

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper Circuit Court Judge

RECEIVED

JUN 01 2017

S.C. SUPREME COURT

ELBERT WALLACE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000057

APPENDIX

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1 that we've spoken with that there would be any
2 indication that the defendant cannot get a fair trial
3 or that the State cannot get a fair trial. I deny the
4 motion on that basis.

5 When the jury panel comes in, I will inquire of
6 the entire panel as a whole whether or not any contact
7 or comments by anyone to any juror, whether that
8 affects their --- any juror's ability to be fair and
9 impartial, and if they so indicate, that juror will be
10 taken off the case.

11 If they indicate that they could continue in a
12 fair and impartial manner, then we'll do so.

13 MR. SUTHERLAND: Yes, sir.

14 THE HONORABLE CLIFTON NEWMAN: So the motion is
15 denied.

16 MR. SUTHERLAND: Thank you.

17 MS. CAMPBELL: May it please the Court.

18 THE HONORABLE CLIFTON NEWMAN: Yes.

19 MS. CAMPBELL: Your Honor, at this time, our
20 biggest concern is that this jury continue in this
21 case and feel free of any sort of threat and/or
22 intimidation.

23 There has been some people identified as having
24 made the threats or shouting, "He's innocent",
25 whatever it was that caused the jurors to feel

1 intimidated.

2 Our concern, and I understand the defense counsel
3 doesn't have any control over the family members, but
4 Your Honor, you do control the family members.

5 Their continued presence in front of this jury
6 would be of a concern to the State; that that would
7 be --- continue to be some type of intimidation or
8 threat to this jury.

9 We would just ask the court, in whatever remedy
10 you deem appropriate, to somehow ensure that this jury
11 is free from any undue influence by any members of the
12 defendant's family and just hold them accountable for
13 their actions they have done up to this point to make
14 sure that this jury can continue in this case with ---
15 free from any type of intimidation or threat from any
16 --- anybody.

17 THE HONORABLE CLIFTON NEWMAN: All right.

18 Mr. Sutherland?

19 MR. SUTHERLAND: I represent Mr. Wallace, Your
20 Honor.

21 THE HONORABLE CLIFTON NEWMAN: All right. Those
22 jurors indicated that the people who were shouting the
23 comments to them left the courtroom with the young
24 lady who is seated at the --- or behind --- following
25 behind the young lady who is seated at the counsel

1 table with Mr. Sutherland. This is Brie?

2 INTERN: Yes, sir.

3 THE HONORABLE CLIFTON NEWMAN: The intern in the
4 public --- the Richland County Public Defender's
5 Office, and they further identified the folks as being
6 the people who were seated where these ladies are now
7 seated on the --- as being seated on the front row
8 behind the defendant as being the people who --- who
9 made the comments.

10 Of course, they did not specifically identify any
11 particular person, and I would not want to use a broad
12 brush and indict and convict, and hold in contempt a
13 group of people without being clear, specifically, as
14 to who did what, but in addition to all of that, I had
15 law enforcement indicate to me trouble that he has had
16 already during the course of this trial with the
17 members of the defendant's family.

18 I want to make clear that any inappropriate
19 conduct as deemed by me to be inappropriate is
20 contemptuous conduct, and you will be sentenced to
21 jail for six months.

22 In addition, you may be facing five years for
23 obstruction of justice and obstructing the court. I
24 believe that we have wasted enough time here this
25 morning with this issue, time that we're not going to

1 waste any more of during the course of this trial.

2 The remedy, other than just warning them is that
3 I'm going to have the folks associated with the
4 defendant move to the back two rows and to not come
5 any closer than that during the course of this trial.

6 Further, any indication of any annoyance of any
7 jurors will be dealt with harshly. We'll also address
8 the issue of having these people separated from the
9 jury, if necessary, by either escorting the jury or by
10 not allowing them to leave until the jury is gone.

11 Anything else?

12 MS. CAMPBELL: Yes, Your Honor. The only other
13 thing is that it did come to our attention, too, that
14 during the course of the trial some of them had been
15 making faces or impressions that have been observed by
16 members of the staff here in the courtroom.

17 We would just ask that you caution them, even in
18 the courtroom ---

19 THE HONORABLE CLIFTON NEWMAN: All right.

20 MS. CAMPBELL: Any reaction or anything would be
21 inappropriate.

22 THE HONORABLE CLIFTON NEWMAN: All right. Then
23 anyone who is present in the courtroom, of course, the
24 defendant has the right to be present during his trial.

25 Even the defendant can be put out of the

1 courtroom if he does not act as he should in court,
2 and I have no complaints whatsoever with the manner in
3 which the defendant has acted, but any member of the
4 general public can be expelled from the courtroom and
5 held in contempt if you do not act civilized and in
6 accordance with the court rules and procedures. That
7 includes making faces, gestures, noises and other
8 kinds of reactions.

9 We don't expect any more of that to occur at all
10 during this trial.

11 All right. Ready for the jury?

12 MS. CAMPBELL: The State is ready, Your Honor.

13 MR. SUTHERLAND: The defense is ready, Your Honor.

14 THE HONORABLE CLIFTON NEWMAN: All right. Let's
15 bring them on.

16 (WHEREUPON, the jury came into open court at
17 approximately 10:53 a.m.)

18 THE BAILIFF: The jurors are all present, Your
19 Honor.

20 THE HONORABLE CLIFTON NEWMAN: All right. Very
21 good.

22 Ladies and gentlemen, I'm sorry for the delay
23 this morning.

24 I understand that some members of the jury panel
25 were exposed to some comments by people not associated

1 with the case and that those comments may or may not
2 have been discussed with other jurors in the jury room.

3 If any of that has affected any juror's ability
4 to continue as a fair and impartial juror in this case,
5 if you have been influenced by any such comments or
6 discussions regarding any comments or if any of that
7 has affected your right to be a fair and impartial
8 juror, please let me know at this time by raising your
9 hands.

10 (There was no response.)

11 THE HONORABLE CLIFTON NEWMAN: Thank you.

12 If you are able to continue as a fair and
13 impartial juror, despite that which occurred, please
14 raise your hands. If you're able to continue as a
15 fair and impartial juror, please let me know by
16 raising your hands.

17 (All responded affirmatively.)

18 THE HONORABLE CLIFTON NEWMAN: All right. I can
19 tell you're listening because all hands have just been
20 raised.

21 All right. Well, ladies and gentlemen, you are
22 to decide this case solely based on the evidence
23 presented during the course of this trial from the
24 witness stand and through exhibits in deciding the
25 facts of this case based on that evidence and then

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1 applying the law as I will instruct you or Ms. Donald
2 --- Ms. McDonald will instruct you during the course
3 of the trial and in greater detail at the end of the
4 trial.

5 You should not be influenced or distracted by
6 anything that may occur outside of the courtroom,
7 including anything that might appear in the media or
8 anyone attempting to make contact with you.

9 I appreciate your bringing that to my attention.
10 It's totally improper, and the court will deal with it
11 or has dealt with it and will deal with it.

12 So thank you very much. We'll proceed with the
13 trial at this time.

14 We had a witness on the witness stand.

15 MS. CAMPBELL: Yes, sir.

16 THE HONORABLE CLIFTON NEWMAN: If you will resume
17 your position, please.

18 Direct Examination (continued):

19 BY MS. CAMPBELL:

20 Q Lieutenant, yesterday we talked about how on, I
21 believe it was February 1st, you actually processed
22 the victim's car in this case?

23 A I did.

24 Q And that took place at the forensic garage there
25 in the Richland County Sheriff's Department?

1 A It did.

2 Q And at that point, you took a number of swabs,
3 and we put in a number of pictures, from the exterior
4 of the vehicle itself with what had stains on it.

5 A Correct, marked A through S.

6 Q And the processing of that vehicle on the
7 exterior of the vehicle, did it also get processed for
8 latent prints?

9 A The exterior did by Investigator Odom.

10 Q By Investigator Odom.

11 A Yes.

12 Q I want to turn your attention to February 2nd at
13 about 9:50 a.m. Did you go back to the forensic
14 garage in order to do some more processing on that
15 vehicle, the victim's vehicle?

16 A We did. Myself and investigator Odom continued
17 processing.

18 Q And what type of evidence were you looking for at
19 that point?

20 A At that point, we turned our attention to the
21 interior of the vehicle, processing it similar to the
22 exterior with a little bit more detail.

23 We initially did photographs of the interior and
24 then identified some stains inside.

25 Q And I believe those --- some of those photographs

1 are already into evidence, and what type of stains,
2 again, were you looking for on the interior of the
3 vehicle or the victim's vehicle? It had been --- and
4 it had been secured in your garage at this point,
5 right?

6 A Yeah. Initially, we were looking for additional
7 reddish brown stains, possible blood, that we marked 1
8 through 14.

9 Q And I want to show you what's been marked as 246
10 through 269. First, I just ask if you recognize those
11 photographs?

12 A I do.

13 Q And what are those photographs of?

14 A These are the stains identified on the interior
15 driver and front passenger area.

16 Q And did you actually take these photographs
17 yourself?

18 A I took some of them and Investigator Odom took
19 some, I believe.

20 Q But you were all present when they were taken?

21 A Yes.

22 Q And other than the markers that are used to point
23 out where the stains are, was the vehicle altered or
24 changed in any way prior to your dealing with the
25 spots?

1 A No.

2 Q Or pointing out the stains.

3 MS. CAMPBELL: Your Honor, at this time we'd
4 offer State's Exhibits, I believe, 246 through 269.

5 MR. SUTHERLAND: Without objection, sir.

6 THE HONORABLE CLIFTON NEWMAN: They're admitted
7 without objection.

8 (WHEREUPON, State's Exhibits Nos. 246 - 269 were
9 admitted into evidence.)

10 MS. CAMPBELL: Your Honor, may the witness step
11 down?

12 THE HONORABLE STEPHANIE McDONALD: You may.

13 BY MS. CAMPBELL:

14 Q Thank you.

15 I want to show you what's been marked as State's
16 exhibits numbers 253 and 246. What does that show on
17 the interior of the car?

18 A This is the --- looking from the passenger's side
19 looking into the vehicle, and that's from the driver's
20 side into the vehicle.

21 Q And I notice there are a number of markers in
22 here. What do those represent, and what are you
23 trying to point out that can be...

24 A Those are the stains that we identified that we
25 wanted to swab and take samples of.

1 Q And this is a general overview?

2 A Yes, ma'am.

3 Q And, specifically, what was the appearance of
4 most of those stains?

5 A There were reddish brown in color.

6 Q And I show you, again, State's Exhibit number 247
7 and 250.

8 A Those are closer up of three and four. That's
9 the handbrake area and --- to the extent possible.

10 Q And then individually, did you go through and do
11 closer ups in smaller groups, as well, in State's
12 Exhibits number 251 and 249?

13 A I did.

14 Q And that's just so you can reference it later on
15 in court; is that correct?

16 A Yes, ma'am.

17 Q And this is all prior to you doing any swabs or
18 collecting evidence?

19 A That's correct.

20 Q And then were you able to go through and note the
21 stains individually, like in 255?

22 A Yeah. That's 11 and 12 on the passenger's front
23 seat.

24 Q Passenger front seat. And specifically item
25 number --- State's Exhibit 257?

1 A That's the interior portion of the doorframe
2 above the window, number one.

3 Q Above what window?

4 A The driver's door.

5 Q Number two, State's 258?

6 A That's the front part of the console, the front
7 part of the handbrake.

8 Q Inside the handbrake?

9 A Of the driver's side.

10 Q The console itself?

11 A Yes.

12 Q The seats?

13 A Correct.

14 Q Number three as shown in State's Exhibit 259?

15 A Yeah. Three and four, that's the front and rear
16 portion of the handbrake.

17 Q And I think it's 260 that shows a closer up of
18 number four?

19 A Yes.

20 Q And that's still in the center area of the
21 console area in between?

22 A Right. More on the driver's side of the console
23 area.

24 Q And this is on number 5. Is this the same one
25 we're referring to?

1 A Yeah. That's number five. That's on the right
2 portion of the driver's seat closest to the console
3 area.

4 Q Closest to the console area?

5 A Yes, ma'am.

6 Q State's Exhibit Number 261?

7 A That's a stain that was identified on the
8 gearshift.

9 Q And where was the gearshift located in this car?

10 A In between the two seats.

11 Q State's Exhibit Number 262?

12 A Seven, that's just another stain that's on the
13 console area itself just below the lid.

14 Q State's Exhibit Number 263, number eight. That
15 would be right there?

16 A Yeah. I believe that's on --- on the passenger's
17 side portion of the console area.

18 Q Of the console itself?

19 A Yes.

20 Q State's Exhibit Number 264, which is number nine,
21 I believe?

22 A Again, that's still on the console area more
23 towards the passenger's side, as well as number ---

24 Q State's Exhibit 265 in the same area?

25 A Yes, ma'am.

1 Q And then State's Exhibit 266, which is number 11?

2 A That is on the passenger's front seat.

3 Q And where on the passenger's front seat was it?

4 A I believe that was closest to the console area,
5 the console's right there.

6 Q And that would be just adjacent to the driver's
7 seat?

8 A Yes.

9 Q And State's Exhibit number 257, which is item
10 number 12?

11 A Again, that's also the passenger's seat closer to
12 the passenger door.

13 Q State's Exhibit 268, which is item number 13?

14 A That's on the driver's seat adjustor under the
15 seat.

16 Q And finally, State's Exhibit Number 269?

17 A That's 14. That's on the steering wheel, closer
18 to the passenger's side or the right side of the
19 steering wheel.

20 Q Is there what's known as a presumptive test that
21 you can do there when you're processing the car to
22 indicate whether or not there is a presence of blood?

23 A I did. There is --- the one that I used was
24 Hemident in this case.

25 Q And did you, as part of your protocol, randomly

1 pick one of these spots to test to see if it was blood
2 present?

3 A I did. I tested the stains at marker number two,
4 which was at the front part of that console area near
5 the driver's side.

6 Q And what were the result of your test?

7 A It was a positive test for blood.

8 Q And you don't do the actual DNA testing yourself;
9 is that correct?

10 A I do not. This is just a presumptive test
11 stating that it is blood, but it does not
12 differentiate between human and animal or other blood
13 so...

14 Q But once you the collect the evidence --- and
15 I'll get back to how you collected it in this case ---
16 it is then forwarded to your DNA laboratory?

17 A That's correct.

18 Q And the analyst in that laboratory would then
19 test --- can test for the presence of blood, as well
20 as whether or not there is DNA that could be tested?

21 A Correct.

22 Q In this case, once you have photographed and
23 marked all the --- what appeared to be blood stains to
24 you, did you then make any effort to collect the
25 evidence from those stains?

1 A I did. I collected a swab from each of the
2 stains, one through 14, and submitted them into
3 evidence individually. Like I explained yesterday, I
4 used a sterile swab. They're all individually wrapped.
5 I swabbed the stain, put it in its own separate carton,
6 and those are then sealed and packaged and submitted
7 to our evidence.

8 Q And the protocol that you collected these items,
9 everything was collected properly, sealed properly, so
10 there could be no cross-contamination or anything of
11 that sort?

12 A It was.

13 Q That day, did anyone do anything about trying to
14 identify any possible fingerprints in the car?

15 A We did. We also used cyanoacrylate, which is
16 another big term for Superglue. We used that inside
17 the vehicle, and then after the cyanoacrylate, we used
18 the black powder. The investigator --- actually
19 Investigator Odom, did the latent print processing in
20 this case.

21 Q Did you also collect some additional swabs of the
22 gearshift, just from the doors and brakes, just
23 general swabs?

24 A I did.

25 Q What's the purpose of that? Explain why that's

1 different from the blood you may have observed.

2 A Some of the other areas that we did were the
3 interior, exterior of the door handles, and that is
4 for what we refer to as touch DNA.

5 We get DNA from the blood that was identified,
6 but you can also get DNA from items, such as doorknobs,
7 just from somebody touching that item. Those were the
8 other areas that we swabbed that potentially we could
9 retrieve some DNA from.

10 Q Okay. And that was done in addition because ---
11 now, if somebody touches something, they don't
12 necessarily leave DNA?

13 A Not necessarily, but it's possible. So we always,
14 out of an abundance of caution, swab as much as we can
15 to get any potential evidence that's there.

16 Q Even though you had a good deal of blood evidence
17 in this case?

18 A Yes.

19 Q That day, did you collect --- and I want to look
20 back. You mentioned earlier in your testimony that
21 you collected certain swabs from the exterior which
22 were marked in a similar manner to what we've gone
23 through that's on the exterior of the car?

24 A Yes, ma'am.

25 Q With what appeared to be reddish brown stains?

1 A Correct.

2 Q And I show you State's Exhibit 359. Do you
3 recognize that?

4 A I do. These are the swabs, the stains, that we
5 identified to be possible blood on the exterior that
6 were viewed yesterday, A through S. These are the
7 swabs I took of each of those stains.

8 Q Okay. And other than that, the testing that's
9 been done on them, when you submitted these swabs into
10 evidence, the entire time they were in your custody,
11 no one tampered with them, altered them or did
12 anything to them?

13 A They did not.

14 Q And they were submitted properly packaged and
15 separated?

16 A They were.

17 MS. CAMPBELL: Your Honor, at this time we'd
18 offer State's Exhibit 359 into evidence.

19 MR. SUTHERLAND: Without objection.

20 THE HONORABLE CLIFTON NEWMAN: Admitted without
21 objection.

22 MS. CAMPBELL: And I'm getting ready to do 360.

23 THE HONORABLE CLIFTON NEWMAN REPORTER: All right.
24 Thank you.

25 (WHEREUPON, State's Exhibit No. 369 was admitted

1 into evidence.)

2 BY MS. CAMPBELL:

3 Q And I want to show your what's been marked as
4 State's Exhibit number 360, the swabs that you
5 collected from the stains that are outlined in what we
6 just we went through, are these those swabs?

7 A They are. These are swabs marked 1 through 14 ---

8 Q And ---

9 A --- on the interior.

10 Q --- those have been tested now, but prior to that,
11 were those all --- while they were in your care, did
12 anyone alter them, change them, or do anything to them
13 while they were in your custody?

14 A No, they didn't.

15 Q And they were properly submitted, separately,
16 sealed and in proper order?

17 A They were.

18 MS. CAMPBELL: Your Honor, at this time, we'd
19 offer State's Exhibit Number 360.

20 MR. SUTHERLAND: Without objection.

21 THE HONORABLE CLIFTON NEWMAN: Admitted without
22 objection.

23 (WHEREUPON, State's Exhibit No. 360 was admitted
24 into evidence.)

25 BY MS. CAMPBELL:

1 Q The next day on February 3rd, we're going into
2 Tuesday --- anyway, the next day, did you return to do
3 some more processing of the car?

4 A I did.

5 Q And can you tell the jury what additional
6 processing you did a day later after processing ---
7 the first day, the exterior; the next day, the
8 interior; then you went back on a third day to process
9 again?

10 A We did. We continued the processing of the
11 interior. One of the things that we used was our
12 crime light, which is an alternate light source.

13 Basically, what that is, is the lights we see
14 here --- our visible light is made up of a different
15 wavelength. So this crime light, or lights that we
16 have, break down that light into different wavelengths
17 that allow us to possibly see things that we can't see
18 in regular light.

19 So the use of a light would filter, sometimes
20 allow us to see additional fluids or fibers. So
21 that's what we were looking for in this case. We did
22 not collect anything additional with the lights.

23 In addition to that, I ---

24 Q Let me stop you for a second.

25 A Sure.

1 Q You did not collect anything additional in the
2 lights? There was no further blood evidence or any
3 type of body fluid evidence that was collected that
4 was apparent with the light process?

5 A Correct, correct.

6 Q And you already collected the other ones the day
7 before, the 14, 1 through 14, from the interior?

8 A That's correct.

9 Q I'm sorry, go ahead.

10 A That's all right. In addition to that, I used
11 trace tape, and with that tape, I collected samples
12 from four different areas: The driver's seat, the
13 passenger's front seat, the rear driver's side seat,
14 and the rear passenger's side seat.

15 That is to potentially collect any trace evidence
16 from those areas that we did not see. Those were
17 packaged and submitted into evidence, as well.

18 Q Okay. Did you swab any certain items from the
19 interior of the car?

20 A Yeah. There were several items that were
21 processed by Investigator Odom. Once they were
22 processed, I swabbed them for potential DNA. There
23 was a black phone charger, a baby wipe bag, a pearl
24 necklace, the bottle --- the water bottle body of it
25 and then the mouth portion of it --- the gas pedal,

1 brake pedal, and the underside of the gearshift.

2 Q Okay. Certain items were collected from the
3 interior of this car, is that correct, over the course
4 of those two days?

5 A They were. I collected several items that day on
6 the 3rd.

7 Q I want to show you what's been marked as State's
8 Exhibit 188 through 195. First, do you recognize
9 those?

10 A I do.

11 Q And are those the items that were collected by
12 you from the car and later processed, some of them
13 were processed?

14 A Some of them were processed. Some of them were
15 collected. What those pictures were showing --- what
16 we did is we took items from each area of the car,
17 placed them on a piece of craft paper and photographed
18 them so that we could actually see what was located in
19 each area: The trunk area, the driver's seat area,
20 the front passenger's seat area.

21 Q And as far as the pictures that are already in
22 evidence, you can actually see them in the car. This
23 is just after you removed them; is that correct?

24 A That's correct.

25 Q So you can see them individually?

1 A Yes.

2 MS. CAMPBELL: Your Honor, at this time, we'd
3 offer State's Exhibit 188 through 195.

4 MR. SUTHERLAND: Without objection as to those.

5 THE HONORABLE CLIFTON NEWMAN: Okay. They're
6 admitted without objection.

7 (WHEREUPON, State's Exhibits Nos. 188 - 195 were
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q And you don't need to step down, but basically,
11 the first one, State's Exhibit 188, what are those
12 items?

13 A This is from the trunk area.

14 Q And it's actually written up here in red at the
15 top on which one of these? You just put them on plain
16 paper. Why is that?

17 A The craft paper, just to keep them clean and off
18 the floor and to maintain the integrity of the
19 evidence.

20 Q And State's Exhibit Number 189?

21 A This is from the driver's side rear seat and
22 floor area.

23 Q Specifically, I want to look at State's Exhibit
24 Number 190. Where was that located?

25 A This is the driver's seat and the floor of the

1 driver's seat area.

2 Q And I noticed on that there are two --- kind of
3 those wooden matches, those Fire Chief brand?

4 A Yes.

5 Q And those were collected, and the photograph is
6 already in evidence that we talked about yesterday?

7 A The two wooden matches that were under the seat,
8 under the driver's seat close to the door area.

9 Q Okay. And actually, as you open the door, you
10 could actually see them right there?

11 A Yes.

12 Q And then the other items --- and when you're
13 collecting all this evidence and stuff, do you know
14 exactly what's going to be significant, say, down the
15 line?

16 A Not always.

17 Q So do you just collect everything that may have
18 some significance and that was done in this case?

19 A We do.

20 Q And that was done?

21 A Yes.

22 Q Specifically, yesterday you mentioned that there
23 was a certain glove located in the car?

24 A There were two black gloves, and then a
25 multi-colored glove that was in the driver's seat.

1 Q And the multi-colored glove was in the driver's
2 seat, I believe?

3 A Yes.

4 Q I show you State's Exhibit 184 through 187. Do
5 you recognize those?

6 A This is after I had removed the glove from the
7 seat just to take closer photographs of the glove and
8 what appeared to be the burned areas on the glove.

9 MS. CAMPBELL: Your Honor, at this time, we'd
10 offer one 184 through 187 and like to show them to the
11 jury.

12 MR. SUTHERLAND: Without objection.

13 THE HONORABLE CLIFTON NEWMAN: Admitted without
14 objection.

15 (WHEREUPON, State's Exhibits Nos. 184 - 187 were
16 admitted into evidence.)

17 BY MS. CAMPBELL:

18 Q Looking specifically at 184 and 187, do those
19 appear to be two separate gloves, or are they part of
20 the same glove?

21 A No. They're the same glove.

22 Q And those are different parts?

23 A Yes.

24 Q And that was located where?

25 A It was on the driver's seat.

1 Q And this was after you actually removed it. You
2 photographed it just so you can show the burned areas?

3 A Yes.

4 Q During the course of --- let me back up for a
5 minute. You mentioned there were some additional
6 swabs from the interior of the car that were taken. I
7 show you what's been marked as State's Exhibit
8 Number 358. Do you recognize that?

9 A I do. These would be the additional swabs I took
10 from the interior.

11 Q And that would have been on the 3rd?

12 A Yes.

13 Q Okay. And those are the swabs you just mentioned?

14 A Let me double check my dates. Those are actually
15 collected on the 2nd.

16 Q On the 2nd, okay. I'm sorry. Thank you for
17 correcting me, and you actually collected these?

18 A I did.

19 Q And they were packaged properly?

20 A Yes.

21 Q Separately?

22 A Correct.

23 Q And sealed?

24 A Correct.

25 Q And during the time you had them in your

1 possession, no one altered them or tampered with them
2 in any way?

3 A They did not.

4 MS. CAMPBELL: Your Honor, at this time, I'd
5 offer State's Exhibit 358.

6 MR. SUTHERLAND: Without objection.

7 THE HONORABLE CLIFTON NEWMAN: It's admitted
8 without objection.

9 BY MS. CAMPBELL:

10 Q Item number 357, what is that? Did you collect
11 those items?

12 A I did. They're the broken match that was
13 collected from the rear driver's side floorboard, the
14 two matches from under the driver's seat, the burned
15 multi-color glove that was in the driver's seat and
16 then two food wrappers that were on the floorboard in
17 the driver's area.

18 Q Those were all in that same package together, but
19 were they packaged separately within that ---

20 A They are, yes.

21 Q So that their integrity would be kept; is that
22 correct?

23 A Correct.

24 Q And in addition, I want to show you State's
25 Exhibit 355, 354, 356, 353 and 361. Are those also

1 items you collected from the car?

2 A Yeah. 361 is a swab from the underside of the
3 gearshift. 353 are swabs from those items that I
4 mentioned that were processed: The black phone
5 charger, the baby wipes, the necklace, the bottle, the
6 gas pedal, the brake pedal.

7 356 are the swabs from the broken match and the
8 two matches from under the driver's seat.

9 354 are the black gloves from the driver's seat
10 and a black glove from under the driver's seat.

11 355 is the trace tape that I collected from the
12 top of the vehicle.

13 Q And is this all evidence you collected from the
14 vehicle over that two-day period?

15 A I believe it was three days.

16 Q From the 1st, the 2nd and the 3rd, I believe,
17 were the three days you were there?

18 A That's correct.

19 MS. CAMPBELL: Your Honor, at this time, we'd
20 offer them into evidence.

21 MR. SUTHERLAND: Without objection, sir.

22 THE HONORABLE CLIFTON NEWMAN: Admitted without
23 objection.

24 THE COURT REPORTER: Can you tell me the numbers
25 again, please?

1 MS. CAMPBELL: Sure. 356, 355, 57, 361, 353 and
2 354.

3 (WHEREUPON, State's Exhibits Nos. 356, 355, 57,
4 361, 353, 354 were admitted into evidence.)

5 THE COURT REPORTER: Thank you.

6 BY MS. CAMPBELL:

7 Q Thank you. And then, finally, I believe several
8 days later, you also got the matches back out, the
9 burnt match, and attempted to process it for latent
10 prints?

11 A I did.

12 Q And were you able to get any fingerprints off the
13 matches?

14 A I did not.

15 Q Is that unusual?

16 A No. Based on ---

17 Q Explain that to the jury.

18 A Unfortunately, obtaining fingerprints is not as
19 easy as we might like to see, as they show on TV.
20 Basically, we were --- when we leave a fingerprint, we
21 touch the surface.

22 We liken it to, you know, the kids that have the
23 little ink stamp and they put though on the sides, it
24 doesn't always transfer over. So you're dealing with
25 the surface that it's being transferred to.

1 In this surface, it's a very, very small rough
2 surface, and the likelihood of actually transferring a
3 print onto that surface that we could do anything with
4 is very unlikely.

5 Q Are you familiar with the term smudge or smear?

6 A I am.

7 Q What does that mean?

8 A Well, basically, that's a term that we might use
9 for --- if we are processing something, we see where
10 there could have possibly been some contact, but we
11 could see no details where maybe it's been wiped
12 across a surface, or there has been --- there was
13 something in between the surface and the finger or
14 palm that was making contact. So it might just leave
15 what we would consider a smudge or a smear in that
16 area but no detail that we would be looking for.

17 Q And you testified earlier that even if I go up
18 and I, say, touch this spot right here, that I'm not
19 necessarily going to leave DNA. Are there factors
20 involved?

21 A There are several factors involved, yes.

22 Q And in that same manner, if I go up --- even if I
23 place my --- if I'm careful and pull it up, don't even
24 drag it or anything like that, am I necessarily going
25 to leave a fingerprint?

1 A You may or may not.

2 Q And explain the reasons for that.

3 A Again, you're dealing with the surface area that
4 you're touching, something like glass or a mirror. A
5 smooth surface is likely to retain a fingerprint.

6 If you look at the palms of your hands, you can
7 see those --- the lines of your fingers. That's what
8 we're looking for when you we talk about a fingerprint.

9 So if you have a rough surface, you're not going
10 to be able to see the lines on your fingerprint very
11 well, or if you have something on your hands, oils and
12 the sweat from your hands don't transfer onto that
13 surface. You may not have a fingerprint present, or
14 if your hand is in motion, say, on a doorknob, you may
15 not have that transfer that we're looking for.

16 Q And in order to actually have a fingerprint, a
17 latent print, that's the fingerprint left at the scene
18 or a house or even like your own house?

19 A Yeah. When we use the term latent, we're using
20 a --- basically, that means a print that we can't see.
21 We're going to need some type of chemical or powder or
22 some type of enhancement technique to make that print
23 visible to us.

24 Q And your --- those are identifiable prints versus,
25 I guess, no value, things of that nature?

1 A There's several different terms that we use.
2 When we're talking about an identifiable print, that's
3 a print that we could possibly identify to a
4 particular person.

5 Q When you processed those matches, though, you
6 weren't able to get anything usable?

7 A I did not.

8 Q And considering the size of the match and the
9 surface that's on, is that unusual at all?

10 A No.

11 MS. CAMPBELL: That's all I have, Your Honor.

12 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

13 MR. SUTHERLAND: May it please the Court, sir,
14 Lieutenant.

15 CROSS-EXAMINATION:

16 BY MR. SUTHERLAND:

17 Q Good morning.

18 A Good morning.

19 Q I just have a few questions. I mean, you've all
20 heard about the volume of work that you put in as far
21 as laying the markers down and everything.

22 When you --- you had testified that you had
23 turned the swabs in and that they were squared away,
24 packaged properly and not tampered with, I was just
25 wondering if you had turned them in or if there were a

1 number of different people because you were turning
2 them in at different times or...

3 A There are several different ways we can submit
4 them, either person to person, and that's from me to a
5 lab tech, an evidence tech that's actually in the
6 evidence room, or we may put it in a locker or drop
7 box. So it would have been one of those ways that we
8 would submit it into evidence.

9 Q And how long --- and again, I know that you're
10 doing this on different days at different times. What
11 do you think the longest time period would be that any
12 of these might have been in your possession after
13 collection?

14 A Well, the first items were dropped on
15 February 1st, and the last items were dropped on
16 February 11th.

17 Q And did you work with Investigator Patricia Odom
18 on the vehicle?

19 A I did.

20 Q And did you observe anything that might be
21 characterized as berry stains on the car or...

22 A The car itself had several areas that appeared to
23 be berries or dirt over the entirety of the vehicle.
24 Those were separate areas than we identified the
25 stains that we collected.

1 MR. SUTHERLAND: Okay. Thank you, ma'am.

2 THE WITNESS: Uh-huh.

3 MR. SUTHERLAND: No further questions.

4 REDIRECT EXAMINATION:

5 BY MS. CAMPBELL:

6 Q Just one question, he's asking you about how you
7 submitted --- when you submitted these items, they had
8 been in your custody and sealed?

9 A Yes. They are maintained in our secure
10 laboratory and my locker that myself and only the
11 other supervisor have access to.

12 Q And explain to the jury where you submit them to
13 the evidence room?

14 A The evidence room is also located at headquarters
15 on the first floor, so we physically take them down
16 there ourselves and either submit them, like I said,
17 to a person or to a drop box or an evidence locker.

18 Q And that evidence room is secured, as well?

19 A It is.

20 Q And all of these items were properly sealed and
21 submitted into evidence?

22 A They were.

23 MS. CAMPBELL: Thank you.

24 THE HONORABLE CLIFTON NEWMAN: Anything further?

25 MR. SUTHERLAND: No, sir.

1 THE HONORABLE CLIFTON NEWMAN: All right. You
2 may step down.

3 THE BAILIFF: Okay. Watch your step down, please.
4 Watch your step.

5 THE HONORABLE CLIFTON NEWMAN: Next witness,
6 please.

7 MS. McDUFFIE: If it pleases the Court, the State
8 calls Investigator Harold Bouknight.

9 HAROLD BOUKNIGHT,
10 after being duly sworn, testified as follows:

11 THE CLERK: Have a seat in the witness box.
12 State your name for the record, please.

13 THE WITNESS: Investigator Harold Bouknight.

14 DIRECT EXAMINATION:

15 BY MS. McDUFFIE:

16 Q Investigator Bouknight, where are you currently
17 employed?

18 A In the Richland County Sheriff's Department Crime
19 Scene Unit as a senior crime scene analyst.

20 Q And how long you been employed with the Richland
21 County Sheriff's Department?

22 A This month makes nine years.

23 Q And how long have you been an analyst in the
24 crime scene unit?

25 A Almost six years.

1 Q And please tell the jury a little bit about your
2 education and background and training in the field of
3 crime scene analysis to include blood pattern analysis?

4 A Whenever I became a crime scene investigator with
5 the sheriff's department, I went through our in-house
6 training program which involved reading, testing and
7 actual physical practical testing of fingerprint
8 comparisons, fingerprint processing, blood stain
9 pattern analysis, footwear and tire wear.

10 I also have a two-year degree in criminal justice
11 from Midlands Technical College, and I've also taken
12 courses in --- a 24-hour course in crime scene
13 reconstruction, a 40-hour course in blood stain
14 pattern analysis, and also advanced blood stain
15 pattern analysis, a 40-hour course in crime scene
16 reconstruction, and also an eight-hour course in
17 advanced crime scene reconstruction and a 40-hour
18 shooting scene reconstruction.

19 Q And have you been qualified as an expert in crime
20 scene analysis, as well as blood pattern analysis in
21 courts of record in this state?

22 A Yes, ma'am.

23 MS. McDUFFIE: Your Honor, at this time, we'd
24 offer Investigator Bouknight as an expert in crime
25 scene analysis, as well as blood pattern analysis.

1 THE HONORABLE CLIFTON NEWMAN: What says the
2 defense?

3 MR. SUTHERLAND: Just briefly, sir.

4 THE HONORABLE CLIFTON NEWMAN: Yes.

5 MR. SUTHERLAND: How many times have you been
6 qualified, sir.

7 THE WITNESS: Four.

8 MR. SUTHERLAND: Four. No objection, sir.

9 THE HONORABLE CLIFTON NEWMAN: All right. So
10 qualified.

11 BY MS. McDUFFIE:

12 Q Investigator Bouknight, on February 1st of 2009,
13 did you respond to Winyah Drive?

14 A I responded to Winyah Drive.

15 Q I'm sorry, Winyah Drive.

16 A Yes, ma'am.

17 Q And approximately what time was that?

18 A I got there at approximately 1:24 in the
19 afternoon.

20 Q And when you arrived at Winyah Drive, was
21 the scene secure?

22 A Yes, ma'am.

23 Q And how had that scene been maintained before you
24 arrived?

25 A The scene was secured and an officer was standing

1 by keeping security, and a crime scene log was being
2 maintained.

3 Q And to your knowledge, had other investigators
4 processed portions of the scene earlier that evening
5 --- or earlier the evening before?

6 A Yes, ma'am.

7 Q And when you arrived there that day on
8 February 1st, what were your duties?

9 A I arrived there to assist Sergeant Richards in
10 documenting, processing and collecting evidence at
11 that scene.

12 Q Please tell the jury what you observed when you
13 entered the home at Winyah Drive.

14 A There were possible blood drops in the living
15 room, kitchen, and hallway that lead toward the
16 bedrooms. There was some pooling, some spines, impact
17 spatter transfers, wipes, swipes, and drops in the
18 bedroom and also in the bathroom. If I can explain?

19 Q Please.

20 A All those terms I have just rattled off are
21 different patterns that we see associated with blood.
22 You have impact spatter or impact stains, spatter
23 stains, and then you have transfer stains.

24 Impact spatter, if you think about it, is
25 whenever you hit something, it's going to spatter out.

1 Let's say you stomp in a puddle of water, the water
2 spreads out. You can see it, you know, get on things
3 around you.

4 A drip or a drop is basically just a drop falling
5 with no force behind it, just the force of gravity
6 pulling on it.

7 If you think about when it rains, you can see a
8 drop hit a piece of concrete, and it makes a circular
9 stain, that's a 90-degree drop. If you think about
10 when a drop hits a windshield of your car, how it
11 cascades down, that's an angular stain.

12 Using trigonometry and fluid dynamics, just a
13 study of the blood and objects in flight, you can
14 determine impact angles.

15 A wipe and a swipe --- a wipe is whenever you
16 have blood on a surface and something that's not blood
17 the comes in contact with it and it wipes or smears it
18 across that surface.

19 A swipe is similar to where it's a bloody object
20 that comes in contact with a non-bloody surface and
21 then swipes across it.

22 Pooling is basically just that, it's the
23 collection of blood, and then you also have any spines
24 are linear projections from any blood drops or drips
25 or anything like that.

1 Q And why is it important to identify and determine
2 what kinds of blood patterns and blood stains --- or
3 what blood stains are?

4 A Because they can tell you what happened there.
5 When you have certain types of blood stains, that's
6 one of the essential elements in any crime scene
7 reconstruction is the actual observance and
8 identification of those blood stains.

9 When you identify them and you can put them
10 together, it can help tell you the position of the
11 victim or what happened in that location.

12 Q And I'm going to show you what's been marked as
13 State's Exhibits 83 through 115 and ask if you
14 recognize those pictures, and do they fairly and
15 accurately depict what you observed on February 1st,
16 2009?

17 A Yes, ma'am.

18 MS. McDUFFIE: Your Honor, at this time the State
19 would offer exhibits 83 through 115.

20 MR. SUTHERLAND: Your Honor, at this time I have
21 a matter of law with respect to the photographs.

22 THE HONORABLE CLIFTON NEWMAN: All right. Ladies
23 and gentlemen, I'm going to have you step to the jury
24 room for a few minutes. Please do not discuss the
25 case.

1 (WHEREUPON, the jury left open court at
2 approximately 11:33 a.m.)

3 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

4 MR. SUTHERLAND: If it pleases the court, there
5 are just a number of the pictures that I would object
6 to with respect to just showing the volume of blood
7 that could be described by a witness.

8 If I might be able to go back through them
9 briefly, sir --- or, Your Honor, may we approach the
10 bench or should we stay out here?

11 (Indicating)

12 Okay.

13 THE HONORABLE CLIFTON NEWMAN: Are there people
14 in any of the photographs that you're objecting to?

15 MR. SUTHERLAND: No, sir, just the volumes of
16 blood, the pools.

17 THE HONORABLE CLIFTON NEWMAN: And what about it?

18 MR. SUTHERLAND: Just we would submit that it's a
19 gruesome --- gruesome photograph, Your Honor, and it's
20 something --- the pooling of the blood could
21 adequately be described by Investigator Bouknight
22 versus submitting it to the jury for review, and that
23 it would --- has the potential to inflame the passions
24 of the jury.

25 THE HONORABLE CLIFTON NEWMAN: Do you have any

1 authority whatsoever that --- for the proposition that
2 blood that's not on the body is unduly gruesome?

3 MR. SUTHERLAND: Well, it's ---

4 THE HONORABLE CLIFTON NEWMAN: Gruesome?

5 MR. SUTHERLAND: It's my belief. Again, this
6 would be ---

7 THE HONORABLE CLIFTON NEWMAN: Well, I know it's
8 your belief.

9 MR. SUTHERLAND: Yes, sir. Based on all of the
10 case law, actually, with respect to the pictures
11 coming up later that I have. This is just my
12 objection for the court now, for the record.

13 I've got the case law. I believe I handed the
14 motion up with respect to the autopsy and with respect
15 to the photos of the body yesterday.

16 THE HONORABLE CLIFTON NEWMAN: All right.

17 MR. SUTHERLAND: But ---

18 THE HONORABLE CLIFTON NEWMAN: To answer my
19 question, you have no authority.

20 MR. SUTHERLAND: No, sir, not at this time.

21 THE HONORABLE CLIFTON NEWMAN: All right. All
22 right, Ms. McDuffie.

23 MS. McDUFFIE: If it pleases the Court, Your
24 Honor. These pictures are necessary for
25 identification of the evidence in this case.

1 The body has been removed from these pictures.
2 We are here to talk about --- or I am here to elicit
3 testimony from this witness about blood pattern
4 analysis.

5 This was a very bloody crime scene. One of the
6 elements the State is required to prove in this case
7 is malice, and that is shown by the actions of the
8 defendant that resulted in the victim, because of his
9 actions --- it's because of his actions, it resulted
10 in a large amount of blood loss to the victim which is
11 documented in these photos, Your Honor.

12 They are simply to show the different effects of
13 the blood pattern analysis and the swipes and the
14 wipes that he just testified to.

15 Your Honor, the body is not in these photographs,
16 and we do not believe they are unduly prejudicial.

17 MR. SUTHERLAND: Again, Your Honor, may I hand
18 them up?

19 THE HONORABLE CLIFTON NEWMAN: Sure. You need to
20 refer to them by specific exhibits.

21 MR. SUTHERLAND: Specifically referring to
22 Exhibit 97, as well as Exhibit 96 to a degree.

23 THE HONORABLE CLIFTON NEWMAN: All right. Aside
24 from 97 and 96, do you object to any of the others?

25 MR. SUTHERLAND: No, sir.

1 THE HONORABLE CLIFTON NEWMAN: All right. So the
2 other photographs, exhibits number?

3 MS. McDUFFIE: Eighty-three to 115, Your Honor.

4 THE HONORABLE CLIFTON NEWMAN: They are admitted
5 without objection. There is an objection to 96 and 97.

6 (WHEREUPON, State's Exhibits Nos. 83 - 95 and
7 98 - 115 were admitted into evidence.)

8 (Pause)

9 All right. And these are admitted over objection
10 per State v. Nance.

11 MR. SUTHERLAND: Thank you, sir.

12 MS. CAMPBELL: Your Honor, while they're out,
13 just so we could go into --- so we don't send them out
14 again, there's going to be more pictures that he is
15 going to object to that do show the body, with another
16 witness. If we could take those up at this time.

17 THE HONORABLE CLIFTON NEWMAN: All right.

18 MS. CAMPBELL: With the Court's permission, just
19 so we don't have to send them out again.

20 THE HONORABLE CLIFTON NEWMAN: You said you're
21 taking it through another witness?

22 MS. CAMPBELL: Yes, sir, but just to expedite ---
23 just so the jury doesn't have to go out, if we could
24 be heard on some of the these.

25 THE HONORABLE CLIFTON NEWMAN: All right.

1 THE HONORABLE CLIFTON NEWMAN REPORTER: Could I
2 have the numbers again of the two that you admitted so
3 I can mark it on the sheet?

4 MS. McDUFFIE: 96 and 97.

5 THE HONORABLE CLIFTON NEWMAN REPORTER: Thank you.
6 (WHEREUPON, State's Exhibits Nos. 96, 97 were
7 admitted into evidence.)

8 MS. CAMPBELL: The ones we're arguing about now,
9 Your Honor, for this motion is 75 through 82.

10 As Ms. McDuffie explained, one of --- or
11 mentioned, one of the elements is malice that we have
12 to prove.

13 I did note that in the defendant's request to
14 charge that he submitted to the court, he was asking
15 for lesser included. So that puts the burden on us as
16 far as proving that this defendant actually acted with
17 malice.

18 There were literally hundreds --- well, not
19 hundreds, but dozens of photographs of the body and
20 how it appeared that day. We have limited it to this
21 one. Specifically, I know he would object to 75, as
22 well as some of the others, as well.

23 MR. SUTHERLAND: Absolutely.

24 Any picture that would be shown --- basically,
25 there's perspective picture, and I would ask that that

1 be in black and white, that they --- that I believe
2 would be admissible.

3 Other than that, I believe that any picture of
4 the victim, and particularly the ones --- but in
5 general, any color photograph of the victim.

6 THE HONORABLE CLIFTON NEWMAN: You must object
7 based on exhibit numbers, not just in general.

8 MR. SUTHERLAND: Yes, sir. Okay. So I would
9 object to number 75, sir; 76, exhibit 77, 78.
10 Seventy-nine would be a potential if it were in black
11 and white.

12 I had actually discussed this with Ms. McDuffie.
13 It would be better if the perspective was that way to
14 get a fuller picture of the crime scene, but as it is,
15 I object to it and exhibit 80.

16 MS. CAMPBELL: It doesn't have any blood in it.

17 MR. SUTHERLAND: Well, it's showing the victim's
18 body several times.

19 Eighty-one and 82.

20 THE HONORABLE CLIFTON NEWMAN: All right.

21 MS. CAMPBELL: Your Honor, specifically --- and
22 just so the Court knows this, 75 is specifically only
23 to the part about malice. It shows the injuries to
24 her head up close there at the scene.

25 The rest of them are just general views from the

1 scene. We have eliminated dozens of photos that were
2 taken, because we aren't trying to inflame the jury's
3 passions or anything.

4 THE HONORABLE CLIFTON NEWMAN: All right. Any
5 further argument?

6 MR. SUTHERLAND: yes, sir. Your Honor, have I
7 passed up my motion in this regard yesterday?

8 THE HONORABLE STEPHANIE McDONALD: You did.

9 MR. SUTHERLAND: Thank you.

10 THE HONORABLE STEPHANIE McDONALD: And the law.
11 Thank you.

12 MR. SUTHERLAND: Based on the case law, it's
13 fairly consistent. If this were a death penalty case
14 and this were in the sentencing phase, then pictures
15 such as these may be appropriate.

16 As far as aggravating circumstances as to, you
17 know, whether to life or whether to execute somebody,
18 but with respect to the guilt phase, Your Honor, the
19 defense believes that none of these photographs are
20 appropriate and would hope they could just have one
21 perspective photograph and that photograph be black
22 and white.

23 THE HONORABLE CLIFTON NEWMAN: All right.

24 MS. CAMPBELL: Your Honor, there are recent cases,
25 I know, in homicide by child abuse and I believe a

1 murder case where there and pictures, I know, from the
2 autopsy of internal injuries from children were
3 admitted over defense counsel's objection to show the
4 extent of the injuries to prove an element of the
5 offense itself.

6 You're familiar with those. I can get those for
7 you if you want them, but they have been admitted for
8 purposes --- if it goes to an element of defense, our
9 position is these photographs go to the element of
10 malice.

11 THE HONORABLE CLIFTON NEWMAN: All right. We'll
12 take it under advisement and proceed with the trial.

13 You can bring the jury.

14 Mr. Bailiff, if you will bring the jury.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:43.)

17 THE BAILIFF: The jury is seated, Your Honor.

18 THE HONORABLE CLIFTON NEWMAN: All right. You
19 may continue.

20 MS. McDUFFIE: Your Honor, the State would offer
21 83 through 115.

22 MR. SUTHERLAND: The same objection.

23 THE HONORABLE CLIFTON NEWMAN: They're admitted
24 over objection.

25 (WHEREUPON, State's Exhibits Nos. 83 - 115 were

1 admitted into evidence again.)

2 MS. McDUFFIE: Your Honor, if the witness can
3 step down.

4 THE HONORABLE CLIFTON NEWMAN: The two that were
5 admitted despite objections ---

6 MS. McDUFFIE: Were 96 and 97, Your Honor.

7 THE HONORABLE CLIFTON NEWMAN: And the others
8 were committed without objection.

9 MR. SUTHERLAND: Yes, sir.

10 BY MS. McDUFFIE:

11 Q Investigator Bouknight, focusing on the bathroom
12 area of Ms. Derrick's home, please describe for the
13 jury what's depicted in State's Exhibit 83.

14 A This is blood stains. These are consistent with
15 the expired blood.

16 Q And let me stop you right there. Please explain
17 to the jury what expired blood is?

18 A Expired blood is typically whenever there is
19 sometimes an injury that would leave blood to be in
20 the airway or the mouth or nose and then is expelled
21 out forcefully by the person breathing, coughing,
22 anything like that.

23 It can resemble impact spatter, but it comes out,
24 has directionality where you can see where it came
25 from, and also, it will have air bubbles in it. That

1 way you can tell it's different than an impact spatter.

2 Q And that's what is depicted in State's Exhibit 83?

3 A Yes, ma'am, in a flow pattern.

4 Q And please explain what a flow pattern is for the
5 jury.

6 A It's just a volume of blood then that goes under
7 the force of the gravity, you know, along the separate
8 path of gravity.

9 Q So as it's going down the wall, that would be a
10 force pattern?

11 A Yes, ma'am.

12 Q State's Exhibit 84 and 85, please describe for
13 the jury what's depicted in these photographs.

14 A This --- there's some transfers here, and what
15 appears to be swipes down here. In the corner, you
16 can --- you can't see a bullet. You can see there is
17 a drip pattern, which is blood dripping in the blood.

18 Also, you can see the expired blood here and
19 then also in this, there's some flow pattern and also
20 that drip pattern.

21 Q And in State's Exhibits 86 and 87?

22 A Yes, ma'am. That's the drip pattern of the blood
23 dripping in the blood.

24 Q And this is located where?

25 A Next to the toilet, between the toilet and the

1 wall.

2 Q And how would did this happen, in your opinion?

3 A First, there has to be active bleeding, and a
4 person would be in a position where that blood is
5 dripping straight down over a period of time where
6 they're not --- there's no movement or anything where
7 that source of blood is not moving.

8 Then it begins to drip into itself, and all of
9 this spatter along the walls here. That radiates out
10 from that puddle whenever it starts to pool and more
11 blood hits. It just spattered out even further.

12 Q I'm showing you the top of the toilet in State's
13 89 --- 88 and 89. Please describe for the jury what's
14 depicted in these photographs.

15 A These are drops of blood, which is basically just
16 a drop under pressure and the force moving it under
17 the force of gravity and typically straight down.
18 That is --- there is some transfer here and also some
19 drops.

20 Q And in State's Exhibit 90, can you please show
21 the jury the transfer you're speaking of?

22 A Right here. It's just a small swipe.

23 Q State's Exhibits 93 and 94, could you please tell
24 the jury what's depicted in these photographs?

25 A Once again, this is the expired blood, and this

1 is a close-up view of the expired blood. If you
2 look in here, you can see the empty places in those
3 spatter stains. That's where an air bubble would have
4 been from the air being forced out or ejecting the
5 blood, and that's where that air bubble got caught and
6 left a void inside that blood stain.

7 Q And that's also depicted in State's Exhibit 95?

8 A Yes, ma'am.

9 Q And where is this located in the restroom, in the
10 bathroom location?

11 A It's to the right of the toilet on the back wall.

12 Q Moving to the floor in the bathroom, State's
13 Exhibit 96, can you please describe for the jury
14 what's in this photo?

15 A This is from the hallway door into the bathroom
16 where there's swipes and transfers on the floor here,
17 and you can see some pooling right in here.

18 Q And is there a void in the center of this?

19 A There's conspicuously, there is some blood
20 missing in here.

21 Q And what was there prior to that photograph being
22 taken?

23 A From the photographs I saw, she was gone, but
24 that's where the victim was located.

25 Q And so the victim's body was located on the floor?

1 A Yes, ma'am.

2 Q State's Exhibit 97, can you please tell the jury
3 what was depicted in this photograph?

4 A This is pooling. You can see that it's been
5 dried, and it started to flake off. Then there is,
6 you know, wipes through this pooling here and also
7 skeletonized stains here, which is basically a stain
8 that was partially dried, and then something moved
9 across it and took out the center, maybe wiped it off
10 and just left the remnant of that stain.

11 Q And did you mark these stains with numbers?

12 A Yes, ma'am.

13 Q And is that depicted in State's Exhibit 98?

14 A Yes, ma'am.

15 Q And please tell the jury why you did this.

16 A This is so whenever we document them and we can
17 photograph them, they're down to scale. They can be
18 blown up one or two so we can see what size we have of
19 stains and also to differentiate what we're swabbing.

20 Q Please tell the jury what's depicted in State's
21 Exhibit 99 where you marked number 21.

22 A Twenty-one, that's a directional stain surrounded
23 by some 90-degree drop stains.

24 Q And please tell the jury what a directional stain
25 is again.

1 A If you look, it has a tail on it. It's got
2 directionality. The tail points in the direction that
3 blood drops travel. Whenever it impacts, the blood
4 drop collapses, and then it will make the tail --- or
5 sometimes it doesn't have a tail, but it will have a
6 small corner or a cast-off from that drop. It can
7 also take directionality.

8 Q And that's depicted in State's Exhibit 99?

9 A Yes, ma'am.

10 Q And what, if anything, can you determine from the
11 directionality of this stain?

12 A Just that it was traveling in that direction.

13 Q Which would be what direction, for the record?

14 A It would be towards the hamper area.

15 Q And your marker number 22, State's Exhibit 100?

16 A Yes, ma'am. That's just some more drops and
17 skeletonized stains.

18 Q And your marker 23 in State's Exhibit 101?

19 A That's some swipes and transfers.

20 Q And did you also examine the hallway area outside
21 the bathroom door?

22 A Yes, ma'am.

23 Q State's Exhibit 108, can you please describe to
24 the jury what's depicted in that hallway area?

25 A There's blood stains here. There appeared to be

1 transfers and also some drops.

2 Q And did you --- did you mark items of
3 significance on the wall beside the toilet?

4 A Yes, ma'am.

5 Q State's Exhibit 111, please describe for the jury
6 what is in that photograph?

7 A This is the expired blood that I showed you
8 earlier. I marked it with a scale marker letter B and
9 letter C.

10 Q And please show the jury what's in State's 112
11 and 113?

12 A These are closer up photos of the expired blood
13 pattern D and pattern C.

14 Q And finally, on the inside door, please describe
15 for the jury what's in State's 109 and 110?

16 A That is a spot of blood where it appears it has
17 some directionality this way where the blood came this
18 way. It started, turned down a little bit with
19 gravity where there was a volume of blood present.

20 Q Thank you. You may have a seat.

21 (Pause)

22 Investigator Bouknight, did you also perform a
23 blood pattern analysis in the master bedroom of Linda
24 Derrick's home?

25 A Yes, ma'am. On the 2nd of February, I was

1 assisted by Sergeant Richards in measuring some stains,
2 some impact spatters, specifically, to try to
3 determine an area of origin of those impact stains.

4 Q And why is it important to try and determine an
5 area of origin? What is an area of origin?

6 A Once again, as I said earlier, blood stain
7 analysis is critical in any crime scene reconstruction.
8 In determining an area of origin, it's going to tell
9 us approximately where blood was impacted.

10 All we can say is that blood was impacted in that
11 area. It doesn't come back to a specific point
12 because, you know, any weapon or anything like that is
13 going to have a broad surface, and it's not going to
14 all fly out at exactly the same speed and direction.

15 Q And I'm going to show you what's been marked as
16 State's Exhibits 280, 284, 285, 286, 287, 289, 290,
17 292, 293, 294, 303, 306, 305 ---

18 THE COURT REPORTER: I'm sorry, you need to slow
19 down.

20 BY MS. McDUFFIE:

21 Q I'm sorry.

22 --- 395 and 396 and ask if you recognize those,
23 and do they fairly and accurately depict what you
24 observed in the master bedroom of the home?

25 A Yes, ma'am.

1 MS. McDUFFIE: Your Honor, at this time, we'd
2 offer these items into evidence.

3 (Pause)

4 THE COURT REPORTER: I'll need those numbers
5 again.

6 (Pause)

7 MR. SUTHERLAND: Briefly, sir, with respect to ---
8 Your Honor, with respect to Exhibits 303, 306, 395 and
9 396, it's just the same argument about the prejudicial
10 effect earlier.

11 THE HONORABLE CLIFTON NEWMAN: They're admitted
12 over objection.

13 MR. SUTHERLAND: Thank you, sir.

14 (WHEREUPON, State's Exhibits Nos. 280, 284, 285,
15 286, 287, 289, 290, 292, 293, 294, 303, 306, 395,
16 396 were admitted into evidence.)

17 MS. McDUFFIE: Your Honor, again, if I may have
18 the witness step down?

19 THE HONORABLE STEPHANIE McDONALD: You may.

20 BY MS. McDUFFIE:

21 Q Investigator Bouknight, please tell the jury
22 what's depicted in State's Exhibit 280.

23 A This is the headboard of the bed, and
24 specifically, there is a stain marked on here that's
25 been --- everything else was marked with a scaled

1 marker and a number or letter.

2 This has been circled. These are the stains that
3 we used for our blood stain analysis.

4 Q State's Exhibit 284?

5 A This is the style between the two windows above
6 the headboard and a stain marked number one.

7 Q And why is it important to mark these stains?
8 How do you use them in your analysis?

9 A We're using trigonometry, as I said earlier. You
10 can determine the impact angle of the stain by
11 measuring the width, the length and dividing the width
12 by the length and then using a scientific calculator,
13 you --- the inverse sign of that, and it gives you the
14 impact angle. Then using that, you can pull a sting,
15 and that will help you get your area of origin.

16 Q State's Exhibit 285, please describe to the jury
17 what's in that photograph.

18 A This is the stain that we marked when we chose
19 number two, and that's in the headboard, bookcase area
20 on the left side.

21 Q And in 286?

22 A This is stain number three that we chose that was
23 in a center divider of the headboard.

24 Q 287?

25 A Stain number four, which is on the right side

1 cubby or the bookcase of that photo.

2 Q And please tell the jury what's depicted in 289.

3 A It may be difficult to see, especially in the
4 back, but you can see that there are strings in here,
5 and these were --- like I said, we string the stains
6 after we determine their impact angle, and then that
7 gives us our approximate area of origin, which is
8 right in here.

9 As you can see, we had marked four stains, and we
10 --- in stain number three, which is in this area here,
11 after we looked --- we determined that this was
12 movable where it could slide back and forth, and we
13 had no idea if it had been moved back and forth. So
14 we just chose to not use that stain in case it had
15 been bumped around between the time the blood letting
16 occurred and the time we did the analysis.

17 MS. McDUFFIE: Your Honor, permission to publish
18 to the jury?

19 THE HONORABLE CLIFTON NEWMAN: You may.

20 BY MS. McDUFFIE:

21 Q Please describe to the jury what's in State's
22 Exhibit 290.

23 A This, again, is showing the impact area or the
24 area of origin and a tape measure that we used to ---
25 so we can locate within the scene, if we had to, later

1 on and also photos of those measurements where we
2 could go back, if we needed, to do a reconstruction to
3 show where that impact actually was.

4 Q State's 292 and 293, if you could please show the
5 jury what's depicted in those photographs.

6 A This is more spatter on the curtain and the
7 blinds behind the headboard. These were not used for
8 any type of angle determination because what we're
9 looking for are well-formed stains where you can
10 clearly see the defined edges.

11 Any type of fabric like that is going to absorb
12 any liquid that gets on to it. It's not going to give
13 you a nice clearly defined edge that we can use.

14 Q And State's 395, please describe to the jury
15 what's in that photograph?

16 A This is, once again, the area of origin, just
17 from a different angle. This is from the side. The
18 others were from the front or from the right-hand side
19 or the left-hand side.

20 Q State's 396?

21 A And this is from the top looking down over the
22 impact area, that area of origin.

23 Q State's 306?

24 A Another view, this time showing that we added
25 scaled markers to our stains that we show.

1 Q And State's 303?

2 A Another one with a ruler showing the height with
3 the pillow below it.

4 Q You can have a seat.

5 Investigator Bouknight, based on your analysis,
6 what, if anything, could you determine from the blood
7 pattern in the home?

8 A From the impact spatter that we observed and
9 documented in the bedroom, blood was impacted --- it
10 was approximately seven-and-a-half inches from the
11 pillow, 87 inches from the left wall and 42 inches
12 from the floor and 29 inches from the back wall behind
13 the bed.

14 Q Meaning what?

15 A That there was somebody --- that blood was
16 impacted in that area and that --- so that leads us
17 with --- there were at least two strikes because
18 something had to get the blood letting started, and
19 then some object or something impacted that blood with
20 enough force to propel it into those areas.

21 Q So meaning Ms. Derrick was in her bed, and she
22 was struck at least two times?

23 A Yes, ma'am.

24 Q Investigator Bouknight, did you do further
25 processing of the home on February 1st and

1 February 2nd?

2 A Yes, ma'am, I also processed items for
3 fingerprints and collected swabs for possible DNA.

4 Q I show you what's been marked as State's
5 Exhibits 165 through 170 and ask if you recognize
6 those.

7 A Yes, ma'am.

8 MS. McDUFFIE: Your Honor, at this time we'd
9 offer State's 165 through 170.

10 MR. SUTHERLAND: Without objection, sir.

11 THE HONORABLE CLIFTON NEWMAN: They're admitted
12 without objection.

13 (WHEREUPON, State's Exhibits Nos. 165 - 170 were
14 admitted into evidence.)

15 BY MS. McDUFFIE:

16 Q Did you have occasion to process the exterior
17 storm door of the home?

18 A Yes, I did.

19 Q Talking about the storm door, where was it?

20 A It was lending against entertainment center
21 inside.

22 Q And why was it removed and placed inside the home?

23 A To get it out of the elements. Any environmental
24 factors can hinder or destroy any fingerprints. So
25 just to make sure it was protected for further

1 processing.

2 Q And is that what's depicted in State's 165?

3 A Yes, ma'am.

4 Q And the storm door was leaning up against --- is
5 it a glass storm door?

6 A Yes, ma'am.

7 Q And it's leaning up against what?

8 A The entertainment center, in that area.

9 Q And how did you process the storm door?

10 A Using black powder.

11 Q And what does that do?

12 A If there is a fingerprint there, whether it's
13 water or an oily based print, the black powder is
14 going to adhere to that print and make it visible for
15 us so we can then lift it and put it on a card.

16 Q And please describe for the jury what's depicted
17 in State's 166 and 167?

18 A That's what it --- the storm door with letter N
19 and also the letter O. That white piece of paper I
20 put behind those areas, so the black powder can ---
21 what was developed could be more visible because it's
22 really hard to photograph black powder on glass
23 without some type of backing.

24 Q And, again, you were searching for latent prints?

25 A Yes, ma'am.

1 Q Were you able to lift any latent prints from the
2 storm door?

3 A No, ma'am.

4 Q And why was that?

5 A There were just smudges on the storm door. There
6 was nothing with any ridge detail.

7 Q Explain to the jury what ridge detail is and why
8 you were looking for that?

9 A In reference to that, the lines on your hand are
10 the ridges. That's what we're looking for in a
11 fingerprint, and that's what we need to make a
12 comparison. Without that, we just have smudges or
13 just a finger mark.

14 Q And after you processed the storm door, did you
15 begin to process the dining room, as well?

16 A Yes, ma'am. I processed the hallway, the closet
17 door, closet doorknobs, the dryer, the washing machine,
18 the bathroom walls, and the hallway walls, the kitchen
19 table, front door, the wall next to the front door,
20 the dresser, chest of drawers, jewelry stand, and
21 jewelry boxes in the bedroom, the bedroom walls, the
22 bedroom door and the papers on the kitchen table.

23 Q And all of this was to look for latent prints?

24 A Yes, ma'am.

25 Q And I'm going to show you what's been marked as

1 State's 62 through 66 and 116 through 120 and ask if
2 you recognize those photographs?

3 A Yes, ma'am.

4 MS. McDUFFIE: Your Honor, at this time, we'd
5 offer 62 through 66 and 116 through 120.

6 MR. SUTHERLAND: Without objection, Your Honor.

7 THE HONORABLE CLIFTON NEWMAN: They're admitted
8 without objection.

9 (WHEREUPON, State's Exhibits Nos. 62 - 66;
10 116 - 120 were admitted into evidence.)

11 BY MS. McDUFFIE:

12 Q Investigator Bouknight, can you please describe
13 for the jury what's depicted in State's 62 and State's
14 63?

15 A That's a photograph of a latent impression I
16 developed on the doorjamb with a scaled marker, marked
17 D.

18 Q And were you able to actually lift a latent print
19 from this?

20 A Yes, ma'am.

21 Q And explain for the jury how you lift a print.

22 A Using the tape that we have, it's pressed down
23 over the developed impression and then lifted and
24 placed on a white backing card. The information is
25 filled out on the back of it to determine where the

1 print was lifted from, the latent print itself.

2 Q In State's 118, please describe for the jury
3 what's depicted in this photograph?

4 A That's the inside of the front door with two
5 areas that were developed and marked with E and F.

6 Q And were you able to lift any identifiable prints
7 from these locations?

8 A Identifiable?

9 Q I'm sorry. Were you able to lift any latent
10 prints from any of these locations?

11 A From the front door, no, ma'am.

12 Q And State's 119 and 120, please tell the jury
13 what is depicted in these photographs.

14 A E is just a mark that had some type of --- we
15 didn't know what it was, but it definitely wasn't a
16 finger or a hand. So I decided to photograph it
17 anyway, with and without a scale.

18 Q And that's in State's 119?

19 A Yes, ma'am.

20 Q And State's 120?

21 A Just --- those are smudges marked F.

22 Q And you were not able to lift any latent prints
23 from either of these locations?

24 A Correct.

25 Q Investigator Bouknight, did you also collect any

1 swabs to later be tested for DNA at Winyah Drive?

2 A Yes, ma'am, I did.

3 Q I'm showing you what's been marked as State's
4 Exhibit 352 --- I'm sorry, 350, 351 and 352 and ask if
5 you recognize those.

6 A Yes, ma'am.

7 Q And what are those, for the record?

8 A These are swabs collected from Winyah Drive
9 from drawer handles, the jewelry doors, the jewelry
10 stand doors of the smudges, spots, on the bathroom
11 wall; that spatter that we talked about, B and C
12 earlier, all the dresser drawer handles and a jewelry
13 stand lid.

14 This is from swabs from a storm door, smudges on
15 exterior storm glass, the finger marks and an Avon box
16 that was on the bed. This was from body damage on a
17 black Isuzu.

18 MS. McDUFFIE: Your Honor, at this time we'd
19 offer State's 353, 351 and 352.

20 MR. SUTHERLAND: Without objection.

21 THE HONORABLE CLIFTON NEWMAN: Without objection,
22 they're admitted.

23 (WHEREUPON, State's Exhibits Nos. 353, 351, 352
24 were admitted into evidence.)

25 BY MS. McDUFFIE:

1 Q You said you smudged the fingerprint?

2 A Yes, ma'am.

3 Q And why is that?

4 A They could still have DNA skin cells or something
5 like that that our DNA analyst didn't find, so even
6 though there's no ridge detail, we swab them just to
7 be on the safe side in case there is DNA in it, for
8 cell purposes.

9 Q So you're searching for DNA in what may
10 potentially be a fingerprint?

11 A Yes, ma'am.

12 Q On February 3rd of 2009, did you process a 2002
13 Isuzu?

14 A Yes, ma'am, I did.

15 Q And where was that vehicle located when you
16 encountered it?

17 A It was in the back parking lot of our
18 headquarters.

19 Q And please describe for the jury what you were
20 looking for when you processed this vehicle.

21 A I was looking for any possible blood stains.
22 There were two stains on the center console and on the
23 dash above the radio that I marked and photographed.
24 I did a presumptive test with Hemident, and that came
25 back negative.

1 Q And what does Hemident test for?

2 A Blood. It's a presumptive test for blood.

3 Q I'm showing you State's 176 to 183 and ask if you
4 recognize those photographs.

5 A Yes, ma'am.

6 MS. McDUFFIE: Your Honor, at this time we'd
7 offer State's 176 through 183.

8 MR. SUTHERLAND: Without objection, Your Honor.

9 THE HONORABLE CLIFTON NEWMAN: They're admitted
10 without objection.

11 (WHEREUPON, State's Exhibits Nos. 176 - 183 were
12 admitted into evidence.)

13 BY MS. McDUFFIE:

14 Q State's 176, is this the black Isuzu Rodeo that
15 you processed?

16 A Yes, ma'am, it is.

17 Q And, again, what were you looking for when you
18 processed this vehicle?

19 A It's actually an Isuzu Amigo.

20 Q I'm sorry. What were you looking for when you
21 processed this vehicle?

22 A Any blood stains or something that might be blood.

23 Q And the license plate of that vehicle was what?

24 A

25 Q As in State's 178?

1 A Yes, ma'am.

2 Q And you said you collected a swab in State's 352?

3 A Yes, ma'am.

4 Q What was that from?

5 A There was some body damage on the outside of the
6 black Isuzu. I just collected a swab from there in
7 case there was any transfer.

8 Q And you turned that --- all of this evidence in
9 to the evidence room that is secured at the Richland
10 County Sheriff's Department?

11 A Yes, ma'am.

12 Q And did you do any further processing with the
13 Isuzu Rodeo?

14 A No, ma'am.

15 Q Finally, did you have the occasion to process any
16 evidence from the Carolyn Webb case?

17 A Yes, ma'am.

18 Q And did that occur on February 2nd of 2009?

19 A Yes, ma'am, it did.

20 Q And please tell the jury what you did at
21 Winyah Drive on February 2nd, 2009.

22 A I went with Sergeant Richards, and I observed
23 that the doors were secured at that location. There
24 was a piece of concrete block on the living room floor
25 behind the door, and then I assisted in the processing

1 by collecting a swab from the interior doorknob of the
2 den door.

3 Q And is that what's contained in State's
4 Exhibit 349?

5 A Yes, ma'am, it is.

6 MS. McDUFFIE: Your Honor, at this time, we'd
7 offer State's 349 into evidence.

8 MR. SUTHERLAND: Without objection.

9 THE HONORABLE CLIFTON NEWMAN: It's admitted
10 without objection.

11 (WHEREUPON, State's Exhibit No. 349 was admitted
12 into evidence.)

13 BY MS. McDUFFIE:

14 Q And you collected this swab from where,
15 Investigator?

16 A The interior doorknob of the den door.

17 MS. McDUFFIE: Beg the Court's indulgence.

18 (Pause)

19 No further questions from this witness, Your
20 Honor.

21 MR. SUTHERLAND: May it please the Court.

22 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

23 MR. SUTHERLAND: Thank you, Your Honor.

24 CROSS-EXAMINATION:

25 BY MR. SUTHERLAND:

1 Q Sir, how are you?

2 A Doing good. How are you?

3 Q I'm doing well, doing well. I've just got
4 several questions for you this time.

5 A Okay.

6 Q It's not going to be an examination, as such.
7 You had just last testified that you had gone back to
8 Ms. Webb's house. It's at Winyah Drive.

9 A Yes, sir.

10 Q And this was the thing with the cinderblock?

11 A Yes, sir.

12 Q Okay. And someone had actually broken into her
13 house while she was at the hospital, or is that
14 outside your knowledge?

15 A I'm not sure. I just --- I went there because I
16 was requested to go there and to assist my sergeant.

17 Q Okay. And that's fine. That will knock a couple
18 of questions out right there, and you had just swabbed
19 the door that appeared to have been opened?

20 A It was one --- it was an exit door that looked
21 like maybe the furniture had been disturbed.

22 Q Okay. And sort of topic number two, you had just
23 testified about the Amigo that you had tested.

24 A Yes.

25 Q Do you have any independent knowledge of who that

1 belonged to?

2 A No, sir.

3 Q Okay. Then that takes a couple more out, but you
4 said that you had tested some reddish brown stains and
5 that you did the Hemident?

6 A Yes, sir.

7 Q Is that like a spray can or something.

8 A No, sir. It's self-contained testing kit where
9 we swabbed a suspected stain, and then we place it
10 into the ampoule and --- or the tube and break it off.
11 Then you break the bottom ampoule and shake it up to
12 coat the stain, then you break the top ampoule and
13 shake that up. If it is blood, it will turn an
14 immediate bright blue, blue-green color.

15 Q Yes. All right. Thank you.

16 And you had swabbed an area of body damage on the
17 front of the vehicle?

18 A Yes, sir.

19 Q That was a fender that had been in an accident or
20 messed up or something?

21 A If I may check my notes?

22 Q Sure, sure.

23 A I believe it was just an area of body damage.

24 (Pause)

25 Yes, sir. It was just on the --- like a front

1 fender, I believe.

2 Q Okay. And was this sort of --- is there a
3 tasking system? You'll get from the other --- maybe
4 the main investigator will say, "Hey, I'd like you to
5 take a look." And I'm not asking for you for hearsay.

6 A Sometimes there is. Sometimes there is a system
7 that they can do a task or a request. They can do a
8 written request or sometimes they'll just ask and say,
9 "Hey, you know, I need somebody to photograph this,"
10 or something like that.

11 Q Okay. And so do you have any independent
12 knowledge about why you were swabbing the fender, or
13 was it just a task?

14 A I was notified by my lieutenant, and I was with
15 Lieutenant McDonald at the scene out back.

16 Q And basically per his request?

17 A Yes, sir.

18 Q Okay. All right. And topic number three, which
19 is the last one.

20 A Okay.

21 Q A little bit --- take you back to the scene where
22 you were doing all the blood spatter analysis and
23 going through everything. There were a couple of
24 exhibits. I just want to ask you a few --- the ones
25 with the strings, do you recall those?

1 A Yes, sir.

2 Q Okay. So I don't have to grab the exhibit and
3 show it to you, your conclusion from that, there was a
4 pillow under there that it was --- there where
5 somebody that was either sleeping or laying down?

6 A No, sir. I'm not saying they were, you know,
7 sleeping or laying down, just that in that bed, you
8 know, approximately seven-and-a-half inches above the
9 pillow is where blood was impacted, somebody was
10 assaulted.

11 Q Okay. So that would be where --- wherever the
12 injury was on the person --- I mean --- and the source
13 of the blood would be the pillow area?

14 A Yes, sir.

15 MR. SUTHERLAND: Okay. Okay. Thank you, sir.

16 No further questions, Your Honor.

17 MS. McDUFFIE: Nothing further from this witness,
18 Your Honor.

19 THE HONORABLE CLIFTON NEWMAN: Thank you, sir.
20 You may step down.

21 THE BAILIFF: Watch your step, sir.

22 THE HONORABLE CLIFTON NEWMAN: Next witness.

23 MS. McDUFFIE: May it please the Court, Your
24 Honor. The State calls Investigator Trish Odom.

25 TRISH ODOM,

1 after being duly sworn, testified as follows:

2 THE CLERK: Have a seat in the witness box.

3 State your name for the record please.

4 THE BAILIFF: Watch your step up.

5 THE WITNESS: Tricia Collins Odom. The spelling
6 of my last name is O-D-O-M.

7 DIRECT EXAMINATION:

8 BY MS. McDUFFIE:

9 Q Investigator Odom, where are you currently
10 employed?

11 A At the Richland County Sheriff's Department.

12 Q And what are your duties at the Richland County
13 Sheriff's Department?

14 A My primary duty is as the senior latent prints
15 analyst for the crime scene latent print section.

16 Q And how long have you been a senior latent prints
17 analyst?

18 A I've been a senior latent prints analyst for five
19 or six years.

20 Q And how long have you been with the sheriff's
21 department?

22 A Twelve years.

23 Q Can you please tell the jury a little bit about
24 your education, background, and training in the field
25 of latent print examination and analysis?

1 A Well, I have a four-year degree in criminal
2 justice from the University of South Carolina. I was
3 also a certified --- SLED certified law enforcement
4 officer through the South Carolina Criminal Justice
5 Academy.

6 In addition to on-the-job training I've received
7 from the first day working in the crime scene lab,
8 I've also had courses on advanced palm print
9 identification, basic fingerprint training, a forensic
10 ridgeology course, recovery of fingerprint evidence
11 from human skin, complex latent print examination
12 classes.

13 Q And have you been qualified in courts of this
14 state as an expert in latent print analysis and
15 examination?

16 A I have.

17 MS. McDUFFIE: Your Honor, at this time, we'd
18 offer her as an expert in latent print examination.

19 MR. SUTHERLAND: Just briefly, sir.

20 Ma'am, how many times have you been qualified?

21 THE WITNESS: Twenty.

22 MR. SUTHERLAND: Thank you, ma'am.

23 No objection.

24 THE HONORABLE CLIFTON NEWMAN: All right. She is
25 so admitted.

1 BY MS. McDUFFIE:

2 Q Investigator Odom, in this case did you process
3 evidence and examine fingerprints?

4 A I did.

5 Q And please tell the jury what evidence you
6 encountered during the course of this investigation?

7 A My primary responsibility was to assist
8 Lieutenant Elsey in the processing of the vehicle.

9 Q And what were your duties in processing that
10 vehicle?

11 A I --- I took some photographs, and I also
12 processed the exterior and interior for latent prints.
13 In addition, I also collected some swabs and a hair
14 that was found on the exterior of the vehicle.

15 Q And Lieutenant Elsey has already testified to
16 much of what has been done with that vehicle.

17 A Yes.

18 Q But you did collect a hair that had been
19 identified?

20 A Yes.

21 Q I show you what's been marked as State's 244 and
22 245 and ask if you recognize those.

23 A Yes, I do.

24 MS. McDUFFIE: Your Honor, at this time we'd
25 offer State's 244 and 245.

1 MR. SUTHERLAND: Without objection, sir.

2 THE HONORABLE CLIFTON NEWMAN: They're admitted
3 without objection.

4 (WHEREUPON, State's Exhibits Nos. 244, 245 were
5 admitted into evidence.)

6 BY MS. McDUFFIE:

7 Q Can you tell the court what's contained in
8 State's 244 and 245?

9 A It's a photograph of a hair that was found on the
10 passenger's side rear door in the doorframe.

11 Q And please tell the jury what you did in
12 processing and collecting this evidence?

13 A For that particular item, I collected --- I
14 photographed it, collected it and then submitted it
15 into evidence.

16 Q And this is off of the --- which vehicle? Off of
17 which vehicle?

18 A It's the 1999 Pontiac Sunfire.

19 Q I'm showing you State's Exhibit 393. Can you
20 please tell the jury --- or do you recognize this item?

21 A Yes, I do.

22 Q And is that evidence collected by you?

23 A Yes.

24 Q From the 1999 Pontiac Sunfire?

25 A That's correct.

1 MS. McDUFFIE: Your Honor, at this time we'd
2 offer State's Exhibit 393 into evidence.

3 MR. SUTHERLAND: No objection.

4 THE HONORABLE CLIFTON NEWMAN: It's admitted.

5 (WHEREUPON, State's Exhibit No. 393 was admitted
6 into evidence.)

7 BY MS. McDUFFIE:

8 Q Please tell the jury what's contained in State's
9 Exhibit 393.

10 A Those are swabs of each of the door handles from
11 the vehicle.

12 Q And also is marker 2 the hair that you collected?

13 A That's correct.

14 Q And after you collected this item of evidence,
15 what did you then do with it?

16 A I submitted it into evidence.

17 Q And you said you collected some latent prints
18 from the vehicle, as well?

19 A That's correct.

20 Q Please describe for the jury the process of
21 lifting latent prints that you did for this vehicle.

22 A Well, in this case, we used black powder to be
23 able to make the fingerprints visible, so we just
24 take --- in my case, I like using a feather brush.

25 I used a feather brush with black fingerprint

1 power, and I dusted all over the exterior and the
2 interior of the vehicle looking for fingerprints.

3 Once I located some fingerprints that I thought
4 would be of --- for good evidentiary value, I used a
5 piece of regular fingerprint tape. All you do is you
6 lay it down on top of the fingerprint, and what it
7 does is it lifts the dust, the fingerprint powder, up
8 off of the --- of the surface, so that you're taking
9 that powder, which is now in the form of fingerprint,
10 and putting it on a contrasting card.

11 So if we used dark powder, like I did --- you
12 would want to use a white backing card, which is what
13 I did, but we also have light powders that we can use
14 dark bakers on. We have just want to create contrast
15 between the fingerprint and the back of the card.

16 Q And please tell the jury what you were looking
17 for when you were lifting latent prints?

18 A As you heard some other people talk about on your
19 palms, on your fingers, and on the soles of your feet,
20 you have these lines. We refer to those as ridges,
21 specifically friction ridges.

22 The way these ridges are formed on your fingers,
23 and there are tiny details that are on those ridges.
24 They don't just go straight across, and they sometimes
25 will stop. We call those ridges ending ridges.

1 Sometimes you have a ridge that continues and
2 splits into two ridges. We call those bifurcations.
3 Sometimes we have very small ridges that are just made
4 up of a single ridge unit or two. We call those dots.
5 That's exactly what they look like.

6 That --- those minutia points, what we call them,
7 that's what we're looking for to be able to identify
8 the source of the fingerprint.

9 Q And will someone always necessarily leave a
10 fingerprint on everything they touch?

11 A No.

12 Q And why or why not?

13 A Well, it could be --- like you've heard referred
14 to earlier, we like to compare fingerprints or the
15 friction ridges on your fingers. We like to refer to
16 those as like an ink stain that you get at a craft
17 store.

18 You know, if you have the proper inking on that
19 stamp, every time you put it down, it's going to make
20 the same impression, just like your fingerprint.

21 If you have too much ink on it, say a very oily
22 finger or perhaps your hands are wet, you're not going
23 to leave the same detail that you would leave if you
24 had a properly inked stain.

25 If you don't have enough of whatever the ---

1 the --- the type of stain that's being left behind,
2 the oil, the dirt, the --- it could be paint. It
3 could be a lot of other things that could leave a
4 visible or invisible print behind.

5 If you don't have enough of that, you're not
6 going to get a complete transfer from that stain.
7 Sometimes I have very cold hands. Because of that, I
8 don't perspire. My hands don't perspire very much.
9 Sometimes they don't have enough sweat to leave a
10 print behind.

11 Q And what if an individual was wearing gloves?

12 A Typically, they won't, although with certain
13 types of gloves like latex gloves, it is theoretically
14 possible to leave a print behind.

15 Q But typically, that's not something you --- you
16 don't usually find latent prints when somebody is
17 wearing gloves?

18 A That's correct.

19 Q And what are some other factors that can go into
20 whether or not a latent print is able to be lifted and
21 further analyzed?

22 A Well, if the surface is dirty, it's going to be
23 harder to lift it to get --- because what you're
24 looking for are those ridges.

25 If you have something like dirt that interferes

1 with how you look at the ridges, you're not going to
2 be able to see those features that we're looking for.

3 Also, if you have a textured surface, like a
4 refrigerator, they're made not to show fingerprints.
5 So they have that little texture on it. Because of
6 that, if you --- you can probably see it once you put
7 the powder on it, but to lift it off, what you're
8 primarily going to get on your tape is going to be
9 that texture of the surface that it's on.

10 Q And in this case, you not only collected prints,
11 but you further analyzed prints collected by yourself
12 and other officers?

13 A That's correct.

14 Q And I'm going to show you what's been marked as
15 State's Exhibit 397. Is this a chart that you
16 prepared for court today?

17 A Yes, ma'am.

18 MS. McDUFFIE: Your Honor, at this time, we'd
19 offer State's Exhibit 397 into evidence.

20 MR. SUTHERLAND: Without objection.

21 THE HONORABLE CLIFTON NEWMAN: Admitted without
22 objection.

23 (WHEREUPON, State's Exhibit No. 397 was admitted
24 into evidence.)

25 MS. McDUFFIE: Your Honor, may the witness step

1 down?

2 THE HONORABLE CLIFTON NEWMAN: Yes.

3 BY MS. McDUFFIE:

4 Q If we can switch sides so the court reporter can
5 see you.

6 A Sure.

7 Q Please tell the jury how many latent prints you
8 examined in this case.

9 A We have had a total of 50 latents that I looked
10 at. I believe it was 14 total latent cards that we
11 lifted, but on those 14 cards, we had a total of 50
12 latent prints.

13 Q And of those 50 latent prints, how many were you
14 able to identify to a specific person?

15 A Seven.

16 Q And please tell the jury why you can identify
17 some prints and not others?

18 A Well, like I said, sometimes a print is not left
19 behind. Sometimes we don't have the person to
20 identify it to, and sometimes it's of so little value
21 that we can't tell anything about it.

22 Q And how many latents of the 50 had no value
23 whatsoever to them?

24 A Thirty-two.

25 Q And, again, that's because there was not enough

1 ridge detail?

2 A That's correct.

3 Q And how many people did you examine the 50 latent
4 prints to?

5 A Seventeen people.

6 Q And those were whom?

7 A They were primarily family and friends of the
8 victim who had said that they had either been in the
9 house or in the vehicle at some point that we could
10 perhaps eliminate them as donating them, and also, we
11 had the victim and the defendant.

12 Q And of the seven latent prints that you
13 identified starting with L-1.1, can you please tell
14 the jury where that fingerprint was located and what
15 your conclusion was?

16 A Sure. Actually, the first three, L-1.1, L-1.2
17 and L-1.3 were all found on the dryer in the hall by
18 Investigator Bouknight.

19 They were made, all made, by a lady named Lisa
20 Boozer. L-1.1 was her right index finger. L-1.2 was
21 her right middle finger, and L-1.3 was her right ring
22 finger.

23 Q And please tell the jury about the prints on the
24 headboard of the master bedroom.

25 A They were on the same cards. They were L.--- I'm

1 sorry. L-4.1, L-4.2. They were from the front
2 headboard in the master bed. They were both lifted by
3 Sergeant Richards.

4 L-4.1 was made by Linda Derrick. It was her
5 right index finger. L-4.2 was Ms. Derrick's right
6 middle finger.

7 Q And please tell the jury about L-15.1 and 17.

8 A 15.1 and 17.1 were both found in the vehicle, the
9 Sunfire. L-15.1 was found in the interior right rear
10 passenger window.

11 I lifted it, and I was able to determine it was
12 made by Vanessa Addy, her right palm. L-17.1 was the
13 interior fixed portion of the right rear passenger
14 window of the Sunfire. I lifted it, and it was
15 similarly Vanessa Addy's right palm.

16 Q If you could, please have a seat.

17 (Complies)

18 Investigator Odom, were you able to identify any
19 prints that matched to the defendant in this case,
20 Elbert Wallace?

21 A No, ma'am.

22 Q In your training and experience as a latent print
23 examiner, if Mr. Wallace was wearing gloves, as are
24 depicted in State's 190, would you expect to see
25 latent prints at the crime scene?

1 A No. They appear to be fabric gloves. I wouldn't
2 expect any fingerprints to be left behind.

3 MS. McDUFFIE: Thank you, Your Honor. No further
4 questions of this witness.

5 THE HONORABLE CLIFTON NEWMAN: Cross-examination?

6 MR. SUTHERLAND: May it please the Court.

7 CROSS-EXAMINATION:

8 BY MR. SUTHERLAND:

9 Q Ma'am, how are you? Just a couple of things. I
10 don't like to go up and repeat things that they just
11 heard, so not to match them. But I do want to ask you
12 about this vehicle.

13 A Uh-huh.

14 Q I was looking through your reports, and you had
15 mentioned in your reports that the vehicle was kind of
16 dirty like it had been under some sort of tree?

17 A Yeah, it was really dirty.

18 Q And was it --- is it the --- were you talking
19 about them little red berries that --- or you just
20 weren't sure as far as the berry stains go?

21 A Well, I mean, I can't --- I don't have a green
22 thumb at all, and it looked like it had been parked
23 under a tree that --- that some sort of berries or
24 leaves had been on for some period of time.

25 MR. SUTHERLAND: All right. That's it. Thank

1 you, ma'am.

2 No further questions, Your Honor.

3 MS. McDUFFIE: Nothing further of this witness.

4 THE HONORABLE CLIFTON NEWMAN: All right. Thank
5 you. You may step down.

6 THE WITNESS: Watch your step.

7 MR. SUTHERLAND: May I approach briefly prior to
8 calling the next witness?

9 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

10 (WHEREUPON, there was a bench conference in the
11 presence, but not within hearing of the jury.)

12 THE HONORABLE CLIFTON NEWMAN: Ladies and
13 gentlemen, we have to take a break. Please go to the
14 jury room. Please do not discuss the case.

15 (WHEREUPON, the jury left open court at
16 approximately 12:30 p.m.)

17 THE HONORABLE CLIFTON NEWMAN: All right. We'll
18 be in recess about five minutes.

19 MR. SUTHERLAND: Thanks.

20 (WHEREUPON, a short break was taken.)

21 THE BAILIFF: Make sure all cell phones and
22 devices are turned off, please.

23 THE HONORABLE CLIFTON NEWMAN: All right. If
24 you'll bring the jury, please.

25 (WHEREUPON, the jury came into open court at

1 approximately 12:44 p.m.)

2 THE BAILIFF: The jurors are all present, Your
3 Honor.

4 THE HONORABLE CLIFTON NEWMAN: All right. Thank
5 you. Your next witness, please.

6 MS. SIMPSON: The State calls Investigator
7 Timothy Lee.

8 THE HONORABLE CLIFTON NEWMAN: Investigator Lee.

9 THE WITNESS: Who did you call?

10 THE HONORABLE CLIFTON NEWMAN: Investigator Lee.

11 THE WITNESS: Sorry. I didn't hear you out there.

12 THE BAILIFF: Place your left hand on the Bible,
13 raise your right hand. Face the clerk.

14 TIMOTHY LEE,
15 after being duly sworn, testified as follows:

16 THE CLERK: Have a seat in the witness box.
17 State your name for the record, please.

18 THE BAILIFF: Have a step up. All right.

19 THE WITNESS: Investigator Timothy Lee.

20 DIRECT EXAMINATION:

21 BY MS. SIMPSON:

22 Q Investigator Lee, where do you work?

23 A Richland County Sheriff's Department, crime scene
24 unit.

25 Q And what do you do there?

1 A I'm currently an investigator, and I respond to
2 crime scenes, process crime scenes.

3 Q And how long have you been with Richland County?

4 A I've been with the sheriff's department for 16
5 years, and I've been in the crime scene unit for
6 almost four.

7 Q And can you tell us a little bit about your
8 educational training and your background?

9 A Sure. Since I started with the crime scene unit,
10 I've attended many courses, most of them were local,
11 some out of state. Some of the courses that I've gone
12 to are advanced blood pattern analysis, advanced crime
13 scene photography techniques, crime scene processing,
14 blood pattern analysis, expert witness testimony,
15 fingerprint recognition and comparison, crime scene
16 reconstruction, forensic anthropology and archeology,
17 advanced crime scene pattern, Likeoscan (phonetic)
18 training, and I've also completed an extensive
19 two-year in-house program that covers most of these
20 hands-on and testing.

21 Q And what exactly is a crime scene analyst?
22 Generally, what do you do?

23 A Crime scene investigators will responded to the
24 crime of a crime, whether it's burglary, larceny or
25 even a homicide.

1 You conduct analysis on the scene. You
2 photograph and document, collect evidence pertaining
3 to the crime at hand. Some items are taken back.
4 Some are done right there. You can even do blood
5 pattern analysis, such as Investigator Bouknight does.

6 Q And do you continue your training? I know you
7 listed several things that you participated in due to
8 your courses. Do you continue training throughout the
9 course of your career?

10 A Pretty much, yeah. You're never going to stop
11 learning with this. We have continued education that
12 we do through I.A.I., such as, I'm working towards
13 getting my crime scene certification, which is through
14 that division.

15 Q Okay. Have you testified in court before?

16 A I have.

17 Q Have you been qualified as an expert before?

18 A Three times, yes.

19 MS. SIMPSON: Your Honor, at this time, I would
20 seek to qualify investigator Lee as an expert in crime
21 scene analysis.

22 MR. SUTHERLAND: Without objection, sir.

23 THE HONORABLE CLIFTON NEWMAN: So qualified.

24 BY MS. SIMPSON:

25 Q Were you employed in your present capacity back

1 in January and February of 2009?

2 A I was.

3 Q And did you have occasion to become involved in
4 this case?

5 A I was. I was contacted for an autopsy.

6 Q Okay. And can you tell us where and when you
7 responded?

8 A Sure. On February 1st, 2009, I was contacted to
9 go to the morgue at Richland Memorial Hospital in
10 reference to an autopsy on a Linda Derrick, who was
11 the victim of the incident at Winyah Drive.

12 Q Who was present at the autopsy with you?

13 A Present there was the --- Dr. Clay Nichols, who
14 is our pathologist, and his assistant was Pittman, and
15 from the corner's office was Cynthia Boone and myself.

16 Q And does someone from the crime scene unit
17 usually participate --- or attend the autopsy?

18 A Usually any suspicious death, suicide, homicide,
19 child abuse, anything that needs to be documented,
20 whether it's photographs, collecting prints, we will
21 attend autopsies, yes.

22 Q And so what did you do with this autopsy?

23 A I responded to this to collect photographs of the
24 injuries. Additional things that we collect is a
25 buccal swab, which is a DNA swab, from the inside of

1 the mouth.

2 We'll process the body depending on what needs to
3 be done for any type of trace evidence. I swabbed the
4 hands of the victim for any trace. I scraped
5 underneath the fingernails. The hands were bagged.
6 They had bags placed over them by the unit on the
7 scene, so I removed those bags, and I conducted those
8 analysis on the hands.

9 Mostly, we gather postmortem prints, and all of
10 these things are gathered. They will be submitted to
11 DNA and to the latent print section.

12 Q I want to back you up just a little bit. You
13 said you processed the hands for trace evidence. Can
14 you explain a little more about that to the jury?

15 A Any time there --- there's contact with your
16 hands with a struggle, you can have skin cells
17 underneath the nails. There could be hair underneath
18 the nails, any type of dirt.

19 A lot of times we'll scrape the nails. There
20 might be things that are stuck to the hands from
21 contact with the suspect or even with the environment.

22 We'll check those with a light, alternate light
23 source, to see if we could see any of that on the
24 hands that's stuck to it that can be removed.

25 Q And in this case, you did collect nail scrapings,

1 as well as additional evidence?

2 A Yes, ma'am.

3 Q Can you just go back through that one more time?

4 A Yes. I looked over the hands to see if there was
5 any type of evidence stuck to it, any particles, any
6 hairs, fibers and stuff like that.

7 I did not see anything like that, so I collected
8 a swab from the hands in case there was anything that
9 I couldn't see that could get caught into the swab,
10 such as DNA and so forth.

11 The same way with scraping under the nails, there
12 were several nails that were broken, and I believe
13 from my notes, there was --- two nails appeared broken
14 on the right hand and one appeared broken on the left
15 hand.

16 All these injuries are also pointed out by the
17 pathologist. We photographed all this stuff with and
18 without scale, so I scraped underneath the fingernails,
19 collected that for trace analysis.

20 Q And when you say you collected it, what does that
21 process entail? What do you do after you collect it,
22 as well?

23 A When you collect it underneath the fingernails,
24 it's basically going to be an envelope, piece of paper
25 that you'll scrape that into. You fold that up. That

1 will go to DNA.

2 They'll take those particles, and they're run
3 that analysis. Any item that's collected, whether
4 it's the buccal swab or whether it's trace, whether
5 it's a buccal swab, whether it's trace --- you know,
6 fingerprints, that stuff is packaged by me, and it's
7 submitted in through evidence, just as described
8 earlier by other CSIs.

9 Q And did you collect a buccal swab from
10 Ms. Derrick ---

11 A Yes.

12 Q --- as well? And describe a little bit more
13 about that process.

14 A It's a sterile swab. It's contained in the paper
15 wrapper. You take it out, and it's the skin cells
16 from inside of your cheek is what a buccal swab is.

17 Q Let the record reflect that I am showing what has
18 been marked as State's Exhibit 376 to the witness.

19 Do you recognize this?

20 A Yes.

21 Q And how are you able to recognize it?

22 A My signature, my badge number are all on here.
23 This is my signature that I filled out. Also, it's
24 initialed across the back and dated by me.

25 Q Okay. And what is contained in that envelope?

1 A It is the buccal swab from Ms. Derrick, nail
2 scrapings, and the swabs from the right and left hands
3 for possible prints.

4 MS. SIMPSON: Your Honor, at this time the State
5 would seek to introduce State's Exhibit 376 into
6 evidence.

7 MR. SUTHERLAND: No objection, Your Honor.

8 THE HONORABLE CLIFTON NEWMAN: It's admitted
9 without objection.

10 (WHEREUPON, State's Exhibit No. 376 was admitted
11 into evidence.)

12 BY MS. SIMPSON:

13 Q Now, while at the autopsy, I believe you stated
14 that you took photographs, as well.

15 A That's correct.

16 Q Why is this standard procedure to take
17 photographs at an autopsy?

18 A You take photographs on any scene to document
19 exactly how it looked. With an autopsy, you want to
20 document injuries, bruises, lacerations, anything that
21 the pathologist points out, such as when they do the
22 autopsy, if there is a head injury, there might be a
23 bruising of the brain. There might be a broken bone
24 such as that.

25 Q I am showing you what has been pre-marked as

1 State's Exhibits 331, 332, 333, 334, 335, 336, 337,
2 338, 339 and 340 for identification purposes only.

3 Will you please take a look at these? Do you
4 recognize these photographs?

5 A Yes.

6 Q And are those photographs that you actually took?

7 A Yes. These are photographs of the autopsy.

8 Q Thank you. Now, I believe you stated that you
9 also took postmortem prints from Ms. Derrick?

10 A That's right.

11 Q Can you describe that process for the jury?

12 A Postmortem prints are like any other type of
13 fingerprint collection. Any suspect or any victim
14 that needs to be identified, you'd roll their prints
15 the same way, using black ink, put it on a card,
16 submit it as evidence to hold.

17 Q And you did that in this case?

18 A I did.

19 Q Let the record reflect that I am showing what has
20 been marked as State's Exhibit 377 to the witness. Do
21 you recognize this?

22 A Yes. 377 is the postmortem prints actually
23 labeled and initialed on the back by me.

24 MS. SIMPSON: Your Honor, at this time, the state
25 would seek to introduce State's Exhibit 377.

1 MR. SUTHERLAND: No objection, Your Honor.

2 THE HONORABLE CLIFTON NEWMAN: It's admitted.

3 (WHEREUPON, State's Exhibit No. 377 was admitted
4 into evidence.)

5 BY MS. SIMPSON:

6 Q With respect to the autopsy, is that the extent
7 of your involvement at that point?

8 A When it comes to the victim, personally, yes. I
9 did assist Lieutenant Elsey and Odom with the vehicle,
10 just by photographing the stains that they talked
11 about earlier, the victim's vehicle while it was in
12 the shed.

13 I also was requested to take a buccal swab and
14 elimination prints from another victim of a home
15 invasion.

16 Q And when did you respond to do that?

17 A Let me see.

18 Q Was that also on February 1st, 2009?

19 A Yes. February 1st, 2009. I show four o'clock I
20 went out to the shed, forensics garage, and assisted
21 with photographs of the stains marked A through S.

22 And prior to that, I was contacted by Sergeant
23 Richards, same date. It was around two o'clock, and I
24 met with a driver for Lonnie Roberts Towing Service,
25 Joe.

1 The vehicle that was in there, which was a blue
2 in color Pontiac Sunfire, 1999. The doors were locked,
3 and he opened the passenger's side door, but he did
4 not enter the vehicle, did not disturb anything.

5 Q And I want to move to where you responded to
6 headquarters and were asked to collect the buccal
7 swabs and elimination prints from Carolyn Webb.

8 A Sure.

9 Q Now, in this case, Ms. Webb, of course, was alive,
10 and we talked a little bit earlier about postmortem
11 prints. Can you explain the process with respect to
12 elimination prints?

13 A Elimination prints are the same way. We use an
14 electronic scanning machine that they use down at the
15 jail. It's inkless. I believe I ran her on that same
16 machine. I don't think I hand rolled her.

17 Q And did you actually collect the buccal swab, as
18 well as the prints from Ms. Webb?

19 A I did.

20 Q And this was after obtaining the consent to
21 search for her DNA?

22 A That's correct.

23 Q Let the record reflect I am showing the witness
24 what's been marked as State's Exhibit 394. Do you
25 recognize this?

1 A I do, evidence label signed by me and initialed
2 on the back, as well.

3 Q And what is it?

4 A It's the buccal swab from Ms. Webb.

5 Q Your Honor, at this time, the State would seek to
6 introduce State's Exhibit 394.

7 MR. SUTHERLAND: No objection, Your Honor.

8 THE HONORABLE CLIFTON NEWMAN: It's admitted.

9 (WHEREUPON, State's Exhibit No. 394 was admitted
10 into evidence.)

11 MS. SIMPSON: Beg the Court's indulgence.

12 (Pause)

13 I have no further questions for this witness.

14 THE HONORABLE CLIFTON NEWMAN: Thank you.

15 Cross-examination?

16 MR. SUTHERLAND: May it please the Court.

17 CROSS-EXAMINATION:

18 BY MR. SUTHERLAND:

19 Q Briefly, sir, at the autopsy, you had said that
20 you were present with and you observed, was it,
21 Dr. Clay Nichols?

22 A That's correct.

23 Q And Cynthia Boone, is that somebody from the
24 coroner's office?

25 A It is.

1 Q And there was a Pittman assisting Dr. Nichols?

2 A Right. Phillip Pittman is his assistant.

3 MR. SUTHERLAND: All right. That's all I have
4 for you. Thank you.

5 THE HONORABLE CLIFTON NEWMAN: Anything further?

6 MS. SIMPSON: No, Your Honor.

7 THE HONORABLE CLIFTON NEWMAN: You may step down.

8 THE BAILIFF: Watch your step, sir.

9 THE HONORABLE CLIFTON NEWMAN: And ladies and
10 gentlemen, that brings us to lunchtime.

11 We're going to take one hour for lunch and start
12 back at two o'clock. Please do not discuss the case.

13 The jury only is excused.

14 THE BAILIFF: Remain seated until the jury leaves.

15 (WHEREUPON, the jury left open court at
16 approximately one o'clock p.m.)

17 THE HONORABLE CLIFTON NEWMAN: We're going to
18 break for one hour. Anything before we break?

19 MS. CAMPBELL: Your Honor, the next witness ---

20 THE BAILIFF: Quiet please.

21 MS. CAMPBELL: --- would be the witness we had
22 intended to offer those photographs which we handed up
23 to the court earlier, just so you'll know.

24 THE HONORABLE CLIFTON NEWMAN: I reviewed the ---
25 we reviewed the photographs, and over objection,

1 number 79, 81, 80, 78, 77, 82 are admitted.

2 We're going to wait for further examination of
3 the witness regarding 76 and have that one marked for
4 I.D. only.

5 The same thing as to --- relates to 75, but 75
6 likely will not be admitted, but I'll wait for
7 examination by the witnesses on those two. The others
8 are admitted over objection.

9 MS. CAMPBELL: Thank you, Your Honor.

10 MR. SUTHERLAND: Thank you, sir.

11 (WHEREUPON, State's Exhibits Nos. 79, 81, 80, 78,
12 77, and 82 were admitted into evidence.)

13 THE HONORABLE CLIFTON NEWMAN: We're in recess.

14 (WHEREUPON, a lunch break was taken.)

15 (WHEREUPON, State's Exhibits Nos. 399 - 409 were
16 marked for identification only.)

17 THE HONORABLE CLIFTON NEWMAN: All right.

18 Anything before the jury comes in?

19 MR. SUTHERLAND: I'm sorry, Your Honor?

20 THE HONORABLE CLIFTON NEWMAN: Anything before
21 the jury comes in?

22 MR. SUTHERLAND: Nothing from the defense, sir.

23 MS. CAMPBELL: No, sir. I'm sorry.

24 THE HONORABLE CLIFTON NEWMAN: Bring them on.

25 (WHEREUPON, the jury came into open court at

1 approximately 2:12 p.m.)

2 THE BAILIFF: The jurors are all present, Your
3 Honor.

4 THE HONORABLE CLIFTON NEWMAN: All right. Very
5 well. Welcome back.

6 You may call your next witness.

7 MS. CAMPBELL: May it please the Court.

8 THE HONORABLE CLIFTON NEWMAN: Yes, ma'am.

9 MS. CAMPBELL: The State calls Sergeant Stan
10 Richards.

11 STAN RICHARDS,
12 after being duly sworn, testified as follows:

13 THE CLERK: Have a seat in the witness box.
14 State your full name for the record, please.

15 THE WITNESS: Stan Richards, R-I-C-H-A-R-D-S.

16 DIRECT EXAMINATION:

17 BY MS. CAMPBELL:

18 Q Sergeant Richards, where are you employed?

19 A With the Richland County Sheriff's Department,
20 Crime Scene Unit.

21 Q What do your duties include within the Crime
22 Scene Unit?

23 A I'm currently sergeant and supervisor over the
24 daily operations of the crime scene unit, which
25 includes, as I said, the supervision of about 13

1 individuals in the crime scene and latent print area,
2 and it includes processing major scenes.

3 Q Can you tell this jury a little bit about your
4 education, your training and background as far as
5 crime scene investigation?

6 A Yes. My educational background is --- first of
7 all, I spent 23 years in the military before coming to
8 work with the Richland County Sheriff's Department.

9 My educational background includes studying
10 history at Gainesville College back in 1971 to '73,
11 which is older than most of you, I'm sure.

12 I attended St. Leo University and obtained a
13 degree in criminology. I attended the U.S. Army
14 Command and General Staff College in 1998 and studied
15 quantitative analysis. I studied sociology at Waverly
16 Baptist University from 1990 to 1993 in Anchorage,
17 Alaska.

18 My training while at the crime scene unit has
19 included such things as blood stain pattern analysis,
20 latent print processing, crime scene topography and
21 advanced photography, basic fingerprints, crime scene
22 techniques for investigations, shoe and tire track
23 impression evidence, forensic question documents,
24 latent verifications, forensic shooting
25 reconstructions, comparison examination of the

1 footwear, DNA procedures, complex latent print
2 examination, advanced blood pattern analysis, shooting
3 incident documentation and reconstruction, advanced
4 crime scene reconstruction, and some forensic
5 pathology seminars that I've attended.

6 I am a current member of the International
7 Association for Identification, the South Carolina
8 division of the International Association for
9 Identification.

10 I am an active member of the International Crime
11 Scene Investigation Association and Association for
12 Crime Scene Reconstruction, and the International
13 Association of Blood Stain Pattern Analysis.

14 I am certified as a crime scene investigator, as
15 a footwear examiner and a blood stain pattern examiner
16 though the International Association for
17 Identification.

18 Q And you've testified on numerous occasions as an
19 expert in crime scene investigation?

20 A I have.

21 MS. CAMPBELL: Your Honor, at this time we'd
22 offer him as expert in crime scene investigation.

23 MS. McDUFFIE: Without objection, sir.

24 THE HONORABLE CLIFTON NEWMAN: Yes, sir, he's
25 qualified.

1 BY MS. CAMPBELL:

2 Q Sergeant, your laboratory there at the Richland
3 County Sheriff's Department, it is accredited; is that
4 correct?

5 A It is.

6 Q And what kind of accreditation does it have?

7 A The international accreditation through the ---
8 through ASCLAD, which is Association of Crime Lab
9 Directors.

10 Q And since your lab maintains this accreditation,
11 are there certain levels of proficiency or certain
12 procedures you must follow in order to retain that
13 accreditation?

14 A Absolutely. Individuals need to maintain
15 proficiency, as well as procedures that we use any
16 time we process the scene. Our protocol requires us
17 to do certain things, and we must follow it.

18 Q And the DNA is also part of that laboratory
19 that's accredited?

20 A Yes.

21 Q And the purpose of the accreditation and the
22 standards and the procedures that are in place is to
23 ensure the quality of your results?

24 A That's correct.

25 Q I want to turn your attention specifically back

1 to January 31st of 2009. Did you respond to a murder
2 crime scene at Winyah?

3 A I did.

4 Q And were there any other investigators from the
5 crime scene unit already there when you got there?

6 A Yes. I arrived at about 22:57, which is about
7 11:57, almost midnight, and when I arrived on scene
8 was Investigator Beeler, who has already testified.
9 He was the only individual that was inside the crime
10 scene there at that time.

11 Q Okay. So when you got there, the crime scene had
12 already been secured; is that correct?

13 A It had.

14 Q And what areas were secured in order to ensure
15 the integrity of this crime scene there on Winyah
16 Drive at Ms. Derrick's house?

17 A The entire front yard, to include the backyard
18 and the residence inside.

19 Q Once you got there, what was one of the first
20 things you started memorializing?

21 A When I got there, I got with Investigator Beeler.
22 He briefed me on what he had seen thus far --- what he
23 had seen, because he had been inside the residence.

24 I followed him in so I could get a walk through
25 of the interior of the residence, and also to assess

1 the scene itself to determine what type of procedures
2 we're going to need to process the scene.

3 As we entered, I followed him because he had
4 already been in, and he told me that he felt like
5 there was possible blood throughout the residence. So
6 I followed him, and we were very methodical in going
7 through.

8 Starting at the front door, we went through the
9 living room, which I did observe what I felt like was
10 possible blood on the floor of the living room.

11 On through the living room, you take a left down
12 the hallway, but right as you have taken a left down
13 the hallway across from the living room, there is a
14 dining room area, a small dining room area.

15 There was blood on the floor, possible blood,
16 what I perceived to be blood, on the floor of the
17 dining room. Further that way to the rear of the
18 house itself was the kitchen area.

19 It didn't seem to me, in a quick view, that
20 anything had been disturbed in that area. I did not
21 see any stains on the floor at that time. We turned
22 left and went down the hallway.

23 I was seeing and watching where I was going, but
24 I was seeing stains on the floor in the hallway also.
25 We went to the end of the hallway.

1 At the end of the hallway where there were stains
2 again on the floor, I looked to the left where there
3 was a master bedroom. Numerous stains were in the
4 master bedroom. I did not enter it at the time, but
5 it was obvious that there was significant stains
6 everywhere in the master bedroom.

7 I turned my attention to the bathroom, which was
8 in front of me at the end of the hallway. Numerous
9 stains were in the bathroom, as well, and the victim
10 was lying on the floor of the bathroom.

11 She was on her face stretched out on the bathroom
12 floor with her head toward the entrance to the
13 bathroom. I indicated that she had her --- her pants
14 was down about to her knee level. Her top of --- her
15 pajama top was partially up on her back, and there
16 were stains all around her and on her, as well. Her
17 back, on the clothes, stains on her hair and on her
18 face, the upper part of the face that I could see.

19 There were stains on the framework of the
20 entrance to the bathroom, as well as the door, the
21 exterior door side of the bathroom, which came inwards.
22 On the exterior, but there were stains on it, as well.

23 Then after I saw all of that, I had the scene and
24 assessed what I needed to do. At that particular time,
25 I followed Investigator Beeler back out the same way

1 that we came in.

2 At that time, Lieutenant Elsey showed up and
3 responded to the scene, as well. She was briefed the
4 same as I was. I and Investigator Beeler took her
5 through a walk through to the residence, as well,
6 showing her the same thing I just explained to you
7 again.

8 It was determined at that time that the best exit
9 for the removal of the victim was through the front
10 door. So in order to do that, we were going to have
11 to start processing right away before we could let
12 body removal in. That meant the processing of the
13 floor through the living room down the hallway through
14 the bathroom itself and around the victim's body, as
15 well, before we can move it, and that's what we did.
16 Q Okay. I want to back up a little bit. By the
17 time you had gotten there, had EMS already responded
18 to the scene and was declaring the victim to be
19 deceased?

20 A Yes.

21 Q And you just talked about your perception of what
22 was there and everything. You mentioned that one area
23 you observed when you got there was the bathroom area?

24 A Yes.

25 Q Y'all were trying to expedite things so that the

1 victim's body could actually be removed from the scene?

2 A Yes.

3 Q Prior to doing that, you wanted to make sure you
4 preserved any possible evidence that may need to be
5 collected before the body was removed. Is that fair
6 enough?

7 A That is fair enough, yes.

8 Q I'm going to show you a series of pictures, 73
9 through, I believe, 82. First --- don't show them to
10 anybody, but first, I ask you, do you recognize these?

11 A Yes, ma'am. These photographs depict what I saw
12 when I viewed the bathroom that night.

13 Q Okay. And those photographs were actually taken
14 that night?

15 A Yes.

16 MS. CAMPBELL: Your Honor, at this time, we'd
17 offer items number 73 and 74 into evidence, 75 and 76
18 for ID only, and then 76 through 82 for introduction
19 into evidence.

20 MR. SUTHERLAND: And, briefly, did --- did the
21 witness take the pictures?

22 THE WITNESS: Did --- I'm sorry?

23 MR. SUTHERLAND: Sir, did you take those pictures?

24 THE WITNESS: Yes. I took them.

25 MR. SUTHERLAND: Okay. All right. Just for

1 identification purposes. Thank you. Our previous
2 objection, Your Honor.

3 THE COURT REPORTER: Can you tell me the numbers
4 again?

5 MS. CAMPBELL: Yes, ma'am. Seventy-three and 74
6 are in evidence. Seventy-five and 76 are ID only, and
7 then up to 82 are in evidence.

8 (WHEREUPON, State's Exhibits Nos. 73, 74, 77 - 82
9 were admitted into evidence.)

10 (WHEREUPON, State's Exhibits Nos. 75 and 76 were
11 marked for Identification only.

12 THE COURT REPORTER: All right. Thank you.

13 MS. CAMPBELL: Ready?

14 THE COURT REPORTER: Yes.

15 THE HONORABLE CLIFTON NEWMAN: They all are
16 admitted except for the ones that are for ID only.

17 MS. CAMPBELL: Thank you, Your Honor.

18 Your Honor, may the witness step down?

19 THE HONORABLE CLIFTON NEWMAN: Yes.

20 BY MS. CAMPBELL:

21 Q If you can go on this side so the court reporter
22 can hear you.

23 Basically, 73 and 74, what area of the bathroom
24 does that show?

25 A That shows the backside of the bathroom floor.

1 That had some stains on the floor.

2 Q And when you're referring to stains in this
3 context, we're talking about what appears to be blood?

4 A Yes.

5 Q I want to show you State's Exhibit Number 82.
6 What does that show?

7 A That's the view from the entrance to the bathroom
8 floor area.

9 Q And what is depicted on the floor there?

10 A That's the victim.

11 Q And what part of the victim's body can you
12 actually view in this photograph?

13 A You can view, partially --- partially, her face,
14 most of the hair and the front view of her shoulders.

15 Q And is that how it appeared when you got there
16 that night?

17 A It is.

18 Q I want to show you State's Exhibit Number 77.
19 Was that taken from above?

20 A It is. It's taken from above and then slightly
21 to the rear. The victim was lying on the floor, and
22 you could see her left arm, and the pajama top that
23 was partially up from there.

24 Q And State's Exhibit Number 78, what part of the
25 body does that show?

1 A That shows her right hand, which was extended
2 down beside her right side.

3 Q State's Exhibit Number 180, what part of the
4 bathroom does that show --- excuse me, 80, not 180.

5 A That shows the backside of the bathroom right in
6 front of the toilet area. That's where the victim's
7 legs were extended, and that is the bottom half of her
8 legs that had the pajama bottoms pulled down to about
9 knee level.

10 Q State's Exhibit Number 81, does that also?

11 A Yes, that's it.

12 Q The lower part of her body?

13 A Yes.

14 Q And that's how it appeared when you got that
15 there that night?

16 A It is.

17 Q Finally, State's Exhibit Number 79. What does
18 that show?

19 A That's a view to the entrance of the bathroom.
20 It shows the doorway that opens to the inside. It
21 also shows the victim lying on the floor, head towards
22 the entrance of the bathroom.

23 Q And these are a view of the photos you took of
24 the victim that night?

25 A Yes.

1 Q Prior to her being removed from the scene?

2 A Yes, ma'am.

3 MS. CAMPBELL: Your Honor, permission to publish?

4 THE HONORABLE CLIFTON NEWMAN: You may.

5 MS. CAMPBELL: Okay. Thank you.

6 BY MS. CAMPBELL:

7 Q Sergeant, is it fair to say that there were
8 several of you working there that night and over the
9 next several days; is that correct?

10 A There were several of us working on the case. We
11 had divided at one time, just to get a little ahead of
12 myself, into two separate sections in order to process
13 what we needed to. However, that night there on the
14 scene, it was myself, Investigator Beeler and
15 Lieutenant Elsey.

16 Q Okay. And on that night, you mentioned that you
17 needed to clear a path and collect any possible
18 evidence prior to the people coming in removing the
19 body ---

20 A Right.

21 Q --- is that correct? And prior to them getting
22 in there, did you collect or photograph and then
23 collect certain swabs that were marked, I believe, by
24 Lieutenant Elsey?

25 A Yeah. The very first thing we did, of course,

1 was to go in and photograph the entire interior of the
2 residence without doing anything so we could show it
3 as pristine as possible when we had to --- if we had
4 to go back to the photographs.

5 After doing that, we had to take the interior of
6 the residence. Then Deputy Coroner Haddock, who was
7 on the scene at the time, was informed there was going
8 to be probably several hours before the body could be
9 removed pending our processing.

10 So as we started the process, Lieutenant Elsey
11 marked the stains beginning at the entrance to the
12 residence to the residence itself starting with number
13 one. As she marked it, I photographed it and
14 collected swabs of each stain with the assistance of
15 Investigator Beeler.

16 Q And those were marked, I believe, with numbers
17 that day?

18 A Yes, they were. In the living room, Lieutenant
19 Elsey marked one through seven; stains eight through
20 ten were marked from the dining room floor; stains
21 marked 11 through 20 on the hallway floor up through
22 the bathroom.

23 Q And just, for example, these are already in
24 evidence and everything. She has already testified.
25 First you photographed it without any markers; is that

1 correct?

2 A Correct.

3 Q And then you go back and try to memorialize what
4 may or may not be significant in this investigation.

5 A That's correct.

6 Q And just, for example, in State's Exhibit number
7 131, those are some of the stains we're talking about
8 that y'all wanted to photograph and mark that night
9 and then re-photograph prior to the body being removed?

10 A Yes. I believe that depicts the stains that were
11 marked, some of them, in the living room.

12 Q And that was so that nothing in the pathway they
13 use could be disturbed?

14 A Yes. That's why we had to make sure that we
15 processed the floor in the area, because that was
16 going to be the part that would be most disturbed when
17 the body removal came in.

18 Q And that night, did y'all collect swabs --- or
19 actually, you collected swabs, excuse me, from item
20 --- stains marked one through seven in the living room?

21 A Yes.

22 Q Eight through ten in the dining room?

23 A Yes.

24 Q And 11 through 20 in the hallway floor?

25 A Yes.

1 Q And when you collected those, tell this jury what
2 --- how you did that and to make sure that the
3 integrity of your evidence was preserved?

4 A Each stain that was marked and photographed was
5 swabbed individually with a cotton swab using
6 distilled water.

7 After that was done, they were placed in
8 individual cartons, cardboard carton containers and
9 marked accordingly where they came from and with what
10 they were associated with. They were, in turn, placed
11 into a bag and stayed in my custody until they were
12 sealed and turned into evidence.

13 Q While they were in your custody, did anyone alter
14 them, change them, do anything to them?

15 A No.

16 Q And when you submitted them into the evidence
17 room, were they sealed properly?

18 A They were.

19 Q While you were there, did you also test certain
20 ones in the living room, actually, items --- markers
21 one through four?

22 A Yes, I did.

23 Q And what kind of testing did you do there at the
24 scene that night?

25 A That was a presumptive test for blood using

1 phenolphthalein. I believe that's already been
2 described here. I did one through four, got a
3 positive reaction for those four based on the context
4 inside the residence and the positive reaction on the
5 first floor. That's the only ones I did.

6 Q The testing you did there at the scene that night
7 would not affect any DNA testing that was done later?

8 A No.

9 Q Thank you. Prior to moving the victim's body,
10 did you also swab certain areas around her body prior
11 to it being removed?

12 A Yes. I laid --- I put three markers around the
13 body indicating stains that I thought might at a later
14 date be significant. They were marked one --- 21, 22
15 and 23, as well as marking a stain on the upper
16 right --- or upper left back of the victim with a
17 scale and also on the right hip, two areas on the
18 right hip, the lower and the --- and the upper hip.

19 Those items were photographed by me and swabbed
20 by me also.

21 Q I'll move back to those items in a moment. And
22 did you also remove any clothing from Ms. Derrick that
23 night?

24 A Yes, I did. I removed one pair of black socks on
25 the victim, pajama pants, the front area of the

1 nightgown and the rear area of the nightgown, which I
2 cut myself.

3 It was hard to get off, a lot of stains, a lot of
4 possible blood around the area. So I had to cut the
5 top portion off to lift the back off and then try to
6 slide the front off that way to try to prevent as much
7 marring as you possibly can from the stain on the
8 clothing.

9 Q Okay. And once you collected those items of
10 clothing, those were also submitted into evidence?

11 A Yes, after they dried.

12 Q And, again, that was all done properly ---

13 A Yes.

14 Q --- for the record? That night, prior to leaving,
15 did you also remove the bathroom door from the hinges?

16 A Yes. Before we had body removal enter --- like I
17 said, we had some stains on the bathroom door itself,
18 which was on the exterior portion that opened inward.

19 The body --- when we removed the body, there's
20 always the chance of disturbing that or even
21 destroying that type of evidence. So we took the
22 bathroom door off the hinges and set it aside in order
23 to get the victim out. We did the same on the front
24 storm door.

25 Q And the front storm door, as well?

1 A Yes.

2 Q And that's the extent of what you did that night?

3 A Yes. And by that time, it was about five o'clock
4 in the morning, and we sealed the house with evidence
5 tape, initially photographed it, and the scene was
6 secured with a deputy out front, barrier tape and
7 crime scene log.

8 Q So, basically, the extent of the processing you
9 did that night on the interior of the house was to the
10 extent to enable you to let Ms. Derrick's body be
11 removed?

12 A Correct.

13 Q When you sealed the house, were there any other
14 measures in place that are reflected in the crime
15 scene log to secure this residence prior to you
16 getting back to do additional testing?

17 A I don't understand the question.

18 Q The deputies.

19 A Yes. There's always a deputy there. The deputy
20 would sign in the crime scene log as being secured.

21 Q And in this case everything about the crime scene
22 log was properly maintained?

23 A Yes.

24 Q And no one was allowed or enter or exit once
25 y'all had made entry once the initial deputies had

1 responded?

2 A No. They had instructions that no one was to
3 enter until I was notified.

4 Q And if anyone did enter, they had to log in on
5 the crime scene?

6 A They would.

7 Q The next day around 12:15 p.m., did you return
8 back to Winyah Drive?

9 A I did. I responded back to the scene, and I
10 found that the front door was secured just like we
11 left it with the initial crime scene tape and the
12 crime scene log being maintained correctly.

13 I met, at that time, with Captain Smith and
14 Sergeant Isenhoward to conduct a walk through with
15 them at that time so they could see the interior of
16 the house and know what the scene looked like.

17 As before, we had already processed a walk
18 through area inside, and that's the area that I took
19 them through. They were able to see the different
20 rooms, and I was able to brief them on what we had
21 found thus far.

22 Q Okay. When you initially went into the house,
23 did you observe an additional stain there in the
24 living room area?

25 A Yes, I did. That had been pointed out to me ---

1 well, Let me back up on this one a little bit.

2 Q Yes, sir.

3 A Lieutenant Elsey came to the scene, along with
4 Investigator Holfdorf and Investigator Bouknight. We
5 had a briefing with Lieutenant Elsey, who decided to
6 determine how we were going to proceed with the
7 processing at that time.

8 So she and Investigator Odom was going to depart
9 the scene, go back to headquarters and process the
10 vehicle that's been testified to already.
11 Investigator Bouknight and myself stayed at the
12 residence, and we continued to process it.

13 On the way out, Lieutenant Elsey noticed that
14 there was a stain on the left side of the door, front
15 door, as you were going out that had not been marked,
16 had not been collected. Since she pointed it out to
17 me, I marked it with a scale, photographed it, and
18 processed it for DNA.

19 Q And that would be the stain that was actually on
20 the wall there?

21 A No. It was on the floor right next to the wall.

22 Q On the floor next to the wall?

23 A Yes.

24 Q Excuse me.

25 A Right.

1 Q Near the front entrance.

2 A Right.

3 Q What areas were Investigator Bouknight assigned
4 to and what areas were you assigned to?

5 A I asked Investigator Bouknight to start with the
6 bathroom. Only one person needed to be there at a
7 time because they had so many stains in the area on
8 the floor and the wall. So one person should be in
9 there.

10 I began processing, myself, in the master bedroom,
11 which included the first day of determining and
12 looking --- initializing the patterns that were
13 throughout the master bedroom, and that took most of
14 the day.

15 Q And I'm going to show you --- prior to processing
16 the master bedroom, was it photographed by you?

17 A It was.

18 Q I'm going to show you a series of photographs ---
19 of course, they aren't in order --- and just first ask
20 you if you recognize those?

21 A Yes. These are a few of the photographs that
22 were taken that day before I started processing in the
23 master bedroom.

24 Q So this would reflect how the master bedroom
25 presented both on the first day and this next day when

1 you went back to process it?

2 A Yes.

3 Q And nothing had been altered or tampered with in
4 any way?

5 A No.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer --- I'll get the numbers for you.

8 (Pause)

9 MR. SUTHERLAND: Without objection, Your Honor.

10 THE HONORABLE CLIFTON NEWMAN: Without objection.
11 The numbers?

12 MS. CAMPBELL: I forgot.

13 (Pause)

14 Your Honor, number 270, 370, 283, 282.

15 THE COURT REPORTER: Hold on.

16 MS. CAMPBELL: 283, 281, 273, 274, 275, 276, 371,
17 and 372.

18 Ready?

19 (WHEREUPON, State's Exhibits Nos. 270, 370, 283,
20 282, 281, 273, 274, 275, 276, 371, and 372 were
21 admitted into evidence.)

22 Thank you. Your Honor, may the witness step down?

23 THE HONORABLE CLIFTON NEWMAN: Yes.

24 THE COURT REPORTER: I'm sorry. I need one
25 moment. This --- my computer seems to have locked up.

1 THE HONORABLE CLIFTON NEWMAN: Okay. We'll take a
2 short break.

3 (WHEREUPON, the jury left the courtroom.)

4 THE COURT REPORTER: I apologize.

5 (There was a technical difficulty with equipment.)

6 (WHEREUPON, a short break was taken.)

7 THE HONORABLE CLIFTON NEWMAN: All right. You
8 can bring the jury.

9 (WHEREUPON, the jury came into open court at
10 approximately 2:56 p.m.)

11 THE BAILIFF: The jurors are present, Your Honor.

12 THE HONORABLE CLIFTON NEWMAN: All right. You
13 may continue.

14 BY MS. CAMPBELL:

15 Q May it please the Court.

16 Sergeant, before I get you off the stand, while
17 you were there, you mentioned in the photograph that I
18 showed you at first that you --- before doing any
19 markers or anything like that, you photographed the
20 general area in the master bedroom; is that correct?

21 A Yes, ma'am.

22 Q And after doing that, did you then go back
23 through and --- as you had in the living room area and
24 other parts of the house, marked certain areas with
25 numbers that you thought may be significant to this

1 case?

2 A I marked the stain patterns ---

3 Q Stain patterns?

4 A --- the following day, which I'm talking about
5 now, which is on the 1st.

6 Q And this is on the 1st?

7 A Yeah.

8 Q And I want to show you the series of photographs.
9 First, just ask if you could look through those and
10 see if you recognize them.

11 A Yes, ma'am. This photograph depicts the markings
12 that I placed in the master bedroom, as well as some
13 markings down the hallway wall.

14 Q Okay. And are these photographs that you took?

15 A They are.

16 MS. CAMPBELL: Thank you.

17 Your Honor, at this time, we'd offer them into
18 evidence. I'll just publish them, if we can, the
19 numbers at the end.

20 MR. SUTHERLAND: That's the same ones?

21 MS. CAMPBELL: Do you want to look through them?

22 MR. SUTHERLAND: Sure.

23 (Pause)

24 No objection, Your Honor.

25 THE HONORABLE CLIFTON NEWMAN: All right.

1 They're admitted.

2 MS. CAMPBELL: For the record, Your Honor.

3 THE HONORABLE CLIFTON NEWMAN: Yes.

4 Are you ready?

5 THE COURT REPORTER: Yes.

6 MS. CAMPBELL: 375.

7 THE COURT REPORTER: Okay. One minute, 375,
8 okay.

9 MS. CAMPBELL: 374, 373, 308, 309, 310, 311, 312,
10 313, 314, 315, 316, 17 --- 317, 307, 305, 304, 302,
11 301, 300, 299, 298, 97.

12 THE COURT REPORTER: 297?

13 MS. CAMPBELL: Uh-huh. 296, 295, 291, 288, 279,
14 278, 277, 271, 318, 319, 320, 321, 322, 323 and 324.

15 (WHEREUPON, State's Exhibits Nos. 375, 374, 373,
16 308, 309, 310, 311, 312, 313, 314, 315, 316, 317,
17 307, 305, 304, 302, 301, 300, 299, 298, 297, 296,
18 295, 291, 288, 279, 278, 277, 271, 318, 319, 320,
19 321, 322, 323 and 324 were admitted into
20 evidence.)

21 BY MS. CAMPBELL:

22 Q And prior to you stepping down, those
23 photographs --- let me just put this up there. Let me
24 show you a series of photographs with some arrows on
25 them. First, let me ask you, are those photographs

1 that you took?

2 A Yes, ma'am. These first six depict photographs
3 of the bed and arrows that I placed there and the
4 photographs that I took.

5 Q Okay.

6 A These later two, three ---

7 Q Uh-huh.

8 A --- indicate or depict some paperwork that was on
9 the dining room table that indicates a stain that was
10 on there. I marked it as M on the way out ---

11 Q Okay.

12 A --- and photographed it there and collected it.

13 MS. CAMPBELL: Your Honor, at this time, we'd
14 offer these into evidence.

15 MR. SUTHERLAND: Without objection, sir.

16 THE HONORABLE CLIFTON NEWMAN: All right.

17 Admitted without objection.

18 MS. CAMPBELL: For the record, 325, 326, 327, 328,
19 329, 330, and then 68, 69, and 70.

20 (WHEREUPON, State's Exhibits 325, 326, 327, 328,
21 329, 330, and then 68, 69, and 70 were admitted
22 into evidence.)

23 BY MS. CAMPBELL:

24 Q I want you to step down. I want to ask you some
25 questions about your general observations of the type

1 of blood patterns you saw there in the master bedroom
2 area.

3 You're familiar with the term smear versus drops,
4 cast-offs, transfers, those types of terms?

5 A Yes.

6 Q And were those types of blood patterns all
7 present in this house on your processing it that day?

8 A They were.

9 Q Over the several days. Explain to the jury what
10 the difference is before we go through the pictures and
11 show them different things.

12 A I think those terms are probably put out to you
13 already, smeared and cast off, things of that nature.

14 There's two basic types of patterns or categories
15 that --- that we look for when there is a blood
16 letting event.

17 Those are termed as either spatter or non-spatter
18 or dynamic and passive blood pattern. What you have
19 in passive is the swipe, which is someone that maybe
20 has a bloody hand and wiped on a non-bloody surface or
21 a wipe where the blood is on the floor and a
22 non-bloody item comes with lateral movement that way.
23 It shows directionality in the movement and those are
24 called smears.

25 Blood drops are a --- it's a spatter because it

1 hits the floor, and you've got some spines around it
2 because it hits at such a degree of force, okay, but
3 it is not impact spatter, but it is classified as
4 spatter.

5 A drop or several drops in a linear configuration
6 where someone walks along and maybe some blood or some
7 liquid is dropping in a linear pattern, that's a drip
8 trail. That's also a spatter.

9 To get back to passive, when you've got a blood
10 pool or you have blood flow or you have these smears,
11 or you have transfer that came from one to another
12 item, things of that nature, that's all passive, but
13 you had all of those in the bedroom.

14 Now, when you talk about dynamic type of spatter,
15 you're talking about the drops and the drip trails,
16 and you're talking about expectorant that was already
17 discussed this morning in the bathroom where it comes
18 out of a person's mouth and nose, those type of things
19 are spatter.

20 Under spatter, you have impact spatter. Impact
21 spatter is what was discussed with you this morning
22 also in the discussion about the blood stain pattern
23 analysis that Investigator Bouknight did. That was
24 also present in the master bedroom. So we had a
25 dynamic pattern. We had a passive pattern. They were

1 both present.

2 Q Was there in --- the areas where there was a
3 significant amount of blood, was there a trail that
4 led from one room kind of into the another?

5 A What you have --- basically, you'll see probably
6 in the photographs is predominantly the stains, and
7 I'm going to call them blood, because in the context
8 of the scene, that's what it was.

9 The blood on the left side of the bed, as you was
10 looking into the room, into the bedroom, that's where
11 most of the blood and the stains were. There were
12 some drops in front of the bed around to the right of
13 the bed on the floor.

14 There was some impact spatter to the right of the
15 bed on the shades of the window, very little but some.
16 There was another stain on the wall, the right side of
17 the wall, the right side of the bed. That was it on
18 the right side. So predominantly, the stains were on
19 the left side of the bed.

20 You had pooling and blood dripping into blood,
21 which was a big stain on the left side of the bed.
22 That means something or someone was there for a period
23 of time in order for that much blood or liquid --- or
24 liquid to fall on the floor and impact the area, which
25 it did.

1 Then you had smears, which is the wipes and the
2 swipes we talked about, along the floor from that area
3 all the way to the entrance of the bedroom out in the
4 hallway toward the bathroom.

5 Q And would that be consistent with someone having
6 suffered a trauma in the bedroom and moving into the
7 bathroom area?

8 A Yes.

9 MS. CAMPBELL: Your Honor, may the witness step
10 down?

11 THE HONORABLE CLIFTON NEWMAN: Yes.

12 BY MS. CAMPBELL:

13 Q Looking through these. In State's Exhibit
14 Number 270, does that show different sides of the
15 master bedroom as it appeared, both the first night
16 you were there on the 31st and the next day when you
17 processed it?

18 A Yes, it does. It shows the interior of the
19 bedroom looking back toward the entrance.

20 Q Okay. And is the bed shown in one of these
21 pictures?

22 A This is the lower portion of the bed.

23 Q And here in State's Exhibit Number 370, is it
24 shown better?

25 A Yes, it's shown better. That is a photograph

1 depicting the bed from the entrance into the bedroom.

2 Q Moving on to State's Exhibit Number 283 and 282,
3 what is significant in the pictures that --- it's
4 obviously, a little difficult to see in these pictures?

5 A This is showing --- it's hard to see in this one,
6 but you can see down here, there's a little drop of a
7 stain. That was depicted in this photograph of what
8 we wanted to show before any types of markers were put
9 up that these stains were there. This is the
10 headboard of the bed.

11 Q Okay.

12 A Small stains. This is anything from four
13 millimeters in diameter in blood.

14 Q And what type of blood pattern?

15 A It's impact spatter.

16 Q Impact spatter. Would that be consistent at the
17 present time with blunt force trauma to the head?

18 A Yes, yes.

19 Q Again, the headboard in 281?

20 A Yes, that's the same. If you look close enough,
21 you can see some of the spatters.

22 Q I want to talk about 272. What area of the
23 bedroom does that show? Not as significant about
24 blood as it shows ---

25 A Yes, it does. That is the lower end of the

1 bedroom at the lower end of the bed itself. That is
2 a ---

3 Q I show you --- what is that?

4 A Yes, the lower end of the bed, the dresser.
5 That's there. You can see some of the drawers was
6 pulled away. You can see a jewelry box on the left
7 side of it that was open.

8 Q And when you first made your observations on
9 first entering the bedroom the night before on the
10 31st, was it significant, or did you think it could be
11 significant about the jewelry area?

12 A Yes. I felt it could be.

13 Q And State's Exhibit 274 is a closer-up view of
14 that, I believe?

15 A That's correct.

16 Q State's Exhibit Number 275, what part of the
17 room --- and 276 does that show?

18 A Yes. This is on the way out at the right side of
19 the bedroom entrance on the way out with some clothing
20 with some paperwork that was on top of the clothing,
21 and you have stains also.

22 Q And that would be consistent with what appeared
23 to be blood stains?

24 A Yes.

25 Q State's Exhibit Number 371, what part of the

1 bedroom does that show?

2 A That is the bed itself. You can see some of the
3 vomit that we had found on top of the bed. This was
4 before any of the arrows that were placed on the bed,
5 and it shows some of the stains that were on the
6 pillow, as well, and you can tell the stains all
7 throughout the red, even on top of the red color;
8 that's correct.

9 Q And then this close up of State's Exhibit
10 Number 372?

11 A This is the stain that I was talking about on the
12 left side of the bed on the floor. This is a pretty
13 good pooling, if you will, of liquid at that point.

14 You can tell what I was talking about as
15 something drops into the blood, you're going to have a
16 satellite spatter that surrounds it because it
17 spatters out blood. We had that on the floor also.

18 Q And that would be consistent with what you
19 testified to earlier as to ---

20 A Yes.

21 Q --- the pooling in the blood?

22 A Yes.

23 Q Taking these in the order, first I want to look
24 at some of the bedding that you photographed that
25 night. In State's Exhibit Number 325, what does that

1 show?

2 A This is a pillow that was on the bed itself. I
3 only marked the bed with marker one. You have
4 individual stains, and then you can have a lot of
5 individual stains that complete a pattern itself.

6 So I marked the bed as number one, and I placed
7 arrows in significant areas that I felt needed to be
8 depicted. That's what this showed: Another
9 photograph of the pillow that was on the bed.

10 Q That's a photo of the pillow that was on the bed?

11 A Yes, ma'am.

12 Q And the amount of --- what appears to be blood
13 that was found there, would that be consistent with
14 --- what could it be consistent with?

15 A Well, that could be consistent with any type of
16 flow of blood, it's saturation. Anything that's on
17 the floor is going to be saturated. It expands as it
18 saturates, so it's hard to say how much blood --- or
19 you can't say how much blood was in there.

20 Q I'm going to show you what's been marked as
21 State's Exhibit number 327.

22 A That's again a marker there, showing some of the
23 staining, again, on the red bedspread that was there,
24 which is difficult to see, as well as the next one.

25 Q And then on State's Exhibit Number 329 ---

1 A Yeah, that ---

2 Q --- and 330?

3 A That was the vomit that was indicated on the bed
4 itself. I indicated that with an arrow, as well as
5 some other items and stains. This just indicates with
6 the arrows --- and there is a photograph that
7 indicates the overall top of the bed is marked number
8 one and all the arrows that spread out. So
9 significant blood letting on the bed is what I'm
10 trying to show.

11 Q You mentioned earlier, but I believe you marked
12 different parts of the bedroom. I'm taking these ---

13 A Yes.

14 Q --- in here, State's Exhibits number 314 and 375.
15 What areas of the bedroom do those show?

16 A This shows it very well. Remember, the blood we
17 talked about on the left side of the bed. Here, you
18 can barely see. It's very, very red. In fact, it has
19 already started drying.

20 This shows very clearly, you know, the pooling
21 and the blood dropping into blood. Right at the very
22 left side of the bed and the satellite spatter that
23 protrudes outward 360 degrees around it.

24 That's --- it's as if something, some liquid
25 falls into itself on a hard surface. It does that way

1 --- it takes a little while, unless there is just
2 gushes coming out, and that doesn't signify it.

3 Q And, also, in State's Exhibits 373 and 308, does
4 that show parts of the bedroom?

5 A Yes, it does.

6 Q Blood?

7 A These show numbers or letters that I indicated on
8 stains coming from the left side of the bed going
9 towards the entrance to the bedroom, also with some
10 arrows to indicate some of the significant stains that
11 correlate with the numbers, as well.

12 Q State's Exhibit 309?

13 A That's the same one we just talked about. You
14 can see it a little more clearly.

15 Q State's Exhibit Number 310?

16 A Yes. This is marked number 14, I believe --- you
17 can barely see the marker on the floor --- but this is
18 the lower portion of a dresser that he was on the left
19 side of the bed also.

20 When I talked about the significance of the
21 spatter, as you --- as blood drops into blood and
22 becomes more prevalent on the floor there, the
23 evidence --- as more blood drops into it, the bigger
24 the spatter and the wider the spatter goes.

25 This, evidently, went so far as to hit the bottom

1 of the dresser that was on the wall in the left side
2 of the bedroom.

3 Q State's Exhibit Number 311?

4 A This is number five on the way out. You can tell
5 from up in the corner, because this is where the
6 predominant blood we've just been talking about. This
7 you can tell we're talking about the wipes and the
8 swipes.

9 These come in a direction, and the directionality
10 is going toward the entrance of the doorway, the
11 bedroom doorway.

12 You can tell by how much blood there is when it
13 starts, and then how it feathers out as it does in
14 this direction. That tells the directionality.
15 That's how it wipes and swipes.

16 Q State's Exhibit 312 is, I believe, the next one.

17 A This is the same. I believe it's --- yeah, it's
18 on the way out. It's number 16. It's on the way out
19 from the bed out toward the doorway of the bedroom.
20 It indicates the same type of movement through or from
21 the left side of the bed to the doorway to the bedroom.

22 Q State's Exhibit Number 313, you've got that?

23 A Yes. We looked at this earlier, but now it's
24 marked as number 17. These are drops that were on the
25 clothing and the paperwork going out of the bedroom on

1 the right.

2 Q State's Exhibit Number 314?

3 A And 19, a drop. You can see that pretty clearly.
4 That's what it looks like when it hits the floor, and
5 it's not so spherical that you can say, "Okay, it's
6 absolutely round."

7 You're always going to have those little
8 indentations that come out. We call them spines.
9 That's caused from height, that's when it drops from a
10 certain height.

11 Q State's Exhibit Number 315, item number three ---
12 marker number 20, excuse me.

13 A Twenty, I believe, marker number 20 and 21.

14 Q Twenty-one?

15 A Twenty-one and 22. Yeah, 21 and 22 was on the
16 doorframe going out of the bedroom, and I marked those
17 so we could swab those and, of course, photograph them
18 because there were stains going out of the bedroom on
19 the frame itself. Number 20 was also coming out of
20 the bedroom on the floor.

21 Q State's Exhibit number 307?

22 A Marked number 12. This was the top of a
23 nightstand that was to the left of the bed itself back
24 against the wall. There's some stains, as you can see,
25 on the top of the nightstand on the corner.

1 You're going to get those. Number one, you can
2 have those when somebody walks by and wipes off of an
3 item or a hand.

4 You can have these type of stains when there is
5 blood letting happens with some type of force. Blood
6 is put in flight. Blood can only go so far.

7 It's not going to travel until it hits the wall
8 or something like that when gravity takes effect.
9 When it goes down, it does not give you a significant
10 elliptical frame. It gives you the spherical or the
11 round type of stain. That's what you have here.

12 Q State's Exhibit Number 304.

13 A This is the headboard also, underneath the
14 headboard where you have the book shelves and things
15 like that. You have a sliding door on it, I believe,
16 and that's right back here. This was a stain that was
17 found in the book space of the headboard and marked as
18 number nine, a significant stain.

19 Q And State's Exhibits number 302 and 301?

20 A Number five and number seven.

21 Q As shown in State's Exhibit Number 370 is the one
22 I'm referring to.

23 A These are stains that were on the shades from the
24 window that was behind the bed. The bed was up next
25 to the wall. The window was back there with shades on

1 it.

2 As you can see, these are stains that are pretty
3 round, and they're pretty big. When you have high
4 velocity type of stains --- say you have a shooting
5 incident, you're going to have a very, very small
6 stain.

7 The larger they get, gives way to the possibility
8 that you have some kind of blunt force type trauma.
9 Also on these --- and I don't think these photographs
10 depict it so well --- yes, maybe here.

11 If you can see coming up how these stains are in
12 a linear fashion right through here, that is a spatter
13 stain also, but it's linear in depth.

14 So what that means is that could be the
15 possibility of a hand in motion, a weapon, or an item
16 in motion of some type --- because of some type of
17 droplet that gives you this.

18 Inertia takes over, and the blood droplets then
19 come off of the items and come and form in a linear
20 motion on whatever item they hit. That's called a
21 cast-off stain.

22 Q Cast-off?

23 A Yes.

24 Q And what's been marked as State's Exhibit 300?

25 A Number four, that's the headboard also. It's

1 just marking --- continuing to mark stains that were
2 found. At the headboard area, a lot of spherical
3 stains, rounded stains were found there.

4 A lot of them --- predominantly, there were one
5 to four millimeters in diameter. So there was a lot
6 of impact stains in there, not so much everywhere else,
7 but like I said before, there was some on the right
8 side of the shade. There was some behind the bed on
9 the shade, but there was a lot on the headboard.

10 Q Okay. Item number 299 --- or State's Exhibit
11 Number 299, I'm sorry.

12 A That's also indicating number three, which is the
13 headboard also.

14 Q Okay. State's Exhibit Number 280 --- 298?

15 A 298 is number two. Number two was on the right
16 side of the bed on the floor. I indicated that there
17 wasn't that much over there, but you could see the
18 stains. These are the drop stains on the floor on the
19 right side of the bed.

20 Q And again ---

21 A Same there.

22 Q State's Exhibit 296?

23 A This depicts the bed a little better and
24 indicates where number two is, the right side of the
25 bed.

1 Q I believe you testified earlier State's
2 Exhibit 295, that's just marked there?

3 A Yes, that's number one.

4 Q And then the areas we went through earlier show
5 the different numbers?

6 A That's correct.

7 Q State's Exhibit Number 291 shows what?

8 A 291 shows --- and it's hard for you to see
9 because this is a photograph --- menu photograph, one
10 that shows the arrows on the curtains, actually, on
11 this behind the bed.

12 These arrows indicate at what direction we found
13 blood stains or stains there, which I consider impact
14 stains at that point.

15 Q State's Exhibit 288, too, the bedding?

16 A Yes. This indicates ones on the bed. I marked
17 the bed as number one. All of those are arrows,
18 indicating where stains were found.

19 Q That's evidence of the bed with the arrows on
20 them?

21 A Correct.

22 Q State's Exhibit 297?

23 A This gives you an overview also from the right
24 side of the bed to where the pooling effect was taking
25 place on out toward the entrance of the bedroom.

1 Q And I believe those are also indicated in 277 and
2 278?

3 A Yes. It's the same.

4 Q 271?

5 A All of these indicate the same thing. It's just
6 a difference in views of what you see on the right
7 side of the bed.

8 Q Okay. Then moving into 318 and 319. What do
9 those show?

10 A 318 and 319 are G and H. I marked some stains
11 that were on the wall in the bedroom also. After I
12 came out of the bedroom, I saw the stains, of course,
13 I already talked about on the frame of the doorway
14 into the bedroom.

15 When I came out, I saw some stains also down the
16 hallway, which would have been on the right as you
17 were going out or back in the front side hallway wall.

18 So I marked those. They were marked from G, H, I,
19 J, K. It's hard to see L. L, is about halfway up the
20 wall all the way down. Those were marked and
21 photographed and swabs were taken of those also.

22 Q And when you're marking all of this evidence and
23 everything, once the blood has dried, can you say
24 exactly how long it's been there?

25 A No, you can't. It's hard to determine how long

1 blood has been there. Sometimes if you get there soon
2 enough, an indication can be made because blood starts
3 drying from the outside in.

4 It sits on the floor, an item on a substrate, and
5 then you can maybe determine what the timeframe might
6 be at that time. But once it has dried, no, I can't.

7 Q Especially if it's smaller stains?

8 A Yes.

9 Q Okay. As far as the significant amount of blood
10 that you found in the bedroom area and bathroom area
11 and around the body, that appeared to have been, I
12 guess, recent?

13 A There was still an undried portion of it.

14 Q I want to show you, finally, before you sit down,
15 State's Exhibit 70 and a close up of State's Exhibit
16 number 69, and where was this located?

17 A Yes. This was the dining room table.

18 Q Sixty-eight?

19 A That we noticed that this stain was on this
20 paperwork, but as I was coming out and doing the
21 marking of the items down the hallway, I went ahead
22 and marked this stain on the paperwork that was on the
23 table in the dining room right next to the hallway
24 going down the hall towards to the bathroom. I marked
25 it as M, photographed it and swabbed it, as well.

1 Q You can take the stand.

2 MS. CAMPBELL: Your Honor, permission to publish
3 some ---

4 THE HONORABLE CLIFTON NEWMAN: Some?

5 MS. CAMPBELL: --- a few of the photographs.

6 THE HONORABLE CLIFTON NEWMAN: Anything in
7 evidence, you may publish.

8 BY MS. CAMPBELL:

9 Q Thank you.

10 That day while you were there at the scene on
11 February 1st, did you --- was the master bedroom
12 processed for latent prints?

13 A Yes, it was. Once Investigator Bouknight
14 finished processing in the bathroom, I asked him to
15 come over to the bedroom because he had already been
16 processing for latent prints.

17 I asked him to process the master bedroom for
18 prints with the exception of the headboard. I did not
19 want the headboard processed at that time, and he did
20 not.

21 So he processed the latent prints, certain items
22 in the bedroom and DNA swabbed also. That's when I
23 went and marked the additional stains down the hallway
24 wall you see throughout.

25 Q And referring to your report to the stains we

1 just mentioned from G to L, were those actually stains
2 that were on the exterior bathroom door, I believe?

3 A No.

4 Q G through L?

5 A No. G through L was marked with a scale and down
6 the interior front hallway wall throughout. I, also,
7 additionally marked with a scale only some reddish
8 brown stains that were on the exterior bathroom door
9 that we had discussed before. That was the reason we
10 took the door off of the bathroom, so we didn't
11 disturb it moving the victim out. At that time, I
12 marked those with a scale, photographed them, and
13 swabbed them with --- for possible DNA also.

14 Q And that day, is that pretty much the extent of
15 the processing that occurred that day and then
16 continued ---

17 A Well, the last item for that day, I swabbed the
18 interior and exterior front door knobs for possible
19 DNA also.

20 Q Okay.

21 A Then after all those stains were done, we secured
22 the front entrance and initialed the crime scene tape
23 and secured the scene and the deputies and the crime
24 scene log were in place.

25 Q The next day, once it had been secured, the next

1 day did you return to the scene at Winyah, Winyah?

2 A Yes. But we did something that evening.

3 Q Okay. Go ahead.

4 A That evening, we left there --- or I left there
5 about 6:30. About seven o'clock, I was notified by
6 Investigator Woods, who is another crime scene
7 investigator that works with me. She was assisting in
8 a search warrant initiated by Lieutenant McDonald at
9 Denny Drive.

10 Q Okay. And Denny Drive, what is that?

11 A I do not know what that was. It was a residence,
12 and there was a small room out back of the main
13 residence. That's what we were searching for. I just
14 came over to help Investigator Woods.

15 Q To participate in the search warrant?

16 A I helped her in the search for some items that
17 may have had possible blood on them. I tested a sheet
18 that was found in this room for possible blood using a
19 presumptive test called Hemident.

20 It's the same process as using phenolphthalein.
21 It's on oxidation type thing except for being pink,
22 it turned blue green. It was positive for possible
23 blood.

24 So Investigator Woods continued to collect all
25 the items that were requested by Lieutenant McDonald

1 at that time I departed the scene.

2 Q Okay. Is that the extent of what you did on that
3 day?

4 A Yes.

5 Q Moving on to February 2nd back to Winyah
6 Drive, did you go back, and was the crime scene still
7 secure when you got there?

8 A It was.

9 Q And once you made entry in there, did you do a
10 search of the exterior of the residence?

11 A I did.

12 Q And once you did a search of the exterior of the
13 residence, I believe you collected like a sock or
14 something?

15 A I collected a white sock that was out back. It
16 seemed to be out of place, so I collected it.

17 Q And, again, when you're collecting evidence, you
18 don't know whether it would be significant or not?

19 A No, I don't.

20 Q You're just trying to get it?

21 A Not always.

22 Q Once you had finished the exterior search, did
23 you also return back inside to swab the areas you
24 marked one through 22 in the master bedroom?

25 A I did. I swabbed one through 22, and also, I

1 swabbed from the arrow along that was placed on the
2 window shade on the right side of the wall.

3 Q While you were there at the scene, did you and
4 Investigator Bouknight actually try to do a blood
5 pattern analysis there in the bedroom?

6 A We did a blood pattern analysis.

7 Q And what were you able to determine from that?

8 A Well, we took four stains that we felt were the
9 best in and around the headboard, and I believe it was
10 explained to you the calculations that are involved in
11 order to get the angles.

12 We pulled the strings based on those angles using
13 a protractor. We then secured them, and I know
14 Investigator Bouknight gave you the particulars on the
15 measurements there, which I don't have.

16 However, I did view, while I was there, that the
17 area of origin where blood letting could have happened
18 or did happen, as a matter of this particular impact
19 spatter pattern, was about a six-and-a-half to nine
20 inches area above the pillow. We saw where the pillow
21 was on the bed. That means there was a blood letting
22 event in that area.

23 Q Consistent with blunt force trauma, say, to the
24 head?

25 A I would say it was because there was no high

1 velocity type stains found in the area.

2 Q And during the course of your investigation,
3 there was no evidence of any gunshots involved in this
4 case?

5 A No.

6 Q While you were there at the crime scene, did you
7 also process the headboard for latent prints that
8 hadn't been done the day before or did Investigator
9 Bouknight?

10 A Yes. Yes, I did.

11 Q Okay. How did you do that?

12 A I processed the headboard of the master bedroom
13 with black powder. I developed one card, and it was
14 submitted to our latent print section for analysis.

15 Additional collections were done that day. I
16 swabbed, additionally, the headboard after the
17 processing was complete for latent prints. The tote
18 bag was collected that was in the living room ---

19 Q Uh-huh.

20 A --- two maroon sheets, two large white, green
21 pillows, and one small green pillow, one fitted sheet,
22 and one multicolored spread from the master bedroom.

23 Investigator Bouknight and I then processed the
24 bedroom floor and the bathroom floor using
25 Leucocrystal Violet, LCV, trying to enhance if there

1 was any shoe wear impressions on the floor in those
2 two areas so we might could see, and it was negative.

3 Q Okay. You mentioned several items that you
4 collected over the course of several days. I want to
5 show you State's Exhibit Number 379. Are these some
6 of the items you just mentioned that you collected?

7 A Two burgundy sheets, one multi-colored spread and
8 one fitted sheet from the bed --- yes, that's my
9 signature and my evidence label.

10 Q Additional items that were collected by you in
11 State's Exhibit 378?

12 A That is a white sock inside, which I indicated I
13 collected from the rear yard, a tote bag that was in
14 the living room, the front side of the victim's
15 nightgown that I cut, as well as the rear side of the
16 victim's nightgown, black socks from the victim, brown
17 bags from the victim's hands.

18 I signed for those when they were brought back by
19 Investigator Lee from autopsy. I signed for them in
20 the chain of custody, so I could submit them into
21 evidence. That's what I did. The rear side of the
22 victim's nightgown, pajama pants from the victim, two
23 large white green pillows, one small green pillow from
24 the victim's bed.

25 MS. CAMPBELL: Your Honor, at this time, we'd

1 offer State's Exhibits 378 and 379 into evidence.

2 MR. SUTHERLAND: Without objection.

3 THE HONORABLE CLIFTON NEWMAN: It's admitted.

4 (WHEREUPON, State's Exhibits Nos. 378, 379 were
5 admitted into evidence.)

6 BY MS. CAMPBELL:

7 Q I want to show you different swabs that you
8 collected. And for the record, all the swabs that you
9 collected were done properly?

10 A Yes.

11 Q And submitted properly into evidence?

12 A Yes.

13 Q And during the time period --- all the swabs you
14 collected in the case, no one had a chance to alter
15 them or change them in any way?

16 A No, ma'am.

17 Q I show you've what's been marked as State's
18 Exhibit 385 and 386. Do you recognize those?

19 A Yes, ma'am. This is a swab from the tote bag
20 that I swabbed at the lab, and this is swabs from
21 stains one through seven in the living room that was
22 done the first night.

23 MS. CAMPBELL: Your Honor, at this time, we'd
24 offer them into evidence, 385 and 386.

25 MR. SUTHERLAND: Without objection, sir.

1 THE HONORABLE CLIFTON NEWMAN: Admitted without
2 objection.

3 (WHEREUPON, State's Exhibits Nos. 385, 386 were
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q Next, I show you what's been marked as State's
7 Exhibit 380, 381, and 382.

8 A These are swabs from the bathroom floor, 21, 22
9 and 23, that I did on the first night. This is some
10 trace tape that was placed into evidence at the same
11 time.

12 This trace tape was done from the pajama bottoms,
13 the nightgown --- the victim's two-part nightgown and
14 the top that I did while in the lab.

15 It was the trace tape looking for any type of the
16 hair, fibers that didn't belong on there or anything
17 of that nature, just like was indicated that you do in
18 a vehicle with the trace tape.

19 Q Okay.

20 A Three swabs that was taken from the victim while
21 she was still there that night first from the right
22 hip and the left mid back from the victim.

23 MS. CAMPBELL: We'd offer them into evidence at
24 this time, Your Honor.

25 MR. SUTHERLAND: Without objection, sir.

1 THE HONORABLE CLIFTON NEWMAN: They're admitted.
2 (WHEREUPON, State's Exhibits Nos. 380, 381, 382
3 were admitted into evidence.)

4 BY MS. CAMPBELL:

5 Q I show you what's been marked as State's Exhibit
6 387 through 392.

7 A Yes. This is a continuation of the hallway floor,
8 from 11 through 13 and then 14 beginning with the
9 entrance of the bathroom. These were all that were
10 done through --- one through 20. This is finishing up
11 through 20 of the stains that were swabbed by me that
12 first night.

13 Q Okay.

14 A These are three stains, eight, nine, ten, from
15 the dining room, dining room floor.

16 MS. CAMPBELL: Your Honor, at this time, we'd
17 offer 387, 392.

18 THE COURT REPORTER: I'm sorry, those numbers
19 again are....

20 MS. CAMPBELL: 387 and 392.

21 MR. SUTHERLAND: Without objection, sir.

22 THE HONORABLE CLIFTON NEWMAN: Without objection,
23 they're admitted.

24 (WHEREUPON, State's Exhibits Nos. 387 and 392
25 were admitted into evidence.)

1 BY MS. CAMPBELL:

2 Q And finally, the rest of these swabs from this
3 crime scene.

4 A Swabs G through L from the bathroom door, the one
5 stain at the --- near the front door that was by the
6 scale. That was pointed out to me by Lieutenant Elsey.
7 The exterior and interior of the front door and the
8 exterior bathroom stains, as well.

9 Next is swabs one through 11, that come from the
10 bedroom. Swabs 12 through 22 from the bedroom, and
11 swabs --- three swabs: One from the bed and the
12 headboard, one from the window shade, right of the bed,
13 and one from the papers at the kitchen table, the
14 dining room table on the way out that I marked as M.

15 MS. CAMPBELL: Okay. Your Honor, at this time,
16 we'd offer them into evidence.

17 MR. SUTHERLAND: Without objection, sir. I'm
18 sorry. I didn't hear. Did she say these numbers?
19 Okay.

20 MS. CAMPBELL: I was getting ready to put them
21 all.

22 Your Honor, those are 389, 390, 391, and 388.

23 THE HONORABLE CLIFTON NEWMAN: Without objection,
24 they are admitted.

25 (WHEREUPON, State's Exhibits Nos. 389, 390, 391,

1 and 388 were admitted into evidence.)

2 BY MS. CAMPBELL:

3 Q Sergeant, I want to finish up with what occurred
4 at --- on this follow up. Additionally, on
5 February 2nd of 2009, did you respond to a place on
6 Apache Drive?

7 A Yes, I did. That was the intersection of Denny
8 Avenue and Apache Drive. Investigator Bouknight and
9 myself went out there to search that area. The area
10 that we started to begin the search was approximately
11 180 feet from that intersection, the intersection of
12 Denny Avenue and Apache Drive.

13 Q As far as the history that was given to you, this
14 was the area where the victim's car was recovered?

15 A Yes.

16 Q And that was over on Apache Drive?

17 A Yes.

18 Q And were you able to find anything of
19 significance in this case in your search of the road
20 and the roadway area next to it?

21 A We searched the roadway area and off the roadway
22 area on both sides. The search was negative for any
23 additional evidence.

24 Q Moving your attention on this case to
25 February 3rd around 10:15 a.m., did you photograph

1 certain pieces of jewelry in connection with this case?

2 A Yes. I did photograph one gold in color ring and
3 one gold in color necklace with cross as requested by
4 Sergeant Isenhoward.

5 Q Okay. And, finally, I believe on February 3rd,
6 you turned in all the property into the evidence room?

7 A I did.

8 Q And during the time period, again, for the record,
9 while this evidence was in your care and custody, did
10 anyone alter it, tamper with it or have access to it?

11 A No.

12 Q Was it submitted and properly sealed in proper
13 form?

14 A It was.

15 Q For the record, in addition to that, during the
16 time period when your processed this crime scene
17 over --- I believe it would be a three-day period; is
18 that correct?

19 A That's correct.

20 Q And that would be the victim, Ms. Derrick's home?

21 A Yes.

22 Q Was the crime scene log and the security properly
23 maintained?

24 A It was.

25 Q Would anyone have access to go in and out of

1 there without --- unless they signed them in and out
2 of your crime scene log or had proper authorization?

3 A No.

4 Q I want to turn your attention to the church that
5 was located at Winyah.

6 A Yes, ma'am.

7 Q Did you respond on February 2nd around 1:40 in
8 the afternoon?

9 A I did.

10 Q And what was your purpose in going there that day,
11 sir?

12 A I was asked to --- I was requested to respond to
13 Winyah to this church, which was Christ Lutheran
14 Church. I met Sergeant Isenhoward after I arrived
15 there. I was informed that a burglary had occurred at
16 this location.

17 However, I was also informed that most of the
18 damage had been repaired and the areas cleaned up. I
19 did see some individuals who were working at the
20 church that had cleaned up shattered glass from a
21 broken window.

22 I secured that glass, and I saw a couple of
23 stains, which was pointed out to me by Sergeant
24 Isenhoward who felt that they could be significant.

25 I did not test them, but I swabbed them. I

1 turned them in to DNA for them to test to see if they
2 were, in fact, blood, but the bag of the shattered
3 glass, I went through that also trying to see if I
4 could find any evidence of possible blood there and I
5 did not.

6 Q Okay. And you mentioned earlier that the people
7 had already cleaned up some on the interior of the
8 church?

9 A Yeah, that's the only thing that I saw.

10 Q Where were the swabs that looked like blood
11 stains taken by you that day from the church?

12 A Well, the stains that I saw were on an entrance
13 door to the sanctuary right beside where a window had
14 been broken, and they told me that that window had
15 been repaired. That's where I got the shattered glass
16 from.

17 Q Okay. But the swabs that you took that were
18 later submitted to DNA ---

19 A Yeah.

20 Q --- you collected those properly?

21 A I did. There was one of them ---

22 Q Secured them?

23 A There was one on the doorframe. There was one on
24 the interior side of the door.

25 Q And there are pictures in here of that. You took

1 photographs ---

2 A I did.

3 Q --- that have already been admitted and there ---
4 of the exterior and where of those stains were. Those
5 were collected by you?

6 A They were.

7 Q And submitted into evidence?

8 A Yes.

9 Q During the time period those were in your custody,
10 did anyone alter them or change them in anyway?

11 A No, ma'am.

12 Q Then I'm going backwards now, but also, there was
13 a third incident that occurred on the 31st at
14 Ms. Carolyn Webb's house. I believe you were called
15 back out there, because there was a cinderblock in her
16 home earlier?

17 A Yeah. This was prior to going down to the church.
18 At about 12:50, I arrived at Winyah along with
19 Investigator Bouknight also.

20 We responded there. Upon arrival, I met with
21 then Captain Smith. I was informed that subjects may
22 have entered the residence for a second time while the
23 victim was in the hospital.

24 We looked around, processed some additional items
25 that we found. I personally photographed an

1 indentation to the rear side door with and without
2 scale, observed the photograph with and without scale,
3 a partial cinderblock on the floor inside the
4 residence.

5 I swabbed the cinderblock for possible DNA.
6 Investigator Bouknight processed the front side door
7 to the residence, and I turned my swab into evidence
8 for DNA analysis.

9 Q And State's Number 383, is that the swab you got
10 from the cinderblock?

11 A It is.

12 Q And then State's Exhibit Number 384, are those
13 the swabs you actually got from the church at first?

14 A It is or they are.

15 Q What's the name of the church; is it Christ
16 Lutheran Church?

17 A Yes.

18 MS. CAMPBELL: Your Honor, at this time, we'd
19 offer State's Exhibit 383 and 384 into evidence.

20 MR. SUTHERLAND: No objection, sir.

21 THE HONORABLE CLIFTON NEWMAN: They're admitted
22 without objection.

23 (WHEREUPON, State's Exhibits Nos. 383 and 384
24 were admitted into evidence.)

25 BY MS. CAMPBELL:

1 Q I'm going to show you a photograph, State's
2 Exhibit Number 33. Is that the cinderblock from
3 Ms. Webb's home that you actually photographed?

4 A Yes.

5 Q And that's the one you actually swabbed after
6 photographing it?

7 A Yes, yes.

8 Q There's some additional pictures, State's
9 Exhibits 6, 7, 8, 9 and 10 from the church. I ask you
10 if you recognize those.

11 A Yes. This first photograph depicts inside of
12 Ms. Webb's home. Exhibit number 7, 8, 9, and 10
13 depicts the church, yes.

14 Q Okay. This is --- I'm sorry, number six is
15 inside the home?

16 A Yes.

17 Q Ms. Webb's home?

18 A Yes.

19 Q And then six, seven, eight, nine and ten --- I'm
20 sorry I have mixed that --- up are from the church?

21 A That's correct.

22 MS. CAMPBELL: Your Honor, at this time, we'd
23 offer State's Exhibits 6 and 33 from Ms. Webb and then
24 7 through 10.

25 MR. SUTHERLAND: No objection, sir.

1 THE HONORABLE CLIFTON NEWMAN: Admitted without
2 objection.

3 (WHEREUPON, State's Exhibits Nos. 6, 33, 7 - 10
4 were admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q Specifically, the stain you're referring to on
7 the door --- State's Exhibit 10, is an overview of the
8 door area?

9 A It is. That's an outside view of the door where
10 you can see where they tried to fix the broken window.
11 The one in your right hand, I believe, is the ---
12 that's the interior of the door to the sanctuary right
13 above the doorknob itself. You can see the stains of
14 the swabs.

15 Q And that was the stain that you swabbed?

16 A Yes.

17 Q And that's a reddish brown stain?

18 A Yes.

19 MS. CAMPBELL: Thank you, sir.

20 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

21 MR. SUTHERLAND: May it please the Court.

22 CROSS-EXAMINATION:

23 BY MR. SUTHERLAND:

24 Q Sir, how are you?

25 A Fine, sir.

1 Q All right. You've been up here for a while.

2 I'll try to narrow it down as much as I can.

3 With all --- when you were testifying about the
4 different --- you know, the blood spatter evidence,
5 you were saying that something would be consistent
6 with a motion or --- when you say that something is
7 consistent, did you mean that it could be or it's
8 likely that it happened that way?

9 A Which one are you talking about?

10 Q Well, let's say if you're talking about, let's
11 say, a blood pattern that is on a wall.

12 A You're talking about castoff?

13 Q Yes, sir.

14 A A linear castoff?

15 Q Yes.

16 A Correct.

17 Q And that you would testify that that was
18 consistent with ---

19 A The castoff pattern, yes.

20 Q And what that means is just in your experience
21 and your observations and your training, you're saying
22 that ---

23 A That's what a castoff pattern looks like.

24 Q Yes.

25 A Okay.

1 Q All right. When you --- you had returned to a
2 couple of places. When you returned to Ms. Derrick's
3 home, you testified that you --- you had found another
4 stain or an additional stain that you had --- that you
5 hadn't seen the first time you went through the
6 residence?

7 A No. What I said is when we returned the second
8 day, we met there. That's Lieutenant Elsey, myself,
9 and Investigator Bouknight and Investigator Odom.

10 We met there and determined how we were going to
11 proceed with the processing. We get our instructions
12 from Lieutenant Elsey, okay.

13 Once we did that and she was on her way out, and
14 her and lieutenant --- Investigator Odom were on their
15 way back to headquarters to process a vehicle, on her
16 way out, Lieutenant Elsey noticed a stain on the floor
17 by the wall on the left side of the entrance.

18 It was a drop stain, and during the night
19 processing, the night before, it was not observed. So
20 I put a scale bite. I photographed it, and I swabbed
21 it.

22 Q Thank you, sir.

23 And also, it may seem like I'm jumping around a
24 little bit.

25 A That's all right.

1 Q I'm basically trying to hit, you know, what we
2 need to hit here.

3 A I understand.

4 Q You testified about the length --- the difficulty
5 in determining the length of time that blood has been
6 in a particular location. I believe particularly with
7 respect to small --- the small drops.

8 A Small drops start drying within five to 20
9 seconds, yes.

10 Q And --- and do they --- you call it skeletonize
11 or something or they --- they just get their ---

12 A It's skeletonization, and that was mentioned
13 before.

14 Q So they get sort of their ultimate condition
15 quicker than larger?

16 A Well, of course, yes.

17 Q All right.

18 A Yes.

19 Q Yes, sir. Thank you. All right. You had ---
20 you had searched Mr. Wallace's house and noted taking
21 a sheet, and the other investigators had taken other
22 items that were turned up in the search.

23 A I did not take the sheets. All I did was that
24 night was perform a presumptive test for blood on a
25 sheet, negative.

1 Q And then the other investigators executed it?

2 A Correct.

3 Q And then back to Ms. Webb's home, you had noted,
4 you had gotten called over to that scene?

5 A Uh-huh.

6 Q And while she was into --- while she was in the
7 hospital, somebody had broken into her residence again.
8 Is that ---

9 A I was told that may have happened; that that's
10 what may have happened because they found the
11 cinderblock and the other items there at the scene.
12 So they might --- they felt that someone may have
13 tried to break in or did break in a second time while
14 she was in the hospital. Either way, I processed the
15 scene.

16 Q Yes, sir. And the people that you were talking
17 to that felt that it may have --- the investigators on
18 the case?

19 A Yes.

20 Q Now, I want to talk to you --- I'm making sure
21 that I'm getting everything. I want to talk to you
22 about the crime scene log.

23 A Okay.

24 Q It sounds --- it sounded from your testimony ---
25 and I'm sure that it is pretty significant --- for

1 purposes of just keeping the scene preserved and
2 secure.

3 A Yes, sir.

4 Q Generally --- I understand you're retired
5 military?

6 A Yes, sir.

7 Q So when --- so when we're talking about a log,
8 we're talking about someone --- as a person comes in,
9 a person signing in, and as they leave, signing out?

10 A Uh-huh.

11 Q Generally, I would think you know first
12 responders, EMS, people that are on the scene secure
13 it, make sure to, you know, preserve it like they can,
14 basically, and then to make sure the place is secure.

15 They may --- it's not going to get set up at that
16 time. I mean, when the first responders are there.
17 Do you agree with that?

18 A First responders do set it up the majority of the
19 time.

20 Q Well ---

21 A After they perform first aid, if it's necessary
22 after they cleared the residence, if that's what
23 they're surrounding, then they know if there is a
24 major scene there to set up the crime scene tape and
25 do a log.

1 Q I guess so what I'm asking you is that was a
2 temporal question. If on the crime scene log in this
3 case, it seems some of the first responders might have
4 been signed in after some of the other people signed
5 in, it would have been --- and the emergency response
6 people ---

7 A Uh-huh.

8 Q --- it would have been because they were
9 attending to other things. What I was trying to say
10 is --- I'm not saying that it's potentially sloppy or
11 anything. If there is a little bit of an issue at the
12 beginning with people, because you've got a number of
13 people arriving on the scene at the same time.

14 A That's correct.

15 Q Yes, sir.

16 A A lot of times when you get out there and there's
17 confusion, they start signing people on to a log that
18 never go inside the various areas to begin with.
19 That's what it's meant for, but they're signing in
20 everybody that even shows up somewhere.

21 Q Yes, sir. And that --- I mean, that's pretty
22 much where I was going, but ultimately, once you get
23 to a certain point, it should be that a person, you
24 know --- let me see if I can just sort of do it like
25 this.

1 All right. You've got the first responders and
2 potential confusion here. Then say at eight, you know,
3 Fred comes in. At 8:15, you know, Bill comes in, and
4 on down the line, this stuff should be pretty much
5 chronological, shouldn't it?

6 A It gets to a point where particularly when we
7 arrive on a scene, it's that kind. It should get to
8 that.

9 Now, you're talking about the crime scene log
10 that was presented at this scene. I know at one point,
11 there was a new log presented to the deputies that
12 were out there. They had already started one. It was
13 outdated. They were given a new one. There is some
14 confusion that may have come in.

15 Q All right. So just, for example ---

16 A Sure.

17 Q --- if we've got at 22:05 --- do I have a date
18 down there? I think it's February 1st, but just for
19 example on this thing, we've got Deputy Rainsford
20 sign --- and I'm starting to get --- I'm sorry about
21 that.

22 And then we've got 02:41. We've got Investigator
23 Beeler, and there's another one at 2:55, but I'll skip
24 past it. Then the next one is 23:25. Talking about
25 the same date is Investigator Radford, and then going

1 back to 04:30 is Deputy Swinton.

2 Just with respect to that, it could have --- it
3 could have been done better if they would have been
4 signed in, in the proper order?

5 A If that's the way --- if you're telling me that's
6 the way it is, and that's what you're showing me right
7 there, yes, as to what you're showing me right there.

8 Q So brief --- well, actually, do you have your
9 crime scene log in front of you?

10 A Yeah, I do.

11 (Pause)

12 The first page, the first responders.

13 Q Yes, sir.

14 A From 21:13 all the way down to 21:30, first
15 responder.

16 Q Okay. And then the page right before. The last
17 one I got on there is Investigator Radford.

18 A What's that?

19 Q We've got February 1st, and here is February 1st.
20 Okay. It's just where the order is, you know, Deputy
21 Rainsford.

22 A Uh-huh.

23 Q Beeler, Merrill, Radford, Swinton.

24 A Where is Beeler?

25 Q All right. Investigator Radford, so it should be

1 the page previous to that, if you have Swinton coming
2 in.

3 Okay. There it is. That's it. Okay. So here
4 we've got 22:05, and then we've got 02:41 and then
5 02:55 right there.

6 A Uh-huh.

7 Q And then on the next page, you know, it's
8 23:25 and then 04:30.

9 A 23:25.

10 Q And, of course, this is the log.

11 A This is the outdated log.

12 Q Yes, sir.

13 A They were given a new log to begin with then.
14 What I can tell you is this: When Investigator Beeler
15 arrived --- when I arrived on the scene and was
16 briefed by Investigator Beeler ---

17 Q Yes, sir.

18 A --- it was after that point that I released the
19 scene. There wasn't anybody there unless I knew about
20 it.

21 Q Thank you. I got you. I appreciate it.

22 Let me make sure I don't have anything else here.

23 (Pause)

24 Oh, there was --- let's see. There was one
25 more --- one more thing, and this sort of goes back to

1 what Investigator Bouknight had testified about.

2 I'm going to try to speak in English and not like
3 technical terms, but I believe basically y'all came to
4 the conclusion that whatever this wound was, that it
5 had occurred somewhere over the pillow, the initial
6 thing, the initial...

7 A What I said what occurred over the pillow, and in
8 accord with the analysis that we did, there was a
9 blood letting event that happened at that point. A
10 blood letting event. I didn't say the only one. I
11 said a blood letting event, yes, sir.

12 MR. SUTHERLAND: Yes, sir. That's really all
13 I've got for you.

14 THE WITNESS: All right.

15 MR. SUTHERLAND: Thank you. No further questions,
16 Your Honor.

17 THE HONORABLE CLIFTON NEWMAN: Ms. Campbell.

18 MS. CAMPBELL: Just briefly.

19 REDIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q Beg the Court's indulgence.

22 (Pause)

23 Sergeant.

24 A Yes, ma'am.

25 Q There was at least a blood letting event on that

1 pillow; is that correct?

2 A Say that again.

3 Q You don't say that's the only blood letting event.

4 That was a blood letting event that occurred there?

5 A That's what I said, yes.

6 Q And you could tell them from the blood

7 spatter analysis?

8 A Correct.

9 Q He asked you about the crime scene log.

10 A Yes.

11 Q I show you State's Exhibit Number 410. Is that a
12 copy of your log?

13 A It is.

14 Q And they may not be in order, but doesn't that
15 document each and every person that went to that scene
16 over that two or three-day period?

17 A Yes, to include a lot of them that never went
18 inside the barrier tape.

19 Q Even if they were inside the barrier tape, they
20 were documented on there?

21 A Yes. A lot of them are, yes.

22 MS. CAMPBELL: Your Honor, at this time, we'd
23 offer State's Exhibit Number 410 into evidence.

24 MR. SUTHERLAND: No objection.

25 THE HONORABLE CLIFTON NEWMAN: It's admitted

1 without objection.

2 (WHEREUPON, State's Exhibit No. 410 was admitted
3 into evidence.)

4 BY MS. CAMPBELL:

5 Q In every case, and some of the people that are
6 documented on there, are actually the fire department
7 squad?

8 A Yes.

9 Q EMS?

10 A Yes.

11 Q First deputies on the scene?

12 A Yes.

13 Q And the times they were in and out?

14 A Yes.

15 Q Even there's documentation in there that some
16 people who didn't even enter the scene, just family
17 members of the house.

18 A That's correct.

19 MS. CAMPBELL: Thank you. I don't have anything
20 further.

21 THE HONORABLE CLIFTON NEWMAN: Anything further?

22 MR. SUTHERLAND: May it please the Court. I
23 guess this is --- I think this relates to
24 cross-examination.

25 RECROSS-EXAMINATION:

1 BY MR. SUTHERLAND:

2 Q What I heard, as far as your testimony, is that
3 you guaranteed that while you were there, there was
4 nobody in or out of there that wasn't supposed to be
5 there; is that correct, sir?

6 A Not while I was there, no. There was nobody that
7 was in that scene while I was there was not supposed
8 to be there.

9 MR. SUTHERLAND: Thank you, sir.

10 THE WITNESS: That's correct.

11 MR. SUTHERLAND: No further questions, Your Honor.

12 THE HONORABLE CLIFTON NEWMAN: All right. Thank
13 you, sir. You may step down.

14 Next witness, please.

15 MS. CAMPBELL: The State would call Gary Watts.

16 THE HONORABLE CLIFTON NEWMAN: All right.

17 GARY WATTS,

18 after being duly sworn, testified as follows:

19 THE CLERK: Have a seat in the witness box.
20 State your name for the record, please.

21 THE WITNESS: It's Gary Watts, W-A-T-T-S.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Sir, what position do you hold in Richland County?

25 A I am the elected coroner for Richland County.

1 Q What are your duties as the elected coroner
2 include?

3 A Well, as an elected official, my job basically is
4 to oversee the office of the coroner, supervise the
5 day-to-day activities and the management of that
6 office.

7 The coroner's office itself is responsible for
8 determining the cause and manner of death in
9 individuals that die in Richland County under certain
10 circumstances, like outside of a hospital facility,
11 even in a hospital facility under certain
12 circumstances of suspicion or traumatic injury, things
13 like that.

14 Q Okay. And at times, do your --- I believe
15 they're called deputy coroners ---

16 A Yes.

17 Q --- go out to crime scenes and work hand-in-hand
18 with law enforcement?

19 A Any time someone dies outside of a medical
20 facility, someone from my office, a deputy coroner,
21 responds to that scene.

22 Q And as noted on this crime scene log, I believe,
23 would be two of your deputy coroners went out to the
24 crime scene at Winyah when Ms. Derrick was killed?

25 A I haven't seen the log, but yeah.

1 Q You are aware that they ---

2 A Absolutely.

3 Q And part of their duties would be notification to
4 the victim's family and gathering information in order
5 to enable you to determine a cause of death?

6 A That's correct. We work with the law enforcement
7 agency in ordering tests, autopsies, other exams that
8 may be necessary to help and determine the cause and
9 manner of death.

10 Q And in cases such as this, would it be
11 appropriate to order an autopsy?

12 A That's correct, it would.

13 Q And was one done for Ms. Derrick?

14 A Yes.

15 Q And who actually performed that autopsy?

16 A Dr. Clay Nichols. He was ---

17 Q And at the time, was he the chief medical
18 examiner?

19 A That's correct, he was.

20 Q But you're still the coroner in determining the
21 cause of death?

22 A Ma'am?

23 Q He reports to you ---

24 A Correct.

25 Q --- in essence?

1 A Correct.

2 Q Once he performed his autopsy, does he then
3 generate a report which is forwarded to your office?

4 A Yes, ma'am.

5 Q And is that the autopsy report itself?

6 A Yes.

7 Q And I'm going show you what's been marked as
8 State's Exhibit Number 409. Do you recognize that
9 document, or is that a copy of it, actually?

10 A Yes, ma'am.

11 Q And what is that document?

12 A This is a copy of the final report from Dr.
13 Nichols on the autopsy of Linda Derrick.

14 Q And is that the type of information that your
15 office keeps in the normal course of business?

16 A This is the one.

17 Q And I believe by statute, it's forwarded to you?

18 A Correct.

19 MS. CAMPBELL: Your Honor, at this time, we'd
20 offer State's Exhibit 409 into evidence.

21 MR. SUTHERLAND: It's hearsay, sir. Objection.

22 THE HONORABLE CLIFTON NEWMAN: Let me see it.

23 MS. CAMPBELL: Yes, sir.

24 (Pause)

25 THE HONORABLE CLIFTON NEWMAN: You may proceed

1 with the examination. We'll rule on the introduction
2 of the document.

3 MS. CAMPBELL: Okay. Thank you, Your Honor.

4 BY MS. CAMPBELL:

5 Q I want to show you what's being marked as State's
6 Exhibit 409, and ask does that reflect the doctor's,
7 the medical examiner's findings, specifically as to
8 the cause of death?

9 A Yes.

10 Q And as part of your duties as a coroner, did you
11 review that autopsy?

12 A Yes.

13 Q And what was the cause of death listed on the
14 autopsy?

15 A The cause of death listed on this autopsy report
16 is cardiac arrest due to blunt head trauma due to a
17 beating.

18 Q Blunt head trauma due to beating?

19 A Yes.

20 Q In the course of your investigation, do your
21 deputy coroners also give you information that was
22 included in your file?

23 A Yes.

24 Q And I want to show you what's been marked as
25 State's Exhibit Number 411.

1 (WHEREUPON, State's Exhibit No. 411 was marked
2 for identification only.)

3 BY MS. CAMPBELL:

4 Q Is this a copy of a document or a death
5 certificate that's compiled by your office?

6 A It is.

7 Q And is that also the official memorandum which
8 lists the cause of death?

9 A This is a copy of an official death certificate
10 for the State of South Carolina, yes.

11 Q And whose death certificate is that?

12 A This is on Linda Derrick.

13 MS. CAMPBELL: Your Honor, at this time, we'd
14 offer 411 into evidence.

15 MR. SUTHERLAND: Sir, I believe it's public
16 record, but I believe the testimony would suffice;
17 that the death certificate would be more prejudicial
18 than probative.

19 THE HONORABLE CLIFTON NEWMAN: What says the
20 State as to this exhibit and as to the previous
21 exhibit?

22 MS. CAMPBELL: Under Rule 803 subsection six and
23 I believe subsection --- excuse me, Your Honor, eight,
24 we would say that these are exceptions, hearsay
25 exception under the rules.

1 THE HONORABLE CLIFTON NEWMAN: All right.

2 MS. CAMPBELL: It should be admitted.

3 THE HONORABLE CLIFTON NEWMAN: What say you?

4 MR. SUTHERLAND: And my --- I would refer to the
5 report itself as testimonial hearsay, but with respect
6 to the certificate, the evaluation that I would argue
7 is that it's more prejudicial than probative, sir.

8 THE HONORABLE CLIFTON NEWMAN: Okay. Under the
9 Rules of Evidence 803, records of vital statistics are
10 exceptions to the hearsay.

11 In addition, case law and the statutory law
12 indicates that the autopsies are exceptions to the
13 hearsay rule. They're not hearsay, and both documents
14 are admitted.

15 MR. SUTHERLAND: Thank you.

16 MS. CAMPBELL: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit Nos. 409 and 411 were
18 admitted into evidence.)

19 BY MS. CAMPBELL:

20 Q The cause of death as listed on 411 in the
21 official death certificate, what is that, sir?

22 A The cause of death is listed as intracranial
23 trauma due to a beating.

24 Q And, sir, is that consistent with Dr. Nichols'
25 findings?

1 A It's the same thing. It's just worded
2 differently, correct.

3 MS. CAMPBELL: Thank you, sir. I don't have
4 anything further.

5 THE HONORABLE CLIFTON NEWMAN: Cross-examination?

6 MR. SUTHERLAND: Oh. May it please the Court.

7 CROSS-EXAMINATION:

8 BY MR. SUTHERLAND:

9 Q Sir, you testified Dr. Nichols performed the
10 autopsy in this case?

11 A That's correct.

12 Q And he left your office last year; is that
13 correct?

14 A He left in October, I believe, of last year.

15 Q Are you aware of any competency issues with him,
16 that same ---

17 MS. CAMPBELL: Objection, Your Honor. May we
18 approach?

19 This is ridiculous.

20 THE HONORABLE CLIFTON NEWMAN: You may.

21 (WHEREUPON, there was a bench conference held in
22 the presence, but not within hearing of the jury.)

23 THE HONORABLE CLIFTON NEWMAN: Ladies and
24 gentlemen, if you'll go to the jury room, I need to
25 talk about a couple of things outside of your presence.

1 When you return, Mr. Juror Number 111, I'm going
2 to appointment you, sir, as the foreperson of the jury.
3 If you would take the foreperson's seat, which is the
4 first seat on the front row.

5 As foreperson, you will serve as the jury
6 spokesperson. You will preside over the jury
7 deliberations and complete the verdict form
8 representing the unanimous verdict of the jury.

9 All right.

10 (WHEREUPON, the jury left open court at
11 approximately 4:09 p.m.)

12 THE HONORABLE CLIFTON NEWMAN: All right. You
13 were --- I guess the witness could hear what you were
14 asking him. I didn't hear it too clearly. What did
15 you ask him?

16 MR. SUTHERLAND: Oh, I had asked him whether or
17 not there were any competency issues --- whether he
18 was aware of any competency issues with Dr. Clay
19 Nichols.

20 THE HONORABLE CLIFTON NEWMAN: All right. That's
21 the question. There's an objection by the State.

22 MR. SUTHERLAND: Further --- he --- I'm sorry, he
23 said no, and I asked him --- I was going to ask him
24 about this case, State vs. Bejay Harley, and there's a
25 federal lawsuit by Mr. Harley.

1 I'm actually holding the order where the public
2 defenders were dismissed as parties in the suit, but
3 part of the Order from Judge Anderson reading about
4 PCR is that counsel were ineffective for failing to
5 impeach Dr. Nichols at trial as to the fact that Dr.
6 Nichols included observations of the victim's
7 gallbladder in his autopsy report when, in fact, the
8 victim's gallbladder had been removed several years
9 prior to the death.

10 That is sort of why I was so interested ---

11 THE HONORABLE CLIFTON NEWMAN: You're going to
12 ask him about that? That's what you're trying to ask
13 him about that other case?

14 MR. SUTHERLAND: Just on competency issues.
15 That's why I really wanted to cross-examine
16 Dr. Nichols.

17 THE HONORABLE CLIFTON NEWMAN: Yes.

18 MS. CAMPBELL: I don't know under what theory he
19 can ask him about that, as far as Dr. Nichols goes.
20 He hasn't been convicted of a prior crime. He has no
21 conviction as far as impeachment goes.

22 I don't know how good it goes to his bias or
23 prejudice in this case, and that is clearly one
24 judge's opinion. That case has not even been
25 adjudicated yet.

1 I tried it the first time and the second time,
2 and it's currently pending in our office scheduled for
3 trial this fall.

4 As far as whether or not that is an issue in the
5 case, that's a judge's opinion in an order. I don't
6 know how that would be admissible to impeach an
7 unavailable witness.

8 MR. SUTHERLAND: If I may, sir, my initial
9 question was, "Are you aware of any competency
10 issues?"

11 MS. CAMPBELL: And he said no.

12 MR. SUTHERLAND: And he is his boss, and he is
13 the coroner, and there is a lawsuit against the
14 coroner's office. This order is dated April 12th,
15 2011. That was three months ago.

16 THE HONORABLE CLIFTON NEWMAN: And you're using
17 competency in the sense of skill?

18 MR. SUTHERLAND: Whether there were any problems
19 with his work.

20 THE HONORABLE CLIFTON NEWMAN: With his work?

21 MR. SUTHERLAND: Yes, sir.

22 THE HONORABLE CLIFTON NEWMAN: When you use the
23 word competency, I was thinking you were asking ---
24 regarding mental competency.

25 MR. SUTHERLAND: Oh no. About the other issue,

1 no, sir; no, sir.

2 THE HONORABLE CLIFTON NEWMAN: So you're talking
3 about the quality of his work ---

4 MR. SUTHERLAND: Yes, sir.

5 THE HONORABLE CLIFTON NEWMAN: --- in reaching
6 the conclusion that he reached in this autopsy.

7 MR. SUTHERLAND: Yes, sir.

8 THE HONORABLE CLIFTON NEWMAN: All right.

9 MS. CAMPBELL: Your Honor, and I think he
10 specifically wants to ask him about aspects of this
11 autopsy, that may be incorrect. That would be it.

12 I don't think he can go on some just mission to
13 try to sully the waters by making accusations that are
14 not substantiated by any conviction or any other
15 evidence other than a typographical error in an
16 autopsy file.

17 MR. SUTHERLAND: Yeah, well, there is --- I'm
18 sorry.

19 THE HONORABLE CLIFTON NEWMAN: Well, the State
20 has introduced the work product of Dr. Nichols into
21 evidence, which is the autopsy.

22 MR. SUTHERLAND: Yes, sir.

23 THE HONORABLE CLIFTON NEWMAN: This witness is on
24 cross-examination, and the --- because the State has
25 introduced the autopsy through this witness, the

1 defense has a right to attack the credibility of the
2 evidence introduced by the State.

3 Whether he can pull out State v. Harley and ask
4 this witness about the history of that case and all of
5 that, I --- that may be going far afield, but broadly
6 on the --- on the question of whether or not he can
7 question this witness as to the soundness of the
8 conclusions of Dr. Nichols in doing the autopsy, there
9 is obviously some latitude permitted during
10 cross-examination.

11 MR. SUTHERLAND: Thank you, sir.

12 MS. CAMPBELL: As to this autopsy, Your Honor,
13 not specifically as to other cases that are not
14 involved in this case?

15 THE HONORABLE CLIFTON NEWMAN: Well, I don't know
16 what --- where he is going to go with it. I have to
17 --- I have to rule on an objection-by-objection basis.
18 I think the last objection probably should be
19 sustained.

20 I'll give him a chance to rephrase the question
21 more artfully, and then we'll see what goes from there.

22 MR. SUTHERLAND: Thank you, sir.

23 MS. CAMPBELL: Can we make a proffer of where he
24 intends to go, Your Honor? It's just kind of like the
25 bell can't be unrung.

1 MR. SUTHERLAND: Well, I just want to let the
2 jury know that he has competency issues, and that he's
3 --- of course, he's not present to testify, and then
4 ultimately, we're talking about his work. He's not
5 here to do it. That sort of stuff.

6 It is a fact. I believe it's established. You
7 know, the PCR --- the findings in the PCR are judicial
8 findings in a case. I mean, you can call them
9 opinions or --- but I mean, this is still substantial
10 as far as his competency. If he says somebody has a
11 gallbladder and they don't, then that's not too
12 competent, I don't think.

13 MS. CAMPBELL: They didn't cross-examine him on
14 the fact that there was a typographical error in his
15 autopsy.

16 THE HONORABLE CLIFTON NEWMAN: Well, one thing is
17 for sure ---

18 MS. CAMPBELL: And we ---

19 THE HONORABLE CLIFTON NEWMAN: One thing, for
20 sure, we're not going to try that case.

21 MR. SUTHERLAND: Oh, yes, sir; yes, sir.

22 THE HONORABLE CLIFTON NEWMAN: Is that the
23 one where --- that's the lady ---

24 MS. CAMPBELL: Yeah, that lady.

25 MR. SUTHERLAND: There was also a Daniel

1 McAllister.

2 MS. CAMPBELL: And I believe it's been dismissed
3 against most parties.

4 MR. SUTHERLAND: It's --- as far as I'm aware,
5 this is an order dismissing it against ---

6 MS. CAMPBELL: And at that point, Your Honor, I
7 think we're entitled to go into that they also
8 retained multiple experts to review it and all except
9 for their expert hired gun ---

10 THE HONORABLE CLIFTON NEWMAN: Yeah.

11 MS. CAMPBELL: --- agreed with him.

12 THE HONORABLE CLIFTON NEWMAN: Well ---

13 MR. SUTHERLAND: I'm not trying to ---

14 MS. CAMPBELL: That's how we go down the slippery
15 path, and that we retained four experts who agreed
16 with him.

17 THE HONORABLE CLIFTON NEWMAN: Well, I had to
18 rule on --- I'm not going to screen the testimony.
19 I'll rule on a question-by-question basis. When
20 there's an objection, I will...

21 We're going to take about five minutes or so.

22 MR. SUTHERLAND: Yes, sir.

23 THE HONORABLE CLIFTON NEWMAN: You may step down
24 if you like. Please do not discuss your testimony.

25 (WHEREUPON, a short break was taken.)

1 THE HONORABLE CLIFTON NEWMAN: All right. Let's
2 bring in the jury.

3 MS. McDUFFIE: Your Honor, the defendant is not
4 in the courtroom.

5 THE HONORABLE CLIFTON NEWMAN: That's right.

6 MR. SUTHERLAND: May it please the Court, sir.
7 There is an issue that came to my attention during the
8 break.

9 THE HONORABLE CLIFTON NEWMAN: All right.

10 MR. SUTHERLAND: My client has a spider bite, and
11 he is asking for some kind of medical attention. I
12 don't know if it bit him downstairs or what, but that
13 was communicated to me.

14 THE HONORABLE CLIFTON NEWMAN: All right. Does
15 anybody have anything, Neosporin? That's what we use
16 on everything.

17 THE BAILIFF: I will check in the clerk's office.
18 There is a kit.

19 THE COURT REPORTER: I may have some in my desk
20 upstairs. I can look. There is at least a Band-aid.

21 THE HONORABLE CLIFTON NEWMAN: Well, are you
22 going to check for something?

23 THE BAILIFF: Yes, I'm going to the clerk's
24 office. They should have a kit.

25 THE HONORABLE CLIFTON NEWMAN: All right.

1 MR. SUTHERLAND: It's about that big, and there's
2 like a red thing on the top. I've never been bitten
3 by a spider.

4 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

5 THE DEFENDANT: Thank you, sir.

6 Alvin S. Glenn is built on a swamp. A lot of
7 people get these spider bites and stuff like that, and
8 mine occurred on Monday night.

9 The night before, Tuesday night, that's when I
10 noticed it. It was very painful, and I couldn't get
11 no sleep. Last night it was a little worse, so I
12 asked my --- the captain this morning, and he said to
13 present it to the Court.

14 THE HONORABLE CLIFTON NEWMAN: All right.

15 THE DEFENDANT: It's very difficult because like,
16 I got the shackles on and it hurts. It hurts real bad.

17 THE HONORABLE CLIFTON NEWMAN: All right.

18 MR. SUTHERLAND: That's just my notification to
19 the Court. I hope it can be looked at or something.

20 THE HONORABLE CLIFTON NEWMAN: Well, you know,
21 it's --- at this point, it's 4:30, and it's been
22 brought to my attention.

23 I think we'll try to get through the day, and
24 then give some kind of instruction for someone to try
25 to help him get it checked.

1 Do they have doctors at the jail or...

2 MR. SUTHERLAND: They do. They do have medical
3 at the jail.

4 THE DEFENDANT: Yes, but the doctors leave at
5 six o'clock, but they got like nurses that will give a
6 call. They're on call all night.

7 THE HONORABLE CLIFTON NEWMAN: Well, we'll send
8 some special instructions up there that he has to have
9 some kind of medical attention tonight ---

10 THE DEPUTY: If I may, Judge.

11 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

12 THE DEPUTY: This is my first time hearing about
13 it. I don't know anything about it.

14 MR. SUTHERLAND: Well, me --- me neither. I
15 think it's gotten to the point where he's starting to
16 feel like he hurts pretty bad.

17 THE HONORABLE CLIFTON NEWMAN: Well, all right.

18 THE DEPUTY: Is it some kind of thing he can work
19 out with medical down at the jail?

20 THE HONORABLE CLIFTON NEWMAN: All right. Well,
21 we're going to send a Court Order for him to be
22 checked out tonight.

23 THE DEPUTY: Yes, sir.

24 THE HONORABLE CLIFTON NEWMAN: And that might
25 speed something up.

1 MR. SUTHERLAND: Thank you, sir.

2 THE HONORABLE CLIFTON NEWMAN: All right. Let's
3 bring them on.

4 (WHEREUPON, the jury came into open court at
5 approximately 4:30 p.m.)

6 THE BAILIFF: The jurors are present, Your Honor.

7 THE HONORABLE CLIFTON NEWMAN: All right.

8 Mr. Foreman, how is the jury doing?

9 THE FOREMAN: Good.

10 THE HONORABLE CLIFTON NEWMAN: Good. All right.
11 Let's press on. You may continue.

12 MR. SUTHERLAND: Yes, sir.

13 BY MR. SUTHERLAND:

14 Q Okay. Mr. Watts, I'll just back up a little bit.
15 You testified earlier that the reports are --- it's
16 the information that you use to base your conclusions
17 on the reports that are submitted to you?

18 A Lots of different reports, yes, sir. Reports,
19 results of testing that's done from different labs,
20 incident reports from law enforcement agencies,
21 witness statements, all of that; yes, sir.

22 Q Yes, sir. Okay.

23 Are there any issues about the soundness of
24 Dr. Nichols' conclusions that you are aware of?

25 A No, sir.

1 Q Are you aware of any pending matters in any court
2 in that regard?

3 A That would have anything to do with the soundness
4 of his conclusions, no, sir, I am not.

5 MR. SUTHERLAND: Okay. Briefly, Your Honor, may
6 we --- may we approach briefly, sir?

7 THE HONORABLE CLIFTON NEWMAN: Proceed, sir.

8 BY MR. SUTHERLAND:

9 Q Okay. I have a --- well, I'll just ask you, are
10 you familiar with the case of State vs. Bejay Harling?

11 A I am.

12 Q Are you familiar with the case of ---

13 MS. CAMPBELL: Objection, Your Honor. May we
14 approach pursuant to your earlier ruling?

15 THE HONORABLE CLIFTON NEWMAN: He's answered the
16 question. What's the next question?

17 MR. SUTHERLAND: I have no further questions,
18 Your Honor, thank you.

19 THE HONORABLE CLIFTON NEWMAN: All right.
20 Anything further from the State?

21 MS. CAMPBELL: We don't have anything further of
22 this witness, Your Honor.

23 THE HONORABLE CLIFTON NEWMAN: You may step down.

24 THE WITNESS: Am I excused, Your Honor?

25 THE HONORABLE CLIFTON NEWMAN: You are.

1 THE BAILIFF: All right.

2 THE HONORABLE CLIFTON NEWMAN: Next witness,
3 please.

4 MS. SIMPSON: The State called April Haltiwanger.

5 MS. CAMPBELL: She's sequestered, Your Honor.
6 We'll get her.

7 THE HONORABLE CLIFTON NEWMAN: All right.

8 (Pause)

9 APRIL HALTIWANGER,
10 after being duly sworn, testified as follows:

11 THE CLERK: Thank you. Have a seat in the
12 witness stand, please.

13 THE BAILIFF: Okay. We've got to be able to hear
14 you. Watch your step down. You've got a soft voice.
15 You need to speak up.

16 THE CLERK: State your name for the record.

17 THE WITNESS: April Haltiwanger.

18 DIRECT EXAMINATION:

19 BY MS. SIMPSON:

20 Q Ms. Haltiwanger, where do you work?

21 A At the Corner Pantry.

22 Q And back in late January of 2009, early February
23 of 2009, where were you working?

24 A I managed First Cash Pawn on Broad River.

25 Q Okay. As a manager at First Cash Pawn, what were

1 some of your responsibilities?

2 A Open and close the store, approve loans, looked
3 at jewelry that customers was bringing in.

4 Q Were you there pretty often?

5 A Six days a week.

6 Q Six days a week. And did you oversee other
7 employees while you were there?

8 A Uh-huh.

9 Q Was that part of your responsibilities?

10 A Yeah.

11 Q And at a pawnshop, can you just explain the
12 typical procedure with respect to your shop? What
13 goes on when a person pawns an item?

14 A A customer will come in. They will give us an
15 item to look at, let us know if they want to pawn it
16 or sell it. At that time, we'll estimate the value of
17 what they have and offer them the amount that is
18 allowed on the item.

19 Q Okay. And once they decide to pawn it, what do
20 you do then?

21 A Once they decide to pawn or sell it, we are
22 required to ask for identification. We make sure all
23 the information --- if they're approved as a customer,
24 we check to verify if all the information is still
25 current. If not, we add the information in there.

1 Q Okay. So once they present their ID ---

2 A Uh-huh.

3 Q --- that information is in your computer systems?

4 A Uh-huh.

5 Q And I believe you said it was required?

6 A It was per the State of South Carolina that you
7 have to show ID if you pawn or sell any item.

8 Q And with respect to the property that is pawned,
9 what are the requirements once you receive that item
10 after a person decides to pawn it?

11 A Well, if it's pawned, we hold it in pawn until
12 the customer themselves [sic] requires a show of ID
13 to pick it up, or if they sell it to us, we're
14 required by the state of South Carolina to hold it for
15 at least 12 days. Just, for instance, if it's
16 reported as stolen or anything like that, so they have
17 time to investigate it and come back to look at those
18 items.

19 Q Okay. So within less than 12 days, those items
20 have not made it to the floor ---

21 A No, ma'am.

22 Q --- to be pawned or sold?

23 A No. Once they come in, they're put in a sealed
24 envelope by the employee, put in a lock under the
25 front counter. At the end of that day, I take them

1 out. I go over them.

2 I mark the items just to make sure everything is
3 there that was supposed to have been brought in that
4 day, and then they are took straight to the actual
5 vault.

6 Q And that vault is secured, as well?

7 A Uh-huh.

8 Q And once they pawn the item, is a receipt given
9 or anything to the actual customer, and do y'all
10 retain a document of that transaction?

11 A Yeah. All hard copies are kept for three years,
12 and there's a copy given --- a signed copy given to
13 the customer.

14 Q And do you have surveillance at that location?
15 Was there surveillance?

16 A Yeah, about between 15 and 18 cameras.

17 Q Fifteen to 18 cameras?

18 A Uh-huh.

19 Q And what do those cameras record? Is it the
20 inside, the outside, the transaction?

21 A They record the back of the warehouse. They do
22 record the safe where the jewelry is kept. They
23 record the sales floor, the pawn counters, and the
24 parking lot.

25 Q Okay. And are these videos actually kept in your

1 local facility?

3 Q Can you explain a little bit about how they're
4 kept?

5 A It's actually recorded to --- remote access
6 recorded to a hard --- a hard drive in our corporate
7 office in Austin, Texas.

8 Q Okay. And do you have access to review the video
9 even though it's stored in another location?

10 A Yeah. We can --- we can review the video up to
11 like 30 days, but after that, even if we wanted to
12 review video, we have to request the video to be
13 downloaded so we can look at it.

14 Q And there is no way --- or is there any way to
15 tamper or alter that video?

16 A No.

17 Q And does that video accurately reflect what it
18 records?

19 A Yeah. Actually, when I have to --- when I had to
20 record something, they would tell me to put a blank CD
21 into --- it's a lock box but actually, it will shoot a
22 CD pocket out. I put a CD in and push it in. I would
23 actually have to request a time, date, what camera
24 that needed to be recorded. They would remote access
25 everything, download it, and then they would send a CD

1 out to me.

2 Q Okay. Because it's recording pretty much
3 everything ---

4 A Uh-huh.

5 Q --- that goes on?

6 A Uh-huh.

7 Q And do you recall being contacted by law
8 enforcement on February 2nd of 2009?

9 A I do.

10 Q And were you requested to pull two items pawned
11 by the defendant, Elbert Wallace?

12 A I do.

13 Q Beg the Court's indulgence.

14 (Pause)

15 I'm going to show you what's already in evidence
16 as State's Exhibit 67, a gold ring and a cross. Would
17 these be the items that you pulled?

18 A They are.

19 Q And there's a pawn receipt in here. Would it
20 help to be able to look at it, or can you see it
21 through the plastic?

22 A It should have his name up here, the location
23 where he pawned it, the items and the description here.
24 It would be his signature here in the middle stating
25 that those items did belong to him, and this would

1 have been the pawn clerk's...

2 Q Okay. We'll go ahead and open that up so you can
3 see it.

4 (Pause)

5 Well, we'll attempt to open it up.

6 Do we have scissors?

7 (Pause)

8 I'm going to hand you this pawn receipt with the
9 jewelry attached.

10 A Uh-huh.

11 Q So that's the pawn receipt that he would have
12 been given?

13 A Yes, ma'am.

14 Q And can you tell us what items are listed on
15 there?

16 A There's a three-prong ring of 14-carat gold, and
17 there is a 14-carat gold necklace.

18 Q And the defendant's signature, is that Elbert
19 Wallace listed?

20 A Uh-huh.

21 Q And would the information on that pawn receipt
22 come from the ID that was given?

23 A Yes, ma'am.

24 Q And it's the same information. That's where you
25 get it? What value? What was the value of the items

1 and then what did the defendant actually receive for
2 pawning those?

3 A He received \$32.

4 Q Thirty-two dollars for this gold ring and the
5 necklace?

6 A Uh-huh.

7 Q Thank you.

8 Now, moving back to the video surveillance, you
9 were able to retrieve a copy for law enforcement,
10 correct?

11 A Uh-huh.

12 Q And you turned --- you collected that video and
13 then turned it over to law enforcement?

14 A Yes, ma'am.

15 Q And have you seen this before?

16 A Yes, ma'am.

17 Q And what is that?

18 A That's a copy of the actual time when he came in
19 to pawn those items.

20 Q And what was the date on that, January 31st?

21 A Yeah.

22 Q 2009?

23 MS. SIMPSON: Your Honor, at this time, the State
24 would seek to introduce Exhibit 400 into evidence.

25 MR. SUTHERLAND: Objection, foundation, Your

1 Honor.

2 THE HONORABLE CLIFTON NEWMAN: All right. Any
3 response to the objection?

4 MS. SIMPSON: Your Honor, at this time, she has
5 testified that it was maintained in her store. She
6 has testified about the maintenance of this
7 surveillance video, how it's recorded, how it's
8 collected, and that she did, in fact, collect this at
9 the request of law enforcement and that this is a copy
10 of what they received.

11 THE HONORABLE CLIFTON NEWMAN: Yes, sir?

12 MR. SUTHERLAND: And, Your Honor, I believe her
13 testimony was that the custodian of records is in
14 Texas, and they have to submit a special request to
15 get any video, sir.

16 So it's --- my position is the custodian of
17 records in this case is in Texas.

18 THE HONORABLE CLIFTON NEWMAN: Okay.

19 MS. SIMPSON: The actual record itself, Your
20 Honor, is maintained by this witness. I believe she
21 said that it is also recorded and maintained on a hard
22 drive at corporate headquarters.

23 However, that information is accessible. She
24 went through that, and the actual physical record of
25 the surveillance is --- was maintained and developed

1 by her and her office.

2 THE HONORABLE CLIFTON NEWMAN: All right.

3 MS. SIMPSON: So she is the proper custodian.

4 MR. SUTHERLAND: I recall her testifying she had
5 to request it, sir.

6 THE HONORABLE CLIFTON NEWMAN: All right. The
7 objection is overruled.

8 MR. SUTHERLAND: Thank you, sir.

9 MS. SIMPSON: Thank you, Your Honor.

10 (WHEREUPON, State's Exhibit No. 400 was admitted
11 into evidence.)

12 BY MS. SIMPSON:

13 Q And you don't know the defendant personally?

14 A No, ma'am.

15 MS. SIMPSON: Okay. That's all the questions I
16 have for this witness.

17 MR. SUTHERLAND: Your Honor, I have no questions
18 of this witness.

19 THE HONORABLE CLIFTON NEWMAN: You may step down.

20 THE BAILIFF: Watch your step when you step down,
21 ma'am. Watch your step down. Okay.

22 THE HONORABLE CLIFTON NEWMAN: The next witness?

23 MS. SIMPSON: The State called Brian Gwyn.

24 May we approach?

25 THE HONORABLE CLIFTON NEWMAN: Yes.

1 (WHEREUPON, a bench conference was held in the
2 presence, but not within hearing of the jury.)

3 MS. SIMPSON: The State calls Brian Gwyn.

4 BRIAN GWYN,

5 after being duly sworn, testified as follows:

6 THE CLERK: Thank you. Have a seat in the
7 witness stand, please.

8 THE BAILIFF: Okay.

9 THE CLERK: State your name for the record.

10 THE WITNESS: Brian Gwyn.

11 DIRECT EXAMINATION:

12 BY MS. SIMPSON:

13 Q Investigator Gwyn, where do you work?

14 A The Richland County Sheriff's Department.

15 Q And what do you do there?

16 A I'm currently assigned to the narcotics unit for
17 Richland County.

18 Q And can you tell us a little bit about how long
19 you've been with Richland County?

20 A I'm going into my seventh year with the sheriff's
21 department.

22 Q And have you been with narcotics the entire time,
23 or have you done other things?

24 A No, ma'am. I was currently reassigned to
25 narcotics about three months ago. Prior to that, I

1 was with the robbery unit, also a primary homicide
2 investigator.

3 Q Okay. And as homicide investigator, can you tell
4 the jury what you do?

5 A When you're a primary homicide investigator,
6 there's approximately eight primary homicide
7 investigators in the Criminal Investigative Division.

8 Every eight weeks, we go rotation for a homicide
9 call. That would be if there is a homicide, such as
10 this, they would call us out. We would begin an
11 investigation into that homicide. They would also
12 assign a secondary homicide investigator to assist.

13 Q And prior to your experience --- I believe you
14 said you've been with the sheriff's department for
15 seven years, what did you do?

16 A Basically, since I've been with the sheriff's
17 department, I've been in investigations. I
18 investigate anything from property crimes, such as
19 theft from automobiles, burglaries, homicides, arsons.

20 Q And prior to coming to Richland County?

21 A I worked at the Forest Acres Police Department.

22 Q Okay. And do you have any prior work experience
23 outside of that?

24 A I've been in law enforcement since I got out of
25 the Marine Corps in 1996. I worked at the county jail

1 and then started into law enforcement.

2 Q Okay. So about 14, 15 years ---

3 A Yes, ma'am.

4 Q --- total experience. And back on --- late
5 January, early February 2009, what capacity were you
6 working in?

7 A I was a burglary investigator and a primary
8 homicide investigator.

9 Q And did you have occasion to become involved in
10 this case against the defendant, Elbert Wallace?

11 A I did.

12 Q And when did you become involved?

13 A I was contacted on February 1st, 2009, by Captain
14 Smith, who is now Major Smith, and asked to assist or
15 stand by and possibly be on call to assist with a
16 homicide investigation that had occurred on
17 January 31st.

18 Q And did they need your assistance eventually?

19 A They did. He called back later in the day and
20 stated they had a person of interest and that he would
21 need my assistance on the following Monday, the 2nd.

22 Q Okay. So on the 2nd when you were briefed, what
23 did you do?

24 A I was briefed by Sergeant Isenhoward, who was the
25 actual primary investigator on the case, who stated

1 that they had a person of interest, Elbert Wallace,
2 who was arrested for a home invasion at Carolyn Webb's
3 residence at Winyah, which occurred around the
4 time the homicide occurred.

5 Q And during your briefing, did you happen to learn
6 anything that would have led you to your next course
7 of action?

8 A During the briefing, we learned that during the
9 homicide/robbery of Ms. Derrick, that her jewelry had
10 been disturbed ---

11 MR. SUTHERLAND: I'm sorry. That is hearsay as
12 to what he learned during the briefing. I don't
13 believe that briefing was anything that was previously
14 testified to.

15 MS. SIMPSON: Your Honor, if I may, I believe
16 this is admissible for purposes of explaining the next
17 step throughout the course of his investigation.
18 We're not offered it for the truth of the matter
19 asserted.

20 THE HONORABLE CLIFTON NEWMAN: Sir?

21 MR. SUTHERLAND: Just the same objection, Your
22 Honor.

23 THE HONORABLE CLIFTON NEWMAN: All right. Let me
24 hear the question again, please.

25 BY MS. SIMPSON:

1 Q Did you learn anything that would have assisted
2 you in, I guess, the next step in the course of your
3 investigation?

4 A During the investigation, it was learned that her
5 jewelry had been disturbed. Her jewelry box had been
6 looked through, which indicates there is a possibility
7 that her property had been stolen.

8 Q And as a result of that information, what did you
9 do?

10 A We have a system, called LeadsOnline, which
11 checks on databases, pawn databases, with local
12 pawnshops, so if you sell something, it goes into the
13 database. I entered Mr. Elbert Wallace's information
14 into the database and found where he sold a ring and a
15 necklace.

16 MR. SUTHERLAND: Objection, Your Honor. That's
17 hearsay, the --- as far as the database.

18 THE HONORABLE CLIFTON NEWMAN: The objection is
19 overruled.

20 MR. SUTHERLAND: Thank you, sir.

21 THE WITNESS: And I learned that he had --- when
22 I entered his name into that system, I found that he
23 had sold a ring and necklace that he pawned just a few
24 hours prior to Ms. Derrick's body being found.

25 BY MS. SIMPSON:

1 Q At that point, I guess during this same day after
2 entering that information, did you do something else;
3 did you happen to visit the crime scene?

4 A I did. Generally when we work a homicide, I go
5 to the scene to get an idea of what may have occurred.
6 At that point, when we entered Ms. Derrick's residence
7 at Winyah Drive, I observed that there's blood
8 leading from the door to the living room, back to the
9 bedroom and from her bedroom back to the bathroom.

10 Q So crime scene was still there and you observed
11 these things?

12 A Yes. Stan --- Sergeant Stan Richards and
13 Investigator Bouknight were there processing the scene
14 when we arrived.

15 Q And you say we. Who were you with?

16 A Sergeant Isenhoward.

17 Q What did you all do after you left Ms. Derrick's
18 home?

19 A When we left from there, we had called First Cash
20 Pawn and asked them to hold the property that
21 Mr. Wallace had sold. We went there and made contact
22 with Ms. --- the manager, April Haltiwanger, and asked
23 her to pull the two items that Mr. Wallace had sold.

24 Q Okay. And this is --- is all of this still on
25 February 2nd ---

1 A It is.

2 Q --- 2009? And once you met with Ms. Haltiwanger,
3 did she actually pull those items for you?

4 A She did. She already had them set to the side
5 for me, and they were in a white envelope together.

6 Q Okay. And I'm showing you State's Exhibit 67.
7 Are these the items that she handed to you?

8 A They are.

9 Q And did she also hand you the pawn receipt?

10 A She did.

11 Q And can you tell us the time that's indicated on
12 that receipt for the pawn of these items or the date?

13 A It shows date January 31st, 2009. The time is
14 17:59, which is 5:59 in the evening.

15 Q Now --- and 5:59, is that long after
16 Ms. Derrick's body was discovered?

17 A I'm not quite sure.

18 Q Or prior to? Is it on the same day?

19 A It is.

20 Q In addition to actually receiving the items that
21 the defendant pawned, were you able to review anything?

22 A Investigating burglaries --- I had an instance to
23 go to this pawnshop on several occasions to recover
24 stolen property and knew they had surveillance video
25 inside this business.

1 We actually we able to look at the video. I
2 believe Ms. Haltiwanger had it cued up for us already
3 to the times. It shows Mr. Wallace come through the
4 door and approach the counter with the items and
5 making a transaction.

6 Q And what did you observe when you viewed this
7 video?

8 A We observed him pull up in the parking lot in a
9 blue and black two-tone Isuzu Amigo, which we later
10 learned belonged to his sister, Vernel Wallace.

11 We had observed him go to the counter, actually
12 make the transaction with the employee and receive
13 money, sign the slip and then leave.

14 Q Okay. So you were able to observe that actual
15 transaction, as well as him pulling up?

16 A Yes, ma'am.

17 Q And did you actually receive a copy of that video?

18 A We did. We had to wait, based on the fact that
19 she had to access that through her office in Texas.

20 We were actually able to view the actual video
21 there in her office, but it was recorded through the
22 corporate office in Texas at that location.

23 Q Okay. And so later on that day would have been
24 when you ---

25 A Yeah. We went back later that afternoon and

1 picked up the video.

2 MS. SIMPSON: And beg the Court's indulgence just
3 for a moment.

4 THE HONORABLE CLIFTON NEWMAN: Sure.

5 MS. SIMPSON: We're cuing it up. I don't know...
6 We probably need about two minutes, Your Honor.

7 THE HONORABLE CLIFTON NEWMAN: All right. Ladies
8 and gentlemen, we'll take a short break. Please go to
9 your jury room just for a few minutes.

10 (WHEREUPON, the jury left open court at
11 approximately 4:55 p.m.)

12 THE HONORABLE CLIFTON NEWMAN: Mr. Sutherland,
13 I've secured from the court's first aid kit, some
14 first-aid antibiotic ointment, a cleansing wipe and
15 Band-aid. I'll pass those on to you.

16 MR. SUTHERLAND: Yes, sir.

17 THE HONORABLE CLIFTON NEWMAN: If you want to
18 play doctor.

19 MR. SUTHERLAND: All right. Thank you, Your
20 Honor.

21 THE HONORABLE CLIFTON NEWMAN: I'll send a note
22 to Captain Redmond regarding the --- his situation.

23 MR. SUTHERLAND: Excellent. Thank you, sir.

24 (Pause)

25 MS. McDUFFIE: We're ready, Your Honor.

1 THE HONORABLE CLIFTON NEWMAN: Ready? All right.

2 (WHEREUPON, the jury came into open court at
3 approximately 5:02).

4 THE BAILIFF: Jurors are present, Your Honor.

5 BY MS. SIMPSON:

6 Q Briefly, I have to backtrack. I believe you said
7 this was obtained from corporate headquarters in Texas.
8 Would this video that we are about to view be on our
9 time or another time?

10 A It's actually recorded on the time in Texas, so
11 it's an hour behind ours.

12 Q Okay.

13 MS. SIMPSON: Permission for the witness to step
14 down, Your Honor?

15 THE HONORABLE CLIFTON NEWMAN: Yes.

16 BY MS. SIMPSON:

17 Q And we're going to go through these clips. We
18 have several different camera angles, and if you can
19 just kind of tell the jury what we're seeing as we go
20 through this.

21 A This is going to be the side parking lot for
22 First Cash Pawn. This is the front portion facing
23 Broad River Road of the pawnshop.

24 Q And there is no audio on it?

25 A No. There's no audio.

1 (Pause)

2 Here, this is going to be the vehicle that
3 Mr. Wallace showed up in, the Isuzu Amigo. It's a
4 two-tone blue and black vehicle.

5 Q And who did that vehicle actually belong to?

6 A To his sister, Vereen.

7 Q And you all were able to confirm that?

8 A We did.

9 Q And this is Mr. Wallace exiting the vehicle and
10 entering the pawnshop.

11 Q What was he wearing?

12 A He was wearing a red ball cap and a
13 multicolored --- appeared to be a Nike overcoat.

14 Q Okay. We're going we're going to go to the next
15 camera. Okay. Now, if you could just tell us what
16 we're seeing here.

17 A This here is the lobby, main lobby and front door
18 to the pawnshop, that faces out to Broad River Road.
19 This here is the window to the side of the business
20 where Mr. Wallace pulled up in the vehicle. He'll
21 enter through this door here shortly.

22 (Pause)

23 There is a quick shot. You'll see Mr. Wallace in
24 his red ball cap, jacket, and shorts.

25 Q And we'll backtrack.

1 And he's wearing a red hat?

2 A Yes, ma'am.

3 And there is Mr. Wallace in the red ball cap
4 entering the store at the front of the business.

5 Q And the date on this is January 31, 2009?

6 A Yes.

7 Q It says 16:42.

8 A Yes.

9 Q What time is that in our time?

10 A In our time, it's 4:42.

11 Q Okay. But this is actually an hour ---

12 A Off.

13 Q Off. So it would be 3:42 in the afternoon here
14 --- or 5:42, my apologies.

15 A Yes, yes.

16 Q I'm a little off on my times.

17 We'll go ahead and move to the third camera. Can
18 you describe for us what we're seeing here?

19 A This is actually the front counter. There's two
20 front counters and the space to enter in between to go
21 to the back of the business.

22 This is the counter to the right as you enter the
23 business, and this is Mr. Wallace waiting at the
24 counter. Typically, what they'll do --- this
25 particular pawnshop stays fairly busy. You'll wait in

1 line to make your transactions. Once the next person
2 is up, they come and make contact with the store
3 employee.

4 Q This is Mr. Wallace approaching the counter
5 waiting to be helped by the next employee.

6 Here he has handed the items to the store
7 employee. He's actually taking a look at them to see
8 what the value is and what the decision is on what
9 will be paid out on those items.

10 Q So at this point, the cashier is just following
11 some of the procedures that we just heard
12 Ms. Haltiwanger testify to?

13 A Yes, ma'am.

14 You can see the necklace as it's displayed out on
15 the countertop. The items are kind of small in
16 relationship to the counter, so it's kind of hard to
17 see. Now he'll get his ID and start the paperwork.

18 This is where the defendant will produce his ID
19 so they can document who he is and the fact that he is
20 identifying that the jewelry belongs to him.

21 You'll see when the employee picks up the
22 necklace, he actually has to raise it up and there's a
23 cross attached to it. They drop it down into the
24 envelope itself with the ring.

25 And this is where the pawn slip that you were

1 showing earlier and Mr. Wallace signing a slip stating
2 that that jewelry does, in fact, belong to him.

3 Q So he's actually signing attesting, "This is my
4 jewelry"?

5 A Yeah. I believe at the bottom of the slip, it
6 states that you are signing that slip saying that that
7 jewelry does, in fact, belong to you.

8 And he just received the money for the
9 transaction and left the store.

10 Q All right. So he actually completed this
11 transaction on January 31, 2009, around six o'clock?

12 A 6:01 in the evening.

13 Q Our time?

14 A Yes, ma'am.

15 Q Thank you. You can have a seat.

16 Now, this jewelry that belonged to Ms. Derrick,
17 how were you all able to confirm that that was, in
18 fact, her jewelry?

19 A Myself and Sergeant Isenhoward, along with the
20 victim's advocate, set up a meeting with the family
21 members so we could show them the jewelry to get a
22 positive ID.

23 When we showed the necklace and the ring to
24 Ms. Derrick's daughter, Denise, at that time she
25 became extremely ---

1 MR. SUTHERLAND: Objection.

2 THE WITNESS: She began crying.

3 MR. SUTHERLAND: Relevance.

4 THE HONORABLE CLIFTON NEWMAN: The objection is
5 overruled.

6 THE WITNESS: It was --- you could tell that she
7 could immediately identify that jewelry as belonging
8 to her mother.

9 She was just extremely upset, stated that was
10 something she wore all the time. She wore the
11 necklace every day, and they were actually able to
12 produce photographs ---

13 MR. SUTHERLAND: Objection. That's hearsay, Your
14 Honor.

15 THE HONORABLE CLIFTON NEWMAN: The objection is
16 overruled.

17 MR. SUTHERLAND: Thank you, sir.

18 THE WITNESS: They were able to produce
19 photographs.

20 BY MS. SIMPSON:

21 Q State that one more time. I'm sorry.

22 A She stated that he was jewelry her mother wore
23 every day. It was something she kept with her
24 religiously, and she that actually produced
25 photographs showing us that she did, in fact, wear

1 that necklace frequently.

2 Q And at some point after you had the pawnshop
3 video and the jewelry had been identified, did you
4 obtain warrants for the defendant?

5 A We did. We were able to obtain murder warrants
6 and armed robbery warrants for Mr. Wallace, the
7 defendant, and we served them on him at the detention
8 center.

9 Q And I am showing you State's Exhibit 399. Oh,
10 actually, let me back up just a second. Did you all
11 --- what --- did you all obtain a search warrant for
12 the defendant's home?

13 A We did. We obtained a second search warrant for
14 the home of the defendant.

15 Q I'm showing you State's Exhibit 399. Do you
16 recognize this?

17 A Yes. It's, indeed, items that we collected
18 during the second search warrant.

19 Q So this is the items, including the defendant's
20 clothing?

21 A That's correct.

22 MS. SIMPSON: Your Honor, at this time, the State
23 would seek to introduce State's Exhibit 399 into
24 evidence.

25 THE HONORABLE CLIFTON NEWMAN: Any objection?

1 MR. SUTHERLAND: No objection, sir.

2 THE HONORABLE CLIFTON NEWMAN: Without objection,
3 it's admitted.

4 (WHEREUPON, State's Exhibit No. 399 was admitted
5 into evidence.)

6 BY MS. SIMPSON:

7 Q And so these are the items that you collected
8 from the second search warrant in the home?

9 A That's correct.

10 Q Of the defendant's home. Do you recall where
11 that was located?

12 A It's going to be Denny Road.

13 Q Denny Road. And where is that in relation to
14 Winyah Drive?

15 A It actually intersects with Winyah.

16 Q Okay. And how far would that location be from
17 Ms. Derrick's home?

18 A Maybe a block, a block or two.

19 Q And Ms. Webb's home?

20 A Within the same distance.

21 Q And is that nearby Apache Drive, as well?

22 A I believe so, yes, ma'am.

23 Q And if you'd like a pair of gloves.

24 (Pause)

25 Okay. If you would come over here and just

1 explain to us what was ---

2 A All right. Any items that we collect with our
3 search warrant are generally bagged individually as
4 identification purposes, and in this bag is keys found
5 in a lock box near the door. They were found by
6 Sergeant Isenhoward.

7 The defendant's house is basically a small
8 building. Basically, a one-room building from what I
9 can recall, so it's not very large. Any time we find
10 something, we identify the person who found it and
11 where it was located. So these keys were located in a
12 lock box near the door by Sergeant Isenhoward.

13 Q Okay. And then placed into this box?

14 A Yes. I'll take them out.

15 Q I want to backtrack just a minute. I believe you
16 said the defendant's home is actually a --- I guess a
17 one-room building. Was it the primary home at the
18 location?

19 A No. It's a --- there's a house, and then it's
20 kind of a garage that was made into a home, from what
21 I can recall.

22 Q And who lived at that home, the actual primary
23 residence?

24 A I believe it was his sister Vereen did and some
25 other family members. The defendant lived in this

1 particular location that we served him by himself.

2 Q So you all searched his residence?

3 A That's correct.

4 Q Okay.

5 A The second item in the box is a Nike windbreaker
6 found by myself inside the residence, which we believe
7 is going to be the same jacket that he was wearing at
8 the time depicted in the video at the pawn shop.

9 Q Okay. And these were collected --- on what date
10 did you execute the search warrant?

11 A February 4th, 2009. In this bag is disposition
12 records and a bottle of medication found by Captain
13 Smith, records belonging to the defendant himself
14 identifying the fact that we were at his residence,
15 medication for a Tameka Green.

16 Also in this bag was jewelry found by Sergeant
17 Isenhoward on a table and matchsticks found in an
18 ashtray by myself.

19 Q And what was important --- the importance of the
20 matchsticks? What did you all believe the importance
21 to be?

22 A The importance of the matchsticks were --- we
23 noticed that during the church burglary, that there
24 was a ---

25 MR. SUTHERLAND: Objection, hearsay. There's no

1 testimony that matches were taken from the church, sir.

2 THE HONORABLE CLIFTON NEWMAN: All right. Ms.
3 Simpson?

4 MS. SIMPSON: Your Honor, I believe we do have
5 testimony that matchsticks were taken from the church
6 from one, if not two witnesses.

7 THE HONORABLE CLIFTON NEWMAN: Mr. Sutherland?

8 MR. SUTHERLAND: She had testified there was some
9 candy missing or something and that maybe they were
10 moved, but she didn't testify that they were taken;
11 that the matches were taken from the church.

12 MS. CAMPBELL: She said she didn't see them
13 anymore.

14 MR. SUTHERLAND: Well, she didn't see them
15 anymore is not the same as someone took them. I mean,
16 if I put them in my pocket, it doesn't mean I took
17 them.

18 MS. SIMPSON: Your Honor, there is a reasonable
19 inference that the matches were drawn from that
20 location.

21 THE HONORABLE CLIFTON NEWMAN: All right.

22 MS. SIMPSON: And I believe I asked the
23 investigator what would the importance of matchsticks
24 be to their investigation.

25 THE HONORABLE CLIFTON NEWMAN: All right.

1 Anything else?

2 MR. SUTHERLAND: Same objection, sir.

3 THE HONORABLE CLIFTON NEWMAN: All right. The
4 objection is overruled.

5 THE WITNESS: And I'll back up briefly. During
6 our investigation, we did have a chance to go by the
7 church, speak with the pastor there Ms. Christianson,
8 and she stated that ---

9 MR. SUTHERLAND: That's hearsay. She did not
10 testify.

11 THE HONORABLE CLIFTON NEWMAN: That objection is
12 sustained as to what the pastor said.

13 THE WITNESS: We noted that ---

14 BY MS. SIMPSON:

15 Q As A result of what the pastor said, what did you
16 do?

17 A We noted that ---

18 Q Or were you looking for?

19 A Matchsticks, which was also found ---

20 MR. SUTHERLAND: It's still hearsay, Your Honor.

21 THE HONORABLE CLIFTON NEWMAN: The objection is
22 overruled.

23 MR. SUTHERLAND: Thank you, sir.

24 THE WITNESS: --- which was found in the victim's
25 car, in Ms. Derrick's car, which was consistent with

1 what was found in the home of the defendant.

2 BY MS. SIMPSON:

3 Q Thank you.

4 And do you see the person in the courtroom that
5 you actually arrested or served arrest warrants on for
6 the murder of Linda Derrick, as well as the burglary
7 of her home?

8 A I do. It's the individual sitting at the defense
9 table in the middle.

10 MS. SIMPSON: Thank you.

11 THE HONORABLE CLIFTON NEWMAN: Cross-examination?

12 MR. SUTHERLAND: May it please the Court.

13 CROSS-EXAMINATION:

14 BY MR. SUTHERLAND:

15 Q Investigator Gwyn, how are you?

16 A Good, sir.

17 Q Just a couple of things here. I noted that you
18 had testified with respect to this windbreaker that we
19 believe is the one from the video, and that's just ---
20 you don't know that?

21 A It looks similar to the one that he was wearing
22 in the video.

23 Q Okay. And that you believe that's him in the
24 video?

25 A It looks like the defendant in the video, yes.

1 Q Okay. And --- oh, okay. You went --- I looked
2 in your report. You went and talked to Ms. Blizzard.
3 I don't think that --- you talked to Ms. Blizzard, is
4 that correct, to get --- to get keys from her?

5 A That is correct. We went by Ms. Blizzard's house
6 to obtain keys to Ms. Webb's house.

7 Q Okay. And the reason was that you needed to go
8 back to Ms. Webb's place because somebody had broken
9 into her home while she was in the hospital; is that
10 correct?

11 A That's correct.

12 Q And on February 9th, you and Investigator
13 Isenhoward met with Dennis Black; is that right?

14 A That's correct.

15 Q Was this at a community meeting or after a
16 community meeting?

17 A It was not at a community meeting.

18 Q Okay. Were you present at a community meeting
19 that was held?

20 A No, I was not.

21 MR. SUTHERLAND: Okay. No further questions.
22 Thank you.

23 MS. SIMPSON: Briefly, Your Honor.

24 REDIRECT EXAMINATION:

25 BY MS. SIMPSON:

1 Q I first want to --- I believe the defense asked
2 you --- or stated that it looked like the defendant in
3 that video. In addition to the clothing, what else
4 was presented that would lead you to believe it was
5 the defendant at the time of that transaction?

6 A The fact that he was in his sister's car. He
7 presented his ID to the employee.

8 MR. SUTHERLAND: That's hearsay, Your Honor.

9 THE HONORABLE CLIFTON NEWMAN: The objection is
10 overruled.

11 MR. SUTHERLAND: Thank you, sir.

12 THE WITNESS: And he --- we obtained a slip with
13 his signature showing that he made the purchase for
14 the jewelry.

15 BY MS. SIMPSON:

16 Q And that clothing that you obtained that looked
17 like the clothing the defendant was wearing, where did
18 you get that?

19 A From his residence.

20 Q I also want to go --- I believe the defense
21 brought up when you met with Dennis Black?

22 A That's correct.

23 Q Who was Dennis Black?

24 A Give me just one second to let me refer to my
25 notes.

1 MS. SIMPSON: Okay.

2 MR. SUTHERLAND: That would be hearsay. It's ---
3 I believe we're ultimately going to go there with the
4 proper witnesses, but I just asked, "Did you meet with
5 him?" That's all I asserted, so it's outside the scope
6 of cross --- or redirect.

7 MS. SIMPSON: Your Honor, briefly. With respect
8 to this, the State was not going into all of this.
9 However, the defense did open the door referring to a
10 person that had not been brought up on direct
11 examination, and I believe I'm required to give in
12 full context that this investigator should be allowed
13 to testify as to the meeting with Dennis Black.

14 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

15 MR. SUTHERLAND: That would be hearsay, sir. It
16 was a simple question, yes or no question.

17 THE HONORABLE CLIFTON NEWMAN: Well, I believe
18 the solicitor's question is, "Who is Dennis Black?"

19 MS. SIMPSON: Correct, Your Honor.

20 THE HONORABLE CLIFTON NEWMAN: Is that the
21 question?

22 MS. SIMPSON: That's correct, Your Honor.

23 THE HONORABLE CLIFTON NEWMAN: The objection is
24 overruled.

25 MR. SUTHERLAND: Thank you, sir.

1 THE WITNESS: We met with Mr. Dennis Black. He's
2 a friend of Ms. Derrick's. We met with him because he
3 had supper with her that night just prior to the
4 murder.

5 BY MS. SIMPSON:

6 Q And what did you do while talking to Mr. Black?

7 A Sergeant Isenhoward showed Mr. Black a photo
8 lineup of six photos, one of ---

9 MR. SUTHERLAND: Now, that is hearsay, sir.

10 THE HONORABLE CLIFTON NEWMAN: All right. The
11 objection is sustained. It's beyond the scope of
12 cross-examination.

13 MR. SUTHERLAND: Yes, sir.

14 MS. SIMPSON: No further questions for this
15 witness.

16 THE HONORABLE CLIFTON NEWMAN: All right.
17 Anything else?

18 MR. SUTHERLAND: No, sir.

19 THE HONORABLE CLIFTON NEWMAN: Thank you, sir.

20 THE WITNESS: Thank you.

21 THE HONORABLE CLIFTON NEWMAN: Next witness?

22 MS. CAMPBELL: Your Honor, the State would call
23 Damon Scott.

24 Your Honor, may we approach about this next
25 witness?

1 (WHEREUPON, a bench conference was held in the
2 presence, but not within the hearing of the jury.)

3 THE BAILIFF: Sir, come on up here.

4 DAMON SCOTT,

5 after being duly sworn, testified as follows:

6 THE BAILIFF: State your full name for the record.

7 THE WITNESS: Damon Lamont Scott.

8 DIRECT EXAMINATION:

9 BY MS. CAMPBELL:

10 Q Mr. Scott, how old are you?

11 A I'm 33.

12 Q You're currently incarcerated?

13 A Yes, ma'am, I am.

14 Q Where are you incarcerated?

15 A Alvin S. Glenn Detention Center.

16 Q And you currently have pending charges in our
17 office?

18 A Yes, ma'am, I do.

19 Q And you're currently charged with one count of
20 murder?

21 A Yes, ma'am.

22 Q I believe it's one count of burglary in the first
23 degree?

24 A Yes, ma'am.

25 Q Two counts of burglary in the first degree?

- 1 A Yes, ma'am.
- 2 Q A count of arson?
- 3 A Yes, ma'am.
- 4 Q And grand larceny?
- 5 A Yes, ma'am.
- 6 Q And, in fact, you had pending charges, got out of
- 7 jail, and then came back to jail; is that correct?
- 8 A Yes, ma'am.
- 9 Q And you're currently in there right now?
- 10 A Yes, ma'am.
- 11 Q And what dorm are you currently residing in?
- 12 A Kilo.
- 13 Q Did you ever stay in a dorm called Hotel?
- 14 A Yes, ma'am, I did.
- 15 Q And during the time period when you were in the
- 16 Hotel dorm, what year was that, do you remember?
- 17 A It was last year, ma'am.
- 18 Q 2010?
- 19 A Yes, ma'am.
- 20 Q In the spring of 2010, specifically?
- 21 A Yes, ma'am, it was.
- 22 Q Did you meet a man named Elbert Wallace?
- 23 A Yes, ma'am.
- 24 Q You met him while you were incarcerated there?
- 25 A Yes, ma'am.

1 Q Had you known him before?

2 A No, ma'am, I didn't.

3 Q During the time period when you were there, did
4 he talk to you?

5 A Yes, ma'am, he did.

6 Q And what did he talk to you about?

7 A A murder case.

8 Q Whose murder case?

9 A Ma'am, the name --- he did not gave (sic) me the
10 name.

11 Q Did he talk to you about his murder case?

12 A Yes, ma'am, but not the victim name. I never
13 heard the victim's name.

14 Q You never heard the victim's name?

15 A No, ma'am, I didn't.

16 Q And when you first talked to Mr. Wallace about
17 this, what did he tell you?

18 A He was telling me that he was charged with murder,
19 and he tried to beat around the bush like it wasn't a
20 murder. He went into details. He admitted to it. He
21 went into it like three or four times admitting to it.
22 He came back. I was asking him --- well, we went into
23 details about it became he was like ---

24 Q Okay. Can you slow down? You're talking little
25 fast there, okay.

- 1 A Yes, ma'am.
- 2 Q Can you slow down?
- 3 A Yes, ma'am.
- 4 Q Where was this conversation taking place in the
5 dorm?
- 6 A In the multipurpose room.
- 7 Q In the multipurpose room?
- 8 A Yes, ma'am.
- 9 Q If you back up just a little bit off of that
10 microphone, it can help. And when you were in the
11 multipurpose room, is that kind of the area where
12 everybody congregates?
- 13 A It's like a break room.
- 14 Q A break room?
- 15 A Yes, ma'am.
- 16 Q Did he start telling you about what he was
17 charged with?
- 18 A Yes, ma'am, he did.
- 19 Q And what did he tell you he was charged with?
- 20 A Murder.
- 21 Q And, first, did he tell you whether or not he had
22 done it?
- 23 A No. He denied it. He denied it. He denied it
24 at first.
- 25 Q At first?

1 A Yes, ma'am.

2 Q And what did he tell you when he told you he was
3 denying doing it?

4 A He was telling me that he got charged with a
5 murder case that he went and checked on, went and
6 checked a person out and that he noticed something
7 funny was going on at the house.

8 THE COURT REPORTER: I'm sorry, I didn't
9 understand that.

10 BY MS. CAMPBELL:

11 Q Okay. Slow down just a little bit.

12 A He said that --- he was like the murder he was
13 charged with, well, he did not --- the murder wasn't
14 his case like, you know, he wasn't supposed to have
15 been charged with the case.

16 Q He wasn't supposed to be charged. He denied
17 doing it?

18 A He denied doing it.

19 Q And then did he say something about going over to
20 the house after the police were there?

21 A Yes. It was him and his fiancée.

22 MR. SUTHERLAND: Just object to the leading.

23 THE HONORABLE CLIFTON NEWMAN: Don't lead the
24 witness.

25 BY MS. CAMPBELL:

1 Q I try not to, Your Honor.

2 What did he say to you about what he --- about
3 going over to the house where the murder occurred?

4 A He was telling me that him and his fiancée or
5 wife ---

6 Q Him and his fiancée or wife.

7 A Yes, ma'am, whoever it was.

8 Q Went where?

9 A To the house. He said he entered the house, and
10 he went to the scene where the tape was at.

11 Q Where the tape was at?

12 A Yes, ma'am. And I asked --- I was like, "How can
13 you go to the scene where the tape was when there is
14 an officer right there? You can't go in that tape."

15 Q Okay. Let me stop you there. Did you know what
16 he meant when he said where the tape was at?

17 A Yes, ma'am.

18 Q What does it mean? I don't understand.

19 A It's a crime scene tape.

20 Q Crime scene tape.

21 A Yes, ma'am.

22 Q So that meant the police would have been there?

23 A Yes, ma'am.

24 Q And you asked him what?

25 A I asked him, I said, "How could you go through

1 the tape without them telling you you're not supposed
2 to be near the tape?"

3 Q Did he indicate how he might have left evidence
4 at the scene?

5 A Blood.

6 Q And did he say why he would have left blood
7 evidence at the scene after the tape was up?

8 A No, ma'am. He never we want into details telling
9 me exactly why or how.

10 Q Did he say how the blood would have been left
11 there?

12 A Like a struggle, he said.

13 Q A what?

14 A A struggle.

15 Q A struggle?

16 A Yes, ma'am.

17 Q Did you start questioning him about how he could
18 go into a secured crime scene?

19 A Yes, ma'am. I asked him. I said, I was like,
20 "How could you get into a crime scene when the police
21 is there? Knowing you've got a murder, victim there.
22 They wouldn't let you in the scene."

23 Q They wouldn't let you in the scene?

24 A Yeah, right.

25 Q You asked him that?

1 A Yes, ma'am.

2 Q And then what did he do?

3 A He was like, "Well, I went to the body." You
4 know, he was telling me he went to the body.

5 Q Okay.

6 A I was like, "It's impossible for you to go to the
7 body."

8 Q And did you explain that to him?

9 A Yeah. Yes, ma'am, I did.

10 Q And what did you explain to him?

11 A I told him, "Well, if you went to that body, that
12 means the officer wasn't doing their job."

13 Q And what did he then admit to you?

14 A He admitted --- that's when he admitted that he
15 had did the murder. He did part of the murder, and
16 there were two more people involved in the murder.

17 Q Did he say why he went over to the house where
18 the murder --- when he did the murder?

19 A Well, before --- before he said about the murder,
20 he said he went to accept some money.

21 Q To do what with money?

22 A He would accept some money.

23 Q To accept some money?

24 A Yes. I guess that's from the victim, ma'am.

25 Q Okay. Did he say whether or not the woman would

1 give him any money?

2 A Well, he said it was like they had a dispute,
3 like an argument about the money.

4 Q That he and the lady had ---

5 A I guess she like denied him of the money.

6 Q Okay. Slow down just a little, okay.

7 A Yes, ma'am.

8 Q What did he say about what happened when he went
9 over to ask the lady for money?

10 A When he asked for the money, I guess she denied
11 the money. They got into an argument then.

12 Q Did he say whether or not he got into the house?

13 A Yes, ma'am, he did. He said he was in the house.

14 Q Did he say whether he was trying to take anything
15 from her?

16 A Never did ask for the money.

17 Q Do you remember him saying anything about a purse?

18 A No, ma'am.

19 Q Do you remember him stating anything else about
20 what he did to the woman he never named?

21 A No, ma'am.

22 Q Did he indicate to you whether or not he
23 committed the murder?

24 A Yes, ma'am, he did. Two or three times he did.

25 Q Did he say why he murdered?

1 A No. I didn't ask for details. I knew it was
2 about some money. I knew it was about some money so...

3 Q About the money?

4 A Yes, ma'am. So it went from there.

5 Q When he gave you this information --- do you
6 currently have a lawyer?

7 A Yes, ma'am, I do.

8 Q And is he present here in the courtroom somewhere?

9 A Yes, ma'am, he is.

10 Q Can you point him out for the jury?

11 A Yes, ma'am.

12 Q Sitting on the second row?

13 A Yes.

14 Q Mr. Duncan?

15 A Yes, ma'am.

16 Q Did you let your lawyer know?

17 A Yes, ma'am, I did.

18 Q About what information you had?

19 A Yes, ma'am.

20 Q And while you were in the dorm, did you also have
21 contact with another man charged with murder?

22 A Yes, ma'am.

23 Q And did he also talk to you about what happened?

24 A Yes, ma'am.

25 Q And did you also tell your lawyer about that?

1 A Yes, ma'am, I did.

2 Q And then did your lawyer get in contact with the
3 police?

4 A The police or like the deputy investigator who I
5 talked to. His name, I can't recall his name.

6 Q Okay. But eventually, you got in touch with an
7 investigator?

8 A Yes, ma'am, at the courthouse in the solicitor's
9 office.

10 Q And they actually came and took a statement from
11 you?

12 A Yes, ma'am.

13 Q I'm going to show you a copy of this. Is this
14 the statement?

15 A Yes, ma'am. That is the statement.

16 Q And was your lawyer present when you gave the
17 statement?

18 A Yes, ma'am, he was.

19 Q After he told you that that day when you were in
20 the multipurpose room ---

21 A Yes, ma'am.

22 Q --- did you ever hear him talking about it
23 anymore?

24 A Well, he talked about it, but he talked to other
25 inmates. But he never went into more detail with it.

1 Q Never went into more detail with it?

2 A Not with other inmates, yes, ma'am.

3 Q Since this time, have you had any more contact
4 with Mr. Wallace?

5 A Physically as far as me and him, no, I didn't,
6 but he did sign a pact with another inmate prior to
7 being in the courtroom earlier this year. Like when I
8 say pact, I mean like a little note he sent me.

9 Q He sent you a note?

10 A Yes, ma'am.

11 Q And what did the note say?

12 A It was a threat. He made a threat to me saying
13 no --- told me like be careful what I'm doing, trying
14 to hurt him that I can hurt myself and my family. It
15 was Proverbs 4 --- chapter four verse seven was on it,
16 for me to read that saying.

17 Q And that was communicated to you from him through
18 another inmate?

19 A Yes, ma'am, it was.

20 Q You've been in trouble before?

21 A Yes, ma'am.

22 Q In fact, you were convicted back in 2004 of
23 burglary second and grand larceny?

24 A Yes, ma'am, I was.

25 Q And then in 2006, did you get convicted of common

1 law or strong arm robbery?

2 A Yes, ma'am.

3 Q And you actually know the defense attorney in
4 this case, don't you?

5 A Excuse me?

6 Q Do you know Mr. Sutherland?

7 A Yes, ma'am, I do.

8 Q And he has represented you before?

9 A Yes, ma'am, he did.

10 Q You mentioned that you came up to the solicitor's
11 office, and I believe it was actually Major Smith that
12 took the statement?

13 A Yes, ma'am.

14 Q Did anybody promise you anything?

15 A No, ma'am. I never was promised anything, never.

16 Q Do you hope to get something out of this?

17 A Well, ma'am, the only thing, God told me just
18 tell the truth today.

19 Q I understand you're telling ---

20 A Yes, ma'am.

21 Q --- telling the truth today.

22 A No problems with that.

23 Q In exchange for your truthful testimony, do you
24 hope somewhere down the line that a judge or a
25 solicitor or somebody will that it account when it

1 comes to your sentencing?

2 A Well, in consideration, if any of that belongs to
3 me, too, but it would be, yes, ma'am.

4 Q But nobody has promised you anything ---

5 A No, ma'am.

6 Q --- or told you you're getting anything?

7 A No, ma'am.

8 Q So as far as you know, you're still facing life
9 on all of these charges?

10 A Yes, ma'am, I am.

11 Q Including the murder?

12 A Yes, ma'am.

13 Q The person that told you about the murder
14 involving the lady, do you see him here in the
15 courtroom?

16 A Yes, ma'am, I do.

17 Q Will you point him out in the courtroom?

18 A (Indicating)

19 Q What is he wearing?

20 A He's got glasses with the brown suit on.

21 Q Sitting in the middle of the table?

22 A Yes, ma'am.

23 MS. CAMPBELL: Your Honor, may the record reflect
24 he has identified the defendant?

25 THE HONORABLE CLIFTON NEWMAN: It does.

1 MS. CAMPBELL: I don't have anything further.

2 THE HONORABLE CLIFTON NEWMAN: Mr. Sutherland?

3 MR. SUTHERLAND: May it please the Court.

4 CROSS-EXAMINATION:

5 BY MR. SUTHERLAND:

6 Q Mr. Scott, how are you doing?

7 A I'm doing well.

8 Q Are you doing all right?

9 A Yes, sir.

10 Q Okay. We have to do this.

11 A Yes, sir.

12 Q You've got some pending charges right now.

13 A Yes, sir, I do.

14 Q You've got a July 2nd, 2008 burglary first charge?

15 A Yes, sir.

16 Q And that carries 15 years to life in prison;
17 isn't that correct?

18 A Yes, sir.

19 Q You have a November 18th, 2008 murder charge; is
20 that correct?

21 A Yes, sir.

22 Q That carries 30 years to life in prison; isn't
23 that correct?

24 A Yes, sir.

25 Q You have a March 16th, 2010 --- you've got an

1 arson second degree.

2 A Yes, sir.

3 Q Is that familiar?

4 A Yes, sir.

5 Q Are you familiar with that's three to 25?

6 A Yes, sir.

7 Q Okay. All right. And you've got on --- also on
8 March 16th, you've got a grand larceny, which is up to
9 five years.

10 A Yes, sir.

11 Q And you've got a burglary first degree, which is
12 15 to life.

13 A Yes, sir.

14 Q And most of this time that you're looking at is
15 what's called 85 percent time.

16 A Yes, sir.

17 Q Is that correct?

18 A Yes, sir.

19 Q Which after --- well, you wouldn't know the truth
20 in sentencing.

21 You know that you would have to do 85 percent of
22 most of these offenses, but that if you were charged
23 with murder, are you aware that you would have to
24 serve that sentence day for day?

25 A Yes, sir, I do.

1 Q Okay. So you're looking at 63 years, two, three
2 life sentences plus 30 years?

3 A Yes, sir.

4 Q Okay. Now, you had told Major Smith in April
5 of 2010 --- this was three weeks after your latest set
6 of charges because you had bonded out initially on the
7 burglary first, correct?

8 A Yes, sir.

9 Q Okay. And you had been rearrested on these other
10 charges?

11 A Yes, sir.

12 Q So you told Major Smith in April of 2010 --- this
13 is about three weeks after you got down there?

14 A Yes, sir.

15 Q Okay. That you had information on the Julian
16 Whatley case?

17 A Yes, sir.

18 Q And that's something about setting people on fire
19 or something?

20 A Yes, sir.

21 Q Okay. All right. And you went on and met with
22 the investigators; is that right?

23 A Yes, I did.

24 Q They --- did they ask you if you --- did they ask
25 you anything about Mr. Wallace when you went to meet

1 with them?

2 A No, sir. They didn't. I gave that --- I gave
3 the information freely.

4 Q Okay.

5 A Yes, sir.

6 Q All right. Who else did you give them
7 information about?

8 A Excuse me?

9 Q Who else did you give them information about?

10 A Mr. Whatley and Wallace.

11 Q Okay. Now, you had earlier testified --- and you
12 know, I'm sure you wrote your statement a long time
13 ago. Do you --- you testified that you all were
14 sitting in the multipurpose room.

15 A Yes, sir.

16 Q Do you remember what you were doing in the
17 multipurpose room?

18 A Well, we was --- actually, we was reading Bible
19 like he was leading a Bible study in H Dorm.

20 Q And so it was during --- it was during ---

21 A It was after Bible study, after the Bible study.

22 Q Okay. And just to --- just to get this correct
23 here, you had said that he had told you that something
24 funny --- this is your testimony now.

25 A Yes, sir.

1 Q That something funny was going on at that house.

2 A Yes, sir.

3 Q And that he had walked up there to see what was
4 happening?

5 A Him and his fiancée, wife, whatever that may be.

6 Q Okay. And you also had testified that there's
7 supposed to be two people?

8 A Yes, sir, that's the information I just received
9 from a relative of the family.

10 Q Oh. Okay. Now almost done.

11 A Yes, sir.

12 Q You had testified that you had received like a
13 kite or a threatening letter. What do they call it
14 these days?

15 A Well, we call it --- in the county jail, we call
16 them kites.

17 Q Yeah, okay. All right. And this was like a
18 little note passed from somebody?

19 A Yes, sir.

20 Q Is that ---

21 A It was from Wallace to the person to me.

22 Q And who was the person that gave it to you?

23 A Well, his name was Fredrick. I never knew his
24 name. His name was Fredrick. He was in Kilo before
25 he bonded out of his charges.

1 Q Freddy?

2 A Frederick.

3 Q Frederick?

4 A Yes, sir.

5 Q And did you --- did you turn that over to Major
6 Smith when you met him?

7 A No, sir, I didn't.

8 Q I mean, not --- recently, when this was supposed
9 to have happened?

10 A No, sir, I did not.

11 MR. SUTHERLAND: Okay. Good luck to you,
12 Mr. Scott.

13 I have no further questions, Your Honor.

14 THE HONORABLE CLIFTON NEWMAN: Any redirect?

15 MS. CAMPBELL: No, sir.

16 THE HONORABLE CLIFTON NEWMAN: All right. Thank
17 you.

18 THE BAILIFF: Just take your time in getting down.
19 Just slide your chair down there. Take your time.
20 Get in no hurry. Just watch your step down. Okay.
21 All right.

22 THE HONORABLE CLIFTON NEWMAN: All right. Ladies
23 and gentlemen, that will do it for this day. We'll
24 start back at 9:30 tomorrow morning.

25 Thank you for your focus and attention today.

1 We'll start back at 9:30 tomorrow morning. Please do
2 not discuss the case with anyone or allow anyone to
3 discuss it with you or in your presence.

4 If anyone attempts to discuss the case with you,
5 would you please bring it to my attention if it's a
6 situation where you believe that they are attempting
7 to annoy, harass or intimidate you.

8 The jury may be dismissed. I'll see you in the
9 morning. Jurors only.

10 (WHEREUPON, the jury left open court at
11 approximately 5:48 p.m.)

12 THE HONORABLE CLIFTON NEWMAN: Anything else
13 before we check out?

14 MS. CAMPBELL: No, sir.

15 THE HONORABLE CLIFTON NEWMAN: All right.

16 MR. SUTHERLAND: Nothing from the defense, sir.

17 THE HONORABLE CLIFTON NEWMAN: All right. 9:30
18 tomorrow morning.

19 MS. CAMPBELL: Just for scheduling, Your Honor,
20 we anticipate finishing mid to late morning.

21 THE HONORABLE CLIFTON NEWMAN: All right.

22 MR. SUTHERLAND: I'm sorry, Your Honor?

23 THE HONORABLE CLIFTON NEWMAN: The solicitor says
24 that they intend to finish mid to late morning.

25 MS. CAMPBELL: Well, depending on cross.

1 THE HONORABLE CLIFTON NEWMAN: You'll be ready to
2 go with your defense mid morning tomorrow morning?

3 MR. SUTHERLAND: Yes, sir. If we do present, yes,
4 sir.

5 THE HONORABLE CLIFTON NEWMAN: All right. We'll
6 just have everyone in the courtroom on a few minutes
7 delay as the jurors leave to give them a chance to
8 leave.

9 MR. SUTHERLAND: Yes, sir.

10 THE HONORABLE CLIFTON NEWMAN: And then we'll
11 disperse.

12 (WHEREUPON, court was adjourned for the day.)

13 (WHEREUPON, State's Exhibit Nos. 412 - 415 were
14 marked for identification only.)

15 THE HONORABLE CLIFTON NEWMAN: Anything before
16 the jury comes out?

17 MR. SUTHERLAND: Nothing from the defense, sir.

18 MS. McDUFFIE: Nothing from the State, Your Honor.

19 THE HONORABLE CLIFTON NEWMAN: Okay.

20 (WHEREUPON, the jury came into open court at
21 approximately 9:37 a.m.)

22 THE BAILIFF: The jury is seated, Your Honor.

23 THE HONORABLE CLIFTON NEWMAN: All right. Thank
24 you, sir.

25 Good morning.

1 THE JURORS: Good morning.

2 THE HONORABLE CLIFTON NEWMAN: You may proceed.

3 MS. McDUFFIE: Thank you, Your Honor. May it
4 please the Court. The State calls Dr. Bradley Marcus.

5 THE BAILIFF: Place your left hand on the Bible,
6 raise your right.

7 DR. BRADLEY MARCUS,
8 after being duly sworn, testified as follows:

9 THE CLERK: Have a seat in the witness stand.
10 State your name for the record, please.

11 THE WITNESS: Dr. Bradley J. Marcus, M-A-R-C-U-S.

12 DIRECT EXAMINATION:

13 BY MS. McDUFFIE:

14 Q Dr. Marcus, where are you currently employed?

15 A I work at Professional Pathology Services here in
16 Columbia, South Carolina.

17 Q And what are your duties with Professional
18 Pathology Services?

19 A I am the --- I am a general pathologist, and also,
20 I'm a forensic pathologist, also a staff pathologist,
21 and I also act as the Chief Medical Examiner here in
22 Richland County.

23 Q And please tell the jury a little about your
24 educational background and training in the field of
25 forensic pathology.

1 A Okay. Well, to be a forensic pathologist, you
2 have to go to medical school. So I went to college,
3 and then I went to medical school. After medical
4 school, I was at the Medical University of South
5 Carolina where I was trained as a general pathologist
6 in the clinical lab and in the anatomical pathology
7 lab.

8 From that point, I then took a board exam and
9 became board certified in general pathology. From
10 there, I did additional training in forensic pathology
11 where I did one year of --- all I did was autopsies
12 for one year at the Medical University of South
13 Carolina under the direction of another board
14 certified forensic pathologist who I trained with.

15 I worked with him one on one, and we did hundreds
16 of cases together. I learned all the trade of
17 forensic pathology. From there, I passed a board exam
18 by the American Board of Pathology and Forensic
19 Pathology, so I'm board certified in forensic
20 pathology.

21 From that point on, I went and did another year
22 of training in cytopathology, which is looking at like
23 pap smears and so forth like that. I passed the board
24 exam in that, so I have four board certifications.
25 Then in 2008, I moved to Columbia and started working

1 as a general/forensic pathologist.

2 Q And have you been qualified as an expert in
3 courts of record in this state as an expert in
4 forensic pathology?

5 A Yes, I have.

6 MS. McDUFFIE: Your Honor, at this time, we'd
7 offer Dr. Marcus as an expert in forensic pathology.

8 MR. SUTHERLAND: Without objection, Your Honor.

9 THE HONORABLE CLIFTON NEWMAN: So qualified.

10 BY MS. McDUFFIE:

11 Q Dr. Marcus, can you tell the jury what a
12 pathologist does and what pathology is?

13 A Sure. General pathology is the study of disease
14 in cells, okay, and you can study from a gross level
15 looking at it with your naked eye and from a
16 microscopic level, diagnosing cancer in general.

17 Now, forensic pathology is the medical and legal
18 death investigation of someone who suddenly and
19 unexpectedly dies, okay.

20 As a forensic pathologist, you perform an autopsy
21 on that person, and come up with a cause of death and
22 a manner of death. The cause of death is the disease
23 or injury that brings about death. Manner of death is
24 the circumstances that surround the death: Either
25 homicide, accident, natural, which is death due to

1 disease, suicide or sometimes undetermined.

2 Q And you started working at Palmetto Health
3 Richland in board professional pathology services in
4 2008?

5 A Yes.

6 Q And who was the Chief Medical Examiner for
7 Richland County at that time?

8 A Dr. Clay Nichols.

9 Q And where is Dr. Nichols now?

10 A Dr. Nichols now is employed at the University of
11 North Carolina. He is the deputy medical examiner for
12 the State of North Carolina.

13 Q And at our request, did you review an autopsy
14 performed by Dr. Nichols?

15 A I did.

16 Q And was that the autopsy of Ms. Linda Derrick?

17 A I did, yes.

18 MR. SUTHERLAND: Briefly, I renew my previous
19 objection.

20 THE HONORABLE STEPHANIE McDONALD: The objection
21 is overruled.

22 MR. SUTHERLAND: Thank you, Your Honor.

23 BY MS. McDUFFIE:

24 Q And are you aware of where Dr. Nichols --- or why
25 Dr. Nichols cannot be present with us today?

1 A I am.

2 Q Please tell the jury.

3 A Dr. Nichols apparently had a stroke, I think a
4 week ago. He was in the hospital. I know he's been
5 released from the hospital. He's recovering, from
6 what I understand. That's what I know.

7 Q And is it unusual for one forensic pathologist to
8 review the work of another forensic pathologist?

9 A No. That's not unusual at all.

10 Q And is it commonly done in your profession?

11 A Yes.

12 Q And is it necessary for you to actually perform
13 the autopsy yourself in order to reach a conclusion as
14 to the cause and manner of death of an individual?

15 A No.

16 Q Did you review the autopsy of Linda Derrick in
17 this case?

18 A I did.

19 Q And please tell the jury when you are viewing an
20 autopsy what you take into consideration, what you
21 look at in making your conclusions?

22 A Well, when you --- when you do an autopsy, you
23 look at, one, the history, that's very important.
24 Then the second thing you do is you do an external
25 exam, look for any injuries on the person or lack of

1 any injuries, in some cases.

2 From there, what we do is we take photographs,
3 draw diagrams, and then from there, we then do a full
4 internal exam, examine every organ, including the head.
5 From that point, we take tissue samples, make
6 microscopic slides. Look at it under the microscope,
7 make our conclusions and then issue a final autopsy
8 report with regards to the cause of death.

9 Q And in this case, were you able to review the
10 work done by Dr. Nichols, both in report form and
11 through the photographs?

12 A Yes, I was.

13 Q And what are you basing your conclusions here on
14 today?

15 A I base my conclusions on the photographs. The
16 photographs that were taken during the autopsy, and I
17 just briefly --- I read through the autopsy report.

18 Q And are you basing your conclusions on your
19 independent examination of the photographs and the
20 injuries you observed?

21 A Yes.

22 Q And I'm going to show you what's being marked for
23 ID only as State's 331 through 340 and ask you if
24 those are photographs that you relied on in making
25 your determination here today?

1 A Yes. These are some of the photographs that I
2 reviewed.

3 Q In preparation for your testimony here in court
4 today, did you prepare diagrams illustrating the
5 injuries that appeared on the body of Ms. Linda
6 Derrick?

7 A I did.

8 Q I'll show you what's been marked as State's 412
9 through 415 and ask if these are the diagrams that you
10 created?

11 A Yes, I created those diagrams.

12 MS. McDUFFIE: Your Honor, at this time we'd
13 offer State's 412 through 415.

14 MR. SUTHERLAND: Without any new objections, Your
15 Honor.

16 THE HONORABLE CLIFTON NEWMAN: They're admitted.
17 (WHEREUPON, State's Exhibits Nos. 412 - 415 were
18 admitted into evidence.)

19 MS. McDUFFIE: Your Honor, may the witness step
20 down?

21 THE HONORABLE STEPHANIE McDONALD: You may.

22 THE WITNESS: Can I get a drink of water?

23 THE HONORABLE STEPHANIE McDONALD: Yes.

24 MS. McDUFFIE: I'll get it for you.

25 THE BAILIFF: Right there.

1 (Pause)

2 BY MS. McDUFFIE:

3 Q If we can switch sides so the court reporter can
4 still hear you.

5 Using State's 413, please tell the jury what
6 we're looking at and anything that's of importance.

7 A Okay. So here is, again, just a diagram, a
8 general diagram used when we do an autopsy.
9 Everything is using a diagram. So I just ---
10 basically, what I do is I make diagrams of any
11 injuries or lack of injuries that I see on the body.

12 Q And please tell the jury what injuries,
13 externally, were observed on the body of Ms. Linda
14 Derrick.

15 A Okay. So this --- on this diagram, I'm
16 basically --- I've got a different diagram. I use the
17 head when there is injuries to it, so this diagram
18 we're looking from the neck downward, okay.

19 So here there's two injuries that I noticed from
20 the photographs. Here we have a contusion. Now, a
21 contusion is just a medical term. It's a bruise.
22 Everyone has gotten a bruise. They bump into
23 something. They get a black and blue mark, okay.
24 That's what this is, okay?

25 So right here, there's a small contusion right

1 here. Then on her posterior right forearm, what I see
2 on the photographs is an abrasion right about here,
3 which an abrasion, again, is a scratch. Everyone has
4 gotten a scratch, fallen down, skinned their knees or
5 something like that. That's what an abrasion is, okay.

6 Q State's 415, please tell the jury about the
7 injuries you observed to the head of Ms. Linda Derrick.

8 A Okay. So on her --- on her head, particularly on
9 her left --- left face. From the forehead to the chin,
10 there is, again, another contusion, a C-O-N-T. I
11 believe it's cut off, I-O-N is here.

12 Here we have a massive contusion, which is
13 confluent, which means that it all runs into each
14 other right here. It's confluent right from the top
15 to the bottom, okay.

16 Around the eyes, we have black eyes. That's what
17 they are. It's, again, a contusion. A black eye is
18 nothing more than a contusion of blood in the tissues
19 around the eyes.

20 Then up here on her forehead there is a
21 laceration. A laceration is not a cut. A cut is
22 something that's caused by a sharp instrument such as
23 a knife or something like that.

24 A laceration is what happens when you have blunt
25 trauma that strikes the skin, and it tears the skin.

1 It tears the skin, and it has a very distinct look to
2 it. And what we have up here is a laceration up on
3 her --- just about her mid- to left-forehead area.

4 Q On State's Exhibit 412, please describe the
5 injuries to Ms. Linda Derrick on that diagram.

6 A Okay. So this here is a diagram of --- what we
7 have is we make an incision on the back of the head
8 right here, all right, around.

9 We preserve anything on the face just because of
10 a funeral viewing. We never make any cuts on the face,
11 if we don't have to.

12 So what we do is we basically make a cut and
13 reflect the scalp over. So we're looking at the
14 undersurface of the scalp here.

15 What I noticed from the photographs is that there
16 are massive amounts of hemorrhage, all right, also
17 known as contusions on the scalp here, okay.

18 So this --- this part --- now, the scalp here,
19 again there's your ear. It's reflected over. This is
20 from the side view, okay.

21 We have massive amounts of contusions here on the
22 scalp. You can see we have a couple sites of --- here,
23 we have one massive area of hemorrhage/contusion.
24 Another one here.

25 Now, this is actually on the skull, on the skull

1 bones, all right. Again, we have massive amounts of
2 hemorrhage right here, and there are three other
3 separate areas of hemorrhage here. This is a view
4 from the front. It's just showing exactly what I ---
5 what I see here from the side on the front view, what
6 I looked at.

7 Then I noticed there's another small amount of
8 hemorrhage just to the right of the midline over here.
9 I believe that --- now you're looking down on the top
10 of the head corresponds to that, okay. I want you to
11 look at it in three dimensions, okay.

12 Q How does one receive injuries that would --- or
13 how does one receive these sort of injuries, doctor?

14 A These doctors are classically associated with
15 blunt trauma, a blunt type of injury to the head.

16 Q Are these natural injuries?

17 A No. These are not natural, and I can tell you
18 from looking at these --- okay, I can tell you based
19 on this pattern of injury right here, we have at least,
20 at least four --- four episodes of blunt trauma to the
21 head, not one, at least four.

22 One there, and then we have a separate area with
23 no hemorrhage. One there, separate area, no
24 hemorrhage. One there. Now, there could be ten here,
25 I don't know, because it's all confluent. So that's

1 why I say at least four.

2 Q So you're saying that Ms. Linda Derrick was
3 struck at least four times in the head by a blunt
4 object?

5 A At least four times, at least.

6 Q And, finally, on State's 414, please describe to
7 the jury what's depicted in this?

8 A Okay, so here again, this is a side view now of
9 the head. Now we've got the skull. When you reflect
10 the scalp over, based on the photos, there was a skull
11 fracture over the left side of the skull here, and
12 that extended down across the base of the skull, the
13 base of the skull. It's not depicted in the diagram,
14 but it extended over.

15 Q Thank you, Doctor. If you could have a seat,
16 please.

17 A Okay.

18 Q Dr. Marcus, what sort of force would be necessary
19 to cause the hemorrhage that you just showed the jury
20 and also the fractures to the skull?

21 A A great amount of force, a lot of force. I don't
22 have exact Newtons to give you, but a lot of force.

23 Q Is this something that could be caused by
24 striking with a fist or with an object of some sort?

25 A It's possible.

1 Q If it was done by a fist, would you expect to see
2 injury to the person's fist that did the striking?

3 A I would.

4 Q And why is that?

5 A Because of the massive amount of force here was
6 just massive, and I would think if it was struck by a
7 fist, there would be some sort of swelling on the ---
8 on the perpetrator's hands, in my opinion.

9 Q And it could have also been done by a blunt
10 object?

11 A Absolutely.

12 Q Describe to the jury what we mean by a blunt
13 object, what you mean by that.

14 A Anything could be listed as blunt object. This
15 bag right here could be listed as a blunt object
16 because of the edge it has on it, all right, a phone,
17 anything, any type of object could be. A cell phone
18 could be listed as a blunt object.

19 Q Could you use the base of a knife? Could that be
20 a blunt object?

21 A Absolutely.

22 Q And Dr. Marcus, based on a reasonable degree of
23 medical certainty based on your own independent
24 observations of the injuries to Linda Derrick, what is
25 your cause of death in this case?

1 A Ms. Derrick died of blunt traumatic injuries to
2 the head. That's how she died. No question about it.

3 MS. McDUFFIE: Thank you, Doctor. No further
4 questions.

5 MR. SUTHERLAND: May it please the Court.

6 THE HONORABLE CLIFTON NEWMAN: Yes.

7 CROSS-EXAMINATION:

8 BY MR. SUTHERLAND:

9 Q Dr. Marcus.

10 A Hi.

11 Q Welcome back.

12 A Thank you.

13 Q You had prepared these diagrams based on your
14 review of the photographs in this case?

15 A Yes, sir.

16 Q And you also --- we're just going to go through
17 the other stuff real quick. You also reviewed
18 Dr. Nichols' report?

19 A Yes.

20 Q Are you aware of any competency issues with
21 respect to Dr. Nichols?

22 A No.

23 Q Or any allegations of competency issues against
24 Dr. Nichols?

25 A I'm aware of one, one case, out there.

1 Q And is this --- is this a case since --- you came
2 in 2007; is that right?

3 A 2008 I came here.

4 Q Okay. But you are aware of that?

5 A I'm aware of one, of one case that's still in the
6 court system, yes.

7 Q Okay. You had --- are you aware what they're
8 alleging happened in this case or...

9 MS. McDUFFIE: Objection, Your Honor.

10 THE HONORABLE CLIFTON NEWMAN: The objection is
11 overruled.

12 BY MR. SUTHERLAND:

13 Q Are you aware of what they're alleging happened
14 in this case, or basically you just sat up there and
15 answered her questions.

16 In other words, do you know they're alleging that
17 this occurred by a beating? Are you aware of that
18 fact?

19 A I'm aware of that, yeah.

20 Q Okay. And when you had --- she had asked you if
21 someone had used a fist, she asked if there would be
22 any sort of damage to their hand, and for anybody who
23 may have been in fights when they were young and dumb,
24 there is damage. You talked about swelling.

25 A Right.

1 Q You talked about a great amount of force?

2 A Yeah.

3 Q I mean, you could get broken bones?

4 A It's possible.

5 Q Potentially?

6 A Uh-huh.

7 Q You said you couldn't take it down to Newtons?

8 A The Newtons are the force measurement. I'm not
9 going to go there ---

10 Q Okay.

11 A --- because I don't think it will --- it's beyond
12 the scope.

13 Q That's just always interesting, the measurements.
14 But, basically, there would be some sort of swelling
15 or something with the amount of force that your
16 opinion about the trauma. With that amount of force,
17 there would be some sort of swelling or damage or even
18 broken bones?

19 A It's possible, yes.

20 MR. SUTHERLAND: Okay. Thank you, sir.

21 No further questions, Your Honor.

22 THE HONORABLE CLIFTON NEWMAN: Redirect?

23 MS. McDUFFIE: Briefly.

24 REDIRECT EXAMINATION:

25 BY MS. McDUFFIE:

1 Q Dr. Marcus, what is your conclusion as to the
2 cause of death of Ms. Linda Derrick?

3 A Linda Derrick died of blunt trauma to her --- to
4 her head.

5 Q She was beaten to death, Doctor?

6 A Beaten. Yes, she was beaten the death. That's
7 absolutely correct.

8 MS. McDUFFIE: Thank you. No further questions.

9 THE HONORABLE CLIFTON NEWMAN: Anything further?

10 MR. SUTHERLAND: No, sir.

11 THE HONORABLE CLIFTON NEWMAN: All right. Thank
12 you, sir.

13 You can step down.

14 THE BAILIFF: Watch your step for me.

15 Next witness.

16 MS. CAMPBELL: The State would call Christine
17 Barrickman.

18 CHRISTINE BARRICKMAN,
19 after being duly sworn, testified as follows:

20 THE CLERK: Have a seat in the witness stand.
21 State your name for the record.

22 THE WITNESS: Christine Barrickman,
23 B-A-R-R-I-C-K-M-A-N.

24 DIRECT EXAMINATION:

25 BY MS. CAMPBELL:

1 Q Ms. Barrickman, where are you employed?

2 A The Richland County Sheriff's Department.

3 Q What do you do there?

4 A I work in the DNA laboratory.

5 Q What are your duties in the DNA laboratory at
6 Richland County?

7 A Some of my duties include assisting the analyst
8 with case preparation, which would include picking up
9 the evidence from the evidence room, opening it,
10 inventorying it, documenting it, and then processing
11 and/or testing the evidence.

12 Q And when you say you process and/or test any
13 evidence, you don't --- you aren't the person that
14 actually does the DNA testing itself, is that true?

15 A That's correct. I would just either cut or
16 process the samples, and then they are given over to
17 the analyst to run the instrumentation.

18 Q And when you say you test or process it, explain
19 to the jury what exactly you do.

20 A It depends on what I have. If I have --- if
21 somebody has already swabbed something and I'm just
22 working with a swab, I will take a cutting from the
23 swab. A swab is like the Q-Tip. That cutting would
24 go into a tube if it's closed.

25 It depends on what I'm processing it for. If I'm

1 processing it for DNA, I would just take a swab, maybe,
2 of the collar area. If I'm looking for blood, then I
3 would take a swab with the blood and test see if it is,
4 in fact, blood.

5 Q Have you had any training as far as maintaining
6 the integrity of the evidence, as well as doing the
7 testing you do?

8 A Yes. I've been doing this for --- I've been in
9 law enforcement, forensic side, for 13 years. I have
10 a bachelor of science degree in criminal justice. All
11 my training is mostly in-house, but I do take classes
12 and seminars though the year.

13 Q You do this basically through the supervision of
14 John Barron and Gray Amick, who are also analysts in
15 the lab?

16 A That's correct.

17 Q I want to turn your attention to three cases that
18 occurred on the same day. Taking the first case
19 involving the victim named Carolyn Webb, which was a
20 home invasion ---

21 A Uh-huh.

22 Q --- robbery. Did you receive any items of
23 evidence in that case that you did any preparation?

24 A I did.

25 Q And when you received the items that you actually

1 prepared for the DNA testing, were they properly
2 packaged, sealed, and submitted properly?

3 A Yes, they were.

4 Q Was there any evidence of any tampering or
5 otherwise that they had been disturbed in any way?

6 A No, there was not.

7 Q And, in fact, if you receive evidence that looks
8 like it's been tampered with or something is not right,
9 you would note that and return that for further review?

10 A That's correct.

11 Q And you didn't need to do that in any of these
12 cases?

13 A No.

14 Q Everything was properly submitted?

15 A Yes, it was.

16 Q And specifically, as to items 15, 16, and I
17 believe a buccal swab from the victim, Carolyn Webb,
18 did you receive those items?

19 A I did.

20 Q And did you prepare those for further DNA testing?

21 A I did.

22 Q Okay. And, again, just for the record, how do
23 you go about preparing those items?

24 A In this case, the hat was --- I looked at the hat
25 to see if there was any blood evidence on it and there

1 was. So I took a swab of what I perceived to be blood.
2 I tested it with phenolphthalein, which is a
3 presumptive test for blood. It was positive, and then
4 I took an actual --- took an actual cutting from the
5 hat where the blood stain was and put that in a tube.

6 There were also some shoes which I found a spot
7 that appeared to be blood. I did the same thing,
8 tested it. Then I swabbed it. Instead of cutting the
9 shoes in that case, I swabbed the blood and cut it out.

10 Q I want to show you what's been marked --- I'll
11 find the mark in a minute. First, just ask if you can
12 look at these shoes and see if you are recognize those.

13 A Yes, I do.

14 Q And are those the shoes that were actually
15 submitted to you for you to process in order to
16 prepare it for DNA testing?

17 A Yes, ma'am.

18 Q Specifically, as to the left shoe, was it --- I'm
19 sorry. Let me back up. What testing did you do as
20 far as these two shoes and your observations in that?

21 A I tested to see if there was any blood evidence
22 on them, and there was one spot on the left shoe.

23 Q On the left shoe?

24 A Uh-huh.

25 Q And did you note on the left shoe where that

1 blood spot was? You can pull it out.

2 A Do you have gloves?

3 Q Gloves? Sorry.

4 (Pause)

5 For the record, this is State's Exhibit 341.

6 A This area right here is where I circled. There
7 is nothing left there because it was an extremely
8 small spot.

9 Q And when you say this area right here ---

10 A Uh-huh.

11 Q --- that would be on the side of the left shoe?

12 A Correct.

13 Q And once you noted what appeared to be blood, did
14 you swab that?

15 A Yes, I did.

16 Q And is that the proper protocol in order to
17 prepare it for further testing?

18 A Yes.

19 Q And then did you prepare that swab for testing by
20 John Barron in this case?

21 A Yes.

22 Q Turning to the First Lutheran --- Christ Lutheran
23 church, did you also receive two swabs in that case?

24 A Yes, I did.

25 Q And I believe those swabs were labeled as swabs

1 from the church door?

2 A That's correct.

3 Q And what, if any, testing did you do on those
4 items?

5 A I tested them for blood, as well.

6 Q And what were the results?

7 A The first swab, item number one, was negative and
8 the second swab was positive.

9 Q And when an item is negative --- when you're
10 testing it for the presence of blood or anything else,
11 is any further testing done on that item necessarily
12 if it is blood evidence you're looking for?

13 A Normally not, no.

14 Q Item number two, the second swab that was taken
15 from the church door, however, did you test it also
16 for the presence of blood?

17 A I did.

18 Q And what were the results?

19 A It was positive.

20 Q And at that point, what, if anything, did you do
21 with item number --- the second swab from the church?

22 A I cut that swab and put it in a tube to be run
23 for DNA.

24 Q And then that would have been submitted, and you
25 did submit that to John Barron in this case?

1 A Correct.

2 Q And just for the record, all of these items that
3 we're talking about were submitted for DNA testing to
4 John Barron in all three of these cases?

5 A Correct.

6 Q I'm going to move on to the third case involved
7 on January 31st. Did you receive certain items of
8 evidence in the case involving Ms. Derrick?

9 A Yes, I did.

10 Q However, I believe Investigator Barron also
11 received certain items and prepared them, as well?

12 A Correct.

13 Q What items did you receive?

14 A I received item number 295 through --- 95 through
15 139, 172 through 201 and item 212.

16 Q And when you received those items, did you do
17 certain testing on certain of some of those items?

18 A Yes. Some of them I tested. Some of them I did.

19 Q And in cases where multiple swabs are taken from
20 the same area, is it unusual for y'all just to test
21 certain swabs but not all of them?

22 A No. Especially when you have a case that has 200
23 items in it.

24 Q And in this case, item number 95, I believe 104,
25 119, 121, 123, 124, 127, 128, 129, 131, 135, 136, and

1 139 were all tested by you?

2 A That's correct.

3 Q And did you then prepare those for further DNA
4 testing if it was appropriate?

5 A I did.

6 Q Items number 172, 185, and 201 were also
7 submitted to you first for preparation for DNA testing?

8 A That's correct.

9 Q And then, finally, the buccal swab from Elbert
10 Wallace was also submitted to you; is that correct?

11 A Correct.

12 Q And you prepared it for further DNA testing?

13 A That's correct.

14 Q Would any of these items, and all the items we
15 were referring to today, when you received them, again,
16 was there any evidence of any tampering, or were any
17 not packaged properly for submission for DNA testing?

18 A No. They were all fine.

19 Q And as far as when you were involved in them, no
20 one had access to them or touched them or altered them
21 in any way?

22 A No.

23 Q None of this evidence was contaminated or
24 cross-contaminated in any way?

25 A No, it was not.

1 Q Once you prepare the items that we refer to for
2 DNA testing, are those then forwarded to John Barron
3 in your lab, or were they in this case?

4 A Yes, they were.

5 Q Your role in this case was just to do the testing.
6 You don't know whether or not there are going to be
7 any results, whether or not it's going to match
8 anybody involved, when you're doing your testing?

9 A That's correct.

10 MS. CAMPBELL: That's all I have, Your Honor.

11 THE HONORABLE CLIFTON NEWMAN: Cross-examination?

12 MR. SUTHERLAND: May it please the Court. I have
13 no questions of this witness, Your Honor.

14 THE HONORABLE CLIFTON NEWMAN: Okay. You may
15 step down.

16 MS. CAMPBELL: The State would call John --- I'm
17 sorry.

18 THE HONORABLE STEPHANIE McDONALD: Call your next
19 witness.

20 MS. CAMPBELL: Thank you. The State would call
21 John Barron.

22 JOHN BARRON,
23 after being duly sworn, testified as follows:

24 THE CLERK: Have a seat in the witness box.

25 State your name for the record, please.

1 THE WITNESS: My name is John Barron, B-A-R-R-O-N.

2 DIRECT EXAMINATION:

3 BY MS. CAMPBELL:

4 Q Investigator Barron, where are you employed?

5 A The Richland County Sheriff's Department.

6 Q What do you do there, sir?

7 A I'm a DNA analyst.

8 Q Can you tell this jury as a DNA analyst what your
9 duties include?

10 A My duties include receiving and analyzing
11 evidence that is submitted to our laboratory for the
12 presence of any serological evidence like blood, semen
13 in the case of sexual assault, and any other type of
14 evidence that may contain DNA, such as items you may
15 touch with your hand or touch with your mouth or shed
16 any type of tissue or material from your body, your
17 body fluids.

18 Determine, if possible, what the origin of that
19 material is and then to develop DNA profiles from that
20 evidence, and then also compare that to the known
21 samples from individuals.

22 Also included in our lab is to submit unknown DNA
23 profiles to the convicted offender DNA database, which
24 is a database of convicted offenders of felonies in
25 South Carolina and throughout the United States to see

1 whether or not any of those unknown profiles match
2 somebody who has already been convicted of a crime.

3 Q Can you tell this jury a little bit about your
4 education, your training, in the field of DNA analysis?

5 A Yes. I have a bachelor of science degree in
6 microbiology from Clemson University. I've also
7 attended graduate level courses from the University of
8 South Carolina related to forensic science and
9 statistics.

10 I've been involved in forensic sciences since the
11 late 1970s where I received initial training in
12 forensic serology, which would be the identification
13 of the body fluids, such as blood, semen, et cetera.
14 At that time, however, DNA analysis did not exist, but
15 in 1999, I became involved with actually performing
16 DNA analysis in addition to the serological testing
17 done.

18 In 1999, I was employed by the South Carolina Law
19 Enforcement Division or SLED. I was trained by
20 court-qualified DNA analysts there. After a year of
21 training, I successfully completed a competency test
22 and was declared an expert or able to perform DNA
23 analysis in a forensic laboratory.

24 Since that time, in 2004, I came to the Richland
25 County Sheriff's Department as part of a team from

1 SLED that established and set up the DNA laboratory at
2 Richland County.

3 During my experience as a forensic DNA analyst, I
4 testified in courts in the State of South Carolina
5 approximately 40 times.

6 Q Forty times?

7 A Yes.

8 Q As a DNA analyst?

9 A Correct.

10 MS. CAMPBELL: Your Honor, at this time we'd
11 offer him as an expert in DNA analysis.

12 MR. SUTHERLAND: No objection.

13 THE HONORABLE CLIFTON NEWMAN: So ordered.

14 BY MS. CAMPBELL:

15 Q Investigator Barron, you talked about how you
16 were able to get evidence from a crime scene and
17 compare it to a known sample. What's the proper way
18 to collect a known sample for you to do a comparison?

19 A There's several ways to do it, but presently, the
20 least intrusive way --- we used to draw blood, but the
21 much less intrusive way would be to use a clean
22 sterile swab, and swab the inside of the mouth.

23 There we collect cells from inside of your mouth.
24 Technically, we refer to it as buccal cells or cheek
25 cells from the inside of your mouth that include DNA.

1 Since every cell in your body will have your DNA
2 in it, it doesn't matter what part of your body we
3 collect it from. So rather than subject somebody to,
4 you know, a stick for blood, we just simply swab the
5 inside of their mouth.

6 Q And that's also referred to as buccal swabs,
7 because that's the type of cells you're collecting?

8 A That's correct.

9 Q And we've heard reference to what's known as
10 touch DNA. You also mentioned that you can get DNA
11 from body fluids itself.

12 A Correct.

13 Q Such as blood, semen, I guess the eye.

14 A Yes.

15 Q Those types of fluids. Is one --- I don't know
16 how to put it. As far as blood and the body fluids,
17 are those somewhat easier to detect than touch DNA,
18 necessarily? Explain touch DNA and how it may or may
19 not be similar.

20 A Touch DNA is just a term used to describe
21 collecting a potential DNA sample, say, from an object
22 that someone touches or, you know, clothes that you
23 wear. You're touching it.

24 That is dependent upon whether or not you're
25 actually sloughing off skin cells onto that object,

1 and it depends upon you personally as to how much skin
2 cells you might slough off.

3 Also, it depends on the type of object you slough
4 off on and also the ability to recover any type of
5 cells from that object. All of those are kind of
6 unknown factors, if you will.

7 So samples that are collected for touch DNA may
8 or may not give us results. Whereas, specific body
9 fluids like blood or tissue from your body like some
10 of the tissue in your arm was scratched off and left
11 somewhere, some type of trauma removed it, you know,
12 that type of material contains many, many cells that
13 contain DNA.

14 So, therefore, the likelihood of getting results
15 from that are going to be much greater, typically
16 speaking, you know. They are touch DNA. However, if
17 you touch something and you leave a lot of cells, we
18 can get a clear --- just as clear a profile as we can
19 from a blood sample.

20 But statistically speaking, there's a higher
21 probability of getting a complete DNA profile from a
22 blood sample versus touch DNA.

23 Q And so it doesn't affect the quality of your
24 results. It just affects the likelihood you may get a
25 result?

1 A That's correct.

2 Q Is that correct? Such as someone may touch a
3 steering wheel and leave a touch DNA versus if you
4 find a drop of blood, your chances of getting
5 something from the actual body fluid, as far as there
6 being enough DNA to test.

7 A Well, before going into the testing, if I see a
8 drop of blood, I feel 99.99 percent confident I'm
9 going to get a DNA profile. However, a swab from a
10 steering wheel from touch DNA, I'm not quite as
11 confident.

12 However, I can get just as equally good of
13 results from both of them. It just depends on how
14 many cells are left.

15 When I see a blood stain, then I am confident
16 plenty of cells are left behind sufficient to give me
17 a DNA profile. Whereas, a swab from a steering wheel
18 is just like a dirty swab. I don't know how many
19 cells are on there until I actually test it to see
20 whether or not there are --- is DNA on the swab.

21 Q As far as touch DNA and even blood DNA, you can't
22 exactly date how long the --- that person's DNA has
23 been there?

24 A No, typically not.

25 Q But --- well, this is stupid, but blood at crime

1 scene is significant?

2 A Blood at a crime scene can be very significant.
3 If the victim is bleeding, obviously, you know, a lot
4 of the blood may be the victim's, but very often, in
5 cases where there is a homicide, there is a struggle.

6 The suspect themselves may also be cut and leave
7 blood behind, as well. And, of course, when you see
8 dried blood, you cannot tell if it was the victim's
9 blood or potential suspect's blood until you actually
10 develop a DNA profile. In the case that there are
11 different sexes, we can obviously immediately from DNA
12 testing whether we have male DNA or female DNA.

13 Q And like fingerprints, DNA matches. Does your
14 DNA or does anyone's DNA look like anyone else's on
15 earth?

16 A Well, DNA is a particular molecule that's unique
17 for you. You inherit half of your DNA from your mom,
18 half from your dad. Unless you have an identical twin,
19 your DNA profile will be unique to you on the planet
20 earth.

21 Q And as far as when you're doing your testing,
22 prior to going through the entire testing process, you
23 can't tell what the result will be?

24 A No.

25 Q And your job is just to get there and say whether

1 or not it's a match in that your job is not only to
2 implicate people in crimes, but you also exonerate
3 people, is that true?

4 A That's correct. My analysis is completely
5 objective. It's completely scientific, and the
6 results will show themselves. If it matches, it
7 matches. If it doesn't, it doesn't.

8 Q When you get in the buccal swabs, which would be
9 known standards from different people involved in the
10 case, you analyze those, as well as then compare them
11 to the evidence you're able to.

12 Are you always able to --- even if it looks like
13 there's blood there, able to get DNA that could be
14 tested?

15 A No. Even in the case of blood, there can be rare
16 circumstances where it's degraded and, you know, the
17 environment is subjected to.

18 There are times I don't get results or I get
19 partial results. I can get --- when I say a complete
20 profile, that means every point on the DNA molecule I
21 test, and we test 15 plus the sex chromosome, we get
22 the results.

23 There may be some cases where there may be an
24 insufficient amount of DNA, so it may be a partial.
25 So in other words, I get results from certain loci or

1 points of DNA molecule or not others.

2 In such a case, I may say that the DNA is
3 consistent with somebody. What I attempt to do is
4 give you a statistical probability of how frequently
5 that --- that DNA profile occurs.

6 Q And before you can call it a match or say it's a
7 statistic, it has to match?

8 A Yes.

9 Q Whether it's a partial profile or a full profile?

10 A Correct.

11 Q I mean, if any loci doesn't match, then it's not
12 a match.

13 A Right. When I develop the DNA profile of a known
14 sample from an individual, you have a complete profile.
15 We never get an incomplete profile from a known
16 standard.

17 So I know the DNA pattern in each locus. In
18 every locus that is developed on the unknown, it has
19 to match the --- have the same locus on the known
20 standard.

21 Q And --- so a match is an absolute match, and then
22 you do a statistical number, I believe a percentage
23 number of what it could match anyone else on earth or
24 someone could ---

25 A Right. We give a frequency of how often we

1 expect to see that profile of DNA. Depending upon how
2 rare it is, the frequency number will be different,
3 but when you have a complete profile the statistical
4 frequency or how often that profile would occur is so
5 rare that we can say beyond a shadow of a doubt, that
6 it's unique to that individual.

7 Q And in certain cases, are you able to also come
8 up with what's known as a mixture of DNA? It can be
9 two or more people's DNA, say, in one blood sample,
10 and how does that happen?

11 A Mixture is fairly common because of the
12 sensitivity of our testing. If, say, someone bled on
13 your shirt, probably we're going to find a mixture of
14 your DNA plus the individual who left the blood on
15 your DNA. That's just an issue we have to deal with.

16 But in mixtures, it is --- the interpretation of
17 them is it can be an issue at times, but sometimes
18 it's not particularly an issue because we have a
19 mixture of a major contributor and a minor contributor.

20 A major contributor profile is --- stands out.
21 Often, they see the background of someone else. You
22 see, clearly, you can discern that DNA profile.

23 Q So the example you just used where you may bleed
24 on someone else's shirt might have my skin cells on it,
25 but the blood would most likely be the major

1 contributor?

2 A Yes, it would, because there's much more cells of
3 the blood than may be in the skin or your shirt.

4 Q Briefly tell this jury how you do the DNA testing.

5 A DNA testing, of course, there's a process. Our
6 laboratory is designed to eliminate contamination from
7 other samples. In other words, we --- we test one
8 sample. We package that sample back up. We clean the
9 area before we open another pack, so there's no
10 cross-contamination.

11 We do evidence separate from known samples so
12 that DNA from a known sample can't contaminate the
13 evidence itself. The evidence, as Ms. Barrickman
14 described, is very often on a swab.

15 So the swab is put in a sterile tube. The tube
16 then is subjected to an extraction process. The right
17 chemicals are put on the swab, and it's incubated for
18 a period of time, given time for the chemicals to tear
19 down the proteins and the cell walls that house the
20 --- confine the DNA molecule. We want to free it up.

21 Once that's done, then it has to be purified.
22 It's going through a process of purification where all
23 of the other cellular debris, which is then digested
24 is still present when the tube is removed leaving pure
25 DNA in what appears to be a drop of water at the

1 bottom of the tube.

2 At that point, we want to know how much DNA is
3 present. If there is no DNA from an extraction, we
4 stop at that point. We don't go any further.

5 If there is DNA, we want to determine how much,
6 because our instruments are so sensitive. They're not
7 designed for an overload of DNA.

8 We have to sometimes dilute the sample to get the
9 proper amount of DNA present. Then at that point, the
10 DNA molecule is subjected to what we call thermal
11 cycling or a PCR amplification.

12 Those are all scientific terms you're probably
13 not familiar with, but basically, copies.
14 Biologically, certain portions of the DNA molecules
15 that scientists have discovered can be used for
16 identification.

17 They have nothing to do with illness or your
18 features or anything like that. They're purely
19 designed to identify you.

20 When the DNA molecule was decoded, these types of
21 areas were discovered and since been used by law
22 enforcement to identify people.

23 Once that's copied, then the copied DNA is now
24 subjected to a process in which the fragments that are
25 copied are separated. That separation occurs and

1 creates a DNA profile basically using computer
2 software to detect it and also to show the profile
3 that's present.

4 Once that's done, then we have a unique profile
5 on a piece of paper. It looks like a bunch of peaks
6 with colors and numbers on it. That series of numbers
7 becomes your DNA profile, and we test the evidence and
8 we test the known sample and we see whether or not
9 that profile is the same or different, and make a
10 report based on our results.

11 Q And your laboratory that you work in, I believe
12 it is accredited?

13 A It is.

14 Q And follows all national standards set out by DNA
15 labs across the nation?

16 A Yes. All DNA laboratories that submit items for
17 CODIS, which is a federal program or the convicted
18 offender database that is housed here in South
19 Carolina and throughout the United States.

20 You have to meet certain criteria or standards in
21 order to be allowed to put profiles into CODIS. Since
22 2004, we have met those standards. We are yearly
23 inspected to make sure we continue to meet those
24 standards.

25 Each analyst, including myself and two others,

1 are proficiency tested twice a year to make sure that
2 we're still meeting the standards. We have to
3 successfully complete those proficiency testing
4 100 percent accurate or we go back into remedial
5 training, but so far, that has never happened to any
6 of our analysts.

7 The laboratory is, like I said, inspected
8 periodically to make sure those standards are met. We
9 have internal and external inspections, and we have
10 met all of the criteria and are certified by the
11 American Crime Laboratory Society.

12 Q And your report that you issued in these three
13 cases we're going to refer to --- prior to publishing
14 any reports, is it also part of your protocol to have
15 your results reviewed by another analyst?

16 A Yes, it is. That is actually part of the
17 accreditation process. We have to document that my
18 results were reviewed by another competent analyst.
19 They are --- they concur with my results, and they
20 sign off on it, as well.

21 Q And was that done in this case?

22 A Yes. It's done in every case.

23 Q And before I get to the three cases we're
24 referring to today and the three reports that were
25 issued, on the cases that happened on January 31, 2009,

1 there is a good --- a large amount of evidence that
2 was submitted to your laboratory for testing?

3 A Yes, there was.

4 Q And some of those were initially tested and set
5 up for you to test by Christine Barrickman, that she
6 has already testified to?

7 A Yes. There were many, many items submitted in
8 this case. Christine assisted me in testing,
9 preliminary testing, and cutting out many of those
10 samples. Many of them I actually did myself because
11 it was a very serious homicide, and I had to come in
12 on the weekend to do that.

13 Q The rest of the items that were tested, you
14 actually prepared for testing. And you did all of the
15 DNA testing in this case?

16 A Yes, I did.

17 Q And when you received these items from your
18 evidence room, were they all properly packaged?

19 A Yes, they were.

20 Q Sealed?

21 A Correct.

22 Q And if there had been any evidence of any
23 tampering or anything of that nature, what would you
24 have done?

25 A I would have not tested the item. I would have

1 returned it to the person who submitted it and sought
2 some justification for the fact that it wasn't
3 packaged properly or submitted properly or anything
4 like that.

5 If there is a problem where we believe there
6 could be possible contamination or mishandling of
7 evidence, then no further testing would be done.

8 Q And while this evidence was in your possession
9 and you were doing the testing, you followed all
10 proper procedures to ensure the integrity of this
11 result?

12 A Yes.

13 Q And there was absolutely no evidence of any
14 tampering or anything but the proper chain of custody
15 in this case?

16 A None at all.

17 Q I want to show you what's been marked --- this is
18 actually a blow up of a chart, State's Exhibit 404,
19 405, 406, 407 and 408. Do you recognize these charts?

20 A Yes, I do.

21 Q And do these accurately reflect the results of
22 your testing?

23 A They do. I assisted the solicitor's office in
24 preparing those charts.

25 Q Okay. And will these aid in your ability to

1 explain things to the jury?

2 A It would. We could base it upon of the amount of
3 evidence and complexity involved.

4 MS. CAMPBELL: Your Honor, at this time, we'd
5 offer State's Exhibit number 404 through 408.

6 MR. SUTHERLAND: Without objection, sir.

7 THE HONORABLE CLIFTON NEWMAN: Without objection.

8 (WHEREUPON, State's Exhibits Nos. 404 - 408 were
9 admitted into evidence.)

10 MS. CAMPBELL: Your Honor, may the witness step
11 down?

12 THE HONORABLE CLIFTON NEWMAN: Yes.

13 BY MS. CAMPBELL:

14 Q The first case we're going to talk about today is
15 the murder, home invasion, and robbery of Ms. Linda
16 Derrick. If you can come on this side so that the
17 court reporter can hear you better. If you want to
18 basically go through, here's a --- I don't know where
19 it's at.

20 A It's the homicide?

21 Q Yes. Yes, sir.

22 A No, it's not.

23 Q Did I put in the wrong one in?

24 A Yes.

25 Q You're right.

1 (Pause)

2 State's Exhibit Number 405, which is some of the
3 evidence. Can you just briefly go through with the
4 jury what each of these different ---

5 MR. SUTHERLAND: I'm sorry. May it please the
6 Court. Briefly, Your Honor, may we approach,
7 Ms. Campbell and I, sir?

8 THE HONORABLE CLIFTON NEWMAN: Yes.

9 (WHEREUPON, there was a bench conference in the
10 presence, but not within hearing of the jury.)

11 MS. CAMPBELL: Are you good?

12 MR. SUTHERLAND: Yes, ma'am.

13 BY MS. CAMPBELL:

14 Q Starting with the first item, there is a number
15 over to the far left of this board. What does that
16 just signify?

17 A That is the item number. As evidence comes in,
18 it just gives us the sequential number.

19 Q And that's just how it's submitted to the
20 evidence room?

21 A Correct.

22 Q The order doesn't have any significance. It's
23 just a way to later refer to them as item number two
24 for submission?

25 A Right. It also appears on my report, so item two

1 is such and such and the result.

2 Q Okay. And the first item that was submitted for
3 your testing was what?

4 A The first item on this chart is the buccal swab
5 from Linda Derrick. It's a very important having a
6 known standard from the victim in the case.

7 Q And that would have been collected, the blood in
8 this case, collected at --- I believe, at autopsy?

9 A That is normally the case in the case of a
10 homicide, yes.

11 Q And then the next column here where it says "test
12 for blood", is that tested for blood?

13 A No.

14 Q And in this case, certain items were tested for
15 blood, for the presence of blood, by your laboratory
16 and certain ones weren't. Explain when that would be
17 appropriate. Of course, you wouldn't do it for a
18 buccal swab ---

19 A Right.

20 Q --- which is the saliva.

21 A There are --- many of the samples had reddish
22 brown stains on them indicating blood. It's normal
23 for our laboratory to do a preliminary test to see
24 whether or not it indicates blood.

25 If that test was positive, then we know we have

1 the blood sample versus the DNA sample. Some of these
2 samples --- actually, number nine through 14, I did
3 not test in the lab, although the crime scene
4 investigator field tested them and found positive
5 results of blood.

6 So I did not photo test them because there was
7 just not enough there to test, so I just simply took
8 their swab and extracted the DNA.

9 Q And the test for blood is different from when you
10 actually tested for DNA results, right?

11 A Yes.

12 Q And ---

13 A The test for blood is a serological test that's
14 done prior to any DNA testing. As a matter of fact,
15 it's possible to take the sample that was tested for
16 blood and go ahead and do DNA, but in most cases,
17 there's so much blood there that I just do one little
18 test for blood and the rest I do for DNA.

19 Q That was going to be my next question. Testing
20 it for the presence of blood does not affect your
21 results as far as DNA?

22 A It does not.

23 Q But sometimes you can --- if there's not enough
24 there, you simply won't test for blood to make sure
25 you can get a --- sometimes it's not your best option

1 to get a result?

2 A Right. Sometimes it's important to know whether
3 or not we're dealing with blood. If it's a very, very
4 minute amount, the amount necessary to test for blood
5 will be used for blood testing, but because that ---
6 the reagents used to test for blood does not affect
7 DNA.

8 I can actually take that same sample and extract
9 DNA. In most cases, there's more than enough blood,
10 so I would just simply discard that test and
11 (unintelligible).

12 THE COURT REPORTER: I'm sorry. I'm having
13 difficulty hearing you. I didn't hear the last part
14 of your sentence.

15 (There was no response.)

16 "In most cases, there's more than enough"...

17 THE WITNESS: There's more than enough blood,
18 okay. So I would simply discard the serological test
19 for blood and test other samples of the same swabs for
20 DNA.

21 BY MS. CAMPBELL:

22 Q Okay. Going through item number six, seven and
23 eight, where were those swabs taken from?

24 A They were taken from the body of Linda Derrick,
25 the right hip, two swabs from the right hip, and one

1 from the back.

2 Q And were those tested for the presence of blood?

3 A Yes.

4 Q And what were the results of the testing for
5 blood?

6 A The serological test was positive for blood.
7 Therefore, I knew I was dealing with blood and part of
8 the DNA extraction, and the results showed a DNA
9 profile that actually matched the victim ---

10 Q And ---

11 A --- and the victim's blood on her own body.

12 Q In this case with the submission of the evidence,
13 was there also a known sample that was submitted from
14 Linda Derrick, as well as another individual?

15 A Yes. In this case, the buccal swab was to Linda
16 Derrick, and then I also received a buccal swab from
17 Elbert Wallace, which is the defendant in this case.

18 Q Okay. And so those are the two samples you were
19 testing against in this case?

20 A Yes.

21 Q So you didn't need to send it at this point to
22 any other database to be compared, because you were
23 comparing it to those two known samples?

24 A Correct.

25 Q In this case, if it matched Linda Derrick, does

1 that mean it did not match Elbert Wallace, if that's
2 the result?

3 A Yes. Clearly, I mean, even a sex chromosome
4 would tell me it didn't match Elbert Wallace. He's
5 male and she's female, but the profile to Linda
6 Derrick is unique to Linda Derrick.

7 So if I get a full profile, which I did in this
8 case, of item 628, it matched Linda Derrick. So,
9 therefore, by default, it's not going to match anyone
10 else in the world.

11 Q Okay. And in this case, on those three items
12 from her body, the blood that was found there matched
13 her ---

14 A Yes, it did.

15 Q --- Ms. Derrick. Would that be consistent with
16 someone having bled a lot during a brutal assault?

17 A It would be consistent with that. Obviously, she
18 bled, and that blood was still present on her hip and
19 her back.

20 Q And as far as on this case --- I mean, we haven't
21 attached any numbers on the matches with Linda Derrick,
22 but that's her blood?

23 A Yes. It's pretty much a given that the victim is
24 bleeding at a crime scene, and the body is bleeding.
25 There's blood everywhere. You find a DNA profile that

1 matches the victim. There's really no need to develop
2 a statistical result from that. I mean, I could do
3 that, but I'm pretty sure that --- I'm absolutely sure
4 that it's Linda Derrick's blood.

5 Q Okay. Absolutely sure?

6 A Uh-huh.

7 Q Number 9, 10, 11, 12, 13, 14, 15 were all swabs
8 from different markers in the living room area?

9 A Yes.

10 Q And on those, going through them one at a time,
11 going through them, what were the results?

12 A Well, they're all swabs from the living room
13 floor. I was not present at the crime scene. The
14 crime scene investigator used what he calls marker one
15 through seven, and they, I guess, put a little number
16 beside each stain that they swab.

17 So they would have to tell you the exact location,
18 if that's important, on the living room floor. All I
19 know is these swabs from the living room floor --- as
20 I said earlier, swabs 9 through 14 were field tested.

21 In other words, a lot of times they will test it
22 for blood themselves. You know, if there's some doubt
23 in their mind it might be blood, they'll go ahead and
24 test it before they submit to it us. There's no need
25 submit it to us if there is nothing to it.

1 So I noticed that. I noted that they had tested
2 it. I noted that the sample was very minute, so I did
3 not bother to do any further testing. I just
4 submitted it for DNA analysis.

5 In the cases of swabs from marker one through
6 five, all of them matched Linda Derrick. As far as
7 the swab from marker six, I did not extract any DNA
8 from that swab.

9 So it --- for whatever reason, there just was not
10 enough DNA. It occurs rarely, but it does in the case
11 of blood, but it does occur. So there was no DNA to
12 test, so I can't tell you who --- who, if any's [sic],
13 DNA is present on that swab.

14 Swab from marker 14, 15 --- marker 7, another
15 swab from the living room floor was tested by me to be
16 positive for blood.

17 In this case, that DNA was from a male. It was
18 not Linda Derrick, and after developing the profile of
19 Elbert Wallace, I determined that that was Elbert
20 Wallace's blood.

21 Here you have a statistic, that is the frequency
22 of that profile. The frequency of that profile is one
23 in 4.1 quintillion. Okay. That's a huge number, okay.
24 It's a four followed by a one and 17 more zeros, okay.

25 In the planet earth, there's about six-and-a-half

1 billion people so...

2 Q How many zeros?

3 A Seventeen. And planet earth has six-and-a-half
4 billion people, so it would take approximately
5 41 million planet earths with homo-sapiens, the same
6 population to --- that's how often you would see that
7 profile. That's why I can say that it's unique to
8 Elbert Wallace.

9 Q It's Elbert Wallace's blood?

10 A Correct.

11 Q And how many people on earth?

12 A Approximately six-and-a-half billion.

13 Q How many zeros on that?

14 A Let's see, followed by two zeros, comma, one.

15 Q One more?

16 A Seven, okay.

17 Q And that's on the entire earth?

18 A Correct.

19 Q And this was, I assume, a full profile match?

20 A It was. When we get numbers in that quintillion,
21 quadrillion range, it's a full profile. That's why
22 when we say we do a full profile, we know it's that
23 person's DNA.

24 Q But even in the cases when we're referring to a
25 couple of these that's a partial profile, it's still

1 matches?

2 A Yes. If we say --- we only get --- we get 15
3 loci. Say we only get six of them. The number is not
4 going to be quintillion, but it might be millions or
5 thousands. That doesn't make it unique, but it still
6 matches that person. Of course, it couldn't match
7 someone else, but that's a statistical number up there.
8 It still matches the person.

9 Q Okay. So the swab from marker number seven on
10 the living room floor matches Elbert Wallace?

11 A Correct.

12 Q Not Linda Derrick?

13 A Not Linda Derrick.

14 Q And that would be unique to Elbert Wallace. That
15 means it's his blood, in your opinion?

16 A Yes.

17 Q Moving on to swabs --- the rest of the swabs for
18 the dining room floor.

19 A Yes. Swabs from marker eight, nine, ten, 11 and
20 12 are from a --- well, the dining room floor is
21 marker eight, nine, ten. They were blood matching
22 Linda Derrick. Marker 11 and 12 were swabs from a
23 hallway floor, blood matching Linda Derrick.

24 Q Moving on to State's Exhibit Number 406.

25 A Swabs from marker 13 is another one from the

1 hallway floor matching Linda Derrick. Marker ---
2 swabs from marker 14 and 15, 16, are from the floor of
3 the bathroom. Fourteen and 15 were blood matching
4 Linda Derrick.

5 Swab from 16, bathroom floor, was negative for
6 blood. So no further testing was done. Marker 17, 18,
7 19 and 20 were swabs from the entrance to the bedroom.
8 They were all blood matching Linda Derrick.

9 Swabs from marker 21, 22, 23 was --- were swabs
10 from the bathroom floor. I don't know if it's the
11 same bathroom or a different bathroom. They were
12 blood matching Linda --- Linda Derrick. Then we come
13 to swabs from a car.

14 Q Okay. And these are the swabs that were taken by
15 crime scene personnel and submitted to you for testing
16 from the car?

17 A Correct.

18 Q And what was the result of the blood found in the
19 car --- the swabs taken from the car?

20 A The swab from marker C was consistent with Elbert
21 Wallace. It was not a full profile, so the number is
22 going to be less.

23 Q Okay. On all of these we didn't put the number.
24 On some of them, it shows the number randomly, but on
25 some of them, when it's not a full profile, you'll

1 bring that up. Otherwise, it's the one in ---

2 A Yes.

3 Q --- that number?

4 A Right.

5 Q Okay. Keep going.

6 A Swabs from marker D and E were blood and full
7 profile matches to Elbert Wallace. In other words,
8 it's unique to him.

9 Marker C was not a full profile. It did match,
10 what was there did match Elbert Wallace, however.

11 Q Okay. And in doing forensic work from the crime
12 scenes and everything, this is reality. Sometimes
13 you'll get a full profile and sometimes you won't.

14 A Yes, that is the reality.

15 Q Okay. Keep going, the swabs from the car.

16 A Okay. Swabs from marker F was negative for blood.
17 No further testing was done. Swab from marker G was a
18 swab from the car. It was a full profile match to
19 Elbert Wallace, the same, 4.1 quintillion number.

20 Swabs from marker H and I were both matching
21 Elbert Wallace. They were not complete profiles.
22 Again, partial but still consistent with Elbert
23 Wallace.

24 Swabs from marker J, from the car, was negative
25 for blood. Swabs from marker K from the car was a

1 full profile match to Elbert Wallace. Swabs from
2 marker L was negative for blood. Swabs from marker M
3 was a full profile match to Elbert Wallace. Swabs
4 from marker N was a weak partial match to Elbert
5 Wallace. Swabs from marker O was a full profile match
6 to Elbert Wallace. Swabs from marker P was so weak
7 that we could not even interpret it. Swabs from
8 marker Q ---

9 Q Let me stop you there. What does that mean?

10 A That means there was a little bit of DNA there.
11 Just --- sometimes it's just so weak that we are
12 reluctant to even attempt it, to be fair.

13 Q To the fair to the defendant?

14 A Yes.

15 Q Okay.

16 A Swabs from marker Q was a weak profile match to
17 Elbert Wallace, partial profile.

18 Q Uh-huh.

19 A Swabs from marker R gave no DNA. Swabs from
20 marker S, again, was no DNA.

21 Q And in this one, I noticed that it tested
22 positive for blood, but then there was no DNA. Is
23 that unusual?

24 A It is. It is somewhat unusual. It could be
25 there is just not enough blood there, because the

1 serological test for blood is extremely sensitive.

2 The test for DNA is also sensitive, but the test
3 for --- serological test for blood is even more
4 sensitive. So I mean, it doesn't take but just a
5 couple of cells from human blood to give you a
6 positive test. Whereas, in DNA testing, the actual
7 human blood molecules does not have enough to be
8 presents for DNA.

9 Q Okay. So that happens?

10 A Yes, it does.

11 Q Okay.

12 A It's kind of rare, but it does happen.

13 Q Okay.

14 A Swabs from marker S was negative for blood. Swab
15 from the bag was negative for blood, and here we have
16 another stain from the bedroom floor submitted much
17 later than the original stains, but this was blood
18 that matched Linda Derrick.

19 Q Moving on to additional items that were tested
20 from the crime scene involving Linda Derrick.

21 A Swab --- item 19, which is a swab, number 17,
22 that is not my number. That is something that is put
23 on at the crime scene was a stain from a paper on the
24 bedroom floor.

25 That blood stain matched Elbert Wallace, nothing.

1 It was a full profile. One in 1.4 quintillion match.

2 Q So in your opinion, whose blood was that?

3 A That is Elbert Wallace's blood, beyond a shadow
4 of a doubt.

5 Q And moving on to the next item, swab number 19,
6 on the floor?

7 A That's blood matching Linda Derrick, and swab
8 number 21 and 22, swabs from the bedroom door, were
9 negative for blood.

10 Swab number I, now into letters, swab from the
11 hallway wall, swab J from the hallway wall were both
12 negative for blood.

13 Swab from the --- this is swab number I ---
14 excuse me, J and K were negative for blood. Swab
15 number I was blood. In this case, it was from a
16 female that was not Linda Derrick, so unknown.

17 Q And, again, when these swabs are being done,
18 crime scene can talk about what wet blood, dry blood,
19 things such as that, you can't tell how long that
20 blood may have been on there, can you?

21 A That's correct. It was from the wall, somebody
22 who was bleeding touched that wall and left their
23 blood there. It was a female. It could have been
24 months, even years prior to this --- this crime, but
25 it is unknown to me.

1 The reason it's unknown is because it doesn't
2 match Linda Derrick. Obviously, it doesn't match the
3 defendant because he's a male. It's a female, but I
4 don't know who it is because --- unless I get a known
5 sample from a female, potential female, to match it, I
6 can't tell you who it belonged to.

7 Q And is it unusual in crime scenes to find unknown
8 DNA?

9 A It's not unusual. It's not unusual. Especially
10 with this many swabs everywhere. You may have blood
11 laying around your house from somebody who bled, and
12 it just wasn't cleaned up for whatever reason, just a
13 spot of blood. You know, a little slight smear
14 somewhere.

15 These crime scene people who are very good at
16 finding blood, they swab it up. It could be totally
17 unrelated to anything going on in your house ---

18 Q Okay.

19 A --- or any particular crime going on in your
20 house, that somebody broke in, may not even be related
21 to the person doing it.

22 Okay. Where are we at?

23 Q Right here. We get back to matching Elbert
24 Wallace.

25 A All right. The stain --- swab from the stain on

1 the wall near the front door was blood, and that was a
2 full --- yes, a full profile match to Elbert Wallace.

3 Q So the swab from the stain in the front door on
4 the inside, would have matched Elbert Wallace's blood?

5 A It is. Number --- this number 135 was a swab
6 from the interior front doorknob.

7 Q You didn't test it for the presence of blood ---

8 A Right.

9 Q --- but you were able to extract DNA?

10 A Right. This is a case where we're looking for
11 touch DNA. There was no blood there or red stain or
12 anything like that. Doorknobs are commonly swabbed
13 for touch DNA. Somebody comes to your house,
14 potentially find out who it is, okay, entered through
15 the door, touched the doorknob. Obviously, it's a
16 place to test.

17 There was some DNA present. However, it did not
18 show up in the profile. Again, it's so weak. I'm not
19 going to interpret anything like that.

20 Q It didn't show up as the victim?

21 A It's ---

22 Q Even if her son-in-law entered afterwards, you
23 didn't get any profile here. Touch DNA happens?

24 A It happens, yes, very common result.

25 Where are we at? The swab from the stain on the

1 bag. It was thought to be blood, but it tested
2 negative for blood.

3 The swab from the stain on the papers was blood,
4 again matching the full profile to Elbert Wallace.
5 The swab from the marker inside the driver's door is a
6 full profile match to Elbert Wallace.

7 Okay. Now, we have swabs from marker 14 is a
8 steering wheel.

9 Q Okay. And is it unusual for them to --- in
10 places inside the car to look for touch DNA even if it
11 doesn't appear to have blood? That actually wasn't
12 blood.

13 A That was blood present, as well, but a steering
14 wheel --- especially with a stolen vehicle --- would
15 be a common place that we would test for potential
16 perpetrators leaving the vehicle.

17 In this case, there was blood present. So
18 somebody who put their hands on that steering wheel
19 was bleeding and left blood there.

20 It was a mixture. This mixture had a major,
21 minor contributor. A major contributor came from the
22 blood, and that matched Elbert Wallace. The minor
23 contributor was too weak to interpret it.

24 There was something there. I can tell you there
25 was somebody else's DNA there, but it's too weak to

1 even try to interpret it.

2 Q So you ---

3 A Depending on whose car it was ---

4 Q The choices up there ---

5 (Talking over each other.)

6 A --- it's likely whose DNA it is.

7 Q But there just wasn't enough there for you to
8 determine who it was?

9 A Not enough there to state that objective.

10 Q Okay, all right.

11 A Item 201 was a brown bag with a Nike jacket. It
12 was negative for blood, and then 212 is Elbert
13 Wallace's buccal swab.

14 Q And that was what you used to compare in this
15 case?

16 A Yes.

17 Q The known standards?

18 A The known standard from him. The swab from the
19 inside of his mouth.

20 Q You also, I believe, tested some items that were
21 involved in the investigation of the home invasion,
22 robbery of Carolyn Webb, as well as a burglary of a
23 church nearby?

24 A Yes.

25 Q And are these the results of those items?

1 A Yes.

2 Q We'll put them all on one board.

3 A This is --- these are number one, down here at
4 the church. It says "church door". The rest of them
5 are from the church, as well.

6 Q In this case, you actually have a separate buccal
7 swab submitted; is that correct?

8 A I did.

9 Q Of Elbert Wallace? In this case, you had two.

10 A I had a buccal swab submitted from Elbert Wallace
11 in the Carolyn Webb case, as well as Linda Derrick.

12 Q Okay. And both matched?

13 A Yes.

14 Q Anyway, what were the results when you did your
15 comparisons from the known standard from Elbert
16 Wallace, and I believe you also had item number ---
17 down here, 20, from Carolyn Webb?

18 A Yes. Since it was the burglary of Carolyn Webb's
19 home, it's appropriate to collect the sample from the
20 victim herself. The case would come up with DNA to
21 include or eliminate Ms. Webb.

22 Some of these items are inventoried and not
23 tested, blue jeans, multicolored shirt and watch. A
24 white hat was submitted. It was tested. It was
25 positive for blood. It matched Elbert Wallace.

1 Q A white hat. That would have been the clothing
2 that was submitted from the defendant for the blue
3 jeans, the multicolored shirt, the white hat. You
4 tested the white hat?

5 A Yes. These --- these items were clothing that
6 allegedly came from the defendant.

7 Q From the defendant?

8 A Right.

9 Q And on the hat, you found blood?

10 A I found blood. I found his own blood. So if
11 this hat belonged to Elbert Wallace, then he bled on
12 his own hat. There's nothing of evidentiary value
13 there.

14 Q Item number 16.

15 A We'll get to item 16, white Nike shoes. I
16 believe that Ms. Barrickman testified that she
17 examined the shoes, and testing the right shoe, it was
18 negative. The left shoe, she found blood.

19 She subsequently cut that blood sample, put it
20 into a tube for my analysis for DNA. I found there
21 was a mixture present in that --- on that sample. The
22 major contributor likely comes from the blood, it
23 matched that of Linda Derrick.

24 Q So in doing your testing, too, you can go back
25 and compare in cases, as well as you did in this case?

1 A Yes.

2 Q And did it match Carolyn Webb?

3 A No.

4 Q The blood on that shoe?

5 A No.

6 Q Did it match Elbert Wallace?

7 A No.

8 Q And --- so this was a female profile?

9 A It was. The major contributor was --- was female
10 in this mixture.

11 Q And, again, that would be the blood?

12 A Right. It was consistent with Linda Derrick.

13 Oftentimes in mixture calculations, we do a
14 probability exclusion.

15 Now, how many people would be excluded from
16 contributing to this? In this cases, greater than
17 99 percent of the population would be excluded. Among
18 those excluded would be Carolyn Webb and Elbert
19 Wallace, but I could not exclude Linda Derrick. As a
20 matter of fact, she matched the major profile of that
21 sample.

22 Q And if someone has shoes, even if they clean them
23 up or if there's maybe a transfer where it brushes up
24 against another piece of clothing, even in an attempt
25 to clean shoes, you can still sometimes find DNA?

1 A Yes. If they're not cleaned thoroughly enough,
2 yes..

3 Q And that would be from the defendant's left shoe?

4 A Correct.

5 Q And it was positive for blood and matched the
6 major contributor, which would be the blood that
7 matched Linda Derrick?

8 A Correct.

9 Q Item number 17 and 18?

10 A Seventeen, 18 and 19 and 20 --- 17, 18 and 19
11 weren't tested. Those items are included sometimes in
12 our inventory. We don't always test everything in
13 inventory.

14 What we do test is basically called collaboration
15 in (unintelligible).

16 THE COURT REPORTER: I'm sorry. I didn't hear
17 the last part of what you said.

18 THE WITNESS: What is tested --- not everything
19 that is inventoried is tested. What is tested is
20 based upon collaboration between the DNA analyst and
21 the investigator in the case of the crime scene, and
22 the individual, as well.

23 BY MS. CAMPBELL:

24 Q Okay. And then, finally, the swabs from the
25 church, items number one and two. What were the

1 results of testing on those?

2 A The crime scene investigator collected two swabs
3 from the church door suspected to be blood. The first
4 one was not blood. You know, it could be reddish
5 stains that's not blood, and that's the case in this.
6 The other one was blood that matched a full profile to
7 Elbert Wallace.

8 Q So, again, it would be this same number?

9 A It would be, yes.

10 Q So in your expert opinion, whose blood was on the
11 church door?

12 A That's Elbert Wallace's blood on the church door.

13 Q You can step back up. Once you finished all your
14 testing in this case, you reported it out properly?

15 A I'm sorry?

16 Q It was published in a report?

17 A Yes.

18 Q And that's been turned over to all parties?

19 A Yes.

20 MS. CAMPBELL: Thank you. I don't have anything
21 further.

22 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

23 MR. SUTHERLAND: May it please the Court.

24 CROSS-EXAMINATION:

25 BY MR. SUTHERLAND:

1 Q Sir, how are you?

2 A Just fine, sir.

3 Q Now, when we're talking about numbers like
4 quintillions and everything, it seems pretty
5 complicated, and it is complicated, I mean, the
6 testing that you described.

7 What I want to try to do is to sort of make it,
8 well, I want to say translate something into English.
9 In other words, bring it down to where it's easier to
10 --- easy to look at the procedures.

11 I'll go ahead and start, and then we'll see here.

12 A I thought it was pretty easy to me.

13 Q Okay. Well, I think you've been doing this since
14 they invented this stuff or came up with this stuff.

15 It's just jumping --- like jumping into a number
16 like something in the quintillions or anything, and I
17 hope I don't mess this up.

18 THE HONORABLE CLIFTON NEWMAN: Have you asked a
19 question yet?

20 MR. SUTHERLAND: Oh, yes, sir. I'm asking him to
21 bear with me.

22 THE HONORABLE CLIFTON NEWMAN: Oh, to bear with
23 you?

24 MR. SUTHERLAND: Yes. In a circumlocutes way,
25 sir.

1 BY MR. SUTHERLAND:

2 Q Now, you --- let me start at the beginning.

3 There's four things, if I'm not mistaken. There's
4 cytosine, guanine, adenine, and thymine?

5 A Yeah. Those are the nucleotide base pairs
6 composed of DNA molecules.

7 Q Okay. And so what I'm going to do is just take
8 three and CAT, because it's easy to remember. What
9 you're measuring is a repetition. The numbers that go
10 in your table --- let's say the number of CATs.

11 If CAT repeats 14 times, then the number that you
12 put in on your table is 14, and let's say it's 15
13 times at this particular location. You have a number
14 in your table, and it will say 14 and 15?

15 A The two numbers you're referring to, I assume
16 what you're talking about are the alleles from your
17 mom and your dad.

18 I think the easiest way to explain it is what
19 we're doing is we're testing segments and DNA
20 molecules. In those segments are repeat units like
21 you're saying, okay.

22 Q Okay.

23 A All right. Each repeat unit, say, would
24 represent a boxcar on a train, all right. So the
25 boxcar on a train with eight --- or 14 box cars would

1 be different than a train with 15 box cars. Obviously,
2 one is longer. One is heavier.

3 So based upon the size of that train, that's how
4 we separate the DNA alleles to determine that they are
5 a 14 and 15 in certain location.

6 Q And that's helpful. Thank you.

7 A Okay. All right.

8 Q All right. So these locations that y'all are
9 talking about when you draw a table, they'll be ---
10 let me see something like here, like D3S-1358?

11 A Yeah. Each point on the DNA molecule we test is
12 given a designation. We did not do that. The
13 scientists who discovered that gave it a designation.
14 They don't make sense to me, so I don't expect it to
15 make sense to you.

16 Q Okay. And what you do to make your --- when you
17 come up with these quadrillion things --- let's say
18 we're just looking at this one location here.

19 A Uh-huh.

20 Q Let's say 10 percent of a certain population
21 would have a 14 here, and let's see --- and say
22 20 percent of a population would have a 15 at this
23 location.

24 A Uh-huh.

25 Q You take these two and basically multiply it

1 times .1 and times .2, and you get a percentage,
2 basically, for this little section here that's four
3 percent?

4 A If those frequency numbers you put up there are
5 correct.

6 Q Yes, sir, just generally.

7 A That would be the frequency of someone having a
8 14, 15 is four percent of the population.

9 Q Yes.

10 A All right.

11 Q And then --- I'm going to stop putting these
12 things up here, because they're confusing. Let's say
13 this is location number two. If you had eight box
14 cars or eight CATs and 11 or 11, you would basically
15 do this same calculation here and come up with a
16 percentage there, you know, three, four, two percent.

17 A Right. It's all depending on the frequency of
18 each allele. Some alleles are more rare than others.
19 So, therefore, the percentage of the population that
20 will contain that combination of alleles will vary at
21 each locus.

22 Q And so as you are going on down the line here,
23 three, four, these percentages --- it's, basically,
24 you multiply each as it goes along, and that's when
25 the zeros start stretching out, like what Ms. Campbell

1 was writing up there. That's where you get into
2 millions and billions where you ---

3 A Billions, quadrillions ---

4 Q Yes, sir.

5 A --- quintillions.

6 Q You start getting those long odds.

7 A Right.

8 Q Okay.

9 A That's because each of those loci are independent.
10 They are independent events. So, therefore, the
11 frequency can be multiplied together. It's like when
12 you roll two dice.

13 What's the frequency of rolling a six? It's one
14 out of six. What's the frequency of rolling the other
15 one? The other dice is a six. That's one out of six.
16 What's the frequency of rolling them together?
17 They're independent. It's one out of 36. Well, one
18 over six times six.

19 Q Thank you. Okay. So effectively --- you said
20 there were 15 spots, 15 locations that you test?

21 A Fifteen are sufficient to give those types of
22 frequency of numbers, and that's sufficient to give a
23 positive identification.

24 Q Okay.

25 A We also test from the sex chromosome, as well, to

1 determine whether it's male or female.

2 Q Well, let's say that we've got --- we've got .04
3 here and then .02 here. So then you've got zero, two,
4 one, two, three, four, zero, zero, eight.

5 A Uh-huh.

6 Q And so that's --- the number stretches out that
7 far?

8 A Uh-huh.

9 Q When you do the multiplication of just two of
10 these locations. I'm trying to keep it straight.

11 A Right. You can see it's going to be a very, very
12 rare number by the time you get through doing that.

13 Q And then let's say it's a .01. I'm doing this to
14 be easy. So you just add two zeros in front.

15 A Right.

16 (A cell phone rang.)

17 Q I better --- that's not me.

18 A Right.

19 Q And already we're starting to get pretty deep in.
20 We're starting to get towards millions.

21 A Uh-huh.

22 Q Now, in order to have a match, do you --- and I'm
23 talking about a match, match. You know, not something
24 that's consistent with. Do you need the whole profile
25 taken?

1 A Not necessarily. Statistically speaking, you
2 need one in 390 billion to be ---

3 Q But as far as what's regarded as a match, when
4 you say something is a match, you're talking about a
5 full profile match.

6 Are there --- you know, there are some instances
7 where --- let's shall we get another --- and I don't
8 even know, you know, 21, 25, put something up here.
9 There's some instances where you get these three
10 things that are matching, and you're already in the
11 billions or something, but it is certainly possible
12 that if you move onto this one, you may get something
13 that's not --- that demonstrates that it's somebody
14 else.

15 A Correct.

16 Q Okay. So I guess the point that I'm really
17 trying to bring out of this is you can get up to the
18 billions in odds with going down this line, but you
19 hit here, and it does not match after just three.
20 Then the number goes from one in a billion to zero; is
21 that correct, sir?

22 A As far as matching somebody? It doesn't take but
23 one inconsistent sequence to call it a no match,
24 that's correct.

25 Q Okay. Great. And that's fundamentally where I

1 might have been going for another minute or two, so I
2 appreciate that. All right.

3 A All right.

4 Q You testified about mixtures earlier.

5 (A cell phone rings.)

6 You said that mixtures could be an issue.

7 A Mixtures are an issue. There's no doubt about
8 that.

9 Q Because effectively, it's like two or more
10 sources is what we're talking about when we're talking
11 about mixtures.

12 A We determine pretty much how many people are in
13 the mixture, or at least how many people are in the
14 mixture. If it's more than two, it becomes very, very
15 complex unless you have a major contributor that
16 stands out among everybody else. Then it's pretty
17 much very difficult to deal with.

18 However, what we can do is what I stated earlier.
19 We have can statistically state the percentage of
20 people that would be excluded from that.

21 There's one potential way we can do mixtures.
22 There is another statistical way that we can do
23 mixtures, but that was not done in this case. So we
24 won't even talk about that.

25 Q Yes, sir. Now, basically --- and I'm now sort of

1 going underneath this number, and I'm trying --- I
2 should use the laser pointer. I'm sorry. I should
3 have taken that.

4 All right.

5 (Pause)

6 There we go. I forgot that's a court rule.

7 So, you know, we went through all those things
8 we've been pointing at. I hope everybody had at least
9 a partial opportunity to see --- to view what was
10 going on up here.

11 Now, I'm going to go down here, and these are
12 numbers that are taken from the electropherograms, the
13 piece.

14 A That is --- electropherogram is a term that
15 laboratories use for DNA profiling.

16 Q Okay. And so, I'm going to draw, let's say here,
17 and there is a scale on the outside. Again, I don't
18 know a whole ton about this stuff, you know. I know
19 what I need to know to understand what I'm doing.

20 A Uh-huh.

21 Q But there's a scale out here on the side, and the
22 scale has numbers.

23 A Yes.

24 Q You could have, let's say, zero down here and
25 1,000 up here. I mean, it's just like any other scale.

1 A Correct.

2 Q And the --- the measurement --- if there is a
3 number out here, say, of 600, what is that a
4 measurement of?

5 A The scale is designed to measure the intensity of
6 the peak, which gives us the strength of the amount of
7 DNA coming through there. So a little bit of DNA may
8 be like around 100. A lot of DNA will be in the
9 thousands.

10 Q Okay. And reflecting back up here on that, you
11 know, just 14, 15, and then this information gets
12 entered into the table.

13 A Correct.

14 Q Okay. All right. So these peaks, let's say this
15 one disappears, and it's not up there. It's ---
16 you've got --- let's say you've got a sample, a 14, 15,
17 and you've got 14, 15 that you're testing it against.

18 You look down here and, say, number 15 is missing,
19 and you're just left with 14. What --- that wouldn't
20 be considered a match over there with alternative
21 explanations for, let's say, a missing allele at a
22 location?

23 A Well, a missing allele can be explained several
24 ways. One is that the person is a 14, 14. In other
25 words, they received a 14 from mom and from dad, which

1 is called a homozygous. Two alleles is called a
2 heterozygous.

3 Each person will have one or two alleles at each
4 locus, okay. If your mom and dad actually gave you
5 the same alleles, then you just have one.

6 So someone can be a 14, 14. They would not match
7 a 14, 15, because they are two different profiles, all
8 right. Another explanation is that the 15 dropped out.

9 The copying of a DNA molecule is a random event,
10 so the smaller number of copies you have of the
11 original DNA, the chances are that there is a
12 possibility that the DNA that's --- one DNA allele is
13 going to get copied, and the other is going to get
14 left out.

15 That's something that happens, but we'll be able
16 to tell whether the potential drop out, based upon the
17 intensity of that peak. So if that intensity of the
18 14 is 150 or less, you have a potential for a drop out.
19 If it's more than 150, it's considered to be a
20 homozygous.

21 And in this case, if it was a 14 --- if the ---
22 let's say the person I matched it to is a 14, 15, and
23 the 14 was, say, a 500 RFU and that's all I saw, I
24 would say it's a no match. Because, you know, it's a
25 14, 14 and a 14, 15. That does not jibe. That does

1 not match with exclusion.

2 However, if the 14 would say somewhere around 90,
3 and then we could have the potential for a 15 drop out.
4 So, therefore, I cannot exclude at that locus. I need
5 to go somewhere else to see if I can exclude it or
6 include it. I would not use that locus for any
7 statistical calculation that has the potential to drop
8 out.

9 Q Okay. Excellent. Thanks.

10 Is there any way to independently verify allelic
11 drop out? In other words, what I'm saying is it ---
12 the inconsistency itself that is the proof of the
13 phenomenon? Is that making sense?

14 A No. It doesn't make sense at all.

15 Q Okay. How do you independently verify allelic
16 dropout?

17 A Well, it's done based upon studies that we do in
18 our laboratory. We determine the level at which we
19 expect dropout.

20 Q And the expectation of dropout, your testimony is
21 the --- just the weakness, the weakness of the DNA?

22 A Correct.

23 Q Okay.

24 A But most of the DNA in this case, that's not an
25 issue.

1 Q Yes, sir. All right. Well, we're still ---
2 we're doing pretty well. We're moving right along
3 here. And, actually, we've gone farther than I
4 thought, because I let you explain it instead of me
5 trying.

6 Now, well, okay. Of course, an alternative
7 explanation for dropout, if you have a 14 there, and
8 you're looking for a 14 and 15, even if they are low
9 or refused, an alternative explanation would be it's
10 not the same person.

11 A That is --- obviously, we are trying not only to
12 include but exclude people. We are objective. We are
13 objective. We are going to state the facts, the
14 scientific facts, based upon the profile. If it
15 doesn't match, we're going to say it doesn't match.

16 Q Okay. So a few things, you don't have your
17 electropherograms, do you?

18 A I do not.

19 Q Okay. Oh, well, I --- I just wanted to ask you.
20 I guess I'll sort of have to show you some things here.

21 A You have my electropherogram.

22 Q Yes. I've been --- it's --- it's always
23 interesting to look through this stuff here.

24 A Uh-huh.

25 Q All right. Let's see. Where are we at? Where

1 are my --- okay.

2 (Pause)

3 Okay. And this, I believe, is tested against
4 this, and here we have 14, 17. Okay. We have --- I'm
5 looking at D7S820?

6 A Yes.

7 Q Right there.

8 A Uh-huh.

9 Q And then D7S820 here.

10 A Uh-huh.

11 Q Now, there's --- there --- it looks like some
12 sort of activity or something there, but there's no
13 --- you know, instead of the two alleles, the 11 and
14 12 that are here, there is actually zero there.

15 A Yes. There was nothing detected at that locus.

16 Q Okay. And I've tried to just highlight all of
17 these things, and going down to D2S1338 at that,
18 you've got 22 --- wait a minute. Okay. Oh, to show
19 that, you've got a 22 here, and then there's nothing
20 there. This is with respect to item 39.

21 A Okay. That's a partial profile.

22 Q Yes, sir.

23 A Uh-huh.

24 Q And, ultimately, you --- what I've done is I've
25 highlighted here there's a missing allele here.

1 There's a missing allele there.

2 Don't mind the com---- I just get excited about
3 this stuff. So --- and there's missing allele and a
4 missing allele there, and I mean, that's looking at
5 the electropherogram, and of course, I've got to flip
6 back to here.

7 Basically, between these profiles, we've got 1924,
8 and then there's a 24. And --- and here I think
9 there's actually --- oh, maybe there was on off ---
10 off ladder that I was pointing to, but that --- but,
11 ultimately, these things where I'm going through here,
12 and I've got these copper-looking clips here is just
13 flipping back and forth between Mr. Wallace's DNA
14 profile here and here.

15 There's a missing 11 there. And what have we got?
16 We've got six and seven here and then six here.

17 A Uh-huh.

18 Q And then D13S317. There's an 11 and 13 there
19 that's not there, and there was something else I
20 wanted --- I actually wanted to ask you about. When
21 there is a little number --- and this is off topic for
22 a minute.

23 You know, you've got an 11 and 12 there, and then
24 there's a line that goes down, and there's another
25 number in a box with a line through it. Let's say at

1 the --- okay. Let's say that you've got 11, 12, and
2 then another line down with a 13. Y'all do a box like
3 that and then a cross. Is that making any --- is that
4 ringing anything with you or should I...

5 A Sure.

6 Q Okay. Does that just mean that you think that's
7 too weak, or there's some problem with it?

8 A That means that that peak there was determined
9 not to be from DNA but was from some artifact.

10 Q And it's maybe with respect to artifacts, there's
11 some noise or something once you get down ---

12 A Yeah.

13 Q --- get down here. There are noises or some sort
14 of interference --- and again, I'm in the dark on
15 this --- but there are problems from interference or
16 noise or somebody said murmurs or something down ---
17 once you get down around this ---

18 A I don't know about the murmurs but ---

19 Q All right.

20 A --- any --- any type of an electronic graph is
21 going to have noise. It's called electronic noise.
22 The noise level is --- is small.

23 So anything --- any peak down in the noise or the
24 graph, as we call it, is not taken into account. So
25 it has to be above the noise before we even consider

1 it. Not only above the noise, it has to be above a
2 certain level beyond the noise.

3 So we build in a large buffer zone, so we're not
4 going to interpret any peak. It's down in the lower
5 --- below a noisy level of electronic detection.

6 Q Okay. Thanks.

7 And this --- looking at this --- you know, for
8 example, this here, I've got --- well, I'm sorry this
9 has taken so long. I'm just doing the best I can.

10 A Uh-huh.

11 Q Oops. Okay. Okay. After X, Y. So there's a 12
12 and a 13 missing there, and then there's a 24 missing
13 on the 19 and the 24.

14 A Uh-huh.

15 Q Let's see, the RFU level on this item is down at
16 60.

17 A Uh-huh.

18 Q And that's pretty low, isn't it?

19 A Yes, it is.

20 Q Okay.

21 A You're referring to a partial profile, which I
22 testified to, was not a full profile match of Elbert
23 Wallace.

24 Q Yes, sir. Yes, sir.

25 A But what does show up is consistent with him.

1 Q Oh, sure. But then, effectively, like in
2 something like this that is all marked up yellow, I
3 mean you could get, you know, one, two, three into
4 billions, and if there's nothing there, there is a
5 chance it could be something else there. Because of
6 degradation or something or just general weakness,
7 there's a possibility --- and it's a real
8 possibility --- it could be somebody else.

9 A Yes.

10 Q Okay. All right. I'm not going to ---

11 A But what I did detect is consistent with Elbert
12 Wallace. That's what I stated. That's my testimony.

13 Q Yes, sir.

14 A If I had found something that didn't match up
15 with Elbert Wallace, then I would say it does not
16 match up with Elbert Wallace.

17 Q Yes, sir. And just --- I'm just trying to --- I
18 guess when I talked to you in the beginning, I wanted
19 to make this more, "Oh, I see. Okay. I see. I
20 understand. I understand the process. I understand,"
21 just so, you know, people on the jury can be able to
22 think this stuff through when --- because, you know,
23 they're going to get that chart that's got --- this
24 matches or that ---

25 MS. CAMPBELL: Objection, Your Honor. If he has

1 got question, he needs to ask it.

2 THE HONORABLE CLIFTON NEWMAN: The objection is
3 sustained.

4 BY MR. SUTHERLAND:

5 Q Okay. Is it in your experience helpful to try
6 to --- to explain the underlying processes to a degree
7 that a jury can understand when they're looking at
8 charts and stuff in the back?

9 A Well, I think it's important to try to help the
10 jury understand. However, you know, we are talking
11 about complex scientific issues that they have no
12 training in, so it is important to put it in their
13 language so that they can at least comprehend what
14 we're talking about.

15 Q Okay. And I mean, this is still --- you know,
16 we're t talking about scientific stuff and alleles and
17 peaks and off letters and artifacts. I mean, we're
18 still, you know, doing science talk, but again,
19 everything that we've been through here has --- we
20 haven't disagreed about anything that we've been
21 talking about yet so far, have we?

22 A Well, I'm not going to answer that question.

23 Q Okay.

24 A Because I could disagree with some things you
25 said, and I'm not going to say I totally disagreed

1 with everything you said without going over it point
2 by point.

3 Q Okay. All right. Well, what I was going to do
4 was go through my other paperclips and stuff, but, you
5 know, my concern was just to sort of lay it out there.

6 So I have no further questions at this time.

7 Thank you very much. I always learn a lot.

8 THE WITNESS: Thank you.

9 MS. CAMPBELL: Briefly, Your Honor.

10 REDIRECT EXAMINATION:

11 BY MS. CAMPBELL:

12 Q Did anything he asked you about affect any of
13 your results?

14 A No.

15 Q And your mentioning, when he was cross-examining
16 you, that your job is to be objective and fair.

17 A Yes, it is.

18 Q And you actually go so far as to try to exclude a
19 match to make sure you're doing the right thing.

20 A I do, and I've actually excluded people that have
21 been suspected of crimes.

22 Q And the only actual evidence in this case he
23 asked you about, not the hypothetical that doesn't
24 have to do with this case, but the evidence in this
25 case he asked you about is item 39 ---

1 A Yes.

2 Q --- which is a swab of the car.

3 A Yes.

4 Q And you testified to this jury that was a partial
5 match. What is there matches Elbert Wallace?

6 A Correct.

7 Q But on all the ones that you're talking about
8 that it's definitely Elbert Wallace to the exclusion
9 of anyone else --- to the exclusion of anyone else,
10 that 4.1 quintillion he took down ---

11 A Correct.

12 Q --- that's Elbert Wallace?

13 A That's Elbert Wallace, full profile.

14 Q Yet, even the partials match. What's there
15 absolutely matches him?

16 A I could not exclude Elbert Wallace from the
17 partial profile.

18 Q It's just --- you weren't able to, because there
19 wasn't not enough DNA, for whatever reason, to get a
20 full profile?

21 A That's correct.

22 Q And your findings are independently reviewed by
23 another qualified analyst that knows what you're
24 talking about?

25 A Yes, sir.

1 MS. CAMPBELL: Thank you.

2 THE HONORABLE CLIFTON NEWMAN: Anything further?

3 MR. SUTHERLAND: Just briefly, Your Honor.

4 RECROSS-EXAMINATION:

5 BY MR. SUTHERLAND:

6 Q Actually, the only one you had mentioned, or I
7 had mentioned, item number 39 --- we want through a
8 few of the electropherograms; is that correct, sir?

9 A Yes. Every one that I said was a weak partial
10 match would have those issues you pointed out on item
11 39.

12 MR. SUTHERLAND: Okay. Thank you, sir.

13 THE HONORABLE CLIFTON NEWMAN: All right. Thank
14 you, sir. You may step down.

15 THE BAILIFF: Watch your step.

16 THE HONORABLE CLIFTON NEWMAN: Next witness.

17 MS. CAMPBELL: The State would call Major Stan
18 Smith.

19 THE HONORABLE CLIFTON NEWMAN: And before he
20 comes, I think we'll take a break.

21 Ladies and gentlemen, if you'll go to the jury
22 room. Please do not discuss the case.

23 (WHEREUPON, the jury left open court at
24 approximately 11:21 a.m.)

25 THE HONORABLE CLIFTON NEWMAN: All right. One of

1 the issues that I thought about again, the photograph
2 of Ms. Derrick wearing the necklace that was excluded,
3 I'll hear further argument on that issue before we
4 break.

5 MS. CAMPBELL: Your Honor, we would ask that it
6 be admitted into evidence. The purpose of that
7 photograph is to show --- to corroborate the testimony
8 from her daughter, I believe, that she wore that on a
9 daily basis. She never went anywhere without it; that
10 it was always on her person. It was very dear to her,
11 and if anything, it just illustrates the fact that she
12 did wear that often.

13 We've got a number of photographs. We just
14 picked one randomly to show it on her, and that is the
15 actual item that was recovered and the testimony found
16 --- about how it was recovered from where Mr. Wallace
17 was pawning it later that day.

18 THE HONORABLE CLIFTON NEWMAN: All right.

19 MR. SUTHERLAND: May it please the Court, sir.
20 There's been a lot of exhibits, but I looked at the
21 number of pictures that they had.

22 If it's what I'm thinking of, it's a family
23 picture. I would just say that it would be more
24 prejudicial than probative.

25 We've had the testimony of the daughter

1 identifying the jewelry as belonging to her mother.
2 There's been no implication or anything by the defense
3 to this at all that it wasn't her --- her jewelry.

4 The daughter testified and established that.
5 They submitted photographs of that. I think to do a
6 family picture --- again, I don't remember which one,
7 but I do remember there's some grandchildren and
8 everything. I just think --- I just think that would
9 be wrong. I think it's prejudicial.

10 THE HONORABLE CLIFTON NEWMAN: All right. Well,
11 I disagree. I think the --- based on the State's
12 evidence that she was murdered, her jewelry was stolen,
13 and the defendant was in the pawnshop pawning it the
14 next day, that that has probative value that exceeds
15 any prejudicial effect.

16 The purpose of the exhibit is not to inflame the
17 jury but to prove that the items that he was pawning
18 belonged to the deceased. So I'm going to admit that
19 exhibit.

20 MR. SUTHERLAND: Thank you, sir.

21 THE HONORABLE CLIFTON NEWMAN: All right. And
22 we'll take a break, 10 minutes.

23 THE COURT REPORTER: Does anyone remember what
24 number that exhibit was?

25 MS. CAMPBELL: I'll find it.

1 THE COURT REPORTER: Okay.

2 (WHEREUPON, State's Exhibit 369 was admitted into
3 evidence.)

4 (WHEREUPON, a short break was taken.)

5 THE HONORABLE CLIFTON NEWMAN: Ready for the jury?

6 MS. CAMPBELL: Your Honor, just one thing I'd
7 like to take up. I did note during the testimony of
8 the last witness, the people in the back row back here
9 were in and out quite a bit during the testimony. The
10 jury kept looking back that way.

11 If we could, other than court personnel, and to
12 everyone involved, just advise that they don't not
13 need to be moving and out of the courtroom during
14 testimony unless they are court personnel, and that
15 would apply to everybody, if we could.

16 THE HONORABLE CLIFTON NEWMAN: And uh...

17 MS. CAMPBELL: It was just distracting.

18 THE HONORABLE CLIFTON NEWMAN: There is no
19 bailiff in the back there?

20 MS. CAMPBELL: There's not a bailiff?

21 THE BAILIFF: I'll get one.

22 THE HONORABLE CLIFTON NEWMAN: I just don't want
23 folks coming in and out so much. We need someone in
24 the back.

25 All right. Anything else?

1 MS. CAMPBELL: No, sir. I'm missing an
2 investigator. Where did he go?

3 I apologize. After making that motion, my
4 investigator is missing.

5 (WHEREUPON, State's Exhibit No. 416 was marked
6 for identification only.)

7 MS. CAMPBELL: We're ready.

8 THE HONORABLE CLIFTON NEWMAN: Okay. If you
9 bring the jury please.

10 (WHEREUPON, the jury came into open court at
11 approximately 11:44 a.m.)

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE HONORABLE CLIFTON NEWMAN: All right. Your
14 next witness?

15 MS. CAMPBELL: May it please the Court. The
16 State calls Major Stan Smith.

17 JAMES STANTON SMITH,
18 after being duly sworn, testified as follows:

19 THE CLERK: Have a seat in the witness box.
20 State your name for the record, please.

21 THE WITNESS: It's James Stanton Smith.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Major Smith, where are you employed?

25 A The Richland County Sheriff's Department.

1 Q What do you do there, sir?

2 A I'm a supervisor in the Criminal Investigative
3 Division.

4 Q How long have you been in law enforcement?

5 A I started in June of 1984 with the Richland
6 County Sheriff's Department.

7 Q And as the Major over the Criminal Investigative
8 Division, what do your duties include?

9 A Well, I supervise all investigations in the
10 Criminal Investigative Division. Just this past year,
11 I was promoted to major.

12 During the time of this incident, I was a captain.
13 I was primarily over the Major Crimes Section of
14 investigations.

15 When a person got involved in homicides,
16 robberies, that kind of thing. Now, I'm over
17 virtually over all the crime that's investigated in
18 Richland County.

19 Q And back then, was it unusual, or even now, for
20 you to get involved in the actual investigation of a
21 case?

22 A Even now it's --- yes, ma'am, it's not unusual.

23 Q I want to turn your attention back to
24 January 31st. Are you --- first of all, are you
25 familiar with the Denny Terrace area?

1 A Yes.

2 Q And what type of community is Denny Terrace?

3 A It's an older community, ranch-style homes. I
4 guess they were built maybe in the 40s, mid 30s, 40s.
5 A lot of retirees live in the neighborhood.

6 Q And as far as having an area where a violent
7 crimes occurs, where the incident occurred on January
8 31st in the case, is that unusual for that area?

9 A Yes. This is --- it's a bedroom community. You
10 know, we may have some property crimes, that kind of
11 thing there, but this was highly unusual.

12 Q On January 31st, did you become aware of a series
13 of crimes that developed over that day?

14 A I did. Around ten o'clock that night, my duty
15 sergeant, Sergeant Robinson, advised me that we had a
16 homicide.

17 Q And were you made aware of where the homicide,
18 the actual murder, occurred?

19 A Yes. I --- he advised me it happened in the
20 Denny Terrace area earlier that day. I had been made
21 aware of another incident involving an attack of a
22 woman who lived nearby. Immediately, we correlated
23 the incidents, as we would, as possibly being related.

24 Q And why did you correlate those incidents as
25 possibly being related?

1 A Because both of the women who were attacked were
2 elderly. The homes were very close proximity to one
3 another. There was --- the timeframe was virtually
4 the same, same weekend, same night, if you will.

5 Q Okay. And you didn't get notified until after
6 Ms. Derrick's body had actually been found, and it had
7 been reported to the police?

8 A I knew about the Webb incident earlier that
9 morning, but that night, at ten o'clock at night, I
10 was alerted about the Derrick homicide.

11 Q That night, later on in the night, sometime after
12 midnight, did you also become aware of a key piece
13 of --- of a piece of evidence that had been recovered
14 on Apache Drive?

15 A Yes. We learned that during the Derrick murder,
16 her vehicle had been taken. At the time that it was
17 reported to me, the murder had been reported to me,
18 the vehicle was still outstanding. It had not been
19 recovered. It was recovered about one that morning.
20 It would be that Sunday morning.

21 Q And what type of vehicle was that?

22 A It was a --- it escapes me, I'm sorry.

23 Q Was that the blue vehicle involved in this case?

24 A Yes.

25 Q And if I showed you a photograph, which --- oops.

1 The judge has the photographs. Never mind.

2 It was the vehicle that was recovered?

3 A It was definitely Ms. Derrick's vehicle, yes.

4 Q And y'all were able to confirm that was
5 Ms. Derrick's vehicle?

6 A Yes. It was registered to her.

7 Q The Pontiac?

8 MR. SUTHERLAND: If I may, there's just a lot of
9 hearsay going on right now here, sir. I would object
10 to it.

11 MS. CAMPBELL: I can rephrase, Your Honor.

12 THE HONORABLE CLIFTON NEWMAN: All right.

13 BY MS. CAMPBELL:

14 Q During the course of your investigation, were you
15 able to confirm that was her car?

16 A Yes, sir. It was registered to her, and it was a
17 Pontiac car.

18 Q The next day did you become actively involved in
19 the investigation?

20 A I did. I came out that Sunday morning to assist
21 a series of violent crimes like this. Oftentimes,
22 I'll come out to kind of continue the investigation
23 during the course of the day.

24 The detectives who had worked at night, you know,
25 they're home. They had to go home, rest, keep it

1 going. We'll call people to come in off the clock.
2 We have --- Sergeant Isenhoward came in under the same
3 circumstances, as did Lieutenant McDonald that Sunday
4 morning.

5 Q And once you all came in that Sunday morning,
6 what, if anything, was significant as far as your
7 investigation, specifically as to Ms. Webb and the
8 information she was able to give you?

9 A Well, we had a pretty good description of the
10 perpetrator in the Webb incident. One of the pieces
11 of information that we acted on was the fact that that
12 individual --- this individual had come by her home
13 earlier that Friday afternoon and asked her for money
14 with a story about the family being broken down on the
15 interstate. That became significant to us because by
16 that time our investigation had shown that a similar
17 circumstance had happened with regard to Mr. Derrick a
18 day or two prior to the homicide.

19 MR. SUTHERLAND: Objection, that's hearsay.

20 THE HONORABLE CLIFTON NEWMAN: All right.
21 Solicitor?

22 MS. CAMPBELL: It's not offered for the truth of
23 the matter asserted. It's just to show where the
24 investigation went from that point.

25 MR. SUTHERLAND: The same objection, Your Honor.

1 THE HONORABLE CLIFTON NEWMAN: Sir?

2 MR. SUTHERLAND: It's the same, just the same
3 objection. It's hearsay, sir. I mean, it is --- it
4 is offered for the truth of the matter asserted when
5 the --- when they are --- what they're fixing to go
6 into is offered for the truth of the matter asserted,
7 sir.

8 It's not --- I wouldn't characterize it as
9 investigative hearsay.

10 THE HONORABLE CLIFTON NEWMAN: All right. What
11 do you say, Solicitor?

12 MS. CAMPBELL: Your Honor, we're showing what was
13 significant as far as what their investigation led ---
14 where their investigation led and why they went the
15 direction they did as far as their investigation.

16 (Pause)

17 THE HONORABLE CLIFTON NEWMAN: I sustain the
18 objection.

19 MR. SUTHERLAND: Thank you, Your Honor.

20 BY MS. CAMPBELL:

21 Q Without going into that, did you come about some
22 information involving the victim, Ms. Derrick ---

23 A Yes.

24 Q --- that proved significant in light of what
25 happened to Ms. Webb?

1 A Yes.

2 Q At that point, did you --- without saying what
3 anybody said to you --- did you conduct a canvass of
4 the neighborhood?

5 A Yes. We felt like other people --- it's a close
6 community. Other people may have had experiences like
7 that, may shed some light on ---

8 MR. SUTHERLAND: Again, that's hearsay, sir.

9 "Other people had experiences like that."

10 THE HONORABLE STEPHANIE McDONALD: The objection
11 is overruled.

12 MR. SUTHERLAND: Thank you, Your Honor.

13 BY MS. CAMPBELL:

14 Q Go ahead.

15 A We felt as if there might be a possibility of
16 other people having those type of experiences. We
17 were hoping to get a lead as to the identity of this
18 individual.

19 Q During the course of your canvass of the
20 neighborhood, without saying what she said to you, did
21 you make contact with an April Preston?

22 A Yes. Actually, Lieutenant McDonald made contact
23 with April Preston.

24 MR. SUTHERLAND: That's hearsay, sir.

25 MS. CAMPBELL: We aren't saying what she said,

1 Your Honor, just that they made contact with her.

2 THE HONORABLE CLIFTON NEWMAN: All right.

3 Proceed.

4 BY MS. CAMPBELL:

5 Q Thank you.

6 And were there other people that you made contact
7 with in the community?

8 A Yes.

9 Q Based on that information --- and at the time,
10 what information did you have from Carolyn Webb as far
11 as what she was able to say about the identity of the
12 person?

13 A She had indicated that she recalled certain
14 details, because he had actually presented his ID, I
15 guess, as sort of a guarantee that he would return the
16 money.

17 She recalled the first name of Elbert or Albert
18 and last name begins with a W. She would later recall
19 another significant piece of information, but at this
20 time, she recalled those two pieces of information,
21 which did prove to be significant.

22 Q And once you canvassed the neighborhood and made
23 contact with several members of the neighborhood,
24 based on the information from Ms. Webb, as well as
25 other people, what did you do?

1 A Well, those pieces of information together led us
2 to identify Elbert Wallace as living right there in
3 sort of the epicenter of these incidents, right in
4 between, actually, Ms. Webb's house, Ms. Derrick's
5 house, and by this time, we were aware of the church
6 incident.

7 He was sort of living right there in the middle,
8 and based on her recollection of the ID information,
9 coupled with the other things that we had learned
10 about Ms. Derrick and her previous encounter, we
11 formulated a photographic lineup.

12 Q And tell this jury how you --- in this case, a
13 photographic lineup was developed?

14 A Yes.

15 Q And was one of the people that was in the
16 photographic lineup Elbert Wallace?

17 A He was.

18 Q And you were able to retrieve a photograph of him?

19 A Yes.

20 Q And I'm going to show you what's been marked as
21 State's Exhibit Number 1. Is that the photographic
22 lineup that you developed in the case?

23 A It is.

24 Q In the six photos that are on there, are they
25 similar?

1 A Yes.

2 Q And is that ---

3 A The requirement has to be that they have to be
4 basically the same age frame, the same hairstyle,
5 basically. You can't have --- you can't be unfair to
6 the person who is the suspect. So the biographical,
7 just everything has to be generally the same.

8 Q Generally the same?

9 A Right.

10 Q So no clothing stands out or anything of that
11 nature?

12 A In this particular instance, we had that happen.
13 Elbert Wallace's picture, had a distinctive jersey on.
14 We actually cropped it. If you see, if you look at
15 these pictures, it's closer to their chin so that the
16 jersey wouldn't stand out. That's done out of an
17 abundance of fairness to the defendant.

18 Q Once you developed State's Exhibit Number 1, the
19 lineup, did you then make --- or during the course of
20 the afternoon, did you make contact with Ms. Carolyn
21 Webb?

22 A We did. Ms. Webb had actually gone, I think, to
23 the North Augusta area where she was recovering from
24 her injuries with some family members.

25 We had enlisted the aid of a victim advocate, Ms.

1 Casey --- Cassie Radford. Cassie was interacting with
2 Ms. Webb and her family, and we were able to get her
3 to come back to Columbia for the purposes of showing
4 her this lineup.

5 Q And, again, this is on that Sunday afternoon?

6 A Sunday afternoon by this time, yes, ma'am.

7 Q And approximately what time were you actually ---
8 when Ms. Webb was actually able to get back to the
9 sheriff's department?

10 A It was sometime around the four o'clock timeframe,
11 a little bit after four. I have in my notes about ten
12 minutes to five, I actually showed Ms. Webb the lineup.

13 Q And when you showed Ms. Webb State's Exhibit
14 Number 1, there is a lot of handwriting on it now?

15 A Now.

16 Q Was any of that handwriting present on State's
17 Exhibit 1 when you showed it to her?

18 A It was blank at the time it was shown to her.

19 Q And there is some typed out things at the bottom.
20 Were those blank at the time, too, other than --- as
21 far as the typing is there but the ---

22 A Yes. The fill-in-the-blank portions were empty.

23 Q And when you met with Ms. Webb on that Sunday
24 afternoon, did you actually present the lineup to her?

25 A I did personally present the lineup to her, yes.

1 Q And what, if anything, did you say to her when
2 you showed her the lineup?

3 A Well, she obviously knew why she was there, but
4 you know, obviously, we had developed a suspect. I
5 just asked her if she recognized anybody in the
6 pictures.

7 Q And what did she do when you handed her the
8 pictures?

9 A She was very careful. She studied all six
10 photographs. It took her just a short period of time.
11 She identified the defendant as photograph number
12 three in the lineup.

13 Q Did anyone influence her?

14 A No.

15 Q Did anyone tell her who to pick?

16 A No.

17 Q And was there anything that could have distracted
18 her or made her pick someone?

19 A No. The room was quiet during the time she
20 examined the lineup. I had several witnesses in the
21 room to witness it, and she --- she was certain that
22 that was the perpetrator, the same man who had
23 borrowed money from her, the same man who came back
24 later that night with some story about not being able
25 to get his paycheck, and then the same man that came

1 back around at one that next morning and attacked her.

2 Q Was she conscientious in looking at the pictures?

3 A She was very conscientious.

4 Q Did she identify anyone to you that day?

5 A She identified the defendant.

6 Q When she identified the defendant, was she
7 confident in identifying him?

8 A She was very confident.

9 Q And once she identified the defendant, who is
10 which one in this picture?

11 A Photograph number three, top right picture.

12 Q Did you have her memorialize that in any way in
13 her own handwriting?

14 A I had her circle the picture or initial the
15 picture and date it and actually had her sign the
16 bottom of the form. That particular lineup has an
17 affidavit attached to it, the actual lineup.

18 Others have a lineup of the whole page and got a
19 separate thing. That lineup is all in one page. That
20 bottom part is sort of a fill in the blank. I think
21 Lieutenant McDonald actually filled in the particulars
22 and Ms. Webb agreed with it and signed her name.

23 Q And then the other witnesses signed off below it?

24 A Yes. In fact, I believe I notarized the document.

25 Q And at this point, you had developed Elbert

1 Wallace as a possible suspect, but you didn't have any
2 DNA back at this point, did you?

3 A No, we did not.

4 Q Was there any other information, once she
5 identified the person that attacked her, was there any
6 other information you gathered from her during that
7 conversation --- and you actually took a statement, I
8 believe, from her, right?

9 A Yes. We took a written statement from her at
10 that time. She had provided some particulars as far
11 as height, weight, age frame. She indicated he was
12 about five foot ten, 180 pounds, 185 pounds,
13 mid-to-late 30s, I believe, is what she said at the
14 time, medium complexion.

15 Q And did she give you any other information about
16 information from the driver's license?

17 A Yes. During that --- during the photo lineup
18 session --- and this is not unusual after somebody has
19 experienced a traumatic event, it jogged her memory.
20 She remembered another piece of information off the
21 driver's license, which had been presented to her that
22 Friday. She remembered the street name, Truman Street,
23 being on the driver's license.

24 Q And did you --- were you able to confirm from
25 Elbert Wallace's driver's license whether or not it

1 reflected the Truman Street address she mentioned at
2 that point?

3 A It, indeed, did reflected a Truman Street address
4 on the South Carolina driver's license.

5 Q The first person you heard that from was Ms. Webb?

6 A That's correct.

7 Q During the course of your investigation in
8 Ms. Webb's case, did you also become aware that there
9 was a cinderblock that was found at a later time where
10 someone had made re-entry into her home?

11 A That afternoon when we had interviewed Ms. Webb
12 --- after she had left the hospital, several hours
13 after the original incident, she had returned home to
14 gather some clothing to stay with another friend
15 across town. Later that day, she would go to North
16 Augusta to stay with family.

17 She indicated that they had found a cinderblock
18 in the house on a sofa. Somebody had, obviously, been
19 back. That cinderblock was not there at the time of
20 her assault in the aftermath of that, so somebody had
21 obviously been back between the time she was
22 transported and the time she left the hospital.

23 Q The timeframe on that was approximately how many
24 hours?

25 A Three-and-a-half hours, maybe, three hours.

1 Q And why was that significant to you?

2 A It was significant to me as we reviewed the
3 series of incidents because it appeared the individual
4 came back, in my opinion, to finish what he started.

5 Q Once you identified the defendant in this case,
6 did you then prepare a search warrant?

7 A Yes. We prepared a search warrant for Elbert
8 Wallace's residence. It had been identified to us by
9 that time. Again, he was living right in the middle
10 of this activity in a --- sort of a garage apartment
11 behind his sister's house. I believe it was like on
12 Denny Road.

13 Q The corner of Denny?

14 A Denny and Winyah, I believe, on a corner house.

15 Q And did y'all actually get a judge to sign off on
16 that search warrant prior to executing it?

17 A Yes. This was a Sunday afternoon. We were able
18 to find a judge for the purposes of signing the search
19 warrant. However, it's difficult to get an arrest
20 warrant on Sunday, because their offices have to be
21 open.

22 We can get a search warrant using our form at the
23 residence, but we don't have the forms for an arrest
24 warrant. So we went ahead and made plans to effect a
25 violent felony arrest without a warrant, which is

1 allowed in this state ---

2 Q Uh-huh.

3 A --- with Mr. Wallace.

4 Q And at that point, you were arresting him for
5 what?

6 A For the Webb incident, burglary first degree,
7 assault and battery with intent to kill, armed robbery.

8 Q At this point was he still a suspect in the
9 murder of Linda Derrick?

10 A She was quite definitely a suspect in the murder
11 of Linda Derrick. We were still working the case and
12 working our way through it.

13 Q And, again, this would have been if she was shown
14 the lineup shortly before five o'clock p.m., that
15 would have been in the evening hours that night?

16 A Yes. And he was arrested a little bit after six.

17 Q But prior to entering his house or going to
18 arrest him, you did get a judge to sign off on a
19 search warrant?

20 A Yes. I believe --- I believe it was Sergeant
21 Isenhoward went to Judge Newsome's residence, which is
22 not unusual on a weekend or at night to actually go to
23 a magistrate's house.

24 Q Once you went to the residence of Elbert Wallace,
25 what happened around 6:15, you said?

1 A He was taken into custody without incident. He
2 emerged from his sister's house, and myself and
3 Sergeant Isenhoward removed him from the location to
4 take him back to the office.

5 Q While you were there at that house, did he
6 present any form of identification to you?

7 A Yes. I removed his wallet myself, and I pulled
8 out the driver's license with the Truman Street
9 address on it.

10 Q And I believe Investigator Isenhoward was present
11 with you when that was done?

12 A Yes.

13 Q And you actually removed the wallet and, I
14 believe, the driver's license?

15 A Yes.

16 Q I'm going to show you what's been marked as
17 State's Exhibit number 401. Do you recognize that?

18 A Yes. That's the driver's license that I removed
19 from Mr. Wallace's person. It had the address
20 Truman Street on it.

21 Q And that was when you effected the arrest on that
22 evening of February the 1st, am I right?

23 A Yes. That would be the 1st by that time, that
24 Sunday.

25 MS. CAMPBELL: Your Honor, State's Exhibit 401,

1 we'd offer it into evidence.

2 MR. SUTHERLAND: What is that, the driver's
3 license?

4 MS. CAMPBELL: Driver's license.

5 MR. SUTHERLAND: Without objection, sir.

6 THE HONORABLE CLIFTON NEWMAN: It's admitted.

7 (WHEREUPON, State's Exhibit No. 401 was admitted
8 into evidence.)

9 BY MS. CAMPBELL:

10 Q The driver's license, is that from Elbert Wallace?

11 A It is.

12 Q And that's a South Carolina driver's license?

13 A It is.

14 Q What information is reflected on that driver's
15 license?

16 A Elbert Wallace, no middle name,
17 , Columbia, South Carolina, 29204. It's a Class
18 E driver's license. His height is five, eleven. His
19 weight says 215. He's a male, date of birth is
20 /64. It was issued July 11th, 2005. It has the
21 driver's license number on the top right corner.

22 Q And this is the driver's license that was
23 actually produced to you that you actually got off his
24 person when he was arrested on that Sunday night?

25 A That's correct.

1 Q And the information that was reflected on it, did
2 that corroborate what Carolyn Webb had been able to
3 tell you?

4 A Yes. At the time, he was 44 years old. The
5 height and weight were pretty close.

6 Q Once you made contact and got his driver's
7 license from him, did you then transport him?

8 A Yes. I advised him of his rights prior to
9 transporting him.

10 Q And what advice of rights did you give him that
11 day?

12 A I advised him he had the right to remain silent
13 and that anything he said could be used against him in
14 court, and he had the right to talk to a lawyer for
15 advice before we asked him any questions and to have a
16 lawyer with him before any questioning, if he so chose
17 to have one. And if he could not afford a lawyer, one
18 would be appointed to him before any questioning, if
19 he wished.

20 I advised him that if he decided to start
21 answering questions, he could stop at any time, and he
22 could also stop at any time until he talked to a
23 lawyer.

24 I actually read those rights from a card, very
25 similar to have the one that I have here that I keep

1 in my wallet.

2 Q Once you advised him of his rights, did he appear
3 to understand?

4 A He did.

5 Q At a later time that day, did you ask him for a
6 consent for ---

7 MR. SUTHERLAND: Renew my previous objection,
8 Your Honor.

9 THE HONORABLE CLIFTON NEWMAN: All right. So
10 ruled.

11 BY MS. CAMPBELL:

12 Q Thank you, Your Honor.

13 Did you ask him for a consent to get what's known
14 as a buccal swab?

15 A Yes. It was later on during the evening when he
16 gave his consent for a --- which y'all heard testimony
17 about, a buccal swab, which is a cotton swab, rubbed
18 between his gum and cheek.

19 Q And did you actually call someone in from the lab
20 to actually --- once you got his consent to actually
21 collect the swab?

22 A Yes. Investigator Beeler was on duty, and I got
23 Beeler around there, because we also wanted to secure
24 Elbert Wallace's clothing, shoes.

25 Q Okay. And you actually took his clothing, I

1 think, which is already in evidence ---

2 A Yes.

3 Q --- as well as his shoes?

4 A Yes.

5 Q And I want to show you what's been marked. Hang
6 on for a second.

7 (Pause)

8 As State's Exhibit 341, one part of which are the
9 shoes.

10 A Yes, that's the shoes.

11 Q Those are the shoes he was wearing that day?

12 A Yes, ma'am.

13 Q Significant, in addition to collecting his shoes
14 and his clothing, did you also notice an injury on
15 Elbert Wallace's hands that was significant in this
16 case?

17 A Yes. He had a bandage on his --- I believe it
18 was his right pinky finger, a pretty good little cut
19 there, laceration on his finger.

20 Q And why was that significant to you as part of
21 your investigation and your experience with people and
22 the type of crime you were investigating?

23 A Anytime you have a struggle, assault,
24 particularly one that involved a knife, there's a good
25 chance the perpetrator or the person committing the

1 assault can also get cut. It's happened in a lot of
2 cases I've been involved in. It's just the nature ---
3 the nature of the close-quarter struggle with a knife.
4 A knife doesn't choose where it goes. Somebody is
5 fighting back. It can be turned on the perpetrator.

6 Also, by this time, of course, we were aware of
7 an incident at the church where a window was broken
8 and what was believed to be blood was at the point of
9 entry. That cut, we deemed, could have occurred one
10 of --- one of those ways.

11 Q Did you have that photographed?

12 A Yes. Beeler took care of that, as well, for us.

13 Q And at this point, you still didn't have any DNA
14 results; is that correct?

15 A That's correct.

16 Q And he remained in custody that night?

17 A He did. That Sunday night he was booked on the
18 Webb charges.

19 Q That Monday morning, did your investigation
20 continue?

21 A Yes. Unfortunately, we were still, you know,
22 investigating a homicide, and I called in Bryan Gwyn,
23 who was at that time a burglary investigator, a sharp
24 detective.

25 I wanted him involved in this case, and he made a

1 significant finding, of course, by mid-morning.

2 Q And that would be that Monday, February 2nd?

3 A Yes.

4 Q That morning, what information was Investigator
5 Gwyn able to get you?

6 A Through investigating LeadsOnline, he located a
7 significant pawn transaction involving Elbert Wallace
8 that happened that Saturday afternoon, which would be
9 the 31st, literally less than about four hours before
10 Ms. Derrick's body was found. He found what would
11 ultimately be identified as her Sweet 16 ring and a
12 necklace that she wore every day.

13 Q Also, during the course of your investigation as
14 far as the timeline goes --- and I skipped over this
15 --- as far as when the car was found, did y'all also
16 canvass the neighborhood as part of your investigation
17 to see if anyone had noticed when that car had shown
18 up or was first seen on Apache Drive?

19 A Yes. Lieutenant McDonald, and I believe Sergeant
20 Isenhoward, maybe it was Gwyn, went to the area where
21 the car had been recovered, and they were able to
22 secure a couple of witness statements indicating the
23 timeframe where that car had been seen earlier that
24 morning, which was pretty significant, because that
25 backed up the timeframe.

1 We actually had a witness now that saw that
2 vehicle, didn't understand the significance of it at
3 that time, back around nine a.m. timeframe. That put
4 the incident with Ms. Webb at one a.m. Saturday
5 morning to the Derrick incident had to have happened
6 by nine a.m. Saturday morning for her car to be an
7 Apache Drive at nine a.m. However, it wouldn't be
8 recovered until later, because the people that saw it
9 didn't understand the significance of the car being
10 there.

11 Q During the course of your investigation, too,
12 just to back up the timeline, did you also become
13 aware that there was a track run from Ms. Webb's house
14 to another incident involved in this case?

15 A Yes. Ms. Webb's house is adjacent to the church,
16 just a little patch of woods in between, and we had
17 learned that the K-9 team had actually run a trail to
18 that church. There is where they actually found the
19 break in at the church.

20 Actually, what occurred, our lab was unable to
21 process that break-in that night because they were
22 pulled away on another homicide.

23 We couldn't get them back over there until, I
24 believe it was that Monday or the first part of the
25 week, to actually process the church as we understood

1 the significance of all of it together. They ran a
2 trail right to that church.

3 Q And once they were able to process, or you talked
4 to witnesses from the church burglary and what they
5 observed, was any of that significant later in the
6 investigation involving the Derrick case?

7 A I personally went to the church and interviewed
8 the reverend, who was Reverend Christianson. She took
9 us through. We were able to tell whoever had come in
10 there had struck several matches, wooden matches,
11 apparently to light his way through as he was going,
12 but the matchbox was missing.

13 MR. SUTHERLAND: That's hearsay, Your Honor.

14 THE HONORABLE CLIFTON NEWMAN: The objection is
15 overruled.

16 BY MS. CAMPBELL:

17 Q Keep going.

18 A That he was extremely significant because by this
19 time, again by Monday morning, Ms. Derrick's car had
20 been recovered and matches of that nature were, indeed,
21 found in the car.

22 The perpetrator had tried to burn the car in an
23 apparent attempt to destroy evidence.

24 Q And I --- we need to back up on one other matter,
25 too. On the --- you mentioned that a search warrant

1 was executed at the defendant's home. Did he live
2 with his sister or was he in an area out back?

3 A He was in a separate area of Denny Road. We
4 conducted --- in that first search warrant, I don't
5 think we fully understood the significance of the
6 matches alone, but in lieu of the pawn transaction, we
7 wanted to go back and get the clothing that he was
8 seen wearing in the video.

9 When we went back with a second search warrant,
10 by that time we fully understood the significance of
11 the matches, and matches were found in his apartment
12 that matched the same exact match, type matches, as
13 --- that were found in the church that burned and the
14 ones that were found in the car.

15 Q Getting on to the mid morning ---

16 MR. SUTHERLAND: If I may, sir, that's --- I'm
17 sorry. That's opinion testimony, the same exact kind
18 of match.

19 THE HONORABLE CLIFTON NEWMAN: Yes, sir. On
20 direct [sic] examination, you'll have an opportunity
21 to testify ---

22 MR. SUTHERLAND: Yes, sir.

23 THE HONORABLE CLIFTON NEWMAN: --- or
24 cross-examine and ask questions.

25 MR. SUTHERLAND: Thank you, Your Honor.

1 THE HONORABLE CLIFTON NEWMAN: The objection is
2 overruled.

3 MS. CAMPBELL: Thank you, sir.

4 BY MS. CAMPBELL:

5 Q Mid-morning, again, Investigator Gwyn, he was
6 able to get information about a pawn transaction at
7 the pawn shop?

8 A Yes.

9 Q And was he specifically --- that morning, was his
10 assignment to look into various pawnshops or to look
11 into that?

12 A Yes.

13 Q Did y'all have a database or something there at
14 the sheriff's department that aids you in --- able to
15 look for certain items?

16 A Right. Most of the pawns shops participate in
17 what we call LeadsOnline where they electronically
18 transmit the --- all the transactions that they're
19 involved in. This particular pawnshop, Broad River
20 Pawn did --- was one of the ones that did that. So he
21 initially got the hit through LeadsOnline.

22 Q Okay. And what type of evidence were you
23 instructing him to look for?

24 A Well, we knew by this time by analysis of the
25 Derrick home that the jewelry box had been tampered

1 with, and there was a likelihood that jewelry was
2 taken from that --- from that incident from the
3 homicide and robbery.

4 Q Specifically, were there certain items that you
5 became aware that Ms. Derrick wore on a daily basis?

6 A Yes. The Sweet 16 ring and a cross. We learned
7 that she wore both of those items every day.

8 Q What information, during the course of this
9 investigation, did you get that morning, that Monday
10 morning, about the pawnshop?

11 A Well, we learned that the transaction was made
12 Saturday afternoon a little bit after six, I believe.

13 Q Uh-huh.

14 A Which was highly significant because
15 Ms. Derrick's body had not been found yet. Her body
16 wouldn't be found until just around nine o'clock, a
17 little bit after nine, that same night. So here he is
18 at the pawnshop just a little bit after these
19 incidents had to have occurred in the afternoon
20 pawning her --- pawning her jewelry before the body is
21 found.

22 Q And were you able to get a copy of the pawn slip
23 as part of your investigation?

24 A Investigator Gwyn did, yes.

25 Q Did the pawn slip --- it's in there --- reflect

1 the information that was reflected on the driver's
2 license that you took from the defendant's person the
3 night before?

4 A Yes. As the young lady explained yesterday, you
5 can't pawn or sell anything to a pawnshop in South
6 Carolina without an ID. The particulars from that
7 particular Elbert Wallace ID were what was on the pawn
8 transaction.

9 Q That afternoon around 1:30, did you actually go
10 out to the Lutheran church?

11 A Yes. That's when --- that's when --- as I stated
12 earlier, I met with Reverend Christianson and did a
13 walk-through at the church. That's the day we
14 actually summoned the lab back to the church
15 understanding the total significance of it at that
16 point in time.

17 Q And there was some evidence that you observed on
18 the exterior of the church that was significant?

19 A Yes, the point of entry was still evident, and
20 some --- what appeared to blood on the window. They
21 had swept out some of the glass. Sergeant Richards,
22 responded and I think Bouknight came with him.

23 I think he actually collected some of the broken
24 glass that had been swept up. We did the best we
25 could to preserve what was still there.

1 Q That next --- or at some point during the course
2 of this investigation, the items that had been pawned
3 by Mr. Wallace on that Saturday afternoon or evening,
4 early evening, were those able to be identified by
5 family members?

6 A Yes.

7 Q On February 3rd, 2009 --- you can't go into what
8 they said to you --- but did you make contact with
9 certain members of the defendant's family?

10 A Yes.

11 Q And who were they?

12 A I went to that Truman Street address and talked
13 to a Debbie Wallace --- or tried to talk to a Debbie
14 Wallace, which would be, I believe, Elbert Wallace's
15 wife or ex-wife. We talked to some other family
16 members that were there.

17 Q And the Truman Street address, he wasn't living
18 there at the time?

19 A No. That was one of the things we wanted to talk
20 to him about, was trying to understand the nature of
21 the two addresses.

22 Q But he was living behind his sister's house ---

23 A That's correct.

24 Q --- in a shed out back. During the course of the
25 investigation at later date, did you also become aware

1 that some DNA evidence had been matched to Elbert
2 Wallace from the crime scene?

3 A That same day, on the 3rd, I learned that Elbert
4 Wallace's DNA had been matched to blood taken from the
5 Linda Derrick crime scene.

6 Q And was that highly significant in this case?

7 A Yes.

8 Q Why?

9 A Well, obviously that, coupled with the jewelry
10 and the common method of operation he was using with
11 the money, begging for money ---

12 MR. SUTHERLAND: That's hearsay, sir.

13 THE HONORABLE CLIFTON NEWMAN: You may proceed.

14 BY MS. CAMPBELL:

15 Q Thank you.

16 Keep going.

17 A With that common scheme being now readily evident,
18 again the pawing, the jewelry, before the body was
19 found, now his blood in her home. He has got a cut on
20 his finger. It was pursuant to charging him with
21 murder.

22 Q And was he charged?

23 A He was.

24 Q Later --- at a later date, did you have a hearing
25 and did you receive a court order to get another

1 sample of the defendant's blood to go with additional
2 cases?

3 A We did.

4 Q And I'm going to show you what's been marked as
5 State's Exhibit Number 402, which is item, I believe,
6 212 on the charts. Did you ---

7 A Yes. This.

8 (Talking over each other.)

9 Excuse me.

10 Q Did you obtain that pursuant to a lawful court
11 order?

12 A I did. I submitted it on April 29th, 2009, to do
13 that.

14 MS. CAMPBELL: Your Honor, at this time, we'd
15 offer it into evidence.

16 MR. SUTHERLAND: Just previous objections, Your
17 Honor.

18 THE HONORABLE CLIFTON NEWMAN: It's so admitted.

19 (WHEREUPON, State's Exhibit No. 402 was admitted
20 into evidence.)

21 BY MS. CAMPBELL:

22 Q On into February, did you continue to interview
23 the people that may or may not have any information
24 about this case?

25 A Yes.

1 Q During --- in April of 2010, were you contacted
2 by a member of the solicitor's office, Aaron Jophlin
3 about a witness that may have had additional
4 information ---

5 A Yes.

6 Q --- on this case and another case?

7 A Yes.

8 Q And who was that witness?

9 A It was Damon Scott. I believe he testified
10 yesterday.

11 Q Did you actually set up a meeting to make contact
12 with Mr. Scott and his lawyer?

13 A I did. We actually did it here at the courthouse.

14 Q And did you interview Damon Scott?

15 A Yes. That was back on April 13th of 2010. I
16 guess that would be some 13 --- excuse me, 15 months,
17 I guess or so, 14 months, after this incident.

18 Q During the course of the investigation, were you
19 able to confirm whether or not Damon Scott and Elbert
20 Wallace were housed in the same dorm?

21 A Yes. We were able to secure records from the
22 Alvin S. Glenn Detention Center to confirm that they
23 were in the Hotel Dorm for a number of days together.

24 Q And did you actually take a statement from Damon
25 Scott?

1 A I did.

2 Q Is it unusual for someone to come forward with
3 that type of information?

4 A It's very common. These inmates are --- they're
5 all looking for some way to help themselves naturally,
6 but we understand that that doesn't invalidate the
7 information.

8 In this particular case, it was well over a year
9 after the incident. As far as I know, this case
10 hadn't been in the news during that period of time.

11 He had information that was consistent with the
12 facts in the case. It's not unusual for them to come
13 forward to give that information.

14 Q The person that you arrested and that you took
15 the buccal swab from, that you got the driver's
16 license off of, do you see him here in the courtroom?

17 A I do.

18 Q And as a result of your investigation, what
19 charges did he get charged with?

20 A He was charged with all the Webb charges, the
21 burglary first, ABIK, armed robbery. He was charged
22 with murder, burglary first, armed robbery, and I
23 believe something had to do with stealing the vehicle,
24 as well, from the Derrick incident.

25 Q And the burglary of the church?

1 A And the burglary --- excuse me, burglary second
2 of the church, which occurred during the hours of
3 darkness on the 2nd.

4 Q Can you identify him for the court?

5 A Sitting next to Mr. Sutherland, to the left of
6 Mr. Sutherland, middle of the defense table with the
7 glasses on.

8 MS. CAMPBELL: Your Honor, may the record reflect
9 he has identified the defendant?

10 THE HONORABLE CLIFTON NEWMAN: It does.

11 MS. CAMPBELL: Nothing further, Your Honor.

12 THE HONORABLE CLIFTON NEWMAN: Any cross?

13 MR. SUTHERLAND: May it please the Court, Your
14 Honor.

15 CROSS-EXAMINATION:

16 BY MR. SUTHERLAND:

17 Q How are you?

18 A Mr. Sutherland, fine. You?

19 Q Doing well, doing well.

20 I just have got a few questions from things that
21 came up on your direct examination.

22 A Take your time.

23 Q And these are just sort of characterizations that
24 I wanted to go over. You had said that someone had
25 tried to burn the car. Was it --- isn't it true that

1 there was a glove in the seat that was partially
2 burned?

3 A Yeah, but in my opinion, that was an attempt to
4 burn a car.

5 Q With matches?

6 A Oh, yeah. Yes, sir. Many of our arsons are
7 committed with matches.

8 Q With no accelerant?

9 A Yes, sir.

10 Q Of what, leaves, or paper or something?

11 A It just --- you light a match in an area like
12 that, and it can go.

13 Q Okay. Fair enough, fair enough.

14 You had testified that the vehicle was taken
15 during the murder. Now, you don't --- you don't know
16 when the vehicle was taken.

17 A We know when the son-in-law found Ms. Derrick,
18 the car was gone.

19 A Yes. So the natural circumstantial investigative
20 conclusion would be that the vehicle was taken in
21 conjunction with the murder.

22 Q Sure. I just wanted to clear that up.

23 Let's see. And you did testify that your
24 attention was focused on Mr. Wallace. Did you ever
25 speak to --- Ms. Webb had testified about this Curtis

1 that had come around asking her for money, sometimes
2 did yard work at odd hours.

3 Did y'all ever talk to --- to --- I'm not asking
4 you what he may have said. Did y'all ever talk to
5 Curtis?

6 A I never talked to him.

7 Q Okay.

8 A I had no reason to.

9 Q Okay. And just bear with me. I was jotting down
10 stuff.

11 A Take your time.

12 Q I appreciate it.

13 (Pause)

14 Okay. And your --- oh. Your testimony --- I've
15 asked a few people about this.

16 Oh wait. I'll go back to the identification or
17 the description. The description was a medium
18 complexion.

19 A Yes.

20 Q That Ms. Webb --- okay.

21 And with --- with respect to Ms. Webb, while
22 someone had broken back into her place, into her home
23 while she was in the hospital?

24 A That's correct.

25 Q And you had your opinion about that, but this was

1 three hours less than --- you had said less than three
2 hours after she went to the hospital?

3 A It was within that window, that time she departed
4 to the hospital soon after one, and then I think she
5 was released close to four.

6 Q Okay.

7 A So yeah, about three hours.

8 Q Was there --- anybody --- did anybody sign in on
9 the crime scene log at that time?

10 A I don't think they had a crime scene log for that
11 location.

12 MR. SUTHERLAND: Okay. Thanks. No further
13 questions.

14 THE HONORABLE CLIFTON NEWMAN: Any redirect?

15 MS. CAMPBELL: Just a little.

16 REDIRECT EXAMINATION:

17 BY MS. CAMPBELL:

18 Q In fact, crime scene did respond to Ms. Webb's
19 house that night?

20 A Yes.

21 Q But they left after she they finished, and the
22 house was left?

23 A And they didn't bring a cinderblock either.

24 Q He asked you about interviewing the man Curtis.

25 Did Ms. Webb ever say it was Curtis that attacked her?

1 A No.

2 Q Specifically, what did she say?

3 A She went to the door looking for Curtis, and it
4 wasn't Curtis.

5 MS. CAMPBELL: Okay.

6 THE HONORABLE CLIFTON NEWMAN: Anything further?

7 MR. SUTHERLAND: No further questions.

8 THE HONORABLE CLIFTON NEWMAN: Thank you, sir.

9 You may step down.

10 From the State?

11 MS. CAMPBELL: May it please the Court. The
12 State calls Sergeant Kevin Isenhoward.

13 KEVIN ISENHOWARD,
14 after being duly sworn, testified as follows:

15 THE WITNESS: Kevin Isenhoward.

16 DIRECT EXAMINATION:

17 BY MS. CAMPBELL:

18 Q Sergeant Isenhoward, where are you employed?

19 A I work for the Richland County Sheriff's
20 Department.

21 Q And what do you do there, sir?

22 A I'm a sergeant in the Investigative Division.

23 Q And how long have you been in law enforcement?

24 A 13 years.

25 Q I want to turn your attention back to January 31,

1 2009. Did you become aware of a series of events that
2 occurred that day in the Denny Terrace community?

3 A Yeah. I was contacted by then Captain Smith and
4 advised of what was going on, the seriousness of the
5 crimes, and what had gone on as far as the
6 investigation to that point.

7 We talked about it, and I was actually off. I
8 was off that day, and I was going to be off. It was
9 Super Bowl Sunday, and I decided that, obviously, this
10 was, obviously, a very big problem, and I would come
11 into work. I couldn't --- I couldn't stand not to
12 come into work so...

13 Q So did you actually show up on that Sunday
14 morning, because the Derrick murder wasn't reported, I
15 believe, until the evening hours of the 31st?

16 A That's correct.

17 Q And that's when her body was found, around nine
18 or ten o'clock that night, I believe?

19 A Yes.

20 Q And you became aware of all of this at some point
21 after that?

22 A Yes.

23 Q And then you volunteered to come to work the next
24 day to help with the investigation?

25 A That's correct.

1 Q And did you assume the role as the lead
2 investigator in this case?

3 A I did.

4 Q And is that role --- explain to the jury what
5 your duties included.

6 A We work these types of crimes as a team.
7 Obviously, it takes a lot of people to get through
8 these. In each case, we assign a case investigator.
9 That person is responsible for all of the details,
10 organizing all of the paperwork, and then attending
11 any kind of court hearings along the way that would be
12 required.

13 So --- and that person helps to organize the way
14 the investigation progresses.

15 Q And was that your role in this case?

16 A That was.

17 Q Who all was working this investigation that
18 Sunday morning when you came into work?

19 A That morning, it was myself, Captain Smith at the
20 time, and Lieutenant Scott McDonald, who was my
21 lieutenant at the time.

22 Q During the course of that day or that morning,
23 did the Carolyn Webb home invasion, robbery become
24 significant?

25 A Obviously, yes.

1 Q And that morning, too, were you also made aware
2 that the victim's car --- do you remember what kind of
3 car it was?

4 A A 1999 Pontiac Sunfire. It was blue.

5 Q Had been recovered?

6 A Yes.

7 Q And where was it recovered?

8 A On Apache Drive near a power line.

9 Q And that had been recovered in the early morning
10 hours that Sunday morning?

11 A Yes, by one of our patrolman.

12 Q One of your patrolman?

13 A Yes.

14 Q And that would be Deputy Walker, I believe; is
15 that correct?

16 A That's correct.

17 Q And was that car being processed on that day?

18 A Yes.

19 Q Did you also become aware during the course of
20 your investigation, just to set it up, that once
21 officers responded to Ms. Webb's house, that the dogs
22 had run a track?

23 A Yes.

24 Q And that it had led to a certain area?

25 A Yes.

1 Q Why was that significant?

2 A Obviously, it was the --- what we believed was
3 the path of flight for the suspect, and we would then
4 follow that track.

5 We'd go back the next day and go over what that
6 track entailed, where it went through and look for any
7 additional clues or evidence the suspect may have
8 dropped or left at that point.

9 Q Was there certain information that had been
10 provided to y'all by Ms. Webb that y'all wanted to
11 follow up on?

12 A Yes, ma'am. When --- as you heard, she told us
13 about the suspect presenting a driver's license, an ID
14 card, and she remembered some of the details off of
15 that.

16 So, obviously, we were going to follow up on
17 those leads, and we also went though the neighborhood
18 talking to anybody and everybody who would talk to us
19 about what was going on, get some potential leads.

20 Q And at that point that day, that morning, did you
21 also become aware of where Elbert Wallace was living?

22 A Yes, we did.

23 Q And where was that?

24 A At Denny Road.

25 Q Was the location of each of those crimes, as well

1 as where the defendant was living, significant in your
2 investigation?

3 A Part of our job as investigators --- and you've
4 heard from a lot of people --- we all have roles to
5 play in this. Our job as the investigators, obviously,
6 we arrest and question people, but we also analyze any
7 kind of crime trend. That's a big responsibility of
8 ours.

9 Oftentimes, offenders, regardless of the crime,
10 will commit multiple offenses. We try to put those
11 crimes together. Maybe this crime was committed by
12 the same person.

13 Obviously, in this case, in that type of
14 community, we didn't have crimes like this, some
15 property and thefts, but the location of each one of
16 the incidents you've heard about, at least, was
17 significantly important to group those crimes together.

18 Q Let me back up for a second. At the Derrick
19 crime scene at that point, the next morning, did y'all
20 have preliminary findings as to what the cause of
21 death was with Ms. Derrick?

22 A Yes, we did.

23 Q And what was the cause of death for Ms. Derrick?

24 A She died of wounds to the head through blunt
25 force trauma.

1 Q And at that point, crime scene had done their
2 initial assessment of the scene; is that correct?

3 Although they processed it over several days.

4 A Yes.

5 Q And had the actual object that caused the blunt
6 force injuries been recovered?

7 A No.

8 Q Is that unusual?

9 A No. In fact, it's --- most of the time we don't
10 recover weapons used in crimes. It's an initial
11 response of the offender to get rid of that. They
12 might not think about other things. They might not
13 think about blood on the shoes or in his clothes, but
14 the weapon, he's going to get rid of.

15 Q If he had a significant amount of blood, say, on
16 his clothes or had used a weapon, it would not be
17 unusual, in your experience, for the person to
18 immediately get rid of those items if he thought it
19 would give him away?

20 A No. If he believed it could connect him to the
21 crimes, he would get rid of it.

22 Q Now, let me back up to Ms. Webb's house, too.
23 The information that you had been provided about
24 Ms. Webb, she was, I believe, attacked around one a.m.
25 in her house?

1 A Yes.

2 Q But she was still up, and the lights were still
3 on?

4 A Yes.

5 Q Was that significant about any of the habits of
6 Ms. Derrick that later were aware about her use of
7 lights, the front porch light?

8 A Yes. She --- also, we were told through the
9 course of the investigation, and you asked, that she
10 has kept the light on at the house. A lot of people
11 take that as, obviously, the light is on. Somebody is
12 home. The light is on. Somebody is home.

13 Q I want to show you what's been marked as State's
14 Exhibit Number 403. Do you recognize this aerial view?

15 A I do.

16 Q And what area does this show?

17 A That's the Denny Terrace, specifically the area
18 involved in this investigation.

19 Q And does it include Apache Drive?

20 A It does.

21 Q And I'll get back to this in a minute, but did
22 you actually go out to Apache Drive in the area where
23 the car was recovered?

24 A I did. Both talked to neighbors, people who
25 lived around where it was recovered and looked for

1 additional evidence around where the car was recovered.

2 Q And then you are, of course, familiar with the
3 three crime scenes?

4 A Yes.

5 MS. CAMPBELL: Your Honor, at this time, we'd
6 offer State's Exhibit 403 into evidence.

7 MR. SUTHERLAND: Without objection.

8 THE HONORABLE CLIFTON NEWMAN: They're admitted.
9 (WHEREUPON, State's Exhibit No. 403 was admitted
10 into evidence.)

11 MS. CAMPBELL: May I offer it just for ID
12 purposes?

13 THE HONORABLE CLIFTON NEWMAN: Huh?

14 MS. CAMPBELL: May I offer it just for ID
15 purposes? I'm going to mark on it.

16 THE HONORABLE CLIFTON NEWMAN: Yeah.

17 (WHEREUPON, State's Exhibit No. 403 was now
18 marked for identification only.)

19 MS. CAMPBELL: Your Honor, may the witness step
20 down?

21 THE HONORABLE CLIFTON NEWMAN: Yes.

22 BY MS. CAMPBELL:

23 Q Come on this side, please.

24 The place where Linda Derrick's car was recovered,
25 Apache Drive, show us first where Winyah Drive is on

1 this map.

2 A This is Winyah Drive, and it extends on further
3 than the map, but that is the area of focus here.
4 This is Denny Road.

5 Q Will this help you?

6 A Actually, it will.

7 Q Sorry.

8 A Like I said, this is Winyah, loops around. It
9 makes a big, goes back out, one of the main roads.
10 This is Denny. Obviously, some other streets we
11 haven't really talked about.

12 Denny comes all the way down deeper into the
13 neighborhood. This is Apache Drive, which is --- just
14 cuts it out right there, some homes along in there.

15 Q And can you show them the approximate place where
16 on Apache Drive, as Ms. Huger testified to earlier,
17 where she observed and where the car was actually
18 recovered?

19 A Yes. The car was actually recovered right about
20 here. This, like I said, it's a power line. It's
21 briars and such right there. There is actually a drop
22 off right beside the road there. It kind of goes down
23 an embankment. Ms. Huger lives, I believe, in that
24 general area right there.

25 Q Okay. And Ms. Webb's house, is it shown here on

1 this, as well?

2 A Yes. Her home is located in this area right here.

3 In fact, I believe that's there. You can see it.

4 Q Can you mark that?

5 A (Complies.)

6 Q And as far as the church, is that also shown
7 there where the dogs tracked and the burglary occurred?

8 A The church is, obviously, a commercial building.
9 You can see it right there, a large parking lot. It's
10 a very nice church. In fact, this neighborhood is
11 unique in that it's a place where people live, but
12 there are several churches of all different
13 denominations there. So it's a very close knit
14 community, and all the churches get involved with each
15 other.

16 Q And I'll show you --- do you also see on here
17 it's Linda Derrick's house, the road to her house, is
18 it shown on here?

19 A Yes.

20 Q On here?

21 A Yes. Her home is in this general area up there.
22 It's one of those two right there.

23 Q And, finally, the defendant's home or house where
24 he was living at the time was --- did it have a garage
25 attached at the back of his sister's house?

1 A Uh-huh.

2 Q Is that shown on this map?

3 A It is. That home is at --- it's located at the
4 corner of Winyah Drive and Denny Road. You be see it
5 right there.

6 Actually, you can see where my dot is. You can
7 see that right there. That is the shed. It's been
8 described as a shed. It's still a garage that had
9 been closed in, and it's now an apartment, basically.

10 Q Can you mark them?

11 MS. CAMPBELL: Your Honor, at this time, we'd
12 offer State's Exhibit 403 into evidence.

13 MR. SUTHERLAND: No objection as modified.

14 THE HONORABLE CLIFTON NEWMAN: It's admitted.

15 (WHEREUPON, State's Exhibit No. 403 was again
16 admitted into evidence.)

17 BY MS. CAMPBELL:

18 Q You can take the stand.

19 That morning when you first showed up for work
20 and when y'all met, do people have different roles in
21 this investigation?

22 A Yes. Obviously, it was a very complex matter.
23 It takes a lot, like I said, a lot of work. So we
24 kind of meet, decide what's going to be important to
25 do immediately, what can wait, and we did the tasks in

1 this.

2 Q And that day, did you go out and actually canvass
3 the neighborhood with other investigators?

4 A I did.

5 Q And did you meet --- you can't say what she said;
6 it would be hearsay. Did you meet with a Henrietta
7 Sanford?

8 A Yes.

9 Q And the information, without saying what it was
10 that you got from Ms. Sanford, did that corroborate
11 certain information you'd gotten from Carolyn Webb?

12 A Yes, it did. It also led us to Mr. Wallace.

13 Q And I believe you also canvassed the neighborhood
14 where the car was parked on Apache?

15 A Yeah. I went back. Like I said, what I
16 described there as the embankment, thorns and briars,
17 but in my experience, a commonplace when people will
18 steal things, they go through a pocketbook, let's say.
19 That's specifically what I was looking for in this
20 case, Ms. Derrick's pocketbook.

21 They'll often discard it in an area they think
22 nobody will get to. They'll put it in a trash can.
23 Nobody is going to go there. So I actually went down
24 in the embankment looking for her purse there along
25 that stretch there.

1 Q And did you also make contact with certain people,
2 including Ms. Huger, I believe, who testified earlier?

3 A I did. We went door to door. That's how we
4 located her. We knew the car was there. There was
5 one way in. The car would have to --- anybody going
6 to that house would probably --- any of those houses,
7 excuse me, would probably go by where the car was
8 parked. So we went, knocked on some doors, talked to
9 a couple of people about did they see the car and when
10 did they see the car.

11 Q And she was able to give you information?

12 A Yes.

13 Q And she didn't know the significance of it at the
14 time she actually saw the car?

15 A No. She had no idea. In fact, if I recall
16 correctly, she was moving in. She had just got to the
17 neighborhood. So we welcomed her, knocked on her door.

18 Q That day, did you also go over to the incident
19 location of the Derrick murder?

20 A I did. I think someone else testified to this.
21 It's very important, at least I feel, that I see the
22 crime scene; that I get an idea of what's going on,
23 because those issues may come up later maybe if I'm
24 talking to someone, or I'm trying to figure something
25 out.

1 So as soon as it's feasible, we obviously would
2 not want to damage any evidence, so we don't even go
3 in until the lab is done.

4 Once they give us the okay, they will bring us in
5 and kind of give us an idea of what they're looking at.
6 We'll go over some things. We might have some
7 questions, give them some ideas of things to work ---
8 to look for. We put our heads together and we did. I
9 believe it was myself and Gwyn, I believe.

10 Q And once you got there, did you meet with
11 Sergeant Richards?

12 A Yes.

13 Q Specifically, did you've observe a jewelry box in
14 the area or some jewelry?

15 A I did. In fact, I now recall that we returned
16 with Gwyn at a later time. I did. I noticed the
17 jewelry box, and I specifically, in fact, asked him
18 about that.

19 Typically, in these --- at the time, I had worked
20 a lot of robberies and murders. Obviously, there's a
21 target. People want money, and that's one of the
22 things people go after in most home break ins and
23 robberies.

24 Q Let me ask you this: Over a series of events
25 like this that happened over a relatively short amount

1 of time, is it consistent of needing to --- wanting to
2 get more money, is that unusual?

3 A No. It's typical and it's also indicative of
4 someone ---

5 MR. SUTHERLAND: Objection, sir. This is opinion
6 testimony coming from up here. There's been no
7 evidence introduced on where she is going with this.

8 THE HONORABLE CLIFTON NEWMAN: All right.
9 Solicitor?

10 MS. CAMPBELL: Your Honor, may we approach?

11 THE HONORABLE CLIFTON NEWMAN: All right. Ladies
12 and gentlemen, let's stand while they approach.

13 (WHEREUPON, there was a bench conference in the
14 presence, but not within the hearing of the jury.)

15 THE HONORABLE CLIFTON NEWMAN: All right. The
16 objection is sustained.

17 MR. SUTHERLAND: Thank you, sir.

18 BY MS. CAMPBELL:

19 Q That morning, did y'all continue, without saying
20 what anybody said to you, to canvass the area and
21 gather information?

22 A Yes, we did.

23 Q As a result of the information provided to you at
24 that point by Ms. Webb, your assessment of the crime
25 scene, the information you were able to get from the

1 neighborhood, and your assessment of the car, did
2 y'all then decide to get a photo lineup?

3 A Yes, we did.

4 Q At that point, what was the purpose in getting a
5 photographic lineup done of Elbert Wallace?

6 A Well, if you --- if you have a certain person
7 that you've identified as a potential suspect, you
8 have, obviously, the evidence to support them being a
9 suspect, we'll place someone in a photographic lineup,
10 a six pack, as it's referred to. It's five pictures
11 and your suspect picture.

12 The pictures should be similar in nature, and
13 they are in that case. We share that to an eyewitness
14 of a crime. We attempt to identify the suspect which
15 then would provide a probable cause.

16 Q And why don't you just show them a single
17 photograph?

18 A It's not --- I wouldn't --- I wouldn't consider
19 that fair. You know, it's highly likely that they
20 would identify them as the person if it looks somewhat
21 like them. If you give them options and they have to
22 pick, it's much more reliable.

23 Q And who actually showed the photo lineup in this
24 case?

25 A I believe Captain Smith did.

1 Q And you weren't actually present for that?

2 A I was not.

3 Q Once the photographic lineup was shown to
4 Ms. Webb, what did y'all do?

5 A We decided --- obviously, it was kind of an
6 unusual time, Sunday afternoon, Super Bowl Sunday. So
7 we obtained a search warrant, I did, as has been
8 testified to, from a judge's home, then made a
9 warrantless --- went to the address, Denny Road
10 where we knew Mr. Wallace lived, and made a
11 warrantless arrest on him and then served the search
12 warrant.

13 Now, obviously, Captain Smith and I left with
14 Mr. Wallace, so we weren't present for that search.
15 But we were advised later what went on there.

16 Q Okay. Let me back up a minute. Prior to getting
17 the search warrant and doing anything, was there some
18 additional information Ms. Webb was able to provide
19 during the course of taking her statement, showing the
20 lineup, that you were doing some research on?

21 A Yes. She told us that she recalled that the
22 person's address was on Truman Street. Obviously, we
23 were looking at Mr. Wallace. I was able to pull up on
24 our computers. We have a lot of different databases,
25 and one of them is the Department of Motor Vehicles.

1 So I can pull up anybody in the State of South
2 Carolina, their driver's license and where they have
3 lived and where they live now, looking specifically
4 for a Truman Street address there.

5 In fact, there was a Truman Street address.
6 Although, he no longer lived there, it was still on
7 his driver's license as his current address.

8 Q And Truman Street is not in Denny Terrace?

9 A No. Actually, Truman Street is off of Beltline,
10 West Beltline Boulevard.

11 Q And you --- during the canvass, too, and
12 information had been able to confirm that Elbert
13 Wallace was actually living on the corner of Denny and,
14 I think, Winyah?

15 A Yes, Denny and Winyah.

16 Q And I believe that was at Denny?

17 A Yes, ma'am.

18 Q Once you got the lawful search warrant, y'all
19 then went to Denny?

20 A Yes, we did.

21 Q And the search warrant was just for the area
22 where the defendant was actually living in the back?

23 A Right. Obviously, another person was living in
24 the home, a sister. We had no --- no --- we did not
25 suspect her of anything. Therefore, our search was

1 confined to what he had control over, we believed, and
2 that was his area, the area of his home.

3 Q And there were other officers with you that
4 actually executed the search warrant?

5 A Yes.

6 Q And I believe you and Captain Smith actually made
7 contact with the defendant?

8 A We did.

9 Q And while you were present, did the defendant
10 produce, or did you all get, some identification?

11 A We did.

12 Q And I'm going to show you what's been marked as
13 State's Exhibit 416 and then State's Exhibit 401. Do
14 you recognize those?

15 A I do.

16 Q And exactly where did those items come from when
17 you made contact with Elbert Wallace?

18 A His pocket.

19 Q His pocket?

20 A Yes. Once we took custody, obviously, we search
21 people and --- looking for ID, any kind of weapons or
22 anything. We took his wallet out looking for his ID,
23 and his ID was in his wallet.

24 Q And that was ---

25 A In fact ---

1 Q Go ahead, found it on his person?

2 A Yes.

3 Q And where did the wallet come from?

4 A His pocket.

5 Q His pocket?

6 A Yes, ma'am.

7 Q Did that later seem significant in your
8 investigation reviewing the video?

9 A Yeah. Obviously, later when we get the pawnshop
10 video, you can see the wallet. In fact, where we
11 pulled his driver's license from appears to be the
12 same place he put it back at in a little side pocket
13 in the front of the wallet where a lot of people might
14 put other things, but he had his driver's license just
15 slid in there.

16 MS. CAMPBELL: Your Honor, at this time, we'd
17 offer State's Exhibit Number --- the wallet, number
18 416 into evidence.

19 MR. SUTHERLAND: The wallet?

20 MS. CAMPBELL: The wallet.

21 THE HONORABLE CLIFTON NEWMAN: It's admitted.

22 (WHEREUPON, State's Exhibits No. 416 was admitted
23 into evidence.)

24 BY MS. CAMPBELL:

25 Q Prior to transporting the defendant, was he

1 advised of his rights while you were there?

2 A I witnessed Captain Smith advise him of his
3 rights from a wallet card.

4 Q Without going through them, it's the same thing
5 Captain Smith testified to?

6 A Yes.

7 Q And he then was transported down to headquarters?

8 A He was.

9 Q And at a later time, did y'all call for a lab
10 unit to come in?

11 A Yes. And we're all --- we're all in the same
12 building. We called over to their section, and
13 obviously, they are equipped with cameras and things
14 that we were going to need.

15 So they --- we asked for Beeler to come over and
16 help us collect some items from Mr. Wallace, in his
17 clothes and shoes and take some pictures of them and
18 his injury that we found to his hand.

19 Q Okay. And describe the injury and why that was
20 significant.

21 A It was an injury to, I believe, his right pinky
22 towards the tip of it. Based on my experience, that's
23 consistent with a knife attacker.

24 Frequently people --- and I have lots of
25 experience in this --- people who use knives that may

1 be a pocketknife. It might be, you know, a lock blade
2 knife. It might be a kitchen knife. Those knives
3 aren't designed to attack people, so if you do it with
4 any kind of force, your hand can slide all the way
5 down to the blade, which we see a lot in knife attacks.

6 As has been testified to, most always, at least
7 very frequently, the attacker will actually injure or
8 cut themselves during the attack.

9 Q Were you aware of the mode of entry into the
10 church?

11 A I was aware of that. The window was broken, like
12 Captain Smith told you all. There had been some clean
13 up. Obviously, the church comes in.

14 They don't really know what else is going on.
15 They just clean up some glass, and we talked about
16 some other items. By the time we get there, that's
17 not available to us, but we go back and look at the
18 glass and actually notice some blood, what appeared to
19 be at that point, blood and then called for a lab to
20 process that.

21 MS. CAMPBELL: Your Honor, may I check something
22 with the court reporter?

23 (Pause)

24 BY MS. CAMPBELL:

25 Q And at that point, the investigator from the lab

1 unit, Beeler, actually photographed the defendant?

2 A He did.

3 Q With his injuries. Where was the injury located
4 on the defendant's hand?

5 A His right pinky, towards the end of his pinky.

6 Q Towards the end of the pinky?

7 A Uh-huh, yes.

8 Q And he also collected his clothing?

9 A Yes, he did.

10 Q Including the shoes?

11 A Yes.

12 Q At this the point, of course, this is what, the
13 evening of that Sunday?

14 A Yes.

15 Q And the events we've been referring to happened
16 around midnight Friday night to Saturday morning, all
17 the way into Saturday morning?

18 A Yes.

19 Q The next day, that Monday, did you return to work?
20 Were additional investigators assigned to the case?

21 A Yes. The next day, Investigator Gwyn was
22 contacted by Captain Smith and assigned to work with
23 me as a secondary investigator. When we have homicide
24 investigations, the way we do it at the Richland
25 County Sheriff's Department is we have a primary

1 homicide investigator.

2 Now Gwyn is one, but at the time, he was kind of
3 an assistant, and he was assigned to work with me
4 primarily on Ms. Derrick's investigation.

5 Although we were working everything, again, we
6 have to kind of --- Captain Smith, Lieutenant McDonald
7 had some other things they could do, as far as other
8 crimes, trying to firm those up, and that's why, for
9 example, that's why he was showing the lineup in
10 Ms. Webb's assault.

11 We were focusing on pressing forward on
12 Ms. Derrick's case and getting him --- implicating the
13 suspect in that case.

14 Q Okay. That morning, did he develop some
15 information to follow up with the pawnshops?

16 A Yes. Like I said, our database, he looked in and
17 found that Mr. Wallace had pawned some items, which
18 had --- if you look at the receipt, it's very vague.
19 It just says some jewelry. That's how they do things
20 at the pawnshop. They don't really get into too much
21 of a description.

22 So we didn't really know. If I recall, maybe it
23 just said "ring" and it said "necklace" or "chain",
24 but when we found that and we saw specifically when it
25 occurred, it was very important to us.

1 We realized it, there's probably some jewelry
2 taken, and we needed to get there and find that.
3 Because one of the fears for us is that the pawnshop
4 somehow gets rid of it, sells it, you know.

5 I don't know exactly how long they have to keep
6 this stuff, but the longer we wait, the less likely we
7 are to recover it. So we went directly over there.

8 Q You went directly to the pawnshop yourself ---

9 A Yes.

10 Q --- with Investigator Gwyn?

11 A Yes.

12 Q And did y'all recover certain items?

13 A We did.

14 Q And did you recover the pawnshop's copy of the
15 pawn ticket?

16 A Yes, they gave us their copy.

17 Q And the information that was included on that
18 ticket, which is in State's Exhibit Number 367, are
19 these the items you actually recovered from the
20 pawnshop?

21 A Yes, they are. They are.

22 Q And the information on the pawn ticket, whose
23 information was that?

24 A Elbert Wallace. It actually has the same address
25 on Truman Street, which is consistent with him, like I

1 said, presenting his driver's license. That's the
2 address on the driver's license.

3 Q While you were there, did you view a video?

4 A Yes, we did.

5 Q And is that the video that's been presented to
6 the court?

7 A Yes, it is.

8 Q And were you able to observe from the video the
9 person?

10 A Yes.

11 Q And that was the person who presented the ID that
12 you had collected from Elbert Wallace when you
13 arrested him?

14 A It is. In fact, specifically, it was multiple
15 angles. You guys saw it. The exterior angles, you
16 can see the person, but you can't really make out his
17 face, but the shot of him actually up close making the
18 transaction, when you get that on a clear monitor, you
19 can --- you can tell who it is.

20 Q And once you recovered the ring and the necklace
21 from there, did you also make arrangements to pick up
22 the video at a later time?

23 A Yes. Like I said, they had to do some things at
24 the corporate office to get it to us, but they were
25 working on that. They were working on that right away.

1 Actually, they hadn't opened yet, I believe. We ended
2 up getting out a little bit later in the day.

3 Q Okay. Once you collected the ring and the
4 necklace, did you make contact with the victim's
5 family?

6 A We did. We arranged for the victim's advocate,
7 who is Cassie Radford, to call a meeting with them and
8 Investigator Tolbertson was there, as well.

9 Specifically, we showed them the items. We had
10 never seen the items. We had, obviously, made an
11 assumption there, but we needed them to verify whether
12 or not these items belonged to Ms. Derrick.

13 Q That day, did you also proceed --- after having
14 the items identified, did you also go back to
15 Ms. Webb's house?

16 A Yes. That would be when we brought Gwyn, who
17 obviously was now going to be involved in the case,
18 which we needed to take him to the crime scene, to let
19 him look at it.

20 We went to, I believe, both locations, and we ---
21 I recall going back out to Ms. Webb's house, like they
22 said, because of the complaint about maybe another
23 entry to the home.

24 Q Once you had reviewed the video from the pawnshop,
25 did you also decide to get a second search warrant for

1 the defendant's home at Denny Drive?

2 A Yes. When we, obviously, think about it, the way
3 things occurred, when we went to the house the first
4 time, we didn't know about the clothing. We didn't
5 know what he was wearing when he pawned the items, so
6 we overlooked --- we had overlooked those things.

7 And, also, at this point, and it's been stated
8 over and over again, we're a little bit more aware of
9 matches that were stolen in the church burglary, those
10 kind of this. So we wanted to go back --- we felt it
11 was necessary to go back and be thorough to go back
12 and look for those things, specifically the clothing,
13 which you have seen, and the matches, and any other
14 jewelry, which at that point, was entirely possible
15 could have been missing.

16 Q And that was actually executed, and you found the
17 items you referred to?

18 A Yes, we were present, all of us, McDonald, myself,
19 Gwyn, myself, and Captain Smith during that search.

20 Q And at that point, did you think it prudent to
21 make contact with the members of the church to confirm
22 about the matches?

23 A Yes.

24 Q And did you do that?

25 A Yes.

1 Q That day, did you also get murder warrants in
2 addition --- you had already gotten him under arrest
3 for Carolyn Webb; is that correct?

4 A Yes.

5 Q Did you also get additional warrants for the
6 murder of the victim, Linda Derrick?

7 A We charged him with her murder, burglary first
8 degree to her home, and armed robbery, as we believed
9 a deadly weapon was used. Obviously, it was deadly.
10 It was used in the attack.

11 Q Then on February 3rd, I believe, is when y'all
12 learned about any of the matches --- or at least one
13 of the matches to the defendant's blood in the
14 victim's home?

15 A Yes. It was --- a few days later, I recall and
16 it --- there was --- there was so much blood in the
17 home. You know, there was a lot of different swabs, a
18 lot of different tests. So it takes some time to go
19 through all of that stuff.

20 It was amazing to me they were able to identify
21 one or several, but any particular locations, I should
22 say, where the suspect's blood was left.

23 Q And then the next day on the 4th, did you
24 actually meet and go over the evidence that you had
25 collected up to this point and the determinations to

1 see what needed to be tested?

2 A Yes.

3 Q Explain how y'all do that.

4 A If you look at it from this point of view, you
5 could have hundreds, and we did in this case, several
6 hundred swabs, which has been talked about by our
7 analysts. We have to narrow that down. We can't test
8 everything.

9 We do that by looking over where it was found,
10 the probability of that being involved in the crime,
11 and those areas most likely to produce some sort of
12 result for us.

13 So we meet with crime scene people, everybody
14 involved in the case, the crime scene people, the DNA
15 experts, the case investigators, and kind of put our
16 heads together.

17 We try to trim it down. Trimming it down is not
18 only more efficient, it takes --- we'll get results
19 back quicker than just testing everything in there.

20 Q And in this case, the majority of the swabs were
21 actually tested, I think, other than some actually
22 from the car. The majority of the swabs were tested.

23 A Yes. I mean, we do what is necessary.

24 Q And did you also request the defendant's clothing,
25 even though it was some 36 hours after this chain of

1 events, the clothing that you got off of him at the
2 time he was arrested?

3 A Right. It's --- it's --- based on my experience
4 again, especially footwear, oftentimes, it will
5 contain DNA evidence, even much later. They just
6 don't think about cleaning their shoes, the soles of
7 their shoes, particularly if there was some large
8 amount of blood at a crime.

9 Q And you're aware that there was a pair of burned
10 gloves recovered in this case?

11 A I am.

12 Q And those were not requested for DNA to test them?
13 Those were actually burned, right?

14 A Well, yeah. They're burned. Any sort of high
15 temperature like that is going to destroy most of your
16 evidence.

17 Q In the course of your investigation, did you
18 become aware of whether or not Ms. Derrick's purse was
19 ever found?

20 A It was not.

21 Q And, however, the jewelry was recovered?

22 A The jewelry from the pawnshop, yes.

23 Q And even if something, such as a purse, is taken
24 during the course of a crime, is it likely that a
25 person who took it would hang on to that unique type

1 of property?

2 A No. There's certainly not --- unless it's of
3 value, they're not going to take a chance of getting
4 caught with a woman's purse with their ID or checks or
5 something like that.

6 Typically, is destroyed, from --- like I said,
7 thrown in an area where no one is going to look, a
8 trash can or something like that. They don't hang
9 onto it for long. In fact, I've actually in the past
10 basically been right on top of somebody, and within
11 minutes I still couldn't find the item.

12 Q Was there a crime scene log that was kept in this
13 case at Ms. Derrick's house?

14 A Yes.

15 Q There was never one at Ms. Webb's house.

16 A Huh-uh.

17 Q So Ms. Webb's house, was --- she went to the
18 hospital, and it was processed and the crime scene
19 left?

20 A Yeah. Basically, if you look at it like this,
21 with what we knew then, that was a fairly isolated
22 event, Ms. Webb's, didn't take much time doing the
23 processing of it. They were in and out, basically.

24 It's typical. We do this. A lot people don't
25 understand, but we're going from call to call. These

1 types of things are happening all over the place with
2 the same group of people trying to keep it all
3 balanced and keep everybody going.

4 So that particular night, we were in and out.
5 They did what they had to do, and they were back out
6 of the house. There was no need for a crime scene log.

7 Q And as far as the Derrick residence where the
8 blood was found, it was secure the entire time by
9 deputies. Even if crime scene wasn't there processing,
10 the crime scene was still secure with deputies there.

11 A Right. We do what's called a rotation. In other
12 words, from each area around the county, including
13 investigators, that work for us, they'll have a
14 timeframe where they're sent to that house. They have
15 to sit there.

16 It's not the best duty to have, but it's
17 necessary. They'll sit there for a few hours on a
18 house until another officer comes to relieve them.
19 We'll rotate that through for days sometimes.

20 Q And in this case, it did take days?

21 A Yes.

22 Q And even when crime scene leaves, they actually
23 secure a piece of tape across the doorway, so if it
24 was disturbed in any way, they would know that.

25 A Right. Nobody --- nobody can --- unless it's an

1 emergency, nobody is to go in the home, including the
2 deputy that's guarding it. So they take every
3 precaution. They seal the door, and then that way
4 they can tell if anybody has been in the home
5 regardless.

6 Q And even for a curiosity seeker that's passing by,
7 the crime scene tape would be obvious.

8 A It would be obvious, and based on my experience
9 with the officers --- and what I knew about that crime
10 scene because I went there, they were parked right on
11 the home.

12 Q Right on the home.

13 A There's no way anybody would get by.

14 MS. CAMPBELL: Thank you. I don't have anything
15 further, Your Honor.

16 MR. SUTHERLAND: May it please the Court.

17 THE HONORABLE CLIFTON NEWMAN: Yes, sir.

18 CROSS-EXAMINATION:

19 BY MR. SUTHERLAND:

20 Q Sir, how are you?

21 A I'm excellent.

22 Q Okay. Good, good.

23 Outside of, you know, obviously, we have to go
24 over a lot of the same ground again.

25 A Sure.

1 Q There was a lot of opinion testimony that you
2 were giving, and generally when people, you know, are
3 leaving the scene of a crime, they don't want to keep
4 something on them because they might get caught with
5 it. You know, that sort of thing. That's just
6 opinion testimony. I mean, you don't ---

7 MS. CAMPBELL: Objection, Your Honor.

8 THE HONORABLE CLIFTON NEWMAN: The basis for the
9 objection?

10 MS. CAMPBELL: To his characterization.

11 THE HONORABLE CLIFTON NEWMAN: All right. The
12 objection is sustained as to the form of the question.
13 The question is in the nature of an argument. Please
14 withdraw the question.

15 BY MR. SUTHERLAND:

16 Q Yes, sir.

17 When you were testifying in those areas several
18 times, you were just giving your opinion.

19 A I'm telling you what my experience ---

20 Q Right.

21 A --- leads to.

22 Q Your opinion based on your experience.

23 A Yes, sir.

24 Q But it doesn't apply to every single human being.

25 A Very few things do.

1 Q Well, or --- any way, thank you.

2 A Sure.

3 Q So you all were focused on Mr. Wallace, basically,
4 the entire time?

5 A We went where the evidence took us. We don't ---
6 we have to be open minded.

7 Q Okay.

8 A So throughout an investigation, we'll follow any
9 lead, even if it starts to stray from our path we
10 believe is going to occur. In this case, our path
11 never strayed. Each piece of evidence just drew us
12 closer to Mr. Wallace.

13 Q Okay. So no other suspects in this case, right?

14 A No.

15 MR. SUTHERLAND: Okay. Thank you, sir.

16 THE HONORABLE CLIFTON NEWMAN: Any redirect?

17 MS. CAMPBELL: Just briefly, Your Honor.

18 REDIRECT EXAMINATION:

19 BY MS. CAMPBELL:

20 Q All of the evidence in this case pointed to
21 Elbert Wallace?

22 A Yes, it did.

23 MS. CAMPBELL: Thank you.

24 THE HONORABLE CLIFTON NEWMAN: Anything further?

25 MR. SUTHERLAND: Nothing from the defense, sir.

1 THE HONORABLE CLIFTON NEWMAN: All right. Thank
2 you. You may step down.

3 THE WITNESS: Thank you, sir.

4 MS. CAMPBELL: Your Honor, may we approach about
5 scheduling?

6 THE HONORABLE CLIFTON NEWMAN: Ladies and
7 gentlemen, we'll break for lunch at this time, and
8 we'll resume at 2:15.

9 (WHEREUPON, the jury left open court at
10 approximately 1:08 p.m.)

11 THE HONORABLE CLIFTON NEWMAN: Yes, regarding
12 scheduling?

13 MS. CAMPBELL: Your Honor, we anticipate we are
14 through at this point. We're going to rest our case.

15 The problem is we didn't have a chance last night,
16 just because we wanted to get home, to check as far as
17 what evidence is in and out.

18 THE HONORABLE CLIFTON NEWMAN: All right.

19 MS. CAMPBELL: We needed just an opportunity to
20 do that.

21 THE HONORABLE CLIFTON NEWMAN: All right.

22 MS. CAMPBELL: Which I think we can do over the
23 lunch period, and then if there are any glitches, we
24 can put that up after lunch. But whatever we have
25 left would be short.

1 THE HONORABLE CLIFTON NEWMAN: All right. And
2 are you ready to go with any defense that you have?

3 MR. SUTHERLAND: At the this time, I don't
4 anticipate a defense, Your Honor.

5 THE HONORABLE CLIFTON NEWMAN: Do you want me to
6 talk with Mr. Wallace about his right to testify or
7 not testify?

8 MR. SUTHERLAND: We have discussed it. If Your
9 Honor wishes to discuss it.

10 THE HONORABLE CLIFTON NEWMAN: All right. We'll
11 do that at this time.

12 (WHEREUPON, Elbert Wallace was duly sworn.)

13 THE HONORABLE CLIFTON NEWMAN: All right.
14 Mr. Wallace, has the solicitor indicated the State is
15 in the process of resting. So at this time, I'm going
16 to explain to you certain of your rights, because it's
17 about time for you to present your defense.

18 If you do not understand anything that I say,
19 please let me know, and I will be happy to explain it
20 in more detail if you'd like me to. Do you understand?

21 THE DEFENDANT: Yes, sir.

22 THE HONORABLE CLIFTON NEWMAN: So as I've
23 indicated, we've now reached the stage of the trial
24 where you may present your defense.

25 Now, you have the right to claim the protections

1 given to you by the 5th Amendment to the constitution
2 of the United States.

3 This amendment states in part that no person
4 shall be compelled in any criminal case to be a
5 witness against himself. This means that you cannot
6 be required to testify in this case.

7 However, you do have the right to testify on your
8 own --- in your own behalf and on your own behalf, if
9 you would like to. However, no one can make you
10 testify. This is a personal right, and no one can
11 waive this right except you. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE HONORABLE CLIFTON NEWMAN: Now, if you decide
14 to testify, you will be subject to the same rules that
15 govern other witnesses, and you may be examined and
16 cross-examined on any relevant issue in this case.

17 In addition, if you have any conviction involving
18 dishonesty or false statements, or if you've been
19 convicted of crimes punishable by imprisonment for
20 more than one year and the court determines that the
21 probative value of admitting this evidence outweighs
22 its prejudicial effect to you, the Solicitor then in
23 that instance will be able to introduce your record to
24 attack your credibility.

25 If you decide to testify, this decision on your

1 part must be a free, voluntary and intelligent
2 decision made by you with full knowledge of the
3 protections given to you by the 5th Amendment, as well
4 as the consequences of your decision to testify.

5 If you decide not to testify, the jury will be
6 instructed that they cannot give the fact that you did
7 not testify any consideration whatsoever, and that
8 there is to be absolutely no prejudice to you because
9 you did not testify.

10 It is left entirely up to you as to whether or
11 not you testify. You may talk with your attorney
12 Mr. Sutherland, any family or friends you would like
13 to talk to, or anyone else you would like to talk to
14 about this, but the final decision will be left
15 entirely up to you. Do you understand what I have
16 explained?

17 THE DEFENDANT: Yes, sir.

18 THE HONORABLE CLIFTON NEWMAN: Do you have any
19 questions about what I've explained?

20 THE DEFENDANT: No, sir.

21 THE HONORABLE CLIFTON NEWMAN: And as
22 Mr. Sutherland indicated, you all have talked about
23 whether or not you should testify; is that right?

24 THE DEFENDANT: Yes, sir.

25 THE HONORABLE CLIFTON NEWMAN: Do you wish to

1 talk to him more on that subject?

2 THE DEFENDANT: Yes, sir.

3 THE HONORABLE CLIFTON NEWMAN: All right. You'll
4 be given an opportunity to talk to him more. I'll
5 call upon you again through your lawyer and you as to
6 whether or not you wish to testify, okay?

7 THE DEFENDANT: Yes, sir.

8 THE HONORABLE CLIFTON NEWMAN: Okay. Okay. All
9 right. Then with that, we'll take our break for lunch
10 for one hour.

11 (WHEREUPON, a lunch break was taken.)

12 (Matters not relating to this case were heard
13 during the recess.)

14 THE HONORABLE CLIFTON NEWMAN: Anything else
15 before we bring the jury?

16 MS. McDUFFIE: Your Honor, we've gone through the
17 evidence, and just for the record and by consent of
18 the defense, I believe there's some miscommunications,
19 but we're moving to enter State's 359, which are swabs
20 from the car; 360, swabs from the car; 346, three
21 swabs from the cell phone, and 272, a photo of the
22 jewelry box, and I believe that's with consent.

23 MR. SUTHERLAND: Absolutely, sir. And then
24 there's just some confusion over 96 and 97. In
25 speaking with the court reporter and my recollection

1 is that they were inadmissible.

2 MS. McDUFFIE: Your Honor, I believe it's 95 and
3 96. They were photos of the dried blood in the
4 bathroom without the body that you admitted with ---
5 over the defense's objection. If we can show you
6 these.

7 THE HONORABLE STEPHANIE McDONALD: Yes, we'll see
8 them.

9 MS. McDUFFIE: It's 96 and 97, Your Honor.

10 THE HONORABLE CLIFTON NEWMAN: All right. 96, 97
11 are in over objection, and the others are admitted
12 without objection.

13 (WHEREUPON, State's Exhibits Nos. 96, 97, 359,
14 360, 346, 272 were admitted into evidence.)

15 MR. SUTHERLAND: Yes, sir.

16 THE HONORABLE CLIFTON NEWMAN: All right. And
17 the State intends to rest?

18 MS. CAMPBELL: Yes, Your Honor. Over the lunch
19 period, they were attempting to go through all the
20 evidence. We just want to make sure it's all there
21 before we rest.

22 THE HONORABLE CLIFTON NEWMAN: Well, she said
23 that she has gone over it.

24 MS. McDUFFIE: Your Honor, there --- we were on
25 number 378 when you came in, so there's 25 more pieces

1 to go through.

2 THE HONORABLE CLIFTON NEWMAN: All right. You
3 can go ahead, but with the defense, I believe, what do
4 you plan to do? Do you plan to put him up?

5 MR. SUTHERLAND: Actually, Mr. Wallace does not
6 wish to testify, sir.

7 THE HONORABLE CLIFTON NEWMAN: Mr. Wallace, do
8 you plan to testify?

9 THE DEFENDANT: No, sir.

10 THE HONORABLE CLIFTON NEWMAN: You decided that
11 you did not wish to testify?

12 THE DEFENDANT: Yes.

13 THE HONORABLE CLIFTON NEWMAN: And that's a free
14 and voluntary decision on your part?

15 THE DEFENDANT: Yes, sir.

16 MR. SUTHERLAND: If I may, Your Honor. He is
17 having more --- more trouble with his spider bite. He
18 has requested that we argue and charge in the morning.
19 Obviously, I'm ready to go forward, but my client is
20 asking that we argue and charge in the morning, sir.

21 THE HONORABLE CLIFTON NEWMAN: Okay.

22 THE DEFENDANT: Apparently, Captain Redmond
23 didn't get your order, but the nurse did, gave me an
24 antibiotic pill and a Motrin.

25 I was able to get like about a couple hours sleep,

1 but about ten minutes to one, I must have bumped my
2 knee again in my sleep. I was awake ever since, and
3 it's --- I'm in some excruciating pain, but they say I
4 got to get back in time to see medical.

5 I talked --- I was able to talk to another
6 officer. I would have to be able to see the doctor.

7 THE HONORABLE CLIFTON NEWMAN: All right. Well,
8 we're going to argue and charge today. We'll do
9 additional checking to see if we can find someone else
10 to take a look at you.

11 MR. SUTHERLAND: Yes, sir. Thank you.

12 THE HONORABLE CLIFTON NEWMAN: Do you want a pain
13 pill?

14 (Pause)

15 Well, the process of reviewing the exhibits does
16 not involve the court reporter, so we can talk about
17 requested charges while they do that.

18 Anything concerning requested charges?

19 MS. CAMPBELL: Your Honor, we have submitted a
20 number of charges, I believe, we submitted on Monday
21 to your law clerk.

22 In addition to that, today, Your Honor, I handed
23 up one to you --- and I have given defense counsel a
24 copy of that one --- on the armed robbery issue. We
25 would request that these be charged to the jury in

1 addition to, of course, Your Honor, your standard
2 charges.

3 I didn't --- do you charge criminal intent?

4 THE HONORABLE CLIFTON NEWMAN: Well, sometimes I
5 do. Sometimes I don't.

6 MS. CAMPBELL: Okay.

7 THE HONORABLE CLIFTON NEWMAN: Does the State
8 request that I charge intent?

9 MS. CAMPBELL: No, sir. I just didn't know one
10 way or the other.

11 THE HONORABLE CLIFTON NEWMAN: I did not intend
12 to charge intent in this case because ---

13 MS. CAMPBELL: I didn't know.

14 THE HONORABLE CLIFTON NEWMAN: Either he did or
15 he didn't.

16 MS. CAMPBELL: I agree.

17 THE HONORABLE CLIFTON NEWMAN: It's not what he
18 intended to do.

19 Yes, sir.

20 MR. SUTHERLAND: With respect to the charges I
21 submitted to the court in pretrial, Your Honor, I'd
22 just ask for the burglary second degree charge, the
23 burglary third degree charge, the AB/HAN charge, the
24 strong armed robbery charge, and simple assault charge.

25 THE HONORABLE CLIFTON NEWMAN: Simple assault of

1 who?

2 MR. SUTHERLAND: With --- well, with respect ---
3 actually, I withdraw the request for the simple
4 assault.

5 MS. CAMPBELL: Your Honor, I can summarize the
6 case. Either he did it or he didn't. I don't think
7 there are any lesser included based on the evidence
8 before this jury and before you, Your Honor.

9 I don't know how you can get a voluntary
10 manslaughter, which he submitted. I don't know how
11 you get a lesser included of burglary second.

12 The only evidence in this record is that it
13 happened in the nighttime and/or he caused physical
14 harm to --- we --- I don't need to go through the
15 aggravated circumstances.

16 I just think your assessment of the case is
17 correct, Your Honor. So I don't know that the lesser
18 included in this case would be appropriate.

19 I don't know under what circumstance perhaps a
20 lesser included as to assault and battery with intent
21 to kill. I just...

22 THE HONORABLE CLIFTON NEWMAN: All right.

23 MS. CAMPBELL: I don't know any that would be
24 appropriate in this case based on the fact that, as
25 you just said, Your Honor, either he did or he didn't.

1 THE HONORABLE CLIFTON NEWMAN: Okay. Well, we'll
2 take it one by one. On the murder and the
3 manslaughter, what's the defense's position?

4 MR. SUTHERLAND: With respect to the manslaughter,
5 the defense is not asking for the lesser included of
6 voluntary manslaughter.

7 THE HONORABLE CLIFTON NEWMAN: All right. So you
8 charge murder only, manslaughter.

9 MR. SUTHERLAND: Yes, sir.

10 THE HONORABLE CLIFTON NEWMAN: As to assault and
11 battery with intent to kill?

12 MR. SUTHERLAND: I'm just asking for the
13 lesser-included offense of aggravated assault.

14 THE HONORABLE CLIFTON NEWMAN: Assault ---

15 MR. SUTHERLAND: And AB/HAN.

16 THE HONORABLE CLIFTON NEWMAN: AB/HAN, all right.
17 And whether it's the intent to do serious bodily
18 injury or something without aggravated circumstances,
19 that would make it an AB/HAN, I think does apply in
20 this case.

21 MR. SUTHERLAND: Thank you, sir.

22 THE HONORABLE CLIFTON NEWMAN: So I'll charge
23 assault and battery with intent to kill and AB/HAN.

24 MR. SUTHERLAND: Thank you, sir.

25 THE HONORABLE CLIFTON NEWMAN: How about the

1 armed robbery, strong arm robbery?

2 MR. SUTHERLAND: In --- in the case of --- in the
3 case of Ms. Derrick, they sort of shifted gears in ---
4 after Dr. Marcus testified and started asking him
5 questions and giving testimony about weapons, weapons,
6 "Could you hit somebody with the butt of a knife?"

7 Up until that point, they were alleging that it
8 was a beating. Every witness testified it was blunt
9 force trauma, and that it was a beating.

10 There were no allegation of a weapon until after
11 Dr. Marcus testified. I was able to cross-examine him,
12 and I would just argue that the beating is unarmed.
13 What they were initially alleging is unarmed.

14 They continued to shift to alleged armed robbery,
15 and I would just say that there's plenty of evidence
16 in the record to support if the robbery with the
17 beating would be a strong arm robbery.

18 THE HONORABLE CLIFTON NEWMAN: All right. What
19 says the State?

20 MS. McDUFFIE: Your Honor, in order to have armed
21 robbery, the person has to be armed with a deadly
22 weapon. What a deadly weapon is, it's a question of
23 fact for the jury.

24 The State would rely on the Supreme Court case,
25 State v. Bennett, which is cited at 328 S.C. 251. In

1 that case, based on the facts as in this case, the
2 hand or a fist can be a deadly weapon, Your Honor.

3 We would argue that the victim, Ms. Linda Derrick,
4 was beaten either by a hand or a fist or a weapon.
5 That would make it armed robbery, Your Honor. That is
6 a question of fact for the jury to determine, and I
7 can hand up the case law, Your Honor.

8 THE HONORABLE CLIFTON NEWMAN: Yeah, but if the
9 jury determines that there is no deadly weapon, then
10 what would the offense be?

11 If the jury concludes that the fist in this
12 instance is not a deadly weapon, because it's a
13 question of fact for the jury, then what would the
14 offense be?

15 MS. McDUFFIE: Well, Your Honor, it would be
16 strong armed robbery or not guilty.

17 THE HONORABLE CLIFTON NEWMAN: Right. So that's
18 what would be --- that's what he wants. I mean, I
19 understand the charge that a fist can be a deadly
20 weapon, depending on the facts and circumstances, how
21 it was used and what injuries resulted.

22 But if the jury concludes that the fist is not a
23 deadly weapon and that she was beaten to death without
24 a deadly weapon --- I mean, that she was robbed
25 without a deadly weapon, it would be a strong armed

1 robbery. It wouldn't be as to either victim as
2 opposed to --- it would be a common law robbery as
3 opposed to an armed robbery.

4 MS. McDUFFIE: Your Honor, however, there is no
5 evidence in the record to suggest that he was not
6 armed with a deadly weapon when either of these
7 robberies occurred.

8 THE HONORABLE CLIFTON NEWMAN: Okay. So you
9 want --- you want me to stipulate then that --- you're
10 seeking a stipulation that a fist is a deadly weapon.

11 MS. McDUFFIE: No, sir.

12 THE HONORABLE CLIFTON NEWMAN: You want the Court
13 to find as a matter of law that the fist is a deadly
14 weapon as opposed to it being a question for the jury.

15 MS. McDUFFIE: No, sir, Your Honor. We're just
16 saying that there is no evidence that he was not armed
17 when either of these occurred.

18 THE HONORABLE CLIFTON NEWMAN: There is...

19 MS. McDUFFIE: Your Honor, the only evidence with
20 Ms. Webb is that he was armed with a knife, and the
21 only evidence with Ms. Derrick was that she was beaten
22 either by an instrument or by hand, Your Honor, that
23 caused her death, which the jury may find that the
24 hand or fist was a deadly weapon.

25 THE HONORABLE CLIFTON NEWMAN: All right. Well,

1 you're correct as to Ms. Webb, but how about as to
2 Ms. Derrick?

3 MS. McDUFFIE: Your Honor, that she was beaten
4 with an object or a hand or fist --- that's been no
5 testimony in the record, and there's been no testimony
6 to the contrary of that.

7 THE HONORABLE CLIFTON NEWMAN: All right. As to
8 Ms. Webb, the only testimony is that he was armed.

9 MS. McDUFFIE: Correct.

10 THE HONORABLE CLIFTON NEWMAN: With a knife,
11 which is a deadly weapon.

12 MR. SUTHERLAND: Yes, sir.

13 THE HONORABLE CLIFTON NEWMAN: So how do you get
14 a strong armed robbery out of that?

15 MR. SUTHERLAND: It's just with the State
16 joining --- with the State joining all of these cases
17 together, it would just go back to them under --- it
18 would --- they would all go back to the same time.

19 THE HONORABLE CLIFTON NEWMAN: Well, the jury has
20 to make an individual finding as to each, each
21 indictment.

22 MR. SUTHERLAND: Well, if she --- if she were ---
23 I suppose if she were mistaken about there being a
24 knife.

25 THE HONORABLE CLIFTON NEWMAN: Well, she was cut,

1 and she was stabbed.

2 MR. SUTHERLAND: Yes, sir.

3 THE HONORABLE CLIFTON NEWMAN: How can you make a
4 mistake about that?

5 MR. SUTHERLAND: I was --- I was asking with
6 respect to the Derrick incident, sir.

7 THE HONORABLE CLIFTON NEWMAN: All right. Well,
8 we haven't heard from --- as to who was mistaken then?

9 MR. SUTHERLAND: I was --- it --- the Court asked
10 me how could the other be the lesser included. I had
11 --- I was only asking with respect to the Derrick
12 case ---

13 THE HONORABLE CLIFTON NEWMAN: The Derrick case.

14 MR. SUTHERLAND: --- and so I just thought, "Well,
15 maybe if she was mistaken," but I wasn't arguing for
16 that. But in answer to the Court's question how might
17 the other --- how might the other not be aggravated,
18 by the way.

19 THE HONORABLE CLIFTON NEWMAN: As to who might be
20 mistaken?

21 MR. SUTHERLAND: Oh, with Ms. Webb. I thought
22 the Court's question to me was how could that be.
23 Whereas, I was asking with respect ---

24 THE HONORABLE CLIFTON NEWMAN: All right.

25 MR. SUTHERLAND: --- I mean, I was requesting

1 with respect to the Derrick case.

2 THE HONORABLE CLIFTON NEWMAN: Oh, I see. You're
3 not requesting the lesser included as to the Webb ---

4 MR. SUTHERLAND: That's correct, sir.

5 THE HONORABLE CLIFTON NEWMAN: --- case. All
6 right. So we're down to the Derrick case as to
7 whether or not it can be a strong arm robbery since
8 she is alleged to have been robbed with a fist or no
9 evidence of a knife being present or --- or not.

10 MS. McDUFFIE: That's correct, Your Honor. We
11 would ask that only armed robbery be charged as to
12 Ms. Linda Derrick.

13 THE HONORABLE CLIFTON NEWMAN: Based on what?

14 MS. McDUFFIE: Your Honor, based on the evidence
15 that she was beaten with an object that ultimately was
16 used as a deadly weapon, because the beating resulted
17 in her death, or that she was beaten with a fist,
18 which was used as a deadly object or weapon because it
19 resulted in her death. There is no evidence to the
20 contrary.

21 MR. SUTHERLAND: It's just the same position.

22 THE HONORABLE CLIFTON NEWMAN: Well, either he
23 did it or he didn't. That's the State's argument.

24 MR. SUTHERLAND: Oh, well, the evidence ---

25 THE HONORABLE CLIFTON NEWMAN: So if he beat her

1 to death, then it had to be a deadly weapon.

2 MR. SUTHERLAND: Oh, that's what they're arguing.
3 I'm sorry. It started to tone out there for a second.
4 Obviously, it's a decision for the jury to make,
5 whether or not the circumstances are aggravated to the
6 point that a fist could be considered a deadly weapon.

7 But, again, the testimony throughout the trial
8 was of a beating and not a pistol, slingshot, dirk and
9 all the other implements, sir.

10 THE HONORABLE CLIFTON NEWMAN: As to Ms. Derrick,
11 I'm going to charge the lesser included of strong arm
12 robbery.

13 MR. SUTHERLAND: Thank you, sir.

14 THE HONORABLE CLIFTON NEWMAN: As to the
15 burglaries?

16 MR. SUTHERLAND: With respect to the burglary
17 first degree charge, if the jury were to find that
18 Mr. Wallace had entered the house, taken the jewelry
19 but not committed the murder, then, sir --- and
20 because the State in their opening statement and
21 because their witnesses have all testified that the
22 latest this could happen was right before nine a.m.,
23 that includes daylight hours, sir.

24 If, during those daylight hours, he was to have
25 entered and taken the jewelry and left, then it would

1 be a burglary second degree, sir.

2 THE HONORABLE CLIFTON NEWMAN: What says the
3 State?

4 MS. McDUFFIE: Your Honor, the indictment alleges
5 that he committed these crimes during the hours of
6 darkness. He caused injury to the non-participant in
7 the crime and/or was armed with a deadly weapon.

8 Any of those aggravating factors can be reason
9 for the jury to return a verdict of guilty for the
10 crime of burglary in the first degree.

11 Your Honor, there is no evidence that this
12 defendant committed a lesser offense, in the record,
13 of burglary in the second degree.

14 THE HONORABLE CLIFTON NEWMAN: Well, he says the
15 offense is that the burglary could have occurred at
16 8:30 a.m.

17 MS. McDUFFIE: Your Honor, her car was seen at
18 8:30 a.m.

19 THE HONORABLE CLIFTON NEWMAN: Well, 8:25 a.m.

20 MS. McDUFFIE: Your Honor, regardless, we believe
21 that it was committed during the hours of darkness,
22 and there's no evidence in the record contrary to that.
23 He further caused injury to a nonparticipant in the
24 crime, Ms. Derrick, and we allege that he was also
25 armed with a deadly weapon.

1 THE HONORABLE CLIFTON NEWMAN: Well, on the ---
2 if I am charging common law robbery as to Ms. Derrick,
3 then the jury could conclude that it happened during
4 the daytime, and he was not armed with a deadly weapon.

5 If the jury says it happened at 8:15 a.m., and he
6 didn't have a deadly weapon ---

7 MS. McDUFFIE: Well, Your Honor, he also ---

8 THE HONORABLE CLIFTON NEWMAN: --- that would be
9 second degree burglary.

10 MS. McDUFFIE: But, Your Honor, they also would
11 have to conclude that he did not cause injury to a
12 nonparticipant in the crime, meaning Ms. Derrick.
13 Either of those, any of those, would be factors.

14 THE HONORABLE CLIFTON NEWMAN: Well, I mean, the
15 jury can say not guilty as to murder.

16 MS. McDUFFIE: Absolutely, yes, Your Honor. They
17 could.

18 THE HONORABLE CLIFTON NEWMAN: Yeah. I think the
19 options have to be left with the jury to whenever
20 there is any question, however slight the question may
21 be.

22 So if you want to charge the second degree
23 burglary as to Ms. Derrick. Now, as to --- as to ---
24 again, as to Ms. Webb, what's your...

25 MR. SUTHERLAND: Well, there --- I don't recall

1 any evidence in the --- in the record that --- that
2 would support a charge on the Webb case.

3 THE HONORABLE CLIFTON NEWMAN: All right.

4 MR. SUTHERLAND: In that regard, yes, sir.

5 THE HONORABLE CLIFTON NEWMAN: It's a first
6 degree burglary or not.

7 MR. SUTHERLAND: Yes, sir.

8 THE HONORABLE CLIFTON NEWMAN: All right. That
9 clears that up.

10 Then as to the church?

11 MR. SUTHERLAND: With respect to the church, Your
12 Honor, they don't know what time this occurred. They
13 have suspicions and speculations about the time that
14 the church burglary occurred.

15 However, there is no evidence pinpointing a
16 precise time. This was discovered the next morning
17 when people came to the church, and again, it could
18 have happened during the daylight hours prior to the
19 people arriving at the church. That would make it
20 burglary of the building instead of the aggravated
21 burglary second violent, sir.

22 THE HONORABLE CLIFTON NEWMAN: The burglary third
23 degree?

24 MR. SUTHERLAND: Yes, sir; yes, sir.

25 THE HONORABLE CLIFTON NEWMAN: All right. What

1 says the State?

2 MS. McDUFFIE: Your Honor, I believe that's an
3 absolutely incorrect factual recitation by the defense.

4 The burglary was discovered at 1:30 a.m., clearly
5 during the hours of darkness. There is no evidence
6 that it occurred in the morning hours. The only
7 evidence in the record is that it occurred during the
8 hours of darkness.

9 MR. SUTHERLAND: The burglary of the church?

10 MS. McDUFFIE: Correct, was tracked by the K-9
11 unit of the ---

12 MR. SUTHERLAND: Oh, they would have noticed the
13 front. Sorry for that mis-recollection, but what I
14 --- what I will do is say that they still can't say
15 what time it happened, sir.

16 It could have happened during the daylight hours.
17 It was just discovered at 1:30 a.m., and sorry about
18 misremembering the facts.

19 MS. McDUFFIE: Your Honor ---

20 THE HONORABLE CLIFTON NEWMAN: He could have gone
21 to the church first before going to Ms. Webb's house?

22 MR. SUTHERLAND: It --- there was no testimony.
23 In fact, they didn't even bring the K-9 handler in.
24 With respect to directional, "Did this occur first or
25 did that occur first?"

1 I just believe with them not being able to
2 pinpoint a particular time and have one say, "I saw
3 this happen to you during the hours of darkness" or no
4 one was there right before dark or right during those
5 daylight hours between the end of the day and between
6 the next day, I believe there is just room in there
7 for a burglary third charge, sir.

8 THE HONORABLE CLIFTON NEWMAN: All right. What
9 do you say about that, Ms. McDuffie?

10 MS. McDUFFIE: Your Honor, we agree that you
11 can't tell if he went to the church first or the Webb
12 home first, but they were both committed during the
13 hours of darkness. It doesn't matter which one he
14 went to first.

15 There was testimony by Ms. Wheeler, I believe,
16 that she was at church the night before for a meeting
17 and then was supposed to go back with the pastor the
18 next day.

19 The church was fine when she left, and when she
20 went back the next day with the pastor is when she
21 observed the damage. However, the damage was actually
22 discovered by the K-9 unit at 1:30 a.m., but they
23 could not contact any ---

24 THE HONORABLE CLIFTON NEWMAN: How about that?

25 MR. SUTHERLAND: I'd --- I'd just maintain,

1 maintain the same argument; that it --- I mean, it ---

2 THE HONORABLE CLIFTON NEWMAN: She says it's ---
3 according to the witnesses, she left at night. The
4 church was fine. 1:30 a.m., the church had been
5 broken into. His blood was in the church.

6 MR. SUTHERLAND: Well, if that is the testimony
7 in the record, sir, then I would withdraw the request
8 for burglary third.

9 THE HONORABLE CLIFTON NEWMAN: All right.

10 MR. SUTHERLAND: I just didn't recall.

11 THE HONORABLE CLIFTON NEWMAN: Burglary third as
12 to the church is out.

13 How about petit larceny of the church?

14 MR. SUTHERLAND: Well, with respect to the petit
15 larceny in the church, obviously, I'm going to be
16 making my directed verdict motion on that.

17 THE HONORABLE CLIFTON NEWMAN: And I assume the
18 lesser included?

19 MR. SUTHERLAND: Oh, the petit larceny as a
20 lesser included, sir?

21 THE HONORABLE CLIFTON NEWMAN: Not to my
22 knowledge. I'm just making sure you're not seeking
23 that.

24 MR. SUTHERLAND: Oh no, no; no, sir. That's just
25 --- I know it's everything else, but I'm just going to

1 do my directed verdict motion. Sorry, Your Honor.

2 THE HONORABLE CLIFTON NEWMAN: All right.

3 (Pause)

4 Okay. So the --- when the jury comes in and the
5 State rests, the defense rests, then the time for
6 argument. So that's a formality so that we can take
7 up --- because of that, we'll take up motions now.

8 MR. SUTHERLAND: Yes, sir. If it pleases the
9 Court --- and I have actually printed this out. I'll
10 give a copy to the State here, and this is the
11 original. Just a renewal of my previous motions and
12 objections.

13 It's just specifically, of course, you know, not
14 limited to --- I'd renew the motion to strike juror
15 number 453 for cause with respect to his relationship
16 with the murder victim's family.

17 The motion opposing joinder and to exclude
18 evidence of prior bad acts, I would incorporate the
19 arguments in my original motion and in the motion that
20 was handed up to the court.

21 This thing with respect to the testimonial
22 hearsay, the motion to exclude the statement, and that
23 statement being the consent to --- the consent to a
24 DNA swab and ergo, the motion to suppress the DNA swab
25 as unlawfully seized, the motion to limit the gruesome

1 photographs. With respect to each of those that are
2 noted in the record as --- as having been argued.

3 I would renew the motion for a mistrial based on
4 the --- the jury issue that we had where juror number
5 53 had handed in a note and said that three of the
6 female jurors had looked like they were concerned or
7 frightened, the whole thing we went through, basically,
8 yesterday morning, just renew the mistrial motion and
9 just renew all previous objections, sir.

10 THE HONORABLE CLIFTON NEWMAN: All right. And
11 you move for a --- you move for a directed verdict, as
12 well?

13 MR. SUTHERLAND: Yes, sir. With respect to the
14 petit larceny charge, I would move for a directed
15 verdict on the basis that they did not put the witness
16 on the stand who could say that matches were stolen
17 from the church.

18 All of that particular witnesses, other than the
19 investigators talking about it, she's --- Edna Wheeler,
20 who testified, said there was some candy missing.

21 The response to the questions from the State were,
22 "I did not see the matches" and that is different from
23 "Someone stole the matches or the matches were taken."

24 THE HONORABLE CLIFTON NEWMAN: All right. What
25 about that, solicitor? He said one said anything was

1 stolen from the church.

2 MS. McDUFFIE: Your Honor, the witness testified
3 that she no longer saw the matches after she came in
4 that morning.

5 Your Honor, she said that the matches were kept
6 there because they used them to light candles and
7 things like that in the service. When she came there
8 that morning, she no longer saw them.

9 She also talked about how there were strewn
10 matches, lit matches, on the floor in different parts
11 of the building, Your Honor.

12 We believe that even that is enough for petit
13 larceny. He took the matches and asportated them, and
14 we believe that that would be enough to survive a
15 directed verdict motion ---

16 THE HONORABLE CLIFTON NEWMAN: All right.

17 MS. McDUFFIE: --- in the light most favorable to
18 the State.

19 MR. SUTHERLAND: And I may be incorrect, but I
20 had thought that the indictment alleged the box.

21 (Pause)

22 But I have could be mistaken.

23 THE HONORABLE CLIFTON NEWMAN: It says matches.

24 MR. SUTHERLAND: Oh, it just says matches? Well,
25 again, the testimony was she did not see them the

1 night that they were stolen. If there was testimony
2 about anything being stolen, it was testimony about
3 the candy was stolen, sir.

4 THE HONORABLE CLIFTON NEWMAN: All right. I deny
5 the motion. I think the --- there is enough inference
6 from the evidence that establishes a circumstantial
7 case that he took matches from the church; the matches
8 strewn about the church, and he had them in the
9 vehicle and had them in his house, I believe.

10 MR. SUTHERLAND: Yes, sir.

11 THE HONORABLE CLIFTON NEWMAN: And they all
12 looked like they were the churches' matches. I
13 believe that's enough.

14 MR. SUTHERLAND: Thank you, sir.

15 And with respect to --- with respect to the
16 remaining charges, I would move for a directed verdict
17 on the basis --- which I must --- just on the basis of
18 the competence of the evidence. I'd just have to base
19 that on my prior objection, but I must make the
20 directed verdict motions.

21 THE HONORABLE CLIFTON NEWMAN: It's all for the
22 jury to determine as to whether or not they are
23 convinced beyond a reasonable doubt as to the
24 defendant's guilt based on the evidence the State has
25 presented.

1 There is sufficient evidence in the record from
2 which the jury can find the defendant guilty of each
3 charge that he has been indicted for.

4 It's up to the jury to weigh the sufficiency of
5 the evidence, so I respectfully deny each and every
6 motion for a directed verdict.

7 MR. SUTHERLAND: Thank you, sir.

8 THE HONORABLE CLIFTON NEWMAN: What else do you
9 got over there?

10 MR. SUTHERLAND: Presently, I renewed my previous
11 motions and objections, the directed verdict motion.
12 I don't believe I have anything further, sir.

13 THE HONORABLE CLIFTON NEWMAN: All right. Okay.

14 MS. CAMPBELL: Your Honor, could we just --- they
15 were going through the evidence, and I couldn't pull
16 out pieces. There aren't many of them.

17 THE HONORABLE CLIFTON NEWMAN: All right.

18 MS. CAMPBELL: Can we pull out pieces? There
19 aren't many of them that I wanted to ---

20 THE HONORABLE CLIFTON NEWMAN: We'll take five
21 minutes, a five-minute stretch and then be ready for
22 closing arguments.

23 (WHEREUPON, a short break was taken.)

24 THE HONORABLE CLIFTON NEWMAN: Just one
25 additional thing regarding the charge, with respect to

1 the State's request to charge, the last request to
2 charge, was handed up to me.

3 MS. CAMPBELL: Yes, Your Honor.

4 THE HONORABLE CLIFTON NEWMAN: Any comment the
5 State or the defense would like to make about that?

6 MR. SUTHERLAND: I would just prefer that ---
7 that Your Honor's charge be --- that Your Honor charge
8 the jury as Your Honor had intended to prior to the
9 submission.

10 THE HONORABLE CLIFTON NEWMAN: All right.
11 Ms. Campbell?

12 MS. CAMPBELL: Your Honor, we would just request
13 that. I do believe it's a correct statement of law,
14 and I would be glad to hand up the case, State vs.
15 Douglas, if I can find it.

16 (Pause)

17 May I approach?

18 THE HONORABLE CLIFTON NEWMAN: You may.

19 MS. CAMPBELL: I want to make sure it's not
20 misquoted.

21 THE HONORABLE CLIFTON NEWMAN: What is it the
22 State wants me to tell the jury?

23 MS. CAMPBELL: Just exactly the language that's
24 in our request to charge.

25 THE HONORABLE CLIFTON NEWMAN: Which says?

1 MS. CAMPBELL: It is not essential the victim in
2 an armed robbery must be (unintelligible) when the
3 robbery occurs ---

4 THE COURT REPORTER: You need to slow down.
5 Sorry. I didn't hear.

6 MS. CAMPBELL: Sorry. The language: It is not
7 essential the victim in an armed robbery must be alive
8 when the robbery occurs. However, in order to be
9 guilty of armed robbery in conjunction with a homicide,
10 the State must prove the victim's death and the taking
11 as part of a continuous chain of events so
12 interconnected as to be inseparable.

13 THE HONORABLE CLIFTON NEWMAN: Counsel?

14 MR. SUTHERLAND: Sir, it's just --- I believe we
15 were supposed to submit the charges pretrial, and this
16 charge was not submitted.

17 THE HONORABLE CLIFTON NEWMAN: Well, I'm not too
18 concerned about the timing, but the --- I intend to
19 charge the jury the felony murder inference; that if
20 one intentionally kills another during the commission
21 of a felony, the inference of malice may arise.

22 In that regard, burglary and robbery are felonies
23 under our law. If facts are proved beyond a
24 reasonable doubt sufficient to raise an inference of
25 malice to your satisfaction, it's an evidentiary fact

1 which the jury can give whatever consideration to it
2 that it wants to.

3 I believe that that sufficiently addresses
4 whatever inference that the court should tell the jury
5 that should be taken from death occurring during a ---
6 the burglary or the robbery.

7 I think anything else would amount to the court
8 commenting on the facts. Certainly, you all can argue
9 all this as much as you want to.

10 MS. CAMPBELL: We can argue that, Your Honor?

11 THE HONORABLE CLIFTON NEWMAN: You can argue it
12 as much as you want to. Yes, you can. All right.

13 We'll be at ease for just a couple of minutes.

14 (Pause)

15 (WHEREUPON, a short break was taken.)

16 THE HONORABLE CLIFTON NEWMAN: All right. Ready
17 for the jury?

18 MS. CAMPBELL: The State is ready.

19 MR. SUTHERLAND: The defense is ready, sir.

20 THE HONORABLE CLIFTON NEWMAN: All right. Let's
21 bring them on.

22 MS. CAMPBELL: Your Honor, we'll rest, then he'll
23 rest, and then we'll proceed?

24 THE HONORABLE CLIFTON NEWMAN: Right. Absolutely.
25 And closing arguments for the State, Ms. Campbell,

1 you're doing both parts of it?

2 MS. CAMPBELL: Yes, sir. Since we have to go
3 first.

4 THE HONORABLE CLIFTON NEWMAN: Okay.

5 (WHEREUPON, the jury came into open court at
6 approximately 3:01 p.m.)

7 THE BAILLIF: The jury is seated, Your Honor.

8 THE HONORABLE CLIFTON NEWMAN: Very good.

9 Mr. Foreman, how is the jury doing?

10 THE FOREMAN: Good, sir.

11 THE HONORABLE CLIFTON NEWMAN: Good. All right.

12 Welcome back. From the State?

13 MS. CAMPBELL: Your Honor, the State would rest.

14 THE HONORABLE CLIFTON NEWMAN: Ladies and
15 gentlemen, you've heard the State's case. The State
16 has rested.

17 It's the defense's turn. The defense is not
18 required to present a defense since the burden of
19 proof is on the State to prove the defendant guilty
20 beyond a reasonable doubt, but the defendant has the
21 opportunity to present a defense.

22 It's the defense's turn. What says the defense?

23 MR. SUTHERLAND: Your Honor, the defense would
24 rest and renew all previous motions and objections.

25 THE HONORABLE CLIFTON NEWMAN: All right. Ladies

1 and gentlemen, the defense has rested. That means
2 that you have heard all of the testimony in this case.
3 You have received all of the evidence in this case.

4 It's now time to hear closing arguments in the
5 case. First from the State.

6 Ms. Campbell.

7 MS. CAMPBELL: Thank you, Your Honor.

8 CLOSING STATEMENT:

9 MS. CAMPBELL: Good afternoon.

10 THE JUROR: Hi.

11 MS. CAMPBELL: The thing first I want to do on
12 behalf of the State of South Carolina, on behalf of
13 Ms. Webb, the church, and Ms. Derrick's family, the
14 citizens of Richland County is to thank you for your
15 service in this case.

16 I know when you showed up here on Monday morning,
17 you may have tried to anticipate what, if any, case
18 you would be called for, whether or not you would even
19 sit on a jury. Would it be a carjacking? Would it be
20 a petit larceny? Could it be a shoplifting?

21 As you have probably realized over the last
22 several days, it doesn't get much more serious than
23 this. There has been a great deal of evidence that
24 has been entered, over 400 exhibits.

25 There has been a great deal of testimony that we

1 have tried to streamline, but still emphasize the
2 importance of that very testimony without minimizing
3 it.

4 You have been very patient as we have
5 painstakingly gone through the evidence. Thank you.
6 On behalf of the citizens, we thank you. On behalf of
7 the families, we thank you.

8 Now, I am going to have an opportunity to get up
9 here and talk to you in a little while about the law
10 in this case, the law as it applies to this case.
11 Then I will talk to you about the facts, and that will
12 be the last time you are allowed to hear from me.

13 Then the defense, because the burden is on the
14 State, will get up here and argue what he says that
15 the facts and the law say is the case.

16 Now, the judges' roles in this courtroom are very
17 well defined, and the role of the State to bring forth
18 before you and all possible relevant evidence as to
19 just what happened.

20 I'm going to limit to it just what happened on
21 that day back on January 31st of 2009 in the Denny
22 Terrace community, because on that day, that community
23 was terrorized. The defense's role is obvious, to
24 defend his client to the best of his ability.

25 The judge's role is to determine what is actually

1 admissible, whether or not hearsay, which may be
2 admissible at one point, not later, is admissible,
3 whether or not --- and what the law is that will be
4 charged to you.

5 After you hear from both of us, the judge will
6 charge you what the law is that you are to apply in
7 this case. But ladies and gentlemen, let's get one
8 thing straight: The most important role in this
9 courtroom is yours.

10 Each of you individually, and then once you get
11 back to that jury room, collectively, the 12 of you
12 that will deliberate, your role is the most important,
13 because you must determine based on the evidence
14 that's before you what happened, and you've now heard
15 all the evidence you can consider.

16 What is evidence? Evidence is the actual
17 testimony from witnesses who have sworn to tell the
18 truth and gotten before you and testified to either
19 what they saw, what they tested, what they knew about
20 what happened back on January 31st.

21 What is not evidence? It's questions by the
22 lawyers, fishing expeditions, conjecture, speculation
23 or just explain wishful thinking. That is not
24 evidence.

25 Listen carefully when the judge instructs you,

1 because the one thing the defense said in their
2 opening argument was they wrote the words on the wall,
3 remember, "talk"./ It's just a bunch of talk. They
4 refer to it as illusion. The State will not be able
5 to prove anything they have said they will prove, talk
6 and illusion.

7 Well, ladies and gentlemen, as you probably now
8 realize, there wasn't a whole lot of talk, and there
9 wasn't no illusion going on in Denny Terrace back on
10 that day in 2009.

11 What we want to talk to you about are the cold,
12 hard, undisputed facts and the hard evidence that
13 points one direction, and in this case, one direction
14 only, and that's to the guilt of the person who
15 actually committed these offenses. That's the
16 evidence and the evidence that's before you.

17 Now, I want to apologize if during the course of
18 this, if we have done anything to offend you in any
19 way. At times, things have been not admissible and
20 then later admissible.

21 The judge has had to rule on objections at
22 different times. If we, Ms. Simpson, Ms. McDuffie,
23 anyone from the State has done anything. Sometimes we
24 get into legal wrangling.

25 I tend to talk fast because I have to get it out

1 before I forget it at my age. So if we have done
2 anything to insult you or offend you in any way,
3 please don't hold it against the victims in this case.
4 We were just trying to do our job.

5 Now, in criminal cases, they are somewhat unique.
6 As you may have noticed over the last four days, there
7 are no depositions that have been taken and read back
8 to you. There are no video or audio tape recording
9 that are going to be played for you other than the
10 actual evidence in the case, but not through witnesses.

11 You have heard references to different tests that
12 have been done, different reports that have been done,
13 and those have not been admitted because they aren't
14 admissible.

15 Under our constitution, as it should be, the
16 defendant has the right to confront each and every
17 witness against him.

18 There are rules in place that descend from our
19 constitution to protect a defendant's rights, and one
20 of those rules is they have the right to confront all
21 the people who are going to testify against them.

22 Part of the reason for that is because in
23 criminal cases, the law recognizes that you should
24 have the right to judge their credibility. Do they
25 have something to gain or lose? Do they have a reason

1 to testify the way they are?

2 So we have to bring forth live witnesses. Even
3 in the case where the pathologist had a stroke, we
4 still had to bring forth live testimony, do an
5 independent analysis that concurred with the doctor's
6 report.

7 There are certain public records exceptions, such
8 as with autopsies that concur with the doctor's report.
9 There are certain public records exceptions, such as
10 with autopsies that makes it admissible. So it's in
11 order to prove the cause of death.

12 So that's why you've heard from the DNA analyst
13 and not just seen his report. That's why you've heard
14 from the pathologist, the medical examiner, and not
15 just seen a report. So that is the reason for that.

16 You've also heard us ask a series of questions,
17 which to you, probably got tired of hearing, "Did
18 anyone alter anything? Tamper with it?"

19 We must prove, before scientific evidence is
20 admissible before you, a chain of evidence is what
21 it's called to make sure in this case, in this county,
22 in this state no one tampered with anything.

23 There was nothing done wrong in this case, and we
24 have to prove that before the evidence can even come
25 before you. That was the reason for those questions.

1 Then at the same time, you've heard multiple
2 references to other people that did not come before
3 you. Neighbors from the area, other police officers
4 that may have participated in a search warrant in a
5 canvas of the neighborhood, may have responded to the
6 scene.

7 We can't do what's called cumulative evidence,
8 bring forth the same people to say the same thing over
9 and over and over. It's called cumulative evidence.

10 We, therefore, must bring forth a person who has
11 knowledge of the facts and can testify before you
12 competently. That is what we've done.

13 So in this case, you may have heard references to
14 other officers, for other people that were not before
15 you. Either their evidence is not admissible or they
16 simply would be cumulative to the rest of the evidence.

17 Now, the burden of proof is on the State of South
18 Carolina to prove this defendant's guilt beyond a
19 reasonable doubt.

20 Ladies and gentlemen, I submit in this case,
21 perhaps more than any other, that is a burden the
22 State welcomes, but the burden is right where it
23 should be.

24 We should be held to that standard to prove his
25 guilt, not just to raise suspicion, not just to cast

1 doubt, not to have an innuendo that he did it. We
2 have to put forth competent evidence to prove his
3 guilt beyond a reasonable doubt.

4 Now, the judge will instruct you what is beyond a
5 reasonable doubt. The courts have held, and perhaps
6 the simplest way to describe it, what is a reasonable
7 doubt? It's the type of doubt that would cause
8 reasonable man to hesitate to act.

9 And, remember, even in naming the type of doubt
10 it is, the word "reasonable" pervades through
11 everything, because the law recognizes that people can
12 doubt anything. You can have a doubt about anything,
13 no matter what.

14 The law goes further than that in defining
15 reasonable doubt, which is the highest level of proof,
16 as it should be. Proof beyond a reasonable doubt is
17 proof that leaves you firmly convinced of the
18 defendant's guilt. Let me restate that. Firmly
19 convinced of the defendant's guilt.

20 There are very few things in this world that we
21 know with absolute certainty. In criminal cases, the
22 law does not require proof that overcomes every
23 possible doubt.

24 If based on your consideration of the evidence,
25 you are firmly convinced the defendant is guilty of

1 the crime charged, you must find him guilty.

2 If, on the other hand, if you think that there is
3 a real possibility that he is not guilty, then you
4 must give him the benefit of the doubt and find him
5 not guilty.

6 Again, as I'm going through the law --- which I'm
7 going to because there's a lot of at that it ---
8 you're going to have multiple indictments back there
9 with you because there's a series of crimes that
10 occurred. Even in one event, there may be more than
11 one crime charged based on the defendant's actions.

12 So as I go through this, listen carefully. If I
13 misquote, you take the law as the judge gives it to
14 you --- it's not intentional. You take the law as the
15 judge charges you after you hear from both of us.

16 In that same vein, as you remember the facts, if
17 either side, either attorney, mischaracterizes the
18 facts as you remember them, you are the sole finder of
19 the facts. That is your province and your province
20 alone. That is proof beyond a reasonable doubt.
21 Proof that leaves you firmly convinced of the
22 defendant's guilt.

23 Now, you have a number of indictments, and in
24 each of these indictments that the judge may or may
25 not send back with you into court, the grand jury of

1 Richland County has true billed these indictments ---
2 I say true billed. That means you're allowed to
3 consider them --- as to the crimes.

4 Taking them in an order chronologically, the
5 first of these is what happened to Carolyn Webb.
6 Those charges are armed robbery, assault and battery
7 with intent to kill, and burglary in the first degree.

8 You will hear, very simply, because the defense
9 will get up here and say, "Well, they can't even say
10 what order these happened for sure." It is not up to
11 us to prove what order they happened for sure,
12 although I submit we have. Because even in the
13 indictment itself, it recognizes that sometimes
14 violent crimes are crimes of isolation by nature.

15 Violence tends --- not always ---

16 MR. SUTHERLAND: Your Honor, I'm sorry. If
17 that's the --- stating the law, the crimes of
18 isolation --- I just believe it may be misstating the
19 law, sir.

20 MS. CAMPBELL: Just argument.

21 THE HONORABLE CLIFTON NEWMAN: The objection is
22 overruled.

23 MR. SUTHERLAND: Thank you, sir.

24 MS. CAMPBELL: Thank you.

25 Crimes of isolation. Violent crimes tend not to

1 happen in front of a video camera, in front of 20
2 witnesses.

3 Crimes of violence, people that commit violent
4 crimes, tend to do them in isolation. So the law
5 recognizes that we have to go back, especially when
6 the victim isn't alive anymore and reconstruct that.

7 So even in the indictment itself on each of these
8 crimes, it says Elbert Wallace did, while in Richland
9 County on or about January 31, 2009.

10 If the defense gets up here and says we can't
11 even say exactly what time it is, that's not even an
12 element. Don't let yourself be fooled. It's not an
13 element. We simply have to prove each and every
14 element in these crimes.

15 You're going to have three indictments back with
16 you as far as what happened to Carolyn Webb. Assault
17 and battery with intent to kill, armed robbery,
18 burglary in the first degree, and I'll talk to you a
19 little bit about the elements in those cases.

20 In the second set of indictments, you're going to
21 have burglary in the second degree. There's a
22 difference in the levels of burglary, even though
23 there are aggravating circumstances, which I'll talk
24 about, when it's a building versus a dwelling.

25 The law recognizes that you can only elevate a

1 crime to burglary in the first degree when it's
2 someone's home. Home should be sacred, and the law
3 recognizes that. That's why that rises to the level
4 of burglary in the first degree.

5 When it's a building where someone does not
6 typically reside, such as a church in this case,
7 although that should be sacred, as well, the law
8 recognizes that that is not as serious of crime
9 because the potential for violence is not as much
10 there.

11 So that's why there is only a charge of burglary
12 in the second degree on the church and petit larceny
13 for the stealing of the matches. The final set of
14 indictments that are going to come with you are two
15 counts with regard to Linda Derrick.

16 He is charged with murder, and he is charged with
17 armed robbery. Now, the judge will instruct you as I
18 go through the law on these cases --- and some of
19 these burglary in the first degree, excuse me --- in
20 some of these cases, there will be similar charges,
21 like burglary in the first degree as to the two
22 different homes; burglary in the second degree, as to
23 the building; armed robberies, as to the two women who
24 were robbed.

25 As I go through the elements, you have to kind of

1 take these and apply them to whichever one applies to
2 you.

3 These are the elements. Taking them in the order
4 of the most serious: Murder. As Ms. Simpson told you
5 in her opening, it's the most heinous crime that's
6 done in our society, yet it may have the shortest and
7 simplest definition under our law.

8 We don't have murder in the first degree, second
9 degree, all that here. We have murder, and very
10 simply, listen carefully, because as the judge
11 instructs you on this, this is what he's going to tell
12 you: Murder is the unlawful killing of another with
13 malice aforethought either expressed or implied.

14 I'll talk to you a little bit about those terms,
15 malice aforethought either expressed or implied, but
16 notice in this definition, nowhere will you hear the
17 judge that there has to be premeditated, having it
18 planned for five days in advance, none of that,
19 because the law recognizes that murder is murder.

20 It doesn't have to be planned out in this state.
21 It doesn't have to rise to different degrees. Nowhere
22 either does it say --- and you listen carefully to the
23 judge --- that the State has to prove motive, although
24 in this case with these facts, the motive is pretty
25 clear. He was robbing, and he was robbing everyone

1 and everything he came in contact with that night.

2 MR. SUTHERLAND: Objection, facts not in evidence.

3 THE HONORABLE CLIFTON NEWMAN: Overruled.

4 MR. SUTHERLAND: Thank you, sir.

5 MS. CAMPBELL: We have to prove not motive,
6 although I submit in this case, the motive is obvious:
7 Robbery. Those are not elements of murder in and of
8 itself.

9 Now, unlawful killing of another with malice
10 aforethought. And what is malice? As you notice in
11 here, it says expressed or implied. That doesn't
12 mean it's two kinds of malice. It's more than how
13 it's said.

14 The law recognizes, too, that expressed malice
15 may have not always be present. An example of express
16 malice is, say, lying in wait for someone. If I were
17 to walk up to another person, pull out a gun and say
18 to them, "I am going to kill you," those words are
19 expressed malice. Those actions are expressed malice.

20 The law recognizes in most cases of murder, you
21 aren't going to have that, so you are allowed to infer
22 malice from the circumstances or the actions of the
23 defendant at or around the time of the event.

24 Malice may be inferred from conduct showing a
25 total disregard for human life. Inferred malice may

1 also arise when the deed is done with a deadly weapon.

2 Now, the judge will tell you this: As far as
3 malice, is not something that has to be plotted out or
4 planned ahead of time. When he entered that home to
5 rob her, to just beat her down, did he mean to kill
6 her? It's not something the State has to prove.

7 What we do have to prove, malice does not have to
8 exist for any appreciable period of time before the
9 act occurs. However, just before --- and at the time
10 of the fatal blow --- and at this point, ladies and
11 gentlemen, it's not just a blow. It's blows over and
12 over and over to subdue her to make sure she didn't
13 fight back anymore, and she tried.

14 Malice may be conceived the very moment the fatal
15 blow is given. Again, it must just exist at the time
16 of the blows.

17 In this case, as you heard from the testimony,
18 there's not just one blow. In this case, there's no
19 issue as to cause of death.

20 The law goes further in defining what is malice
21 and what you can use in your determination of whether
22 or not this defendant acted with malice, and I submit,
23 ladies and gentlemen, in this case, this case reeks of
24 malice.

25 Malice does not necessarily impart ill will

1 toward the individual injured but signifies, rather, a
2 general malignant disregard of the lives and safety of
3 others or a condition of mind which shows a heart
4 regardless of social duty and fatally bent on mischief,
5 a heart regardless of social duty and fatally bent on
6 mischief.

7 The easiest way to define malice: The word
8 malicious comes from the word malice. Were his
9 actions malicious? Well, ladies and gentlemen, it
10 doesn't get much more malicious than this.

11 There are other ways, the law also and the judge
12 will instruct you. The law also allows the jury to
13 infer malice if you conclude the homicide was the
14 proximate direct result of the commission of a felony.

15 For that regard, burglary and/or robbery, either
16 one, both are, would be felonies under our law. You
17 can imply that malice existed if a person is in the
18 commission of a felony at the time of the fatal blow.

19 Ladies and gentlemen, I submit --- and I could be
20 wrong --- no one is going to get up here and argue
21 that this wasn't a murder.

22 The law goes further as far as what's called a
23 felony murder rule. It doesn't mean it's a different
24 type of murder. It's just a different way of proving
25 it.

1 Felony murder is the commission or attempted
2 commission of a felony that creates substantial
3 foreseeable human risk and actually results in the
4 loss of life. This includes, but not limited to,
5 felonies which are inherently dangerous to life.

6 Burglarizing people's homes in the middle of the
7 night and beating them and robbing them is inherently
8 dangerous to that person's life.

9 In this, ladies and gentlemen, there is no doubt
10 it was dangerous, because Ms. Derrick died, beaten in
11 her own home, in her own bed in the middle of the
12 night because she left her porch light on.

13 Now, while we're talking about assaults of murder
14 and that nature, you have assault and battery with
15 intent to kill.

16 Very simply, the judge will instruct you that an
17 assault and battery with intent to kill, there are
18 various elements of this crime. It's an unlawful act,
19 a violent injury, a physical injury, to the person of
20 another with malice aforethought, expressed or implied.

21 Again, ladies and gentlemen, I didn't know what
22 order to do them in, but malice is the same type of
23 malice. It very simply means that when he stabbed
24 Ms. Webb, she didn't die. So that's why it's assault
25 and battery with intent to kill. In other

1 jurisdictions, it's called attempted murder, assault
2 and battery with intent to kill and not that.

3 Whenever, however, the person is not successful,
4 typically in this indictment --- not in the murder
5 indictment, there are no lesser-includeds, the judge
6 will also instruct you that if you think that this
7 defendant did not act with malice, then you can find
8 him guilty of the lesser-included offense of assault
9 and battery of a high and aggravated nature.

10 It's got the same elements, other than the
11 absence of malice. The judge will instruct you, was
12 he acting with malice? Was he in the commission of a
13 felony at the time?

14 I submit in this case, when one is stabbed in the
15 commission of a robbery, which is a felony, that
16 infers malice in and of itself.

17 You don't even have to look at that. Look at his
18 actions, when he twisted the knife in her leg, things
19 of that nature? Was he acting maliciously?

20 Was he acting maliciously when he beat her in the
21 face with his fist? Those are all things you can
22 consider and again, assault and battery.

23 Now, the judge will instruct you that it does not
24 require the specific intent to kill for it to still
25 rise to the level of assault and battery with intent

1 to kill, but that assault and battery with intent to
2 kill is an unlawful act of a violent nature of the
3 person of another with malice aforethought.

4 Again, the same type of malice we've been talking
5 about, either expressed or implied. Assault and
6 battery with intent to kill also requires intent to
7 kill. However, this intent to kill can be a general
8 intent demonstrated by acts and conduct which a jury
9 may naturally and reasonably infer intent.

10 Intent may be proved with evidence of the
11 character and means of the instrument used. Intent to
12 kill may be inferred from the character of the assault,
13 the use of the deadly weapon, and with the
14 opportunity --- with an opportunity to deliberate or
15 the use of a deadly weapon --- of a dangerous or a
16 deadly weapon in a manner reasonably calculated to
17 cause the death or of great bodily harm.

18 Likewise, the manner in which the instrument was
19 used, the purpose to be accomplished and the resulting
20 injuries may also prove intent. So those are some of
21 the different ways. The judge will instruct you, the
22 use of a weapon, is enough to infer malice.

23 The act of a felony alone is enough to infer
24 malice. This case just happens to have pretty much
25 all of the definitions of malice in the book.

1 Now, you are also going to have two counts of
2 armed robbery: One for Ms. Derrick and one for
3 Ms. Webb. What is armed robbery?

4 The definition is very simple. A person who
5 commits robbery --- and a robbery, ladies and
6 gentlemen, the judge may go through the elements. I
7 don't know if he will or not --- a lesser included of
8 a robbery could be a larceny.

9 What elevates a larceny, which is stealing ---
10 say if I go into someone's locker at school, they
11 aren't there, and I steal a book out of their locker
12 and I take it, that's a larceny. Very simply, it's
13 stealing.

14 However, what elevates a larceny to a robbery is
15 if I go over to someone else, and then I shove them
16 out of the way and take the book from their presence
17 or their person, then that elevates it to robbery.

18 Well, what then takes it up another notch is
19 armed robbery. Very simply, if I go up to someone, I
20 am armed with a weapon. I don't even have to threaten
21 them with it. I just have to display it or a
22 facsimile of a weapon.

23 If I even act like I have a weapon, say sticking
24 a finger, anything like that, because the law
25 recognizes when people are threatened with what is or

1 is perceived to be a deadly weapon, bad things happen,
2 and that's the reason for this law to be the way it is.

3 Armed robbery: Armed with a pistol, dirk,
4 slingshot, metal knuckles, razor or other deadly
5 weapon. No one is going to get up here and say a
6 knife or somebody beats somebody's skull in, it's not
7 a deadly weapon. Or while alleging, either by actions
8 or words, he was armed while using a representation of
9 a deadly weapon or any object which a person present
10 during the commission of a robbery reasonably believed
11 to be a deadly weapon is guilty of robbery while armed
12 robbery with a deadly weapon or commonly in our terms
13 that we use before you and the language and the
14 indictment is armed robbery. Those are the elements.

15 Now, as far as Ms. Derrick is concerned, and I
16 submit that because he was in the process of doing the
17 robbery while she got --- and this is a little bit
18 backwards --- because but for the robbery, she
19 wouldn't have been murdered, but it's not essential
20 for the victim in an armed robbery to be alive when
21 the robbery occurs. However, it must be in
22 conjunction with the homicide.

23 In this case, it's quite the reverse because his
24 intent that day was to go do the armed robbery. The
25 murder, which then is elevated to malice with murder,

1 comes from the actual underlying robbery itself.

2 Now, the judge will instruct you, as well, that
3 an object not normally considered a dangerous object
4 may in some circumstances be used in a fashion or in
5 such a manner to constitute a dangerous or deadly
6 object.

7 As I go through all of this, the law recognizes
8 that we may not be able to prove exactly which object
9 he used to kill with, be it his fist, be it a pipe, be
10 it a rock, such as a cinderblock, which he took from
11 the scene, be it the hilt of the knife.

12 We have don't have to prove the specific object.
13 We just have to prove for you to determine to decide
14 beyond a reasonable doubt whether a deadly or
15 dangerous object was used.

16 The hand or fist of a person is not normally
17 considered a dangerous or deadly object, but under
18 some circumstances, a hand or a fist of a person may
19 be used in such a fashion or in such a manner to
20 constitute a dangerous or a deadly object.

21 So it doesn't matter, and the law recognizes, we
22 may not be able to show the specific thing, but in
23 certain circumstances, something even just like a fist
24 can become a deadly weapon, depending on how it was
25 used.

1 I submit, ladies and gentlemen, whatever weapon
2 he used in this case with Ms. Derrick, it was deadly.

3 Burglary in the second degree. The elements of
4 entry into a building of another without consent with
5 the intent to commit a crime therein, and the entry
6 occurs during the hours of darkness.

7 Now, I'm using the underlying charge of burglary
8 in the second degree, but this kind of applies to
9 burglary in the first degree, too.

10 The only difference in these elements is where it
11 says building here, to make it burglary in the first
12 degree, it would then say dwelling. I used the word
13 dwelling, not house but it's dwelling.

14 Anywhere where a person --- the judge will define
15 that for you --- where a personal is normally or is
16 intended to reside. It's a dwelling. That would be
17 the difference between this burglary in the second
18 degree, which is into a building, and this one without
19 consent with the intent to commit a crime.

20 Then we must prove in each of these burglary
21 charges, the two burglary first and the burglary in
22 the second degree, an aggravate circumstance.

23 What are aggravating circumstances? In this case,
24 the entry into the building would actually have to
25 occur in the nighttime. That's an aggravating offense.

1 Other aggravating offenses which are present in
2 the other two burglaries, the burglaries in the first
3 degree, are actually that they enter and cause
4 physical harm to another person. They're armed with a
5 deadly weapon; that they threatened the use of a
6 deadly weapon. All of those are enumerated in the
7 indictments in this case. Those are aggravating
8 circumstances.

9 In the one case, in Ms. Derrick's case, you're
10 going to have a lesser-included charge of burglary in
11 the first degree, and then it could be burglary in the
12 second degree if you don't find the aggravating
13 circumstances are present.

14 Just because of the way the law works, that would
15 count as a lesser included. The other ones are very
16 definitely --- and notice in this --- there's no signs
17 of forced entry in any of these because these women
18 answered the door, other than that burglary at the
19 church.

20 It doesn't say that we have to prove a break-in.
21 It just says entry, an unlawful entry. Very simply,
22 ladies and gentlemen, if someone goes up to the door,
23 because the door opens, immediately start pounding
24 somebody to the point they're backing into their house
25 and follows them in, that is an unlawful entry and

1 burglary under our law. So those are the elements,
2 and listen carefully as the judge tells you what those
3 are.

4 Finally, you are going to hear about petit
5 larceny, and very simply, ladies and gentlemen, that's
6 the stealing of the matches. That's it. Nobody was
7 present, nobody says anybody was present in that.

8 Now, the judge will tell you --- and I'm almost
9 through talking about the law and then I'm going to
10 talk about the facts a few minutes and then be quiet.

11 Circumstantial evidence and direct evidence:
12 There are two ways the State can prove their case,
13 circumstantial evidence or direct evidence.

14 The laws recognizes that one is not better than
15 the other, and they are different in nature. What is
16 direct evidence? Direct evidence is the kind of
17 evidence that's perceived through the senses.

18 An eyewitness is typically a direct evidence
19 person: What they hear, what they see, what they
20 smell, what they feel. That's direct evidence,
21 typically eyewitness testimony.

22 In this case, you have eyewitness testimony from
23 Ms. Webb, what she saw that day. In this case, you
24 have eyewitness testimony as far as who saw the car at
25 what time.

1 You have people that came in here from the
2 community and testified to what they saw, from
3 Ms. Blizzard, things of that nature, but the law
4 recognizes in many cases it may be proved by
5 circumstantial evidence.

6 What is circumstantial evidence? Direct evidence
7 is the testimony of a person who asserts or claims to
8 have actual knowledge of a fact, such as an eye
9 witness. Circumstantial evidence is proof of a chain
10 of facts and circumstances indicating the existence of
11 a fact.

12 The law makes absolutely no distinction between
13 the weight or value to be given to either direct or
14 circumstantial evidence, nor is a greater degree of
15 certainty required of circumstantial evidence than of
16 direct evidence.

17 You should weigh all of the evidence in the case,
18 and after weighing all the evidence, if you are not
19 convinced of the guilt of the defendant beyond a
20 reasonable doubt, you must find the defendant not
21 guilty.

22 If, on the other hand, you are convinced of the
23 defendant's guilt beyond a reasonable doubt, you must
24 find him guilty. So it's proof of a chain of
25 circumstances that point to another fact.

1 The DNA evidence in this case, the blood evidence
2 inside the house. Clearly, circumstantial evidence
3 that the defendant was inside the house and bleeding
4 at or around the time she was --- she died.

5 The blood evidence in the car puts Elbert Wallace
6 in that car when it was stolen. Direct evidence is
7 him pawning the items. You actually have a video of
8 that. That's more direct evidence.

9 In this case, the great thing is all of the
10 circumstantial evidence is totally and completely
11 corroborated by the direct evidence. Each fit hand in
12 hand --- glove in hand, I guess is another way to put
13 it --- to corroborate each other. So you don't have
14 to find that one is better than the other. You just
15 have to find that they point to the defendant's guilt.

16 I submit, ladies and gentlemen, in this case,
17 direct evidence, circumstantial evidence, is
18 overwhelming as to this defendant's guilt.

19 The judge is also going to instruct you that
20 expert testimony, whenever someone has certain
21 training or expertise in an area and they can be
22 qualified as an expert, then they are allowed to give
23 opinion testimony.

24 Typically, in a case such as, if I were to
25 testify, I'm not an expert in anything. I couldn't

1 get up here and testify as to my opinion, but if a
2 person is qualified, such as in areas of DNA,
3 pathology, all those experts, crime scene
4 investigation, and they are able to get up here, and
5 because of their training and education, to be able to
6 give you opinions as to their evaluation of certain
7 pieces of evidence.

8 The judge will tell you, you don't have to
9 believe anything an expert says or you can believe
10 everything an expert says. Are they qualified to
11 testify? Did they testify in a manner that you
12 believed?

13 Because with the experts, just like with every
14 other witness in this case, ladies and gentlemen, it's
15 credibility. That's the last part of the law I'm
16 going to talk to you about in a minute: Credibility.
17 Because this case, it boils down to credibility.

18 Believability is a better way to put it. You can
19 believe one witness against many, many against one,
20 part of what a witness says, all of what a witness
21 says, none of what a witness says.

22 You can consider their demeanor on the stand.
23 Were they forthright or hesitant? Did they appear to
24 have a basis for which they made their conclusions?
25 Did they have a bias or prejudice? Did they have

1 something against this defendant that would cause them
2 to testify a certain way? Those are all matters you
3 can consider.

4 And, ladies and gentlemen, I beg you, judge the
5 credibility of these witnesses. Why? Why would
6 Ms. Carolyn Webb get up here and want to falsely
7 implicate the person who did this to her?

8 She is the one they went to when they needed
9 money, people in the community. Why would she falsely
10 accuse anyone? You saw her. I beg you, judge her
11 credibility.

12 The police officers, they didn't get up here and
13 manufacture evidence. They got up here, and as they
14 said it best, they went where the evidence took them.

15 And ladies and gentlemen, in this case, every
16 single piece of evidence that has come before you
17 points to him and him alone. That's the evidence.

18 Now, in preparation for this trial, you always
19 try to figure out what's the defense going to be.
20 Typically, in murder cases, and in this case because
21 so many events occurred in such a small amount of time
22 and were interconnected, you were allowed to hear
23 about additional two burglaries, one home invasion.

24 Typically, with a murder it is a whodunit. You
25 got the wrong guy. You don't have his DNA. Your

1 eyewitness was smoking crack. They have no idea what
2 they were actually saying or what they saw. It's a
3 misidentification. Your witness was drunk, typically
4 self-defense. They had to do what they had to do to
5 protect themselves. That was their right by law, but
6 in this case, none of that is really the defense.

7 As I listened to opening arguments, I heard for
8 defense attorney get up here and say, "You can't
9 believe anything the government has to say. It's just
10 talk." Then later on he talked about DNA, and it's
11 all just --- I believe the word --- he used the word
12 it's an "illusion".

13 Ladies and gentlemen, we aren't here for an
14 illusion. We aren't here to misdirect your focus. We
15 aren't here to mislead you. We have presented the
16 evidence, the overwhelming evidence, and we have the
17 DNA.

18 We have the good identification, and we have all
19 of that. Every single piece of evidence in this case
20 screams Elbert Wallace.

21 We don't have to prove why he did it. All we
22 have to prove is that he did. We don't have to prove
23 that he committed the murder at 3:21 in the morning,
24 but we do have to prove the elements, as the judge
25 will give them to you.

1 You know, there's an old joke in law school, and
2 that's been awhile. It talks about how a preacher and
3 a lawyer are walking down the street.

4 It had rained the night before, and the preacher
5 looks down. There's a puddle next to the sidewalk.
6 In the middle of the puddle, you can see through the
7 water, the clear water, a silver dollar.

8 He looks at the lawyer, and he says, "Look,
9 there's a silver dollar."

10 The lawyer picks up a stick, and he starts
11 swishing through the water and the silt and the mud
12 and clouds it so you can't see it. He looks at the
13 preacher, and he says, "What silver dollar?"

14 Ladies and gentlemen, we want you to look at this
15 evidence. We want you to bear scrutiny to this
16 evidence because it tells you the story of what
17 happened on that tragic night in Denny Terrace.

18 We beg you to look at all the evidence in this
19 case. There is the DNA in this case. There is the
20 independent ID in this case. It's all there.

21 So if anyone gets up here and tries to poke holes
22 or try to talk about what we didn't do, I submit this
23 is actually great police work.

24 The Richland County Sheriff's Department, Leon
25 Lott, they did their job. Carolyn Webb was brave

1 enough --- he didn't think she would be --- to come
2 forward despite what happened to her and look at you
3 and tell you who did this to her. It's all there.

4 I want to talk to you for a few minutes --- and
5 I'm sorry. I'm going on --- about the witnesses and
6 what they told you.

7 Carolyn Webb and Modell Blizzard. They were in
8 there that afternoon cleaning up Ms. Webb's home.
9 They were minding their own business.

10 They both worked for a living. They both had
11 retired, and they deserved to live peacefully in their
12 homes just like Ms. Derrick when on that afternoon
13 Elbert Wallace came up there.

14 He asked for some money because his story was his
15 family was stranded, and Carolyn Webb didn't question
16 him. Carolyn Webb didn't like shut the door in his
17 face.

18 She didn't do the mean thing. She didn't do what
19 many people might do, which is to say, "Get out of
20 here." She went to her purse, and she said, "How much
21 do you need?"

22 He said \$13, and she got him \$15. She told you
23 she never expected to see it again. That's not why
24 she did it. She did it because she is a charitable
25 woman, and for that, less than 12 hours later, she

1 gets beaten and stabbed.

2 He even came back. Was he looking to see who
3 else was at the house? Was he staking the house out
4 in between to make sure nobody else was there, because
5 he doesn't prey on men and families that might have a
6 chance to fight back.

7 He only preys on people who are retired from
8 working 30 years, who are alone in their homes in this
9 bedroom community. He doesn't have the guts to face
10 anyone that he thinks might stand up to him. Well, he
11 was wrong, and Ms. Webb got stabbed for it.
12 Ms. Derrick got it.

13 So this guy comes back, and he checks it out
14 again to make sure nobody is there. Then at one in
15 the morning, remember her lights are on. She is a
16 night owl. She is up late at night. She thinks she
17 is safe in her own home, like she should be, like
18 everyone should be.

19 She goes to the door, and he gets up here and he
20 talks about how nobody interviewed Curtis. She was
21 going to answer the door because it was Curtis,
22 because Curtis would show up sometimes and need money.

23 She did just for Curtis what she did for Elbert
24 Wallace, and that was to give him money. And when she
25 answered that door is when she wondered if she would

1 ever make it through that night, but she fought, much
2 to his surprise.

3 Once he beat her in the head, once he knocked her
4 glasses off, once she was down on the couch bleeding
5 from her head at that point, she had the audacity to
6 try to kick him away. That's when he decided he was
7 going to show her. He came for money, and he wasn't
8 leaving without it.

9 He pulled out his knife, and he stabbed her in
10 the arm. Remember, deflecting it from her face, and
11 he stabbed her in the leg. Just to make sure she knew
12 he was meaning business, he twisted it.

13 That's when Ms. Webb is like, "Whatever you want,
14 I'll give it to you. Just let me go."

15 He took the money and he ran. He counted on the
16 fact that Carolyn Webb would be too afraid, too old,
17 too not able to see to ever identify him again.

18 Well, he miscalculated, but he didn't stop there.
19 You heard how the deputies responded, how they went to
20 the scene. The dog followed the track.

21 You heard from Deputy Alexander. They went to
22 the church. What's significant at the church? When
23 they go in, when they get to the church, the window is
24 broken out.

25 We know they couldn't find anybody that night,

1 because remember, the person that was listed as the
2 contact person was wrong. So they couldn't do
3 anything about it that night.

4 The next morning when Edna Wheeler and Pastor
5 Christianson couldn't be there were actually there at
6 the scene. What did they see? Matches that are
7 burned, which becomes significant later, and then they
8 see some blood, some on the floor, but they clean that
9 up before the police got there, because this was their
10 church, their sanctuary.

11 The trail stopped there as far as the dog
12 following. At that point, crime scene responds. They
13 process Ms. Webb's home and get in evidence that they
14 can there and they leave, but at that point in
15 Ms. Webb's home, the defendant wasn't bleeding, which
16 makes sense.

17 Time passes. Ms. Webb goes to the hospital. She
18 comes back. You heard from Edna Wheeler about the
19 matches and what she saw, the blood inside the church,
20 the broken window; that they were burglarized, what
21 was missing. She didn't see the matches anymore.

22 Time passes. Ms. Webb comes home. She is not
23 staying in her home. She is too scared to stay in her
24 home, and with rightful reason, because someone ---
25 and it is clearly inferred, the same person came back.

1 For whatever reason, you heard from Major Smith,
2 did he realize, perhaps, after the murder that she
3 could be a problem? She would be a witness? He
4 needed to do something about it? He got in before.
5 He could come back, or was it just a total coincidence
6 that somebody else broke in her house?

7 Time passes. You heard from Ms. Huger. She was
8 new to the neighborhood. She was moving to this
9 neighborhood to have a safe place to live.

10 She observed the car, she said around 8:30,
11 nine o'clock, something like that --- you remember ---
12 that morning. It was just kind of abandoned on the
13 street. She didn't think anything about it other than
14 it was strange it was there.

15 It wasn't significant to her until police came
16 and talked to her the next day, but she remembered
17 seeing it because it seemed out of place just kind of
18 abandoned there. It just happens to be the victim's
19 car.

20 What happens over time? You hear how police
21 start investigating; that they don't know anything
22 else has happened because Ms. Gunderson, her husband,
23 who is supposed to get in touch with her mother that
24 night around six, something in that area that night,
25 they don't hear from her. They start to get worried.

1 That's not like her. She was supposed to be in church
2 that day. She was supposed to be getting ready for a
3 church dinner the next day.

4 She is responsible, Linda Derrick, and you heard
5 how they went to the house, and Shawn Gunderson gets
6 to live the rest of his life with this picture in his
7 head, the last time he ever saw his mother-in-law. He
8 gets to think about that every day thanks to Elbert
9 Wallace.

10 The police respond. They go to the scene that
11 night. There is so much blood in that house that it
12 takes them three days to process it.

13 The defense may get up here and say, "Oh, my gosh.
14 We can't even say how long the blood has been there."
15 Well, we know she was alive the night before when she
16 got home from dinner, and we know she was alive when
17 she talked to her daughter the night before.

18 We know that her car was seen at 8:30 that
19 morning where it had been taken filled with Elbert
20 Wallace's blood --- because think about it, but for
21 him messing up and cutting his finger, but for
22 Ms. Webb being brave enough to come forward, but for
23 all of that, that's what he counted on. He didn't
24 count on the county doing their job. He didn't count
25 on DNA having come a long way.

1 You've heard how they started processing the
2 scene, and I'm not going back through all this other
3 again, I promise.

4 Beeler, Elsey, Bouknight, Odom, Richards,
5 Investigator Lee, and then Christine Barrickman and
6 John Barron, they all did their job. There is
7 absolutely no evidence in this case of any mishandling
8 of evidence, of any contamination of evidence; that
9 anything was done in any way, an improper way, or you
10 would have heard about it.

11 What does the DNA evidence tell you? This is
12 just some of the pertinent DNA. You've got all the
13 charts that are going to go back with you. You can
14 look at every single piece.

15 They tested, literally, probably 100 or so pieces
16 of evidence, swab from marker seven on the living room
17 floor. You will have the picture. I'm not going to
18 show you. You can look yourself.

19 Blood. Was DNA extracted? Yes. Whose blood was
20 that in the house? Ladies and gentlemen, if the
21 defense gets up here and tries to say that Elbert
22 Wallace left blood all over that house on some prior
23 occasion, that is ludicrous.

24 Do you remember the words reasonable? Chickens
25 may fall out of the sky, too, but this is ludicrous;

1 that Elbert Wallace's blood got in there in any other
2 way other than the person who committed this crime.
3 Now, did he hurt his hand, his pinky when he was
4 beating her to death repeatedly in her bed? Did he
5 hurt his hand when she tried to struggle with him?

6 Because she tried to live. She tried to get out
7 of there. She ends up in the bathroom, and we don't
8 have to prove the exact sequence of events or the time
9 that this happened.

10 You can tell. It's common sense, ladies and
11 gentlemen. You didn't leave it at the door. Common
12 sense tells you she tried to live. She ends up in the
13 bathroom. She is spewing blood out of her nose and
14 her mouth trying to live before she dies in a pool of
15 her blood on her bathroom floor.

16 Elbert Wallace, from the car. Elbert Wallace,
17 all this. Her car. It is undisputed. Her car was
18 taken as part of this robbery.

19 Why would Elbert Wallace's blood be in her house
20 and in her car? The only explanation is that he
21 committed the murder or the robbery, and we'll get
22 beyond that.

23 The stain from the paper on the bedroom floor in
24 the house matches Elbert Wallace, no one else. The
25 swab from the stain at the wall near the front door.

1 He left the front door locked. He turned out the
2 lights. Blood matches Elbert Wallace.

3 Swabbed the stain on the papers, the one in the
4 other room. Blood, you've got pictures of it.
5 Matches, Elbert Wallace.

6 Swab on the inside of the driver's door of the
7 car, from the steering wheel. His DNA is on the
8 steering wheel. They're going to get up here and
9 argue someone else took the car?

10 When arrested for Carolyn Webb's home invasion 36
11 hours later, he got rid of the clothes. He got rid of
12 the weapon. He cleaned up. He probably even wiped
13 down his shoes. He just missed a spot.

14 Linda Derrick's blood was on the shoes that he
15 was arrested in. There is no other way they got there,
16 because let's get one thing straight: You've got the
17 crime scene log --- and they may say it's not in the
18 correct order or anything --- there is no evidence in
19 this case that crime scene was maintained in any way
20 but an impeccable matter.

21 Who goes in a crime scene filled with blood and
22 wanders around? The same person who just happens to
23 be pawning her jewelry that evening? Incredible? The
24 evidence is overwhelming.

25 Elbert Wallace just thought nobody would care

1 about these people. None of these people would be
2 capable of coming forward against him. He needed
3 money, and we don't have to prove why. Although, I
4 submit you can figure that out.

5 The swab on the stain on the church door, again,
6 just coincidence? Either he's the unluckiest man on
7 earth and happens to frequent crime scenes while
8 police cars are parked in front and yellow tape is
9 there and sealed or he's a murderer.

10 The newest defense thing is to try to talk about
11 the cause of death, dispute it. You heard inferences.
12 Three different people: Dr. Bradley Marcus, Dr. Gary
13 Watts, and Dr. Clay Nichols who couldn't be here
14 because of health issues came to the same conclusion.

15 There is no disputing. It doesn't even take a
16 scientist to figure out why this woman died. Don't
17 let any attack on the cause of death divert from the
18 truth in this case.

19 You heard from other investigators, and in his
20 opening argument --- you heard from Damon Scott, who
21 is charged with murder, the same thing he is, who ---
22 in his opening statement --- said you can't believe.

23 Ladies and gentlemen, the State is not asking you
24 to believe Damon Scott just because of who he is.
25 We're asking you to believe Damon Scott because what