her
25 face on her eye and things of that nature and on her lip.

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1 Well, you know, it's come out -- and I hate to speak not
2 well of the dead -- but they found in her materials what's
3 sometimes called a crack spoon, it's a spoon that is used
4 in the use of drugs. It was burned on the back side to
5 indicate that somebody was melting drugs in it, and
6 whatever kind you don't know. Her toxicology report came
7 back and indicated the presence of marijuana and cocaine,
8 and I think it's reasonable to assume that she might
9 have -- because she said, "I'm tired," that that's quite
10 possible that she might have fallen somewhere. She left
11 the house -- I think her niece said she left the house
12 around 9:00 or 9:30 and this supposedly happened around
13 1:30 or 2:00. If she was using drugs she could have fallen
14 somewhere, she could have bumped up against something hard,
15 but that's a possibility of where those injuries might have
16 come from. There's no indication that Mr. Catoe did
17 anything. If you'll look at these pictures of him that
18 they took of him and have him hold his hands up, Mr. Catoe,
19 number one, is not a really big man; number two, his hands
20 aren't that big either, he doesn't have huge big mits. And
21 so I think in that type of situation you can infer -- I
22 don't see anything he could have done. The State has made
23 great use of the word blunt force trauma, and we hear that
24 on the TV and things of that nature, but that doesn't
25 necessarily mean that somebody hit another person. How

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1 many times have you seen in a newspaper article a situation
2 where the deceased was riding in a car, the car went off
3 the road, struck a tree and he died from blunt force
4 trauma? Essentially that just means that the body comes in
5 contact with something with enough force to cause injury to
6 it, and that's really all it means. It doesn't mean that
7 somebody beat somebody else up, it just means that, like I
8 said, the soft tissue of the body came in contact with
9 something else to cause the injuries, and because of that
10 use they may try to say "There must have been something
11 going on, he must have been beating her in the house," or
12 things of that nature. The indication is, though,
13 there's -- no weapon was found. They shined this magic
14 blue light around and they didn't see any -- other than on
15 her body any indication of blood. If somebody was beating
16 somebody under that scenario there's going to be some blood
17 probably that flies around, maybe tiny specs but it's going
18 to go, but there's no indication of that. So I think you
19 can look at what they're saying and you can say, "I don't
20 buy it. I don't think that's necessarily what happened."
21 I think you have to look at what happened -- they've got
22 all of these scratches and they're saying -- and they've
23 got all of these pictures they want to show you. Well,
24 first of all, everybody heals a little differently.
25 There's no indication -- some of these look like there may

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1 be sort of old scratches, some may look like they're new
2 scratches. But the interesting thing that I think that I
3 heard as far as scratches go is that the technician from
4 SLED says on the fingernail clippings that she did not get
5 enough off of one hand to do anything other than just
6 exclude Mr. Catoe, and she didn't get anything that she
7 could identify off of the other hand. If you got scratched
8 and you're fighting for your life, don't you think you
9 would get a whole lot more skin than just what they came up
10 with? That's something you have to look at as to whether
11 you think that he might have been scratched. You've got
12 these scratches, you can look at them, apply your own
13 knowledge as to what your experiences have been and how
14 easily things heal and how quickly things heal and come to
15 your own conclusion on that. You know, I sort of made a
16 big issue out of this, is we have all of these statements
17 but the sheriff's department didn't record anything, it's
18 just their policy not to do it. And my point is why do
19 they not do that? You could go -- like I said, you could
20 go down to Wal-Mart and get a \$25 tape recorder and you can
21 get it. Well, Captain Bailey, said "Well, we don't know
22 want to do those things, we don't know how to store them,"
23 and things of that -- that's not the important thing. When
24 you record it then you've got exactly what the person said,
25 you can hear what was asked to them, you can hear how it

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1 was asked to them did they do it. It's the same thing
2 nowadays that we're going through with this thing of body
3 cams, you can't deny things. If it's right there or if
4 you're hearing it you can't deny that things were said and
5 I don't understand why Lancaster didn't do that, because it
6 certainly with audio recordings it could have been done.
7 As I said, my job is sort of hard, I'm trying to figure out
8 everything that he's going to say, that the solicitor is
9 going to say so that I can at least mention those things to
10 you. You know, they said they didn't see any fecal matter
11 or blood on the mattress, and I think that's another thing
12 that goes towards the State's theory that she defecated on
13 him, because if she did, don't you think some of that would
14 have been there? Some of that happened naturally and he
15 didn't deny that they had anal intercourse, then had
16 vaginal intercourse and then anal intercourse again and
17 that's when she said -- made the comment about the rough
18 sex. You know, the question is do you think -- and that
19 happens. It may not be called rough sex, but there are
20 things, and Dr. Ross mentioned to them, that she has heard
21 and studied, certain things she knows that sometimes that
22 the person who gets choked is the person who is going to
23 get the benefit, who has the enhanced orgasm, the person
24 doing the choking doesn't get that. And Mr. Catoe says in
25 his statement that she suggested that to him. And I think

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1 you have to put your knowledge from what you've seen here
2 in the courtroom, is he a sophisticated enough person to
3 have thought about that or is that something that was
4 actually suggested to him in the process of the sexual
5 activity? That's one of the things that I think you have
6 to do as far as looking at whether somebody is telling the
7 truth or not telling the truth. You know, the State has
8 come up and used these things, they want to imply there
9 were a lot of other injuries to the body, Dr. Ross said
10 that she didn't really see anything, she didn't see
11 anything that looked like a kick or anything when she
12 examined the body. And again, the body -- they went to
13 great pains to say that the body was preserved as much as
14 it could be. It was probably put in to a refrigerated
15 unit, she wasn't changed from angle that she was, the
16 posture that she had. The question I think you have to
17 look at is if Dr. Ross, who's a trained forensic scientist,
18 if Dr. Ross didn't see these things, were they there? So,
19 you know, these are things that I think you have to -- in
20 testing the State' evidence -- because the State has to
21 prove the case to you and they have to prove it to you
22 beyond a reasonable doubt, that's the highest burden of
23 proof. It's not sufficient to say it might have happened,
24 it's not sufficient to say it probably happened this way,
25 you have to be convinced beyond a reasonable doubt. And

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1 the State has to prove the elements of the crime, they also
2 have to prove -- and you'll have -- the indictment will be
3 sent back into the jury room with you, they have to prove
4 all of the elements on that indictment. If they say
5 something happened on a particular way, they're going to
6 convince you that it happened that way. It's not an easy
7 job for you to have, and it's one of the things that I
8 think that -- but it's what makes our system great is
9 because we don't say you have to prove that you're
10 innocent, the State has to prove that the person is guilty,
11 and that may -- our country is very different from a number
12 of other countries in that way. Because in a lot of
13 countries if you get charged with something you have got to
14 prove that you are not guilty, but in our country the
15 burden is on the State to prove that you're guilty. Now,
16 like I said, I tried to cover most of the things that I
17 think were important to you. There may be other things,
18 and you will go back there and you can talk and you'll say,
19 "Wait, the lawyer didn't say anything about this but what
20 about this?" And you have that right to do that as a
21 juror, to argue to yourselves. But again, the thing is the
22 proof must be beyond a reasonable doubt. Now, ladies and
23 gentlemen, I'm going to close with something that an old
24 attorney -- I won't say old because I'm in that category
25 and I think this man may be a little younger than I am.

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1 There's an attorney in Greenville known as Rauch Wise, he's
2 a very prominent attorney, a very good attorney, and he
3 mentioned something to me one day that it really defined
4 reasonable doubt to me. It was almost like an epiphany of
5 what is reasonable doubt, and this time of the year
6 particularly it fits in real well, I think. And what it is
7 is he made the analogy to a football game. We're coming
8 through a football season whether you support Clemson or
9 the Panthers or somebody else, you've seen it on TV, and
10 what we have is it's called an instant replay and a call
11 was made on the field, it was a touchdown, and what happens
12 is somebody challenges that and somebody says, "No, I don't
13 think that's a touchdown." And so -- in the old days that
14 was it, if they made the call that was what it was,
15 nowadays, of course, they have instant replay where they go
16 over, and at least on the professional side I've seen them
17 put their heads in, cut out the lights to look at it and
18 other times they have someone else up in the box who's
19 telling them what happened. But essentially the call on
20 the field is going to stand unless there's irrefutable
21 evidence to say that it's wrong. And that's what basically
22 reasonable doubt is. You have to be able to -- the call on
23 the field in the courtroom is not guilty, and before you
24 can say a person is guilty you've got to say that there is
25 irrefutable evidence that he is particularly guilty. And I

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1 don't think the State can say no, that's not the standard,
2 because if they say that then they're saying the rules of
3 the game are more important than whether somebody goes to
4 jail or not go to jail, and that's just not the case. So
5 ladies and gentlemen, I think when you take all of this
6 information and you look at it, you'll find out that the
7 State has not proven their case to you. They're going to
8 try to urge a lot of things on you, and you have to put
9 your own knowledge and common sense as to whether this
10 could have happened this way or not. His Honor will
11 explain the law to you, but just remember that you have to
12 be convinced beyond a reasonable doubt. There has got to
13 be irrefutable evidence that Terry Catoe did this, and did
14 it in such a way that it follows through with the State's
15 theory of the case. I thank you for your attention, and
16 I'm sure that once you retire to your jury room and have
17 been charged with the law you'll come back with a verdict
18 which is true and fair in this case. Thank you, ladies and
19 gentlemen.

20 THE COURT: Thank you, Mr. Lee. Madam Solicitor --
21 Mr. Solicitor, excuse me. Mr. Newman?

22 MR. NEWMAN: Thank you, Your Honor. Ladies and
23 gentlemen, I want to thank you for your service today, this
24 week, thank you for your attentiveness. I can tell when
25 we're sitting back and watching and we can tell when you're

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1 not paying attention and you are, and all of you looked
2 like you've been paying attention this week, and I
3 appreciate that. You're here for a very important reason.
4 I know you're tired and you're probably ready to go and I'm
5 going to be brief, I'm not going to be up here long. You
6 know, I didn't have the pleasure of meeting Ms. Gaymon, but
7 I can only imagine after she passed her family and her
8 friends, they sat around and they probably told stories
9 about how great a person she was and how much they loved
10 her, because that's what we do when someone dies. Every
11 person in this courtroom has a different set of
12 circumstances. Some of us have been dealt a pretty crappy
13 hand, and I'm going to ask you, don't judge her. Don't
14 judge her for the life-style that she may or may not have
15 had. And it doesn't matter today if she was engaged in
16 prostitution, it doesn't matter if she was doing drugs or
17 whatever, all that matters here today is that she was
18 brutally murdered by Terry Catoe. This woman was a
19 daughter, a sister, aunt and a friend, and nobody, nobody
20 in this world deserved to die like she died. She was
21 bruised all over her body, she had a black eye, and she's
22 is lying in her own feces. She was beaten. She had a hand
23 placed over her mouth to keep her from screaming. This
24 wasn't an accident, this wasn't just rough sex. Ladies and
25 gentlemen, Terry Catoe is a murderer. I'm going to talk to

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1 you a little bit about the law and the three charges that
2 you have to here. Mr. Catoe is charged with murder.
3 Murder is defined in South Carolina as the killing of a
4 person with malice aforethought. Now, the defense attorney
5 said he had no malice, it was an accident. Malice is
6 define as hatred, ill will or hostility towards another
7 person. It is the intentional doing of a wrongful act
8 without just cause or excuse, or with intent to inflict
9 injury or under circumstances that the law will infer evil
10 intent. And I am telling you folks, he may not have had
11 malice when he walked into that house, but when she started
12 to put up a fight and she started to resist he had malice
13 in his heart, and he had malice at the time and at the
14 moment that he committed that murder and that's all it
15 takes. Malice has to be there -- malice aforethought
16 doesn't have to exist for any length of time, it only has
17 to be there at that moment, and I'm telling you he had it.
18 It's murder, folks.. Dr. Ross told you it takes only
19 seconds to go unconscious, and only four to five minutes to
20 die when you're being strangled. Terry Catoe said in his
21 own words he choked her for 20 to 25 minutes while engaging
22 in brutal anal sex and when he left the damage was done,
23 that's what he said. The damage was done. Folks, if you
24 believe there's no malice, if you're not convinced it's
25 murder, you can find him guilty of voluntary manslaughter.

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1 Voluntary manslaughter is defined as the unlawful killing
2 of another person without malice, killing of a person in
3 the sudden heat of passion based on sufficient legal
4 provocation. Sudden heat of passion must be the type that
5 will make an ordinary person unable to coolly reflect on his
6 own actions and would produce uncontrollable impulse to do
7 violence. A sufficient legal provocation must be the type
8 that will make a person of ordinary reason and caution to
9 become enraged, to lose control temporarily. Provocation
10 needed for voluntary manslaughter must come from an act or
11 related to the victim. The heat of passion provocation in
12 this case, she was resisting, she was screaming, she's
13 scratching, she's punching and she's fighting back. Now,
14 the defense, they say it was an accident, they say
15 involuntary manslaughter. I'm asking you don't even
16 consider involuntary manslaughter. This was no accident,
17 folks. I don't know why they went in that house. I don't
18 know if they went to have sex or if they went to do drugs,
19 I don't even know if she went willfully, but I know when
20 they got in there she told him to stop and she screamed,
21 and she said, "You don't have to do that," and he didn't
22 stop. She screamed and he didn't stop. She defecated and
23 he didn't stop. She passed out and he didn't stop. He
24 didn't stop until he was done. When he ejaculated he
25 stopped, he got up, he covered the door and he left because

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1 the damage was done. He never checked on her, he never
2 called for help, he left Ms. Gaymon in that disgusting
3 house dead. That's no accident, ladies and gentlemen.
4 Terry Catoe is a murderer. Now, the State has to prove to
5 you beyond a reasonable doubt. A reasonable doubt is the
6 kind of doubt that would cause a reasonable person to
7 hesitate to act, that's the definition. A lot of folks
8 make a big deal out of reasonable doubt, but let me tell
9 you, reasonable doubt is something that you don't have to
10 look for. If reasonable doubt is here in this case you
11 will know it, it will be like a flashing sign, "Look at me,
12 look at me." You won't be able to ignore it. And I'm
13 telling you, you just don't have that here. Mr. Catoe said
14 he paid for sex because she was a prostitute. There was no
15 money found. He never intended to pay her for sex. He
16 lured her into that house with drugs, and he admitted to
17 calling a drug dealer that night, and once he was in the
18 house he wanted sex, he wouldn't take no for an answer and
19 when she tried to resist he got angry, she fought back and
20 he got even. And you heard from many witnesses on the
21 stand, you saw and you heard a lot of evidence, and you
22 will be able to take these photos and evidence back in the
23 room with you, these statements. You heard some gruesome
24 facts and you heard some things that are not too fun for us
25 to talk about up here, but let's talk about what we know.

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1 You know he didn't pay her. You know he produced blunt
2 force trauma on her face, her neck and her head. You know
3 there was an injury to her mouth that was consistent with
4 someone placing their hand over her mouth to keep her from
5 screaming. You know she screamed for help. You know she
6 struggled, she had a broken nail, she had bruises all over
7 her body. You know he had scratches which are consistent
8 with her fighting back, her defending herself. You know he
9 strangled her. You know he had sex with her, his DNA is
10 all over her. You know there was trauma in her anal and
11 vaginal area. You put all of this together folks, and you
12 know beyond a reasonable doubt that Terry Catoe is guilty
13 of murder. He says he put that couch up to hide his
14 bicycle. Really? Who drags a couch, old rotten, worn out
15 couch out of the yard and puts it up to cover the door of a
16 house to hide his bike? Why don't he just take his bike
17 inside the house with him? Only a desperate man does that,
18 a man that's trying to hide the murder that he just
19 committed. You heard from the defense a bunch of smoke and
20 mirrors, a bunch of distractions. They want to harp on
21 recordings. "Why didn't you record these statements? Why
22 is it not on tape?" Folks, that don't matter. You had I
23 don't know how many officers put their hand on that Bible
24 right there and they swore that that was the truth. If
25 they had those recordings they would find something wrong

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1 with those, too. They wanted you to know that Ms. Gaymon
2 had cocaine in her system, they asked about it at least
3 four times and they said it in their closing. Folks, I
4 submit to you, Mr. Catoe called the drug dealer that night
5 and he provided that cocaine that was in her system. Mr.
6 Lee said that Ms. Cauthen got up there and when she talked
7 to the police officer she didn't tell them everything the
8 first time. Well, apparently nobody did. Mr. Lee also
9 said, "Well, Mr. Catoe, he showed up on his own and he gave
10 them a statement, it wasn't a true statement but he gave it
11 to them," he told you that on his own. He gave three
12 different statements, each of them different. First time
13 he didn't know anything about that death, nothing but what
14 he saw on the news. By the time he finally got around to
15 putting himself there, "Yeah, but it was an accident. I
16 didn't mean to do it, she wanted rough sex." She got it
17 rough, all right, she got blunt force trauma. And Mr. Lee
18 says, "Well, blunt force trauma, that's not that bad, it
19 just means one thing comes in contact with the nother, it
20 doesn't mean you get beat up." But if it's a fist coming
21 in contact with your face, that means you're getting beat
22 up. Ladies and gentlemen, Mr. Catoe beat Linda Gaymon, he
23 beat her. He had brutal, painful sex with her, he brutally
24 strangled her. And I don't care if it was his forearm
25 pushed up against her throat or if it was both hands

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1 squeezing around her neck, he did it with force and he did
2 it with more force -- Dr. Ross you told you he did it with
3 more force than what would happen if somebody would hang
4 themselves. When you hang yourself that's your whole body
5 weight on your neck, she had more force than that on her
6 neck. We're dealing with malice, folks. Folks, he does
7 cut off her air until she couldn't struggle anymore, and
8 when she stopped struggling she was dead, and at that time,
9 like he said, the damage was done. You've got three
10 statements by Mr. Catoe. In the first statement on
11 2/29/12 -- and you will have these back in the room -- he
12 says, "I could tell by the way she was dressed she was a
13 prostitute. Well, how was she dressed? She had on jogging
14 pants and Sperrys." That's typical for this area, jogging
15 pants and Sperrys, that don't mean she's a prostitute.
16 First he said it was no more than 15 or 20 minutes and it
17 was at 8:00 at night, and he said when he left she was
18 standing there with a dark colored car with tinted windows.
19 It wasn't until they called him on it and they said, "Look,
20 we know you were there in the early morning hours," and he
21 told them, yeah, he was there at a different time. They
22 asked him about the bike, "Why didn't you just take the
23 bike in the house with you? I just didn't. I just
24 didn't." When they asked him about the scratch on the arm
25 he said, "Well, it was dark, she fell, I caught her and she

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1 scratched me." And they said, "Okay. Well, demonstrate
2 that for us. It was dark, I can't, I don't know how to
3 demonstrate it." Yeah, he gave statements, he just didn't
4 give true statements. On the third statement he told them,
5 they asked him again about the couch and he finally
6 admitted, "Yeah, I used the couch to block the door. I
7 told the previous officer I was hiding my bike." The one
8 thing that stuck out to me in his final statement, he
9 says -- when they were asking about his sexual position and
10 he said, "Well, she wanted it anal." And then on the next
11 page in the same statement, "Why did she scream? Well, I
12 surprised her when I put it in her ass. She didn't know it
13 was coming." If she didn't know it was coming how did she
14 ask for it? Ladies and gentlemen, again, I thank you for
15 your service. I ask you to go back there in that jury room
16 and take your time, look at those photos, look at those
17 statements, look at all of that stuff, look at it real
18 good, talk it over, and I want you to send a message when
19 you come back out here, I want you to send a message. I
20 want you to send a message to Mr. Catoe and tell him that
21 the damage is done and find him guilty of murder. Thank
22 you.

23 THE COURT: Thank you, Solicitor. Ladies and
24 gentlemen, my charge to you is going to take about 20 or 25
25 minutes, why don't we take just a brief comfort break

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1 before then. I want to make sure you're fresh, get
2 something to drink, run to the restroom, because what I
3 tell you is very important concerning the law that you need
4 to apply to the facts as you find them to be. Again, don't
5 talk about the case, we'll get you back in here in about
6 seven minutes. Okay. Thank you.

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

8 THE COURT: Bring the jury in.

9 (The jury returned to the courtroom.)

10 THE COURT: Ladies and gentlemen, normally when I
11 can -- I hold court all over the state in other courtrooms
12 which allow me to come on. Some of the older benches are
13 closed off where the Judge can't come down to charge the
14 law. I like to come down and face you the way the trial
15 lawyers do because I think you pay better attention than if
16 I were sitting way back over there talking to you. Okay.
17 So please pay particular attention to you (sic) while I
18 charge you on the law that's applicable to this case. And
19 if you -- I'll look down from time to time and read what I
20 have typed up, I'm going to try not to do that as much as
21 possible because I know it's horrible to stand there and
22 look at a talking head just reading something, but what I
23 tell you is very important and I want to make sure I get it
24 absolutely correct, so I apologize if I look down from time
25 to time. Now, Mr. Foreman, members of the jury, you've

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1 heard the testimony, the evidence and the arguments of both
2 the State and the defense, I will now explain to you the
3 law that applies to this case. Now, under the
4 constitutional laws of South Carolina you are the finders
5 of facts in the case. I do not have the right to pass upon
6 the facts or even to express an opinion I may have as to
7 the facts because that's solely for you, the jury, to
8 determine. As jurors then it is your duty to determine the
9 effect, the value, the weight, and the truth of the
10 evidence presented during this trial. Now, as the trial
11 judge it has been my responsibility to preside over the
12 trial of the case and to rule upon the admissibility of
13 various evidence offered during the trial. You are to
14 consider only the testimony which has been presented from
15 that witness stand together with the any exhibits which
16 have been made part of the record, and you'll have those
17 back there for your view. I'm now charging you the law
18 applicable to this case, and as the presiding judge I am
19 the sole judge of the law of the case. It is your duty as
20 jurors to accept as correct and to apply the law as I now
21 state it to you and use that to reach your verdict. Now,
22 the fact that I may instruct you on various subjects in
23 this case must not be taken by you as indicating what my
24 opinion of what the facts should be, or what your verdict
25 should be. And finally, I charge you that you should not

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1 be concerned with what you think the law ought to be, but
2 rather what I charge you the law is. Now, the fact that
3 the defendant was arrested, charged and indicted is not
4 evidence in this case and cannot be considered by you as
5 evidence of guilt in this case, nor does it create any
6 presumption or inference of guilt. The indictment, as I
7 told you before, is simply the formal written instrument
8 which contains the charge made against the defendant. An
9 indictment is merely the formal written document by which a
10 case comes to court. You are also the judges, the sole
11 judges of the credibility, that is the believability of the
12 witnesses who have testified, and of the evidence which has
13 been presented during this trial. In passing upon
14 credibility you may take into consideration many things
15 such as the demeanor or manner in which the witness
16 testified, and whether or not a witness had reason to be
17 biased or prejudiced, or whether or not a witness'
18 testimony was contradicted on the one hand, or supported
19 and corroborated on the other hand. All of these things
20 you will consider bearing in mind that you should give the
21 defendant the benefit of any reasonable doubt. It becomes
22 your duty as a juror to analyze and to evaluate the
23 evidence, and determine that evidence which convinces you
24 of its truth. Now, the rules of evidence ordinarily do not
25 permit witnesses to testify to opinions or conclusions,

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1 this means that normally when a person testifies they must
2 testify by what they saw, heard or smelled, or something of
3 that nature. However, there is an exception when someone
4 is qualified because of that person's education or
5 experience. They can give their opinion in a certain area
6 if the Court qualifies them that way, that exception exists
7 for witnesses called expert witnesses. I believe there
8 were two expert witnesses on this case. Now, a witness who
9 has become an expert in some art, science, profession or
10 calling may state an opinion to any relevant or material
11 matter in which the witness claims to be an expert. Now,
12 to give opinion testimony does not mean that you have to
13 accept the opinion, it's simply evidence for you to use in
14 any way you see fit and to give it the weight and
15 credibility you believe it deserves. An expert witness'
16 testimony is to be given no greater weight than that of
17 other witnesses simply because the witness is an expert.
18 And further, you are not required to accept an expert's
19 opinion, even though that opinion may not be contradicted.
20 Generally there's two types of evidence offered during a
21 trial, what's called direct evidence and what's called
22 circumstantial evidence. I'll give you the law school
23 definitions and then I will explain them to you. Direct
24 evidence is the testimony of a person who claims to have
25 actual knowledge of a fact, such as an eye witness. It is

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1 evidence which immediately establishes the main fact to be
2 proved and does not require deduction. Circumstantial
3 evidence is proof of a chain of facts and circumstances
4 indicating the existence of a fact. It is evidence which
5 immediately establishes collateral facts from which the
6 main fact can be inferred, I'm going to explain this to you
7 in a second. Circumstantial evidence is based on
8 inference, not on personal knowledge or observation. The
9 examples I always use, the lawyers are probably tired of
10 hearing it, but for example if on a winter night, like now,
11 and you look outside and you see brown grass on your lawn,
12 you go to bed, you wake up the next morning and you see
13 snow and footprints on your lawn. Well, first you can
14 infer that it snowed. Secondly, you can infer that
15 somebody was walking on your lawn. Now see, these are
16 things that you can infer even though you didn't see it
17 snow and even though you didn't see somebody on your lawn.
18 Crimes may be proven by circumstantial evidence. The law
19 makes no distinction between the weight or value to be
20 given to either direct or circumstantial evidence, nor is
21 there a greater degree of certainty required of
22 circumstantial -- a greater degree of certainty required of
23 circumstantial evidence than of direct evidence. However,
24 to the extent the State relies on circumstantial evidence,
25 all of the circumstances must be consistent with each

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1 other, and when taken together point conclusively to the
2 guilt of the accused beyond a reasonable doubt. If these
3 circumstances merely portray the defendant's behavior as
4 suspicious, the proof has failed. The State has the burden
5 of proving the defendant guilty beyond a reasonable doubt.
6 This burden rests with the State regardless of whether the
7 State relies on direct evidence, circumstantial evidence or
8 some combination of the two. You should weigh all of the
9 evidence in the case, and after weighing all of the
10 evidence if you're not convinced of the guilt of the
11 defendant beyond a reasonable doubt you must find the
12 defendant not guilty. Now, the defendant has pled not
13 guilty to the charge of the indictment, and that plea, of
14 course, places the burden on the State to prove him guilty
15 as I just stated. A person charged with committing a
16 criminal offense is never required to prove himself
17 innocent. I charge you it's an important rule of law that
18 the defendant in a criminal trial, no matter what the
19 seriousness of the charge may be, will always be presumed
20 innocent until proven guilty of the crime for which the
21 indictment was issued, unless guilt has been proven by
22 evidence satisfying you, the jury, of that guilty beyond a
23 reasonable doubt. I'm fixin' to define reasonable doubt.
24 Now, ladies and gentlemen, this presumption of innocence
25 does not end when you begin your deliberations, but it

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1 accompanies the defendant throughout the trial until you
2 have reached a verdict. Imagine if you will, similar to
3 the robe I'm wearing, this presumption of innocence is like
4 a robe of righteousness placed about the shoulders of the
5 defendant, which remains with him until it has been
6 stripped from him by evidence satisfying you of the
7 defendant's guilt beyond a reasonable doubt. Now, this
8 presumption of innocence is not just a mere legal theory,
9 it's not just a legal phrase, it is a substantial right to
10 which every defendant is entitled unless you, the jury, are
11 satisfied of the defendant's guilt beyond a reasonable
12 doubt. So what is a reasonable doubt in the law? A
13 reasonable doubt is a doubt which makes an honest, sincere
14 conscious juror in search of the truth to hesitate to act.
15 Proof beyond a reasonable doubt must therefore be proof of
16 such a convincing character that a reasonable person would
17 not hesitate to rely and act upon it in the most important
18 of his or her own affairs. Now, proof beyond a reasonable
19 doubt can also be described as proof that leaves you firmly
20 convinced of the defendant's guilt. Now, there are very
21 few things we know in this world with absolute certainty,
22 and in criminal cases the law does not require proof that
23 overcomes every possible doubt. If, based upon your
24 consideration of the evidence, you are firmly convinced
25 that the defendant is guilty, then you must find him

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1 guilty. If on the other hand you think there's a real
2 possibility that he is not guilty, you must then give him
3 the benefit of the doubt and find him not guilty. Now,
4 ladies and gentlemen, I instruct you and emphasize that the
5 fact that the defendant did not testify is not a factor to
6 be considered by you in any way in your deliberations and
7 in your consideration on the question of guilt or the
8 innocence of the defendant. It must not be considered by
9 you in any manner whatsoever. A defendant has the
10 constitutional right to remain silent, and the assertion of
11 this right must not be considered by you in your
12 deliberations. So I repeat, under your oath you are to
13 draw no conclusion whatsoever from the fact that the
14 defendant in this case did not testify. In fact, this
15 should not even be discussed in the jury room. The burden
16 of proof, as I have stated to you, is always upon the
17 State. The defendant is not required to prove innocence.
18 The burden of proof remains on the State to prove guilt
19 beyond a reasonable doubt. Now, in order to establish
20 criminal liability, criminal intent is required. For
21 example, the mental state required to be proven by the
22 State for a particular crime might be purpose, intent,
23 knowledge, recklessness or criminal negligence. Criminal
24 intent must be proven by the State, of course, beyond a
25 reasonable doubt. Criminal intent is always a matter that