

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Bamberg County

Honorable Edgar W. Dickson, Circuit Court Judge

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S.C. SUPREME COURT

JUAN M. NIMMONS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000829

APPENDIX

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INDEX

INDEX	i
TRANSCRIPT OF TRIAL (MARCH 8-10, 1999).....	1
DIRECT APPEAL DOCUMENTS	
<i>ANDERS</i> BRIEF OF APPELLANT	551
ORDER DISMISSING APPEAL (<i>State v. Nimmons</i> , Op. No. 2002-MO-051 (S.C. Sup. Ct. filed June 13, 2002))	561
<i>PRO SE</i> PETITION FOR REHEARING	563
ORDER DENYING REHEARING.....	569
REMITTITUR	570
POST-CONVICTION RELIEF DOCUMENTS	
APPLICATION FOR POST-CONVICTION RELIEF	572
STATE’S RETURN AND MOTION TO DISMISS.....	580
APPLICANT’S AMENDED OPPOSITION TO RESPONDENT’S MOTION TO DISMISS AND CONDITIONAL ORDER OF DISMISSAL ¹	588
ORDER FOR FUNDING	596
MOTION FOR ADDITIONAL FUNDING AND DISCOVERY	598
ORDER APPROVING FUNDS	608
TRANSCRIPT OF POST-CONVICTION RELIEF HEARING (SEPT. 30, 2016)	605

¹ No conditional order of dismissal was ever filed in this case.

POST-CONVICTION RELIEF HEARING EXHIBITS

APPLICANT’S EXHIBIT 1 (Facebook Messenger Conversation)	644
APPLICANT’S EXHIBIT 2 (Deposition Transcript)	646
APPLICANT’S EXHIBIT 3 (SLED Voluntary Statement)	697
STATE’S MEMORANDUM IN SUPPORT OF DENIAL OF POST-CONVICTION RELIEF	698
APPLICANT’S MEMORANDUM IN SUPPORT OF NEW TRIAL	712
ORDER OF DISMISSAL.....	718
INDICTMENTS	729
SENTENCING SHEETS.....	733

D-4916

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN) COURT OF GENERAL SESSIONS
STATE,)
PLAINTIFF,) TRANSCRIPT
VERSUS) OF
JUAN NIMMONS) RECORD EXCERPT
DEFENDANT.) #99-GS-05-28,29

BAMBERG, SOUTH CAROLINA
MARCH 8, 1999

B E F O R E

HONORABLE GARY CLARY, JUDGE AND A JURY.

A P P E A R A N C E S

GRANT GIBBONS, DEPUTY SOLICITOR
APPEARING ON BEHALF OF THE PLAINTIFF.

JOSHUA KOGER, PUBLIC DEFENDER
APPEARING ON BEHALF OF THE DEFENDANT.

P R O C E E D I N G S

THE COURT: All right, sir.

MR. GIBBONS: Your Honor, State would call
Dr. Thomas Behrmann to the stand, please.

DR. THOMAS WILLIAM BEHRMANN,
being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GIBBONS:

Q Dr. Behrmann, could you give us the spelling of
your name, please?

A Yes; my name is Thomas William Behrmann, and my
last name is spelled B-e-h-r-m-a-n-n.

Q Dr. Behrmann, where are you employed?

A I am employed at William S. Hall Psychiatric
Institute in the Forensic Division.

Q And what is your job there?

A I am the director of the forensic division.

Q And what training have you received to make you
qualified for that job?

A I received an MD degree in 1973 from the
University of Michigan Medical School. I initially
trained in general surgery at St. Joseph Mercy
Hospital in Ann Arbor, Michigan, completing that in
1977; I practiced general surgery in Newberry, South
Carolina from 1977 until 1988. In 1988, I entered
the general psychiatry training program at William S.

1 Hall Psychiatric Institute in Columbia, South
2 Carolina, and completed that training in 1991.

3 I then did a one-year postgraduate fellowship in
4 forensic psychiatry, also at Hall Institute, and
5 following that, I joined the faculty at Hall
6 Institute.

7 Q You mentioned forensic psychology. Is that the
8 field you're working in presently?

9 A Forensic psychiatry.

10 Q Psychiatry; I'm sorry. And as far as your
11 duties as a forensic psychiatrist, are you called
12 upon by the courts to make findings.

13 A Yes; I am.

14 Q What type of findings do you specifically do?

15 A We are routinely asked to perform court
16 evaluations on individuals that have various charged
17 against them, and typically, we will be asked to
18 evaluate the person with regard to their competency
19 to stand trial, their criminal responsibility
20 regarding the charges, and also their capacity to
21 conform their behavior.

22 Q And have long have you been performing these
23 type of evaluations?

24 A At least since 1991.

25 Q And have you been qualified in the courts of

1 this state as an expert in the field of forensic
2 psychiatry?

3 A Yes; I have.

4 MR. GIBBONS: Your Honor, at this time the
5 State would proffer Dr. Behrmann as an expert in
6 forensic psychiatry.

7 THE COURT: Questions concerning his
8 qualifications?

9 MR. KOGER: No objection, Your Honor.

10 THE COURT: All right.

11 Q [by Mr. Gibbons] Dr. Behrmann, specifically in
12 the case at hand, State versus Juan Nimmons, were you
13 asked to do a court evaluation on this case?

14 A Yes. We received an order from the court
15 requesting an evaluation for competency, criminal
16 responsibility and capacity to conform.

17 Q And was an evaluation performed.

18 A Yes, it was.

19 Q Could you give us the details of that
20 evaluation?

21 A Mr. Nimmons was admitted to the forensic unit on
22 November 2nd of 1998 for the purpose of evaluation.
23 He underwent complete history and physical
24 examinations, and a social history was obtained; he
25 underwent a number of medical and psychiatric tests

1 including a number of blood tests, urine tests. He
2 had an MRI examination of his brain, an EEG
3 examination, a neurological consult and also
4 psychological testing.

5 Once all of those preliminary studies had been
6 done, we then met with Mr. Nimmons for the purpose of
7 a forensic interview which is a semi-structured
8 interview lasting approximately two hours, during
9 which time the issues addressed in the court order
10 were discussed with Mr. Nimmons to allow us to reach
11 our conclusions.

12 Q And were you able to come to conclusions based
13 on the tests that were run on Mr. Nimmons?

14 A Yes, we were.

15 Q And what, to a reasonable degree of medical
16 certainty in the field of forensic psychiatry, were
17 your opinions and conclusions?

18 A Well, our opinions with regard to the court
19 issues that were raised by the court order at that
20 time were that Mr. Nimmons was competent, that he was
21 criminally responsible as for as the charges, and
22 that he also possessed the capacity to conform his
23 behavior to the requirements of the law at the time
24 of the alleged incident.

25 Q And after all of these tests and the interview,

1 was there anything that happened or anything that
2 came across your analysis that would lead you to
3 believe otherwise?

4 A Not to my knowledge, sir.

5 Q Was there any diagnosis made of any kind?

6 A We did reach one diagnosis with Mr. Nimmons and
7 that was cocaine dependence.

8 Q But other than that, there was no mental health
9 problem or mental illness that you came across?

10 A None that we were able to detect.

11 MR. GIBBONS: Your Honor, I have no
12 further questions.

13 THE COURT: Cross examination?

14 CROSS EXAMINATION BY MR. KOGER:

15 Q Doctor, in your experience in doing this type
16 evaluations, what affect would a diagnosis of cocaine
17 dependency have on a defendant's ability to
18 understand the charges and to tell the difference
19 between right and wrong, and to conform his or her
20 behavior?

21 A Well, with respect to his ability to understand
22 the charges, there was no evident affect from, in Mr.
23 Nimmons' case, with regard to his diagnosis of
24 cocaine dependence. He was not, at the time we saw
25 him, actively under the influence of cocaine to the

1 best of our determination. And he was able to
2 address the nature of the charges against him both at
3 the time of the original interview and again when I
4 saw him earlier today.

5 With respect to criminal responsibility and
6 capacity to conform behavior, the use of cocaine, as
7 with any other psycho-active substance has the
8 potential to affect a person's judgement and behavior
9 related to the affects of that particular substance.
10 With respect to criminal responsibility and asking
11 him to conform, however the voluntary use of these
12 substances is not generally considered an issue in
13 terms of preventing someone from being able to either
14 recognize right from wrong or issuing their ability
15 to control their behavior.

16 Q And how long was Mr. Nimmons kept at William S.
17 Hall?

18 A He was admitted on November 2nd and discharged
19 on November 15th.

20 Q Okay. And during that ten or eleven day period,
21 how many times did you go over to Mr. Nimmons, and
22 see him and evaluate him during that time frame?

23 A I only spoke with Mr. Nimmons at length during
24 the forensic staffing interview. I observed him
25 briefly on the ward on two occasions, but generally

1 speaking, he was being addressed by the staff at that
2 time.

3 Q And, Doctor, when you spoke with Mr. Nimmons,
4 did you spoke with him near the beginning of his
5 admission or at the end?

6 A At the end.

7 MR. KOGER: No further questions, Your
8 Honor.

9 THE COURT: Redirect?

10 MR. GIBBONS: No further questions. We
11 would tender his report to be part of the records.

12 THE COURT: All right. Thank you, sir. You
13 can step down.

14 Anything further on this matter from the
15 Defense?

16 MR. KOGER: No, Your Honor.

17 THE COURT: Let the record reflect the
18 report, finding of mental capacity dated November
19 23rd, 1998, as well as the forensic unit evaluation
20 of November 19, 1998. And that the findings of Dr.
21 Behrmann and the staff are that the defendant is
22 diagnosed with cocaine dependence; that the defendant
23 is capable of understanding the nature of the charges
24 and is capable of assisting counsel in his own
25 defense; that the defendant did have the ability to

1 differentiate right from wrong at the time of the
2 alleged offense on or about August 7, 1998, and that
3 the defendant did have the capacity to conform his
4 conduct to the requirements of the law.

5 MR. GIBBONS: I neglected to point out to
6 the Court that Dr. Behrmann met again with the
7 defendant this morning, and ---

8 THE COURT: Why don't you put him back up
9 here then so you'll be clear on that.

10 MR. GIBBONS: I want to be clear in case we
11 have to look at it again.

12 (Whereupon Dr. Behrmann returned to witness
13 stand.)

14 THE COURT: I'd remind you you're still
15 under oath, Dr. Behrmann.

16 Q [by Mr. Gibbons] Dr. Behrmann, did you have
17 occasion to meet with Mr. Nimmons on this date?

18 A Yes, I did.

19 Q And did you conduct any kind of analysis at this
20 time?

21 A Once again, I interviewed Mr. Nimmons about
22 issues related to his competency to stand trial.

23 Q And did anything in those ---

24 THE COURT: Excuse me just a minute. That's
25 not a juror, is it?

1 BAILIFF: No, sir.

2 THE COURT: All right. Continue.

3 Q [by Mr. Gibbons] Dr. Behrmann, did anything in
4 your conversations or anything you noticed cause you
5 to change your opinions as to his capacity to
6 conform?

7 A Based on my conversations today with Mr.
8 Nimmons, it is still my opinion that he has a
9 rational and factual understanding of the proceedings
10 against him, and a reasonable ability to cooperate
11 with his attorney on his defense.

12 Q So his competency remains the same as you had
13 testified previously?

14 A That is correct.

15 Q Thank you, Dr. Behrmann.

16 THE COURT: Mr. Koger?

17 MR. KOGER: No questions, Your Honor.

18 MR. GIBBONS: Thank you, Judge.

19 THE COURT: All right, let the record
20 further reflect that Dr. Behrmann has examined the
21 defendant today and finds that he still continues to
22 have the capacity to differentiate right and wrong,
23 capable of understanding the charges against him and
24 assisting in his own defense. And as such, I find
25 that he is competent to stand trial.

1 Thank you, sir. And Madame Reporter, if you
2 want to mark that as Court's exhibit.

3 (So marked.)

4 -- END OF BLAIR HEARING --

5 THE COURT: Ladies and gentlemen, this is
6 State versus Juan Nimmons. I'm going to be asking
7 you a number of questions. I want you to listen to
8 each and everyone of these questions.

9 Please understand that these questions are
10 required by statute. The statutes have been enacted
11 by the General Assembly of our state. These are not
12 questions that I have invented. They are required by
13 law to be asked of each and every juror as they
14 report for jury duty. And if you have a question at
15 any time as to whether or not something applies to
16 you, I want you to please stand. But some of these
17 questions have several parts to them, and allow me
18 sufficient time to explain the question before you
19 rise in response to it.

20 I'm going to ask that the jury panel please
21 stand and raise your right hand.

22 (Whereupon jury venire is duly sworn)

23 Is there any member of this panel who is not a
24 resident of Bamberg County, South Carolina? If you
25 are not, I want you to please stand.

1 Yes, sir; your name, please?

2 A Anthony Capers.

3 THE COURT: All right, Mr. Capers, you do
4 not live in Bamberg County anymore?

5 A No, sir.

6 THE COURT: Where do you live now?

7 A Aiken.

8 THE COURT: And how long have you lived
9 there?

10 A Four, going on five years.

11 THE COURT: Well then you need to change
12 your address with the highway department because
13 that's probably where that information came from. If
14 you have not changed your driver's license or
15 identification card, you need to do so, because
16 that's the reason that you were asked to be here
17 today. You are excused. What's your address now?

18 A Deep Run Road, Aiken South Carolina.

19 THE COURT: Deep Run Road; Aiken, South
20 Carolina. Thank you, sir. You are excused.

21 Yes, sir?

22 A Mack Henderson. I live in Orangeburg County.

23 THE CLERK: Number

24 THE COURT: Number yes, sir. You live
25 in Orangeburg? How long have you lived in Orangeburg

1 County?

2 A Forty-six years.

3 THE COURT: Well, Mr. Clerk, how about
4 explaining that to me. Do we get that problem here
5 very often?

6 THE CLERK: Well, he's got Route 1, Box 105
7 --- He's Cope, South Carolina.

8 THE COURT: Part of Cope is in Bamberg
9 County?

10 A Orangeburg.

11 THE CLERK: I don't know why they got it on
12 here.

13 THE COURT: Not registered to vote here in
14 Bamberg, are you? Your driver's license got that
15 Cope address?

16 A Yes, sir.

17 THE CLERK: I don't know how he got on
18 there.

19 THE COURT: All right. Thank you very much
20 for coming. I'm sorry to inconvenience you. You are
21 excused. I hope you had a nice trip over to Bamberg
22 today.

23 Yes, sir.

24 A Timothy Henderson; Orangeburg County.

25 THE COURT: Mr. Henderson, you don't live

1 near Mr. Henderson, do you? Mack Henderson? You got
2 a Route 3, Box Bamberg address?

3 A I used to live there.

4 THE COURT: How long ago has it been since
5 you lived there?

6 A About a year.

7 THE COURT: About a year?

8 A Yes, sir.

9 THE COURT: You once again need to get your
10 information changed at the highway department because
11 that is where this was picked up; all right? And
12 give me your address in Orangeburg.

13 A Crystalville Road. Orangeburg, South
14 Carolina.

15 THE COURT: what?

16 A Crystalville Road.

17 THE COURT: And that's in Orangeburg?

18 A North.

19 THE COURT: North. Thank you, sir. You're
20 excused. Appreciate your coming. Sorry to
21 inconvenience you.

22 Now is there any member of the panel who is not
23 at least 18 years of age? If you are not, I want you
24 to please stand.

25 (No response)

1 Is there any member of the panel who is not a
2 citizen of the United States? If you are not, I want
3 you to please stand.

4 (No response)

5 Now this next question that I'm going to ask is
6 one that has several parts that I promised to you so
7 please allow me to explain it to you before you rise
8 in response to it.

9 Is there any member of this panel who is not a
10 qualified elector here in Bamberg County? That means
11 that you are not registered to vote, or is there any
12 member who does not hold a driver's license issued by
13 the highway department of our state, or is there any
14 member of this panel who does not hold an
15 identification card issued by the highway department
16 and is eligible to register to vote?

17 Now the key to my question is very simply this.
18 You only need one of those three documents to serve
19 as a juror in this state, meaning you either need to
20 be registered to vote here in Bamberg County, or you
21 need to have a driver's license issued by the highway
22 department and residing here in this county, or you
23 need to have an identification card issued by the
24 highway department and be eligible to register to
25 vote. If you don't have at least one of those three

1 documents, I want you to please stand.

2 Your name, please?

3 A Phillip Chislom.

4 THE COURT: Come on up, please, Mr. Chislom.

5 This is juror number 25.

6 (In camera)

7 Do you have a driver's license?

8 A I had one but I lost it. It's been I imagine
9 ten years ago.

10 THE COURT: Are you registered to vote?

11 A Yeah. I had a registered but I lost it in my
12 wallet with the identification card in it and all of
13 that. That's why I don't have one.

14 THE COURT: But you are registered to vote?

15 A Yes, sir.

16 THE COURT: You're qualified.

17 Is there any member of this panel who has less
18 than a sixth grade education or its equivalent, or
19 who is unable to read, write, speak or understand the
20 English language? If that applies to you, I want you
21 to please stand and come forward. Come on up,
22 please?

23 (In camera)

24 How are you doing? What's your name, please?

25 A Eugene Archie.

1 THE COURT: Number three. How far did you
2 go in school, Mr. Archie?

3 A Didn't.

4 THE COURT: You didn't ever go?

5 A No.

6 THE COURT: Can you read and write?

7 A No.

8 THE COURT: What kind of work do you do?

9 A With Marcus Stone in Orangeburg.

10 THE COURT: What do you do there?

11 A Technician.

12 THE COURT: What do y'all do?

13 A Laborer.

14 THE COURT: You been working there a while?

15 A Fifteen years.

16 THE COURT: Did you learn your job on the
17 job there?

18 A No, sir; I been trained for it.

19 THE COURT: What kind of training do you
20 have?

21 A Coastal Lumber Company in Denmark.

22 THE COURT: Was that on-the-job training
23 that you got there?

24 A Some of it was.

25 THE COURT: Where did you learn the rest of

1 it?

2 A I work Chill Chest in Williston.

3 THE COURT: Okay, what did you do there?

4 A Assistant supervisor.

5 THE COURT: Was that in the lumber business?

6 A No, sir.

7 THE COURT: And you've done all of this
8 without being able to read and write?

9 A Yes, sir.

10 THE COURT: Well, I applaud you for that. I
11 believe if you went to a literacy program, you'd
12 learn to read and write, if you wanted to. But you
13 can't read? You can't read the newspaper or anything
14 like that?

15 A No, sir.

16 THE COURT: I'm going to excuse you, but
17 you've done a good job.

18 Juror number three is not qualified pursuant to
19 Section 14-7-810 of our Code.

20 Is there any member of this panel who is a
21 county officer or who is employed within the walls of
22 any courthouse? For example, that would be someone
23 that works in the clerk of court's office, the county
24 treasurer's office, auditor's office or the like?
25 Anyone who holds a state constable's commission,

1 sheriff, or any police officer, probate judge, county
2 councilman or commissioner, magistrate, or any county
3 officer or employee? If that applies to you, I want
4 you to please stand?

5 Yes, sir. Your name again, please?

6 A Willie J. Bamberg.

7 THE CLERK: Number six.

8 THE COURT: Mr. Bamberg, I think you told me
9 that you work at the Orangeburg County Detention
10 Center; is that correct?

11 A Orangeburg-Calhoun Regional Detention Center.

12 THE COURT: And are you a commissioned law
13 enforcement officer?

14 A Yes, sir.

15 THE COURT: All right, sir. That will
16 excuse you. Thank you very much for coming, Mr.
17 Bamberg, pursuant to 14-7-820.

18 Yes, sir?

19 A Your Honor, Jeff Givens. I work at the site,
20 Wackenhut.

21 THE CLERK: Number 42.

22 THE COURT: Do you have a commission issued
23 by the state?

24 A No, sir.

25 THE COURT: Sorry.

1 Now, ladies and gentlemen, once again listen
2 very carefully to my next question and allow me a
3 little bit further explanation of it.

4 Is there any member of this panel who has been
5 convicted or pled guilty in a state or federal court
6 of a crime punishable by imprisonment for more than
7 one year, and whose civil rights have not been
8 restored by pardon or amnesty?

9 Now, ladies and gentlemen, it could be that you
10 have pled guilty or been convicted by a jury of a
11 crime and received a sentence of probation of less
12 than one year. The very important part of my
13 question is whether or not the crime of which you
14 were convicted carried a potential incarceration of
15 more than one year. If that applies to you or if you
16 even think that that applies to you, I want you to
17 please stand and come forward.

18 THE CLERK: Juror number five.

19 THE COURT: How are you doing, Mr. Baker?

20 A All right, sir.

21 THE COURT: Tell me about the record you've
22 got.

23 A Well, this was in Florida. I was convicted. I
24 did six months in prison in Florida for supposedly
25 selling narcotics.

1 THE COURT: What kind of narcotics was it?

2 A If I'm not mistaken it wasn't a rock; it was
3 powder cocaine.

4 THE COURT: Well, if you were selling powder
5 cocaine, that would disqualify you in this state so
6 I'm going to excuse you and let you go on about your
7 business. (You can go back to farming. Thank you
8 very much.

9 He is excused pursuant to 14-7-810; Mr. Baker.

10 Is there any member of this panel who is not
11 able by reason of physical or mental infirmities to
12 render efficient jury service this week? If that
13 applies to you, please stand and come forward.

14 Come on up, please.

15 You're Mr. Kilgus, number 75?

16 A I am fixing to have a hip replacement surgery.
17 I'm only working about one day a week right now.

18 THE COURT: When are you going to have your
19 hip replacement surgery?

20 A April 13th.

21 THE COURT: Let me just transfer you to a
22 term of court later on this year.

23 A I want to do my duty but....

24 THE COURT: I'm going to let you see the
25 clerk and we'll just carry you over.

1 Mr. Kilgus, number 75, is transferred to the
2 June term pursuant to Section 14-7-810, due to a
3 medical condition.

4 Now, ladies and gentlemen of the jury, the
5 following questions represent exemptions where you as
6 a juror may choose not to serve. If these questions
7 apply, I want you to please stand.

8 Is there any member of this panel who is greater
9 than 65 years of age and does not desire to serve
10 this week? If there are those of you who are more
11 than 65 years of age, I would encourage you to remain
12 with us because you can lend a great deal of
13 experience to the process, and plus, you're going to
14 make a lot of money here this week. Isn't that
15 right, Mr. Clerk?

16 THE CLERK: Yes, sir.

17 THE COURT: Yes, sir. Your name, please?

18 A Byrd; number 19.

19 THE COURT: Number 19 is Mr. Byrd. Mr.
20 Byrd, could I convince you to remain with us this
21 week?

22 A Well, I'm trying to build a house and put a top
23 on it before it rains.

24 THE COURT: Well, I guess I'd better let you
25 go then. Thank you very much. It's supposed to rain

1 tonight. You better get busy. Thank you, Mr. Byrd.

2 He's excused pursuant to Section 14-7-840.

3 Now, are there any jurors who have previously
4 served as a juror here in circuit court, not in
5 federal court, not in magistrate's court, not in city
6 court? Previously served here in circuit court
7 during the last three calendar years? If that
8 applies to you, I want you to please stand.

9 Yes, sir; your name, please?

10 A Harley.

11 THE CLERK: Juror number 50.

12 THE COURT: All right, Mr. Harley, could you
13 tell me when you served here in circuit court?

14 A Approximately this time last year, sir.

15 THE COURT: About this time last year? I'm
16 going to get the clerk to check on that, if you'd
17 just have a seat.

18 Yes, ma'am?

19 A Alvita Johnson; three years.

20 THE COURT: Ms. Johnson, number 66, two
21 years ago? I'll get the clerk to check on that. Was
22 it about this time of year?

23 A Yes, sir.

24 THE COURT: All right.

25 THE CLERK: I think she said three years

1 ago.

2 THE COURT: Oh, did you say three years ago?

3 A Yes, sir.

4 THE COURT: Well, I'll get him to check on
5 it. A calendar year is this year, 1998 and 1997, so
6 that's the way that it works.

7 Is there any member of the panel who has served
8 as a grand juror during the last five calendar years?
9 That would be a grand juror here in Bamberg or
10 another county in which you resided? If that applies
11 to you, I want you to please stand.

12 Now when you receive the information, your
13 summons in the mail from the clerk, and I realize and
14 understand that you did not voluntarily come here
15 today, there was information there that if you were a
16 woman with a child under the age of seven for whom
17 you have legal custody and duty of care that you were
18 to furnish an affidavit to the clerk of court seeking
19 to be excused.

20 Now, are there --- let me finish. Are there
21 those who have not furnished this affidavit who have
22 children under the age of seven for whom you have
23 legal custody and duty of care, who do not work
24 outside of the home? If so, please stand.

25 Come on up, ladies.

1 Your name, please?

2 A Tracy Freeman.

3 THE COURT: Ms. Freeman, I think you have a
4 new baby?

5 A Uh-huh. I called.

6 THE COURT: Yeah, they had a note on here,
7 new born baby. How old is the baby?

8 A Three months.

9 THE COURT: You need to be home with that
10 baby then. Thank you, ma'am.

11 Number 37 is excused pursuant to statute; three
12 month old child.

13 What's your name?

14 A Elsie Donaldson. I have three of my grandkids
15 that I have custody. Fifteen, nine and twelve.

16 THE COURT: None of them are under seven.

17 A But also, I got a doctor's excuse.

18 THE COURT: You got it with you?

19 A Uh-huh.

20 THE COURT: Well, how about bringing it up
21 here.

22 What's your name, please?

23 A Bertha Moody, number 95. My daughter, I help
24 her with her little girl.

25 THE COURT: How old is she?

1 A Four.

2 THE COURT: Well, I'm going to excuse you
3 then.

4 Juror number 95 is excused pursuant to statute.

5 A Sara Johnson.

6 THE COURT: Sara Johnson, number 70.

7 A I have a grandson who is ten months old that I
8 have custody who is now with a babysitter.

9 THE COURT: You say you have custody. Is
10 that through family court?

11 A Yes, I do.

12 THE COURT: I think you told me that you
13 work at Delavan. What hours do you work?

14 A From 7 until 3.

15 THE COURT: Is that when he has a sitter?

16 A Uh-huh.

17 THE COURT: Okay, I'll excuse you. Thank
18 you, ma'am.

19 Number 70, Ms. Johnson is excused pursuant to
20 statute.

21 (Doctor's excuse on Elsie Donaldson) Okay, I'm
22 going to put this with the court records, and you're
23 excused.

24 A Thank you so much.

25 THE COURT: Juror number 33, Ms. Donaldson

1 is excused pursuant to Section 14-7-810, a medical
2 condition.

3 Now, are there any full time students who
4 request to be transferred to a date that does not
5 conflict with your school work. That includes a
6 school employee who is a person employed as a
7 teacher, certified personnel at the building level,
8 bus driver, etcetera? Once again, I can transfer you
9 to your spring vacation, your summer vacation,
10 sometime like that. Usually when I say that, most
11 teachers don't want to be transferred. But if there
12 are reasons that you have that you'd like to be
13 transferred to another term of court that would not
14 conflict with your schedule, I would entertain that
15 at this time? Are there those students, teachers,
16 bus drivers, so forth, who seek to be transferred?

17 Yes, ma'am; your name, please?

18 A Alvita Johnson.

19 THE COURT: Now Ms. Johnson, I think you say
20 you're a bus driver?

21 A Yes, sir.

22 THE COURT: We can transfer you to the term
23 of court June 14th?

24 A All right.

25 THE COURT: All right, thank you, ma'am.

1 I'll be here that week and I look forward to seeing
2 you then. And please understand that you will not be
3 transferred for any reason at that time.

4 A Yes, sir.

5 THE COURT: Yes, ma'am?

6 A I'm a part-time student and I also take classes
7 at home which qualify me as a full time student.

8 THE COURT: What's your name, please?

9 A Pamela D. Samuels.

10 THE COURT: Juror 122. I think you told me
11 you work for Wackenhut; is that correct?

12 A Yes, I do.

13 THE COURT: When do you work?

14 A I work 1 o'clock until 6:30 in the evenings.

15 THE COURT: I can transfer you to June 14th.

16 A Yes, sir; we're having mid-terms so I'd rather
17 be home studying.

18 THE COURT: I can transfer you to June 14th
19 or the week of April 19th. I'll give you your pick.
20 April 19th or June 14th.

21 A I'll take June.

22 THE COURT: All right, I'll see you then.

23 Yes, sir; your name again, please?

24 A Brian Chatman.

25 THE COURT: I think you told me that you

1 teach over at Orangeburg; is that correct, Mr.

2 Chatman?

3 A After May 9th, I'll be a student at Benedict
4 College.

5 THE COURT: Are you a full time student now?

6 A Part-time.

7 THE COURT: When do you take your classes at
8 Benedict?

9 A I have like afternoon classes, like teacher
10 certification.

11 THE COURT: Can I transfer you to June 14th?

12 A Yes, sir.

13 THE COURT: Not going to go on vacation or
14 anything like that that week?

15 A Naw....

16 THE COURT: Once again, I won't transfer you
17 again. I'll see you June 14th. Thank you, sir.

18 Now I understand that there are certain
19 conflicts that people do have whether it be for
20 business or personal reasons. While I cannot
21 guarantee you that I can excuse you, I could possibly
22 entertain a transfer to a later term of court. Are
23 there those individuals who seek that at this time?

24 Come on up, please. If you would, step right
25 back there and come up one at the time, please ma'am.

1 That would be good right there.

2 A It's like I told you, I work in Columbia.

3 THE COURT: What's your name again?

4 A Phillip Chislom.

5 THE COURT: Number 25.

6 A And I got hurt on the job and I've been going to
7 the doctor for the last three weeks, and I hadn't
8 been going back to work yet because the doctor didn't
9 release me, but I need to get back to work because I
10 been out for three weeks.

11 THE COURT: When did you go to the doctor
12 last?

13 A Last Friday, I think it was.

14 THE COURT: See, this shows the last time
15 you were there is the 25th of February.

16 A That was last Friday, wasn't it?

17 THE COURT: No, sir. Last Friday would have
18 been March 4th.

19 A Well, week before last but I hadn't been back
20 before then.

21 THE COURT: Well, where does it say on here
22 you're supposed to go back to work?

23 A See, she released me. She didn't give me no
24 other appointment to come back.

25 THE COURT: So you hadn't been back to work

1 since you went to that appointment on the 25th?

2 A Yeah, that's the first time I been.

3 THE COURT: All right, you're well now so
4 what you telling me?

5 A Well, my arm is a little sore but I got to go
6 back to work. I can't make it like that. I been out
7 for three weeks already and I'm staying by myself and
8 I don't have any other income coming in.

9 THE COURT: Where do you stay?

10 A Got a trailer out there right in Denmark.

11 THE COURT: All right, I'm going to excuse
12 you, Mr. Chislom.

13 Number 25, Mr. Chislom is excused for medical
14 reasons.

15 What's your name, please ma'am?

16 A Janice Johnson. But my name is Janice Ray now.

17 THE COURT: You had your name changed on
18 your license?

19 A Yes.

20 THE COURT: This list probably came out
21 before that happened. Okay?

22 A I just began a new job about a month ago. I
23 didn't want to break my training so I'd like to serve
24 later.

25 THE COURT: When will be through your

1 training?

2 A Ninety days.

3 THE COURT: What about if I transfer you to
4 June 14th?

5 This is juror number 68, Ms. Johnson, and her
6 name is now Ray. Janice Ray. Thank you. See you
7 June 14th.

8 Juror number 68, Ms. Ray is transferred to week
9 of June 14th.

10 What's your name?

11 A Julia Nix. My husband has two cancers and he's
12 blind.

13 THE COURT: I had on here you had a medical
14 excuse and I thought they'd excused you. I'll let
15 you go. I'm sorry to inconvenience you.

16 Juror number 102 is excused due to her husband's
17 medical condition.

18 What's your name, please?

19 A Bruce Wright.

20 THE COURT: I think you told me you work
21 with the bank?

22 A Yeah; First National Bank; yes, sir.

23 THE COURT: If I need a loan, I'll know
24 where to go while I'm here. Number 149.

25 A Yes, sir; I'm under subpoena to be at Richland

1 County court this week and next week. I think it's a
2 civil trial.

3 THE COURT: Have you been called yet?

4 A No. It actually started last week and the
5 attorney says it could be as early as tomorrow or it
6 could be next week. He doesn't know.

7 THE COURT: Who's the lawyer?

8 A I'm not sure. I can produce the subpoena.

9 THE COURT: I can do this. I can transfer
10 you to the week of June 14th.

11 A Or April.

12 THE COURT: Would April suit you better?
13 Let's transfer him to April 19th. I won't be here
14 but Judge Ketrick will.

15 Juror number 149, Mr. Wright is transferred to
16 the week of 4/19.

17 A Peggy Costner. I operate an open-air market by
18 myself and I have a lot of produce and stuff. I'm
19 the only one there to run the place and I don't have
20 any help.

21 THE COURT: You work by yourself?

22 A By myself, and I got a lot of bills to pay.

23 THE COURT: You're the organ grinder and the
24 monkey?

25 A Yeah, and I'm on medication and I run to the

1 bathroom every few minutes.

2 THE COURT: Well, I'll do it for that reason
3 then. I think that sounds better.

4 Ms. Costner is excused due to a medical
5 condition; juror number 26.

6 A Shekeyia Lee. I'm a nurse at Bamberg County
7 Hospital, and they probably don't have nobody to
8 relieve me for a week. If I could be transferred. I
9 went from a part-time position to full time.

10 THE COURT: What you're telling me is they
11 don't have anybody to replace you?

12 A I'm a nurse technician and I'm there all the
13 time, but I'm going on part-time probably in May so
14 if I could get transferred.

15 THE COURT: If you're sure you're going to
16 be doing that in May because I'm going to transfer
17 you to June and if you haven't, I mean you're not
18 going to be transferred again.

19 All right, number 82, Ms. Lee is transferred to
20 the week of June 14th.

21 A Number 41; Barbara Gissentaner.

22 THE COURT: Gissentaner.

23 A I am related to Juan Nimmons.

24 THE COURT: You can tell me that when you
25 stand up for that case because that will be a case

1 that may come up this week. Just let me know that.

2 A Okay.

3 THE COURT: Okay.

4 A Alzena Robinson, number 116. On Wednesday I was
5 going to a legislative breakfast planned by my
6 sorority for three months to meet with the senators.
7 That's this Wednesday.

8 THE COURT: So you've got a legislative
9 breakfast. How early do those legislators eat
10 breakfast?

11 A We're going to start at 8 o'clock until 10, and
12 we're going to meet with some people at two.

13 THE COURT: How about if I just transfer you
14 to another term of court because the problem is if we
15 start this case today or tomorrow and you're picked
16 on the jury then I'm in a mess so I can't put you in
17 there. So let's just bring you back. I'll give you
18 your choice, April or June?

19 A June.

20 THE COURT: That will be fine. I look
21 forward to seeing you then. 6/14.

22 Juror 116, Ms. Robinson is transferred to the
23 week of 6/14.

24 All right, Mr. Clerk, I find that this panel is
25 qualified.

1 Ladies and gentlemen of the jury, we're going to
2 take just a few minutes. I know that you've been in
3 here at least about an hour and a half, maybe more,
4 longer than that. I'm going to allow you to step
5 outside, if you would like to, and be back in here
6 about a quarter to four. We're going to strike a
7 jury in our first case at that time.

8 Let me caution any defendants, please do not
9 associate with any of the jurors, and jurors, they
10 wear those badges so they're very easy to see. And
11 ladies and gentlemen, if you would, please be back in
12 at quarter of four. I look forward to seeing you
13 then. We'll conduct some more business in your
14 absence.

15 (Jury panel recessed from open courtroom.)

16 THE COURT: Ladies and gentlemen of the
17 jury, we are about to begin the trial of the case of
18 the State of South Carolina against Juan M. Nimmons.

19 Mr. Nimmons has been charged in separate
20 indictments filed in this court; first, being
21 Indictment 99-GS-05-28. In that indictment, the
22 State charges that Juan M. Nimmons did in Bamberg
23 County, on or about August 7, 1998, with malice
24 aforethought kill one Zola Robinson by means of
25 hitting her in the head with a hammer, and said

1 victim died as a proximate result thereof. That's in
2 violation of South Carolina Code Section 16-3-10.
3 That is an indictment for murder.

4 And then Indictment 99-GS-05-29, State charges
5 that the defendant, Juan M. Nimmons did, in Bamberg
6 County, on or about August 7, 1998, while armed with
7 a deadly weapon, to wit: a hammer, feloniously take
8 from the person or presence of Zola Robinson, by
9 means of force or intimidation, goods or monies of
10 Zola Robinson, such goods or monies being described
11 as follows: cash, all in violation of Section 16-11-
12 330 of the Code of Laws of South Carolina as amended.
13 That is an indictment for armed robbery.

14 Now, ladies and gentlemen of the jury, before we
15 actually select this jury, there are several
16 questions which I will pose to you. If any of these
17 questions do apply, I won't you to please stand and
18 allow me -- please give me your name or your number,
19 juror number, and allow me to find you on the juror
20 list properly and identify you for the record, and
21 then I will continue with my questioning.

22 Would the defendant, Juan Nimmons, please stand
23 and turn and face the jury, sir?

24 Thank you very much, Mr. Nimmons. You may be
25 seated.

1 Is there any member of the panel who is related
2 by blood or marriage, or do you have any close
3 personal or social relationship with the defendant,
4 Juan M. Nimmons?

5 Yes, ma'am; your name, please?

6 A Eartha Roundtree. I'm his aunt.

7 THE COURT: Ms. Roundtree? Just one moment,
8 please ma'am. And you are his aunt?

9 A Yes.

10 THE COURT: Thank you very much. I'll
11 excuse you from consideration in this case. If
12 you'll just keep your seat, please ma'am. I'm not
13 going to excuse you for the week; just for this case.

14 Yes, ma'am; the lady right here in front?

15 A Barbara Gissentaner; number 41; cousin.

16 THE COURT: And what cousin are you? First?

17 A Third.

18 THE COURT: Third? I'll excuse you from
19 consideration in this case.

20 Yes, ma'am?

21 A Patricia Breland; friend.

22 THE COURT: Patricia?

23 A Breland.

24 THE CLERK: Fifteen, Your Honor.

25 THE COURT: And you say that you are a

1 friend of the defendant. The fact that you are a
2 friend of the defendant, would that in any way
3 interfere with your ability to render a fair and
4 impartial verdict for either the State or the
5 defendant, based solely on the testimony and evidence
6 that you would hear produced in this courtroom?

7 A No.

8 THE COURT: Are you in any way biased or
9 prejudiced as a result of your previous association
10 with Mr. Nimmons?

11 A Yeah, I would be.

12 THE COURT: You would be? Would that
13 interfere with your ability to render a fair and
14 impartial verdict?

15 A Yes.

16 THE COURT: I'll excuse you from
17 consideration in this case. If you'll please just be
18 seated, ma'am.

19 Yes, ma'am?

20 A She's my sister-in-law.

21 THE COURT: And what's your name, please?

22 A Gloria Nimmons.

23 THE COURT: And the deceased, Ms. Robinson
24 was your sister-in-law?

25 A Sister-in-law; yes, sir.

1 THE COURT: I'll excuse you from
2 consideration of this case, ma'am. Just have a seat.

3 Yes, sir?

4 A Kieboye Odumgba; juror 105.

5 THE COURT: One-o-five. Is that Odumgba?

6 A Odumgba.

7 THE COURT: Odumgba. Yes, sir.

8 A Distant cousins.

9 THE COURT: Mr. Nimmons?

10 A Yes, sir.

11 THE COURT: I'll excuse you from
12 consideration in this case, sir.

13 Now, ladies and gentlemen of the jury, the State
14 of South Carolina and the defendant have listed the
15 following individuals as potential witnesses in this
16 case. As I call their names, if they are present in
17 the courtroom, I would like for them to please stand
18 and remain standing until I instruct you to be
19 seated.

20 Ladies and gentlemen, listen very carefully to
21 these names as they are called because some of these
22 individuals may not be in the courtroom.

23 William Nimmons. If you would turn and face the
24 jury, please, Mr. Nimmons. Thank you, sir. You may
25 be seated.

1 Albertha Nimmons. If you would turn and face
2 the jury, please ma'am. Thank you, ma'am. You may
3 be seated.

4 Anthony Nimmons. Thank you, sir.

5 Beverly Whetstone. Thank you, ma'am.

6 Jimmy Shepard -- in the back of the courtroom,
7 ladies and gentlemen. Thank you, Mr. Shepard.

8 Daryl Williams. Thank you, Mr. Williams.

9 Derrick Jerome Robinson. He is not present in
10 the courtroom.

11 Travis Yaun, also not present in the courtroom.

12 Carolyn Duncan. Not present in the courtroom.

13 Maberin Hart. That's M-a-b-e-r-i-n, Hart,
14 H-a-r-t.

15 Elliott Adams. Thank you, Mr. Adams.

16 Darnell Williams. Thank you, Mr. Williams.

17 Rosa Whetstone. Not present in the courtroom.

18 Mary Watkins. Not present in the courtroom.

19 Howard Davis. Thank you, Mr. Davis.

20 Alvin Brown. Not present in the courtroom.

21 Sandra Jordan; not present. Booker T.

22 Washington. Thank you, Mr. Washington.

23 G. S. Kianos -- is that correct? G. S. Kianos
24 with the Denmark Police Department. Gary Brown,
25 Denmark Police Department.

1 George Folk, Bamberg County Sheriff's office.

2 He is here to your left, ladies and gentlemen, or to
3 my right -- to your right; my left. Thank you.

4 Mr. Kenneth Buck; not present.

5 Ben Hay. That's H-a-y.

6 Joe Bell with the Denmark Police Department.

7 Thank you, sir.

8 Wayne Martin with the Second Judicial Circuit
9 Solicitor's office. Thank you, sir.

10 Wayne Huff, with the --- standing here to my
11 left; your right, with the Second Judicial Circuit
12 Solicitor's office.

13 Jan Bryson with the State Law Enforcement
14 Division, also known as SLED. She is not here at
15 this time.

16 Ira Jeffcoat, also with SLED; not present.

17 Kerry Goodwin; SLED; not present in the
18 courtroom.

19 Matt Mathison; SLED; not present in the
20 courtroom.

21 Gray Amick; SLED; not present.

22 Dr. S. E. McConnell; not present in the
23 courtroom.

24 Lee Hutto; Odell Crump -- excuse me. Odell
25 Crum, C-r-u-m. And Roland Dowling. Mr. Dowling is

1 here on the front row.

2 Michael Mince, also not present in the
3 courtroom.

4 Any member of the panel who is related by blood
5 or marriage, or has any close personal or social
6 relationship with any of the potential witnesses
7 whose names I have called? If so, please stand.

8 A Ira Jeffcoat.

9 THE COURT: What is your name, please,
10 ma'am?

11 A I'm sorry; Tracey Myers; 98.

12 THE COURT: Yes, ma'am, and how do you know
13 Mr. Jeffcoat?

14 A I've known him all my life.

15 THE COURT: The fact that you know him,
16 would that in any way interfere with your ability to
17 render a fair and impartial verdict for either the
18 State or the defendant based solely upon the
19 testimony and evidence that you would hear produced
20 in this courtroom?

21 A No.

22 THE COURT: Are you in any way biased or
23 prejudiced as a result of your previous association
24 with Mr. Jeffcoat?

25 A No.

1 THE COURT: Thank you, ma'am. You may be
2 seated.

3 Yes, sir?

4 A Clary Parker.

5 THE CLERK: One-o-seven.

6 THE COURT: Yes, sir, Mr. Parker.

7 A Rowland Dowling.

8 THE COURT: Mr. Dowling?

9 A Yes, sir.

10 THE COURT: Could you tell me how you know
11 him?

12 A My nephew.

13 THE COURT: All right, the fact that he is
14 your nephew, would that in any way interfere with
15 your ability to render a fair and impartial verdict
16 for either the State or the defendant, based solely
17 upon the testimony and evidence that you would hear
18 produced in this courtroom?

19 A That's right.

20 THE COURT: I'm sorry? Would that interfere
21 with that?

22 A Yes, it would.

23 THE COURT: I'll excuse your from
24 consideration in this case. Thank you, sir. You may
25 be seated.

1 Yes, ma'am, the lady here?

2 A Eartha Ransom.

3 THE COURT: I'm sorry?

4 A Eartha Ransom.

5 THE CLERK: Number 111.

6 THE COURT: Yes, ma'am, Ms. Ransom?

7 A I am good friends with the Nimmons family.

8 THE COURT: All right, the fact that you are
9 friends with that family, would that in any way
10 interfere with your ability to render a fair and
11 impartial verdict for either the State or the
12 defendant, based solely upon the testimony and
13 evidence that you would hear produced in this
14 courtroom?

15 A Yes, sir.

16 THE COURT: It would? Thank you, ma'am.
17 I'll excuse you from consideration in this case.

18 Yes, sir?

19 A Joe Bell.

20 THE COURT: All right, could you tell me
21 what your connection is with Officer Bell?

22 A My wife is a distant relative of Mr. Bell.

23 THE COURT: The fact that you have this
24 connection, would that in any way interfere with your
25 ability to render a fair and impartial verdict for

1 either the State or the defendant, based solely upon
2 the testimony and evidence that you would hear in
3 this courtroom?

4 A No, sir.

5 THE COURT: Are you in any way biased or
6 prejudiced as a result of your association with him?

7 A No, sir.

8 THE COURT: Thank you, sir. You may be
9 seated.

10 Excuse me. What is your number?

11 A Terry Still.

12 THE COURT: Mr. Still is number 134. Thank
13 you.

14 Yes, ma'am?

15 A Number 18.

16 THE COURT: Eighteen? Just one moment,
17 please ma'am.

18 A I worked with Ms. Ola Robinson.

19 THE COURT: All right, this is Ms. Bryant,
20 number 18. Is that correct?

21 A Yes, sir.

22 THE COURT: The fact that you worked with
23 Ms. Robinson, would that in any way interfere with
24 your ability to render a fair and impartial verdict
25 for either the State or the defendant, based solely

1 upon the testimony and evidence that you would hear
2 produced in this courtroom?

3 A No, it wouldn't.

4 THE COURT: Are you in anyway biased or
5 prejudiced as a result of your previous association
6 with her?

7 A No.

8 THE COURT: Thank you, ma'am. I will pose
9 this question. Is there any member of the panel
10 related by blood or marriage, or do you have any
11 close -- did you have any close personal or social
12 relationship with the deceased, Zola Robinson? If
13 so, please stand.

14 (No response)

15 Now, the State of South Carolina is represented
16 in this matter by the Second Judicial Circuit
17 Solicitor's office; in particular, Deputy Solicitor
18 Grant Gibbons. Mr. Gibbons? Thank you, sir.

19 And also, Solicitor Barbara Morgan. Thank you,
20 ma'am. Any member of the panel who is related by
21 blood or marriage, or do you have any close personal
22 or social relationship with either Mr. Gibbons, Ms.
23 Morgan, any member of the Second Judicial Circuit
24 Solicitor's office, its staff, or do you have any
25 close political connection with that office, in

1 particular Solicitor Barbara Morgan? If so, please
2 stand.

3 (No response)

4 Now, the defendant, Mr. Nimmons is represented
5 in this matter by Attorney Joshua Koger. Mr. Koger?
6 Thank you, sir.

7 Any member of the panel who is related by blood
8 or marriage, or do you have any close personal or
9 social relationship with Mr. Koger, or you are
10 currently represented, or have you been represented
11 in the past by Attorney Josh Koger? If so, please
12 stand.

13 (No response)

14 Now is there any member of the panel who is
15 currently employed or has been employed in the past,
16 or is any member of your family currently employed or
17 been employed in the past with any law enforcement
18 agency, whether that be local, state, federal or
19 military police? If so, please stand.

20 Start with this gentleman right over here. If
21 you'll give me your name or number, please, sir?

22 A Robert Reinertsen.

23 THE COURT: Just one moment, please, Mr.
24 Reinertsen. Juror number 114; yes, sir?

25 A I'm a former FBI agent; criminal homicide

1 investigator and chief of police.

2 THE COURT: And where were you chief of
3 police, Professor Reinertsen?

4 A (Inaudible) Maine.

5 THE COURT: All right, sir. Thank you very
6 much. You may be seated.

7 Yes, ma'am?

8 A Juror 23; Caroline Carter.

9 THE COURT: Ms. Carter; number 23. Yes,
10 ma'am?

11 A I have a son that works at Allendale
12 Corrections.

13 THE COURT: Thank you, ma'am. You may be
14 seated.

15 Yes, sir.

16 A Number 127; Timothy Sease.

17 THE COURT: Just one moment, please sir.
18 Yes, sir, Mr. Sease?

19 A Military police in the service and former member
20 of the Orangeburg police department.

21 THE COURT: What branch of service was that
22 in?

23 A Army.

24 THE COURT: Thank you, sir. Yes, sir?

25 A Michael Mixon. My sister-in-law ---

1 THE COURT: Excuse me just one minute.

2 Mixon?

3 A Yes, sir.

4 THE COURT: Just one moment, please. Juror
5 number 93 is Mr. Mixon. Yes, sir.

6 A My sister-in-law is the sheriff's secretary.

7 THE COURT: All right, the fact that your
8 sister-in-law is Sheriff's Darnell's secretary...

9 Thank you, sir.

10 Yes, sir?

11 A Jim Stoller.

12 THE CLERK: 136.

13 THE COURT: Mr. Stoller; yes, sir?

14 A I was probation officer here for about seventeen
15 years, and I know all of these folks.

16 THE COURT: I'm sure you do. Thank you very
17 much, sir.

18 Now has any member of the panel formed or
19 expressed an opinion about any issue or matter
20 involved in this case? If so, please stand.

21 (No response)

22 Is any member of the panel aware of any bias or
23 prejudice toward either the State or the defendant in
24 this case? If so, please stand?

25 (No response)

1 Is there any member of this panel who is also a
2 member of the grand jury for Bamberg County for the
3 year 1999? If so, please stand.

4 (No response)

5 Is there any member of the panel who is a member
6 of or contributor to any group which has as its
7 primary concern the promotion of law enforcement or
8 victim's rights? These groups would include, but
9 certainly not be limited to the following: MADD,
10 SADD, CAVE, or CODRA. If so, please stand.

11 (No response)

12 Does any member of the panel know of any reason
13 whatsoever why you should not serve as a juror in
14 this case with particular emphasis being placed upon
15 your ability to be fair and impartial to either the
16 State or the defendant? If you cannot, I want you to
17 please stand.

18 What is your name, please sir?

19 A Jerry Johnson.

20 THE COURT: Jerry Johnson come forward,
21 please sir.

22 Lawyers may approach.

23 (In camera) Can you tell me why you would be
24 unable to enter a fair and impartial verdict?

25 A Because of my religious conscience. I don't

1 feel like judging anybody. I feel like it's God's
2 job to judge. I'm a Jehovah's Witness.

3 THE COURT: Okay, I'll excuse you from
4 consideration in this case. And what I'll do is I'll
5 just let you sit and watch our process all week. How
6 about that? You just stay with us when I dismiss the
7 jury.

8 Yes, sir; your name, please?

9 A Clary Parker.

10 THE COURT: Mr. Parker, I believe I've
11 already excused you, sir. Thank you, sir.

12 Additional questions from the State?

13 MR. GIBBONS: None, Your Honor.

14 THE COURT: Defendant?

15 MR. KOGER: None, Your Honor.

16 THE COURT: All right, Madame Solicitor, and
17 Solicitor, and Mr. Koger, five and ten on the
18 strikes.

19 Ladies and gentlemen, the manner in which we
20 select a jury here in general sessions court, as your
21 name is called I want you to please come forward,
22 bringing all of your personal belongings that you
23 have brought to the courtroom because if you're
24 selected to serve as a juror in this case, you will
25 immediately take your seat in the jury box. Please,

1 as your name is called, come forward. The bailiff
2 will direct you as to where you are to stand and the
3 lawyers will make their determination as to whether
4 or not you will participate in this case.

5 Five and ten on strikes, please.

6 THE CLERK: Juror 134; Terry F. Still. What
7 say for the State?

8 MR. GIBBONS: Please present Mr. Still.

9 THE CLERK: What say the Defense?

10 MR. KOGER: Please excuse this juror.

11 THE CLERK: Have a seat back in the jury
12 pool, please.

13 Number 55; Sara H. Henegar.

14 THE COURT: What's that number again, Mr.
15 Clerk?

16 THE CLERK: Fifty-five. What say you for
17 the State?

18 MR. GIBBONS: Please present Ms. Henegar.

19 THE CLERK: What say for the Defense?

20 MR. KOGER: Please excuse this juror.

21 THE CLERK: Have a seat back in the jury
22 pool. Number 46; Leroy L. Green.

23 What say for the State?

24 MR. GIBBONS: Please present Mr. Green?

25 THE CLERK: What say for the Defense?

1 MR. KOGER: Please seat this juror.

2 THE CLERK: Have a seat in the jury box,
3 please.

4 Number 99; Melody M. Neeley. What say you for
5 the State?

6 MR. GIBBONS: Please present Ms. Neeley.

7 THE CLERK: What say the Defense?

8 MR. KOGER: Please seat this juror.

9 THE CLERK: Have a seat in the jury box,
10 please.

11 Number 69, Jared D. Johnson.

12 THE COURT: He's been excused, Mr. Clerk.

13 THE CLERK: Oh, excuse me. That's right.

14 Number 124; Irene D. Sanders.

15 What say for the State?

16 MR. GIBBONS: Please present Ms. Sanders.

17 THE CLERK: What say for the Defense?

18 MR. KOGER: Please seat this juror.

19 THE CLERK: Have a seat in the jury box,
20 please.

21 Number 138, Henry Thames.

22 THE COURT: What's that number again, sir?

23 THE CLERK: One-thirty-eight.

24 What say for the State?

25 MR. GIBBONS: Please excuse Mr. Thames from

1 this case.

2 THE CLERK: Please return to the jury pool.

3 Number 93; Michael D. Mixon.

4 What say for the State?

5 MR. GIBBONS: Please present Mr. Mixon.

6 THE CLERK: What say the Defense?

7 MR. KOGER: Please excuse this juror.

8 THE CLERK: Sit back out there. Number 67,

9 Christopher L. Johnson.

10 What say for the State?

11 MR. GIBBONS: Please excuse Mr. Johnson from
12 this case.

13 THE CLERK: Number 63; Kanisha C. Irons.

14 What say you for the State?

15 MR. GIBBONS: Please present Ms. Irons.

16 THE CLERK: What say you for the Defense?

17 MR. KOGER: Please seat this juror.

18 THE CLERK: Have a seat in the jury box.

19 Number 132; Lawrence C. Smoak, III.

20 What say you for the State?

21 MR. GIBBONS: Please present Mr. Smoak.

22 THE CLERK: What say the Defense?

23 MR. KOGER: Please seat this juror.

24 THE CLERK: Have a seat in the jury box.

25 Number 44; Jake J. Gordon.

1 What say you for the State?

2 MR. GIBBONS: Excuse Mr. Gordon from this
3 case.

4 THE CLERK: Number 8; Ezekiel Z. Banks.

5 What say you for the State?

6 MR. GIBBONS: Please present Mr. Banks.

7 THE CLERK: What say you for the Defense?

8 MR. KOGER: Please excuse this juror.

9 THE CLERK: Thank you. Number 61; Olivia M.
10 Hiott.

11 What say you for the State?

12 MR. GIBBONS: Please present Ms. Hiott.

13 THE CLERK: What say you for the Defense?

14 MR. KOGER: Please seat the juror.

15 THE CLERK: Have a seat in the jury box.

16 Number 151; Teresa A. Wright.

17 What say you for the State?

18 MR. GIBBONS: Please present Ms. Wright.

19 THE CLERK: What say you for the Defense?

20 MR. KOGER: Please seat this juror.

21 THE CLERK: Have a seat in the jury box.

22 Number 10; Willie J. Bannister.

23 What say you for the State?

24 MR. GIBBONS: Please excuse Mr. Bannister

25 from this case.

1 THE CLERK: Sit back out there. Number 50;
2 Kenneth Harley.

3 What say the State?

4 MR. GIBBONS: Please present Mr. Harley.

5 THE CLERK: What say the Defense?

6 MR. KOGER: Please seat the juror.

7 THE CLERK: Have a seat in the jury box.

8 Number 114; Robert R. Reinertsen.

9 What say the State?

10 MR. GIBBONS: Please present this juror.

11 THE CLERK: What say the Defense?

12 MR. KOGER: Please excuse this juror.

13 THE CLERK: Have a seat back out in the jury
14 pool, please.

15 Number 88; Lasonda D. McDonald.

16 What say you for the State?

17 MR. GIBBONS: Please present Ms. McDonald.

18 THE CLERK: What say the Defense?

19 MR. KOGER: Please seat the juror.

20 THE CLERK: Have a seat in the jury box,
21 please.

22 Number 43; Floyd Glover. What say for the
23 State?

24 MR. GIBBONS: Please present Mr. Glover.

25 THE CLERK: What say the Defense?

1 MR. KOGER: Please seat this juror.

2 THE CLERK: Have a seat in the jury box,
3 please sir.

4 Number 64; J. C. Islar. What say you for the
5 State?

6 MR. GIBBONS: Please present Mr. Islar.

7 THE CLERK: What say for the Defense?

8 MR. KOGER: Please seat this juror.

9 THE CLERK: Please have a seat in the jury
10 box. Number 125; Mary A. Saxton.

11 What say the State?

12 MR. GIBBONS: Please present Ms. Saxton.

13 THE CLERK: What say the Defense?

14 MR. KOGER: Please seat this juror.

15 THE CLERK: Please have a seat in the jury
16 box, please ma'am.

17 THE COURT: One and two on the alternates.

18 THE CLERK: Number 51; Charles R. Hayes.

19 What say the State?

20 MR. GIBBONS: Please present Mr. Hayes.

21 THE CLERK: What say the Defense?

22 MR. KOGER: Please excuse this juror.

23 THE CLERK: Number 91; John L. Miller. What
24 say for the State?

25 MR. GIBBONS: Please present Mr. Miller.

1 THE CLERK: What say the Defense?

2 MR. KOGER: Please excuse this juror.

3 THE CLERK: Number 97; Libby M. Murdaugh.

4 What say you for the State?

5 MR. GIBBONS: Please present Murdaugh.

6 THE CLERK: What say for the Defense?

7 MR. KOGER: Please seat this juror.

8 THE CLERK: Have a seat in the back chair,
9 please ma'am.

10 THE COURT: An additional alternate. One
11 and two.

12 THE CLERK: Number 144; David D. Webb.
13 What say the State?

14 MR. GIBBONS: Please present Mr. Webb.

15 THE CLERK: What say the Defense?

16 MR. KOGER: Please excuse this juror.

17 THE CLERK: Number 104; Catherine A. Odom.

18 THE COURT: What was that number again?

19 THE CLERK: One-o-four.

20 THE COURT: Thank you.

21 THE CLERK: What say you for the State?

22 MR. GIBBONS: Please present Ms. Odom.

23 THE CLERK: What say the Defense?

24 MR. KOGER: Please seat the juror.

25 THE COURT: Let me see the lawyers at the

1 bench, please.

2 (BENCH CONFERENCE IN THE PRESENCE OF THE JURY,
3 OUT OF THE HEARING OF THE JURY, AND OFF THE RECORD.)

4 THE COURT: All right, any matter from the
5 State before the jury is sworn?

6 MR. GIBBONS: No, sir.

7 THE COURT: From the Defendant?

8 MR. KOGER: No, Your Honor.

9 THE COURT: Ladies and gentlemen of the
10 jury, we're getting very close to that 5 o'clock hour
11 and normally I try to cease our consideration of a
12 case between 5 and 5:30 each day. We're not going to
13 start this case today. We're going to pick up in the
14 morning because whatever we would do this afternoon
15 would take us beyond that 5:30 hour.

16 If it is necessary for us on any day to work
17 beyond 5:30 or so, I'll notify you in advance so that
18 you can make the necessary calls, or get the clerk's
19 office to make those calls for you. But we'll try
20 not to keep you here beyond that time unless there is
21 some real necessity for it and I would advise you of
22 that.

23 Before I send you away for this evening, let me
24 remind you of a couple of things. Number one, even
25 though you know precious little about this case, what

1 you do know, you're not to discuss among yourselves
2 in any fashion whatsoever as you leave the courthouse
3 today if you happen to see each other during the
4 course of the evening, or speak with each other
5 during the course of this evening, or when you
6 reconvene in the jury room in the morning at the
7 appointed hour that I will give you in just a few
8 moments.

9 Also, you're not to discuss this case with your
10 family, friends or anyone else. And if anyone should
11 attempt to contact you concerning this case, I want
12 you to gather as much information about that person
13 or persons as you possibly can, and report that to me
14 immediately upon your return to the courthouse in the
15 morning, because that is a very serious matter and I
16 would deal with that individual or individuals
17 accordingly.

18 Also, I don't know that there will be anything
19 contained in the news media concerning this case, but
20 out of an abundance of caution, I'm going to instruct
21 you that you're not to read, watch or listen to any
22 news accounts concerning this case. Very simply put,
23 all I want you to consider in this case is what you
24 see and hear in this courtroom; nothing more and
25 nothing less.

1 So with all of that instruction I've given you,
2 I'm going to send you away and ask that you be in
3 your jury room in the morning at 9:15. We'll get
4 started at 9:15 in the morning. The bailiffs will
5 escort you out and show you the jury room that you're
6 to come to.

7 In the morning, I want you to come directly to
8 the jury room. Do not linger outside the courthouse;
9 do not linger in the halls. Come directly to the
10 jury room. It might be that lawyers will be talking
11 to witnesses about the case and be so wrapped up in
12 what they're doing that they wouldn't see that you
13 are a juror, so please come on up to the jury room in
14 the morning and the bailiffs will see that you have
15 some coffee up there to take care of you, and we'll
16 look forward to seeing you in the morning at 9:15,
17 and we'll get the case started at that time.

18 I hope you have a very pleasant evening and
19 until in the morning, you are dismissed. See you in
20 the morning at 9:15. Everyone else remain seated
21 while the jury exits the courtroom, please.

22 (Jury excused for evening.)

23 --END OF TRANSCRIPT EXCERPT--
24
25

STATE OF SOUTH CAROLINA)

) C E R T I F I C A T E

COUNTY OF AIKEN)

I, THE UNDERSIGNED BRENDA A. DOUGLAS,
OFFICIAL COURT REPORTER OF THE SECOND JUDICIAL
CIRCUIT FOR THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING, TRANSCRIBED BY ME OR
UNDER MY DIRECTIONS, IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED INTO THE
TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN
THE COURT OF GENERAL SESSIONS FOR BAMBERG
COUNTY, SOUTH CAROLINA, ON THE 8TH DAY OF MARCH,
1999.

I DO FURTHER CERTIFY THAT I AM NEITHER OF
KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

October 2, 2001


Brenda A. Douglas, CVR, CCR

Brenda A. Wingard-Douglas, CVR
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P. O. Box 2896
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1 STATE OF SOUTH CAROLINA
2 COUNTY OF BAMBERG

CIRCUIT COURT
GENERAL SESSIONS
99-GS-05-28 & 29

3
4 STATE OF SOUTH CAROLINA,)
5)
6 -vs-)
7 JUAN NIMMONS,)
8 Defendant)

TRANSCRIPT
OF RECORD

VOL I

9
10 Before:

11 THE HONORABLE GARY CLARY
12 and a jury on
13 Tuesday, March 9 & Wednesday, March 10, 1999

14 APPEARANCES:

15 Counsel On Behalf of the State:
16 De Grant Gibbons, Esq.

17 Counsel On Behalf of the Defendant:
18 Joshua Koger, Jr., Esq.

19
20
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I N D E X

ON TUESDAY, MARCH 9, 1999:

Motions..... 4 - 7

Proffer:

WITNESS DIRECT CROSS REDIRECT RECROSS

JOE BELL 9 13

Motions.....14 - 19

Intro to Jury by Court.....19 - 26

Jury Impaneled..... 20

Opening Statements:

On Behalf of the State..... 26 - 31

On Behalf of the Defendant..... 31 - 35

State's Case:

WITNESS DIRECT CROSS REDIRECT RECROSS

BEVERLY WHETSTONE 35 47 51 54

WILLIAM NIMMONS 55 --

JOE BELL 62 73

SUSAN McCONNELL, MD 77 93

KERRY GOODWIN 97 128

DARRYL WILLIAMS 133 151

BOOKER T WASHINGTON 160 164

LEE HUTTO 166 169

ROSA WHETSTONE 174 179

TRAVIS YON 184 198

JOE BELL 209 227 238 --

GEORGE FOLK 242 261

WAYNE MARTIN 271 286

State Rests.....299

ON WEDNESDAY, MARCH 10, 1999:

Defense Case:

JUAN NIMMONS 308 359 410 --

Defense

Rests..... 411

Closing Arguments

On Behalf of the Defense..... 416-430

On Behalf of the State..... 430-447

Judge's Charge to the Jury.....449-472

Question from the Jury.....476-479

Verdict of the Jury.....479-481

Sentencing.....481-486

E X H I B I T S

State's:

NUMBER	DESCRIPTION	PAGE
1	aerial photo	65
2	aerial photo	38
3	purse/photo	122
4	sink/photo	122
5	clothes hamper/photo	122
6	blood doorstep/photo	122
7	blood ceiling/photo	122
8	trailer/photo	69
9	trailer/photo	69
10	trailer/photo	69
11	hammer/photo	69
12	hammer/photo	69
13	styrofoam head	85
14	video	282
15	transcript of video (became Court's 2)	212
16	rights form	217
17	Folk - Deft's statement	220
18	Statement	120
19	Cigarette pouch	119
20	Coin purse	71
21	Hammer	101
22	Diagram of crime scene	168
23	Copy of check	

Court's:

1	Mental finding	
2	Transcript of video	299
3	Question from Jury	481

1 ON TUESDAY, MARCH 9, 1999:

2 THE COURT: All right. Do we have any
3 pretrial matters, gentlemen, we needed to address
4 this morning?

5 MR. KOGER: Yes, Your Honor. I have
6 several motions I'd like the Court to address.

7 THE COURT: All right.

8 MR. KOGER: The first one. In this
9 particular case, Your Honor, I'd like to make a
10 motion to sequester the witnesses in this case.

11 I received a witness list yesterday in this
12 case. The State is planning on calling
13 approximately about thirty people. And I would
14 ask the Court to consider sequestering non law
15 enforcement witnesses in this case.

16 MR. GIBBONS: Your Honor, I ask for the
17 same to go both ways.

18 THE COURT: All right. The motion to
19 sequester is as to all witnesses, the State as
20 well as the defense.

21 MR. GIBBONS: All witnesses?

22 THE COURT: Yes, sir. Well, non law
23 enforcement. Is that correct? Is that what you
24 said.

25 MR. GIBBONS: That's what he said.

1 MR. KOGER: Yes, sir.

2 THE COURT: Non law enforcement. And
3 I'll expect both sides to make sure that their
4 witnesses are sequestered.

5 MR. GIBBONS: Your Honor, and Mr.
6 Koger, would the medical examiner qualify as a
7 law enforcement witness?

8 MR. KOGER: Yes, Your Honor.

9 THE COURT: You can tell her to come
10 back in.

11 MR. GIBBONS: All right.

12 THE COURT: Anything else?

13 MR. KOGER: Yes, Your Honor. The
14 second motion is in regards to the videotape
15 statement that I anticipate the State is going to
16 submit into evidence.

17 Per discussions with my client, he would
18 like me to make the motion that that tape be
19 viewed by the jurors only and that the court
20 would be clear of other people other than court
21 personnel.

22 THE COURT: What's the basis of that?

23 MR. KOGER: The basis, according to my
24 client is if he is able to secure an acquittal he
25 doesn't want to be prejudiced in the community by

1 the viewing by the general public of the tape in
2 the courtroom.

3 THE COURT: Mr. Koger, this is -- you
4 know, that's closely akin to even trying to keep
5 the press out.

6 MR. KOGER: Yes, Your Honor.

7 THE COURT: And, certainly, the press
8 has a right to be in the courtroom.

9 I've ruled that it is admissible and as such
10 is part of the case. It's for the jury to
11 determine the credibility, the believability of
12 the statements and a videotape is part of it.

13 If we didn't have a videotape, there would
14 be questions asked of law enforcement as to why
15 they didn't have videotape, why they didn't have
16 an audiotape.

17 I've seen it for twenty years now. And, so,
18 rest assured that -- I understand the motions are
19 made, but it's denied.

20 MR. KOGER: Yes, Your Honor.

21 THE COURT: And no prejudice to the
22 Defendant.

23 MR. GIBBONS: Your Honor, as to the
24 videotape, the State has prepared a certified
25 transcript of the tape and will be, and I am

1 anticipating having a copy for each of the
2 jurors, for Your Honor and the court reporter,
3 just for the viewing portion, not to go into the
4 jury room.

5 And I wanted to make that known.

6 MR. KOGER: No objection, Your Honor.

7 THE COURT: All right.

8 MR. KOGER: Your Honor, before I make
9 the third motion, I would like to approach the
10 bench with the Solicitor.

11 THE COURT: All right. Come forward.

12 (Off the record discussion.)

13 THE COURT: All right, sir.

14 MR. KOGER: Your Honor, in relation to
15 this third motion here, it came to my attention
16 about two and a half weeks ago when my
17 investigator was investigating the case for me
18 that the actual trailer in which the alleged
19 crime occurred was moved.

20 And it also came to my attention that it was
21 purchased by a member of law enforcement.

22 Now at this time I'm not making a motion to
23 suppress the evidence because I really need to
24 conduct a hearing and ask some questions about
25 whether any evidence was obtained after the

1 trailer was moved and after it was in the, in the
2 ownership of this law enforcement member.

3 THE COURT: Can you enlighten me on
4 that, Solicitor?

5 MR. GIBBONS: Your Honor, I didn't have
6 any idea about this until last week. My
7 investigation revealed, from family members that
8 are involved in the estate, the trailer sat there
9 approximately four or five months and was sold by
10 the estate and I think a member of law
11 enforcement did purchase it.

12 I don't know that he still owns it, but
13 there was no evidence gathered after the day of
14 the incident.

15 And so, I would say there would be no
16 relevance whatsoever as to the removal of the
17 trailer.

18 THE COURT: I'll be glad for you to
19 call whatever witnesses you need, if you need to
20 make that proffer.

21 If the Solicitor's statement is good enough
22 for you that there is no evidence that is going
23 to be introduced that was obtained after the
24 trailer changed hands, but I'll be glad for you
25 to put up whatever showing you want to.

1 MR. KOGER: Well, I'd like to make a
2 proffer, Your Honor.

3 THE COURT: All right.

4 MR. KOGER: Call Captain Joe Bell.
5 Captain.

6 (Oath administered.)

7 THE COURT: All right, sir.

8 JOE BELL, being duly sworn according to law,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KOGER:

12 Q Captain Bell, were you involved in the
13 investigation of the death of Miss Zola Robinson?

14 A Yes, I was.

15 Q Were you involved in the investigation from
16 the outset?

17 A Yes, sir; from the beginning.

18 Q And were you involved in the collection of
19 evidence?

20 A Other than I located the hammer that was
21 used, nothing else.

22 Q Okay. Were you on the scene with any other
23 personnel that was involved with the collection of
24 evidence?

25 A Yes, sir.

10

IN CAMERA TESTIMONY: J BELL/DIRECT

1 Q Okay. And when was -- when was that? When
2 was that, what date?

3 A What date?

4 Q Right.

5 A From the very beginning?

6 Q From the very beginning.

7 A Right.

8 Q That would be August 7, 1998.

9 A Right.

10 Q Approximately how long was this trailer sat
11 before it was moved?

12 A I'd say about four months.

13 Q Four months?

14 A Uh-huh.

15 Q It was moved sometime in November or
16 December?

17 A It was moved. Yes, sir, it was sometime
18 in -- uh-huh. If I'm not mistaken it was -- it was
19 after Christmas, I believe, when it was moved.

20 Q It was after Christmas?

21 A Yeah.

22 Q It wasn't moved anytime in October?

23 A I don't think so because we were in process
24 of moving and the weather got bad, it was raining so
25 we had to wait until we could move it out.

IN CAMERA TESTIMONY: J BELL/DIRECT

1 Q And what is standard law enforcement
2 procedure with a crime scene for evidence that's
3 moved with a homicide?

4 A With a homicide. Well, this -- anything
5 that we collected, evidence out there, was already
6 collected. We wasn't going to collect anything else
7 out of it.

8 Q Excuse me?

9 A I said, we wasn't going to collect anything
10 else out of the trailer. And they sold the trailer,
11 so.

12 Q So, it's your testimony that all that was
13 collected on August 7th was all that was intended to
14 be collected?

15 A Yes, sir.

16 Q And, now, this trailer was a part of the
17 Probate Court process, correct, with the Probate
18 Court?

19 A Yes. As far as I know.

20 Q Is it true that you purchased the trailer?

21 A Not for myself, I didn't. It was purchased
22 for Bessie Lamar.

23 Q Bessie Lamar?

24 A Yes, sir.

25 Q And did you go through -- is there some

IN CAMERA TESTIMONY: J BELL/DIRECT

1 type of procedure with Denmark Police Department as
2 far as purchasing a potential crime scene such as a
3 trailer?

4 A No, sir. I don't know of any. Mr. Nimmons
5 asked me about, did I know anybody that would want to
6 buy a trailer. I told him yes that we would take it
7 because I do a lot of work for Bessie Lamar and she
8 wanted to purchase the trailer and it was purchased
9 for her.

10 Q When did you, approximately, purchase the
11 trailer for Miss Lamar?

12 A I don't know. It was -- I don't know
13 exactly. We just -- it was a couple, three months
14 after the thing.

15 Q Was it before Christmas?

16 A The original purchase, I think, was about
17 Christmastime. Yes, sir, somewhere close to
18 Christmas.

19 Q And do you -- you say you purchased the
20 trailer for Bessie Lamar. Did you do any work on the
21 trailer?

22 A Yes, sir. In the process of setting it up
23 and repair the floors that was damaged where they,
24 you know, rotted out and repainted the trailer. Yes,
25 sir.

IN CAMERA TESTIMONY: J BELL/DIRECT

1 Q Now. Since the Solicitor -- evidence was
2 originally collected on August 6th, 1998. Has any
3 other law enforcement personnel gone into the trailer
4 to collect any evidence?

5 A No, sir. There's no other law enforcement
6 officer that I know of been in the trailer besides
7 myself to work on it, me and my boys.

8 Q And after the trailer came under your
9 ownership or possession, did you collect any evidence
10 out of the trailer?

11 A No, sir.

12 Q And Denmark Police Department did not
13 collect any evidence out of the trailer?

14 A No, sir. Not so ever.

15 MR. KOGER: I don't have any other
16 questions. I just wanted to have the hearing
17 noted for the record.

18 THE COURT: All right. Anything from
19 the State?

CROSS EXAMINATION

20
21 BY MR. GIBBONS:

22 Q Mr. Bell, to your knowledge when was the
23 last date any evidence was taken from the trailer or
24 the crime scene?

25 A The last date was, was Friday morning when

IN CAMERA TESTIMONY: J BELL/CROSS

1 SLED came by. That's the onliest time I know
2 anything was taken out of the trailer.

3 Q The very date?

4 A The very date the crime was discovered.

5 Q And no evidence was collected after that,
6 to your knowledge?

7 A No, sir.

8 MR. GIBBONS: That's all I have.

9 THE COURT: Anything else, Mr. Koger?

10 MR. KOGER: Not on that motion, Your
11 Honor.

12 THE COURT: Thank you, sir. You may
13 step down.

14 MR. KOGER: And, Your Honor, my final
15 motion after receiving the witness list on
16 yesterday and speaking with Mr. Gibbons on
17 yesterday evening, some of the witnesses that
18 they may call have, may have prior records.

19 And I would like the opportunity to maybe go
20 over the records and see what may be admissible
21 and what may be inadmissible.

22 THE COURT: Do you have those?

23 MR. GIBBONS: I have those, and I'm
24 ready to provide them at the appropriate time.

25 THE COURT: If you need any records,

1 just let me know.

2 MR. GIBBONS: I do have a couple issues
3 I need to bring forward before we get started.

4 I want to pass up a reverse Rule Five that
5 was served on the Defendant and Mr. Koger at the
6 jail on approximately February 16th.

7 THE COURT: All right.

8 MR. GIBBONS: In that Rule Five,
9 reverse Rule Five the State requested notice of
10 any alibi defense, rather clearly, along with the
11 date and time the State was alleging the incident
12 took place.

13 I'm also going to pass up a hand-delivered
14 letter of February 10th in which I told Mr.
15 Koger, I believe a letter of that nature was also
16 given to the Defendant, that I would encourage
17 him to make appointments with law enforcement and
18 myself to review my file, just to make sure that
19 he was in receipt of all evidence.

20 Your Honor, I never received any kind of
21 response to either of those letters. Friday
22 afternoon about five o'clock I got a call from my
23 office down in Barnwell that there had been
24 something faxed into the office in regard to
25 alibi witnesses.

1 I then received a phone call later that
2 evening from Mr. Koger indicating he had five or
3 six witnesses that were going to be in the nature
4 of an alibi for his client. He indicated to me
5 that up until that day his client had never
6 mentioned alibi witnesses and never given him any
7 names.

8 The State intends to use some of the same
9 witnesses. However, there are three or four
10 witnesses on that list that I had no notice of.

11 And, as you're well aware, the rule does
12 require a ten-day notice. And I don't think this
13 is something Mr. Koger did, but his client was
14 served with the same paperwork at his jail cell
15 which clearly puts him on notice that he must
16 give me the ten days alibi warning.

17 THE COURT: All right. Mr. Koger?

18 MR. KOGER: Your Honor, I would like to
19 clarify something for the record.

20 My client did give me some names during our
21 meeting, my many meetings with him. I met with
22 him, now, ten times total. Three of the
23 witnesses that we submitted as alibi are
24 witnesses that the State are planning on calling.
25 That would be; Elliott Adams, Sandra Jordan and

1 Darryl Williams.

2 The only other person, and the other
3 witnesses I won't be calling on the alibi list.
4 The one that is of contention is Rowland Dowling.

5 Mr. Nimmons did give a statement back on the
6 last of January. At that time I didn't feel it
7 was the nature of an alibi because this alleged
8 offense happened all in the same area and
9 testimony would be that my client was in and out
10 of the area.

11 So that's my fault, Your Honor, with that
12 there. Once I met with Mr. Nimmons one last time
13 on Friday and he reminded me of that particular
14 witness, I didn't submit that witness to the
15 State.

16 It was oversight on my part, but as soon as
17 he told me I contacted, I think, Mr. Madsen. I
18 think Mr. Madsen contacted Mr. Martin and
19 Solicitor Gibbons.

20 And Rowland Dowling at that time, he was
21 incarcerated in the Bamberg County jail and I
22 also alerted to that fact that I needed to talk
23 with him as a late alibi witness, that he was
24 over at the detention center and also left my
25 number at home, if he had any question to get in

1 contact with me over the weekend.

2 THE COURT: Mr. Gibbons, anything else?

3 MR. GIBBONS: Your Honor, I had the
4 names that Mr. Koger gave Your Honor to call
5 before the jury yesterday; Odell Crum, Rowland
6 Dowling and Michael Mintz were all three on the
7 list that he gave me last Friday in regards to
8 alibi and that's why I brought this up.

9 MR. KOGER: Now, Your Honor, Odell Crum
10 is not an alibi witness. That was a witness that
11 was actually interviewed by law enforcement with
12 the State. That's not an alibi.

13 MR. GIBBONS: He was on your list.

14 MR. KOGER: That's oversight on my
15 part. He was not an alibi. He gave a statement
16 to law enforcement during the investigation that
17 would be beneficial to my client, but he's not
18 alibi witness.

19 He's not going to attest to Mr. Nimmons
20 whereabouts on that particular night.

21 MR. GIBBONS: Nothing further, Your
22 Honor.

23 THE COURT: Well, I understand the late
24 date at which this information was provided, I'm
25 going to take Mr. Koger's statement at face

1 value. I'm going to certainly allow these
2 witnesses to testify.

3 If you need any time to prepare for that --

4 MR. GIBBONS: Yes, sir.

5 THE COURT: -- just let me know sir.

6 MR. GIBBONS: Thank you. I have
7 nothing further, Your Honor.

8 THE COURT: All right. Anything else,
9 Mr. Koger?

10 MR. KOGER: Nothing else, Your Honor.

11 THE COURT: Y'all ready to proceed?

12 MR. GIBBONS: Yes, sir.

13 MR. KOGER: Yes, Your Honor.

14 THE COURT: All right. Let's bring our
15 jury back, please. Make sure the alternates sit
16 on the back row.

17 THE BAILIFF: Yes, sir.

18 (Jurors enter courtroom at 9:33 A.M.)

19 THE COURT: Polling of the jury by the
20 State?

21 MR. GIBBONS: No, Your Honor.

22 THE COURT: By the defense?

23 MR. KOGER: No, Your Honor.

24 THE COURT: Good morning to you, ladies
25 and gentlemen of the jury.

INTRO TO THE JURY BY THE COURT

1 I'm sorry to keep you in the jury room for a
2 few minutes but I had a couple housekeeping
3 matters to take care of, so please accept my
4 apologies for that.

5 Mr. Smoke. Mr. Smoke, I'm going to ask that
6 you serve as the foreman of this jury. And,
7 please, swap seats with this gentleman sitting
8 here in the front chair if you would.

9 FOREMAN OF THE JURY: (Complies.)

10 THE COURT: Mr. Clerk, please swear the
11 jury.

12 (Jury impaneled and witnesses sequestered.)

13 THE COURT: Mr. Foreman, and ladies and
14 gentlemen of the jury, the case that we're about
15 to try is that of the State against Juan L.
16 Nimmons, the Defendant, who has been charged by
17 indictments filed in this court for the crimes of
18 murder and armed robbery, the elements of which
19 will be explained to you shortly.

20 Now, you should understand that these
21 indictments are simply the charges by which these
22 cases are brought into the Court. And they are
23 not in any sense evidence of any of the
24 allegations that they contain.

25 Now, the Defendant has pled not guilty to

INTRO TO THE JURY BY THE COURT

1 these indictments. The State, therefore, has the
2 burden of proving each of the essential elements
3 of the indictments beyond a reasonable doubt.

4 And it will be your duty, ladies and
5 gentlemen, to decide whether the State has met
6 that burden.

7 It is your solemn responsibility to
8 determine the guilt or innocence of the
9 Defendant. And, your verdict must be based
10 solely on the evidence as it's presented to you
11 in this trial and on the law as I instruct you
12 during and at the conclusion of the case.

13 Now, in just a moment the Solicitor will
14 make what is called his opening statement in
15 which he will explain to you the issues in this
16 case, or at least what he contends to be the
17 issues in this case.

18 And if the attorney for the Defendant wishes
19 to do so, he may also make an opening statement
20 though he is not required to.

21 Now, I want to tell you that what the
22 attorneys will say at this time is not evidence
23 in this case. It is only their contention as to
24 what the issues are.

25 The evidence in this case will be presented

INTRO TO THE JURY BY THE COURT

1 to you by the testimony of sworn witnesses from
2 the witness stand or by such exhibits as may be
3 introduced into evidence.

4 Now, in the consideration of this evidence
5 you should remember that under the Constitution
6 of the State of South Carolina you jurors alone
7 are the sole judges of the facts in this case.

8 And the same law that makes you the judges
9 of the facts also makes me the judge of the law.
10 I cannot invade your province and tell you what
11 the facts are and you should not invade my
12 province and differ with me about what the law
13 is.

14 Your job is to take the law as I give it to
15 you and apply it to the facts as you find them
16 from the witnesses who will testify from the
17 witness stand, together with any exhibits that
18 may be introduced into evidence.

19 And after doing that you will render your
20 verdict, a true and just verdict, under the
21 solemn oath that you took just a few minutes ago
22 as jurors.

23 Now, from time to time during the trial of
24 this case you may hear one of the lawyers say
25 something like, I believe we have a question or a

INTRO TO THE JURY BY THE COURT

1 matter of law to discuss, or may we approach the
2 bench, or sometimes I might find it necessary
3 that you be excused from the courtroom for a
4 short while as the attorneys and I discuss
5 matters of law.

6 Now, the reason for this is, once again,
7 because you are the judges of the facts in this
8 case. And sometimes when I'm discussing matters
9 of law with the attorneys it may be necessary for
10 me to make some comment as to the facts in
11 connection with ruling whether or not a
12 particular law is applicable.

13 Now, once again, I am not supposed to tell
14 you what I think the facts are. So, my practice
15 is to excuse you from the courtroom while these
16 discussions may take place so that in no way will
17 you be influenced by anything that I might say or
18 do in connection with the facts.

19 And in that regard let me tell you, again,
20 that you and you alone are the sole judges of the
21 facts in this case.

22 Now, in determining what the true facts are
23 in this matter you, of necessity, must pass upon
24 the credibility, which simply means the
25 believability, of the witnesses who will take

INTRO TO THE JURY BY THE COURT

1 this witness stand.

2 It will be my responsibility to rule as a
3 matter of law as to whether certain testimony is
4 admissible at all or not. But once I've allowed
5 the testimony to be admitted, whether or not you
6 believe it is solely for you to determine.

7 Now, in passing upon the credibility or the
8 believability of the witnesses who will testify,
9 you have a right as a jury to take into
10 consideration the interest of any witness, the
11 bias of any witness, the prejudice of any
12 witness, the opportunity for the witness to have
13 observed the matters and things about which he or
14 she may testify, as well as the demeanor of the
15 witness on the witness stand.

16 Anything that is in the record that will aid
17 and assist you in evaluating the testimony of the
18 several witnesses who will testify in this case,
19 you have a right to consider that.

20 And that means, Mr. Foreman, and ladies and
21 gentlemen, that it is your duty under your sworn
22 obligations as jurors to pay close attention to
23 the witnesses, to observe them, to listen to
24 them, and to pay close attention to the lawyers
25 and to the Court.

INTRO TO THE JURY BY THE COURT

1 Do not let your thoughts wander but give
2 strict attention to the testimony in this case so
3 that at the conclusion of all the testimony,
4 after the arguments of the lawyers and the charge
5 or instruction on the law by the Court, you will
6 then be in a position to determine what the true
7 facts are and to apply the law to those facts and
8 thus render a true and just verdict.

9 Now, I'm going to instruct you that you are
10 not to take any notes during the course of this
11 trial. 2-

12 And until this case is submitted to you, you
13 must not discuss it with anyone, not even among
14 yourselves or with members of your own family.
15 And after this case is submitted to you under my
16 instructions, you must discuss it only in the
17 jury room among yourselves.

18 It is extremely important that you keep an
19 open mind and not decide this case until the
20 entire matter has been submitted to you under my
21 instructions.

22 Now, Mr. Foreman, it will be your added duty
23 to preside in the jury room and to be the jury
24 spokesman here in court. And it will also be
25 your duty to write the verdict in this case, but

INTRO TO THE JURY BY THE COURT

1 I will give you further instructions about that
2 at the conclusion of the trial.

3 Now, I do not intend that you or anyone else
4 should construe these remarks that I have just
5 made as a charge on the law in this case because
6 it is not that. I will charge you the law that
7 is applicable to this matter at the conclusion of
8 the trial.

9 Excuse me. Sir, would you please have a
10 seat?

11 This has merely been an attempt on my part
12 to briefly explain to you some of the procedures
13 that we'll follow during the trial of the case so
14 you will have a better understanding of what may
15 be happening from time to time.

16 Now, ladies and gentlemen of the jury, here
17 in the courtroom we will be going for about an
18 hour an fifteen to twenty minutes. When you come
19 in for a session, you be prepared to stay for
20 that long.

21 There's not going to be anyone getting up,
22 moving around. So, please understand that. If
23 you can't abide by that, then you need to stay
24 outside. All right.

25 Solicitor, opening statement.

OPENING STATEMENTS ON BEHALF OF THE STATE

1 MR. GIBBONS: May it please the Court.

2 Mr. Koger. Ladies and gentlemen of the jury,
3 Mr. Foreman.

4 I want to thank you for being willing to
5 serve as jurors in this case. As the Judge said
6 yesterday, nobody volunteered for this job. You
7 were all drafted.

8 And, it's not going to be an easy job and I
9 want to apologize to you. You're going to hear
10 things you never wanted to hear.

11 I believe the evidence is going to be about
12 things you never wanted to hear happened here in
13 Bamberg County. And, it's serious. The Judge
14 read you the charges.

15 Juan Nimmons is presumed innocent, that's
16 true, and the State has the burden of proving to
17 you beyond a reasonable doubt that he's guilty of
18 the crimes he's charged with.

19 That hasn't happened yet. That's what we're
20 here about today.

21 What crimes is he charged with? Well, the
22 Judge read you the indictments yesterday. He's
23 charged with murder. It doesn't get anymore
24 serious. He's charged with killing another human
25 being. He's also charged with armed robbery.

OPENING STATEMENTS ON BEHALF OF THE STATE

1 If you'd remember the name Zola Robinson.
2 Well, any murder is tragic. No question about
3 that. But this one is a little more serious than
4 that because what the indictment did not read is
5 that Zola Robinson is the mother of Juan Nimmons,
6 the man sitting in that chair over there.

7 It's about as serious as it gets. And we
8 went through that long process selecting you
9 yesterday and both sides thought that you could
10 be fair and honest jurors and live up to the oath
11 that you took to do justice, seek the truth.

12 Now, the Judge is going to make all the
13 decisions and all the instructions about the law
14 in this case. You don't have to worry about
15 knowing the law. He's going to tell you what the
16 law is at the end of the case and tell you what
17 law to apply.

18 That's not a problem, but it's completely
19 your job, completely your job to decide what the
20 facts are and what happened to Miss Robinson back
21 on August 7th of 1998 in her home on Locust
22 Street in Denmark.

23 You're going to hear from people sitting in
24 that chair right there (indicating). They're
25 going to tell you about the last few hours of her

OPENING STATEMENTS ON BEHALF OF THE STATE

1 life and the things that happened when her body
2 was found.

3 I believe the evidence will show that she
4 came home from work. The last we know she was
5 laying on her couch. And the next morning she
6 was found still laying on the couch, but evidence
7 is going to show that she had had her head
8 smashed in by a hammer numerous times, laid there
9 in her blood until her heart stopped beating.

10 What else are we going to hear? Well, we're
11 going to hear from witnesses that were in the
12 area, saw certain things, heard certain things,
13 saw certain people, and you're going to get to
14 see them in the chair.

15 I'm not going to go through all the details
16 because I want you to listen. I want you to
17 remember it from their mouths, not from mine.
18 And I want you to hear the events that surrounded
19 Zola Robinson's death and the next few hours, the
20 next day, the activities of Juan Nimmons.

21 Now, I know everyone has a mother. No truer
22 statement than that. I would ask you to listen
23 carefully, watch carefully, be attentive. And I
24 know you will.

25 This is a serious thing. This didn't happen

OPENING STATEMENTS ON BEHALF OF THE STATE

1 on TV. It didn't happen on the other side of the
2 country. It happened right over on Locust Street
3 in Denmark.

4 And this woman was killed, laying on a
5 couch, with a hammer. So, whoever did this needs
6 to be taken very seriously.

7 I believe once you hear the evidence from
8 that chair, not from my mouth, not from the
9 defense mouth, the defense attorney's mouth, but
10 from that chair, and use your common sense which
11 they didn't, they didn't have a box sitting by
12 that door that said, please check your common
13 sense when you come here to serve as a juror.

14 You should use that. You can use that, and
15 you should evaluate what you hear in that chair
16 with your common sense and come up with the
17 truth, not what might, and not what might could
18 have, not what we can dream up, but the truth.

19 Now the Judge is going to tell you what
20 reasonable doubt is, what the State must prove
21 beyond a reasonable doubt. Nowhere is he going
22 to say beyond every shadow of a doubt. Nowhere
23 is he going to say beyond any doubt whatsoever.
24 He's going to say beyond a reasonable doubt.

25 And the law recognizes that it's hard to

OPENING STATEMENTS ON BEHALF OF THE STATE

1 prove anything one hundred percent because we
2 don't have a camera in every room in the world.
3 We don't have a news crew filming out on the
4 street.

5 This isn't Perry Mason. This isn't LA Law.
6 This is the real world and that's just not
7 reality.

8 And so juries that sit in the real world and
9 take oaths like you've taken have to watch that
10 chair over there and apply their common sense and
11 decide what happened without having every line
12 filled in because that's not reality.

13 Again, I thank you and I apologize for what
14 you're going to have to hear over the next day
15 and a half or so. And I ask you to please keep
16 in mind the seriousness of this crime.

17 And I believe that once you hear everything
18 that's been said, you'll be able to go back in
19 that room and apply what the Judge tells you and
20 come up with a verdict that you can live with
21 that speaks the truth. And I believe that
22 verdict will be guilty.

23 Thank you.

24 THE COURT: Mr. Koger?

25 MR. KOGER: May it please the Court.

OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 THE COURT: Yes, sir.

2 MR. KOGER: Solicitor Gibbons.

3 Good morning. My name is Joshua Koger and I
4 represent the Defendant in this case, Juan
5 Mickell Nimmons.

6 Juan loved his mother very much. According
7 to Juan, his mother was the only one that stood
8 by him through thick and thin. They talked to
9 each other. They laughed together and, yes,
10 unfortunately they cried together because of
11 Juan's drug addiction.

12 And that's going to come out here today.
13 It's going to come out and we want it out front.
14 Juan's story is a story of promise unfulfilled.

15 Before when Juan went down this downward
16 spiral of drug addiction he was an upstanding
17 young man. And you will hear about it because
18 Juan is going to take the stand.

19 Military. Gainfully employed for a decade
20 and a half, and volunteer service. But you will
21 hear about it when Juan takes the stand, because
22 I can say in my opening, which in other cases I
23 may not can say, is that Juan Nimmons will take
24 the stand because through the next couple of days
25 he wants the truth to be told.

OPENING STATEMENTS ON BEHALF OF THE DEFENSE

33

1 And he wants to tell the truth of what
2 happened on August the 6th, August 7th, August
3 8th, and August 9th of 1998. And he will tell
4 you from this chair right here in no uncertain
5 terms that he did not kill or rob the one person
6 that stood by his side since day one.

7 Now, Juan knows he has a tough row to hoe.
8 No doubt. He is accused, as Solicitor Gibbons
9 implied, with probably the most hideous crime
10 that someone can be accused of.

11 Not only he is accused of murder. And,
12 let's face it, not only he is accused of killing
13 a parent but he is accused of killing the very
14 person that brought him life; his mother.

15 And he knows that he has a tough row to hoe
16 but he maintains his innocence.

17 Now, the State eventually in this trial will
18 submit a videotape statement and on that
19 statement Juan made incriminating statements. We
20 ask you as the jury to keep an open mind when it
21 comes to that statement because Juan is going to
22 get on this stand and he's going to explain that
23 statement.

24 He is going to explain what he did up until
25 he gave that statement. He is going to explain

OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 his state of mind and what transpired immediately
2 before he gave that statement.

3 And he is going to explain what was going
4 through his mind, again, as he was giving that
5 statement.

6 This case is going to turn on, make no bones
7 about it, on whether you believe Juan Nimmons on
8 this stand during the next couple days.

9 And he has anxiously awaited for a long time
10 to have this opportunity to come to this
11 courtroom and tell his side of the story.

12 Now also, as Solicitor Gibbons told you,
13 other evidence will come from that stand. And,
14 as the Judge stated in his opening remarks to
15 you, that you must judge the believability and
16 credibility of those who sit in that chair.

17 You must filter out and figure out who has
18 something to gain, who has something to lose, who
19 has an axe to grind, and who has a dog in this
20 fight. That is your job over the next days as
21 jurors.

22 It is true that the State must prove their
23 case beyond a reasonable doubt that Mr. Nimmons
24 is guilty of murder and armed robbery.

25 And even though the State does not have to

OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 prove their case beyond a shadow of a doubt, and
2 Judge Clary will instruct you at the end on
3 beyond a reasonable doubt, but for now it is a
4 doubt that would cause a reasonable person to
5 hesitate to act.

6 Right now, Juan sits over here in this cloak
7 of innocence. Right now and throughout this
8 trial, Juan is an innocent man. And he needs you
9 as -- the jury need perceive him as such until or
10 if the State proves their case.

11 I am confident that after hearing the
12 testimony coming from this stand and viewing the
13 evidence and hearing Juan Nimmons on the stand
14 tell you that he did not kill his mother, I am
15 confident that three things will become apparent;
16 that Juan loved his mother very much, that he was
17 not capable of killing his mother, and that he is
18 not guilty of murder and armed robbery.

19 Thank you.

20 THE COURT: Let me see the lawyers at
21 the bench just a moment, please.

22 (Off-the-record discussion.)

23 THE COURT: Call your first witness,
24 please.

25 MR. GIBBONS: State would call Beverly

TESTIMONY: B WHETSTONE/DIRECT

1 Whetstone.

2 (Oath administered.)

3 THE COURT: Please state your name for
4 the record, spell your last name.

5 THE WITNESS: Beverly Whetstone,
6 W-H-E-T-S-T-O-N-E.

7 BEVERLY WHETSTONE, being duly sworn, was
8 examined and testified as follows:

DIRECT EXAMINATION

9
10 BY MR. GIBBONS:

11 Q Miss Whetstone, where do you live?

12 A South Locust.

13 Q And how long have you lived there?

14 A Thirty-three years.

15 Q And do you live by yourself?

16 A No, I do not.

17 Q Who lives there with you?

18 A Mother and father, son.

19 Q What are their names?

20 A William Nimmons, Albertha Nimmons and
21 Reginald Whetstone.

22 Q And they're all your relatives?

23 A Yes.

24 Q Does anyone else live in that household?

25 A No.

TESTIMONY: B WHETSTONE/DIRECT

1 Q Back in August of '98, who was living in
2 that household?

3 A August of '98?

4 Q Yes, ma'am.

5 A The same.

6 Q And is that a residential neighborhood?

7 A Yes, it is.

8 Q I'm going to show you what's been marked
9 for ID as State's Exhibit Number 2.

10 Can you recognize that?

11 A Yes, I do.

12 Q Can you tell me what that photograph
13 represents?

14 A The first is the main house which we live,
15 the carport, and in the back is the trailer.

16 Q And is that a fair and accurate
17 representation of your --

18 A Yes.

19 Q -- house?

20 A Yes, it is.

21 Q And your yard?

22 A Yes, it is.

23 Q And does it look about as it looked in
24 August of 1998?

25 A Yes, it is.

TESTIMONY: B WHETSTONE/DIRECT

1 MR. GIBBONS: State would move State's
2 Exhibit 2 into evidence.

3 THE COURT: Any objection?

4 MR. KOGER: No objection, Your Honor.

5 THE COURT: Without objection, State's
6 Number 2 is admitted.

7 (State's Exhibit 2, aerial photograph, was received
8 into evidence.)

9 BY MR. GIBBONS:

10 Q May it please the Court and Miss Whetstone,
11 could you come and show the jury the buildings that
12 are on this picture?

13 THE COURT: You need to keep your voice
14 up while you're off the stand, please, ma'am.

15 THE WITNESS: Okay.

16 BY MR. GIBBONS:

17 Q Talk loudly. I'm going to hold it. If you
18 could, show the jury the different buildings and who
19 lives where.

20 A This is the house, up front, where we live,
21 my mother, father, and son. And in the back the
22 carport. And in the back of the yard is the trailer
23 that my sister lived.

24 Q Okay. What was your sister's name?

25 A Zola Pat Robinson.

TESTIMONY: B WHETSTONE/DIRECT

1 Q What did you call her?

2 A Pat.

3 Q And who else lived in that trailer?

4 A Juan.

5 Q Juan Nimmons?

6 A Yeah.

7 Q Is he in the courtroom here today?

8 A Yes, he is.

9 Q Could you point him out, please?

10 A (Complying.)

11 Q Let the record reflect that she pointed
12 toward the Defendant.

13 And, what are some of these other
14 buildings?

15 A Next door is the neighbor's house.

16 Q And what road is this running here?

17 A This is Locust Avenue.

18 Q And if I went to your right as you're
19 looking at the picture, where does the Locust Avenue
20 end up?

21 THE COURT: Mr. Gibbons, I think the
22 Foreman's having a little trouble seeing.

23 THE WITNESS: Right -- if you go to my
24 house?

25 BY MR. GIBBONS:

TESTIMONY: B WHETSTONE/DIRECT

1 Q Right.

2 A It goes up to the corner which is the
3 projects up the street from me.

4 Q And what if you go to the left?

5 A It comes down past Libby's Funeral Home and
6 the church and all of that.

7 Q Does it cross a major highway at any point?

8 A Highway -- is that 70 going to Barnwell?

9 Q And how far down is that?

10 A Two blocks down.

11 Q So two blocks off of 70 is where you live?

12 A Yes.

13 Q Go ahead and have a seat.

14 A (Complying.)

15 Q What was your relationship with your
16 sister?

17 A What was my relationship?

18 Q Yes, ma'am.

19 A Oh. We got along well together.

20 Q Did you see each other often?

21 A Just about every day.

22 Q And did you talk?

23 A Oh, we say hello and how did your day go,
24 or whatever, you know, and some things she'd say.

25 Q And how long did she live back there?

TESTIMONY: B WHETSTONE/DIRECT

1 A God. Thirty years or more.

2 Q So, you've been --

3 A Yes.

4 Q -- across the yard from each other for that
5 whole time?

6 A Yes.

7 Q Are you familiar with her day-to-day
8 activities?

9 A Somewhat.

10 Q What was the typical day?

11 A She'd get up, like, five in the morning.
12 She usually leave at five or 5:30 going to work. She
13 worked, like, ten hours a day. She come in about
14 five in the afternoon.

15 Q And --

16 A Most of the time she'd go into her trailer
17 and every once in awhile she would walk up to the
18 house and then go back unless if she was going to
19 choir practice or something.

20 Q And did she have a vehicle?

21 A Yes, she did.

22 Q What did she have, do you know?

23 A A green Lumina, year '93 or something like
24 that. I'm not sure.

25 Q Let's go back to August of 1998. On the

TESTIMONY: B WHETSTONE/DIRECT

1 6th of August, did you see your sister?

2 A 6th of August, that was that Thursday.
3 Yes, I did.

4 Q Tell us what happened that day.

5 A Well, after came from work I go inside,
6 like I usually do. And about five she came in, went
7 through the yard. I spoke to her.

8 She went on into the trailer. And I didn't
9 see her anymore at the time. And later on that
10 afternoon, on Wednesday -- or Thursday, she usually
11 pick up the newspaper.

12 I sent my nephew down, Antyra
13 (phonetically) Nimmons to ask her did she get the
14 paper and he came back saying she was going to read
15 it and she would bring it to me after she finished
16 with it.

17 So when she did she brought it up to the
18 house and she was showing me a picture of her boss,
19 they were having a birthday party for him which would
20 be on that Friday. And she was showing me his
21 picture and everything and she was telling me she
22 would like to have that picture back.

23 I said, when I finish the paper I will
24 bring it back to you. And that was about 8:30. I
25 took it back down at the trailer to her.

TESTIMONY: B WHETSTONE/DIRECT

1 Q 8:30 in the evening?

2 A Yes.

3 Q And where had she been that day; do you
4 know?

5 A I guess she went to work and came home, I
6 guess.

7 Q Do you remember how she was dressed?

8 A She was in her work uniform.

9 Q And where did she work?

10 A Phoenix, Bamberg.

11 Q So, you talked to her about 8:30 that
12 night?

13 A Yes, I did.

14 Q What was the last thing you had with her
15 that night?

16 A No, we were just talking about the little
17 party that they were supposed to have and, you know,
18 what she was supposed to take, you know, at the party
19 and that's about it.

20 She was lying on the couch when I went back
21 down there.

22 Q Was anybody else in the trailer?

23 A I didn't see anyone.

24 Q You said Juan did live with her, though;
25 correct?

TESTIMONY: B WHETSTONE/DIRECT

1 A Yeah. He was in and out.

2 Q What relationship are they? I don't know
3 if you ever --

4 A That's her son.

5 Q And he lived there with her?

6 A Yes.

7 Q And do you know how old he is?

8 A Thirty-five, thirty-eight, something.

9 Q And how long had he been living there?

10 A Oh gosh. He be there in and out often, you
11 know. He was in Georgia for awhile and then he came
12 back. I can't remember the exact dates of how long.
13 It was a few months.

14 Q Are you familiar with your sister's
15 personal habits?

16 A Some. Yes.

17 Q Do you have any knowledge of any habits she
18 had about her person or anything like that?

19 A Of what she did? Explain. I mean, like,
20 what?

21 Q Well, say, did she have a checking account?
22 Did she --

23 A Yes. She had a checking account and --

24 Q Did she carry money or anything like that?

25 A She always kept her money in a little black

TESTIMONY: B WHETSTONE/DIRECT

1 pouch which she always keeps down in her bra.

2 Q In her bra?

3 A Yes.

4 Q Have you seen her with money kept there?

5 A Yes, I have.

6 Q That was a habit of hers?

7 A Yes.

8 Q When you -- the last time you saw your
9 sister, Pat, that night, what was the last thing you
10 saw her doing?

11 A Last thing I saw her, she was lying on the
12 couch watching TV.

13 Q And do you remember what she had on?

14 A Her work uniform.

15 Q Do you remember anything else about the
16 room?

17 A No. It was neatly arranged at the time
18 that I was there.

19 Q And I think you said you had gone there,
20 something about a paper?

21 A The newspaper.

22 Q Tell us about that again, please.

23 A Well, when I took it back she just told me
24 to put it there on the freezer or whatever.

25 Q And so that was why you went back over

TESTIMONY: B WHETSTONE/DIRECT

1 there?

2 A Yeah. To take her her paper.

3 Q And did you see your sister again?

4 A The next morning. Not no more that
5 evening.

6 Q Did anything else happen that night?

7 A Not that I know of, not to my knowledge.

8 Q And --

9 A Other than that she was murdered sometime
10 during the night.

11 Q Do you know what county your house is in?

12 A Bamberg.

13 Q Did you see anyone else at the house that
14 evening?

15 A No, I did not.

16 Q You talked about Pat having a car. Did
17 anyone else drive her car?

18 A Juan would drive it sometime.

19 Q Have you seen him drive it?

20 A Yes.

21 Q And had you seen her give it to him?

22 A Yes.

23 Q Had you ever had any other contact with
24 Juan and his mom and the car?

25 A No. Other than some mornings I'd have to

TESTIMONY: B WHETSTONE/DIRECT

1 take her looking for her car. That's about it,
2 couple of mornings.

3 Q And did you find it those mornings?

4 A No, I did not.

5 MR. GIBBONS: Answer any questions Mr.
6 Koger has, please.

7 THE COURT: Cross examination, Mr.
8 Koger.

CROSS EXAMINATION

9
10 BY MR. KOGER:

11 Q First of all, I want to extend my
12 condolence for your sister.

13 Miss Whetstone, you stated that you saw
14 your sister the next morning. Did you see her alive
15 the next morning?

16 A No. I saw her dead.

17 Q I just wanted to clarify that.

18 A Okay.

19 Q Now, when you gave your initial statement
20 to law enforcement back in December, isn't it true
21 that you mentioned you may have seen someone coming
22 out of the trailer at four o'clock in the morning?

23 A Yes, I did.

24 Q And I think you wrote in the statement that
25 you was going to the bathroom or something?

TESTIMONY: B WHETSTONE/CROSS

1 A Yes.

2 Q And where is that bathroom window?

3 A Facing the trailer, on the back.

4 Q Facing the trailer?

5 A Uh-huh. From the house it's on the back of
6 the house and the trailer's down beyond it.

7 Q And what is the lighting between the house
8 in which you stayed and Miss Robinson's trailer?

9 A It's real good because we have a street
10 light right there on the corner. It shines real good
11 to the back.

12 Q And I think you stated to law enforcement
13 that you couldn't tell whether there was a man or a
14 woman that was coming out of the trailer?

15 A No, I couldn't tell what it was but I could
16 just describe what they had on.

17 Q What they had on?

18 A Yes.

19 Q How did you know it was four o'clock? You
20 saw a clock?

21 A Because I always watch my clock when I get
22 up to go to the bathroom.

23 Q Okay. Can you recall the description of
24 the person?

25 A I couldn't give a description of the

TESTIMONY: B WHETSTONE/CROSS

1 person.

2 Q As far as height and weight?

3 A Maybe about five-five, five-six, or
4 something like that.

5 Q Okay. And I think in your statement you
6 described some clothing.

7 A Dark top with a light blue, looked like a
8 skirt to me. I don't know if it was skirt or pants.
9 It just looked like a skirt. Long skirt all the way
10 down to the ankles.

11 Q And were you able to, able to point out the
12 race of the person?

13 A I couldn't really tell that because it was
14 from the back.

15 Q From the back?

16 A Yes.

17 Q Okay. And could you tell the gender of the
18 person, whether it was a man or woman?

19 A I couldn't really tell that.

20 Q Okay. And how -- well, how long did you
21 observe this person?

22 A Well, when I went to the bathroom they
23 were, like, on their way into the trailer. So I went
24 on and did what I had to do. And at that time I went
25 around to the kitchen window to see if I saw a car

TESTIMONY: B WHETSTONE/CROSS

1 out front.

2 Q Okay.

3 A No car. So, I went back to my bedroom.

4 Q Okay.

5 A And I looked to see if anyone was coming
6 out of the trailer which I did not. And about 4:15 I
7 looked at the clock again, I hear a car and I looked
8 out my other window, which would be on the side of
9 the street, you know, I could see the street.

10 Q Right.

11 A And that was pulling off. And that's all
12 that I saw.

13 Q Now, when you went to the window to look
14 for a car, were you looking for Miss Robinson's car
15 or just any car?

16 A No. The car that was pulling off was not
17 her car. Her car was not at home at the time.

18 Q And could you give a description of the car
19 that pulled off?

20 A It looked to be a beige-color car because
21 it was right under the street light, a cream color or
22 beige or something like that.

23 Q Could you tell whether that car actually
24 pulled off from your house?

25 A No. It wasn't from my house, it was from

TESTIMONY: B WHETSTONE/CROSS

1 up the street. It was the house next to me, pulled
2 out between the house and that project, I would say.

3 Q Okay. Now, back to the prior day before
4 midnight, did you see Juan anytime?

5 A No, I did not see him.

6 Q And what time were you in for good that
7 particular night?

8 A What time did I --

9 Q Yeah.

10 A I went to bed around eleven.

11 Q Went to bed around eleven?

12 A Yes.

13 MR. KOGER: Thank you. I have no
14 further questions.

15 THE COURT: Redirect?

16 MR. GIBBONS: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. GIBBONS:

19 Q Beverly, this person, you don't know if it
20 was a man or woman?

21 A Well, it looked to be like a woman to me.

22 Q But you don't know for sure?

23 A No, because -- I just say a woman because
24 it looked like they had a skirt on.

25 Q And it looked like a skirt, I think is what

TESTIMONY: B WHETSTONE/REDIRECT

1 you said?

2 A Yeah. Well, the hairdo it looked like a
3 woman, too, maybe, but I didn't --

4 Q There are houses on each side?

5 A Yes. On each side.

6 Q And they have cars coming and going?

7 A Yes. Well, the one on one, no. The one in
8 the fence there, they don't go -- her car doesn't
9 work.

10 Q What about your street, cars go up and down
11 the street?

12 A Yes. Yes.

13 Q All night long?

14 A Yes.

15 Q And did you get at good look at the car?

16 A Not really. I just saw the back with the
17 lights.

18 Q Did you see where the car started out from?

19 A It looked like it came from just past the
20 house next door.

21 Q The house next door?

22 A Yes.

23 Q And you don't know how many people were in
24 it?

25 A I do not.

TESTIMONY: B WHETSTONE/REDIRECT

1 Q And you don't know how long they were in
2 the car?

3 A No.

4 Q Did you see anybody actually go inside
5 Zola's trailer?

6 A Yes. Yes. At that time I saw someone go
7 in the trailer.

8 Q The door opened?

9 A The door opened and they went inside.

10 Q Did that strike you as strange?

11 A Yes, somewhat, but knowing my nephew, you
12 know, they be in and out just all the time. So it
13 just really didn't dawn on me at that time.

14 Q So, this wasn't the first time someone
15 would come over like that?

16 A Yeah. They were going in, you know, at all
17 different times. I wouldn't say exactly at four
18 o'clock in the morning.

19 Q But it didn't seem out of place?

20 A No.

21 Q And you never saw a face?

22 A No, I did not.

23 Q And you went back to bed?

24 A I did.

25 MR. GIBBONS: I have nothing further.

TESTIMONY: B WHETSTONE/RE CROSS

THE COURT: Recross?

RE CROSS EXAMINATION

BY MR. KOGER:

Q Miss Whetstone, if it had been Juan would you be able to tell whether or not it was Juan or not going inside the trailer?

A I probably could, if I saw him from the back.

Q So, you could tell whether it would have been him if it was him?

A Yeah, because they had hair. He didn't have any hair.

MR. KOGER: Thank you. I have no further questions.

THE COURT: Thank you, ma'am. You can step down.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MR. GIBBONS: Thank you, Your Honor.
The State would now call William Nimmons.

THE COURT: William Nimmons, please.
(Oath administered.)

THE COURT: All right. If you would slide up to the microphone.

THE WITNESS: Yes, sir.

TESTIMONY: W NIMMONS/DIRECT

1 THE COURT: State your name for the
2 record, please.

3 THE WITNESS: William Nimmons.

4 WILLIAM NIMMONS, being duly sworn, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GIBBONS:

8 Q Mr. Nimmons, where do you live?

9 A Denmark.

10 Q How long have you lived in Denmark?

11 A Oh, about eighty-one years.

12 Q And how old are you?

13 A Eighty-one years.

14 Q Been there your whole life?

15 A All my life.

16 Q What's your address over in Denmark, sir?

17 A Locust Avenue. I think.

18 Q And who lives there with you?

19 A My wife, daughter.

20 Q And anyone else?

21 A And my grandchild.

22 Q Back in August of last year, who was living
23 there at your address?

24 A My daughter, Zola Robinson, in the trailer.

25 Q And where was that trailer?

TESTIMONY: W NIMMONS/DIRECT

1 A In my back yard.

2 Q Anyone else living there?

3 A Juan Nimmons.

4 Q And who is Juan Nimmons?

5 A We call him Butch.

6 Q And who is he to you?

7 A That's my grandchild.

8 Q Who's his mama?

9 A Zola Robinson.

10 Q Mr. Nimmons, did you have another name you
11 called Zola or did you call her Zola?

12 A Pat.

13 Q You called her Pat.

14 I want to turn you back to August of last
15 year about the 6th, or the 7th. Did anything happen
16 on the morning of the 7th?

17 A Yeah. When -- well, I was at the market
18 that morning, I come in about twelve o'clock and I
19 got up Friday morning. Darryl had brought the key
20 around there and said --

21 Q Okay. Who's Darryl?

22 A Darryl Williams.

23 Q Is he related to you?

24 A That's my wife nephew.

25 Q And he came to your house?

TESTIMONY: W NIMMONS/DIRECT

1 A Yeah.

2 Q What time?

3 A About seven o'clock.

4 Q In the morning?

5 A Morning. Seven o'clock.

6 Q And what happened when he came to your
7 house, sir?

8 A He give me the keys and said here's the
9 keys.

10 MR. KOGER: Objection, Your Honor.

11 THE COURT: State your ground.

12 MR. KOGER: Hearsay. He's about to
13 testify to what Darryl told him.

14 THE COURT: Sustain the objection.

15 MR. GIBBONS: Thank you, Your Honor.

16 THE COURT: Please just state what you
17 know, sir.

18 BY MR. GIBBONS:

19 Q Mr. Nimmons, not saying what he said but
20 what did he do?

21 A Well, if y'all give me a chance I will.

22 Q Yes, sir. Just say what he did, not what
23 he said.

24 A He give me the keys.

25 Q The keys to what, sir?

TESTIMONY: W NIMMONS/DIRECT

1 A The car.

2 Q Whose car?

3 A Zola car.

4 Q What did you do after he gave you the keys?

5 A I give them to my wife and she told me to
6 go down there and tell Pat her keys is up here at the
7 house.

8 Q All right. So, what did you do?

9 A I went down to the trailer.

10 Q All right. Let's stop for a minute.

11 I'm going to show you something that's been
12 in evidence as State's Exhibit Number 2.

13 Do you recognize that?

14 A I reckon. Yes, sir.

15 Q What is that?

16 A That's my house and there's the trailer.

17 Q And is that where you were that morning?

18 A That's where I was that morning, at my
19 house.

20 Q And what did you do when you walked out of
21 your house?

22 A I went down to the trailer to get Pat.

23 Q Take her keys back?

24 A Take her keys back.

25 Q What happened when you got to the trailer?

TESTIMONY: W NIMMONS/DIRECT

1 A I couldn't get no answer.

2 Q So, what did you do next?

3 A I got a key to the trailer and -- I went
4 back at the house to get my key to go in the trailer.
5 And I put the key in the door and went in there and
6 she was laying on the couch.

7 Q You went back to get your key. Did you do
8 anything else when you went back to the house?

9 A No, I didn't do anything but went back to
10 the house and got the key.

11 Q Did you go back by yourself?

12 A Back by myself.

13 Q Did anyone else come back in there with
14 you?

15 A After I went back and told my wife that I
16 couldn't get no answer and she asked me why and I
17 said, because she's dead. She asked me how I knew
18 she was dead. I said, I felt her arm and she was
19 cold and then she went down there and pulled the
20 cover off and there she was laying in her blood.

21 Q When you say -- tell me what you saw when
22 you walked in the trailer the first time.

23 A Not a thing, but she was just laying there
24 covered up.

25 Q Laying where?

TESTIMONY: W NIMMONS/DIRECT

1 A On the couch with her arms sticking out
2 from under the blanket.

3 Q And as soon as you opened the door you
4 could see that?

5 A Yes, sir. I seen it by the time I opened
6 the door. I seen it. It was right there in my eyes.

7 Q And did you know who it was for sure?

8 A Well, I know her by hand. I know her hand.
9 I couldn't see nothing but the hand.

10 Q Tell us if -- you said something about a
11 cover.

12 A She was covered up.

13 Q With what?

14 A With a quilt or blanket or something.

15 Q And did you take this off?

16 A No, I didn't take it off.

17 Q What did you do?

18 A I went back to my house.

19 Q All right. And got your wife?

20 A Got my wife.

21 Q And then what did the both of you do?

22 A Went back down to the trailer.

23 Q And what happened then?

24 A My wife uncovered her and she found her
25 laying in her blood. And then I had to try to get

TESTIMONY: W NIMMONS/DIRECT

1 her quiet, went back to the house and at that time my
2 son was there and he called 911.

3 Q And did the law come?

4 A Yeah.

5 Q Who showed up that day?

6 A Mr. Bell and who else, I don't know the
7 rest of the men.

8 Q A lot of people?

9 A That's right.

10 Q Was anyone else in the trailer that
11 morning, Mr. Nimmons?

12 A No. Nobody in the trailer.

13 Q Did you see Juan that morning?

14 A I didn't see Juan.

15 Q Did you see Pat's car?

16 A Yeah. Car was right there in front of the
17 house.

18 MR. GIBBONS: Answer any questions Mr.
19 Koger has, please.

20 THE COURT: Cross examination, Mr.
21 Koger?

22 MR. KOGER: Yes, Your Honor.
23 (Off the record discussion.)

24 MR. KOGER: No further questions, Your
25 Honor.

1 THE COURT: All right. Thank you, sir.
2 You can step down, sir.

3 THE WITNESS: Thank you sir.

4 THE COURT: Call your next witness.

5 MR. GIBBONS: State would call Officer
6 Joe Bell.

7 (Oath administered.)

8 JOE BELL, being duly sworn, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GIBBONS:

12 Q Mr. Bell, where are you employed?

13 A Denmark Police Department.

14 Q And how long have you been with the Denmark
15 Police Department?

16 A Going on twenty-six years.

17 Q And what's your rank there?

18 A Captain.

19 Q Were you working as a captain at the police
20 department back in August of 1998?

21 A Yes, I was.

22 Q And did anything happen that day?

23 A I received a call from dispatch to go to
24 the number of this house on Locust Street in Denmark,
25 that the daughter was in the trailer and they thought

TESTIMONY: J BELL/DIRECT

1 she was dead.

2 Q What did you do then?

3 A I arrived on the scene and got Mr. William
4 Nimmons and his wife, Nancy Nimmons, from the
5 trailer.

6 I went inside the trailer and they told me
7 what had happened. Just as you walked in the door
8 you could see Miss Zola Robinson on the couch covered
9 with blood.

10 I checked for pulse, couldn't find a pulse,
11 brought them back out of the house, secured the
12 house, called the coroner, called SLED forensics,
13 called the Solicitor's Office to send the
14 investigator's office there, called my other police
15 officer that was working to come secure the crime
16 scene until the Crime Scene Unit could get there.

17 Q And when you say secure the crime scene,
18 what does that mean?

19 A I used the tape to seal the area off where
20 nobody couldn't get in it. I closed the back door
21 off where nobody could go in the trailer and waited
22 on the Crime Scene Unit to get there from the
23 Solicitor's Office.

24 Q When you say the crime scene, what does
25 that mean?

TESTIMONY: J BELL/DIRECT

1 A The crime scene is where the murder
2 happened at, where the incident happened.

3 Q I think you said you called somebody named
4 Crime Scene Unit?

5 A I called the crime unit from SLED to come
6 process the crime scene.

7 Q Why did you do that?

8 A That's standard procedure when you have a
9 homicide.

10 Q And did they come down here?

11 A Yes, they did.

12 Q From that point on, who does the
13 investigation?

14 A They do, assisted by us or the Solicitor's
15 Office.

16 Q Did they come down that day?

17 A Yes, they did.

18 Q And did you continue to work on the scene?

19 A Well, I got out and started looking for a
20 weapon that was used.

21 Q Were you inside the trailer?

22 A I went in the trailer and came back out and
23 after I came back out I didn't go back in.

24 Q And what were you doing?

25 A What was I doing?

TESTIMONY: J BELL/DIRECT

1 Q Yes.

2 A I walked around the area and was looking
3 for the weapon. And I found the hammer in the back
4 yard and I advised them where it was at. And that
5 was it, other than talking to the officers.

6 Q I'm going to hand you what's been marked
7 for ID as State's Exhibit 1.

8 Can you identify that, Mr. Bell?

9 A Yes, I can. This is a photo that was taken
10 by Bobby Friarson, one of our State Constables, of
11 the area where the crime happened at.

12 Q And does that fairly and truly and
13 accurately represent the area of Locust Avenue?

14 A Yes, it does.

15 MR. GIBBONS: Your Honor, the State
16 would move State's Exhibit 1 into evidence at
17 this time.

18 THE COURT: Any objection?

19 MR. KOGER: No objection.

20 THE COURT: Without objection, State's
21 Exhibit 1 admitted into evidence.

22 MR. GIBBONS: Thank you, Your Honor.
23 (State's Exhibit 1, aerial photo, was received into
24 evidence.)

25 BY MR. GIBBONS:

TESTIMONY: J BELL/DIRECT

1 Q Mr. Bell, could you please step down and
2 show the jury the various items on this photograph?

3 THE COURT: Keep your voice up, please.

4 BY MR. GIBBONS:

5 Q If you could show this end, and show that
6 end.

7 A All right. This is Locust Street, called
8 South Locust Street. If you're looking at the
9 picture this way, to your right would be coming back
10 out to Highway 70 which would go to Barnwell.

11 If you're going to the left from Nimmons'
12 house, you come back out to what is called Mill Pond
13 Road which is now Vorhees Road.

14 This is Mr. Nimmons' house here. This is
15 the trailer that Miss Zola Robinson was living in,
16 back in behind the house.

17 This is the shed where the pick-up was.
18 Miss Moody lives in this house. She's an elderly
19 lady and she's got a yard but she has no visitors.
20 The house on the left-hand side is where the Hamptons
21 live at. They have quite a few people in and out,
22 but this is the area right there.

23 Q What about on down the road, are there any
24 other landmarks?

25 A This is the Locust Street Project right

TESTIMONY: J BELL/DIRECT

1 here, on the left-hand side. This is part of the
2 Locust Street Project.

3 Q All right. Come down and show the jury on
4 this end.

5 A This is the Locust Street Project. This
6 road comes out to Mill Pond Road which is now
7 Voorhees Road. This side here comes back to the road
8 to go to Barnwell. This is Mr. Nimmons' house. This
9 is his carport right here this is Miss Zola
10 Robinson's house here. Miss Moody's house is here.
11 Miss Hampton's house is here.

12 Q Thank you, Mr. Bell.

13 I'm going to show you what's been put into
14 evidence and marked as State's Exhibit 2.

15 Please stay down here for a minute.

16 A Uh-huh.

17 Q This is State's Exhibit 2. You mentioned
18 that you found a hammer.

19 A Yes, sir.

20 Q Could you please show the whole jury
21 exactly where that was?

22 A Back in this wooded area, right behind the
23 house.

24 Q The foreman can't see you.

25 A Right over in this area here (indicating)

TESTIMONY: J BELL/DIRECT

1 in the bushes was a hammer. Had blood all over it.

2 I marked there where it was at, went back
3 and told the agents where the hammer was located at
4 and they came back and secured the hammer.

5 Right in behind the trailer is where the
6 hammer was found, in the bushes. There was blood all
7 over where I found it at, back in behind the trailer.

8 It was thrown there by Juan.

9 MR. KOGER: Objection, Your Honor.

10 THE COURT: State your ground.

11 MR. KOGER: The statement that Juan
12 threw the hammer is speculation.

13 THE COURT: Speculation. Ask the jury
14 to disregard and ask that it be stricken from the
15 record.

16 Please keep your voice up. If you're not
17 going to keep your voice up, you can come back
18 over here and have a seat.

19 THE WITNESS: Yes, sir.

20 BY MR. GIBBONS:

21 Q Mr. Bell, I'm going to show you some
22 photographs. I'm going to ask you, first, if you can
23 tell me, if you can, identify what they represent,
24 State's Exhibit 9.

25 A This was the back yard of the trailer of

TESTIMONY: J BELL/DIRECT

1 **Mrs. Zola Robinson.**

2 **Q State's Exhibit 8?**

3 **A This is still the back side of Zola**
4 **Robinson's house.**

5 **Q State's Exhibit 10?**

6 **A Still the back side of Zola Robinson's**
7 **house.**

8 **Q State's Exhibit 11?**

9 **A This is a picture of the hammer that was**
10 **found.**

11 **Q Okay. State's Exhibit 12?**

12 **A Another picture of the hammer that was**
13 **found.**

14 **Q And, do all these photos fairly and**
15 **accurately represent things you saw on that day?**

16 **A Yes, it does.**

17 **MR. GIBBONS: Your Honor, State would**
18 **move items 8, 9, 10, 11 and 12 into evidence.**

19 **MR. KOGER: No objection.**

20 **THE COURT: Without objection State's**
21 **8, 9, 10, 11, and 12 are admitted without**
22 **objection.**

23 **(State's Exhibits 8, 9, 10, 11 & 12, photographs,**
24 **received into evidence.)**

25 **BY MR. GIBBONS:**

70

TESTIMONY: J BELL/DIRECT

1 Q Could you tell us what State's Exhibit 8
2 is?

3 A This is a picture of the back side of Miss
4 Zola Robinson's house. This is one back door.
5 There's another one down here.

6 Q State's Exhibit 9?

7 A This is the back yard with the fenced-in
8 area that, a little over back here, you can go behind
9 this area where the hammer was.

10 Q Once again, on State's Exhibit 9, could you
11 show the jury where the hammer was?

12 A Hammer was located back behind the fence
13 over here (indicating).

14 Q Back in that field area?

15 A Yes, sir.

16 Q State's Exhibit 10?

17 A This is another photo of the back side of
18 the house. This is another back door. This back
19 door here goes back to the kitchen area.

20 Q State's Exhibit 11?

21 A That's the picture of the hammer with the
22 blood on it that was found in the wooded area.

23 Q State's Exhibit 12?

24 A It's another picture of the hammer with the
25 blood on it. That was found right there

TESTIMONY: J BELL/DIRECT

1 (indicating).

2 Q I show you what's been marked as State's
3 Exhibit 21.

4 MR. KOGER: No objection, Your Honor.

5 THE COURT: Without objection State's
6 Exhibit 21 will be admitted.

7 (State's Exhibit 21, hammer, was received into
8 evidence.)

9 THE WITNESS: That's the hammer that
10 was located in the bush.

11 BY MR. GIBBONS:

12 Q Mr. Bell, this hammer looks a little
13 different.

14 A Well, it's got fingerprint powder on it and
15 something to lift the prints on it.

16 Q But it's your testimony that this is the
17 hammer --

18 A Yes.

19 Q -- that you found that day?

20 A Yes, sir.

21 Q Did you collect it?

22 A No, sir; SLED collected it.

23 Q You just found it.

24 A I just found it.

25 Q Color changes what --

TESTIMONY: J BELL/DIRECT

1 A What?

2 Q What's the color difference on it?

3 A Color difference on it is where they got
4 the fingerprint powder and stuff that they used to
5 lift the prints off of it and process it.

6 MR. GIBBONS: One moment, Your Honor.

7 (Off-the-record discussion.)

8 BY MR. GIBBONS:

9 Q Officer Bell, were any arrests made that
10 day?

11 A No, sir.

12 Q And, what did you do the rest of that day?

13 A Well, begin to look for Juan Nimmons.

14 Q And how did you do that?

15 A Well, we got out, was trying to ride in the
16 area and checked with the neighbors, got several
17 phone calls he was located at this place or that
18 place and we tried to check it.

19 Q And did you hear from him that day?

20 A No, sir.

21 Q Anybody find him that day?

22 A No, sir.

23 Q And did you talk to people?

24 A Yes, sir.

25 Q Take statements?

TESTIMONY: J BELL/DIRECT

1 A Yes, sir. I helped take some of the
2 statements.

3 Q And did anything break that day?

4 A No, sir.

5 MR. GIBBONS: Your Honor, I would have
6 no further questions on this issue but I would
7 like to reserve the right to recall him at
8 another time.

9 THE COURT: All right. Cross
10 Examination?

CROSS EXAMINATION

11
12 BY MR. KOGER:

13 Q Captain Bell, how did Juan Nimmons become
14 the suspect?

15 A How did Juan Nimmons become the suspect?
16 Well, he was living there and from what Mr. Nimmons
17 and then told me, that he was the guy.

18 Q And so your testimony at that particular
19 time no one else was suspect for this particular
20 crime?

21 A No, sir.

22 Q And your search on that particular, during
23 that particular time frame focused on Juan Nimmons?

24 A Yes, sir.

25 Q And no one else?

TESTIMONY: J BELL/CROSS

1 A No one else at the time. No, sir; not
2 then.

3 Q Now, you testified to actually locating the
4 hammer; correct?

5 A Yes, sir.

6 Q And at the time you had located the hammer
7 SLED was already on the scene; correct?

8 A Yes, sir.

9 Q And I think you testified, too, Captain
10 Bell, about the hammer was found --

11 A Behind this area over here (indicating).

12 Q Okay. Behind the fenced area?

13 A Yes, sir.

14 Q Okay. About how many feet from this fence
15 where the hammer was located?

16 A I don't know. I didn't measure it.

17 Q Okay. Can you estimate for me?

18 A No, sir; because the place back there
19 where -- they kept the grass cut back in behind
20 there.

21 Q Okay. So, it was a place that the grass
22 was cut. I think you also testified to some type of
23 wood area there?

24 A Wood area, few little small trees back in
25 there. And they are between her trailer, after you

TESTIMONY: J BELL/CROSS

1 get outside the fence, and where it goes back into
2 Poplar Street side, yes.

3 Q Okay. And was that area in someone else's
4 yard? Did it belong to someone else?

5 A Belongs to somebody else.

6 Q Okay. But you can't estimate about how far
7 the hammer was from the actual back fence?

8 A No, sir. I wouldn't even attempt to do
9 that.

10 Q Okay.

11 A Because when I found it I just turned it
12 over to them and then I went back to search for Juan.

13 Q You just located it, you didn't actually
14 pick it up?

15 A No, sir; I didn't touch it.

16 Q Was it about ten yards, you think, from the
17 fence?

18 A I believe a little bit further than that,
19 but I'm not going to guess how far it was.

20 Q But at least, more than ten yards; correct?

21 A I'd say probably a little bit more than
22 that.

23 MR. ROGER: Okay. Beg the Court's
24 indulgence, Your Honor.
25 (Off-the-record discussion.)

TESTIMONY: J BELL/CROSS

THE COURT: Yes, sir.

BY MR. KOGER:

Q Approximately what time did you locate the hammer?

A I don't know. Whenever -- I was just walking and I located the hammer. I believe I made a note but I don't know what time it was.

It was, I'd say, probably an hour or so after SLED got down there.

Q After SLED arrived?

A Yeah.

MR. KOGER: I have no further questions at this time, Your Honor.

THE COURT: All right. Redirect?

MR. GIBBONS: Nothing on this particular --

THE COURT: Thank you, sir. You may step down. Next witness.

MR. GIBBONS: Call would call Doctor McConnell.

(Oath administered.)

THE COURT: Please state your name for the record.

THE WITNESS: Susan McConnell,
M-C-C-O-N-N-E-L-L.

TESTIMONY: S McCONNELL/DIRECT

1 **SUSAN McCONNELL, MD, being duly sworn, was**
2 **examined and testified as follows:**

DIRECT EXAMINATION

3
4 **BY MR. GIBBONS:**

5 **Q And, Miss McConnell, where are you**
6 **employed?**

7 **A Medical University of South Carolina.**

8 **Q And what do you do at the Medical**
9 **University?**

10 **A I'm a pathologist and I'm currently doing**
11 **my forensic fellowship.**

12 **Q What is a pathologist?**

13 **A All right. Well, there's -- people have a**
14 **bunch of different views of a pathologist but a basic**
15 **pathologist is one who studies disease. And we do**
16 **that through looking at blood samples or taking**
17 **biopsies, looking under the microscope and diagnosing**
18 **diseases.**

19 **And forensic pathology is a branch of that**
20 **where we study unnatural or unexplained deaths or**
21 **trauma.**

22 **Q And have you received specialized training**
23 **to be a forensic pathologist?**

24 **A Yes. It seems almost endless.**

25 **I went to four years of college and got my**

TESTIMONY: S McCONNELL/DIRECT

1 BS in microbiology, and then I did four years of
2 medical school in Charleston, South Carolina. And
3 then I did my five years of pathology residency after
4 that, which I took the boards and I'm boarded in
5 anatomic and clinical pathology.

6 And, finally, I'm in my last year of
7 training in forensics.

8 Q But you are working as a forensic
9 pathologist?

10 A Yes. I worked as a Deputy Medical Examiner
11 for Charleston County since 1995.

12 Q And how many autopsies have you performed?

13 A Over three hundred.

14 Q And is that a routine part of your job?

15 A Yes. For the last -- since July 1st, 1998,
16 last year.

17 I do autopsies every day, approximately two
18 per day. But, like I said, I've worked as a medical
19 examiner doing autopsies since 1995.

20 Q And what is the purpose for an autopsy?

21 A The purpose is basically to find the cause
22 of death. There's two types of autopsies; there's
23 medical where you're looking for medical diseases or
24 in addition to the cause of death, but forensics is
25 basically finding what actually killed the person and

TESTIMONY: S McCONNELL/DIRECT

1 documenting evidence along with that.

2 **MR. GIBBONS:** Your Honor, at this time
3 the State would declare Doctor McConnell as an
4 expert.

5 **THE COURT:** Questions concerning her
6 qualifications?

7 **MR. KOGER:** No, Your Honor.

8 **THE COURT:** All right. You may
9 continue.

10 **BY MR. GIBBONS:**

11 **Q** Doctor McConnell, back in August of 1998
12 were you made aware of a case involving the deceased,
13 Zola Robinson?

14 **A** Yes, sir. We performed an autopsy on her.

15 **Q** How does that happen?

16 **A** Well, since this is out of Charleston
17 County the coroner calls us and requests that we do
18 an autopsy on her. And he had arranged transport and
19 had her transported to our autopsy room the next day
20 on Saturday morning.

21 **Q** So, you don't go out -- you didn't go to
22 Denmark?

23 **A** No. We would not be involved in this scene
24 since it was out of our county.

25 **Q** And so, Miss Robinson's remains were

TESTIMONY: S. McCONNELL/DIRECT

1 brought to Charleston?

2 A Correct.

3 Q What are the steps that you take when
4 someone is brought in?

5 A Well, with a lot of cases we'll have
6 accompanying officers or, in this case, SLED, but the
7 body is logged in down at the morgue.

8 And the autopsy technician will bring the
9 body up. Usually it's weighed first on the scale on
10 the way up and we'll transport her from the stretcher
11 onto the autopsy table.

12 And then we do the external examination.
13 We photograph and then after that we remove her
14 clothes and photograph again. We'll go over her
15 injuries and photograph them before we clean them up.

16 And, basically, in her case since a lot of
17 her injuries were focused around her head, we would
18 have to, in order to visualize the injuries correctly
19 and fully, we would shave the areas around her
20 injuries. And, once again, photograph those
21 measurements.

22 And then complete -- proceed with the
23 complete autopsy meaning even though her injuries
24 were just or mainly centralized around her head, we
25 would still do the full body autopsy anyhow.

TESTIMONY: S MCCONNELL/DIRECT

1 And so we did that.

2 And, in addition to that, we do, we draw
3 toxicologic samples so that we send blood and tissue
4 off for analysis for drugs and alcohol. And in
5 addition to that, we take samples of the tissue and
6 send it to the lab where they make glass slides out
7 of it that we can look under the microscope to look
8 for more documentation of the cause of death and the
9 injuries.

10 Q So, even though you said most of her
11 injuries were around her head, you still do a
12 complete check?

13 A We do a complete autopsy.

14 Q And that's what you did in this case;
15 correct?

16 A Right.

17 Q Could you tell us any findings that you
18 made during the course of your autopsy that were of
19 remark?

20 A Well, most significant findings were the
21 thirteen lacerations to her head. And by
22 lacerations, laceration is actually a splitting of
23 the skin and it's caused by a blunt-force trauma.

24 Q When you say blunt-force trauma, what do
25 you mean?

TESTIMONY: S McCONNELL/DIRECT

1 A Some, some blunt object striking with --
2 striking the body with a force behind it and it
3 causes the skin to actually split.

4 So, it's not like a scratch where you
5 scrape the skin off but the force of the trauma or
6 the force of the hit causes the skin to split.

7 And underlying these thirteen lacerations
8 are three skull fractures. And one of the skull
9 fractures of remark was slightly circular in shape.

10 And underlying the skull fractures was
11 hemorrhage pretty much diffusely, meaning all over
12 the brain. And there was also hematoma, which is a
13 collection of blood.

14 So, you actually have a little pocket of
15 blood in the brain or right over the brain.

16 Q What's the significance of the blood on the
17 brain?

18 A The blood -- well, the lacerations are
19 going to cause hemorrhage in the skin, obviously,
20 with the blunt-force trauma causing the splitting of
21 the skin.

22 And they also would cause underlying skull
23 fractures. That trauma is also transmitted to the
24 brain and causes the blood vessels of the brain to
25 rupture and therefore you get hemorrhage or blood on

TESTIMONY: S McCONNELL/DIRECT

1 the brain.

2 Q And what does that do to a person?

3 A Well, the blood should remain in the blood
4 vessels to get where it needs to go and without it
5 being there, the person will suffer anoxia which
6 means lack of oxygen.

7 Q Do these brain injuries have another
8 effect?

9 A Such as? I'm not sure what you're getting
10 at.

11 Q What did you list as the cause of death for
12 Miss Robinson?

13 A The cerebral injury. What -- I was going
14 to continue on.

15 Along with the hemorrhage we took the
16 microscopic sections that I was talking about,
17 putting them in cassettes and getting back glass
18 slides.

19 And under the microscope you can actually
20 see hemorrhage inside the brain as well as on top of
21 it, which is what we saw after autopsy, at the time
22 we did it.

23 And those hemorrhages indicate the bursted
24 blood vessels which in turn translates to cerebral
25 injury or injury to the brain.

TESTIMONY: S McCONNELL/DIRECT

1 Q As to the rest of her body, was there
2 anything else that was not normal?

3 A Well, it -- if you are referring to as
4 trauma or as medical disease?

5 Q Just any evidence of any other conditions.

6 A She did have coronary arteriosclerosis
7 which is hardening of the arteries of the heart. So,
8 she had some of that.

9 Let's see. I described the fractures
10 already.

11 Q Any sign of any operations or anything like
12 that?

13 A Oh. As a matter of fact, I was
14 concentrating on injuries but she had had two
15 previous mastectomies.

16 Q What does that mean?

17 A That means she had removal of the breast
18 tissue. Usually that's done for a type of breast
19 cancer.

20 And when we had gotten her, she also had
21 two breast forms that she used inside her bra as kind
22 of a cosmetic purpose.

23 Q So, breast form, what was that?

24 A She had, like, they were kind of a spongy
25 breast form to simulate the appearance of a breast.

TESTIMONY: S McCONNELL/DIRECT

1 She also had two socks in her bra as well.

2 Q And these weren't under the skin, they
3 were --

4 A Correct. They were above the skin. They
5 were on the skin. There were scars that you could
6 see where the mastectomies had been performed.

7 Q Did you prepare any exhibits or items for
8 court here today?

9 A Yes. I received a styrofoam skull or
10 styrofoam head two weeks ago. And I drew out the
11 lacerations on the head last week and mailed it back
12 to the Solicitor.

13 Q Let me show you what's been marked as
14 State's Exhibit 13. The defense has seen it.

15 MR. KOGER: Yes, Your Honor.

16 BY MR. GIBBONS:

17 Q Is State's Exhibit 13 the item you
18 prepared, Doctor McConnell?

19 A Yes, that's it.

20 MR. GIBBONS: State would move Item 13
21 into evidence at this time.

22 MR. KOGER: Without objection.

23 THE COURT: Without objection State's
24 Exhibit 13 is admitted.

25 (State's Exhibit 13, styrofoam head, was received

TESTIMONY: S McCONNELL/DIRECT

1 into evidence.)

2 BY MR. GIBBONS:

3 Q Could you please come down and show what
4 markings you made and what they represent?

5 A I --

6 THE COURT: Keep your voice up, please,
7 sa'an.

8 THE WITNESS: I will do that.

9 I'm bringing my notes since there are so
10 many. There's thirteen of them. I numbered them
11 one through thirteen.

12 Not in any particular order, not trying to
13 indicate that, the progression of the blows. But
14 you can see here that thirteen different
15 blunt-force traumas causing laceration.

16 Each one of these marks represents a
17 laceration.

18 So we have one, two, three, four. This line
19 here is supposed to represent the ear. And five
20 actually goes around the ear which is difficult
21 to demonstrate since I don't have the ear
22 protruding from the styrofoam head here.

23 Six, seven, eight, nine, ten, eleven,
24 twelve, and thirteen. Correspondingly, under
25 eleven was one of the skull fractures. It was

TESTIMONY: S McCONNELL/DIRECT

1 the one that was slightly, that was circular in
2 shape.

3 Under four and eight was a large area of
4 depressed skull fracture meaning the skull was
5 actually pressed into the brain. It had broken
6 away from its surrounding bone structure and had
7 pressed into the brain.

8 Underneath four and eight, that depressed
9 skull fracture was there, but also the fracture
10 extended in a linear fashion with just a little
11 line towards the front of the head.

12 And then the other laceration was back
13 towards the back of the head. And by trying
14 to -- once we reflected the scalp, meaning -- to
15 actually look at the skull we would have to
16 reflect the scalp back and to match up this last
17 fracture that we saw back here, we would pull the
18 scalp back and try to match that.

19 Then we estimated that either came from
20 five, six, or seven, that linear fracture back
21 there.

22 Q And, Doctor McConnell, during the course of
23 this case were you shown any other items?

24 A They did bring that hammer that they had
25 previously admitted into evidence.

TESTIMONY: S McCONNELL/DIRECT

1 Q That would be State's Exhibit 21?

2 A That looks like the hammer. It was in a
3 box and was fastened by string so we didn't actually
4 touch the hammer.

5 Q And what did you do with this hammer? Why
6 was it brought to you?

7 A It was brought to us to see if we could
8 compare it to her wounds and match them up or not.

9 Q And did you try to make comparison?

10 A We did. Well, what we did was we measured
11 the head of the hammer.

12 Like I said, we couldn't touch the hammer
13 so they couldn't actually hold it up against the
14 fractures.

15 Q What did you measure? Please show the jury
16 exactly what you measured.

17 A There's -- we measured -- there's a
18 circular face on the hammer right here. We measured,
19 and it kind of bevels inward slightly.

20 We measured the inside diameter and then
21 the outside diameter of that circular face.

22 Q And what did you do with that measurement?

23 A We record it.

24 Q And did you make comparisons with the
25 injury you saw?

TESTIMONY: S McCONNELL/DIRECT

1 A We, well -- I mean, we compared the shape
2 of the hammer head to the patterned injury that we
3 had and we had basically that one pattern injury that
4 was circular.

5 Q And did you make measurements of it?

6 A Yes. We do have measurements of that.
7 I'll give you both the measurements of the hammer
8 head and the circular shape if you want to.

9 Q Please do that.

10 A The circular fracture, caused by laceration
11 eleven, was point eight five (.85) by point six
12 inches (.6).

13 Q That's the fracture underneath this cut?

14 A Correct.

15 Q And it was what, again? I'm sorry.

16 A Point eight five by point six. And I say
17 it was circular in shape. It was not a perfect
18 circle, though. All right.

19 The hammer face, the inside was point nine.
20 The outside was one point one inches.

21 Q And was that -- were you able to make any
22 opinions based on those measurements?

23 A With those, it was more a basis of a shape
24 that we said is consistent with an object such as a
25 hammer.

TESTIMONY: S McCONNELL/DIRECT

1 Q Thank you. You may have a seat.

2 A (Complying.)

3 Q Doctor McConnell, when you finished your
4 investigation on the forensic autopsy, do you
5 classify deaths in certain categories?

6 A We classify manner of death. We do cause
7 of death and manner of death. And manner of death is
8 either accident, homicide, suicide, natural or
9 undetermined.

10 Q And did you make a classification of Miss
11 Robinson's case?

12 A We classified this case as a homicide.

13 Q Now, Doctor McConnell, you talked about
14 serology?

15 A Toxicology.

16 Q Toxicology?

17 A Yes.

18 Q What is that?

19 A That's when we send her body tissue or her
20 fluids to a toxicologist who runs a screen on her,
21 usually, blood -- and, I imagine it was blood in this
22 case -- for drugs and alcohol.

23 Q And are you familiar with the results of
24 those tests?

25 A Yes. Her blood ethanol level was point one

TESTIMONY: S McCONNELL/DIRECT

1 seven four and the drug screen, it was a urine drug
2 screen was negative although there was some nicotine
3 there.

4 Q Just alcohol; correct?

5 A Yes.

6 Q As part of your training you also study
7 what effects certain injuries have on a person while
8 they're still alive, what it does to someone, what
9 might be their condition?

10 A As far as seminars and classes, sessions.

11 Q Can you give an opinion as to what these
12 blows might have done to the person's ability to
13 move, speak?

14 A Oh, yeah. Well, the blunt-force trauma to
15 the head like that, if it had, if there had been --
16 if it had not even been fatal would have more than
17 likely caused almost immediate concussion, meaning
18 that a blunt-force trauma repeated like that will
19 disturb the electrical signals within the brain and
20 most likely would have caused her to lose immediate
21 consciousness.

22 Q And I know you said you could not give us
23 the order of blows.

24 A Correct.

25 Q Could you give an opinion as to whether

TESTIMONY: S McCONNELL/DIRECT

1 they were done over a long period of time, short
2 period of time?

3 A Well, when a person dies the heart will
4 quit beating. I know that sounds kind of rudimentary
5 but once the heart quits beating that anything done
6 to a body, any type of laceration or trauma done to a
7 body after they die will not, you will not see blood
8 within the tissues.

9 And these tissues all had blood coming from
10 their, within the tissue of the wound itself.
11 Meaning that she was probably, that these blows were
12 all probably delivered in a pretty succinct amount of
13 time and probably rapidly.

14 Q As to the force required to make the
15 injuries, do you have any opinion as to that?

16 A Well, I can't give something in pounds but,
17 I mean, heavy enough force to fracture the skull
18 repeatedly.

19 Q I mean, would that be consistent with
20 falling down on a sidewalk?

21 A Well, just the nature of this with the
22 number of lacerations, this would not be falling down
23 on the sidewalk.

24 MR. GIBBONS: Answer any questions Mr.
25 Koger has.

TESTIMONY: S. McCONNELL/CROSS

THE COURT: Cross Examination, Mr.

Koger.

CROSS EXAMINATION

BY MR. KOGER:

Q Have -- you testified earlier you have performed approximately three hundred autopsies?

A Over three hundred.

Q Over three hundred autopsies.

And from your experience in those autopsies, what percentage of those autopsies have been attributed to blunt-force injury?

A Well, I can say that the greatest majority of our autopsies are natural deaths. It's just part of the business.

I mean, if you don't end up making sure that you're safe by autopsying any unnatural or unexplained death, then you're going to miss a lot.

But I would say -- do you want me to include gunshots and not blunt-force trauma?

Q No. Just actually pertaining to hammers or something of the like, something of the type.

A Something of the type including motor vehicle?

Q Just a hammer.

A Just a hammer?

TESTIMONY: S McCONNELL/CROSS

1 Q Just a hammer.

2 A I've done one other case with just a
3 hammer.

4 Q This is your second case with a hammer?

5 A Correct.

6 Q And you testified to, just now, that all
7 thirteen of the blows occurred before death; correct?

8 A No. I said most likely --

9 Q Mostly?

10 A -- that they did, yes.

11 Q Did occur before death because no blood was
12 found in the tissue?

13 A Because blood was in the tissue.

14 Q Blood was in the tissue. Okay.

15 Now, could one blow have caused all these
16 injuries?

17 A One blow?

18 Q One blow.

19 A Would not. In my opinion, no, they would
20 not have caused all those injuries.

21 Q Okay. In your opinion, how many blows
22 could have caused these injuries?

23 A Thirteen.

24 Q Thirteen?

25 A Uh-huh.

TESTIMONY: S McCONNELL/CROSS

1 **Q** And you have no opinion on the time of
2 death, did you?

3 **A** No. It's difficult for us to assess the
4 time of death since we're not at the scene. The body
5 tends to be refrigerated before it's transported. We
6 got the body the next day, so that's something that
7 we wouldn't do.

8 **MR. KOGER:** Thank you, Doctor
9 McConnell.

10 **THE COURT:** Redirect?

11 **MR. GIBBONS:** I have nothing further
12 from Doctor McConnell and ask that she be allowed
13 to be excused.

14 **THE COURT:** Any objection?

15 **MR. KOGER:** No, Your Honor.

16 **THE COURT:** Thank you very much, Doctor
17 McConnell. You're excused. Appreciate you
18 coming, ma'am.

19 **Mr. Foreman,** ladies and gentlemen of the
20 jury, we're going to take a short break at this
21 time.

22 **As I send you to the jury room,** I want to
23 remind you that you're not to discuss this case
24 among yourselves in any fashion whatsoever. You
25 can talk about a lot of things while you're in

1 that jury room but not this case.

2 Jury may retire. We'll get you back in just
3 a moment. Everyone else remain seated while they
4 exit the courtroom, please.

5 (Jury leaves courtroom at 11:00 A.M.)

6 THE COURT: All right. Let's be back
7 at 11:05.

8 MR. GIBBONS: Thank you, Your Honor.
9 (Recess taken.)

10 THE COURT: State ready?

11 MR. GIBBONS: Yes, sir.

12 THE COURT: Defense ready?

13 MR. KOGER: Yes, sir.

14 THE COURT: Bring our jury back,
15 please.

16 (Jury returns to courtroom at 11:05 A.M.)

17 THE COURT: Thank you very much, ladies
18 and gentlemen of the jury. We'll continue with
19 our case.

20 Next witness, please.

21 MR. GIBBONS: State would call Agent
22 Kerry Goodwin.

23 (Oath administered.)

24 THE COURT: Please state your name for
25 the record and spell your last name.

TESTIMONY: K GOODWIN/DIRECT**THE WITNESS: Kerry Goodwin,****G-O-O-D-W-I-N.**

**KERRY GOODWIN, being duly sworn, was
examined and testified as follows:**

DIRECT EXAMINATION**BY MR. GIBBONS:**

Q Where are you employed?

**A With the State Law Enforcement Division
also known as SLED.**

Q And what is your title there?

**A I'm a Special Agent Two with the Crime
Scene and Latent Fingerprint Unit.**

Q And what does that mean?

**A Our duties involved in the unit are
assisting state, local, and federal police agencies
in the investigation of crime scenes and also the
examination of objects involved in crime scenes for
latent fingerprint evidence.**

**Q And, Agent Goodwin, do you receive any
specialized training for that profession?**

**A Yes, I have. Approximately fourteen years'
experience in fingerprint work.**

**I have been with the Crime Scene Unit for
approximately four years where we are trained in the
areas of crime scene reconstruction, crime scene**

TESTIMONY: K GOODWIN/DIRECT

1 investigation, blood splatter interpretation and also
2 in the areas of fingerprint identification and latent
3 fingerprint comparison techniques.

4 Q And have you testified as an expert in this
5 State as to blood-splatter comparisons analysis?

6 A Yes, I have.

7 Q What about fingerprint collection and
8 analysis?

9 A Yes, I have.

10 Q What about crime scene reconstruction?

11 A Yes.

12 Q And you have testified in court as an
13 expert in those fields?

14 A Yes, I have.

15 MR. GIBBONS: Your Honor, the State
16 would tender this witness to be testifying as an
17 expert in those fields.

18 THE COURT: Questions concerning her
19 qualifications?

20 MR. KOGER: No questions, Your Honor.

21 THE COURT: All right. You may
22 proceed.

23 MR. GIBBONS: Thank you, Your Honor.

24 BY MR. GIBBONS:

25 Q Agent Goodwin, back in August, I believe it

TESTIMONY: K GOODWIN/DIRECT

1 was the 7th or 8th of 1998, were you summoned to
2 Bamberg County?

3 A Yes, I was.

4 Q How did that come to be?

5 A Excuse me?

6 Q How did that happen?

7 A If I may refer to my file sheet.

8 Q Please.

9 A I received the call approximately 8:20 A.M.
10 for assistance in a death investigation to Denmark
11 PD.

12 I spoke to Captain Joe Bell to get the
13 information about the scene and also to get
14 directions to the scene.

15 Q And did you come down to Denmark?

16 A Yes, I did.

17 Q What did do you once you got to Denmark?

18 A We initially -- I brought an investigator
19 with me, another agent in the unit.

20 We initially met with the local law
21 enforcement officers and the coroner was at the
22 scene. They briefed us to the facts that they knew
23 up to that point about what had happened.

24 Once we were given those facts we started
25 our initial crime scene investigation where we go in

TESTIMONY: K GOODWIN/DIRECT

1 and we basically do a walk-through, looking around
2 the exterior. In this case it was a residence.

3 We went, after, to the exterior of the
4 residence, look for anything that we might need to
5 pay particular attention to.

6 Once we were finished with the exterior
7 examination we went inside of the residence, myself
8 and the other agent, and we just walked through very
9 carefully looking for any signs of anything that we
10 need to pay particular attention to.

11 Once we do that initial walk-through we
12 come back out and we start getting ready to process
13 the scene. In this case I loaded up my cameras and
14 went in to start with my crime scene photography.

15 Q What steps do you take when you start a
16 crime scene? What steps do you take? What do you go
17 through as the process unfolds?

18 A The most important and the first step is,
19 of course, to document the scene. You want to take
20 paragraphs to show the scene as it was when we
21 arrived.

22 We document the outside of the scene. We
23 go around and shoot it from all angles and then we
24 work our way inside the scene.

25 And we went through the trailer and

TESTIMONY: K GOODWIN/DIRECT

1 photographed all areas, all aspects as best as we
2 could get.

3 Once we document them through photography
4 we also will document them through sketching. We
5 will do a little pencil sketch documenting where
6 things are at and just anything we need to pay
7 particular attention to.

8 Q Is that the procedure that you used on that
9 day?

10 A Yes, it was.

11 Q Before coming to court, did you prepare a
12 diagram?

13 A Yes, I did.

14 Q Reflecting the crime scene?

15 A Yes.

16 MR. GIBBONS: Your Honor, that's been
17 shown to the defense and marked as Exhibit Number
18 22 we would move it into evidence at this time.

19 THE COURT: Without objection?

20 MR. ROGER: No objection.

21 THE COURT: Without objection State's
22 Exhibit 22 is admitted.

23 (State's Exhibit 22, diagram of crime scene, was
24 admitted into evidence.)

25 BY MR. GIBBONS:

102

TESTIMONY: K GOODWIN/DIRECT

1 **Q** Agent Goodwin, with the Court's permission,
2 would you step down and show the jury your findings
3 in the crime scene that day?

4 **A** Okay.

5 **Q** First of all, just give us the general
6 layout of what you have made in your diagram, please.

7 **A** Okay. This was just a very generic drawing
8 of the original sketch that I did, that I have in my
9 notes.

10 This is the entrance to the victim's
11 residence. When we came in through the front door
12 you could see the victim lying on the couch.

13 This was her dining room and kitchen. Her,
14 this was an exterior door to the back of the trailer
15 that was unlocked.

16 Down this hallway there was another
17 exterior door. This was chained and bolted shut.
18 There was no way it could have been opened without
19 tearing up the door.

20 **Q** You say the back door was locked?

21 **A** Yes.

22 **Q** Okay. Write locked.

23 **A** (Complying.)

24 **Q** And how was it locked, again?

25 **A** If I recall correctly from the photographs,

TESTIMONY: K GOODWIN/DIRECT

1 it looked like there was a chain attached to the door
2 and to the wall next to it and it was screwed into
3 the wood so that -- we tried to open it and the door
4 was locked and also that chain was attached.

5 Q All right. What else did you find?

6 A We were told that this was the victim's
7 bedroom. This was the bathroom. This was just a
8 storage room that the victim used for storing items.
9 And this was her son's bedroom.

10 When we initially walked in you could see
11 the victim lying on the couch and you could see a lot
12 of blood around the victim. You could also -- when I
13 examined it a little bit closer, you could see a lot
14 of blood splatter and castoff.

15 Q When you say blood splatter, what is that?

16 A It was very apparent when I saw the victim
17 that she had suffered some sort of blunt trauma.

18 There was lot of damage done to her head
19 that was readily, I could readily see it. There was
20 a lot of bloodletting in and around the victim.

21 In order for splattering to happen when
22 you're dealing with a blunt trauma, it's, an object
23 strikes the skin. When it does that it will break
24 the skin. And once the skin is broken the blood will
25 come to the surface.

TESTIMONY: K GOODWIN/DIRECT

1 Every time that object comes down again and
2 strikes two things are going to happen: Upon
3 striking, that blood that has come to the surface of
4 the skin is going to splatter out and it will go out
5 with the round, whatever the object is splatters out.

6 The blood will also transfer to that object
7 and as you bring it back it's going to fling it off
8 and it will fling it wherever the direction you bring
9 it back. We refer to that as castoff.

10 Every time that object comes down and every
11 time it is brought back it's going to continue to do
12 that, splatter it out upon impact and when you bring
13 it back it casts it off.

14 When we walked into the scene you could see
15 a lot of splattering right around the area. It was
16 on the victim's forearm and across her shirt and down
17 the front of her.

18 And you could also see a lot of splatter
19 and castoff going up this wall, across the ceiling,
20 and down the opposite wall which was over here by
21 this doorstep.

22 Q What did that tell you, Miss Goodwin?

23 A That someone would have had to have been
24 standing in this area (indicating) striking the
25 victim to cause the splatter to go in this area

TESTIMONY: K GOODWIN/DIRECT

105

1 (indicating).

2 And then as the object was being brought
3 back up it was flinging it off across the wall of the
4 ceiling and back on the opposing wall and down on the
5 love seat.

6 I have splatter right around the floor area
7 all around the victim's head. There was a nightstand
8 here that had splatter on it. There was some
9 pictures on the wall and there was an
10 air-conditioning unit right here (indicating).

11 There was an entertainment type center and
12 a TV right here (indicating). And there was blood
13 splatter all around this area that you could see.

14 Q And the splatter, that's what comes from
15 the blow; is that what you're saying?

16 A Uh-huh. From the blow and also from
17 splattering or casting off.

18 Q Splattering is like a rock hitting the
19 pond, splashing?

20 A Uh-huh.

21 Q And the casting off is from the object
22 itself coming back?

23 A It would be like sticking your hand in a
24 can of paint and just flinging your hand and the
25 liquid is going to fly off and then land on whatever

TESTIMONY: K GOODWIN/DIRECT

1 is in your general area. That's what we refer to as
2 castoff.

3 Q It was up the ceiling and back behind?

4 A Yes.

5 Q Does the direction it is make any
6 difference in your analysis?

7 A I don't understand.

8 Q I mean, did it go off to the left, off to
9 the right?

10 A Most of it was in the direction, up and
11 back and over. Just like this (demonstrating). And
12 you could see different angles that it would be
13 coming in at. You could see it on the ceiling.

14 Q What did that tell you?

15 A Just that there was more than one blow.

16 Q Did it tell you about the direction the
17 blow came from?

18 A Just that it would have been coming down
19 like this (demonstrating) and coming back.

20 Q Were there any trails, for lack of a better
21 word, from any other position or any other angle?

22 A Just upon examining it, it looked like the
23 individual that was striking the individual was in
24 this general vicinity (indicating).

25 I could not pinpoint exactly where they

TESTIMONY: K GOODWIN/DIRECT

1 were standing.

2 Q I'm going to put an X. You say --

3 A Just in that general vicinity.

4 Q -- this vicinity somewhere around in there?

5 A Uh-huh.

6 Q And, again, the splatter was on this wall?

7 A Uh-huh.

8 Q And the ceiling?

9 A Of the ceiling.

10 Q In a line?

11 A Uh-huh.

12 Q And also on the back wall?

13 A We had it on the back wall coming down the
14 wall. We had it on the love seat. There was some
15 splatter on the front door and there was splatter on
16 the TV and entertainment stand area over here
17 (indicating).

18 Q All right. Okay.

19 You documented all of that in your report;
20 correct?

21 A Yes. It was photographed also.

22 Q What else did you do that day?

23 A Once we do the initial scene documentation,
24 once everything is photographed as it was, then we
25 can start with our initial, actually getting a little

TESTIMONY: K GOODWIN/DIRECT

1 more involved as far as the investigation goes.

2 We can start moving items around and
3 looking for any item of evidence or anything that we
4 might need to pay particular attention to.

5 We started, we noted some items what we
6 thought were evidence over on this love seat. Those
7 items were collected so that I could take them back
8 to our laboratory for further analysis.

9 We collect everything that we are going to
10 take back to the laboratory and box it up before we
11 start actually processing the scene because once we
12 start processing the scene we might contaminate any
13 of those objects that we want to process in a more
14 controlled environment.

15 So we make sure that we get those out of
16 the way before we start processing but I believe that
17 would have been -- the next step was to collect that
18 evidence.

19 And while we were inside the scene doing
20 our sketching and our photographs, the local
21 investigators came to us and said that they had found
22 a hammer back out behind the residence.

23 So we stopped what we were doing. We went
24 outside, photographed it, we measured off from the
25 corners of the chain link fence that was around the

TESTIMONY: K GOODWIN/DIRECT

1 trailer showing the pinpoint spot where it was at.

2 Once it was photographed we went ahead and
3 collected it. I do believe we shot some close-ups of
4 it. There was some blood on it and some splattering
5 on the hammer.

6 Once it was photographed we went ahead and
7 boxed it up. I sealed it in my truck. I went back
8 inside the scene and completed the scene
9 investigation.

10 Q What observations did you make as to the
11 victim in this case?

12 A As to?

13 Q As to the victim in this case.

14 A It was very apparent to me that she had
15 been struck several times in the face and the head
16 area.

17 There was lot of damage done. There was a
18 lot of bloodletting. The blood was pooled underneath
19 her body. The blood was pooled down over her arm.
20 It was draped out over the edge of the couch. There
21 was a lot of pooling and splattering on the floor
22 around her area.

23 We also noticed she was covered with a
24 bedspread as if she was laying there sleeping on the
25 couch. When we pulled that back I noticed that her

TESTIMONY: K GOODWIN/DIRECT

1 legs were crossed just kind of in a very relaxed
2 position as if she were sleeping.

3 Looking at her wounds it appeared to me
4 that she possibly was asleep, that she did not see
5 this coming.

6 Normally if you feel like you're going to
7 be attacked or you're going to be hit, it's a natural
8 instinct to try to protect yourself, you're going to
9 bring your arms up or do something to try to keep the
10 blows from hitting you.

11 Looking at her arms, her forearms, anything
12 of that nature, there weren't any apparent defensive
13 type of wounds. It just looked like she was very
14 relaxed and had been asleep when the attack occurred.

15 Q Did you see anything in the house that
16 would indicate any kind of struggle?

17 A No. The house was very neat and orderly.
18 We went back into the back bedroom that we were told
19 was the victim's bedroom. There was a little
20 nightstand or something sitting over here
21 (indicating) and her purse was sitting on it.

22 And we photographed the purse before we
23 opened it. And it was very neat and orderly, didn't
24 look like anybody had gone through. It didn't look
25 disturbed at all. It was just sitting there with

TESTIMONY: K GOODWIN/DIRECT

1 everything in it.

2 Q Any signs of any forced entry?

3 A Not that we saw. We examined this door
4 and, of course, that one, around the outside of the
5 door, interior and exterior.

6 As I stated, this one was locked and
7 secured with a chain that was bolted back into the
8 door and the side of the wall.

9 So, it didn't appear that there were any
10 signs of forced entry.

11 Q Did you note any obstructions between the
12 trailer and the hammer, trees, anything of that
13 nature?

14 A There were not any trees. However, this
15 chain link fence went around the outside, the
16 exterior of the trailer and it was just a normal
17 height chain link fence. It wasn't anything tall or
18 anything like that.

19 There was nothing in here, just past the
20 area where the hammer was found. Just along this
21 area right here, some woods, pretty tall weeds and
22 stuff like that, were grown up, but this was all,
23 like, mowed down.

24 Q Short?

25 A Yeah.

TESTIMONY: K GOODWIN/DIRECT

1 **Q** Agent Goodwin, as you continued your
2 investigation, I believe you testified that you're
3 trained in latent prints?

4 **A** Uh-huh.

5 **Q** Fingerprints?

6 **A** Uh-huh.

7 **Q** What did you do along those lines?

8 **A** When we're collecting evidence, of course
9 we collected a few things. I believe we found a coin
10 purse, cigarette case, and it was, I believe, a King
11 Cobra bottle, beer bottle on this.

12 I collected those to take back to the lab
13 to process them in a more controlled environment. If
14 we have that opportunity to take it back to our
15 laboratory we like to do that, especially in
16 incidents where prints will be really important.

17 As far as processing the inside of the
18 residence, we processed areas where we saw entrance
19 and exits. We processed around this area with black
20 fingerprint powder which is something we normally use
21 on hard metal surfaces, glass windows, things of that
22 nature.

23 We processed around this area. We
24 processed around the sink area. We processed the
25 back door, interior and exterior.

TESTIMONY: K GOODWIN/DIRECT

1 Here, now I did process the exterior of
2 this to see if someone had possibly tried to get in,
3 but nothing was developed that was identifiable
4 there.

5 We did process some areas, there were some
6 things that came to our attention through the
7 investigation. We had a lot of bloodletting around
8 the victim. Of course there was a lot of splatter in
9 the living room area.

10 When we came back down here doing our
11 walk-through and examination of all these areas, I
12 found what appeared to be some diluted bloodstains
13 around the kitchen sink area and in the bathroom
14 area, around that sink.

15 Anytime we see a diluted stain like that,
16 it's a clue to us that someone might have tried to
17 wash up and inadvertently dropped some water that
18 still had some blood in it.

19 It causes a diluted stain. It's not as
20 dark red as you would normally see. We saw those and
21 photographed those and swabbed them to collect for
22 our serology department in the forensics building,
23 but I also noted there was washing machine here and
24 on top of the machine was a damp washcloth and it had
25 some real light reddish bloodstains on it. That was

TESTIMONY: K GOODWIN/DIRECT

1 collected and submitted to the serology department to
2 see if it possibly had bloodstains on it.

3 When we came out here there was a laundry
4 hamper just outside of the bathroom door. And when I
5 lifted up the laundry lid I noted a plaid shirt and
6 you could readily see some stains on it that looked
7 to me like they were blood.

8 When -- we photographed it as it was. Of
9 course, we picked it up and you could see a lot of
10 stains on it that appeared to be bloodstains. That
11 was photographed and that was also collected and
12 taken to the laboratory.

13 Q You said it was in the hamper?

14 A It was on top in the hamper, when we lifted
15 the lid and, it was lying there.

16 Q Go forward, please.

17 A As I stated, we also noted some diluted
18 stains around the kitchen sink area and those, of
19 course, were documented with photographs.

20 Q You said sink?

21 A Uh-huh.

22 Q In the kitchen?

23 A Uh-huh.

24 Q I don't remember which -- do you remember
25 where it was in the kitchen?

TESTIMONY: K GOODWIN/DIRECT

1 A That's about the area (indicating).

2 Q And where else in the bathroom?

3 A The bathroom sink area, right in here
4 (indicating).

5 Q And also the cloth?

6 A The washcloth.

7 Q All right. Carry on, please?

8 A So, those items were collected prior to us
9 starting to process the scene. They were secured in
10 packaging so that they could be taken back for
11 analysis and examination by our serology department.

12 Once those stains were collected we went
13 ahead and dusted with black powder around the sink
14 areas. It was kind of apparent to us that someone
15 had possibly tried to clean up.

16 We dusted around those areas to see if we
17 could develop any kind of latent prints. I'll refer
18 to my notes which, we were able to get lifts off the
19 refrigerator.

20 That was right here near the exterior door.

21 Q Refrigerator?

22 A Yeah. It was right here (indicating).

23 Q All right.

24 A I'm sorry. I need to refer to it.

25 I had a latent lift that I lifted from the

TESTIMONY: K GOODWIN/DIRECT

1 exterior door here (indicating). We had several
2 latent lifts we got off the refrigerator, this side
3 of the refrigerator.

4 And there were latent lifts lifted from the
5 washing machine and we did lift one from the sink
6 area.

7 Q I've marked those print on the diagram.

8 A Okay. The lift that we got off the back
9 door was insufficient which means there was not
10 enough detail in the latent to be able to work with.

11 That means I could not either eliminate
12 somebody or I couldn't identify somebody as having
13 touched it. There just wasn't enough there to work
14 with so it was of no value.

15 I did identify the victim to some of these
16 prints on the refrigerator. The rest of them were
17 either insufficient ridge detail or they were
18 negative with the prints that were submitted to me to
19 be compared to.

20 Q All right. Could you tell us a little bit
21 about fingerprints, where they come from, how you
22 work with them?

23 A Uh-huh. Yes. Present upon the palmar
24 surface of your hands, tips of fingers, and also the
25 soles of your feet is a certain kind of skin we refer

TESTIMONY: K GOODWIN/DIRECT

1 to as friction ridge skin.

2 It's different from any skin you have
3 anywhere else on your body. It's got a raised area
4 to it that is referred to as a ridge. And if you
5 were to take your skin and look at it, your ridges
6 would be the raised areas and the spaces in between
7 are what we refer to as furrows.

8 On top of each of your ridges you've got
9 small holes, sweat pores. We all have them. Through
10 those pores we emit moisture. We sweat body oils,
11 moisture, water, salts.

12 When it comes out of the hole it travels
13 along the top of the ridge and if an individual
14 touches something they may or may not transfer that
15 moisture to the surface they touch.

16 It's not like you always see in the movies,
17 we don't always leave prints. You can see me touch
18 this but if I processed it I might not develop any
19 fingerprints, but it doesn't mean I didn't touch
20 this.

21 When we're dealing with latent prints which
22 is an unknown prints, we don't know who left it, we
23 will process the print either through powder or
24 through a chemical means to make it visible.

25 And we will look at that for certain

TESTIMONY: K GOODWIN/DIRECT

1 characteristics within the print. We use those
2 characteristics to compare them to known prints and
3 if we find certain characteristics within the print
4 we need to go in the same unit relationship for the
5 known prints or the independent prints and try to
6 find those same points of identification.

7 Q So, you said not every time do we leave a
8 print?

9 A Exactly.

10 Q And you said some of these were
11 insufficient?

12 A Uh-huh.

13 Q What exactly would that mean?

14 A It means there was not enough of those
15 points of identification in order for me to be able
16 to work with it.

17 It would be much like having a jigsaw
18 puzzle and, say, it was a hundred-piece jigsaw puzzle
19 and you had five pieces of that puzzle and you tried
20 to determine what the whole picture was, you probably
21 couldn't do it.

22 And that's much like what a latent print
23 is. You've got to have the characteristics in the
24 same unit relationship in one as to the known. And
25 if you don't have enough to begin with, then the

TESTIMONY: K GOODWIN/DIRECT

1 print is of no value we can't work with it.

2 Q And that's the case with these prints;
3 correct?

4 A Uh-huh.

5 Q Have a seat.

6 A (Complying.)

7 Q I'm going to show you what's been marked
8 State's Exhibit 20 and ask if you can identify that.

9 A Yes. This was the coin purse. You can see
10 my initials on it.

11 Q And where did you find that?

12 A That was collected off of the love seat
13 that was on the opposing wall from where the victim
14 was lying on the couch.

15 Q Is that the same coin purse you collected
16 that day?

17 A Yes.

18 MR. GIBBONS: State would move Item 20
19 into evidence.

20 MR. ROGER: Without objection.

21 THE COURT: Without objection State's
22 20 will be admitted.
23 (State's Exhibit 20, coin purse, was received into
24 evidence.)

25 BY MR. GIBBONS:

120

TESTIMONY: K GOODWIN/DIRECT

1 Q And I show you State's Exhibit 19 and ask
2 if you can identify that?

3 A Yes. This was cigarette case I collected
4 from the love seat also marked as Item 26.

5 MR. GIBBONS: State would move Item 19
6 into evidence.

7 MR. KOGER: Without objection.

8 THE COURT: Without objection State's
9 Exhibit 19 is admitted.
10 (State's Exhibit 19, coin purse, was received into
11 evidence.)

12 BY MR. GIBBONS:

13 Q I'm going to show you a series of
14 photographs and read you the number and ask if you
15 can identify them.

16 State's Exhibit 4. They've been marked for
17 ID only.

18 A Yes. That's one of the photographs I took
19 of the scene.

20 Q And?

21 A It is showing the diluted stains near the
22 faucet handle in the kitchen sink.

23 Q Does it fairly and accurately represent the
24 scene as you saw it that day?

25 A Yes.

TESTIMONY: K GOODWIN/DIRECT

1 Q I'm going to show you State's Exhibit 5 and
2 ask if can you identify that.

3 A Yes. This was a photograph I took of the
4 plaid shirt we found in the hamper.

5 Q Does it fairly and accurately represent the
6 scene as you saw it that day?

7 A Yes, it does.

8 Q It does.

9 I show you State's Exhibit 3. Ask you the
10 same question: Can you identify that?

11 A Yes. This was where we found the cigarette
12 case tucked down between the cushions of the love
13 seat.

14 Q And does it fairly and accurately represent
15 what you saw there?

16 A Yes, it does.

17 Q And State's Exhibit 6, can you identify
18 that?

19 A Yes. This was the front door to the
20 residence. There was a bloodstain noted on the kick
21 board area on the floor in the doorway.

22 Q All right. And State's Exhibit Number 7,
23 same question.

24 A Yes. This was a photograph I took of the
25 ceiling documenting some of the blood splatter come

TESTIMONY: K GOODWIN/DIRECT

1 across the ceiling in the living room.

2 Q As in all of these, does it fairly and
3 accurately represent the scene as you saw it that
4 day?

5 A Yes, it does.

6 MR. GIBBONS: State would move items 6,
7 7, 3, 4, 5 into evidence.

8 THE COURT: Without objection 3, 4, 5,
9 6, and 7 are admitted.

10 (State's Exhibit 3, photo of purse, State's Exhibit
11 4, photo of sink, State's Exhibit 5, photo of clothes
12 hamper, State's Exhibit 6, photo of blood on
13 doorstep, and State's Exhibit 7, photo of blood on
14 ceiling, were received into evidence.)

15 BY MR. GIBBONS:

16 Q I'm going to ask you to step down again and
17 ask you to illustrate where these photographs were
18 taken in relation to the diagram.

19 A (Complying.)

20 Q First of all, State's Exhibit 4.

21 A That was taken in the kitchen area. It
22 shows the diluted bloodstains that caught our
23 attention when we were doing our initial examination
24 of the scene.

25 That was in the kitchen sink area, right in

TESTIMONY: K GOODWIN/DIRECT

1 here. It was right here, the hot water knob. There
2 were other stains also located around the sink area.

3 Q State's Exhibit Number 7.

4 A This is a photograph documenting the
5 castoff, the splattering that I was explaining to you
6 earlier.

7 You can see it coming across the ceiling.
8 That would have been this area of the ceiling, right
9 in here. The victim being over on this side and, of
10 course, this love seat side being back over this way.

11 Q State's Exhibit Number 6.

12 A This was a stain we noted. This was the
13 front porch of the residence. When we opened the
14 door to initially walk into the scene, I noted a
15 little blood stain right here on, I guess it's called
16 the kick board.

17 You can see the frame where the door comes
18 close. That would have been right in this area here
19 (indicating).

20 Q All right. State's Exhibit Number 3.

21 A This was the cigarette case that I spoke
22 of. It was found on the love seat, kind of pushed
23 down in the cushions.

24 It had a lot of blood on it. We
25 photographed it, of course, prior to moving it and

TESTIMONY: K GOODWIN/DIRECT

1 pulled it out. And the reason you don't see the
2 reddish bloodstains on it now is because it has been
3 processed for fingerprints in the laboratory.

4 Q It appears to have some black powder. Is
5 that what you're talking about?

6 A Uh-huh.

7 Q And State's Exhibit 5.

8 A This was the plaid shirt that we noted when
9 we were, we found the initial diluted stains, the
10 diluted bloodstains. We looked in the hamper. When
11 I lifted the lid this is what I saw.

12 And you can see the plaid shirt. It was
13 photographed, of course, as it was in there. And
14 then we picked it up and took some more photographs
15 of the stain, but that hamper was right near the
16 bathroom area by the hallway, back here by the back.

17 Q Agent Goodwin, I'm going to show you
18 State's Exhibit 21 which is already in evidence and
19 ask you if you can identify that.

20 A Yes. I see my initials on it. It's Item
21 28. This was the hammer that we collected from the
22 weeds out behind the victim's residence.

23 As I stated, it was photographed prior to
24 moving it. We did note bloodstains and blood
25 splattering on it so we were very careful to

TESTIMONY: K GOODWIN/DIRECT

1 photograph it prior to picking it up.

2 I carried it back to the lab because I saw
3 blood on it. It was very important to me to make
4 sure I processed it for latent fingerprint evidence
5 to make sure we could get anything identifiable off
6 of it.

7 I initially visually examined them. We do
8 that with all items of evidence before we start
9 processing. Once it was visually examined I placed
10 it in a chamber that we used and fumed it with
11 cyanoacrylate.

12 That's a fancy term for superglue. We put
13 the superglue in a little tin and it's placed in
14 there and heated up. Once it's heated fumes will
15 start coming off it and the fumes will adhere to the
16 latent print residue if there was any left on the
17 item.

18 When it appears too it's kind of light
19 colored, real light colored. So I fumed that and
20 then once it's done fuming and officially examining
21 it again, I didn't see anything so I took it and went
22 and dusted it with black powder.

23 Let me refer to my notes now. I'm sorry.

24 Okay. Before I started my processing I had
25 I examined it visually, as I stated, but I had a

TESTIMONY: K GOODWIN/DIRECT

1 serologist come down and examine it also and I
2 believe she collected swabs off of it.

3 Once we start processing if I had gone
4 ahead and processed it, I might have messed up any
5 kind of serology evidence that they needed.

6 I had her do that, then I fumed it with
7 cyanoacrylate and then I went with the black powder.

8 Once that was done I had not identified any
9 identifiable ridge detail. Because I had noted blood
10 on it, I went one step further in my processing. We
11 have a chemical that we refer to as amino black.

12 It is a mixture of chemicals it's a dye
13 stain and it will stain the proteins that we find in
14 blood a very dark blue color. And that is why this
15 is the color it is. It is a dye stain and it will
16 stain all of the item but it develops or stains the
17 protein a little bit darker blue than it will the
18 rest of it. So, that is why it's the color that it
19 is.

20 And there was no ridge detail developed on
21 this item.

22 Q That's actual fingerprint evidence. On
23 this crime scene as you're doing your investigation,
24 were you able to identify any item?

25 A I was able to identify the victim. Being

TESTIMONY: K GOODWIN/DIRECT

1 her residence, that's normal.

2 Q Okay. Have a seat.

3 A (Complying.)

4 Q Agent Goodwin, did you conduct any kind of
5 inventory of the items that you collected?

6 A An inventory?

7 Q Yes, ma'am.

8 A I have items I collected, yes.

9 Q I know you stated you collected the coin
10 purse.

11 A Uh-huh.

12 Q Did it have anything in it?

13 A It did have some things in it, however I
14 did not go through and write down exactly what it
15 was. We opened it up and took a photograph of what
16 was in it.

17 Q Was there any money?

18 A Let me refer to my process notes. I do
19 not have any notes here stating that there was money
20 in it.

21 I would have to refer to my crime scene
22 photographs to see exactly what was in it.

23 Q Do you have anywhere in your report that
24 states there was any money in the trailer?

25 A No, I do not.

TESTIMONY: K GOODWIN/DIRECT

1 Q Never, there were never any money
2 counted --

3 A No.

4 Q -- as far as processing?

5 A No.

6 Q What about on Miss Robinson's person?

7 A There was nothing on her. We had been
8 told, when I initially arrived at the scene, that she
9 had just been paid and that she had cashed her
10 paycheck the day before this incident.

11 Q And did you do a search of her personal
12 effects?

13 A We did, and we did not find any cash.

14 Q What about the -- what about in the area
15 immediately around her, did you find any money?

16 A No, there was no money.

17 MR. GIBBONS: Please answer any
18 questions Mr. Koger has.

19 THE COURT: Cross examination, Mr.
20 Koger.

21 MR. KOGER: Yes, Your Honor.

CROSS EXAMINATION

22
23 BY MR. KOGER:

24 Q Agent Goodwin, what time did you arrive on
25 the scene?

TESTIMONY: K GOODWIN/CROSS

1 A I have in my notes that we arrived
2 approximately ten A.M.

3 Q At the time of your arrival on the scene,
4 you were aware that family members had been in the
5 location before it was secured; correct?

6 A Yes, yes.

7 Q Okay. Would that have affected your crime
8 scene investigation?

9 A It would not have affected my crime scene
10 investigation; however, I did make sure that it was
11 documented who had been in the scene prior to our
12 arrival.

13 We have a list of personnel in the crime
14 scene and anybody who entered and exited that, during
15 the time we were there we made a log of it.

16 Q Okay. And at what time did local law
17 enforcement tell you that they secured the crime
18 scene?

19 A I do not have any time listed here of when
20 they secure the scene.

21 Q Okay. And this is the diagram that you
22 constructed, Miss Goodwin.

23 How many feet was the hammer located from
24 the back of the fence?

25 A I would say approximately twenty to

130

TESTIMONY: K GOODWIN/CROSS

1 thirty-five feet away from the back of the residence.
2 We did not, however, do a specific measurement. We
3 did the two measurements from the corner of the fence
4 so that if we needed to go back to that point we
5 could do that.

6 Q But your best estimate would be twenty-five
7 or thirty-five feet?

8 A Approximately.

9 Q And what time did you finish up processing
10 the crime scene?

11 A I show that we departed the scene at
12 approximately 3:30 P.M. that afternoon.

13 Q And, Agent Goodwin, I think you also
14 testified too, from your experience with blood
15 splatter and castoff, that these injuries were caused
16 on more than one blow; correct?

17 A Yes.

18 Q Okay. And in your experience in
19 investigating homicides of this type, how many blows
20 would you say maybe was completed?

21 A Looking at the splatter that I saw, I would
22 say more than four blows.

23 Q More than four?

24 A But I cannot testify to the exact amount.
25 I did not see all of her injuries once she was

TESTIMONY: K GOODWIN/CROSS

1 cleaned up at autopsy.

2 Q But your best estimate at that point and
3 today is more than four?

4 A Uh-huh.

5 Q Okay. Now, you testified to arriving at
6 the scene at ten o'clock and staying until about 3:30
7 or so. So, there approximately five and a half
8 hours.

9 It's your testimony you did a thorough
10 investigation of the crime scene; correct?

11 A Uh-huh.

12 Q How many different items to your best
13 recollection was dusted for fingerprints and things
14 of that nature? Just a guess.

15 A Well, as I stated, we dusted the entrances
16 and exits that we saw, all the exterior and interior
17 doors. We dusted around the kitchen sink and around
18 the kitchen counter area because that was an area
19 leading to the back door.

20 We dusted all around the refrigerator that
21 was right there by that door. We dusted around the
22 area where the victim was. As far as the furniture,
23 the TV, night -- not nightstand but the end tables
24 and stuff that were there. We dusted around the
25 bathroom, the kitchen or the bathroom sink area, the

TESTIMONY: K GOODWIN/CROSS

1 vanity area, and the washing machine that's inside of
2 there.

3 Q So, basically it's your testimony that the
4 entire crime scene was basically dusted for the most
5 part?

6 A Pretty much.

7 Q And from the dusting, from the dusting for
8 fingerprints there's no identifiable prints that
9 points to my client; correct?

10 A I identified nothing to him, no.

11 Q I think you also testified, too, that you
12 conducted three tests on the hammer, correct, on the
13 handle?

14 A Uh-huh.

15 Q Is that customary or is that something that
16 you did just for this particular case right here?

17 A No. That was just a normal, that's how I
18 would normally process that particular piece of
19 evidence, through those steps.

20 Q Using those three tests?

21 A Uh-huh.

22 Q There was not anything, no prints
23 identifiable to my client?

24 A There were no identifiable prints
25 identified on the hammer.

TESTIMONY: K GOODWIN/CROSS

1 Q There was no identifiable prints on the
2 coin purse?

3 A No, there were not.

4 Q And there was no identifiable prints on the
5 cigarette case?

6 A No, there was not.

7 Q Nothing that would implicate my client in
8 this case?

9 A There were no identifiable prints
10 developed.

11 MR. KOGER: No further questions.

12 THE COURT: Redirect?

13 MR. GIBBONS: No Redirect, Your Honor.

14 THE COURT: Thank you, ma'am. You may
15 step down, Agent Goodwin.

16 (Oath administered.)

17 THE COURT: Please state your name for
18 the record and spell your first and last name,
19 sir.

20 THE WITNESS: My name is Darryl
21 Williams, D-A-R-R-Y-L, Williams, W-I-L-L-I-A-M-S.

22 THE COURT: Thank you, sir.

23 DARRYL WILLIAMS, having been duly sworn, was
24 examined and testified as follows:

25 DIRECT EXAMINATION

TESTIMONY: D WILLIAMS/DIRECT

1 BY MR. GIBBONS:

2 Q Mr. Williams, where do you live?

3 A Cedar Avenue.

4 Q And what town?

5 A Denmark.

6 Q And do you know the Nimmons' family?

7 A My cousins.

8 Q Your cousins. How are you related?

9 A Well, Albertha is my aunt. William is my
10 uncle. Everybody else is first, second cousin.

11 Q William Nimmons is your uncle?

12 A Yeah.

13 Q And do you live in that neighborhood?

14 A I live a street right behind them.

15 Q How far away?

16 A Next street over.

17 Q Do you know all the people that were living
18 in that household back in August of '98?

19 A Excuse me?

20 Q Do you know who all was living with your
21 Uncle William?

22 A Yeah. Yeah.

23 Q In '98?

24 A Yeah.

25 Q Who were they?

TESTIMONY: D WILLIAMS/DIRECT

1 A Well, Burt, Uncle Moot, Belva and Butch
2 mana Pat was staying in the trailer in the back.

3 Q Butch is who?

4 A Juan Nimmons.

5 Q And he was staying in the trailer with Pat?

6 A Yeah, his mama. Miss Zola Robinson.

7 Q Do you know Juan Nimmons?

8 A Yeah. We was raised up together.

9 Q How long have you been knowing him?

10 A All my life.

11 Q And how often do you see him?

12 A I used to see him most every day.

13 Q What about during 1998, the summer?

14 A 1998, summer. Yeah, I saw him then, too.

15 Q Every day?

16 A Most every day.

17 Q How old are you?

18 A I'm thirty-three.

19 Q And how old is he?

20 A Probably about thirty-five, thirty-six,
21 something like that.

22 Q Y'all travel in the same circles?

23 A Yeah. We got different jobs, you know, but
24 as far as, I ain't never worked at no place he ever
25 worked at but I used to see him every day.

TESTIMONY: D WILLIAMS/DIRECT

1 Q Did y'all hang out together?

2 A Yeah.

3 Q Did you see him back on the 7th of August,
4 1998?

5 A Sure did.

6 Q Tell me what happened that day.

7 A Well, I saw him earlier that day, you know,
8 he was around my way and he had left.

9 Q Where were you when you saw him?

10 A I was on Cedar Avenue street in front
11 of Sandy Jordan house.

12 Q And where is that from his house?

13 A That's, like, right around the corner.
14 Same street, you know, Locust Street and Cedar
15 Street, two streets, you know.

16 Q They cross?

17 A Yeah.

18 Q Just around the corner from his house?

19 A Yeah.

20 Q And you were -- at whose house were you at?

21 A Sandra Jordan.

22 Q Were you in her house?

23 A No. Outside.

24 Q Out in the yard?

25 A Yes, sir.

TESTIMONY: D WILLIAMS/DIRECT

1 Q Who else was there?

2 A Elliott Adams, Sandra Jordan and, you know,
3 quite a few more people.

4 Q And what was going on that day out there?

5 A We was standing out there drinking beer.

6 Q Was this a party?

7 A Well, you know, that's where we used to
8 hang out at.

9 Q Just hanging out?

10 A Yeah.

11 Q What time of day was it?

12 A It was in the afternoon.

13 Q Late?

14 A Not too late.

15 Q Dark?

16 A I'd say around five, six o'clock. Usually
17 don't get dark until around eight or nine o'clock
18 during that period of time.

19 Q Y'all were just out there hanging out and
20 you saw Juan that day?

21 A Yes, sir.

22 Q What time did you see Juan?

23 A It was approximately about -- I got off
24 work at 3:30, so it was probably around five, five,
25 six, something like that.

TESTIMONY: D WILLIAMS/DIRECT

1 Q And where was he?

2 A He was in front of Sandra Jordan house.

3 Q And did you speak?

4 A Excuse me?

5 Q Did you speak with him?

6 A Yeah. We talked, drunk some beer together,
7 smoked some cigarettes.

8 Q And how long did you and him stay together?

9 A He was there for awhile then he had left.

10 Q And do you know what time, about?

11 A He left -- he had to leave there around
12 seven, eight o'clock, say, between 6:30 and seven
13 o'clock he had left.

14 Q Did you see him again that night?

15 A I saw him again. When I saw him again?

16 Q Where was that?

17 A In front of Sandra Jordan house.

18 Q What time was it?

19 A It was between 7:30 and eight o'clock,
20 something like that. Say, eight; it was between
21 eight and nine o'clock.

22 Q All right. So, I think you said he was
23 there until around five or six o'clock?

24 A Yeah, then he left.

25 Q He left. And you saw him again around

TESTIMONY: D WILLIAMS/DIRECT

1 eight?

2 A Between eight and nine o'clock, yeah.

3 Q Did you speak to him at that time?

4 A Yeah. I seen him.

5 Q And did y'all spend some time together at
6 that time?

7 A No. We -- he had a little bit of money
8 then.

9 Q He had a little bit of money?

10 A He had some money then.

11 Q Did you see it?

12 A Did I see the money?

13 Q Yes, sir.

14 A Yes, sir. I saw it.

15 Q Do you know where Juan works?

16 A At that period of time, where did he work
17 at. He was work at Lifetime Door, painting.

18 Q And he had some money that night?

19 A Yeah.

20 Q Did you see any money the first time he was
21 over there?

22 A No, I didn't.

23 Q Did the subject ever come up the first
24 time?

25 A No.

TESTIMONY: D WILLIAMS/DIRECT

1 Q Okay. You saw him later on, eight o'clock,
2 you said?

3 A Between eight o'clock and nine o'clock,
4 yeah.

5 Q He had some money?

6 A Yeah.

7 Q What happened then?

8 A He had some money and he purchased
9 something.

10 Q All right.

11 A Controlled substance.

12 Q What happened after that?

13 A And then he left, left, went back around
14 the corner.

15 Q All right. What time was that?

16 A Had to be about 9:30, ten o'clock then.

17 Q So he left about 9:30 or ten?

18 A Yeah.

19 Q Did you see him again that night?

20 A Yeah. He came back with the car.

21 Q With whose car?

22 A Zola Robinson.

23 Q With Pat's?

24 A Pat.

25 Q Had you seen him with the car before?

TESTIMONY: D WILLIAMS/DIRECT

1 A No, I didn't.

2 Q Never before?

3 A I mean, I seen him with the car plenty
4 times. It was his mother's car. He used to drive
5 the car.

6 Q Did you see him come back?

7 A Yeah.

8 Q What time was that?

9 A That was, like I said, between 9:30 and ten
10 o'clock.

11 Q And he came back with the car?

12 A Yeah.

13 Q Did he come back to the house through the
14 yard?

15 A Yeah, he came back that way. I was down, a
16 little further down Cedar Street. When I seen him
17 then. I was still standing on the corner and turned
18 around and he got back in the car with whoever he got
19 back in the car with, and went back the other way.

20 Q Wait a minute here. Where were you when
21 you saw him climb in the car?

22 A I was on Jordan corner, of the porch.

23 Q You were still at the same place?

24 A Yeah. I was still at the same place.

25 Q And where was he?

TESTIMONY: D WILLIAMS/DIRECT

1 A He was a little further down the street.

2 Q Towards?

3 A Towards my house.

4 Q Is that close -- towards his house, too?

5 A Yeah.

6 Q And he didn't come all the way up to the
7 yard?

8 A No, he didn't come all the way up there.

9 Q Tell me exactly what you saw happened when
10 you saw the car.

11 A All right. I seen the car and I saw him
12 got in and I saw some more people got in and they
13 left and went back the other way.

14 Q How many people?

15 A I think it was two.

16 Q Do you know who they were?

17 A Travis Yon and Derek. Travis and Derek.

18 Q Do you know Derek's last name?

19 A James, I think. I ain't sure.

20 Q Do you remember what Juan had on that
21 night?

22 A A checkered shirt is the only thing.
23 Earlier that night I seen that.

24 Q And when you saw the car driving, saw it
25 go, how many people were in it?

TESTIMONY: D WILLIAMS/DIRECT

1 A I think there was three with him.

2 Q All right. And it stopped?

3 A It went on around the corner.

4 Q So, the whole time you saw it there were
5 three people in it?

6 A Yeah.

7 Q And they never stopped?

8 A (Shakes head negatively.)

9 Q Who was driving?

10 A I'm not sure.

11 Q But you know the people that were in it?

12 A Yeah.

13 Q You didn't speak to any of them?

14 A Huh-uh.

15 Q All right. Did you see Juan again that
16 night?

17 A Next time I saw Juan was about three
18 o'clock that morning.

19 Q And where was that?

20 A That was in front of Sandra Jordan house.

21 Q And, what was he doing at that time?

22 A He was just chilling then, you know, just
23 sitting down, drinking beer, was just chilling.

24 Q And how did he get there; do you know?

25 A He come up from, walking around the corner.

TESTIMONY: D WILLIAMS/DIRECT

1 Q He walked up?

2 A Yeah.

3 Q Where was the car?

4 A I reckon the person who he give the car to
5 still had it.

6 Q You don't know, do you?

7 A No.

8 Q He just wasn't in it when you saw him?

9 A No.

10 Q How long did he stay this time?

11 A We, he stayed there -- like I said, he
12 stayed there from three until five o'clock. Five
13 o'clock is when I went home. I went home at five
14 o'clock that morning.

15 Q So, what time did he get to Sandra's the
16 last time?

17 A It was about three o'clock.

18 Q About three o'clock he came to Sandra's?

19 A Yeah.

20 Q And then you left about?

21 A About five.

22 Q And he was there from three to five?

23 A Yeah.

24 Q Anybody with him when he walked up?

25 A No. He was by hisself (sic.) when he

TESTIMONY: D WILLIAMS/DIRECT

1 walked up.

2 Q Did he have -- do you remember what he was
3 wearing at that time?

4 A He was wearing them gray short warm-ups and
5 a checkered shirt.

6 Q Same shirt?

7 A I think so, yeah.

8 Q And did you see him again after you left at
9 five o'clock?

10 A Only time I seen him again was when, after
11 the emergency was over and everything and I went back
12 home. I went back to my aunt house. I went back
13 over there. He was in my house.

14 Q Let's not get to that point.

15 A All right.

16 Q Did anything else happen that morning after
17 you went home?

18 A Only thing I noticed when we were sitting
19 on the corner, he walked down by Libby Funeral Home,
20 three or four time, looking up the road up towards
21 his house, three or four times. That's the only
22 thing I seen, can describe.

23 Q He walked to the Libby Funeral Home?

24 A Yeah.

25 Q If I'm standing at Sandra Jordan's --

TESTIMONY: D WILLIAMS/DIRECT

1 A Yeah.

2 Q -- where is Libby Funeral Home?

3 A Libby Funeral Home is right down on the
4 corner on the left -- on the right.

5 Q On what street?

6 A Locust Street.

7 Q And where is Sandra Jordan's?

8 A Sandra Jordan house is right there on Cedar
9 Street.

10 Q So, if I walked over to -- from Sandra
11 Jordan's house, if I walked to Locust Street, Libby
12 Funeral Home is there?

13 A Yeah. Right there on the right.

14 Q And where is Pat and Juan's house?

15 A A little further down on the left.

16 Q This way (indicating)?

17 A Yeah.

18 Q And you say he walked over to Libby's?

19 A Libby Funeral Home about four or five
20 times, looking down the road.

21 Q Did you lose sight of him?

22 A No. He came back.

23 Q Well, what did you see him do?

24 A He was walking, looked up the road and come
25 back.

TESTIMONY: D WILLIAMS/DIRECT

1 Q What direction did he look?

2 A Left, towards his house.

3 Q And then came back?

4 A Yeah.

5 Q You say -- how many times did he do that?

6 A Three or four times.

7 Q All right. And then you went home about
8 five?

9 A Went home about five.

10 Q Did anything happen that next morning?

11 A After seven o'clock Derek brought me his
12 mama car back and asked me where was Butch. I told
13 him, I don't know.

14 Q Derek?

15 A Derek.

16 Q The same Derek you mentioned before?

17 A Yeah.

18 Q Brought whose car back?

19 A Pat. Zola Robinson.

20 Q Was anybody with him?

21 A By himself.

22 Q He brought it where?

23 A To my house.

24 Q What did you do when he brought it to your
25 house?

TESTIMONY: D WILLIAMS/DIRECT

1 A Well, I was in there asleep. My brother
2 woke me up, told me somebody wanted me. So I came
3 out and he asked him where Butch was at. I told him
4 I didn't know.

5 He asked me would I carry the car back and
6 since I know, it was my family and I know that Pat
7 needed her car to go to work that morning. She have
8 to be at work at six o'clock on Friday mornings.

9 So I got the car and I carried it home
10 which I didn't have no license but I felt it was my
11 right to get the car, carried Derek home and I
12 brought the car back and I give the keys to
13 Mr. Nimmons.

14 Q Mr. William Nimmons?

15 A Right.

16 Q So, it's the next morning. You took the
17 car back to Mr. Nimmons.

18 What did you do after that?

19 A I went back home and my brother just carry
20 me to my mama's house, over in Fair Ridge Apartment.
21 I was to go over there and get me some rest. My mom
22 was backing out, they were leaving, come back over to
23 Burt house where they found Miss Zola. They found
24 Pat dead in the trailer.

25 Q So, you found that out at your mama's

TESTIMONY: D WILLIAMS/DIRECT

1 house?

2 A Yeah.

3 Q What did you do after that?

4 A I got in my car with my mom and I went over
5 there, too.

6 Q All right. You went over to Pat's house
7 and saw what was going on?

8 A Yeah.

9 Q And then where did you go?

10 A I couldn't go nowhere. I stayed right
11 there the whole period of time.

12 Q Did you go back to your house that day?

13 A Late that afternoon I went back over there.

14 Q All right. What time was that?

15 A Had to be about five, six o'clock.

16 Q All right. And you walk up to your house,
17 what happened?

18 A I put my key in my door and there was Butch
19 come running out from in the house.

20 Q Butch is who?

21 A Juan.

22 Q And where was he?

23 A He was in my house.

24 Q You just said you had your key out. Was
25 your house locked?

TESTIMONY: D WILLIAMS/DIRECT

1 A Yeah, it was locked.

2 Q Is that the only door?

3 A No. We got a back door, too.

4 Q What about that one?

5 A It was locked, too.

6 Q And you opened the door. What happened?

7 A Juan come running out the back room.

8 Q And whose room was that?

9 A That was the living room.

10 Q What happened when you ran into him there?

11 A He asked me was the police looking for him.
12 I told him yeah. And he said that he didn't kill his
13 mother. And I told him I didn't have anything to do
14 with that.

15 He asked me for a cigarette and I gave him
16 a cigarette and I told him he had to leave from here.
17 He left. When he left I left and I went and called
18 the police and told them I seen him.

19 Q Do you know what Juan was doing in your
20 trailer?

21 A Excuse me?

22 Q Do you know what he was doing in the
23 trailer?

24 A It was a house. I don't know what he was
25 doing in there. I didn't spend no time -- after I

TESTIMONY: D WILLIAMS/DIRECT

1 found out he was there, I didn't spend no time there.

2 As soon as he left, I left.

3 Q Anything missing from your house?

4 A No. Only thing he had to change clothes,
5 he had put a pair of -- new shirt and pants on.

6 Q Did you see what he left in your house?

7 A A light blue shirt and my warm-up pants,
8 blue warm-up pants.

9 Q So, he changed clothes at your house and
10 left?

11 A Yeah.

12 Q Did you go back to your house again?

13 A No.

14 Q Why not?

15 A I was scared.

16 Q And then you called the police?

17 A Yeah.

18 MR. GIBBONS: Answer any questions
19 Mr. Kroger has, please.

20 THE COURT: Cross Examination, Mr.
21 Koger.

CROSS EXAMINATION

22
23 BY MR. KOGER:

24 Q Mr. Williams, I want to clarify your last
25 question, near the end.

TESTIMONY: D WILLIAMS/CROSS

1 What type of clothing did Mr. Nimmons
2 allegedly leave in your house?

3 A It was a part of short blue warm-up pants
4 and a checkered shirt.

5 Q He left those clothes?

6 A Yeah. There -- SLED picked those clothes
7 up from my house.

8 Q I'm asking you questions.

9 A Excuse me.

10 Q What clothes did he leave your house with?

11 A Short -- what clothes did he leave my house
12 with?

13 Q Right.

14 A I mean --

15 Q What he had on when he left your house,
16 allegedly.

17 A A pair of warm-up pants and shirt.

18 Q What clothes he left at the house?

19 A Pair of short warm-up pants.

20 Q And what color shirt?

21 A Checkered shirt.

22 Q Checkered shirt?

23 A Yeah.

24 Q I think you testified to earlier that he
25 had a checkered shirt on earlier that night; correct?

TESTIMONY: D WILLIAMS/CROSS

1 A Yeah.

2 Q Okay. Was that the same checkered shirt?

3 A I'm not sure.

4 Q You're not sure. So, it could be the same
5 checkered shirt?

6 A I don't know.

7 Q It could be, though?

8 A I don't know.

9 Q Now, back to the day of the incident -- do
10 you work?

11 A Not right now, I don't.

12 Q Not right now. So, you customarily stay up
13 all night?

14 A Excuse me?

15 Q You customarily stay up all night?

16 A No.

17 Q This was a one-time thing, back on August
18 6th?

19 A No. I mean -- like I say, I'm on drugs
20 myself and I'm asking the Court for help. So, that's
21 it right there.

22 Q So, on that particular night you were using
23 drugs?

24 A Yes, sir.

25 Q And how long were you using drugs on that

TESTIMONY: D WILLIAMS/CROSS

1 particular night?

2 A How long?

3 Q Yeah.

4 A I don't know. I can't say. I don't know.

5 Q What time did you start using drugs on
6 August 6th?

7 A I don't know.

8 Q But you were using drugs?

9 A Yes, sir.

10 Q What type of drugs?

11 A Crack cocaine.

12 Q Crack cocaine?

13 A Yeah.

14 Q All right. Now, you testified to know what
15 color shirt Mr. Nimmons had on that night but you
16 can't recall how many times you used drugs on that
17 particular day?

18 A Like I say, I can't tell you how many. I
19 mean, whenever one come.

20 Q Well, typically, how many times did you use
21 drugs during the day?

22 A Approximately seven, eight times.

23 Q Approximately seven, eight times?

24 A Uh-huh.

25 Q When was the first time you saw Mr. Nimmons

TESTIMONY: D WILLIAMS/CROSS

1 on that particular day?

2 A First time I seen him was around 3:30, four
3 o'clock. After I got off work I saw him.

4 Q Okay. 3:30, four o'clock on August 6th?

5 A First time I seen him.

6 Q What time did you get off work?

7 A I got off work at 3:30.

8 Q When -- the first time you saw Mr. Nimmons,
9 had you engaged in any drug use?

10 A No.

11 Q Okay. All right. And you saw Mr. Nimmons
12 from 3:30 up until what time?

13 A I saw him from, when?

14 Q You saw. First saw him at 3:30?

15 A Well, I got off work at 3:30.

16 Q You saw him at four o'clock, 3:30?

17 A Around that range.

18 Q Around that range. All right. And then
19 you saw him for how long during that period?

20 A He had left -- he left from, around, like I
21 say about five. And then he came back. He came back
22 around between seven and eight o'clock.

23 Q So, he left at five and you didn't see him
24 again until seven?

25 A No. Say, between seven and nine o'clock.

TESTIMONY: D WILLIAMS/CROSS

1 Q Between seven and nine o'clock you didn't
2 see him again?

3 A Yeah. I didn't see him again.

4 Q Okay. And between five and seven, did you
5 engage in any type of drug usage?

6 A Did I engage in any type of drug usage?

7 Q Yeah.

8 A Most likely I did.

9 Q What type of drugs?

10 A Same thing.

11 Q Crack cocaine?

12 A Yeah.

13 Q Okay. And you saw him again at, you say,
14 between seven and nine; correct?

15 A Yeah.

16 Q Okay. And you can't give the Court an
17 approximate time of anything?

18 A Approximate time for anything?

19 Q You say between seven and nine; correct?

20 A Yeah.

21 Q During the hours of seven and nine, did you
22 engage in any drug use?

23 A Did I?

24 Q Right.

25 A Yeah.

TESTIMONY: D WILLIAMS/CROSS

1 Q So, you used drugs at five o'clock, from
2 five until nine; correct?

3 A To -- five to nine. I didn't use any drugs
4 at five.

5 Q You used drugs at six?

6 A Yeah.

7 Q We're talking about crack cocaine?

8 A Yeah.

9 Q You used crack cocaine from six until nine?

10 A Yeah.

11 Q Now, after nine o'clock when was the next
12 time you saw Mr. Nimmons?

13 A It was around three that morning.

14 Q Three that morning?

15 A Yeah.

16 Q Did you engage in any type of crack cocaine
17 use from nine until three o'clock?

18 A Yeah.

19 Q How many times did you engage in?

20 A I don't know.

21 Q You don't know?

22 A Huh-uh.

23 Q Okay. But it was more than once?

24 A More than once.

25 Q More than two?

TESTIMONY: D WILLIAMS/CROSS

1 A More than once.

2 Q More than two?

3 A More than once.

4 Q Okay. So, it can be anywhere from two
5 until twenty?

6 MR. GIBBONS: Your Honor, he's been
7 over this four or five times. He's answered the
8 question.

9 THE COURT: All right, sir. I'll
10 sustain the objection.

11 Let's move on, please.

12 MR. KOGER: Yes, Your Honor.

13 BY MR. KOGER:

14 Q So, the next time you saw Mr. Nimmons was
15 at three o'clock; correct?

16 A (Nods head affirmatively.)

17 Q Okay. And I think you testified to seeing
18 Juan from three until five?

19 A Yeah.

20 Q Three o'clock in the morning until five
21 o'clock.

22 A I went home at five o'clock.

23 Q You went home at five o'clock. Did you do
24 any drug use from three until five?

25 A No, I didn't.

TESTIMONY: D WILLIAMS/CROSS

1 Q When was the last time you used drugs on
2 that particular night?

3 A Last time I used drugs, it was right around
4 twelve to one.

5 Q Twelve to one. So, its your testimony that
6 you engaged multiple times in drug use, crack
7 cocaine, from six o'clock until one o'clock the next
8 morning?

9 A Something like that.

10 Q All right. Talking about seven hours?

11 A Something like that.

12 Q All right. And yet you can testify to what
13 times that you saw Mr. Nimmons on that particular
14 night?

15 A Excuse me?

16 Q You can still testify to what times you saw
17 Mr. Nimmons on that particular night?

18 A Yeah.

19 Q Even though you engaged in drug use from
20 six until one?

21 A Yeah.

22 Q You can testify --

23 MR. GIBBONS: Your Honor, this has been
24 asked and answered.

25 THE COURT: Just a moment. He's

TESTIMONY: D WILLIAMS/CROSS

1 objecting. I didn't hear you.

2 MR. GIBBONS: It's been asked and
3 answered several times already.

4 THE COURT: I agree with you. Ask it
5 this one last time because you're replowing a lot
6 of old ground.

7 MR. KOGER: No further questions, Your
8 Honor.

9 THE COURT: All right. Redirect?

10 MR. GIBBONS: No. Nothing, Your Honor.

11 THE COURT: Thank you, sir. You can
12 step down.

13 Next witness.

14 MR. GIBBONS: State will call Booker T.
15 Washington.

16 (Oath administered.)

17 THE COURT: Please state your name for
18 the record, sir.

19 THE WITNESS: Booker T. Washington, Jr.

20 THE COURT: You're going to need to
21 speak louder than that.

22 THE WITNESS: Booker T. Washington, Jr.

23 BOOKER T. WASHINGTON, JR., being duly sworn,
24 was examined and testified as follows:

25 **DIRECT EXAMINATION**

TESTIMONY: B T WASHINGTON JR/DIRECT**BY MR. GIBBONS:**

1 Q Mr. Washington, where do you live?

2 A Jean's Apartment.

3 Q What town?

4 A Denmark.

5 Q Denmark. How long have you lived in

6 Denmark?

7 A About fifteen years.

8 Q And what part of town do you live in?

9 A Right in the middle of town.

10 Q Do you know of the Nimmons' family?

11 A No, sir. I have know Reverend Jamison.

12 Q Sir?

13 A I known Reverend Jamison.

14 Q You don't know the Nimmons?

15 A Jamisons.

16 Q Do you know the Nimmons?

17 A No.

18 Q Do you know Juan Nimmons?

19 A Juan?

20 Q Yes, sir.

21 A Yes. Uh-huh. I know him.

22 Q How do you know him?

23 A Through his father, stepfather-in-law, Al

24 Walker.

25

162

TESTIMONY: B T WASHINGTON JR/DIRECT

1 Q How long have you been knowing Mr. Juan
2 Nimmons?

3 A About, couple months or something like
4 that.

5 Q Couple months ago from now?

6 A Oh. No. Uh-huh. From when Al brought him
7 to the house one evening and I met him there.

8 Q Do you know him if you see him?

9 A Yes, sir.

10 Q Is he in the courtroom today?

11 A Yes, sir.

12 Q Can you point him out, please, sir?

13 A (Complying.)

14 MR. GIBBONS: Let the record reflect
15 he's pointing to the Defendant.

16 THE COURT: All right, sir.

17 BY MR. GIBBONS:

18 Q Now, Mr. Washington, I'm going to ask you,
19 are you the same Booker Washington that was convicted
20 of possession of cocaine back in 1990?

21 A I think, yes.

22 THE COURT: You need to speak up,
23 please, sir.

24 THE WITNESS: Yes, sir. I think it is.

25 BY MR. GIBBONS:

TESTIMONY: B T WASHINGTON JR/DIRECT

1 Q I'm going to ask you some questions about
2 August the 7th or the 6th of 1998. What were you
3 doing that night?

4 A Party at my house. Me and my friends and
5 my sisters were at the house that night and my
6 girlfriend.

7 Q And your girlfriend?

8 A (Nods head affirmatively.)

9 Q And did you see Juan Nimmons that night?

10 A Yes, sir.

11 Q And do you know what time?

12 A I think about ten o'clock.

13 Q And where were you?

14 A Right at my apartment, Apartment 8, Grace
15 Foundation.

16 Q How did you come to see him?

17 A Juan came by there that night, stayed there
18 about five or ten minutes. I asked him what was
19 wrong and he left. That was it.

20 Q Why did you ask him what was wrong?

21 A Because he was, sounded like something was
22 wrong with him.

23 Q Why do you say that?

24 A He was sweating, you know, sweating, you
25 know. I could tell there was something, looked like,

164

TESTIMONY: B T WASHINGTON JR/DIRECT

1 was wrong with him. I just asked him what was wrong.

2 Q And did he tell you anything?

3 A No, sir.

4 Q Do you remember what he had on?

5 A I can't quite remember. Like I told
6 Mr. Joe Bell and Detective Wayne, I think he had on a
7 plaid shirt, pair of black pants.

8 Now I'm thinking now I ain't too sure what
9 he really had on.

10 Q But what did you say you think it was?

11 A A plaid shirt and pair of black pants.

12 Q Plaid shirt. Did you see him anymore that
13 night?

14 A No, sir.

15 Q And you say it was around ten o'clock?

16 A Yes, sir.

17 MR. GIBBONS: Answer any questions Mr.
18 Koger has.

19 THE COURT: Cross examination, Mr.
20 Koger.

CROSS EXAMINATION

21
22 BY MR. KOGER:

23 Q Mr. Washington, do you admit to having a
24 possession of cocaine back in 1990; correct?

25 A Yeah.

TESTIMONY: B T WASHINGTON JR/CROSS

1 Q And you testified to seeing Mr. Nimmons
2 that night at ten o'clock?

3 A Yes, sir. About ten, somewhere around
4 there.

5 Q About ten o'clock. Were you involved in
6 any drug usage that particular night?

7 A No.

8 Q And you say you stay at Grace Foundation;
9 correct?

10 A Yes, sir.

11 Q I think you did testify, too, that you
12 cannot be absolutely and positively sure that
13 Mr. Juan Nimmons had a plaid shirt on?

14 A No, sir. I'm not sure.

15 Q You're not sure?

16 A No, sir. No, sir.

17 Q So, he could have had on something else?

18 A Right.

19 Q And did you see Juan anymore that night?

20 A No.

21 Q Did you see him around 12:30?

22 A No, sir.

23 MR. KOGER: I have no further
24 questions.

25 THE COURT: Any Redirect?

1 MR. GIBBONS: I have nothing further,
2 Your Honor.

3 THE COURT: Thank you.

4 MR. GIBBONS: Your Honor, the State
5 would call Lee Hutto.

6 Your Honor, could this witness be excused?

7 THE COURT: Any objection?

8 MR. KOGER: No objection, Your Honor.

9 THE COURT: Without objection you're
10 excused, Mr. Washington.

11 (Oath administered.)

12 LEE HUTTO, being duly sworn, was examined
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. GIBBONS:

16 Q Would you state your name and spell your
17 last name for us, please?

18 A Lee Hutto, H-U-T-T-O.

19 Q Where do you work, please?

20 A Security Federal Bank.

21 Q And what are your duties?

22 A I'm the branch manager.

23 Q In the case that we're here on, Juan
24 Nimmons and the death of Zola Robinson --

25 A Yes, sir.

TESTIMONY: L HUTTO/DIRECT

1 Q -- were you requested to bring certain
2 documents with you?

3 A Yes, sir.

4 Q And did you bring them with you today?

5 A Uh-huh.

6 Q And, do these documents -- are these
7 documents that are used in the regular course of your
8 business?

9 A If needed to be, yeah.

10 Q Do you keep them as a regular part of your
11 business?

12 A Yes, sir. We do keep them. They're on
13 record.

14 Q As the manager of the bank, you do have
15 custody or control over them?

16 A Yes. Uh-huh.

17 Q I'm going to refer you to the items that
18 the State asked you to bring with you and ask you
19 specifically what we requested, what items we
20 requested?

21 A Oh. I'm sorry. A copy of the front and
22 back of a check that was cashed by Miss Robinson.

23 Q And from the markings on the check that we
24 had you bring, could you make any determination of
25 that document at all?

TESTIMONY: L HUTTO/DIRECT

1 A Yes, sir. It was a payroll check that was
2 cashed on -- you want me to go into the details,
3 dates or anything?

4 Q Please.

5 A It was a payroll check that was cashed on
6 August the 6th by Miss Robinson.
7 (State's Exhibit 23, copy of payroll check, marked
8 for identification.)

9 MR. KOGER: No objection.

10 MR. GIBBONS: State would move it into
11 evidence.

12 THE COURT: What's the number?

13 MR. GIBBONS: State's Exhibit 23.

14 It's --

15 THE COURT: 23 is admitted without
16 objection.

17 (State's Exhibit 23, copy of payroll check, received
18 into evidence.)

19 MR. GIBBONS: Thank you, Your Honor
20 it's the front and back of a check.

21 BY MR. GIBBONS:

22 Q State's Exhibit 23, is that the same as the
23 check you are referring to?

24 A Yes, sir. It is.

25 Q Please tell us, sir, what you can tell by

TESTIMONY: L HUTTO/DIRECT

1 the markings on that check?

2 A Well, one thing, that it was cashed on
3 August 6th, and that it was cashed at our branch in
4 Denmark.

5 It wasn't deposited or anything. So, cash
6 was given when she came in.

7 Q Cash money was given out?

8 A Cash money was given out when she came in.

9 Q Was the item endorsed by any person?

10 A It was endorsed by Miss Robinson.

11 Q On the back of the check?

12 A Uh-huh.

13 Q So, on the 6th of August, somebody
14 presented that check with her name on the back and
15 cash money was given out?

16 A Correct.

17 MR. GIBBONS: Answer any questions Mr.
18 Koger has.

19 THE COURT: Cross Examination.

20 CROSS EXAMINATION

21 BY MR. KOGER:

22 Q Mr. Hutto, I notice that the check date is
23 August 7th?

24 A Yes, sir.

25 Q Is it the policy of your bank to cash a

TESTIMONY: L HUTTO/CROSS

1 check before the date it is written?

2 A Well, the reason why -- on the check it
3 states August 7th but what happens at two o'clock --
4 on bank days after two o'clock, the computer days
5 automatically switch over to the next day.

6 The actual day is the 6th but computer days
7 for the bank is actually the 7th on the check.

8 Q So, Mr. Hutto, it's your testimony that
9 this check was cashed after two o'clock?

10 A Yes. Uh-huh.

11 MR. KOGER: No further questions.

12 MR. GIBBONS: Nothing further, Your
13 Honor. We ask this witness be excused.

14 THE COURT: Any objection?

15 MR. KOGER: No objection.

16 THE COURT: Without objection you're
17 excused. Thank you very much for coming, sir.

18 Ladies and gentlemen of the jury, I think
19 we've reached an appropriate point in our day to
20 take our lunch break.

21 Before I send you away to lunch, I'm going
22 to, once again, caution you and instruct you that
23 you're not to discuss this case among yourselves
24 as you go to lunch, go to lunch together,
25 certainly not to discuss this case in any fashion

1 whatsoever as you exit the courthouse, if you go
2 to lunch together, or when you reconvene in the
3 jury room at the end of the lunch hour.

4 Also, you're not to discuss this case with
5 your family, friends, or anyone else. And, once
6 again, if anyone should attempt to contact you
7 concerning this case, I want you to gather as
8 much information as you possibly can about that
9 person or persons and report that to me.

10 immediately upon your return to the courthouse
11 because that is a very serious matter and I will
12 deal with those individuals that attempt to
13 contact you accordingly.

14 Also, I'm going to instruct you that -- I
15 don't know that there would be anything in the
16 local news media concerning this case, but out of
17 abundance of caution, I instruct you, once again,
18 that you're not to read, watch, or listen to any
19 news accounts concerning this case.

20 Very simply put, all I want you to consider
21 in this matter is what you see and hear in this
22 courtroom, absolutely nothing more or nothing
23 less.

24 I'm going to ask that you be back in your
25 jury room at 1:45. That's about an hour and

1 fifteen minutes from now, at quarter till two.

2 Once again, when you come back to the
3 courthouse, please report directly to the jury
4 room. Do not linger outside or in the halls or
5 anything like that, come directly back to the
6 jury room at 1:45 and we'll get started promptly
7 at that time.

8 I hope you have a very nice lunch hour.
9 I'll look forward to seeing you back here at
10 1:45.

11 The jury is excused. Everyone else remain
12 seated while they exit the courtroom, please.
13 (Jury exits courtroom at 12:25 P.M.)

14 THE COURT: Now, let me advise everyone
15 in the courtroom, if you have to go to one of the
16 local establishments for lunch, I would advise
17 you not discuss to this case.

18 You never know when a juror might be sitting
19 in a booth adjacent to you. So, once again, out
20 of abundance of caution you can talk about a lot
21 of things but please refrain from talking about
22 this case because we're this far into it and I
23 would hate for something that would go on outside
24 to prejudice the case and require it to be tried
25 at a later date.

1 So, please, keep that in mind also.

2 Be back here at 1:45 and we'll try to get
3 started promptly at that time.

4 Anything from the State before we take our
5 lunch break?

6 MR. GIBBONS: No, sir.

7 THE COURT: Defense?

8 MR. KOGER: No, Your Honor.

9 THE COURT: All right. As soon as the
10 jurors have left, please advise us, sir.

11 THE BAILIFF: Yes, sir.

12 (Off the record discussion.)

13 THE COURT: We will stand at ease until
14 1:45. Thank you very much.

15 (Thereupon at 12:30 P.M. the luncheon recess was
16 taken. At 1:55 P.M. the trial resumed as follows:)

17 THE COURT: All right. State ready to
18 proceed?

19 MR. GIBBONS: We're ready, Your Honor.

20 THE COURT: Defense ready?

21 MR. KOGER: Yes, Your Honor.

22 THE COURT: Let me see you gentlemen up
23 here for a minute before I bring the jury back.

24 (Off-the-record discussion.)

25 THE COURT: Are you gentlemen ready?

1 MR. GIBBONS: Yes, sir. We're ready.

2 MR. KOGER: Yes, sir.

3 THE COURT: Bring our jury back,
4 please.

5 (Jury returns to courtroom at 2:00 P.M.)

6 THE COURT: Polling of the jury by the
7 State?

8 MR. GIBBONS: State would waive it,
9 Your Honor.

10 THE COURT: Defendant?

11 MR. KOGER: No, Your Honor.

12 THE COURT: Mr. Foreman, ladies and
13 gentlemen, it's good to see you again. I hope
14 you had a nice lunch hour.

15 We're going to continue with the State's
16 case. Call your next witness, please.

17 MR. GIBBONS: Thank you, Your Honor.
18 The State would call Rosa Whetstone.
19 (Oath administered.)

20 THE COURT: If you would please slide
21 up a little bit closer to that microphone and
22 state your name for the record, please, ma'am.

23 THE WITNESS: Rosa Whetstone.

24 ROSA WHETSTONE, being duly sworn, was
25 examined and testified as follows:

TESTIMONY: R WHETSTONE/DIRECT

DIRECT EXAMINATION

1
2 BY MR. GIBBONS:

3 Q Miss Whetstone, where do you live?

4 A Denmark.

5 Q And how long have you lived over in
6 Denmark?

7 A You mean, where I live at right now?

8 Q Just in the Denmark area.

9 A Twenty-five, twenty-six years or longer.

10 Q And are you familiar with the Nimmons'
11 family?

12 A Yes.

13 Q Which one of the Nimmons' family?

14 A I know them all but I know Butch better
15 than I did the rest of them.

16 Q Is Butch in the room here today?

17 A Yes.

18 Q Could you point him out, please?

19 A (Complying.)

20 Q Let the record reflect that the witness
21 referred to the Defendant.

22 Rosa, were you living in Denmark back in
23 August of 1998?

24 A Yes.

25 Q And on the night of August 6th, I believe

TESTIMONY: R WHETSTONE/DIRECT

1 it was a Thursday night --

2 A Yes, sir.

3 Q -- did you come in contact with anyone
4 involved in this case?

5 A I don't know what you mean by that.

6 Q Did you see anyone involved in this case?

7 A I still don't understand how -- what you're
8 saying.

9 Q Did you see Juan Nimmons that night?

10 A Oh. Yes, I did.

11 Q Tell us what was going on and how that
12 happened.

13 A Me and my sister, we walk every night and
14 we was coming over through around town and when we
15 got back to where, almost where I live at, Butch was
16 coming off on the side of his grandmother's house.
17 And --

18 Q How long have you known Butch?

19 A Well, we used to attend prayer service
20 together.

21 Q So a month, a year, two years?

22 A Have to be longer. Might be three, four
23 years; I don't know.

24 Q So, you know him when you see him?

25 A Yes. I know him to see him.

TESTIMONY: R WHETSTONE/DIRECT

1 Q And what time of night was it that you saw
2 him that day or that night?

3 A Okay. Right then, I don't know but after
4 we got home we always time ourself and after I got
5 home I asked my sister what time it was and she said
6 it was eleven o'clock.

7 Q And how far from his house do you live?

8 A A block, if it's a block.

9 Q Not that far?

10 A No.

11 Q It didn't take you a long time to get there
12 after you saw him?

13 A No.

14 Q Did you get a good look at him?

15 A Oh. Yes, I did.

16 Q How far away were you? Tell me to stop.
17 Closer to this from me?

18 A It was closer to that.

19 Q Tell me to stop when it's about the right
20 distance (walking toward the witness stand).

21 A About right there.

22 Q About right there. From you to me, that's
23 how close you got to him?

24 A Yeah. It could have been a little bit, I
25 don't know, closer.

TESTIMONY: R WHETSTONE/DIRECT

1 Q Right around there?

2 A Yeah.

3 Q Was it real dark out?

4 A No. They have a street light there.

5 Q And you could see pretty well?

6 A Oh, yeah.

7 Q Any doubt in your mind who that was?

8 A No. I knew it was Butch.

9 Q Do you remember what he had on?

10 A A striped shirt. Looked like the sleeves

11 was torn off down here and a pair of green shorts or

12 something.

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

14 State's Exhibit Number 5 and ask you if there's

15 anything in that picture that you recognize?

16 A Yeah. He had on that.

17 Q Could you please tell, show the jury?

18 A (Indicating.)

19 Q That was the shirt he had on that day?

20 A Uh-huh.

21 Q Are you sure about that?

22 A Yeah, I'm sure.

23 Q And that was the night out on the street?

24 A Yes.

25 Q And it was sometime before eleven?

TESTIMONY: R WHETSTONE/DIRECT

1 A Yes, it was. It had to be because of the
2 time we got home, we looked at the clock. I asked my
3 sister what time it was.

4 Q And did you speak with him at all?

5 A I said hi.

6 Q You said hi?

7 A My sister said, hi, how are you doing. I
8 think she said; I'm not for sure.

9 MR. GIBBONS: Answer any questions Mr.
10 Koger has for you, please.

11 THE COURT: Mr. Koger.

CROSS EXAMINATION

12
13 BY MR. KOGER:

14 Q That particular night, what color shirt did
15 Juan have on?

16 A Stripedy (sic.) shirt.

17 Q What color?

18 A It was, like, striped. Just like I said.

19 Q Can you identify any color to the shirt?

20 A Like blue and like, like reddish looking or
21 something but it was a striped shirt.

22 Q What type of stripes?

23 A Just stripes, just like the one I showed
24 you in the picture.

25 Q Describe for the Court what type of

TESTIMONY: R WHETSTONE/CROSS

1 stripes. Was it vertical stripes? Horizontal?

2 Plaid? What type of shirt was it?

3 A Just like, like -- yeah. Just like this
4 (indicating).

5 Q Okay. And I think you just testified to
6 the shirt being red or blue or something?

7 A Not, you know, it was the colors in it.
8 It's a plaid shirt. It was plaid shirt.

9 Q Okay. What were the colors again?

10 A I don't know. It was gray and blue. I
11 can't know exactly because, you know, it's been a
12 little while.

13 Q It's been awhile?

14 A Yeah.

15 Q Okay. And what was the lighting in the
16 area?

17 A I beg your pardon?

18 Q What was the lighting in the area?

19 A It was real light because they have a
20 street light there.

21 Q When was the first time you spoke with law
22 enforcement about this case?

23 A I beg your pardon?

24 Q When was the first time you spoke with law
25 enforcement about this particular case?

TESTIMONY: R WHETSTONE/CROSS

1 A I went to pick up, I went to pick up the
2 car. I mean, when I went to pick up the car I saw
3 the polices in the area where the car was at and I
4 asked them, I said, what's going on.

5 And that's when I heard, you know, what
6 happened. I said, well, I seen Butch last night.

7 Q Okay. When was the first time you made a
8 description of the shirt?

9 A The next day.

10 Q The next day?

11 A Uh-huh.

12 Q So, August 7th?

13 A Uh-huh.

14 Q And what type of description did you give
15 the law enforcement then?

16 A Stripedy shirt.

17 Q Striped shirt?

18 A Uh-huh.

19 Q Did you identify any colors?

20 A Yes. I think that's when I say blue and
21 reddish or something. But, anyways, what I did say,
22 I couldn't pinpoint the exact colors because when you
23 meeting somebody walking at night you see a lot of
24 colors.

25 But I do know he had on that shirt that was

TESTIMONY: R WHETSTONE/CROSS

1 on that paper.

2 Q Now, back on August 7th you said you spoke
3 to law enforcement the next day?

4 A Uh-huh.

5 Q You couldn't exactly pinpoint the type of
6 shirt he had on; correct?

7 A Yes, I did.

8 Q You described the shirt?

9 A Yes.

10 Q You said red and blue striped?

11 A Yes. Something like that. I know it was a
12 striped shirt.

13 Q When was the first time you were shown a
14 picture of that shirt that the Solicitor just had?
15 When was the first time you saw that shirt that was
16 on the picture?

17 A That's the same shirt that he had on.

18 Q Okay. But when was the first time that you
19 identified that shirt?

20 A The same, that night I saw him he had it
21 on.

22 Q Okay. So, you're saying that that's the
23 same shirt?

24 A Yes, I am.

25 Q Even though you couldn't describe it the

TESTIMONY: R WHETSTONE/CROSS

1 night after the incidence; correct?

2 A I couldn't describe it?

3 Q Right.

4 A I told them that he had on a striped
5 shirt. I don't know whether it was exactly blue or
6 reddish or greenish or not, but I do know it was the
7 striped shirt.

8 Q When were you initially shown a picture of
9 the shirt that Solicitor Gibbons just showed you?
10 When was the first time you were shown a picture of
11 that or the actual shirt?

12 Were you ever shown the actual shirt?

13 A No. I was not shown the actual shirt.

14 Q When was the first time you were shown a
15 picture of that shirt?

16 A You mean --

17 Q The one that Solicitor Gibbons just showed
18 you, when was the first time were you shown a picture
19 of it?

20 A You're talking about the shirt I just seen
21 right now?

22 Q Uh-huh.

23 A Today?

24 Q Today.

25 A Uh-huh.

1 MR. KOGER: I have no further
2 questions, Your Honor.

3 THE COURT: Redirect?

4 MR. GIBBONS: Nothing, Your Honor.

5 THE COURT: Thank you, ma'am. You may
6 step down.

7 MR. GIBBONS: Your Honor, may this
8 witness be excused?

9 MR. KOGER: No objection.

10 THE COURT: Without objection you're
11 excused. Thank you very much for coming, Miss
12 Whetstone.

13 MR. GIBBONS: Your Honor, State calls
14 Travis Yon. Travis Yon.
15 (Oath administered.)

16 THE COURT: State your name for the
17 record and spell your last name, sir.

18 THE WITNESS: Travis Yon, Y-O-N.

19 THE COURT: Thank you.

20 TRAVIS YON, being duly sworn according to
21 law, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. GIBBONS:

24 Q Mr. Yon, I need you to talk straight into
25 that mic and loud.

TESTIMONY: T YON/DIRECT

1 A Fine. Hear that.

2 Q Where do you live, Mr. Yon?

3 A I live in Norway.

4 Q How long have you been living in Norway?

5 A All my life.

6 Q And how long is that?

7 A Nineteen years, eighteen.

8 Q Do you go to school?

9 A Yes, sir. I was.

10 Q You were?

11 A Yeah.

12 Q Where are you working?

13 A AYP, Orangeburg.

14 Q Is that a store?

15 A No. It's a company; American Yard
16 Products.

17 Q How long have you been with American Yard
18 Products?

19 A About three months.

20 Q What were you doing before that?

21 A Just really basically going to school,
22 playing basketball, football, messing around.

23 Q Mr. Yon, you come to Denmark?

24 A Yeah. I go over. I've been over there a
25 few time.

TESTIMONY: T YON/DIRECT

1 Q Do you know Mr. Juan Nimmons?

2 A Mr. Juan Nimmons, the Defendant?

3 Q Yes.

4 A I know him. I know of him.

5 Q Do you know him by Juan?

6 A No. I know him by Butch.

7 Q How long have you been knowing Butch?

8 A Since this happened, before, I met with him
9 really not long. I mean two, maybe a week, two, two
10 weeks. I mean, I ain't been never knowing him like
11 that.

12 Q Mr. Yon, I'm going to direct your attention
13 to the night of August 6th of 1998.

14 A Uh-huh.

15 Q Did you come to Denmark that night?

16 A Yeah, I came to Denmark.

17 Q Tell us what was going on that night.

18 A My cousin, Red, and me and him -- Derek. I
19 was with my cousin Derek.

20 Q Derek?

21 A Yeah.

22 Q What's his last name?

23 A Robinson.

24 Q And what were you doing that night with
25 Derek?

TESTIMONY: T YON/DIRECT

1 A I'm saying, like, earlier that day we be
2 chilling out and all, you know, messing around a
3 little bit. Whatever. So really, you know, just
4 riding around.

5 After awhile we walked, we walked for a
6 little bit. Chill.

7 So I was, I walked around the block with
8 him and, you know, he knowed them because he stay
9 over there because of mom, you know, she got married
10 to a dude from Denmark, whatever.

11 Q So, y'all went over to Denmark?

12 A Yeah. We went over to Denmark.

13 Q And, you were walking around?

14 A We were riding for a little while and then
15 we walked, you know. I was with him, you know, like
16 that.

17 Q And where were you kind of hanging around
18 that day?

19 A I was hanging out on the block. I can't
20 even -- I don't know the name of the block. I'm not
21 from around Denmark.

22 Q Do you know whose house you were near or
23 close to?

24 A I was, like, on the corner, you know. I
25 know the dude named Dray and Red. I know them from

TESTIMONY: T YON/DIRECT

1 back, you know, like basketball game, playing in the
2 park, basketball. Whatever.

3 Q Did anything happen that night?

4 A Not in particular, you know.

5 Q Did you see Mr. Nimmons that night?

6 A Yeah. I saw him.

7 Q Tell us how that happened.

8 A Well, we was standing, we was standing on
9 the block. Like, standing, of course, on the road,
10 you know, like here and there.

11 Q Corner?

12 A Yeah, corner. You know, we was just
13 standing there messing around. So he came up, right,
14 and he was asking for my cousin, Red, like that.

15 Q Did he walk up?

16 A Yeah, he came up, walked up. He was
17 walking at the time.

18 Q Okay.

19 A You know. So, he came up. He was, like,
20 yo. Where Derek at and Red, kept calling him Red,
21 you know, where's Red at.

22 I say, he walked down the street for a
23 second, he'll be coming right back. He said, I'm
24 going uptown, you know, like that and I was sitting
25 on the block with Dray.

TESTIMONY: T YON/DIRECT

1 Q Stop for a minute. He came up and asked
2 for Derek?

3 A Yeah. He came and asked for Derek.

4 Q And where was Derek?

5 A Derek had walked down, you know, he walked
6 to the store and came back because it ain't too far
7 from where, you know what I'm saying, where we was
8 at. So it was walking distance, you know, like that.

9 You know, so he was, like, you got some
10 more. He say, he have to go get like, and I'm coming
11 right back, you know, so just chill right here. I
12 was, like, what are you talking about. So when he
13 came back to me, right, and I seen he shook his keys.

14 Q Let's stop for a minute. What time of day
15 is this?

16 A Almost approaching night because I was
17 thinking, like, it was getting closer, like, at first
18 he came like 8:30, nine o'clock.

19 Q That's the first time he came up and asked
20 for Derek?

21 A Yeah. First time he came. I saw him from
22 the time he came back, asked for Derek, you know what
23 I'm saying, like that. He shake some keys in his
24 hand.

25 Q What time was it when he came back again?

TESTIMONY: T YON/DIRECT

1 A It had to be around, like, around, like,
2 10:30 or something around that time.

3 Q Was it dark?

4 A Yeah. It was dark. It was dark.

5 Q Where did he come from this time?

6 A When I got back on the block, I seen, he
7 came back walking through the road, the road, and he
8 shaking the keys up, like this, like, you know, like
9 this (indicating). He say, where you got the car,
10 you know what I'm saying.

11 Q Who was he talking to?

12 A He talking to me at that time. He was
13 asking for Red. Derek be gone, walk the streets, you
14 know. So he asking for me, you know, for me to say.
15 Whatever.

16 Q All right. So he was there first. Make
17 sure I'm following you. He was there first and then
18 he left and he came back like ten, 10:30; is that
19 what you said?

20 A Yeah, about 10:30 because of the way he
21 came up to me I known I got in the car, he got in the
22 car with me. You know what I'm saying. I got in the
23 car with him because he got the car, like that.

24 Q And when did you first see the car?

25 A I seen the car when he went and got it. He

TESTIMONY: T YON/DIRECT

1 told me he had to go to work. He went and got the
2 keys for my car because when I usually see him, I
3 usually see him driving the car, you know, on his own
4 so I figure that's his car, you know, like that. So,
5 whatever.

6 Q So, let me stop you. When he came back the
7 second time, did he come back in the car?

8 A Yeah. He came back, yeah.

9 Q And he drove up to you?

10 A He already showed me the keys. He say he
11 going back to the house to get the car, you know,
12 like going to get it and coming right back with it.

13 At that time he had told me, you know, I
14 found out it was his mama car.

15 Q Let's stop right there. What time was it
16 when he shook the keys to you?

17 A About 10:45. I mean, it had to be at that
18 time, most likely that time. I know he had told me
19 he had to go to work at eleven, you know what I'm
20 saying, like that, so either he was bluffing me.

21 Q Slow down a little bit now.

22 A You know, one of the two.

23 Q I'm -- you're getting me kind of mixed up
24 now. He left the first time?

25 A Uh-huh.

TESTIMONY: T YON/DIRECT

1 Q He came back about 10:30, eleven and shook
2 the keys?

3 A Yeah.

4 Q And then he left again to get the car?

5 A Yeah. Go get the car.

6 Q So he came back a third time?

7 A Yeah. When he came, you know what I'm
8 saying, he went back and got the car and he came back
9 again.

10 Q And then you got in with him?

11 A Yeah. I jumped in with him.

12 Q What happened next?

13 A He said, he had to go -- he say he needed
14 fifteen dollars, right. So, he wanted some
15 cigarettes and he needed something to eat and he told
16 his mama he was going to work at eleven o'clock and
17 he would get off at eight.

18 I was to meet him back at eight o'clock,
19 everything was cool. He just needed, you know what
20 I'm saying. I figure he done come to me. I know,
21 just messing around or whatever and I just seen him
22 so I figure he just, you know, needed something like
23 that for Red.

24 So after he took me --

25 Q Stop again. Did you give him some money?

TESTIMONY: T YON/DIRECT

1 A Yeah. I gave him fifteen dollars.

2 Q And that was for what?

3 A He was going to let me use the car.

4 Q So you kind of rented the car?

5 A Yeah, in other words. I had no possession
6 so I ran it.

7 Q Was anybody else in the car with you and
8 Butch?

9 A No. Not at first. Me and him. I dropped
10 him off.

11 Q All right. Then what happened?

12 A After I got, after I dropped him off.

13 After -- he told me he was going to work so I'm
14 figuring, you know, he going on to work, like that.

15 Told me to be back at eight, you know, I'm
16 straight, you know. So I got in the car, went back
17 to pick my cousin up, Red.

18 At that time I seen him, like, like, right
19 by the church. He was, like, walking up the road.
20 He was coming -- by the time I went and did all of
21 that, you know, he done come back down the block.

22 So I picked them up.

23 Q Let's stop before we go too much further.
24 Where did you let Butch out?

25 A I let Butch out, like, way before that.

TESTIMONY: T YON/DIRECT

1 Q Where? In town?

2 A Crosstown.

3 Q On the other side of town?

4 A Yeah.

5 Q Do you know if it was a store or house or
6 building?

7 A It was, like, it was, like, on the street.
8 It was, like, an older. It was, like, an older
9 Highway 321. Like he got out, like, on the side. He
10 said he catch a dude to work or something, ride upon
11 to work or something.

12 Q Just the side of the road somewhere?

13 A Yeah. You know, his house is, like, you
14 know what I'm saying, now across the road. You see
15 the house, this way, house on this side, you know.

16 He got to drop off to this house.

17 It was dark. I ain't really know where the
18 house, you know, whose house it was. I just know I
19 dropped him off.

20 Q You dropped him off. And you went and
21 found your cousin, I think you said?

22 A Yeah, I seen him down the road.

23 Q What did you do after you picked your
24 cousin up?

25 A We went back to Norway.

TESTIMONY: T YON/DIRECT

1 Q What happened with the car?

2 A We messed around in the car for a little
3 bit. We rode around. Whatever.

4 So after I came -- the store, after that
5 moment it was, like, I know the store closed, like,
6 at eleven. We had to come back to Denmark to get
7 some gas, something like that.

8 I know the store closes and all and I had
9 to put gas in the car. So, we came back to Denmark.
10 I got the gas or whatever, and we messed around and
11 then I came and I went back past, I, like, went past
12 his house, you, know to go past the house.

13 And after I came back around, you know what
14 I'm saying, I seen Butch, you know what I'm saying,
15 but he told me, like, you know what I'm saying, he
16 was just coming from a friend house or whatever.

17 Q So you saw him again?

18 A I saw him again in town.

19 Q And where was that?

20 A That was, like, on the corner of the
21 street. You know what I'm saying. Like, he done
22 came back across town again.

23 Q Back to where you saw him again?

24 A Yeah. Where I seen him the first time.

25 Q Back there again?

TESTIMONY: T YON/DIRECT

1 A Yeah.

2 Q What time was this?

3 A I mean, I'm totally lost in time.

4 Completely lost.

5 Q Middle of the night?

6 A I mean it -- I know it had to be. I stay
7 in Norway, like, had to be, like, two. I mean,
8 sometime like that.

9 Q What happened when you saw him again?

10 A I mean, because I went around the block,
11 you know what I'm saying, first one. I went around,
12 I didn't see him.

13 You know what I'm saying, so after I came
14 from the house I went to and I came back down the
15 block, I looked and I seen him. Right.

16 And I was, like, he told me he had to
17 attend to mom, he had to go to work, wherever, what
18 are you doing, you know, walk around the house. He
19 told me, after I talked to him, I was, like, man, yo,
20 everything straight, you know, like that.

21 He was like, yeah, everything straight.
22 I'm just coming from a friend house. I said, man, I
23 thought you weren't supposed to be around. He say,
24 my mother in the house asleep, you know what I'm
25 saying, like that. So I'm, like, boom, everything is

TESTIMONY: T YON/DIRECT

1 straight, you know.

2 So I took on back out. So after we took
3 out and messed around, rode, we went by the Club XC
4 for like a few minutes.

5 So Red told me, I'm going on home, like
6 that you know, just go ahead and take the car on back
7 to him, like that.

8 Q Derek?

9 A Derek, my cousin. And he took the car back
10 to him or whatever. I found out when I wake up in
11 the morning, you know, boom.

12 Q And that's all you saw him?

13 A That's all I seen of him.

14 Q And the last time you saw him, can you give
15 us a time the last time you saw him?

16 A Like I say, I got the car at eleven. I
17 know I messed around in Norway for, like, two hours
18 or better, you know what I'm saying, after the middle
19 of the store. I went back to Denmark and that's when
20 I seen him.

21 Q And he was back at the first place?

22 A Yeah. But I ain't seen him come in the
23 house. I just seen him on the highway, you know,
24 that sidewalk. He was right there walking.

25 So he told me everything was straight so,

TESTIMONY: T YON/DIRECT

1 boom, I kept on going, you know.

2 Q And Derek took the car back?

3 A Right. Yeah, He took the car back.

4 MR. GIBBONS: Answer any questions Mr.
5 Koger has, please.

6 THE COURT: Cross Examination, Mr.
7 Koger.

CROSS EXAMINATION

8
9 BY MR. KOGER:

10 Q Mr. Yon, it's your testimony that you
11 received use of the car for fifteen dollars?

12 A Yeah. Yes, sir.

13 Q And was that a usual thing?

14 A I mean -- what do you mean usual? Usual
15 thing for me to give somebody fifteen dollars for a
16 car?

17 Q No. For Mr. Nimmons' car.

18 A Pay him for the car?

19 Q You testified to giving fifteen dollars and
20 he allowed you to use the car according to your
21 testimony.

22 A Use the car for fifteen dollars.

23 Q All right. Was that the first time that
24 occurred between you and Mr. Nimmons?

25 A Yeah. That's the first time I ever used

TESTIMONY: T YON/CROSS

1 his car.

2 Q And you don't recall seeing Mr. Nimmons
3 around, between six and 6:30 on that afternoon?

4 A I mean, like I say, I was, you know, I was
5 around the block for awhile. That's how I knew, you
6 know, know him because I seen his face. Like I see
7 everybody else face, you know, boom, but he was
8 mostly, you know, negotiating a deal, you know, like
9 that.

10 Q Mr. Yon, were you in an area, in that
11 particular area between six and 6:30 on that
12 afternoon?

13 A I don't know. I probably was.

14 Q Probably?

15 A I'm saying, it was dark.

16 Q It was dark before you got there?

17 A So, give me -- I don't know if it was day,
18 night, you know, I don't know but I ain't seen him
19 until nighttime really good but I know him.

20 Don't get me wrong. I know him.

21 Q It's your testimony that you were in the
22 area at dark or after dark or you don't know?

23 A Really, I'm saying, it was dark when I seen
24 him. When all of this occurred with me and him it
25 was dark.

TESTIMONY: T YON/CROSS

1 Q Okay. Well, the first time you was in the
2 area it was dark?

3 A Yeah, it was dark.

4 Q And did you talk with him at around that
5 time?

6 A I mean, only time I really talked to him he
7 was looking for Derek or whatever.

8 Q Okay.

9 A And then, you know, he told me about where
10 he had, you know, the car, whatever.

11 Q Okay. And y'all -- you didn't trade
12 anything else for the car?

13 A I mean, like, what I said.

14 Q You didn't trade any drugs for the car or
15 anything?

16 A No drugs. Not talking about drugs.

17 Q How do you know -- excuse me?

18 A You need to speak first.

19 Q How do you know Mr. Nimmons?

20 A I know him.

21 Q Right?

22 A Really. I don't know him, I just know of
23 him.

24 Q Just know him?

25 A I know him by Butch.

TESTIMONY: T YON/CROSS

1 Q You know him by Butch.

2 A That's what I know him by.

3 Q And you testified before, I think you said
4 before you might have known him two or three weeks
5 before?

6 A Like I say, I've been going to Denmark two
7 or three weeks. I didn't know him by the face. I
8 just knowing him by people calling him Butch, you
9 know what I'm saying, not knowing his real name. I
10 don't know him like that.

11 Q So, it's your testimony that you're
12 starting to go to Denmark at least in this area only
13 two or three weeks before the incident?

14 A I mean, no, I be going -- Girls, games.
15 Whatever, everything. You know, everything.
16 Denmark, Norway, Norris, you know, all the
17 surrounding area.

18 Q Mr. Yon, I'm talking about in this
19 particular area.

20 A I'm saying, yeah, I had to be in Denmark
21 before but I'm saying really me knowing of him, like,
22 two or three weeks.

23 Q This particular area in the Town of Denmark
24 around Locust Street, around Cedar Street, in that
25 particular area, it's your testimony that you started

TESTIMONY: T YON/CROSS

1 going to that area two to three weeks prior?

2 A No. I ain't say that.

3 Q Okay.

4 A I mean, I don't go around the blocks, you
5 know. Drove the heart out of Denmark. Face it, rode
6 all around Denmark.

7 Q Isn't that a known drug area?

8 A Yeah, I reckon it is part of the drug area.
9 If you want to say that. I mean, I don't know. I
10 don't know drug area or not.

11 Q How many times prior to that particular
12 night were you hanging out in the area, did you go to
13 that area?

14 A I don't know. I mean, might have been --
15 if I say, if I placed it out how many times I circled
16 the blocks around Denmark, I couldn't even add it up.
17 I swear, I couldn't add it up.

18 Q But it is your testimony you have visited
19 that area before August 6th?

20 A Yeah.

21 Q Not Denmark, but Locust Street and Cedar
22 Street in the area of the incident, you have been
23 there before?

24 A Yeah. I been there before.

25 Q Before August 6th?

TESTIMONY: T YON/CROSS

1 A Uh-huh.

2 Q Now, I think you testified to speaking with
3 Juan around, between eight and nine?

4 A Like, I mean, he came. It had to be that
5 time because I remember it was, like, ten, 10:30,
6 10:45, we looked at the clock. He said he had to be
7 at work at eleven. I remember looking at the clock,
8 10:30.

9 So I remember it had to be nine, 9:30 when
10 he told me, you know, he showing me he had the keys,
11 he went back to the house.

12 Had to be somewhere along in that line.

13 Q At that particular time he was looking for
14 your cousin -- is it a cousin or friend?

15 A Cousin.

16 Q Red?

17 A Cousin, friend, home boy.

18 Q Which is Derek Robinson; correct?

19 A Yeah.

20 Q So, how long did you see Mr. Nimmons the
21 first time? When you saw him at eight o'clock, how
22 long did he stay in the area at that time?

23 A Can't even say because I wasn't really, you
24 know, present like that. Like I say, I don't know,
25 really ain't my type, you know what I'm saying.

TESTIMONY: T YON/CROSS

1 He's way older than me. Ain't no friend of
2 mine. Like I say, I was hanging with Dray, just like
3 the boy I knew from around the block, you know.

4 Q But you saw him at eight o'clock and you
5 saw him for what period of time, maybe five minutes
6 or so?

7 A Maybe ten.

8 Q And then you also testified that he came
9 back at around 10:30 or 10:45?

10 A Yeah. It had to be around about the time
11 where he said about going, the negotiation or
12 whatever.

13 Q That negotiation was that you gave him
14 fifteen dollars for food. I think you mentioned that
15 you gave him fifteen bucks for food and the car or
16 something, that was the negotiation you were talking
17 about?

18 A He was, like, he needed some money. He
19 said he needed some money to get some cigarettes and
20 some other little stuff to go to work with, you know,
21 like that.

22 Q And as a part of that negotiation, also use
23 of the car from eleven to eight?

24 A What do you mean?

25 Q The use of his car from eleven to eight?

TESTIMONY: T YON/CROSS

1 A Yeah. I had the car around that time.

2 Q Okay.

3 A But, I mean, I wasn't in it that long.

4 Like I say, after I went back, after I came back I
5 went back home. After I went back home, I give Derek
6 the car. He brought the car back. I ain't never
7 came back to Denmark after that.

8 Q Home being Norway?

9 A Yeah. Home being Norway, not Denmark.

10 Q Now you also testified to Juan coming back
11 a third time with the keys?

12 A I'm saying just, like, I mean, because you
13 asked me earlier did I see him so, boom, I seen him.

14 You confusing me. I said, he came back and
15 he was looking for my cousin Red, okay. After he
16 asked me about Red he said, he had came back with the
17 key and, like, after he came back with the keys, he
18 went back home to get the car.

19 And he came back with the car. I was
20 standing on the block, like, waiting for him to come.
21 When he came back with the key I jumped in with him.
22 We rode on to our designations.

23 MR. KOGER: Beg the Court's indulgence?

24 THE COURT: Absolutely.

25 (Off-the-record discussion.)

TESTIMONY: T YON/CROSS

1 BY MR. KOGER:

2 Q Now, according to your testimony,
3 Mr. Nimmons told you that he had to work from eleven
4 to eight; correct?

5 A That's from eleven to eight.

6 Q Eleven to eight. And you're supposed to
7 return the car to him?

8 A At eight o'clock he suppose to get the car
9 back. He told me he work at the door plant.

10 Q He's supposed to get the car back from you,
11 where?

12 A I suppose to come pick him up from the door
13 plant but after Red, I just told him to take the car
14 back to him, like that.

15 Q What time did you meet up with Red?

16 A I told you. After me and him had
17 negotiated a deal or whatever, got the money, after I
18 dropped him off to the friend house. I walked back
19 to my around the block look for my cousin because
20 that's who I'm hanging with right, I'm looking for
21 him. After I catch him, me and him went back to
22 Norway.

23 Q What time did you touch base with Red?

24 A About eleven. Like, soon as I went, you
25 know, soon as I got up with him because really he was

TESTIMONY: T YON/CROSS

207

1 looking for Derek from the beginning.

2 So me getting in the car, whatever, I'm
3 going to look for him because me and him, you know,
4 we hanging or whatever.

5 After I got up with him, whenever we get
6 down I went back and caught Derek up by the church.
7 He was, like, coming back from where he was going,
8 like. I told you he was going to the store and by
9 the time he was coming back, I was like catching him
10 before he come to the path or whatever.

11 Q What time did you meet with up with Red
12 from the car, Mr. Yon?

13 A After 11:30 or something like that if -- it
14 had to be eleven o'clock, had to be at least 11:15,
15 11:30. Somewhere along that line. I know he had to
16 be at work at eleven. I know me and him together,
17 like, 10:45, 10:50. So, I'm thinking around that
18 time.

19 MR. KOGER: May I beg the Court's
20 indulgence once again?

21 THE COURT: Yes, sir.

22 BY MR. KOGER:

23 Q And once again, Mr. Yon, it was your
24 testimony that Mr. Nimmons did not give you the keys
25 at six or 6:30 --

TESTIMONY: T YON/CROSS

1 A No.

2 Q -- in exchange for drugs?

3 A I didn't even know -- at 6:30, me and him
4 weren't really talk. I saw him, you know what I'm
5 saying, but I ain't never negotiated with him, like
6 that. You know, he just in my presence at the moment
7 because the fellows were around.

8 Q Did you usually go to the area to hang out?

9 A No, not really. Denmark ain't my hang-out
10 spot.

11 Q In that area, Locust Street, Cedar Street,
12 is that your usual area to hang out?

13 A No. I just happened to be with Derek
14 earlier. We just happened to be messing around in
15 town. I'm over there with him and he know a little
16 route, whatever. Me and him just together.

17 Q So, it's your testimony that the only time
18 you're in that area --

19 MR. GIBBONS: Your Honor, this has been
20 asked.

21 THE COURT: Let him get it out and then
22 if you want to object you can but if it's -- just
23 keep moving.

24 BY MR. KOGER:

25 Q Is it your testimony that the only reason

TESTIMONY: T YON/CROSS

1 you was in the area or whether you go to the area is
2 when you're with your cousin Red, Derek Robinson?

3 A Yeah. Like I say, a place off me -- places
4 like I ain't never seen, been here, like, I know
5 where the place I'm at, you know, whatever. I'm just
6 in that area with him at that time, that's all.

7 MR. KOGER: No further questions.

8 MR. GIBBONS: Nothing further. Ask
9 that he be excused.

10 THE COURT: Any objection?

11 MR. KOGER: No objection.

12 THE COURT: Thank you. Mr. Yon,
13 appreciate you coming. Next witness.

14 MR. GIBBONS: Your Honor, State would
15 recall Officer Bell.

16 JOE BELL, testified further under oath as
17 follows:

DIRECT EXAMINATION

18
19 BY MR. GIBBONS:

20 Q Officer Bell, I believe we left off your
21 testimony before where you were searching for
22 Mr. Nimmons?

23 A Yes.

24 Q Did you ever come in contact with him?

25 A Yes, sir.

210

TESTIMONY: J BELL/DIRECT

1 Q Tell us when and how that happened, please.

2 A On Sunday morning my dispatch called me, I
3 was in the police department, and told me they had
4 called a got from Juan Nimmons. He wanted to know if
5 I was working and she advised him that I was.

6 And he told her to tell me to come down on
7 Dogwood Avenue, he wanted to turn hisself (sic.) in
8 to me.

9 Q And do you know where that area is?

10 A Yes, sir. I sure do.

11 Q Where is that from his house?

12 A From Juan's house?

13 Q Yes, sir.

14 A Well, if you go from Juan's house straight
15 across you go right to Juan's house.

16 Q Across the block?

17 A Yes, sir; across the block.

18 Q Did you go?

19 A I went down there and picked up Juan. He
20 was standing in the road when I got there.

21 Q Was he alone?

22 A Yes, sir.

23 Q What did you do when you picked him up?

24 A Placed handcuffs on him and carried him
25 back to the police department, did an interview with

TESTIMONY: J BELL/DIRECT

1 him.

2 Q And were you doing that personally, the
3 interview?

4 A No, sir. Investigator George Folk from
5 Bamberg Sheriff's Department was assisting me. He
6 left me earlier to go to Bamberg.

7 I called him back and he met me at the
8 police department and just a couple minutes after he
9 got there, I was waiting on George to come in, we
10 advised Juan of his rights and then he stayed in the
11 office.

12 Q Were you there present the whole time the
13 rights were being done?

14 A Yes, sir. With the rights, yes.

15 Q And who actually read him the rights?

16 A George.

17 Q And are you familiar with what you read
18 him?

19 A Yes, sir. The waiver of rights to be used.

20 Q I'm going to show you what's been marked
21 for identification as State's Exhibit 16.

22 MR. KOGER: No objection, Your Honor.

23 MR. GIBBONS: Move it into evidence if
24 there's no objection, Your Honor.

25 THE COURT: Without objection, will be

TESTIMONY: J BELL/DIRECT

1 admitted as State's Exhibit 16.

2 (State's Exhibit 16, rights form, was received into
3 evidence.)

4 BY MR. GIBBONS:

5 Q What is that piece of paper, Mr. Bell?

6 A Miranda warnings that was read on
7 Mr. Nimmons.

8 Q Were you in the room when that warning was
9 read?

10 A Yes, sir.

11 Q Is that a form of your department?

12 A Yes, it is.

13 Q What exactly does it say?

14 A Well, it says, State of South Carolina,
15 City of Denmark. These are your rights. Read
16 carefully.

17 He was given a copy of this to read along
18 with. It was, place is Denmark P. D., date is
19 8/9/98, time is 9:05 A.M.

20 Before we ask you any question you must
21 understand your rights. You have the right to remain
22 silent. Anything you say can be used against you in
23 a court.

24 You have the right to talk to a lawyer for
25 advice before we ask you any questions or have him

TESTIMONY: J BELL/DIRECT

1 with you during questioning. If you cannot afford a
2 lawyer one will be appointed for you for any
3 questioning if you wish.

4 If you decide to answer questions now
5 without a lawyer present, you still have the right to
6 stop answering anytime. You also have the right to
7 stop answering at anytime until you talk to a lawyer.

8 There's a place where it says, I understand
9 my rights. And it's signed by Juan M. Nimmons.

10 Q Were you there when that signature was
11 made?

12 A Yes, sir.

13 Q Who was the person who made that writing?

14 A Who was the one that signed it?

15 Q Yes, sir.

16 A Juan Nimmons.

17 Q What time did you pick him up at the side
18 of the road?

19 A I'm going to say, probably about ten
20 minutes to nine.

21 Q And what time does that page indicate it
22 was filled out?

23 A 9:05.

24 Q So, shortly after you got there?

25 A Yes, sir.

TESTIMONY: J BELL/DIRECT

1 Q And everyone of those items was read to
2 Mr. Nimmons?

3 A Yes, sir. There's also a waiver on the
4 bottom of it.

5 I read this statement of rights. I
6 understand what my rights are and I'm making a
7 statement and answering a question.

8 I do not want a lawyer at this time and I
9 understand and know what I am doing. No promises
10 have been made to me and no coercion has been used
11 against me.

12 Signed by Juan Nimmons and witnessed by
13 Investigator George Folk at 9:15 A.M.

14 Q Was he read that portion?

15 A Yes.

16 Q Did he have a copy?

17 A He had a copy to look at while he was
18 reading; right.

19 Q Did he indicate he didn't understand any of
20 that form?

21 A No, sir.

22 Q At any time did he stop you as you were
23 reading that form?

24 A No, sir.

25 Q Mr. Bell, are you familiar with -- during

TESTIMONY: J BELL/DIRECT

1 the course of your investigation/did you learn
2 anything about Mr. Nimmons' job?

3 A About his job?

4 Q Yes, sir.

5 A Yes, sir. I learned that he didn't show up
6 for work on the Thursday that this happened.

7 Q What about the Friday?

8 A Friday, he didn't show up for work. He
9 worked Thursday afternoon, didn't show back up
10 Friday.

11 Q And you got with him Sunday?

12 A Yes, sir.

13 Q And you read him these rights. And, at any
14 time did he ask for an attorney?

15 A No, sir.

16 Q At any time did he refuse to answer any
17 questions?

18 A No, sir.

19 Q At any time did he ask you any questions
20 about the form?

21 A No, sir.

22 Q At any time did you make any promise to
23 him?

24 A No, sir.

25 Q At any time did you make any threats to

TESTIMONY: J BELL/DIRECT

1 him?

2 A No, sir.

3 Q Did you have your gun out?

4 A No, sir. Don't carry one.

5 Q At any time did you threaten him in any way
6 whatsoever?

7 A No, sir.

8 Q All right. What happened after you got
9 this form number 16, State's Exhibit 16?

10 A After that one was filled out I went back
11 into my office, left George in the other office
12 taking Juan's statement.

13 I went back into my office and called SLED
14 again and asked them to come back down to work
15 another crime scene.

16 Q When you say George, you mean Mr. Folk?

17 A Yes, sir.

18 Q He handled that interview by himself?

19 A Yes, sir. Then after he got the statement
20 from Juan, I went back in with him while we reread it
21 to him again and I witnessed the statement.

22 Q I'm going to show you what's been marked as
23 State's Exhibit 17.

24 MR. GIBBONS: Mr. Koger?

25 MR. KOGER: No objection.

TESTIMONY: J BELL/DIRECT

1 MR. GIBBONS: State would move 17 into
2 evidence.

3 THE COURT: Subject to the Court's
4 prior ruling, it will be admitted as State's
5 Number 17.

6 (State's Exhibit 17, voluntary statement, received
7 into evidence.)

8 BY MR. GIBBONS:

9 Q Can you tell me what that is, Officer Bell?

10 A Yes, sir. This is a voluntary statement
11 given to Investigator George Folk by Juan Nimmons.

12 Q Is that the form you're talking about you
13 watched him sign?

14 A Yes, sir.

15 Q Was that form read to Mr. Nimmons?

16 A Yes, sir.

17 Q What does it say at the top of the page?

18 A Voluntary statement. It gives the date and
19 the time and the place of Denmark Police Department.

20 It says, I, Juan Mickell Nimmons, am
21 thirty-five years old, live at South Locust
22 Street, Denmark, South Carolina. Am giving this
23 statement to First Sergeant George Folk, Sr.

24 IDC 14 who has identified himself as an
25 Investigator of Bamberg County Sheriff's Office and

TESTIMONY: J BELL/DIRECT

1 he has duly warned me that I have the following
2 rights. I have the right to remain silent. I do not
3 have to make any statements at all. Any statements I
4 make may be used against me at my trial, that any
5 statement I make may be used as evidence against me
6 in court, that I have right to have a lawyer present
7 advising me prior to and during any questioning, and
8 that if I am unable to employ any lawyer I have a
9 right to have a lawyer appointed to advise me prior
10 to and during my questioning.

11 I have a right to terminate the interview
12 at any time prior to and during the making of the
13 statements. I have intelligently and do hereby
14 knowingly and intelligently and voluntarily waive the
15 above explained rights and I do make the following
16 voluntary statement to the aforementioned person of
17 my own free will and without any promise of offers of
18 leniency or favors, and without compulsion or
19 persuasion by any person or persons whomsoever.

20 Q Was that read to him that day?

21 A Yes, sir.

22 Q Word for word?

23 A Yes, sir.

24 Q And at anytime during the reading of that
25 did he stop you?

TESTIMONY: J BELL/DIRECT

1 A No, sir.

2 Q Did he refuse to cooperate?

3 A No, sir. Not to my knowledge.

4 Q At any time did he ask for an attorney?

5 A No, sir.

6 Q Did he go ahead and speak on that occasion?

7 A Yes, sir. He talked.

8 Q With Mr. Folk?

9 A Yes, sir. With George Folk, while I called
10 Wayne Martin with the Solicitor's Office and called
11 SLED.

12 Q But you were there while that was read to
13 him?

14 A Yes, sir.

15 Q What about the bottom portion, was that
16 read to him also?

17 A Yes.

18 Q Did he sign that?

19 A Yes.

20 Q And you witnessed that?

21 A Yes, sir.

22 MR. GIBBONS: Your Honor, State would
23 move State's Exhibit 18.

24 THE COURT: Subject to the Court's
25 prior ruling, State's Number 18 is admitted.

TESTIMONY: J BELL/DIRECT

1 MR. KOGER: Yes, sir.

2 (State's Exhibit 18, voluntary statement, was
3 received into evidence.)

4 BY MR. GIBBONS:

5 Q Mr. Bell, can you tell me what that is?

6 A Yes, sir. This is another voluntary
7 statement.

8 Q And where did that come from?

9 A This one here was written by me for Juan
10 Nimmons in the presence of Investigator Wayne Martin
11 with the Solicitor's Office.

12 Q And when did that take place?

13 A This one here, at 12:05 P.M. correction;
14 12:20 P.M. on 8/9/98 at the police department.

15 Q Same day?

16 A Same day.

17 Q Just after noon?

18 A Yes, sir.

19 Q And who was present when that was done?

20 A Myself and Wayne Martin and Juan Nimmons.

21 Q And who made the writing on that form?

22 A I'm the one that filled it in for him. He
23 asked me to fill it in for him.

24 Q You wrote the whole thing for him?

25 A Yes.

TESTIMONY: J BELL/DIRECT

1 Q After you did that, what did you do then?

2 A After I advised him of his rights again.

3 Q Could you tell me what you read to him this
4 time?

5 A Yes, sir. Date 8/9/98, time, 12:20 P.M.,
6 place Denmark Police Department, I, Juan Nimmons, am
7 thirty-five years old and live at South Locust
8 Avenue, Denmark, SC.

9 I am giving this statement to Captain Joe
10 Bell of Denmark who has identified himself as a
11 police officer, being duly warned that I have
12 following rights.

13 I have the right to remain silent and not
14 make any statement at all, that any statements I make
15 may be used against me at my trial, that any
16 statement I make may be used as evidence against me
17 in court.

18 That I have the right to have a lawyer
19 present to advise me prior to and during any
20 questions, that if I am unable to employ a lawyer I
21 have the right to have a lawyer appointed to advise
22 me prior to and during any questioning.

23 I have the right to terminate the interview
24 at any time prior to or during the making of
25 statement. I have and do hereby knowingly and

TESTIMONY: J BELL/DIRECT

1 intelligently, voluntarily waive the above-explained
2 rights and do make the following voluntary statement
3 to the aforementioned person of my own free will and
4 without any promises or offer of leniency or favors
5 and without compulsion or persuasion by any person or
6 persons whomsoever.

7 Q And you read that to him that day also?

8 A Yes, sir.

9 Q And did you read the rest of the statement
10 to him also?

11 A Yes. As a matter of fact, he told me what
12 to write in it.

13 Q And you read it back to him?

14 A Yes, sir.

15 Q And who signed the bottom of that form?

16 A Juan Nimmons and myself and Wayne Martin
17 witnessed.

18 Q And you actually wrote the writing on this
19 form?

20 A Yes, sir; just like he told it to me.

21 Q At anytime prior to him signing that form,
22 did he ask for an attorney?

23 A No, sir.

24 Q At anytime did he refuse to answer?

25 A No, sir.

TESTIMONY: J BELL/DIRECT

1 Q At anytime did he say he didn't understand?

2 A No.

3 Q At anytime did he appear not to understand
4 you?

5 A No, sir.

6 Q And at anytime was he threatened in any
7 way?

8 A No, sir.

9 Q Offered any reward?

10 A No, sir.

11 Q Promised anything?

12 A No, sir.

13 Q Didn't have your gun out at this point,
14 either?

15 A No, sir.

16 Q Officer Bell, since that is your
17 handwriting, could you please tell us what you wrote
18 that day?

19 A Yes, sir. On Thursday night, August 6,
20 1998, I talked to my cousin Darryl Williams while we
21 were Sandra Jordan's house about how much money I
22 owed drug dealers from Norway I owed them five to ten
23 thousand dollars.

24 Darryl told me that drug dealers were
25 looking for me and was going to hurt me and my

TESTIMONY: J BELL/DIRECT

1 family. I got scared and Andre which is Drey fronted
2 me the ten dollars in crack.

3 I got high and I was scared. I was hoping
4 those guys wouldn't see me. I was waiting for my mom
5 to get home. I went home through the back gate.

6 We sat and talked. My mind was bad and I
7 was scared the drug dealers were coming to my house.
8 I got the hammer from the drawer in the kitchen. I
9 walked back and looked at my mom. Something said
10 don't do it and something told me to do it.

11 And I hit my mom side the head for, with
12 the intentions of knocking her out. I didn't mean
13 for her to die.

14 I then went to the back door and threw the
15 hammer out. I then went back through the front door
16 and through the gate. I saw Darryl up by his house
17 and I gave Darryl the keys to the car. And I got one
18 hundred and twenty dollars from my mom.

19 Signed Juan M. Nimmons.

20 Q And that's the statement he signed that
21 day?

22 A Yes, sir.

23 Q At anytime did he ask you to make any
24 corrections?

25 A Just where I made, notated where I

TESTIMONY: J BELL/DIRECT

1 misspelled the words, that's it.

2 Q And what are those initials next to that?

3 A Juan Nimmons.

4 Q Up towards the top of the form there are
5 also some initials up at left margin. What is that?

6 A Juan Nimmons at the beginning, top up here,
7 when he started the statement, the end of the
8 statement on this page, also the back page where, he
9 could tell you, his initials are on the top corner
10 and the other corner.

11 Q Did he read that himself before signing it?

12 A We read it back to him as he was -- I read
13 it back to him.

14 Q And he did sign it?

15 A Yes, sir.

16 Q After, after that statement did you do
17 anything else that day?

18 A Yes, sir. I videotaped his statement.

19 Q Was he given his rights in that situation?

20 A Yes, sir.

21 Q And up until the time you videotaped his
22 statement and through his videotape statement, at
23 anytime was he threatened in any way?

24 A No, sir.

25 Q At anytime were any promises made to him?

TESTIMONY: J BELL/DIRECT

1 A No, sir.

2 Q At anytime was he denied any rights
3 whatsoever?

4 A No, sir.

5 Q At anytime did he refuse to cooperate?

6 A No, sir.

7 Q At anytime did he ask to talk to a lawyer?

8 A No, sir.

9 Q Did he cooperate with you the whole way
10 through?

11 A Yes, sir.

12 Q Was he denied food?

13 A No, sir.

14 Q Did he ask for food?

15 A We asked if he wanted something to eat. I
16 went and got him two hamburgers and something cool to
17 drink.

18 Q And when was that?

19 A While we were talking with him.

20 Q Before or after the video?

21 A That was before the video.

22 Q And so after he had the hamburgers he did
23 the video?

24 A Yes, sir.

25 Q And you were present the whole time?

TESTIMONY: J BELL/DIRECT

1 A The video; yes, sir.

2 Q And to your knowledge there were no
3 threats?

4 A No, sir.

5 Q Promises?

6 A No, sir.

7 Q Anything of that nature?

8 A No, sir.

9 MR. GIBBONS: One moment, Your Honor.

10 THE COURT: Yes, sir.

11 MR. GIBBONS: Answer any questions Mr.
12 Koger has.

13 THE COURT: All right. Mr. Koger?

14 CROSS EXAMINATION

15 BY MR. KOGER:

16 Q Captain Bell, you and Mr. Nimmons arrived
17 at the station at approximately what time?

18 A I'd say, took me about -- from the time I
19 picked him up until we got to the station, it might
20 have been three or four minutes. We're not but three
21 or four blocks from the station to where I picked him
22 up at.

23 Q What time did you arrive, just
24 approximately, 8:30, 8:45?

25 A Before then. About, right before nine

TESTIMONY: J BELL/CROSS

1 o'clock because George came right back in the station
2 and we went and read him his rights.

3 Q So you said it was before nine o'clock?

4 A Yes, sir.

5 Q And how long did Mr. Nimmons sit before his
6 rights were read to him?

7 A Just a couple minutes.

8 Q About five minutes?

9 A I doubt if it was that long. Three or four
10 minutes, because George had just left the police
11 department to go to Bamberg. I went and picked him
12 up. Probably three to four, five. Five at the most.

13 Q At that time Mr. Nimmons was already placed
14 under arrest?

15 A Yes, sir; because I put the handcuffs on
16 him when I picked him up and brought him to the
17 station.

18 Q And he still had the handcuffs on while he
19 arrived at the station, while he was sitting in the
20 room?

21 A When George got there we were taking the
22 handcuffs off him.

23 Q From the point you was waiting on Mr. Folk
24 to come, did you speak with Mr. Nimmons during that
25 time?

TESTIMONY: J BELL/CROSS

1 A No, sir; because I was on the telephone
2 contacting the Solicitor's Office.

3 Q Was anyone else in the room with
4 Mr. Nimmons?

5 A No, sir. He was right in my office alone.

6 Q While you were there with the phone call to
7 the Solicitor's Office?

8 A Yes, sir.

9 Q What was -- to the best of your
10 recollection, what was Juan's state of mind during
11 that particular time?

12 A What was his state of mind? I can't
13 testify to his state of mind but maybe --

14 Q How he appeared to you.

15 A How did he appear to me?

16 Q Correct.

17 A He appeared fine to me. Could have been a
18 little sleepy or something because he had been on the
19 run about all weekend.

20 Q So, it's your testimony he was tired?

21 A Not that tired, I don't think so.

22 Q Did he make mention of not sleeping?

23 A No, sir.

24 Q Did he make mention -- I know you testified
25 to later on that you went out and purchased some food

TESTIMONY: J BELL/CROSS

1 for him.

2 At that particular time did he make mention
3 he was hungry or anything?

4 A No, sir.

5 Q Did he seem delirious or anything?

6 A No, sir.

7 Q What were his general mood?

8 A General mood was pretty good. While, the
9 time I was with him, he was in the office with George
10 when he got the statement, I didn't see anything
11 wrong with him.

12 Q From the time in which you picked him up
13 until you got to the station house, was he somber,
14 was he talkative? What was his general mood? Was he
15 quiet? Silent?

16 A No. He talked a little bit before we got
17 to the station. On the way to the station I told him
18 I couldn't talk to him until after I read him his
19 rights.

20 Q Okay. Now, Investigator Folk came to the
21 station house around nine o'clock; correct?

22 A Right. About nine o'clock when he got his
23 rights form and read it to him; yes.

24 Q And then you testified, too, you witnessed
25 Investigator Folk reading his rights; correct?

TESTIMONY: J BELL/CROSS

1 A Yes, sir.

2 Q Now, Mr. Nimmons gave an initial statement
3 at around 10:10; correct?

4 A George was talking to him because George
5 took his statement in longhand and then he typed it
6 up for him.

7 Q So what time did you leave Mr. Nimmons and
8 George to themselves?

9 A Right after we read him his rights. I went
10 back in my office and contacted Wayne.

11 Q You were contacting Solicitor's Office
12 then?

13 A Right.

14 Q When did you enter back into the picture,
15 at around what time?

16 A I didn't look at my watch. I was back in
17 there with George -- I didn't look at my watch to see
18 exactly what time it was.

19 Q So you did go back in there while George
20 was typing this statement, while Investigator Folk
21 was typing this statement?

22 A I don't know typing, but I remember after
23 though when I read to it him I was in there.

24 Q When you read it to him?

25 A Yeah.

TESTIMONY: J BELL/CROSS

1 Q Were you a witness?

2 A Was I a witness to reading it to him? Yes,
3 sir. I told you that.

4 Q Now, Mr. Nimmons gave another statement at
5 approximately 12:20?

6 A Right.

7 Q And that was the one you that you just
8 read?

9 A Right.

10 Q And then one that you testified to writing
11 the statement for him?

12 A Right. Yes, sir.

13 Q Is that customary procedure for law
14 enforcement to write a statement for someone?

15 A Yes, except if they ask you to we'll write
16 it out for them.

17 Q And you were aware of Mr. Nimmons'
18 educational level?

19 A Yes, sir. I know Mr. Nimmons a good while.

20 Q And it's your testimony that he requested
21 that you write the statement for him?

22 A Yes, sir. He requested me to write it down
23 for him.

24 Q What was his mood at that point because
25 this was just another statement, just a second

TESTIMONY: J BELL/CROSS

1 statement?

2 A Yeah.

3 Q Okay. What was his mood at that point at
4 the 12:20 statement?

5 A Seemed like a pretty good mood to me.

6 Q He was happy?

7 A I would say he was happy but he was in
8 there and talking with us.

9 Q Was he silent, not silent, was he somber?

10 A He was talking with us.

11 Q Was he talking in a low voice or was he
12 boisterous?

13 A Well, Juan never has talked -- the part
14 you're talking with him, no real loud voice, he never
15 has.

16 Q The first statement and which you witnessed
17 which was 10:10 and the second statement which you
18 have down, the one you wrote allegedly at his request
19 at 12:20, were you involved with Juan Nimmons in any
20 way between 10:10 and 12:20, between the first and
21 second statement?

22 A No, sir; because he was in the office
23 talking with Wayne Martin.

24 Q Okay. So, it's your testimony that he
25 talked with Investigator Martin for about an hour and

TESTIMONY: J BELL/CROSS

1 a half, two hours?

2 A Right. He talked with him, yeah.

3 Q And during that interview you didn't go in
4 the room not once?

5 A No, sir. Not -- no, sir.

6 MR. KOGER: Beg the Court's indulgence,
7 Your Honor.

8 THE COURT: Yes, sir.

9 (Off-the-record discussion.)

10 BY MR. KOGER:

11 Q Now, earlier -- let me rephrase that.

12 Did you go into the facts of the case at
13 that time before Mr. Nimmons wrote any of those
14 statements?

15 A No, sir.

16 Q You didn't go into any type of details from
17 what SLED found on the scene back on --

18 A No, sir.

19 Q -- Friday?

20 A No, sir.

21 Q And, it's your testimony that Juan didn't
22 have no knowledge of any type of weapon or any
23 evidence up until that point?

24 A No, sir; because all I done when I took him
25 to the station was read him his rights and I left

TESTIMONY: J BELL/CROSS

1 him, come back, and witness the rights.

2 I went back and worked the other crime
3 scene and came back in.

4 Q The statement that was given at 12:20, the
5 one in which you wrote, differs from the one he gave
6 at 10:10; correct?

7 A Yes, sir.

8 Q But you had nothing to do with the one at
9 10:10 other than witness it?

10 A That's it.

11 Q And Investigator Folk took the statement at
12 10:10?

13 A Yes, sir.

14 MR. KOGER: May I beg the Court's
15 indulgence one second?

16 THE COURT: Yes, sir.

17 (Off-the-record discussion.)

18 BY MR. KOGER:

19 Q But the trailer, the crime scene in which
20 this happened, is it still in the same location?

21 A No, sir. It's not.

22 Q And when was that trailer moved?

23 MR. GIBBONS: Your Honor, I object.
24 Relevance to this testimony.

25 THE COURT: Overruled.

TESTIMONY: J BELL/CROSS

1 BY MR. KOGER:

2 Q When was the trailer moved?

3 A Let's see. This is March. Sometime in
4 January.

5 Q Okay.

6 A First part of January.

7 Q And it was moved where?

8 A On Laurel Avenue, two blocks from where it
9 was located at.

10 Q And what is Denmark Police Department
11 policy in a occasion such as this in which you have a
12 trailer a homicide occurred in as far as the length
13 in which the evidence is not to be moved?

14 A Well, I don't know of any policy on that.
15 This is -- we had already collected all the evidence
16 out of the trailer that could be collected.

17 Q Is -- there's not a set time? There's not,
18 no time limit --

19 A No, sir.

20 Q -- set by Denmark Police Department?

21 A No, sir.

22 Q Now, in the moving of this trailer, were
23 you involved in any way in the moving of this
24 trailer?

25 A Well, I'm the one that -- me and my boys

TESTIMONY: J BELL/CROSS

1 are the ones that jacked it up and helped take the
2 wheels out from under it -- put wheels under it.
3 Mr. Nimmons took the underpinning out and had
4 somebody to move it across to Laurel Avenue.

5 Q Did you purchase this trailer on behalf of
6 someone?

7 A Yes, I did.

8 Q And did you clear this purchase with the
9 Solicitor's Office?

10 A No, sir. I didn't know I had to do it
11 because Mr. Nimmons came to me and asked me did I
12 know somebody that wanted to buy. The price -- he
13 told us the price and I knew somebody.

14 Q Mr. Anthony Nimmons?

15 A Right.

16 Q Williams?

17 A Anthony.

18 Q Anthony. Okay. Did you clear it with your
19 police department?

20 A No, I didn't go as far as talking to the
21 chief or anything about it because I didn't have any
22 reason to go talk to them about buying the trailer.

23 Q But, of course, you were aware that these
24 charges were still pending against him?

25 A Yes, sir.

TESTIMONY: J BELL/CROSS

1 Q In Denmark, your police department, not
2 that I'm alleging anything improper but just the
3 appearance of that, that wouldn't be a problem in the
4 future if you were to purchase, as an investigator on
5 a case to purchase --

6 A I don't think so.

7 Q -- the crime scene?

8 A Miss Nimmons wanted it out of the house.
9 Miss Nimmons couldn't stand to go out of the house
10 with the trailer still there.

11 Q But I'm asking you: You being a
12 participate in this crime scene, the appearance, not
13 that any improprieties occurred, but at least the
14 appearance?

15 A Didn't have anything to do with it.

16 MR. KOGER: I have no further
17 questions.

18 THE COURT: Redirect?

19 MR. GIBBONS: Just a few questions.

REDIRECT EXAMINATION

20
21 BY MR. GIBBONS:

22 Q Mr. Bell, when was the last evidence
23 collected from this trailer?

24 A On Friday morning, Friday afternoon. When
25 they were finished up and left out Friday afternoon,

TESTIMONY: J BELL/REDIRECT

1 that was the last time anything was taken out of the
2 trailer.

3 Q Which Friday are you talking about?

4 A The Friday the incident happened on, the
5 8th.

6 Q August 8th. That's the last anybody got
7 any evidence out of the trailer?

8 A Yes, sir.

9 Q You're saying it wasn't moved for about
10 four months?

11 A It wasn't moved by, about four months.

12 Q Were you approached by anyone to go
13 checking for evidence?

14 A No, sir.

15 Q Mr. Koger never called you up?

16 A No, sir.

17 Q What would your policy have been if he had?

18 A What would it have been if he asked about
19 going to check evidence.

20 Q Yes, sir.

21 A I reckon we'd try to help him get whatever
22 he could get out of it. If there was anything he
23 needed. He had to get a search warrant to go back to
24 it.

25 Q That had nothing to do with the

TESTIMONY: J BELL/REDIRECT

1 investigation?

2 A No, sir.

3 Q You didn't end up with the trailer?

4 A No, sir.

5 Q It was another's trailer?

6 A Yes, sir.

7 Q Do you do work on the side?

8 A Yes, sir. I do.

9 Q What kind of work do you do?

10 A Carpenter work and paint.

11 Q Is that cleared through your chief?

12 A Yes, it is.

13 MR. GIBBONS: I have nothing further.

14 THE COURT: Recross?

15 MR. KOGER: No recross, Your Honor.

16 THE COURT: Thank you, sir. You may
17 step down. Good afternoon.

18 Ladies and gentlemen, we're going to take a
19 short break at this time. While you're in the
20 jury room, once again, please do not discuss this
21 case among yourselves. We'll get you back in
22 just a moment.

23 The jury may retire. Everyone else remain
24 seated, please.

25 (Jury exits courtroom at 2:57 P.M.)

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THE COURT: Got a couple witnesses
left?

MR. GIBBONS: Two.

THE COURT: Are you going to show the
video?

MR. GIBBONS: Yes, sir.

THE COURT: Do you want to go ahead and
get that in?

MR. GIBBONS: We'll have it set up.

(Thereupon the afternoon recess was taken, following
which the trial resumed as follows:)

THE COURT: State ready?

MR. GIBBONS: State's ready.

THE COURT: Defense ready?

MR. KOGER: Defense ready, Your Honor.

THE COURT: Bring our jury in, please.

(Jury returns to courtroom.)

THE COURT: Thank you very much,
Mr. Foreman, ladies and gentlemen of the jury.

Call your next witness, please, Solicitor.

MR. GIBBONS: Thank you, Your Honor.

The State would call George Folk.

(Oath administered.)

THE COURT: Spell your last name for
us.

TESTIMONY: G FOLK/DIRECT

1 THE WITNESS: F-O-L-K.

2 GEORGE FOLK, being duly sworn according to
3 law, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. GIBBONS:

6 Q Mr. Folk, where are you employed?

7 A Bamberg County Sheriff's Department.

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

10 A Just a tad over a year.

11 Q And where were you before that?

12 A Denmark Police Department.

13 Q How long have you been in law enforcement,
14 sir?

15 A Over thirty years.

16 Q What is your position at the Sheriff's
17 Office?

18 A First Lieutenant and Investigator.

19 Q Officer Folk, in reference to the Nimmons'
20 case in Denmark, were you involved in that case?

21 A Yes, I was.

22 Q Were you involved in the investigation?

23 A No, sir. I just took a statement for
24 Captain Bell.

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

TESTIMONY: G FOLK/DIRECT

1 marked as State's Exhibit 17.

2 Do you recognize that?

3 A Yes, I do.

4 Q Is that the statement you were just
5 speaking about?

6 A Yes, sir.

7 Q Had you had any involvement prior to that
8 with this case?

9 A No, I haven't.

10 Q That's your first time?

11 A That's my only involvement.

12 Q And how did you come to be involved?

13 A I was going up to Denmark Police Department
14 on Sunday morning and I was working day shift that
15 day and I left and Captain Bell called me back -- by
16 the time I left, he called me back to the police
17 department.

18 Q And what did you do when you got back?
19 Speak into the mic. We can't hear you very well.

20 A Is that better?

21 I walked in the police department and went
22 into Captain Bell's office and I saw he and
23 Mr. Nimmons sitting there in the office.

24 Q What did you do?

25 A I listened to what Captain Bell had to say

TESTIMONY: G FOLK/DIRECT

1 and he at that time he asked me if I would take a
2 statement for him from Mr. Nimmons for him.

3 Q Were you there the whole time Mr. Bell was
4 talking to him?

5 A I got there, like, a short time after
6 Captain Bell arrived at his office.

7 Q I'm going to show you what's been marked as
8 State's Exhibit 16.

9 A Yes, sir.

10 Q What is that?

11 A That's a copy of the Miranda rights.

12 Q Whose signatures are at the bottom of that
13 form?

14 A Mr. Nimmons, mine, and Captain Bell.

15 Q Were you present when that form was filled
16 out?

17 A Yes, sir.

18 Q And were all items on that form filled out?

19 A Yes, sir.

20 Q And what is the top portion of that form?

21 A The top portion is advising him of his
22 constitutional rights, advising the Defendant of
23 their constitutional rights.

24 Q And was that done that day?

25 A Yes, sir.

TESTIMONY: G FOLK/DIRECT

1 Q And who did that?

2 A I did.

3 Q And did Mr. Nimmons at any time indicate he
4 didn't understand any of those rights?

5 A He did not.

6 Q And did you ask him if he understood them?

7 A Yes, I did.

8 Q And how did he respond?

9 A He said yes.

10 Q And what else is on that form?

11 A Is a waiver of a Defendant's rights.

12 Q And is there a signature under that?

13 A Yes, it is.

14 Q Whose signature is that?

15 A Mr. Nimmons.

16 Q And was that portion of the form read to
17 him?

18 A Yes, it was.

19 Q And was that witnessed by you and Officer
20 Bell?

21 A Yes, sir.

22 Q At any time during the filling out of
23 State's Exhibit Number 16, did Mr. Nimmons refuse to
24 cooperate?

25 A He did not.

TESTIMONY: G FOLK/DIRECT

1 Q Did he indicate he didn't understand
2 anything?

3 A No, sir.

4 Q Did he ask for an attorney?

5 A He did not.

6 Q Did you at anytime promise him a reward of
7 any kind?

8 A No, sir.

9 Q Did you at anytime threaten any kind of a
10 threat against him?

11 A No, sir.

12 Q Was he physically threatened in any way?

13 A No, sir.

14 Q Did you have your weapons drawn?

15 A I didn't have -- I didn't have my weapon
16 with me. It was in the car.

17 Q You filled out this form. What did you do
18 next?

19 A I filled out the form after I was assured
20 that he understood his rights. And I asked him
21 questions and he gave me answers.

22 And some of it he gave on his own and I
23 made a statement, his statement, which he asked me to
24 write for him.

25 Q And is that the typed statement you have in

TESTIMONY: G FOLK/DIRECT

1 your hand?

2 A Yes, it is.

3 Q And where did the words come from?

4 A From his mouth.

5 Q And did you sit there and type the same
6 time he was saying them?

7 A Yes, sir.

8 Q You typed them as he talked?

9 A Yes, sir.

10 Q You stopped after each line or how did that
11 happen?

12 A He would make his sentence and I would put
13 it down with the typewriter.

14 Q You're a pretty fast typer, Mr. Folk?

15 A Average.

16 Q Did it take quite awhile to fill this out?

17 A Well, yeah. It took -- I don't know. I'm
18 not going to say a great amount of time but it took a
19 little while, I guess.

20 Q And at the top of the first page, what is
21 that wording there?

22 A Of the statement?

23 Q Yes, sir.

24 A It's, again, advising the Defendant of the
25 constitutional rights before making a statement.

TESTIMONY: G FOLK/DIRECT

1 Q And did you read those again to him?

2 A Yes, I did.

3 Q At anytime did he indicate he didn't
4 understand them during that time?

5 A He did not.

6 Q And there's some writing off to the left of
7 his rights. What is that?

8 A Writing -- what, sir?

9 Q Off to the left of the rights portion,
10 like, some initials or something?

11 A Yes, sir. That's the initials of
12 Mr. Nimmons that we give people to put on the
13 statements so they can be sure nobody adds or takes
14 anything away from that statement.

15 Q Who made that writing?

16 A Mr. Nimmons.

17 Q About halfway down the first page there's
18 some more handwriting?

19 A Okay. He initialed that over a slight
20 typo.

21 Q And he actually wrote that?

22 A That's his writing where he initialed it.

23 Q And who caught the typo? Who realized
24 there was a typo?

25 A I did when I was reading it back to him.

TESTIMONY: G FOLK/DIRECT

1 Q And he corrected you?

2 A Yes, sir.

3 Q And at the bottom of the second page
4 there's some handwriting. Who made those marks?

5 A Mr. Nimmons.

6 Q And whose signature is that at the bottom
7 of that page?

8 A Mr. Nimmons.

9 Q So, you typed this along as you went. Did
10 you read it back to him after it was done?

11 A Yes, sir.

12 Q Word for word?

13 A Yes, sir.

14 Q Did you let him look at it, too?

15 A Yes, sir.

16 Q Did he seem to read it?

17 A Did he seem to read it?

18 Q Did he appear to be reading it?

19 A He appeared to be reading it.

20 Q At anytime did he tell you to make any
21 changes?

22 A No, he did, he did not.

23 Q Did he refuse to cooperate at this point?

24 A No, sir. He did not.

25 Q And he did sign this statement?

TESTIMONY: G FOLK/DIRECT

1 A Yes, sir.

2 Q And did that end your involvement in this
3 case?

4 A That is my involvement.

5 Q Officer Folk, could you please share with
6 the jury what the typed portion of the statement is?

7 THE COURT: Just one moment before you
8 do that, sir.

9 Mr. Foreman, ladies and gentlemen, this has
10 been admitted into the record in this case,
11 statements alleged to have been made by the
12 Defendant.

13 Before you may consider these statements as
14 evidence for any purpose you must determine four
15 questions; first, did the Defendant make the
16 statement, secondly, was the Defendant warned of
17 his constitutional rights, thirdly, did the
18 Defendant knowingly and intelligently waive his
19 constitutional rights, and, fourth, was the
20 statement given voluntarily.

21 The fact that this Court has admitted the
22 statement into evidence should not be considered
23 by you as any evidence whatsoever that the
24 Defendant made such a statement or that the
25 required constitutional safeguards were in fact

TESTIMONY: G FOLK/DIRECT

1 provided and waived by the Defendant or that the
2 statement was voluntarily given because these
3 issues are for you, the jury, to determine.

4 The State must prove beyond a reasonable
5 doubt each of the four elements or requirements
6 that I have just stated to you before you may
7 consider the statement as evidence for any
8 purpose whatsoever.

9 Now as to the first requirement, did the
10 Defendant make the statement, if you should
11 conclude that the Defendant did not make the
12 statement you must then completely and totally
13 disregard the statement.

14 If you conclude that the Defendant did not
15 make the statement you cannot and you must not
16 consider the statement as evidence in any manner
17 whatsoever. And you should completely disregard
18 the statement in its entirety and every part of
19 it.

20 If you find that the Defendant did make the
21 statement, you must then next consider the second
22 requirement, was the Defendant warned of his
23 constitutional rights.

24 Now, when an individual is taken into
25 custody or otherwise deprived of his freedom of

TESTIMONY: G FOLK/DIRECT

1 action in any significant way by police or a law
2 enforcement officer, he must be warned of his
3 constitutional rights prior to and before any
4 custodial interrogation or custodial questioning.

5 These rights are as follows: That he has
6 the right to remain silent; that any statement
7 that he does make can and will be used against
8 him in a court of law; that he has the right to
9 select a lawyer of his own choice, but if he does
10 not have the money or resources to employ a
11 lawyer, the Court will appoint and provide a
12 lawyer to represent him without cost or expense
13 to him if he so desires; that he has the right to
14 consult a lawyer before answering any questions
15 or making any statement; that he has the right to
16 have his lawyer present; that he has the right to
17 have his lawyer present with him at all times
18 during all interviews and all interrogations.

19 Now, if you determine that these
20 constitutional warnings were not given to the
21 Defendant prior to interrogation and the taking
22 of the statement or that the Defendant was not
23 afforded the opportunity to exercise these
24 rights, you must completely disregard the
25 statement.

TESTIMONY: G FOLK/DIRECT

1 And in that event you cannot consider the
2 statement as evidence in any manner whatsoever.

3 If you find that the Defendant did make the
4 statement and if you conclude that these
5 constitutional warnings were in fact given to the
6 Defendant and that the Defendant was afforded an
7 opportunity to exercise these constitutional
8 rights, you must next consider the third
9 requirement, did the Defendant knowingly and
10 intelligently waive his constitutional rights.

11 Before you can consider the statement as
12 evidence in this case, the State must prove
13 beyond a reasonable doubt that the Defendant,
14 after being given his constitutional warnings,
15 knowingly and intelligently waived his
16 constitutional rights and agreed to answer
17 questions and make a statement.

18 Therefore, if you find that the Defendant
19 did not knowingly and intelligently waive his
20 constitutional rights, then any answer given by
21 him or any statement made by him cannot be used
22 against him, and you must completely disregard
23 all of the testimony concerning any such answers
24 or such alleged statement.

25 If you find that the Defendant did make a

TESTIMONY: G FOLK/DIRECT

1 statement, and if you conclude that the
2 constitutional warnings were, in fact, given to
3 the Defendant, and that the Defendant was
4 afforded an opportunity to exercise these
5 constitutional rights, and if you further find
6 that the Defendant, after being given his
7 constitutional warnings, knowingly and
8 intelligently waived his constitutional rights
9 and agreed to answer questions and make a
10 statement, you must next consider the fourth
11 requirement, was the statement given voluntarily.

12 The word voluntarily means that the
13 statement was the expression of the Defendant's
14 own free will and was not induced by pressure,
15 force or fear, or the influence or hope of
16 promise of some benefit or reward, or extracted
17 by threats, coercion or intimidation.

18 If a statement is not voluntary it may not
19 be used against a Defendant. Unless it is the
20 product of an essentially free and unconstrained
21 choice by its maker, if the statement is
22 voluntary, if the Defendant has willed to make a
23 statement, it may be used against him. If the
24 statement is not voluntary it cannot be used
25 against him.

TESTIMONY: G FOLK/DIRECT

1 The true test to be applied is whether the
2 statement is freely, voluntarily and
3 understandably made without compulsion or
4 inducement.

5 In determining whether or not the alleged
6 statement or statements of the Defendant was
7 voluntary you may consider all of the facts and
8 circumstances surrounding the taking or the
9 making of the statement.

10 You may consider all of the evidence in the
11 case in reaching an ultimate conclusion as to the
12 voluntary or involuntary character of any such
13 statement.

14 The ultimate question to be resolved by you
15 with respect to the alleged statement of the
16 Defendant, in addition to the questions of
17 whether or not the Defendant, in fact, made the
18 statement, and whether or not his constitutional
19 rights were observed and knowingly and
20 intelligently waived by him, is; was the
21 statement the expression of Defendant's own free
22 will, made without compulsion or inducement, but
23 representing an essentially free and
24 unconstrained choice by the Defendant, or was it
25 the product of the overborne will of the

TESTIMONY: G FOLK/DIRECT

1 Defendant.

2 With regard to the alleged statement or
3 statements by the Defendant, the State must prove
4 by evidence each and every requirement about
5 which I have instructed you beyond a reasonable
6 doubt before you may consider the alleged
7 statement or statements as evidence in the case.

8 Absent any one of the requirements about
9 which I have instructed you, the alleged
10 statement must be disregard completely and in
11 that event you will accord no evidentiary weight
12 whatsoever to it or to any part of it.

13 On the other hand, if you find beyond a
14 reasonable doubt that the Defendant made the
15 statement or statements, that the Defendant was
16 given the required constitutional warnings before
17 interrogation, that the Defendant knowingly and
18 intelligently waived his constitutional rights
19 and thereafter gave a voluntary statement, the
20 statement or statements may be considered by you
21 together with all the other evidence in the case
22 and given such weight and such value and such
23 effect to which you conclude it is entitled.

24 All right, sir. You may continue.

25 THE WITNESS: Thank you.

TESTIMONY: G FOLK/DIRECT

1 BY MR. GIBBONS:

2 Q Mr. Folk, could you please read us the
3 statement portion?

4 A Yes, sir. It says on 8/6/98 I was at my
5 house at South Locust Street talking to my
6 mother. She had a pocketbook and keys on the table.
7 Her wallet was in her pocketbook. She was drinking
8 heavy. She fell asleep on the couch. This was
9 sometime after supper, I can't recall the time.

10 After she was asleep I took her car keys
11 and the money from her wallet. It was somewhere
12 around a hundred to hundred and twenty dollars. I
13 took her car and my cousin, Darryl Williams said a
14 guy from Norway I owe close to five thousand, ten
15 thousand dollars for dope was looking for me.

16 I gave Darryl the car keys. I told him to
17 give the man the keys. I did not want him to hurt me
18 and my mother. I thought this would clear the debt.
19 I hung out at the Grace Foundation with Booker T.
20 Washington for about two hours. This was about ten
21 to eleven P.M.

22 I left and walked down the track about four
23 to five hours. I was getting high on crack. I got
24 the crack from Andre. He stays by Club 13 in the
25 Hooks.

TESTIMONY: G FOLK/DIRECT

1 I never come back home after I gave Darryl
2 the car. I came close and saw a lot of people there.
3 I did not stop. This was pretty close to daylight
4 Friday morning.

5 I started coming back. I was ready to come
6 on to tell my mama I gave up the car for dope.
7 During this time I bought crack from Andre at the
8 corner by Sandra Jordan's house two or three times.
9 I was coming by Mr. Bill Smith's house and saw the
10 cars at my house.

11 I knew something was wrong. I heard some
12 girls say Butch had killed his mother. I stood in
13 the ditch by Jimmy Carter's house. I then went under
14 Jimmy Carter's house and stayed there a few hours.

15 I got scared and started running. I stayed
16 at Darryl's house for awhile. I then stayed in an
17 abandoned house next to Darryl's for awhile. I went
18 in the woods by Miss Mozell's house awhile. I came
19 back down the tracks, then went behind Shirley
20 Tumor's house.

21 I then went back up the tracks toward
22 Voorhees. I think I come back up the tracks to the
23 ditch behind Miss Albert Stewart's house. Sometime
24 Saturday morning I broke in the front door of Miss
25 Albert's house and stayed in there until I turned

TESTIMONY: G FOLK/DIRECT

1 myself in.

2 I used the phone there to call my cousin,
3 Timmy Howell, in Texas. I told him what was
4 happening and he told me to turn myself in. I called
5 central dispatch and turned myself in. While I was
6 in Mr. Stewart's house Darryl Williams came there
7 twice and brought dope in a stem. We smoked it.

8 Darryl was playing both sides with the
9 police. Nobody else came there. I had told him
10 where I would be when I left his house. I was eating
11 the food that was in Mr. Albert's house.

12 I did not kill my mother. I am willing to
13 cooperate with the police and take a polygraph.

14 Q Mr. Folk, what time was this statement
15 made?

16 A From what I see here, it started at 10:10.

17 Q 10:10 A.M. on what date?

18 A 8/9/98.

19 Q And I'm going to show you what's been
20 marked as State's Exhibit 18. Ask you, what time
21 that statement was made?

22 A It began at 12:20 P.M.

23 Q So, that -- Number 18, that's the one you
24 didn't take; correct?

25 A That's the one I did not take; yes, sir.

TESTIMONY: G FOLK/DIRECT

1 Q Was some two hours after the one you took?

2 A According to the times; yes, sir.

3 Q So, you took the first statement that day?

4 A Yes, sir.

5 Q And that was the statement you just read to
6 the jury?

7 A Yes, sir.

8 Q Officer Folk, do you know Mr. Nimmons
9 personally?

10 A Yes, sir.

11 Q How long have you known him?

12 A I worked in Denmark eight years. Probably
13 six years would be a good guesstimate.

14 Q Have you worked with him in the past?

15 A I knew him when he was a jailer.

16 Q Jailer?

17 A I come in contact with him then but, you
18 know.

19 Q Do you know of his educational abilities at
20 all?

21 A Yes, sir. I am aware that Juan -- I know,
22 feel sure has a high school diploma. He may have
23 more education than that.

24 Q Did he appear to have any trouble reading
25 the forms that you were looking at that day?

TESTIMONY: G FOLK/DIRECT

1 A I wasn't aware of it if he did.

2 Q Did he have any problems understanding what
3 you were saying?

4 A No, sir.

5 MR. GIBBONS: Answer any questions
6 Mr. Koger has, please.

7 THE COURT: Cross examination, Mr.
8 Koger.

CROSS EXAMINATION

9
10 BY MR. KOGER:

11 Q It's your testimony, Investigator Folk,
12 that the only portion that you was, that you had his
13 investigation was the taking of the statement right
14 here?

15 A That's correct, sir.

16 Q And you typed this statement for --

17 A For Mr. Nimmons at his request.

18 Q At his request?

19 A Yes, sir.

20 Q Did he give you a particular reason why he
21 requested it?

22 A No, he did not. I asked him did he want to
23 write it and he asked would I write it for him. And
24 I have a little trouble writing myself so I used a
25 typewriter that was in the office.

TESTIMONY: G FOLK/CROSS

1 Q What was his demeanor at the time that he
2 was relating the information for you to type this
3 statement?

4 A His demeanor was that -- he could have been
5 a little tired but not to the point that he was not
6 aware of what he was doing or saying or even what his
7 rights were as I explained it to him.

8 Q Now, you stated he was a little tired. How
9 could you tell?

10 A Well, he was -- I guess you got to say that
11 he was moving, his movements and all indicated to me
12 he could have been a little tired. But as I stated
13 before, not to the point that he was not aware of
14 what he was doing or even to what his rights were
15 being read to him.

16 Q Did he state to you during the time that
17 you were speaking with him that he had had any sleep
18 in the past couple days?

19 A Not the past couple days; no, sir.

20 Q Did he state to you that he wanted sleep
21 for maybe the last couple hours?

22 A At this point, I'm not sure whether sleep
23 was ever mentioned.

24 Q Okay.

25 A I can't be sure.

TESTIMONY: G FOLK/CROSS

1 Q Did he state to you that he went without
2 food for a particular period of time?

3 A No, he did not because as he later said in
4 the statement he had eaten at Mr. Albert Stewart's
5 house.

6 Q But on that particular morning after he was
7 brought to the station that he made -- did he make
8 any mention to you that he was hungry or something?

9 A He did not.

10 Q Okay. How long were you with Mr. Nimmons
11 on that particular morning?

12 A Give me time. (Reviewing document.) I
13 started this at ten to ten. From 9:05, it doesn't
14 say what time the statement ended. I don't think --
15 I don't see, but I'm going to say probably from 9:05
16 until about maybe 15:35, 10:45, somewhere in that
17 range. It wasn't long.

18 Q Okay. Now on the statement that you read
19 to the Court at 10:10, was that the time you started
20 typing the statement or the time you finished typing
21 the statement?

22 A It should have been the time I started is
23 what I got up here.

24 Q Okay. All right. And I suppose that it
25 took you twenty-five minutes to type it?

TESTIMONY: G FOLK/CROSS

1 A Probably.

2 Q 10:35?

3 A Probably so. Must be; yes, sir.

4 Q Okay. Now, between 9:05 and 10:10 you
5 wrote what Mr. Nimmons was relating to you?

6 A I was writing as he relayed it to me. I
7 put it on paper; yes, sir.

8 Q Okay. So, you wrote from 9:05 to 10:10?

9 A There's a possibility that this 10:10 could
10 be a typo because I started taking the statement just
11 shortly after I gave him the rights and he
12 acknowledged that he understood them and that very
13 well could be a typo.

14 Q Okay. While he was relaying the
15 information that went into this statement, was there
16 conversation back and forth between you and
17 Mr. Nimmons?

18 A Mr. Nimmons was telling me what took place.

19 Q Did you -- while he was relaying that
20 information to you, did you ask him any questions?

21 A I would have to ask him a question, you
22 know, to get some answers as he was going along with
23 this statement. Yes, sir.

24 Q So, you was asking clarification-type
25 questions?

TESTIMONY: G FOLK/CROSS

1 A Yes, sir.

2 Q You say 10:10 may be a typographical error.

3 What time would you say, just to the best
4 of your recollection, that you started typing this
5 statement?

6 A At nine -- on his Miranda warnings at 9:15
7 was when the time, you know, when he, we had finished
8 acknowledging his rights and witnessing the paper and
9 whatnot and shortly thereafter when I started taking
10 Mr. Nimmons' statement.

11 Q And in this statement near the end he was
12 willing to take a polygraph?

13 A Yes, sir.

14 Q Was that ever offered to him?

15 A I can't say he had because I left shortly
16 after I took this and I don't know what transpired
17 after.

18 Q You didn't offer it to him?

19 A I didn't offer it to him. No, sir.

20 Q At least at that particular point?

21 A At that point, I couldn't. No.

22 Q Okay. Now --

23 MR. GIBBONS: Your Honor, I have an
24 objection. Can we approach?

25 THE COURT: Ladies and gentlemen, I

1 have a matter I need to take up with the lawyers
2 outside of your presence. As I told you when
3 this case began that sometimes it's necessary for
4 me to send you outside of the courtroom when
5 these objections or matters of law take place
6 because, once again, you're the judges of facts.

7 I'm the judge of the law, and it may be
8 necessary for me to make some comment as the
9 judge of the facts. So I send you out of the
10 courtroom so that you would not be influenced by
11 anything that I might do or say in connection
12 with the facts.

13 We'll get you back in in just a moment.
14 Jury may retire. Everyone else remain seated.
15 (Jury exits courtroom at 3:45 P.M.)

16 THE COURT: Yes, sir?

17 MR. GIBBONS: Your Honor, I understand
18 that the statement that the State proffered did
19 mention the word polygraph but I would object to
20 any further reference to that term or going into
21 any more detail on that term.

22 I don't think it's proper and I think it
23 will just get us into some water we don't want to
24 get into.

25 THE COURT: Well, I think that and I

1 know the case well because it was my case, the
2 State versus Joe Anthony Wright, Four Seventy-one
3 Southeastern Second Seven Hundred Three
4 Twenty-two, South Carolina Two Fifty-three.

5 In that case the defense attempted to
6 introduce a polygraph or evidence of a polygraph
7 examination. I ruled that that was not
8 permissible under the law of this state.

9 And as such, the Supreme Court upheld me in
10 that regard that there is to be no mention of it
11 because generally the results of polygraph
12 examinations are inadmissible because the
13 reliability of that mode of investigation or
14 examination is questionable.

15 Most recently, the United States Supreme
16 Court has upheld the use -- or the denial of the
17 introduction of polygraph in a United States
18 Military Court case. And that was just decided
19 during this term. I don't have the cite on that
20 before me.

21 But let's move on away from that issue, Mr.
22 Koger, because I don't believe that that's part
23 of the case.

24 I think that it's part of the statement, but
25 that's not part of the case.

1 MR. KOGER: Well, Your Honor, that was
2 the only question. I asked that question as I
3 mentioned in the statement because there's, no
4 polygraph was taken.

5 That was the only question pertaining to a
6 polygraph.

7 THE COURT: All right, sir.

8 MR. GIBBONS: So, you're ruling that's
9 not going to be brought up, Judge?

10 THE COURT: There's not going to be any
11 further mention of a polygraph.

12 MR. KOGER: All right. I'm finished
13 with it.

14 THE COURT: All right. Bring them
15 back.

16 THE BAILIFF: Yes, sir.
17 (Jury returns to courtroom at 3:46 P.M.)

18 THE COURT: I believe you've lost one,
19 sir.

20 (Off-the-record discussion.)

21 THE COURT: Thank you very much, ladies
22 and gentlemen of the jury. All right.

23 You may continue, Mr. Koger.

24 BY MR. KOGER:

25 Q Investigator Folk, you testified to being

TESTIMONY: G FOLK/CROSS

1 finished with the statement at about 10:35; correct?

2 A Yes, sir. That's correct.

3 Q At the time that you finished with this
4 statement, was Investigator Martin already at the
5 station?

6 A Yes, sir.

7 Q He was?

8 A Now, wait a minute. I stand corrected on
9 that. I'm not sure.

10 THE COURT: You need to speak up,
11 please.

12 THE WITNESS: I'm not sure at this
13 time.

14 BY MR. KOGER:

15 Q Okay. Once you completed this statement at
16 10:35, what transpired next?

17 A I believe that's about the time I left.

18 Q You left at around that time?

19 A Yes, sir. I didn't stay there too long.

20 Q Okay. At that time, did someone else come
21 into the room?

22 Did Captain Bell come into the room?

23 A Captain Bell came into the room and
24 witnessed the signature at first on the Miranda
25 warnings and then, you know, witnessed it while I

TESTIMONY: G FOLK/CROSS

1 read it and when he signed it.

2 And when I finished this, was reading it
3 back to him, Captain Bell was in the room and
4 witnessed his signature.

5 Q Did you leave -- after you finished with
6 this around 10:35, did you leave Captain Bell with
7 Mr. Nimmons?

8 A Yes, sir.

9 Q Okay. And that is the extent of your
10 involvement with Mr. Nimmons?

11 A I transported Mr. Nimmons to the county
12 jail.

13 Q Later on that day?

14 A A little bit later.

15 Q Okay. Around what time?

16 A I don't remember the time.

17 Q Okay. But nothing was said during that
18 transport; correct?

19 A Correct.

20 Q After Mr. Nimmons gave this first
21 statement, what triggered a second statement being
22 taken from him?

23 A I can't answer that; I don't know.

24 Q Okay. Nothing transpired as far as another
25 statement as were you taking the first statement from

TESTIMONY: G FOLK/CROSS

1 Mr. Nimmons; correct?

2 A That's correct. All I can testify to is
3 this, sir.

4 Q In this particular statement there's no
5 mention that Mr. Nimmons hit Miss Robinson with a
6 hammer; correct?

7 A None whatsoever.

8 MR. KOGER: I have no further questions
9 of this witness, Your Honor.

10 THE COURT: Redirect?

11 MR. GIBBONS: None.

12 THE COURT: Thank you, sir. You may
13 step down.

14 MR. GIBBONS: State would call Wayne
15 Martin.

16 (Oath administered.)

17 THE COURT: State your name for the
18 record, please, sir.

19 THE WITNESS: Wayne Martin.

20 WAYNE MARTIN, having been duly sworn
21 according to law, was examined and testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. GIBBONS:

25 Q Mr. Martin, where are you employed?

TESTIMONY: W MARTIN/DIRECT

1 A With the Second Circuit Solicitor's Office.

2 Q And what are your duties there?

3 A I'm an investigator.

4 Q And how long have you been an investigator
5 at the Solicitor's Office?

6 A Approximately nine months.

7 Q And prior to that, what did you do?

8 A I was Chief Investigator at the Barnwell
9 County Sheriff's Office.

10 Q How long have you been in law enforcement?

11 A Four years.

12 Q Mr. Martin, back in August of '98, did you
13 have occasion to become involved in the Nimmons'
14 case?

15 A Yes, I did.

16 Q Tell us how that happened.

17 A On 8/7/98 I was contacted by Captain Joe
18 Bell of the Denmark Police Department. And he
19 advised me he had what appeared to be a homicide in
20 Denmark and requested my assistance in the
21 investigation.

22 Q Did you go to Denmark?

23 A Yes, I did.

24 Q What happened when you got to Denmark?

25 A I went to the crime scene, helped secure

TESTIMONY: W MARTIN/DIRECT

1 the crime scene with Captain Bell and other officers
2 of the Denmark Police Department.

3 Shortly thereafter the Crime Scene Unit
4 from SLED arrived. And at that time I was notified
5 that there were some potential witnesses at the
6 Denmark PD waiting to be interviewed and I was asked
7 to go interview those witnesses.

8 So, I left the crime scene and started
9 interviewing witnesses.

10 Q Before you left the crime scene, did you
11 come in contact with anybody at the crime scene?

12 A Yes, sir. Mr. William Nimmons, which would
13 be the father of the victim, Anthony Nimmons, which
14 was the brother of the victim, and there were
15 children there and some other family members.

16 Q And did you speak with them?

17 A Spoke with Mr. William Nimmons on the scene
18 and interviewed him because he had told me that he
19 was the one that went in the trailer and found the
20 victim.

21 And, so we went -- I went ahead and took
22 his statement on the scene. Also on the scene was,
23 made contact with Anthony Nimmons, the victim's
24 brother. Anthony was kind of upset at the time, kind
25 of irate at the time.

TESTIMONY: W MARTIN/DIRECT

1 Q And you talked to him for awhile?

2 A And I tried to calm him down a little bit
3 and talked to him for awhile.

4 Q And then you went to the police department?

5 A Yes.

6 Q And took some interviews?

7 A Yes.

8 Q After that day, what was your involvement
9 with this case?

10 A Came back down -- that was on the 7th which
11 was Friday.

12 I came back down Saturday and interviewed a
13 few more witnesses. And then Sunday morning Captain
14 Bell called me at my home in Aiken and advised me
15 that Juan had called and turned himself in and he
16 requested me to come down and interview him.

17 Q What time, approximately, did you get that
18 call?

19 A Approximately nine o'clock, approximately.

20 Q And did you leave shortly after that?

21 A Probably thirty to forty-five minutes after
22 that.

23 Q Do you know what time you got to Denmark?

24 A It was probably close to 10:30, maybe
25 quarter to eleven.

TESTIMONY: W MARTIN/DIRECT

1 Q What did you do when you got there?

2 A When I got there Captain Bell told me that
3 Juan was in the office at the door to his office with
4 Investigator Folk and that Investigator Folk was
5 typing a statement for him.

6 Q And so, what did you do?

7 A I waited there in Captain Bell's office
8 with him. Shortly thereafter Investigator Folk came
9 in with the typed statement and the Miranda rights
10 form that he had went over with Juan and we reviewed
11 them.

12 Q And what time would this be, about?

13 A This -- approximately 10:45 is when he came
14 back in the office.

15 Q And so what happened after that?

16 A After that Captain Bell, like I said, had
17 called me from Aiken to come interview Juan. So he
18 wanted me to interview Juan to see if there was
19 anything different that Juan had said other than what
20 he had written on the statement.

21 Q And, so, did you do that?

22 A Yes, I did.

23 Q How -- exact same room?

24 A Okay. No. I left Captain Bell's office
25 and Juan was still in the office next door. I went

TESTIMONY: W MARTIN/DIRECT

1 in that office and sat down, introduced myself to
2 Juan, told him who I was, who I worked for.

3 I verbally advised Juan of his Miranda
4 warning. I advised him he had the right to remain
5 silent, anything he said could and will be used
6 against him in a court of law. I advised him he had
7 a right to an attorney.

8 And Juan told me that he understood his
9 rights and he wanted to talk to me and did not
10 request an attorney. He did not want an attorney
11 there.

12 Q And were any threats made to him at that
13 time?

14 A No, sir.

15 Q Any promise made to him --

16 A No, sir.

17 Q -- of any kind?

18 A No, sir.

19 Q After you read his rights to him, did he
20 appear to understand them?

21 A Yes, sir. He did.

22 Q Did he appear to need any of them read
23 again?

24 A No, sir.

25 Q What did you do, again?

TESTIMONY: W MARTIN/DIRECT

1 A I didn't know Juan before this morning so I
2 got his name, all of his personal information, his
3 address, phone number, Social Security number, date
4 of birth, address, phone number, all of this personal
5 information.

6 And we had talked about, he had mentioned,
7 you know, during that time that he was a little
8 tired. And I asked him if he had had any alcohol on
9 this day, smoked any dope that day, you know, his
10 frame of mine.

11 He said he had not smoked crack since
12 Saturday evening before midnight, he had no alcoholic
13 beverages Saturday or Sunday.

14 He appeared to understand everything I was
15 saying.

16 Q How long did that conversation go on?

17 A Well -- the whole, just that part or?

18 Q Well, up until now you said it was about
19 10:45 when you started.

20 A I don't think I went in at 10:45. Like I
21 say, when Investigator Folk came out it was
22 approximately 10:45.

23 By the time we went over his statement,
24 talked about it, his rights form and all of that, it
25 was approximately eleven o'clock before I went in to

TESTIMONY: W MARTIN/DIRECT

1 start talking with Juan.

2 Q And you just kind of did general
3 information for awhile?

4 A We did that for awhile. We then went into
5 Juan's general education background, we went into his
6 military background, his employment background,
7 family background.

8 We talked about, you know, quite a few
9 things.

10 Q And at some point, did you come around to
11 the events of the 6th?

12 A Yes, I did. We -- you know, of course, I
13 told him, you know, we were investigating the death
14 of his mother which he obviously knew that.

15 And we talked about -- I told Juan that,
16 you know, I felt like whoever did this to his mother
17 was a desperate person. We talked about, you know, I
18 felt like that the weapon used in this crime was
19 probably not taken into the home but was probably
20 already there.

21 Juan -- well, then we got into, I told him,
22 you know, there was some evidence pointing at him.
23 And he, Juan became emotional, started crying a
24 little bit.

25 And I asked Juan, I said, Juan, did you

TESTIMONY: W MARTIN/DIRECT

1 kill your mother. And he said yes.

2 And we talked about the statement. I said,
3 Juan, do you want to give a statement to how this
4 happened. He said, yes, I do.

5 So, I left out the room, went back to
6 Captain Bell's office, told him that Juan did say
7 that he had killed his mother and wanted to give a
8 statement.

9 And so at that time, I really was making
10 sure that nobody else was in Joe Bell's office
11 because his office usually is pretty busy. So, I
12 wanted to make sure his office was clear before I
13 brought Juan in there to give him a statement.

14 So, we cleared out his office. And then
15 we, I went back in the office with Juan and Juan
16 asked me about the family, his family, the victim's
17 family, how they were, you know, handling all of
18 this.

19 And I said, well, some of them are handling
20 it just fine, some of them want the death penalty.

21 At that time we got up, went in Joe Bell's
22 office, and he requested Captain Bell to write the
23 statement for him.

24 Q And did Captain Bell write the statement?

25 A Well, before that we got the voluntary

TESTIMONY: W MARTIN/DIRECT

1 statement form out with the Miranda rights form at
2 the top. And Captain Bell --

3 Q I'm showing you State's Exhibit Number 18.

4 A The Miranda rights form is at the top.

5 Captain Bell again, again went over these
6 Miranda rights with Juan. He said he understood the
7 rights and did not want an attorney present.

8 He agreed that nobody had threatened him,
9 pressured him, coerced him in any way. And he put
10 his initials at the beginning of the Miranda rights
11 and at the end showing that he understood his Miranda
12 rights.

13 Q And that statement was read to him prior to
14 him signing it?

15 A Well, then Juan at this time -- we had not
16 heard, you know, how his mother died other than that
17 he had did it.

18 He started telling the facts of how she
19 died and Captain Bell wrote while, you know, what he
20 was saying. The --

21 Q After Captain Bell wrote what he said, what
22 did y'all do?

23 A Captain Bell read the statement back to
24 him. He seemed to understand it.

25 We gave the statement to Juan to read. He

TESTIMONY: W MARTIN/DIRECT

1 appeared to be reading it and then he signed it at
2 the bottom of both pages.

3 Q All right. Now, up to this point in your
4 experience with these statements that day, were any
5 promises made to Mr. Nimmons?

6 A No, sir.

7 Q Any threats of any kind made to
8 Mr. Nimmons?

9 A No, sir.

10 Q Any force physically?

11 A No, sir.

12 Q And had he been denied food, going to the
13 bathroom, anything like that?

14 A No, sir. After the written statement was
15 taken, we asked Juan if he wanted something to eat.
16 He said he did, and we got it.

17 Q What did you do after the written statement
18 that Captain Bell read in, that second statement,
19 what did you do after you got that?

20 A After we got the second statement is when
21 we asked him if, you know, he wanted to go to the
22 bathroom and get something to eat. He said he wanted
23 something to eat.

24 We sent an officer to get something to eat,
25 he ate and we then asked him if he wanted to get his

TESTIMONY: W MARTIN/DIRECT

1 side of the story on video and he said that he did.

2 And I conducted the interview with him on
3 video while Captain Bell taped it.

4 Q And have you reviewed that tape?

5 A Yes, I have.

6 Q I'm going to show you what's been marked as
7 State's Exhibit 14 and ask if you can identify that.

8 A This is labeled the tape that we took that
9 day.

10 Q Does it fairly and accurately represent
11 what went on that day?

12 A Yes.

13 MR. GIBBONS: Your Honor, move this
14 State's Exhibit 14 into evidence.

15 THE COURT: Subject to the previous
16 Court's ruling, it is admitted into evidence.

17 MR. GIBBONS: Thank you, Your Honor.
18 (State's Exhibit 14, videotape, was received into
19 evidence.)

20 MR. GIBBONS: I'd like to now exhibit
21 it to the jury with the Court's permission.

22 THE COURT: Yes, sir.

23 MR. GIBBONS: Excuse me, Your Honor. I
24 almost forgot. I prepared transcripts for the
25 jury.

TESTIMONY: W MARTIN/DIRECT

1 THE COURT: Yes, sir. You may present
2 those to the jury.

3 Now, ladies and gentlemen, I want you to
4 follow the transcript along with the tape. Do
5 not try to read ahead. I want you to pay very
6 close attention as it is presented to you.

7 These are being presented to you as an aid
8 in listening to the tape as it's presented.
9 (Videotape played for jury.)

10 BY MR. GIBBONS:

11 Q Mr. Martin, were you familiar with the
12 evidence that was in existence at that time?

13 A Yes, sir.

14 Q And the facts?

15 A Well, I was familiar with some of it.

16 Q Were you familiar that a hammer was used?

17 A Yes, sir.

18 Q At any time, did you and Mr. Nimmons before
19 he gave the statements discuss a hammer?

20 A No, sir. The only time I heard Juan's side
21 of the story was when he was telling Captain Bell and
22 Captain Bell was writing it for him.

23 Q Had you mentioned hammer prior to that?

24 A No, sir.

25 Q Had you mentioned where a weapon was found?

TESTIMONY: W MARTIN/DIRECT

1 A Yes, sir. Well, I did say I felt like the
2 murder weapon was inside the house.

3 Q But you didn't mention hammer?

4 A No, sir.

5 Q And you didn't mention anything about it
6 being found in the yard?

7 A No, sir.

8 Q Did you mention what had been taken from
9 the house?

10 A No, sir.

11 Q Did you mention keys?

12 A No, sir. But, now -- I had his statement
13 with Investigator Folk with me and he had told
14 Investigator Folk that he had taken the money and
15 keys.

16 Q And had you mentioned anything about where
17 the keys and money had been taken from actually?

18 A He told me he took them from her pocketbook
19 but he didn't tell me exactly where.

20 Q Did you give him any other information
21 regarding the facts of this case and investigation
22 prior to this statement?

23 A No, sir.

24 Q The words he came up with, where did they
25 come from?

TESTIMONY: W MARTIN/DIRECT

1 A Came from him.

2 Q The times, did you give him times before he
3 gave this statement?

4 A No, sir.

5 Q Did you tell him what witnesses you talked
6 to already prior to his statement?

7 A No, sir.

8 Q So the name Travis Yon, you had not
9 mentioned that name to him?

10 A No, sir.

11 Q What about the fact that the lady down
12 around the corner, what was her name?

13 A Sandra Jordan.

14 Q Had you brought up her name?

15 A No, sir.

16 Q To your knowledge, had anyone brought up
17 that name that day?

18 A Not to my knowledge.

19 Q So, you had given him no facts of the
20 investigation prior to his statement?

21 A No, sir.

22 MR. GIBBONS: Answer any questions that
23 Mr. Koger has.

24 THE COURT: Cross examination, Mr.
25 Koger?

TESTIMONY: W MARTIN/CROSS

CROSS EXAMINATION

1
2 BY MR. KOGER:

3 Q You arrived at the scene, not the scene but
4 the station house at 10:45?

5 A Approximately 10:30 to 10:45.

6 Q At that time Investigator Folk was still
7 with Mr. Nimmons; correct?

8 A Correct.

9 Q Okay. And once Investigator Folk was
10 finished with Mr. Nimmons, did you speak with
11 Investigator Folk?

12 A Yes, I did. He gave me the statement that
13 he had taken from Juan along with his Miranda rights
14 and we reviewed the statement together.

15 Q Okay. And how long did you speak with
16 Investigator Folk?

17 A Approximately fifteen minutes.

18 Q Fifteen minutes?

19 A Approximately.

20 Q Approximately, okay. And you just
21 testified to going over that statement that he just
22 finished, the one at 10:10; correct?

23 A Yes.

24 Q Okay. And --

25 A Now, that was the one that was started at

TESTIMONY: W MARTIN/CROSS

1 10:10. It wasn't finished at 10:10.

2 Q Over at 10:35?

3 A Approximately.

4 Q Approximately. And what transpired in that
5 conversation over this first statement?

6 MR. GIBBONS: Your Honor, I object.
7 That's hearsay.

8 THE COURT: Overruled.

9 THE WITNESS: Can you repeat the
10 question, please?

11 BY MR. KOGER:

12 Q What transpired in the conversation between
13 you and Mr. Folk in relation to this first statement
14 that was finished at 10:35?

15 A I just basically read the statement and
16 that was it.

17 I mean, it was no really conversation over
18 it. We just basically reviewed the statement
19 together.

20 Q What was the basis for getting a second
21 statement?

22 A Captain Bell had called me from Aiken to
23 interview Juan and I had driven all the way there,
24 you know, to interview Juan.

25 So, he asked me if I would and I did.

TESTIMONY: W MARTIN/CROSS

1 Q Was there any type of disbelief with the
2 first statement that, that would cause you to, other
3 than traveling from Aiken to Denmark, that would
4 cause you to want to take a second statement?

5 A Well, we felt like there was evidence, you
6 know, that definitely pointed to Juan and Juan could
7 not be located.

8 So, yes, sir. We felt like there was some
9 things that needed to be clarified in the first day.

10 Q So, the 12:20 statement was not just, at
11 least in your mind, as a verification of the first
12 statement, but you wanted to get some additional
13 information?

14 A Right.

15 Q Now, what time did you start talking with
16 Juan?

17 A Approximately eleven A.M.

18 Q Okay. And what portion of that -- because
19 the video statement began at 1:23, so we're talking
20 about two hours and twenty-three minutes. Okay.

21 You testified to, I think, the first part
22 that you just got information on Mr. Nimmons because
23 you didn't know him; correct?

24 A Right.

25 Q Okay. Now, how long did that take?

TESTIMONY: W MARTIN/CROSS

1 A To get personal information and with an
2 educational background and employment background,
3 family history and all, it probably took thirty to
4 forty-five minutes.

5 It takes awhile.

6 Q Thirty to forty-five minutes?

7 A Approximately.

8 Q Approximately?

9 A Yeah.

10 Q So, we're talking about, from at least,
11 maybe 11:30 or 11:45 to 1:23.

12 That was time that you had an opportunity
13 to discuss the case with Mr. Nimmons; correct?

14 A Right. Well, that was the getting the
15 background and the history part; yes, sir.

16 That was before we started really talking
17 about the case.

18 Q Okay. Now, you testified about thirty or
19 forty-five minutes to get the background?

20 A Right.

21 Q So maybe -- are you talking about from
22 eleven o'clock to 11:45; correct?

23 A Approximately.

24 Q And this videotape interview started at
25 1:23 P.M.; correct?

TESTIMONY: W MARTIN/CROSS

1 A Right.

2 Q So we have 11:45 A.M. up until 1:23 P.M.
3 for you to discuss the facts of the case with
4 Mr. Nimmons; correct?

5 A Well, we did discuss the facts of the case
6 during that time, from 11:45 on.

7 Like I said, I did leave the office for a
8 period of time to clear out Captain Bell's office so
9 that we could bring Juan back in there, you know,
10 take his written statement.

11 It was time in there that I went back to
12 the office. And he had asked me the question about
13 the family, you know.

14 We then go back into Captain Bell's office,
15 go over his rights again and that statement started
16 approximately 12:20 and 12:25.

17 Q 12:20. So you got an opportunity to speak
18 with Mr. Nimmons about the case from 11:45 to 12:20?

19 A Right. And also go back and forth between
20 the two offices, making sure we could get his written
21 statement.

22 Q Okay. And what conversation took place
23 between you and Mr. Nimmons between 11:45 and 12:20?

24 A I told him, you know, how I -- what I
25 thought about the murder weapon. I told him what I

TESTIMONY: W MARTIN/CROSS

1 thought about, you know, the person that killed his
2 mom being a desperate person.

3 And, like I said, Juan, when I told him
4 that, you know, there was some evidence pointing to
5 Juan, Juan, like I said, become kind of emotional.
6 He cried a little bit.

7 I asked Juan if he killed his mom. He said
8 he did. I asked Juan if he wanted to give a
9 statement on his side of the story to that. He said
10 he did.

11 That's when I went back in Captain Bell's
12 office to make sure we could get Juan in there to get
13 the written statement.

14 And there was a lot of things, you know,
15 going on during that time.

16 Q Did you specify what evidence was pointing
17 to Mr. Nimmons during that period of time between
18 11:45 and 12:20?

19 A No, I didn't.

20 Q So, you just gave a general statement that
21 there was evidence pointing toward Mr. Nimmons in
22 this offense?

23 A Yes, I did.

24 Q Did you ever make a statement about the
25 community being outraged over this offense?

TESTIMONY: W MARTIN/CROSS

1 A No, I did not.

2 Q Did you make any promise of lenience that.
3 If Mr. Nimmons confess to the crime that the death
4 penalty would not be sought?

5 A Absolutely not.

6 Q You didn't make any type of comment
7 referring to what Barbara Morgan and the Second
8 Circuit may do if he confessed?

9 A We had no conversation like that at all.

10 Q Now, at 12:20 -- and this statement, of
11 course, was written by Captain Bell; correct?

12 A That's correct.

13 Q Okay. Now, at the time that Mr. Nimmons
14 wrote the statement, who was in the room with you?

15 A Myself and Captain Bell and Juan.

16 Q During the entire time?

17 A Yes, sir. The entire time.

18 Q Well, when he was writing this statement
19 was any questions going back and forth to Mr. Nimmons
20 or was he left, not left by himself or allowed to
21 write the statement without any interruptions?

22 A Well, Juan didn't write the statement. He
23 requested Captain Bell to write it for him as he told
24 it.

25 Q Excuse me.

TESTIMONY: W MARTIN/CROSS

1 A And Captain Bell wrote it exactly as he
2 told it. We didn't ask any questions during that
3 time that I can remember.

4 Q Let me clarify. When Mr. Nimmons was
5 relaying the information to Captain Bell, he was not
6 interrupted as far as any questioning as he was
7 relaying the information to Captain Bell?

8 A No, sir.

9 Q How long did it take Mr. Nimmons to write
10 this second statement, approximately?

11 A Approximately thirty minutes. Twenty to
12 thirty minutes; I'm not real sure.

13 Q So, there -- it was some type of time lapse
14 between the time you finished this statement and the
15 time the videotape statement was set up; correct?

16 A Right. And that's when we sent an
17 officer -- after we completed the written statement
18 is when we asked Juan if he wanted something to eat
19 and he said he did and we sent an officer to Hardee's
20 and got him something to eat.

21 Q Between that time and the videotape
22 statement at 1:23, did you question Mr. Nimmons about
23 the case again before he gave the videotape
24 statement?

25 A Not other than to ask him if he wanted to

TESTIMONY: W MARTIN/CROSS

1 give, you know, get his side of the story on video.

2 No, sir.

3 Q You didn't compel him to give that
4 videotape statement?

5 A Excuse me?

6 Q You didn't compel Mr. Nimmons to give the
7 videotape statement?

8 A I asked him if he wanted to and he did.

9 Q And what reason did Mr. Nimmons give you
10 for wanting to give a videotape statement?

11 A He said he wanted to get his side of the
12 story on tape.

13 Q Now, I think you testified to, not so much
14 maybe comments, but I think you had conversation
15 about how the family felt about the situation.

16 I think you said Mr. Nimmons' mother (sic.)
17 might have asked about it?

18 A Right.

19 Q Was that during the written portion or
20 right after the written portion, before the videotape
21 statement? When did that occur?

22 A That was after he told me that he killed
23 his mother. And I went back into Captain Bell's
24 office to kind of clear his office out so we could
25 get his written statement.

TESTIMONY: W MARTIN/CROSS

1 When I went back into the office Juan was
2 in is when he asked about the family.

3 Q Now at this point, at about 1:23 he had
4 been down at the station house for approximately four
5 hours; correct?

6 A Approximately. I hadn't been there the
7 whole time but approximately, from the paperwork.

8 Q Since Captain Bell brought him in; correct?

9 A Yes, sir.

10 Q All right. What was his demeanor at that
11 time when you first went in at eleven o'clock to
12 speak with him up until he finished the videotape
13 statement at 1:32?

14 A Juan was, like I say, he was crying some,
15 off and on, and he was showing a lot of remorse, you
16 know. That's basically it.

17 Q Was he -- did you feel comfortable taking a
18 statement from him at that point?

19 A I felt very comfortable. Yes, sir.

20 Q Felt no question about, of -- about his
21 condition at that point?

22 A No, sir. None whatsoever. Like I say, I
23 even began an interview about asking him about being
24 under the influence of drugs or alcohol and he said
25 he was not.

TESTIMONY: W MARTIN/CROSS

1 Q Was he given an opportunity not to give a
2 second statement?

3 A Well, I asked Juan if he wanted -- after he
4 told me he killed his mom I asked Juan if he wanted
5 to give a statement and he said he did.

6 Q Okay. Now before -- now, I'm talking about
7 after the completion of the first statement at 10:35,
8 you arrived on the scene at 10:45.

9 You started speaking with -- when you spoke
10 with Juan at eleven, at eleven o'clock, was he given
11 the opportunity at that point before he started
12 talking with you not to give a second statement?

13 A I don't understand what you're asking me.

14 Q Okay. He gave a first statement at 10:10?

15 A Right.

16 Q To -- the first statement.

17 A Right.

18 Q To Investigator Gary (sic.) Folk?

19 A Right.

20 Q You came down from Aiken at the request of
21 Captain Bell --

22 A Right.

23 Q -- to take a second statement?

24 Was Juan given an opportunity to not give a
25 second statement?

TESTIMONY: W MARTIN/CROSS

1 A Yes. Yes, sir.

2 Q Did you ask him whether he wanted to give a
3 second statement or not?

4 A Yes, sir; I did. After he said he killed
5 his mama I asked him if he wanted to give a statement
6 and he said he did.

7 Q Now, when exactly in the conversation that
8 you had with him, from eleven to the end of the
9 videotape statement at 1:32, did he make that
10 admission in that time frame?

11 Near the beginning at eleven, or right
12 before he allegedly wrote the second statement at
13 12:20; when did he make that admission?

14 A The initial admission?

15 Q Initial admission.

16 A Like I said, we went over his background
17 and everything from 11:30 to approximately 11:45.
18 Then we kind of got into the case after that and
19 that's when he made his initial admission.

20 Q Between 11:45 and 12:20?

21 A Probably 11:45 and -- probably twelve to
22 12:10, in that area.

23 Q What type of tactics did you use to acquire
24 the admission?

25 A I just talked to Juan. I told you. Like,

TESTIMONY: W MARTIN/CROSS

1 what I thought about the weapon that was used. I
2 told him what I thought about the person that killed
3 his mama being a desperate person and that was
4 basically it.

5 Q Did you make any threats?

6 A None.

7 Q Did you raise your voice?

8 A No, sir.

9 Q Any promises of lenience?

10 A None.

11 MR. KOGER: Beg the Court's indulgence,
12 Your Honor.

13 (Off-the-record discussion.)

14 BY MR. KOGER:

15 Q Investigator Martin, the resulting
16 videotape was not a request by you for Mr. Nimmons to
17 address the community outrage?

18 A No, sir. It was not.

19 Q And you never made that statement?

20 A No, sir.

21 Q That term never came up?

22 A Not from me; no, sir. And I didn't hear it
23 from anybody there; no, sir.

24 MR. KOGER: I have no further
25 questions.

TESTIMONY: W MARTIN/CROSS

1 THE COURT: Redirect?

2 MR. GIBBONS: No, sir. Nothing, Your
3 Honor.

4 THE COURT: Thank you, sir. You may
5 step down.

6 Ladies and gentlemen, if you would please
7 pass your transcripts to the end of the row and
8 the bailiffs will collect them.
9 (Jury complies.)

10 MR. GIBBONS: Your Honor, I'd like to
11 make one of them a Court Exhibit.

12 THE COURT: Court's Exhibit.
13 (Court's Exhibit 2, transcript of video, was marked
14 and received into evidence.)

15 MR. GIBBONS: Your Honor, that would be
16 the State's case.

17 THE COURT: Ladies and gentlemen of the
18 jury, the State has concluded its case in chief.
19 I'm going to be sending you to your jury room for
20 just a few moments.

21 Once again, please do not discuss this case.

22 The jury may retire. Everyone else remain
23 seated, please.

24 (Jury exits courtroom.)

25 MR. KOGER: At this time I would like

1 to make the standard motion for directed verdict
2 for the record.

3 At this point the State has not set forth
4 any evidence that would require this case to go
5 before the jury for consideration.

6 THE COURT: State want to be heard?

7 MR. GIBBONS: Your Honor, the State
8 would assert that all issues remaining would be
9 issues of fact.

10 THE COURT: After listening to the
11 testimony and the evidence that's been presented,
12 I certainly believe that there is a question of
13 fact to be determined by the triers of fact, that
14 being the jury, and as such the motion for
15 directed verdict is denied.

16 Insofar as the length of your case, how long
17 do you anticipate your case lasting?

18 MR. KOGER: Your Honor, maybe an hour
19 or two.

20 THE COURT: All right. Let me see the
21 lawyers up here, please.

22 (Off-the-record discussion.)

23 THE COURT: All right. Given where we
24 are and having a bench conference with the
25 lawyers, trying to estimate where we're going to

1 be, we're going to go ahead and suspend so that
2 we don't run too late tonight.

3 Come back, do the Defendant's case first
4 thing in the morning and then move directly into
5 closing arguments and charge.

6 If you have any extraordinary requests for
7 charge beyond my general request or my general
8 charge, please present those to me in the
9 morning.

10 I think that both of you have heard my
11 general charge in these areas. And, so, if you
12 have anything in addition to that, only thing I
13 say is just don't kill any trees unnecessarily by
14 running off any long charges that I already have.

15 I'll be glad to receive anything that you
16 might have, but let's save our forests as much as
17 we can. Sometimes I wonder how much the legal
18 community has done to contribute to the amount of
19 paper that we use. All right.

20 Also, Mr. Koger, I'm going to -- it was my
21 understanding in the opening statements that the
22 Defendant intends to take the stand but as I
23 customarily do, I'm going to discuss his Fifth
24 Amendment rights with him at this time.

25 MR. KOGER: Yes, Your Honor.

1 THE COURT: If would you please stand,
2 Mr. Nimmons and raise your right hand, sir.

3 (Oath administered.)

4 THE COURT: And you are Juan M.
5 Nimmons; is that correct?

6 THE DEFENDANT: Sir, that's correct.

7 THE COURT: You can place your hand
8 down.

9 THE DEFENDANT: Thank you, sir.

10 THE COURT: Now, Mr. Nimmons, at this
11 time I'm going to explain to you certain of your
12 rights. If you do not understand what I say, I
13 want you to please let me know.

14 If you want me to explain anything in
15 further detail, please let me know that.

16 Do you understand?

17 THE DEFENDANT: Sir, yes, sir.

18 THE COURT: Now, we've now reached the
19 stage of the trial where you may present your own
20 defense and you have the right to testify in your
21 own behalf. However, no one can make you
22 testify.

23 Now, in the event that you have a record for
24 any conviction involving dishonesty or false
25 statement or for a crime punishable by

1 imprisonment for more than one year and this
2 Court determines that the probative value of this
3 evidence outweighs its prejudicial effect to you,
4 then the Solicitor will be able to introduce this
5 record for impeachment purposes to attack your
6 credibility.

7 If you elect not to take the stand, I will
8 charge the jury that they are not to give the
9 fact that you did not testify any consideration
10 whatsoever and there is to be absolutely no
11 prejudice to you because you did not testify.

12 It will be left entirely up to you as to
13 whether or not you testify. You may talk with
14 your attorney, your family, friends, or anyone
15 else, but the ultimate decision will be left
16 entirely up to you.

17 Do you understand that?

18 THE DEFENDANT: Sir, yes, sir.

19 THE COURT: Thank you, sir. You may be
20 seated.

21 THE DEFENDANT: You're welcome.

22 THE COURT: Solicitor, is it my
23 understanding that there are no impeachable
24 offenses?

25 MR. GIBBONS: There are.

1 THE COURT: There are? You've
2 discussed those with opposing counsel?

3 MR. GIBBONS: Yes, sir. There's a
4 forgery in Georgia, financial transaction card
5 theft in Georgia, an escape which he got
6 sentenced to five years on.

7 So, the State would use all three of them.

8 THE COURT: And do you have any contest
9 to those?

10 MR. KOGER: No contest. I received
11 that information and I discussed with Mr. Nimmons
12 and there is no contest.

13 THE COURT: They are admissible under
14 the rules.

15 MR. GIBBONS: Thank you, Your Honor.

16 THE COURT: All right. I'm going to
17 bring the jury back. We'll tell them to be back
18 at nine A.M.

19 We've got the jury panel coming back at noon
20 so we should be running right on time tomorrow
21 with bringing the jury back in and finishing up
22 this case. All right.

23 Let's bring our jury back, please,
24 Mr. Bailiff.

25 (Jury returns to courtroom at 4:35 P.M.)

1 THE COURT: Mr. Foreman, ladies and
2 gentlemen of the jury, given the time of day
3 before we move into the defense case we're going
4 to go ahead and suspend our consideration of the
5 testimony and evidence for this day.

6 As I send you away for this evening, I will
7 remind you, once again, that you are not to
8 discuss this case among yourselves as you exit
9 the courthouse if you happen to see or talk with
10 each other during the course of this evening and
11 you're also not to discuss this case when you
12 reconvene in the jury room in the morning at the
13 appointed hour.

14 Also, I'm going to, once again, instruct you
15 that you're not to discuss this case with family,
16 friends, or anyone else and should anyone attempt
17 to contact you during this case, I've given you
18 ample instruction that you're to gather as much
19 information about that person as you possibly can
20 and report that to me immediately upon your
21 return to the courthouse in the morning because
22 that is a very serious matter and, once again, I
23 will deal with that person that attempted to
24 contact you accordingly.

25 Let me remind you, once again, that you are

1 instructed not to read, watch, or listen to any
2 news accounts concerning this particular case.

3 Once again, all I want you to consider in
4 this matter is what you see and hear in this
5 courtroom, nothing more and nothing less.

6 And so with those words of instruction, I'll
7 bid you a very pleasant good-day and ask that you
8 be in your jury room in the morning at nine A.M.

9 That's nine A.M. in the morning. Please be
10 in the jury room, report directly to the jury
11 room in the morning.

12 Do not linger outside. Do not hang around
13 in the hallways. Please come back to the jury
14 room and we'll get started at that time.

15 I hope you have a pleasant evening. I look
16 forward to seeing you in the morning. Jury
17 excused. Everyone else remain seated, please
18 (Jury excused for day.)

19 THE COURT: All right. Anything else
20 from the State?

21 MR. GIBBONS: Nothing, Your Honor.

22 THE COURT: From the defense?

23 MR. KOGER: Your Honor, not on this
24 case but for the schedule for the rest of the
25 week...

1 END OF DAY AT 4:35 P.M.

2 * * *

3 ON WEDNESDAY, MARCH 10, 1999 AT 9:00 A.M.

4 THE COURT: Is the defense ready?

5 MR. KOGER: Yes, Your Honor.

6 THE COURT: State ready?

7 MR. GIBBONS: Yes, Your Honor.

8 THE COURT: Of course, I went over the
9 Defendant's Fifth Amendment rights with him
10 yesterday.

11 It is my understanding that he will take the
12 stand today; is that correct?

13 MR. KOGER: Yes, sir.

14 THE COURT: Is that correct,
15 Mr. Nimmons?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Bring our jury
18 back.

19 (Jury enters courtroom at 9:00 A.M.)

20 THE COURT: Polling of the jury by the
21 State?

22 MR. GIBBONS: State would waive it,
23 Your Honor.

24 THE COURT: By the defense?

25 MR. KOGER: Defense would waive, Your

1 Honor.

2 THE COURT: Mr. Foreman, ladies and
3 gentlemen of the jury, good to see you again this
4 morning.

5 I told you yesterday the State has completed
6 its case in chief. We'll now move into the
7 defense case.

8 Call your first witness, Mr. Koger.

9 MR. KOGER: Call Mr. Juan Nimmons to
10 the stand, Your Honor.

11 (Oath administered.)

12 THE COURT: Please state your name for
13 the record, sir.

14 THE DEFENDANT: Sir, my name is Juan M.
15 Nimmons, J-U-A-N N-I-M-M-O-N-S.

16 THE COURT: Mr. Koger.

17 JUAN NIMMONS, being first duly sworn
18 according to law, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. KOGER:

22 Q What is your date of birth?

23 A .

24 Q And where did you reside at the time of
25 this incidence?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, I reside at South Locust Street.

2 Q At that particular time, were you gainfully
3 employed?

4 A Yes, sir. I was.

5 Q And where were you gainfully employed?

6 A Sir, I was employed at Lifetime Doors in
7 Denmark.

8 Q Lifetime Doors?

9 A Yes, sir.

10 Q At that time how long had you been
11 gainfully employed?

12 A Sir, approximately a month.

13 Q A month?

14 A Yes, sir.

15 Q Okay. Can you briefly go into the details
16 about your educational background?

17 A Sir, I was graduated from Denmark-Olar High
18 School.

19 Q And what year did you graduate?

20 A Sir, in 1980.

21 Q 1980?

22 A Yes, sir.

23 Q Upon graduating from Denmark-Olar High
24 School, what was your next step?

25 A Next step I went into the United States

TESTIMONY: J NIMMONS/DIRECT

1 Army, Sergeant E-5 in the United States Army.

2 Q You entered the Army in 1980?

3 A Sir, that's correct.

4 Q What was your beginning rank when you
5 entered the Army?

6 A Sir, repeat that, please.

7 Q What was your beginning rank when you
8 entered the Army?

9 A Sir, E-1.

10 Q E-1?

11 A Yes, sir.

12 Q You were discharged in 1984?

13 A Sir, that's correct.

14 Q What type of discharge did you receive?

15 A Sir, I received an honorable discharge.

16 Q At the time of your discharge what was your
17 rank?

18 A Sergeant E-5.

19 Q Sergeant E-5.

20 A Yes, sir.

21 Q What was your job within the military?

22 A Supply and maintenance clerk.

23 Q Supply and maintenance clerk?

24 A That's correct.

25 Q Can you briefly go into detail what that

TESTIMONY: J NIMMONS/DIRECT

1 type of job entails?

2 A Sir, we usually dispatch and transfer
3 different parts and components overseas in supply and
4 maintenance.

5 Q And upon exiting the military, what was
6 your next professional step?

7 A My next step, I got a job at the Savannah
8 River Site, Wackenhut Security, which I was employed
9 there for approximately eight years.

10 Q And you say Wackenhut Security. You worked
11 at security at Savannah River Site?

12 A Sir, that's correct.

13 Q And you worked there for eight years?

14 A Sir, that's correct.

15 Q You work there until 1991, 1992?

16 A Sir, that's correct.

17 Q What was your next position after that?

18 A My next position, I was correctional
19 officer at Bamberg County Jail where I'm presently at
20 at this point.

21 Q Now, you were working at the Bamberg County
22 jail for how long?

23 A For approximately six months.

24 Q Six months?

25 A Yes, sir, yes.

TESTIMONY: J NIMMONS/DIRECT

1 Q And what was your position at the Bamberg
2 County Jail?

3 A I was correctional officer at the Bamberg
4 County Jail.

5 Q You worked there for six months. What was
6 your next position?

7 A I resigned from the Bamberg County Jail. I
8 applied for a job at the Orangeburg County Jail which
9 I was there as a correctional officer approximately
10 one year.

11 Q So, it was the same type of position?

12 A Same type of position, sir.

13 Q So, now what year are we in now, 1994 or?

14 A Sir, approximately 1994.

15 Q 1994. You left the Orangeburg County
16 position in 1994?

17 A Yes, sir.

18 Q And, what was your next position after
19 that?

20 A My next position I think I went -- I'm not
21 sure. I think I went to New Jersey. I was -- not
22 New Jersey; Baltimore, Maryland.

23 I was working at Johns Hopkins, in
24 Baltimore, Maryland as a security officer.

25 Q And what year did you work at Johns Hopkins

TESTIMONY: J NIMMONS/DIRECT

1 Hospital up in Maryland?

2 A I think it was approximately '95 sometime.

3 Q '95?

4 A Yes.

5 Q Now, you do have a prior record; correct?

6 A Sir, yes, sir; in Georgia.

7 Q In Georgia?

8 A Richmond County.

9 Q And do you have a prior record for forgery?

10 A Yes, sir; forgery charge.

11 Q What year did you commit the forgery?

12 A It was approximately '96 sometime.

13 Q '96?

14 A Yes, sir.

15 Q And also at that particular time, you have
16 a record for financial transaction card theft;
17 correct?

18 A Sir, that's correct.

19 Q And what year was that committed?

20 A Same time.

21 Q Same time?

22 A Yes, sir.

23 Q And you also have an escape charge on your
24 record?

25 A Sir, that's correct.

314

TESTIMONY: J NIMMONS/DIRECT

1 Q And what year did you commit that offense?

2 A Sir, in 1996.

3 Q 1996?

4 A Yes, sir.

5 Q Okay. Now after your point of
6 incarceration on those charges, were you gainfully
7 employed again?

8 A Sir, yes, sir.

9 Q And where were you gainfully employed?

10 A I was employed in Augusta, Georgia at
11 E-Z-Go Textron. We make golf carts and I was working
12 on the assembly line.

13 Q How long did you work at that company in
14 Augusta?

15 A Sir, I worked at that company about nine
16 months.

17 Q Nine months?

18 A Yes, sir.

19 Q So, what year are we in now?

20 A Sir, I think we're in '97.

21 Q '97?

22 A Yes, sir.

23 Q Okay. Once you left that position what was
24 your next position?

25 A I was working at the Dixie-Narco in

TESTIMONY: J NIMMONS/DIRECT

1 Williston, South Carolina.

2 Q And how long did you work at Dixie-Narco?

3 A Approximately, about eight months.

4 Q Eight months?

5 A Yes.

6 Q And what type of work did do you at
7 Dixie-Narco?

8 A I was working in the rework department
9 where we, the machines come off the line. We pull
10 the tag off them and we correct the problems and we
11 put them back on the line.

12 Q And you worked there for approximately
13 eight months; correct?

14 A Yes, sir. That's correct.

15 Q So, are we still in '97 or '98 now?

16 A '98.

17 Q '98. Okay. After you left the position at
18 Dixie-Narco, what was your next position?

19 A Sir, I was living in Barnwell, South
20 Carolina. I was working at EFCO, the new products
21 company in Barnwell.

22 Q What type of company is that?

23 A They make glass for big companies all over
24 the world.

25 Q And how long did you work for EFCO?

TESTIMONY: J NIMMONS/DIRECT

1 A Approximately, about six months.

2 Q Six months?

3 A Yes, sir.

4 Q So, we're in 1998 now?

5 A Yes, sir.

6 Q And then after you left EFCO, what was your
7 next position?

8 A I think I was unemployed for quite
9 sometime, a little, few months.

10 Q All right. Now, before this incident you
11 worked at Lifetime Doors?

12 A Sir, that's correct.

13 Q And at the time of this incident -- how
14 long did you work at Lifetime Doors?

15 A It was a few months.

16 Q Few months?

17 A Yes, sir.

18 Q How many; two or three, or several?

19 A One month. I think it's one to two months,
20 possibly.

21 Q One month?

22 A Yes, sir.

23 Q And that was your last employment before
24 this incidence?

25 A Sir, that's correct.

TESTIMONY: J NIMMONS/DIRECT

1 Q Now during the time that you was in the
2 military and gainfully employed, were you involved in
3 any type of extracurricular activities, social
4 activities, or any voluntary activities?

5 A Yes, that's correct.

6 Q What type of activities were you involved
7 in from the time you was in the military back in 1980
8 up until recently?

9 A During my military service I was working
10 doing volunteer work. Me and some other people, we
11 got together and we came, we adopted a program for
12 the elderly people at a nursing home.

13 And we got together volunteering on
14 weekends when we was off. And a lot of the elderly
15 people there didn't have no family.

16 So we took time out to go there and push
17 them around in the wheelchairs because a lot of their
18 families abandoned them, so we took the opportunity.

19 Q Which nursing home are you referring to?

20 A The one in the military.

21 Q The military?

22 A Yes, sir.

23 Q I didn't get this. Where were you
24 stationed at in the military?

25 A Sir, tell you all the -- where I was

TESTIMONY: J NIMMONS/DIRECT

1 stationed? I was stationed numerous places.

2 Q How many places?

3 A Exactly four.

4 Q Go ahead and list the four.

5 A Took my basic training at Fort Dix, New
6 Jersey. I left there and I went to took three months
7 of schooling in Aberdeen Proving Ground in Maryland.
8 I went there to Hanna, West Germany for approximately
9 two years and I got out of the Service at Fort Hood
10 in Texas.

11 Q So, one of the -- is this when one of your
12 friends got together and worked for the elderly?

13 A That's correct.

14 Q What other activities?

15 A During military service, again, me and some
16 friends again, we got together. There're special
17 olympics for little kids who had handicaps.

18 We took the time out, again, like I said
19 before, and spun time with them because a lot of
20 families, they was abused kids and all. And we
21 volunteered to do that service for them.

22 We made balloons for them, played with
23 them, played soccer, that sort of things.

24 Q Okay. And were you involved in any other
25 extracurricular activities?

TESTIMONY: J NIMMONS/DIRECT

1 A Yes, sir; that's correct.

2 Q And what other activities? Just list them
3 for the Court.

4 A I was unemployed at one time approximately
5 a year ago and I took volunteer work at DSS in
6 Bamberg. I took the opportunity, not like I was
7 looking for reward in return, but I felt as though I
8 needed to give something back.

9 So I went to the DSS office here in Bamberg
10 and took counseling patients over in the Medical
11 Center in Orangeburg.

12 Q And is that the extent of your volunteer
13 services?

14 A No, sir.

15 Q Okay. And what other volunteer services
16 were you involved in?

17 A Sir, they had a community clean-up in
18 Denmark. I was a part of that also.

19 Q Okay. All right. Now, up until the time
20 of the incident, did you attend church?

21 A Sir, yes, sir.

22 Q Did you regularly attend church?

23 A Sir, yes, sir.

24 Q What church did you regularly attend?

25 A I attended the Honey Ford Baptist Church in

TESTIMONY: J NIMMONS/DIRECT

1 Denmark, South Carolina.

2 Q Were you a member of that church?

3 A Sir, yes, sir.

4 Q How long had you been a member of that
5 church?

6 A I was baptized and raised in that church,
7 all my life.

8 Q When were you baptized, at what age?

9 A I can't remember what age; five, six,
10 something like that.

11 Q And were you involved in any of the
12 activities in the church?

13 A Well, I use to usher sometime every now and
14 then.

15 Q Okay. Now, it came out in the videotape
16 statement, and you want to be honest with the Court,
17 that within the last couple years you became addicted
18 to drugs; correct?

19 A Sir, that's correct.

20 Q Could you go into detail for the Court how
21 you became addicted to drugs, in what year, and just
22 explain to the Court what happened with your drug
23 addiction?

24 A Well, I started using drugs approximately
25 in 1991 which is barely, was marijuana use and then

TESTIMONY: J NIMMONS/DIRECT

1 it started off to cocaine, then later on to crack.

2 Q When did you start using crack cocaine?

3 A Been approximately five years now, six
4 years.

5 Q Five or six years?

6 A Yes.

7 Q And up until very recently you were still
8 using crack cocaine; correct?

9 A Excuse me, sir?

10 Q Up until very recently you were still using
11 crack cocaine; correct?

12 A Sir, that's correct.

13 Q Now, of course, you know why you're here
14 and you know what you're charged with.

15 And I want you to relate to the Court the
16 events of August 6th from the time you got up on that
17 morning up until the alleged incidence.

18 Tell the Court what happened.

19 A On August 6, the morning of August 6th, me
20 and my mom got up. We took turns, we usually take
21 turns at cooking breakfast. I decided to cook
22 breakfast that morning.

23 And I after we got through eating breakfast
24 we left and she dropped me off at Lifetime Door
25 Company and she went to work.

322

TESTIMONY: J NIMMONS/DIRECT

1 I stayed at work all day that day and when
2 I got off at approximately three o'clock --

3 Q Mr. Nimmons, excuse me. Let me stop you
4 right there.

5 A Yes, sir.

6 Q Before we go into the facts of what
7 happened that particular day, briefly describe for
8 the Court your relationship with your mother.

9 A Me and my mom had a very warm and cordial
10 relationship. We wouldn't let nobody come between
11 us. It was a relationship, like, her umbilical cord
12 was still attached to me. That's how close we were.

13 We used to always walk together, go to
14 shopping together. When you see my mom you're seeing
15 me. We was very, very close.

16 She wouldn't let nobody talk bad about me.
17 Even if I was her bad son or good son, she was my
18 pride. She was my best friend. She was my backbone
19 to my success.

20 When everybody talked negative to me, my
21 mom was there. When they said, he ain't ever going
22 to be nothing, my mom was there. When they saying
23 all strange matters about myself, my mom was there.

24 She would let no -- she was the type of mom
25 that wouldn't let no harm or danger come to her son.

TESTIMONY: J NIMMONS/DIRECT

1 I was her mama's boy, her onliest son.

2 Like I say, again, she is my friend, she
3 was. That's about it.

4 Q Your mother, she was fully aware of your
5 drug addiction; correct?

6 A Sir, that's correct.

7 Q All right. And throughout your drug
8 addiction she attempted to help you out of your drug
9 addiction; correct?

10 A Sir, that's correct.

11 Q Now, again, I apologize for interrupting
12 you, let's go back to the events of August 6th.

13 A Sir, you want me to start over again?

14 Q Yeah. For the benefit of the jury, start
15 over again.

16 A The morning of August 6th me and my mom got
17 up that morning. We usually take turn, we usually
18 cook breakfast.

19 That particular morning I cooked breakfast
20 that morning and she dropped me off at Lifetime Doors
21 and she went on to work.

22 So approximately three o'clock P.M. I was
23 on the way home, me and some other friends, which
24 they took another direction. I went over to the
25 corner of Sandra Jordan's house and I credit a

TESTIMONY: J NIMMONS/DIRECT

1 ten-dollar rock at that particular time.

2 I stayed around there for a few minutes,
3 talking, shooting the breeze. Around five, 5:15, I
4 know that's the time my mom get home so she always
5 usually meet early enough, she was wanting me home.

6 Q Let's stop right there. You say at five or
7 5:15 you saw your mother; correct?

8 A Sir, that's correct.

9 Q And that was the first time you had seen
10 your mother since she dropped you off earlier that
11 morning; correct?

12 A Sir, that's correct.

13 Q Continue.

14 A It was around five, 5:15, I came home. I
15 spoke to her, hey, mom, how you doing. She say, I'm
16 fine, how are you.

17 And we sat and talked briefly and I asked
18 her was she going to choir rehearsal. She said she
19 don't know, she wasn't feeling good or something, she
20 don't think she was going.

21 So we sit and talked for a little bit more
22 while I asked her, I said mom, I said, I want to
23 borrow forty dollars because I want to take a young
24 lady out and she consented and give me the keys to
25 her car and she gave me the money.

TESTIMONY: J NIMMONS/DIRECT

1 She said, son, don't stay out all night. I
2 already knew what I was going to do. I was going to
3 get the forty dollars and spend that. I was going to
4 get a car up all night, like I always do, for drugs.

5 Q Okay. And at that time after your mother
6 gave you the forty dollars and keys to the car, what
7 time did you leave your home on that particular
8 afternoon?

9 A Sir, I left home approximately 5:30, six
10 o'clock. I went around the corner on Cedar Street to
11 Darryl Williams' house.

12 Q Okay. Now, Darryl Williams was the one
13 that testified earlier in court this week, sir; is
14 that correct?

15 A Sir, that's correct.

16 Q Continue.

17 A I was at Darryl Williams' house. I parked
18 there in his yard. The forty dollars that my mom
19 gave me -- excuse me.

20 The forty dollars that my mom give me I
21 spent on crack cocaine a few minutes after that,
22 approximately thirty minutes after that.

23 Q Let's go back. You said you spent it on
24 crack cocaine. Who did you give the forty dollars
25 to?

TESTIMONY: J NIMMONS/DIRECT

1 A I give to it a guy name Andre, he's a drug
2 dealer.

3 Q Now who else was at that -- okay. Darryl
4 Williams was at the house. It was his house; is that
5 correct?

6 A Sir, that's correct.

7 Q Who else was at the house?

8 A Darryl Williams was at the house. Elliott
9 Adams was at the house. Guy named Red, that's his
10 alias name, he was at the house. Alvin Brown, he was
11 at the house. It was a few females. I can't even
12 remember who they was at this time.

13 Q Was Travis Yon at the house?

14 A Right. Travis Yon at the house and Derek
15 Robinson, he was at the house.

16 Q And Travis Yon testified yesterday for the
17 State?

18 A Sir, that is correct.

19 Q Continue.

20 A After the forty-dollar usage was gone I
21 gave Travis Yon the keys to my mom, the key -- excuse
22 me.

23 I gave Travis Yon the keys to my mom car.
24 I told him he could hold the car all night. Like I
25 always do, I give the car for drugs all night.

TESTIMONY: J NIMMONS/DIRECT

1 Q What time did you give the keys to Travis
2 Yon, the keys to the car?

3 A It was approximately around 6:30.

4 Q In exchange for the car, what did Travis
5 Yon give you?

6 A He give me approximately hundred to hundred
7 fifty dollars' worth of crack cocaine.

8 Q Okay. Continue.

9 A All right. I told him he could hold the
10 car all night. And so I stayed at Darryl Williams'
11 residence at Cedar Street, me and him -- Alvin
12 Brown, me, and Darryl Williams, Elliott Adams stayed
13 there and smoked crack cocaine for approximately two
14 to three hours from there and on the corner of Sandy
15 Jordan house.

16 Q Now, listen. Now, let's construct some
17 type of time line for the Court to understand.

18 So you was at Darryl Williams' house at six
19 or 6:30; which one?

20 A Approximately 6:30.

21 Q Approximately 6:30?

22 A Right.

23 Q How long did you stay at Darryl Williams'
24 house?

25 A I stay at Darryl Williams' house

TESTIMONY: J NIMMONS/DIRECT

1 approximately two to three hours.

2 Q So, what you're telling the Court, you
3 stayed at his house at 6:30 to eight or 9:30?

4 A Sir, I think it was approximately nine or
5 9:30.

6 Q And during that time you engaged in drug
7 use?

8 A Sir, yes, sir. Me and Darryl Williams.

9 Q And who else engaged?

10 A Alvin Brown was there and Elliott Adams was
11 there.

12 Q Okay. Continue. You was there at nine
13 o'clock up until, to your best approximation, nine or
14 9:30.

15 All right. What happened after that?

16 A Approximately nine, 9:30 we stayed a
17 approximately few more minutes. All of us walked to
18 the corner of Sandy Jordan house. We hung out there
19 until about eleven o'clock.

20 Q How far is Sandy Jordan's house from Darryl
21 Williams' house, approximately?

22 A Distance, approximately about fifty yards.

23 Q So, it would probably take you about five
24 minutes to walk to --

25 A No, sir; approximately about a minute.

TESTIMONY: J NIMMONS/DIRECT

1 Q A minute?

2 A Yes.

3 Q Okay. Continue.

4 A We stayed on the corner of Sandy Jordan
5 house. We hung around, talked, drunk a few beers
6 about that time.

7 Q Okay. And how long did you stay in that
8 location?

9 A I stayed at that location, sir, I stayed at
10 that location approximately about an hour, hour and a
11 half.

12 Q Hour, hour and a half?

13 A Yes, sir.

14 Q So, you stay -- you stayed at that location
15 from approximately nine or 9:30 until about 10:30 or
16 eleven?

17 A Sir, that's correct.

18 Q Okay. And, again, for the benefit of the
19 Court, who else was in that vicinity at that time
20 with you?

21 A Sir, not -- Travis Yon, Sandy Jordan was
22 there, Elliott Adams, Alvin Brown was there, several
23 other people was out there. Darryl Williams was
24 there. Several other people.

25 I don't recall who it was.

330

TESTIMONY: J NIMMONS/DIRECT

1 Q So, you stayed in that area in up until
2 10:30 or eleven o'clock; correct?

3 A Sir, that's correct.

4 Q Okay. Then what occurred after that?

5 A Me and Alvin Brown, we decided to take a
6 walk. We took the trash by Vorhees Road, like, a
7 block over. We went to Grace Foundation where I came
8 in contact with Booker T. Washington.

9 Q Now, Mr. Nimmons, Mr. Washington -- well,
10 that's the same Booker T. Washington that testified
11 on yesterday for the State?

12 A Sir, that's correct.

13 Q Continue.

14 A I stayed at Booker T. Washington house,
15 went to Booker T. Washington house. Alvin Brown, he
16 stayed downstairs because it's an upstairs place.

17 Q What time did you arrive at
18 Mr. Washington's house?

19 A Sir, I think it was approximately 11:30,
20 twelve o'clock.

21 Q 11:30, twelve o'clock?

22 A Yes.

23 Q And how long did you stay at
24 Mr. Washington's house?

25 A Sir, I stayed at Mr. Washington's house

TESTIMONY: J NIMMONS/DIRECT

1 approximately forty-five minutes to an hour.

2 Q Okay. So, it's your testimony that you
3 stayed at his house until about what time?

4 A Sir, approximately about 12:30, one
5 o'clock.

6 Q 12:30, one o'clock. You -- now go back for
7 the jury and describe what you and Mr. Washington did
8 during that time.

9 A Sir, during that time me and Mr. Washington
10 and it was two females in there, white female and a
11 black female and another guy was there, I don't know
12 them personally, we indulged in using crack cocaine.

13 The same cocaine I purchased from -- that
14 same cocaine that I, Travis Yon gave me earlier.

15 Q Okay. And, again, just for the benefit of
16 the jury, the crack cocaine that you got from Travis
17 Yon, you didn't give him any money, did you?

18 A No, sir.

19 Q You already gave him use of the car;
20 correct?

21 A Sir, that's correct.

22 Q Okay. Now, after you left the Grace
23 Foundation and Mr. Washington you say, you said
24 between one and 1:30?

25 A Sir, that's correct.

332

TESTIMONY: J NIMMONS/DIRECT

1 Q Okay. What did you do next?

2 A Sir, me and Alvin Brown, we came back down
3 321 North towards Piggly-Wiggly which, he caught a
4 ride home with somebody. I don't know.

5 I came back across the tracks by
6 Piggly-Wiggly. I took a left by, on, at Sentry
7 Church at Cedar Street. Went back down to the corner
8 of Sandy Jordan.

9 Q And how long did that take you to get back
10 to Sandy Jordan's house or the corner in front of
11 Sandy Jordan's house?

12 A Sir, it took approximately -- it's a good
13 fifteen-minute walk.

14 Q Fifteen minute. So, what time did you
15 arrive back in that area?

16 A Sir, approximately 1:30, quarter to two,
17 somewhere in that neighborhood.

18 Q Between 1:30 and two?

19 A Yes.

20 Q Okay. Okay. After you arrived at that
21 area, what did you do?

22 A Sir, after arriving at that area I was on
23 the corner of that area with Darryl Williams, Elliott
24 Adams. On the corner a guy named Patrick Washington.
25 On the corner, it was several more people, I think.

TESTIMONY: J NIMMONS/DIRECT

1 Q And how long did you stay on the corner?

2 A I stayed on the corner remainder of the
3 night.

4 Q When you say the remainder of the night,
5 you testified to that you might have arrived there
6 between 1:30 and quarter to two?

7 A Yes, sir.

8 Q All right. What time did you leave that
9 area?

10 A Sir, I left the area approximately six
11 o'clock. Me, Elliott Adams we went uptown to, it's a
12 convenience store across from Piggly-Wiggly. I think
13 he went there to call his wife and I was uptown with
14 him.

15 And then I left. Elliott Adams came across
16 the Piggly-Wiggly, look both directions, look for my
17 mom car. I didn't see it. So I came back over
18 towards Elliott Adams, sat and talked to him for a
19 few minutes.

20 Q Let's go back. When you were looking for
21 your mother's car, what time was Mr. Yon supposed to
22 bring the car back to you?

23 A Approximately around five because me and my
24 mother had to be at work.

25 Q Your mother had to be at work, what time?

TESTIMONY: J NIMMONS/DIRECT

1 A She usually leave around, approximately
2 5:30, I think.

3 Q And you had an agreement with Mr. Yon that
4 in exchange for the crack cocaine that he was
5 supposed to bring the car back at 5:30?

6 A Sir, that's correct.

7 Q Okay. All right. And you didn't see him?

8 A Sir, I didn't see him.

9 Q Okay. Continue.

10 A Elliott Adams' wife came and picked him up
11 and so I decided that I couldn't find the car. So, I
12 was going to go home and tell my mom that I gave the
13 car up for drugs.

14 And I came back across the track by
15 Piggly-Wiggly, I took a left by the church at Cedar
16 Street and I came around straight down the road by
17 Sandy Jordan which is still Cedar Street, passed by
18 Darryl Williams' house which is still Cedar Street.

19 And as I was approaching my house I seen a
20 lot of commotion going on at my residence.

21 Q Okay. Now, what time did you approach your
22 house?

23 A I approached my house approximately 6:30,
24 quarter to seven, 6:30, around in that neighborhood.

25 Q 6:30, quarter to seven. Okay. And you was

TESTIMONY: J NIMMONS/DIRECT

1 not driving, you was walking; right?

2 A Sir?

3 Q You was walking at that particular time?

4 A Yes, sir. I was walking.

5 Q Okay. At that time had Travis Yon brought
6 the car back to you?

7 A No, sir. I hadn't seen the car.

8 Q Okay. Continue.

9 A As I was approaching the house I seen a lot
10 of commotion and people yelling and screaming. I
11 start running towards the house.

12 Then I started walking and I overheard --
13 two little girls was on the front street. I don't
14 recall who they was. I heard them saying, Butch
15 killed his mom.

16 After I heard that I was in shock and I
17 started running. I was very scared.

18 Q Was that the first time you heard of your
19 mother's death during that particular time?

20 A Sir, that's correct.

21 Q All right. Okay. And for the benefit of
22 the Court, your nickname is Butch; correct?

23 A Sir, that's correct.

24 Q After you heard these young ladies exclaim
25 that, you ran?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, yes, sir. I ran.

2 Q Okay. And why did you run?

3 A I ran because I was in shock and I was
4 scared and I was thinking about my family probably
5 think that I did it or whatever. And I, I just ran.
6 I was afraid.

7 Q Why would you think that your family would
8 think that you did it?

9 A Because I wasn't home and I think because
10 of my addiction and this is something so heinous
11 happened, I guess they think it was me.

12 Q Okay. So, members of the family outside of
13 your mother knew about your addiction; correct?

14 A Sir, that's correct.

15 Q And what was your relationship with other
16 members of your family?

17 A Sir, you want me to name one of them?

18 Q Yes.

19 A Me and my grandfather we was at a very good
20 relationship, never had nothing negative to say about
21 me, me and my grandma.

22 Q Let's go to your grandfather. Was your
23 grandfather aware of your addiction?

24 A Sir, that's correct. Me and my
25 grandmother, our relationship wasn't too good.

TESTIMONY: J NIMMONS/DIRECT

1 Q Was your grandmother aware of your
2 addiction?

3 A Sir, that's correct.

4 Q Okay.

5 A Sir, you want me to talk about the ones
6 that was in the household, the front house?

7 Q Yes, sir. The family members in that
8 particular area, the ones that you feared. I want
9 you to talk about those.

10 A Sir, the ones that I feared?

11 Q Right. You stated that you were afraid
12 that they might thought that you --

13 A Right.

14 Q -- were involved in this. Just those
15 family members.

16 A Sir, it's my Uncle Anthony Nimmons. To be
17 frank, he never did like me and he was one of them.

18 Q Okay. How about Miss Whetstone?

19 MR. GIBBONS: Your Honor, counsel is
20 leading all the way through this.

21 THE COURT: Sustain the objection.

22 Direct questions, please, sir.

23 BY MR. KOGER:

24 Q Okay. How did Beverly Whetstone feel about
25 you?

TESTIMONY: J NIMMONS/DIRECT

1 MR. GIBBONS: I object again.

2 THE COURT: Overruled. I think

3 that's --

4 BY MR. KOGER:

5 Q How did Beverly Whetstone feel about your
6 addiction, or did she know about your addiction?

7 A Sir, that's correct.

8 Q And are you in a position to testify how
9 she felt about your addiction?

10 A Sir, I really haven't came in contact with
11 her, but I don't think she talked negative to me, not
12 that I know of. I don't recall anything.

13 Q Okay. And she lives in the house with your
14 grandparents?

15 A Sir, that's correct.

16 Q Okay. So, you testified that you heard the
17 young ladies make that statement; correct?

18 A Sir, that's correct.

19 Q What did you do next?

20 A Sir, I ran. I was very scared. I ran and
21 went back around the corner, came into the ditch.
22 There's a ditch right around the corner. I stayed in
23 the ditch and was in hiding.

24 Q Okay. Now, is this ditch located in the
25 vicinity of the crime scene?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, that's correct.

2 Q How close is this ditch located to the
3 crime scene?

4 A Sir, approximately right across the street
5 but it's a long ditch that goes back to Cedar Street.

6 Q Is this some type of sewage drain or
7 something?

8 A Sir, that's correct.

9 Q And how long did you stay in the ditch?

10 A I stayed in the ditch approximately two
11 hours, at the most.

12 Q Okay. So, you stayed in the ditch for two
13 hours. What time did you leave the ditch?

14 A Approximately nine, 9:30, in that area.

15 Q Okay. Where did you go after you left the
16 ditch?

17 A I went to Darryl Williams' residence at the
18 time.

19 Q Darryl Williams?

20 A Yes, sir.

21 Q And where is Darryl Williams located?

22 A Darryl Williams' located on six -- I think
23 it's Cedar Street.

24 Q To your best approximation, how far is
25 Cedar Street away from the ditch you were hiding in?

340

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, it's approximately twenty yards.

2 Q Okay. How long did you stay at Darryl
3 Williams' residence?

4 A Oh, I stay in Darryl Williams' residence a
5 few hours.

6 Q A few hours. Can you approximate for the
7 Court a few hours?

8 A Approximately three hours at the most.

9 Q Three hours?

10 A Yes.

11 Q When you arrived at Darryl Williams'
12 residence, was Darryl Williams there?

13 A Yes, sir. He was there.

14 Q Okay. Did Darryl Williams stay with you
15 the whole time?

16 A He left several times. He didn't stay at
17 the house the whole time. He came, you know, he
18 left, he came back. He left me know where the police
19 was at and this and that.

20 Q And this is still on August 7th; correct?

21 A Yes, that's correct.

22 Q Where did you go after you left Darryl
23 Williams' residence?

24 A It's a -- sir, it's an abandoned house
25 beside Darryl Williams' residence which I stayed

TESTIMONY: J NIMMONS/DIRECT

1 there hour and a half, two hours at the most.

2 Q Okay. And how did you gain entry into this
3 abandoned house?

4 A Sir, it's -- no one live at the abandoned
5 house. The door's wide open.

6 Q How long did you stay in the abandoned
7 house?

8 A Sir, I stayed in the abandoned house
9 approximately hour, hour and a half.

10 Q Okay. And are we still on August 7th?

11 A Sir, that's correct.

12 Q Can you approximate what time we should be
13 at this time?

14 A Sir, at the time I can't. You know, it's
15 been since last year. So, I'm trying to remember.

16 To the best of my ability, approximately
17 ten o'clock, 10:30.

18 Q Was it still daylight?

19 A Sir, that's correct.

20 Q Okay. Upon leaving -- you testified you
21 stayed in the abandoned house for a couple hours;
22 correct?

23 A Sir, that is correct.

24 Q Upon leaving the abandoned house, where did
25 you go next?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, I went in the woods behind the
2 abandoned house, right behind the abandoned house. I
3 stayed there approximately three hours at the most.

4 Q Did you stay until night?

5 A Where, in the woods?

6 Q In the woods.

7 A Yes, sir.

8 Q Where did you go next after you left the
9 woods?

10 A Sir, I was just, like, hiding behind trees,
11 different little buildings in the area for several,
12 you know, several hours.

13 Q Okay. Now, you were hiding behind trees
14 other than in the woods?

15 A Trees, sir, the trees right behind the
16 abandoned house in the surrounding area.

17 Q How long did you do that?

18 A Until, I think, I think it was Saturday. I
19 think it was sometime Saturday morning.

20 Q Okay. So, you did that until morning?

21 A Sir, that's correct.

22 Q Okay. Now, we're on August 8th, correct,
23 the next day?

24 A Sir, that's correct.

25 Q Where did you go on August 8th?

TESTIMONY: J NIMMONS/DIRECT

1 A You're talking about this Saturday, sir?

2 Q Yeah. Right.

3 A On August 8th I came back to Darryl
4 Williams' house which he was back and forth by his
5 house. I stayed at his house for a few minutes.

6 Q Okay. Did Mr. Williams allow you to come
7 into his house?

8 A Sir, that's correct.

9 Q Okay. All right. How long did you stay at
10 Darryl Williams' house on August 8th?

11 A I stayed there for about, approximately
12 four hours.

13 Q Four hours?

14 A (Nods head affirmatively.)

15 Q Okay. Now, during this time -- from the
16 time you heard the news of your mother's death, why
17 are you going from place to place? What was your
18 state of mind?

19 A I was in shock. I couldn't believe I was
20 being accused of a crime like this. I was -- my mind
21 set, I was just torn apart.

22 Q Did you sleep during this time?

23 A No, sir.

24 Q Did you have anything to eat up until the
25 time you went to Darryl Williams' house on that

TESTIMONY: J NIMMONS/DIRECT

1 Saturday?

2 A No, sir; nothing to eat or drink.

3 Q Okay. You stayed at Darryl Williams' house
4 for approximately four hours?

5 A Sir, that's correct.

6 Q Where did you go after you left Darryl
7 Williams' house?

8 A I left Darryl Williams' house. I went back
9 at his house, hiding in the bushes, back behind the
10 abandoned house again.

11 Q Okay. And how long did you do that?

12 A I stayed in there approximately, until that
13 night.

14 Q That night, the night of August 8th?

15 A That's correct.

16 Q Okay. All right. And where did you go
17 after you left Darryl Williams' residence that night?

18 A Me and Darryl Williams, we came in contact
19 back in with each other. He told me that Miss
20 Stewart was out of town. Something that I didn't
21 know, that she was out of town.

22 And me and Darryl Williams went over to the
23 Stewart house which he kicked the door in. And I
24 went in with him and he told me to stay there because
25 the police was farming the area, looking for me. And

TESTIMONY: J NIMMONS/DIRECT

1 then he left. He came back several times.

2 Q Okay. And how long did you stay in Miss
3 Stewart's house?

4 A All that night, sir.

5 Q All that night?

6 A Yes, sir.

7 Q Up until morning?

8 A Up until morning.

9 Q Did you eat anything in Miss Stewart's
10 house?

11 A Yes, sir.

12 Q Now, what did you eat?

13 A Sir, Miss Stewart refrigerator, I drank a
14 soda and she had some cookies in there. I ate some
15 cookies.

16 Q All right. Did you make a phone call from
17 Miss Stewart's house?

18 A Sir, that's correct.

19 Q Who did you call?

20 A Sir, I called my cousin, Timmy Howell,
21 staying in Houston, Texas.

22 Q When you made that call, what was your
23 state of mind at that time?

24 A I still was in shock, torn apart.

25 Q And, how close are you and Mr. Howell --

TESTIMONY: J NIMMONS/DIRECT

1 Timmy Howell?

2 A Sir, me and Timmy Howell is very close.
3 We're like blood brothers. We're cousins, but we're
4 like brothers.

5 Q Are you similar in age, same age?

6 A Sir, that's correct.

7 Q So, you called Mr. Howell from Miss
8 Stewart's house; correct?

9 A Sir, that's correct.

10 Q And what transpired in that conversation?

11 A I called Mr. Tim Howell which is my cousin.
12 I told him -- at the time I told him what was going
13 on. I told him they trying to accuse me of killing
14 my mom.

15 He had mentioned to me that he heard about
16 it. And me and him talked briefly about, he told me
17 to turn myself in. He said cuz, I know you didn't do
18 it, just turn yourself in because they're going to
19 try to kill you if you don't turn yourself in, or
20 somebody in the community will try to hurt you.

21 So, that's what transpired.

22 Q Do you recall what time you made that phone
23 call?

24 A I don't recall the time. It was in that
25 morning.

TESTIMONY: J NIMMONS/DIRECT

1 Q In the morning?

2 A Yes, sir.

3 Q How long did you talk with Mr. Howell?

4 A We talked approximately three to five
5 minutes.

6 Q Three to five minutes. Okay. Upon
7 receiving advice from Mr. Howell, what did you do
8 next?

9 A I got off the phone from Mr. Howell and I
10 sat down for a few minutes. I wasn't going to turn
11 myself in. I just felt, like, not living no more.

12 It was a .22 rifle in Miss Stewart house.
13 I put it to my head and I felt as though that I had
14 no reason to live no more because my mom was gone and
15 I ain't had nobody else and -- but, I didn't. I
16 didn't do it.

17 I took his advice and went ahead and called
18 Joe Bell, called dispatch which they got in touch
19 with Joe Bell. And they came and picked me up.

20 Q Do you recall the time you called dispatch?

21 A Sir, I guess, approximately -- this was
22 last year. Approximately eight o'clock, seven, eight
23 o'clock, 8:30. I'm really not sure.

24 Q How long after you called dispatch did
25 Captain Bell arrive?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, it was approximately ten minutes.

2 Q Ten minutes?

3 A Ten to fifteen minutes.

4 Q Okay. And how long did it take you and
5 Captain Bell to go from where you were located at to
6 the office, to the station house?

7 A Sir, it was right uptown. Approximately
8 two minutes.

9 Q Okay. Now, when you arrived at the station
10 house, what was your state of mind at that time?

11 A Sir, I was still in shock, still torn
12 apart. I was numb. My mind was just wandering from
13 here to there.

14 Q Okay. Now, Captain Bell testified to
15 approaching you with signing that you understood your
16 rights and that you understood your right to a
17 lawyer.

18 Can you explain that situation to the
19 Court?

20 A Sir, I vividly remember reading or even
21 signing, what was it, my Miranda rights or whatever
22 they was.

23 Q Okay. And what was your state of mind
24 during that time?

25 A I was still in shock, you know. My mind

TESTIMONY: J NIMMONS/DIRECT

1 just wandering, torn apart.

2 Q Okay. Now, what the Court is going to
3 eventually want to know is: Did you understand your
4 rights at that particular time?

5 A I don't think so, sir.

6 Q Now, how long did you speak to Captain Bell
7 during that particular time? Only at the station
8 house and before you signed the rights form.

9 A How long I talked to him, sir?

10 Q Right.

11 A I would say on point of them bringing me to
12 the station house, we got inside and I was trying to
13 talk to him and he said, don't say nothing to him, be
14 quiet.

15 And told me that, you don't, you're the
16 only suspect. We don't feel like looking for nobody
17 else and told me to be quiet and shut up.

18 Q Okay. Now, at that time -- how long a
19 contact did you have with Captain Bell during that
20 particular period?

21 A Few minutes, sir.

22 Q Few minutes?

23 A Yes, sir.

24 Q Five or ten minutes?

25 A Yes, sir.

350

TESTIMONY: J NIMMONS/DIRECT

1 Q Okay. When did Investigator Folk come into
2 the room?

3 A I don't recall the time, but he came in
4 right after Joe Bell, a few minutes.

5 Q Okay. All right. And how long did you
6 talk with Investigator Folk?

7 A Talked with Investigator Folk, I recall,
8 fifteen minutes, sir.

9 Q Fifteen minutes. Okay.
10 Now, of course, you gave a statement at
11 approximately 10:10; correct?

12 A Sir, I guess that's the right time. Yes,
13 sir.

14 Q All right. Relate to the Court what
15 transpired between you and Investigator Folk and your
16 giving of this statement at 10:10.

17 A Investigator Folk, I vividly remember we
18 sitting down and, you know, he was yelling at me, to
19 verbally tell me to shut up. He told me to just be
20 quiet.

21 I did at no time give him permission to
22 write a statement. It was their theory of what
23 happened. You know, he mapped out in his mind what
24 happened and he wrote it.

25 Q Okay. Now, at that time was any

TESTIMONY: J NIMMONS/DIRECT

1 information relayed to you by either Captain Bell or
2 Investigator Folk by what had been discovered?

3 MR. GIBBONS: Your Honor, I object.
4 He's leading him.

5 THE COURT: Just ask a direct question.
6 You don't think he's really capable of responding
7 to a direct question?

8 MR. KOGER: Yes, Your Honor.
9 BY MR. KOGER:

10 Q Did you know anything about the facts of
11 the case at that time?

12 A Sir?

13 Q Did you know anything about the facts of
14 the case at that particular time when you spoke with
15 Captain Bell and Investigator Folk?

16 A Sir, I don't understand what you mean.

17 MR. GIBBONS: Object.

18 THE COURT: Mr. Koger.

19 MR. GIBBONS: May I approach?

20 THE COURT: Yes, sir, you may.

21 (Off-the-record discussion.)

22 THE COURT: Ladies and gentlemen of the
23 jury, I have a matter of law to take up with the
24 attorneys outside your presence.

25 While you're in the jury room, please do not

TESTIMONY: J NIMMONS/DIRECT

1 discuss this case among yourselves. We'll get
2 you back in just a moment.

3 (Jury exits courtroom.)

4 THE COURT: Now, Mr. Koger, a leading
5 question is one which suggests an answer. And a
6 direct question is one which is required when you
7 are on Direct Examination and it usually begins,
8 the best way to do it is with who, what, where,
9 when, or how.

10 At least, when I was in school that's what
11 they taught me. And that way you can stay away
12 from leading questions.

13 And when you preface a question with some
14 type of a scenario, an oration, a testimony by a
15 lawyer, that in essence raises two things; number
16 one, it is leading, and, number two, it is you
17 testifying rather than the witness.

18 So, I guess what I'm trying to say to you is
19 that you need to ask direct questions of this
20 man. From my observation, he is fully capable of
21 entertaining any direct question.

22 And as such, I'm going to instruct you to
23 ask direct questions. And normally direct
24 questions don't begin with did. Most lawyers
25 think that it does.

TESTIMONY: J NIMMONS/DIRECT

1 And unfortunately, being defense-oriented
2 you lead people most of the time because you're
3 on Cross Examination. It's just like defense
4 lawyers in civil court, most of them can't ask a
5 direct question but when they're in my courtroom
6 they're going to and the same applies to you.

7 MR. KOGER: Yes, sir.

8 THE COURT: All right. Let's bring our
9 jury back.

10 (Jury returns to courtroom at 9:46 A.M.)

11 THE COURT: Thank you very much, ladies
12 and gentlemen.

13 You may continue, Mr. Koger.

14 MR. KOGER: Yes, Your Honor.

15 BY MR. KOGER:

16 Q What time did you give your statement to
17 Investigator Folk?

18 A Sir, I don't recall the time at this
19 moment.

20 Q What was your state of mind when you gave
21 your statement to Investigator Folk?

22 A Sir, I was still in shock. Numb. Like I
23 said before, torn apart. That's it.

24 Q Were you aware of any facts of the case at
25 that point?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir, no, sir. Other than what I heard the
2 young girls say.

3 Q Okay. Were you allowed to write your
4 statement at that point?

5 A Sir, no, sir.

6 Q Was there information relating to Mr. Folk
7 at that point? Did you relate information to
8 Mr. Folk at that point?

9 A Sir, no, sir.

10 Q How long did you speak with Mr. Folk at
11 that point?

12 A Sir, approximately fifteen minutes. He was
13 mostly doing the talking.

14 Q Okay. Did you give Mr. Folk permission to
15 type your statement?

16 A Sir, I did not give Mr. Folk permission to
17 type anything.

18 Q Okay. When did Mr. Folk leave the room?

19 A Sir, different officers were coming in and
20 out, you know. I guess he might have left right
21 after he was typing something and he left sometime
22 after that.

23 I don't know exactly what time.

24 Q Okay. And what was your state of mind at
25 that particular time, near the end of the statement?

TESTIMONY: J NIMMONS/DIRECT

1 A It was the same.

2 Q Now, when did Investigator Martin arrive in
3 the room with you?

4 A Sir, he arrived in the room approximately
5 twenty minutes to half an hour after Mr. Folk.

6 Q Were you aware of the time he arrived in
7 the room?

8 A Sir, I wasn't aware of the time.

9 Q Okay. Who initiated the conversation
10 between you and Mr. Martin, Investigator Martin?

11 A Sir, he did, sir.

12 Q Do you recall what he said to you?

13 A Before we started talking, sir?

14 Q Yes.

15 A Yes, sir.

16 Q What transpired in that conversation?

17 A When Mr. Martin, I guess he's an
18 investigator, he came in the room, he approached me.
19 He didn't even speak, really.

20 He came in. He stated that he got, we got
21 a shirt with your mama blood on it. We got the
22 hammer. We feel the prints on it -- well, he told me
23 to say that I was out of my mind, or, he said, we
24 don't have no -- we're not looking for any other
25 suspect. We know that you committed the crime.

TESTIMONY: J NIMMONS/DIRECT

1 He verbally threatened me.

2 Q What were the verbal threats?

3 A Sir, verbal threats was, he threatened with
4 the death penalty and life in prison.

5 Q And how many times did he allegedly
6 threaten you?

7 A Sir, he constantly threatened me.

8 Q Okay. Now, when did Captain Bell come back
9 into the room?

10 A Sir, I don't recall the time.

11 Q Okay. How long after you were speaking
12 with Investigator Martin did Captain Bell come into
13 your room, just approximately?

14 A Approximately forty-five, about thirty
15 minutes, approximately.

16 Q And were you given the opportunity to write
17 a statement, a second statement?

18 A Sir, no, sir.

19 Q What did Captain Bell say to you when he
20 entered your room, if anything?

21 A Sir, he didn't say anything but previous to
22 what I said to him before.

23 Q Okay. All right. Captain Bell wrote the
24 statement for you?

25 A Yes, sir. He wrote the statement.

TESTIMONY: J NIMMONS/DIRECT

1 Q Did Captain Bell write it at your request?

2 A Sir, I didn't request anything.

3 Q Do you recall how long it took to write
4 this statement?

5 A I don't recall the time, sir.

6 Q Okay. Do you recall how long it took for
7 you to relay the statement to Captain Bell?

8 A I don't recall, sir.

9 Q Okay. Was a videotape statement requested
10 of you?

11 A Sir, he -- the investigator, he manipulated
12 me and told me that the community was outraged. I
13 need to get it on the tape and let your family know
14 you're sorry.

15 And which he never, he never told me
16 anything, you know. He was just, he fool -- really,
17 I think he fooled me to get on the tape and he
18 manipulated me to say he going to take the tape to my
19 family and let them see it, something of that nature.

20 Q And how long did that conversation went on,
21 between?

22 A Approximately ten minutes, sir. I don't
23 recall it.

24 Q Did you eventually agree to do the
25 videotape statement?

TESTIMONY: J NIMMONS/DIRECT

1 A Sir?

2 Q Did you eventually agree to do the
3 videotape statement?

4 A Yes, sir.

5 Q Now, Mr. Nimmons, what the Court -- why did
6 you give a videotape statement?

7 A Sir, because of the, an investigator, he
8 told me that my prints is on the handle and he really
9 manipulated and had me thinking that I went home that
10 night and I was going through a lot of torment, a lot
11 of pain and suffering about that time about my mom.

12 And he started drilling me and tormenting
13 me mentally. And at the point I just gave in. He
14 broke me down and I gave him -- I hadn't had anything
15 to eat. I hadn't had anything to drink but a little
16 soda or anything at Miss Stewart's house.

17 And he was drilling me, telling me, you did
18 it, you're guilty, you're going to get the death
19 penalty. We're going to look out for you if you
20 confess and all your different tactics.

21 Q How long were you in the room with
22 Investigator Martin?

23 A Sir, approximately thirty minutes.

24 Q Thirty minutes?

25 A Yes, sir.

TESTIMONY: J NIMMONS/DIRECT

1 Q Juan, did you kill your mother?

2 A Sir, I did not kill my mama. I wish I knew
3 who did.

4 MR. KOGER: No further questions, Your
5 Honor?

6 THE COURT: Cross Examination.

7 MR. GIBBONS: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. GIBBONS:

10 Q Mr. Nimmons, after you got out of the
11 Service, I believe you testified -- there are some
12 things I want to go back over.

13 I believe your testimony was that you went
14 to work for Wackenhut Security?

15 A Sir, that's correct.

16 Q Is that correct?

17 A Yes, sir.

18 Q You didn't stay there long though, did you?

19 A Sir, I stayed there approximately seven to
20 eight years.

21 Q Seven to eight years?

22 A Sir, yes, sir.

23 Q And you were a security guard?

24 A Yes, sir.

25 Q Kind of a branch of law enforcement; isn't

TESTIMONY: J NIMMONS/CROSS

1 it?

2 A Sir, that's correct.

3 Q Trained as a security guard?

4 A Sir, that's correct.

5 Q And they kept training you, didn't they?

6 A Off and on, sir.

7 Q You had to keep up your training, right, to
8 stay a security guard?

9 A Sir, that's correct. Off and on.

10 Q And that's a federal facility; right?

11 A That's correct.

12 Q High security?

13 A That's correct.

14 Q Not just anybody can work out there, can
15 they?

16 A Sir, no, sir.

17 Q Have to be pretty bright to get that kind
18 of job, don't you?

19 A That's correct.

20 Q Next you worked as a correctional officer
21 at the jail?

22 A That's correct.

23 Q Why did you leave Wackenhut?

24 A Why did I leave Wackenhut?

25 Q Yes, sir.

TESTIMONY: J NIMMONS/CROSS

1 A Me and some friend, we was in Atlanta,
2 Georgia and we hung out.

3 Q Sir, I'm asking you why did you leave
4 Wackenhut Security?

5 A I left Wackenhut Security because I was
6 discharged.

7 Q They have a drug testing policy out there,
8 don't they?

9 A That's correct. That is correct, sir.

10 Q Is that why you got discharged?

11 A Sir, no, sir.

12 Q Next you went to work at the Correctional
13 Center here in Bamberg; right?

14 A Sir, that's correct.

15 Q You were there six months?

16 A Sir, approximately six months.

17 Q Worked with law enforcement, didn't you?

18 A Sir, that's correct.

19 Q Knew Mr. Folk?

20 A Sir, briefly.

21 Q Knew Mr. Bell?

22 A Sir, briefly.

23 Q Briefly. They came in there all the time,
24 didn't they?

25 A I worked there six months. I see them. I

TESTIMONY: J NIMMONS/CROSS

1 don't be at work all the time we they come, bring
2 people to the jail.

3 Q But you knew them?

4 A I knew them. We didn't really have no
5 conversation, you know, not too much.

6 Q They never had any arguments with you, did
7 they?

8 A Sometime they came and didn't speak and I
9 thought that was rude.

10 Q But you never had any fights with them,
11 arguments with them?

12 A No, sir.

13 Q Either one of them?

14 A (Shakes head negatively.)

15 Q Then you went do Orangeburg Jail, correct?
16 You only stayed there one month; right?

17 A Sir?

18 Q You went to Orangeburg Detention Center
19 after that; right?

20 A Yes, sir.

21 Q And you stayed there one month; right?

22 A No, sir. It was a few months.

23 Q I think you said one month in your
24 testimony. Is it a few months?

25 A I don't think I said one month, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q And then you went to Maryland and you were
2 a security officer in the hospital there?

3 A Sir, that's correct.

4 Q So, up until this point once you got out of
5 the Service you were pretty much in a law enforcement
6 environment the whole time?

7 A Sir, that's correct.

8 Q You stayed in it when you went up to
9 Maryland, then in '96 you got in some trouble over in
10 Georgia?

11 A That's correct.

12 Q Convicted of forgery and transaction credit
13 card theft?

14 A That's correct.

15 Q And went to jail; correct?

16 A That's correct.

17 Q And sometime toward the end of 1997 you
18 were also charged with escaping from that jail,
19 weren't you?

20 A Sir --

21 Q Yes or no?

22 THE COURT: Answer his question. If
23 you need to explain it, you may do so.

24 BY MR. GIBBONS:

25 Q Were you convicted of escaping from the

TESTIMONY: J NIMMONS/CROSS

1 center?

2 A Not the jail, sir.

3 Q You were in detention when you escaped;
4 correct?

5 A Sir, I was at a halfway house.

6 Q But you did escape.

7 A We left, yes.

8 Q You were charged and convicted of an
9 escape; correct?

10 A Sir, that's correct.

11 Q Thank you.

12 A You're welcome, sir.

13 Q Then you went to Augusta and worked in a
14 golf cart factory, you were only there nine months?

15 A Sir, approximately nine months.

16 Q And then you said you went to Dixie-Narco
17 and you were only there eight months?

18 A That's correct.

19 Q Do they have a drug testing program at
20 Dixie-Narco?

21 A That's correct.

22 Q Is that why you were terminated?

23 A No, sir.

24 Q Went to EFCO for six months. Do they have
25 a drug testing there?

TESTIMONY: J NIMMONS/CROSS

1 A Sir, no, sir.

2 Q You were able to work -- you said you were
3 on drugs for six or seven years; right?

4 A Sir, that's right.

5 Q How were you getting by all these tests?

6 A Sir, most of the jobs I had I was in my
7 addiction and I just left the job. I never, I got
8 the job. I left.

9 Q That's not my question.

10 THE COURT: Please respond to his
11 question.

12 BY MR. GIBBONS:

13 Q You said that these different places had
14 drug-testing policies and you said in your testimony
15 you've been on drugs for five or six years.

16 How are you getting by?

17 A Sir, they never did random check me.

18 Q They never checked you but you were on
19 drugs the whole time?

20 A Sir?

21 Q You were on drugs during the last five or
22 six years?

23 A Sir, off and on, sir.

24 Q And you said your mom was fully aware of
25 your addiction?

TESTIMONY: J NIMMONS/CROSS

1 A Want me to answer that, sir?

2 Q Yes or no. Was your mom fully aware of
3 your addiction?

4 A Sir, yes, sir.

5 Q She didn't support your addiction, did she?

6 A No, sir. Sir, no, sir.

7 Q She didn't approve of drugs, did she?

8 A Sir, no, sir.

9 Q She didn't give you money to go buy drugs
10 all the time?

11 A She give me money but I use it for drugs.

12 Q She didn't know she was paying for drugs,
13 did she?

14 A No.

15 Q Your mom worked hard, didn't she?

16 A I think she did.

17 Q Her whole life, gave everything she had for
18 her kids, didn't she?

19 A She went through every dime she did.

20 Q You bought drugs with her money, didn't
21 you?

22 A Sometimes, sir.

23 Q Did your mom have a lot?

24 A Sir?

25 Q Did your mom have a lot?

TESTIMONY: J NIMMONS/CROSS

1 A Sir, she never had a lot.

2 Q And you're a young, able-bodied man, aren't
3 you?

4 A I think so.

5 Q Made pretty good money?

6 A Sir, yes, sir.

7 Q You still had to use your mom's money for
8 drugs, didn't you?

9 A Sir, her money, my money.

10 Q Both of y'all's money?

11 A That's correct.

12 Q I'd like to talk about these times. You
13 don't really remember the times very well, do you?

14 A Sir, vividly.

15 Q Vividly?

16 A Sir, yes, sir.

17 Q Vividly means clearly. Is that what you
18 mean?

19 A Vividly means not clearly.

20 Q No. Vividly means clearly.

21 A Well.

22 Q Do you remember them vividly?

23 A I remember the times.

24 Q Sir?

25 A I vividly remember the times. That's what

TESTIMONY: J NIMMONS/CROSS

1 my answer say.

2 Q Sir?

3 A I vividly remember the times. That's what
4 my answer say.

5 Q Could you tell me what you mean by vividly?

6 A Sir, this happened since last year. That's
7 what I mean by vividly. I remember the times.

8 Q Do you remember them well; yes or no?

9 A Not well, sir.

10 Q Well, you gave us, you know, where you were
11 every minute of that night that that happened.

12 A Sir, that was approximately, sir.

13 Q Approximately. You could be an hour off?

14 A Sir?

15 Q You could be a couple hours off?

16 A Sir, approximately is thirty minutes to an
17 hour off.

18 Q So, we can take all these times and move
19 them up to an hour apart?

20 A Sir, that's your opinion, sir.

21 Q No. I'm asking you.

22 A Repeat that, please.

23 Q Said, these times of the night this
24 happened, you said you don't remember them very well.

25 A Sir, I don't. That's what I said.

TESTIMONY: J NIMMONS/CROSS

1 Q You don't?

2 A Not very well.

3 Q Okay. Well, you gave Mr. Koger two hours
4 here, one hour here, from nine until eleven here.

5 How much can we move that?

6 A Sir, are you asking a question?

7 Q Yes, sir.

8 A I can't answer that question.

9 Q How sure are you about the times?

10 A I'm pretty sure. Not too much.

11 Q All right. Let's see what you said. Okay.
12 You got off at three, your mom came home at 5:30,
13 right, 5:15, 5:30?

14 A Sir, that's correct.

15 Q Are you sure of those teams?

16 A Pretty much, sir.

17 Q Pretty much. Could be a few minutes off or
18 an hour off?

19 A Few minutes, sir.

20 Q Thank you.

21 And you said you were going to borrow forty
22 dollars and the car and you left at 5:30 or six and
23 went down the street; correct?

24 A Locust and Cedar Street. That's correct,
25 sir.

TESTIMONY: J NIMMONS/CROSS

1 Q And met up somebody named Andre?

2 A I was at Darryl Williams, sir.

3 Q Sir, did you meet up with someone named
4 Andre?

5 A Sir, that's correct.

6 Q All right. Who's Andre?

7 A He's a drug dealer, sir.

8 Q What's his last name?

9 A I don't know his last name.

10 Q How long have you been knowing him?

11 A Approximately two years, sir.

12 Q Two years. Where does he live?

13 A He lives at Club 13, in that area. The
14 Hooksdale Corner.

15 Q Where does he live? Where's his house?

16 A Over in the Hooks.

17 Q Do you know what apartment number?

18 A Stay in a house.

19 Q Do you know what house number?

20 A Sir, I sure don't.

21 Q Do you know what street?

22 A I don't know the street.

23 Q Do you know any of his family?

24 A No, sir.

25 Q Do you know -- but, you've been knowing him

TESTIMONY: J NIMMONS/CROSS

1 for two years?

2 A Yes, sir.

3 Q But you don't know his last name though?

4 A Sir, I don't.

5 Q You know his last name?

6 A He said his name was Andre. That's what I
7 took.

8 Q You also met Travis Yon?

9 A Sir?

10 Q At Darryl's, you met Travis Yon?

11 A Sir, that's correct.

12 Q And he was with Derek?

13 A Sir, that's correct.

14 Q And you were doing dope together?

15 A Me and Darryl Williams were doing dope in
16 his house.

17 Q What was everyone else doing?

18 A Travis Yon.

19 Q Everyone else in the house.

20 A Doing drugs.

21 Q And you trade your keys to him for a
22 hundred to hundred fifty dollars' worth of crack?

23 A Sir, to Travis Yon I did.

24 Q And what time was he supposed to bring the
25 car back?

372

TESTIMONY: J NIMMONS/CROSS

1 A Sir, approximately five o'clock, sir.

2 Q Approximately what time did you tell him to
3 bring it back?

4 A Around five o'clock.

5 Q You told him around five o'clock?

6 A Yes, sir.

7 Q Where was he supposed to bring it?

8 A To Darryl Williams' house, sir.

9 Q And he agreed to do that?

10 A Sir, that's correct, sir.

11 Q Now, let's go through the next time. You
12 said from six until around 9:30 you were at Darryl's?

13 A Repeat that, please, sir.

14 Q From six to 9:30 you were at Darryl's is
15 what you said; correct?

16 A Sir, that's correct.

17 Q And then 9:30 until eleven you were at,
18 went from Darryl's to Sandra Jordan's, kind of back
19 and forth?

20 A Sir, that's correct.

21 Q And then from 11:30 to around 1:30 you and
22 Alvin went for a walk, and came up, met up with
23 Booker T?

24 A We went to Booker T's residence, sir.

25 Q 11:30 to 1:30?

TESTIMONY: J NIMMONS/CROSS

1 A Approximately. Something like that.

2 Q And using crack there?

3 A Yes, we did, sir.

4 Q I believe you said at one point you were
5 using the crack you purchased?

6 A Sir, that was --

7 Q That was a slip, wasn't it?

8 A That was a mistype. That was the crack
9 that we -- Travis Yon gave me.

10 Q You didn't purchase that crack from Travis
11 Yon?

12 A No, sir. I didn't purchase it.

13 Q Okay. I just wanted to make sure about
14 that.

15 1:45 to six A.M. you went back to Sandra
16 Jordan's and you hung out with Darryl the whole time?

17 A I think Darryl went home approximately
18 around five. Me and Alvin was there.

19 Q Till about six, I believe you said until
20 about 6:45?

21 A Approximately around that time. I don't
22 know, you know. It's last year.

23 Q All right. You were supposed to have the
24 car back by then; right?

25 A Sir, supposedly, yes, sir.

374

TESTIMONY: J NIMMONS/CROSS

1 Q And you were getting kind of worried about
2 your mom getting to work, weren't you?

3 A Me and my mom getting to work.

4 Q And so you started worrying about the car,
5 didn't you?

6 A I be worried about the car all night, sir.

7 Q Because, what time was it getting to be?

8 A It's approximately around daybreak.

9 Q What time?

10 A I can't recall.

11 Q You knew it was after five?

12 A Sir?

13 Q You knew it was after five or 5:30, didn't
14 you?

15 A Yes, sir.

16 Q You knew about the car not being back;
17 right? What time do your mom and you leave the
18 house?

19 A Sir, approximately 5:30.

20 Q You leave your house at 5:30?

21 A Sir, that's correct.

22 Q So, you knew at that point you weren't
23 going to make it for work?

24 A Sir?

25 Q You knew you were late for work already,

TESTIMONY: J NIMMONS/CROSS

1 didn't you?

2 A Sir, yes, sir. Both of us were late for
3 work.

4 Q Well, what time did you start home?

5 A Started home approximately 6:30, quarter to
6 seven, somewhere in that neighborhood.

7 Q 6:30, quarter to seven. Could it have been
8 7:30, quarter to eight?

9 A I don't think so, sir.

10 Q How sure are you?

11 A Pretty sure.

12 Q Pretty sure?

13 A Yes, sir.

14 Q Could it have been any later than that?

15 A I don't think so, sir.

16 Q You're saying 6:30?

17 A Saying 6:30, probably quarter to seven,
18 sir.

19 Q And you walked from Darryl's house home?

20 A I walked from uptown.

21 Q Uptown. I thought you were at Sandra's or
22 Darryl's?

23 A I had been -- I had been uptown at that
24 time, sir.

25 Q You were uptown with Mr. Adams?

TESTIMONY: J NIMMONS/CROSS

1 A That's correct, sir.

2 Q How long did it take you to walk to home?

3 A To Locust Street, sir?

4 Q Yes, sir.

5 A Approximately ten minutes.

6 Q Ten minutes?

7 A In that neighborhood.

8 Q So, what time do you think it was when you
9 finally got over by the house?

10 A 6:30, quarter to seven.

11 Q 6:30, quarter to seven?

12 A Somewhere in that neighborhood.

13 Q And you're pretty sure about that?

14 A Pretty sure about that.

15 Q Couldn't have been quarter to eight?

16 A I don't think so.

17 Q You're pretty comfortable with 6:30,
18 quarter to seven?

19 A Somewhere in that neighborhood, sir.

20 Q You said you got close to your house about
21 6:30, quarter to seven, and saw a bunch of kids in
22 the yard or saw a bunch of people in the yard?

23 A I didn't see no kids, sir.

24 Q You saw a commotion at the house, I think
25 is what you said.

TESTIMONY: J NIMMONS/CROSS

1 A Yes, sir. That's correct, sir.

2 Q Were there more cars at your house than

3 usual?

4 A Sir?

5 Q Were there more cars at your house than

6 usual?

7 A I think so.

8 Q What kind of cars?

9 A I didn't -- I don't remember the cars.

10 Q Who was walking around?

11 A Just a lot of people running and walking,

12 too, sir.

13 Q Well, this is your neighborhood, isn't it?

14 A That's correct.

15 Q You know the people that live there.

16 A Majority of them.

17 Q Who was walking around?

18 A I didn't -- I seen people. I didn't really

19 recall who they was.

20 Q Well, how close did you get?

21 A From the house, sir?

22 Q Yes, sir.

23 A Approximately forty yards.

24 Q Forty yards from the house?

25 A Thirty to forty yards.

TESTIMONY: J NIMMONS/CROSS

1 Q And you didn't see who the people were but
2 there were people all over the place?

3 A People just running in chaos, sir.

4 Q And you didn't recognize any of them at
5 forty yards?

6 A No, sir.

7 Q You didn't see your grandfather?

8 A No, sir.

9 Q You didn't see your grandmother?

10 A No, sir. I seen, just a lot of people
11 running around.

12 Q Well, did you see your mama's car?

13 A No, sir.

14 Q You didn't see your mama's car?

15 A At that time, I didn't.

16 Q And you didn't notice -- you didn't know
17 anybody that was running around?

18 A I don't recall, you know, me knowing at
19 this point, sir.

20 Q And who was it that you heard saying
21 something about you and your mother?

22 A It was two little girls. I don't recall
23 who they was. They was just out on the front street.

24 Q And you didn't know them?

25 A No, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q And they didn't know you were Juan, either?

2 A I don't know who the kids were. Only thing
3 I did was heard them say this, sir.

4 Q Mr. Nimmons, you've been sitting in the
5 courtroom the whole way through this trial, haven't
6 you?

7 A Sir, that's correct, sir.

8 Q Heard every witness, haven't you?

9 A Sir, that's correct, sir.

10 Q And you've seen them come in from that
11 door?

12 A Sir?

13 Q You seen them come in that door and
14 testify, haven't you?

15 A Yes, sir.

16 Q So, if your grandfather testified that the
17 body wasn't found until around 7:30, eight o'clock,
18 he must have been mistaken?

19 A Say again, sir? Repeat that, please.

20 Q If your grandfather testified that he
21 didn't find your mama's body until around 7:30, eight
22 o'clock, he must have been mistaken?

23 A Sir, I can't answer that question. You got
24 to ask him that, sir.

25 Q And if the car came home before your mama's

380

TESTIMONY: J NIMMONS/CROSS

1 body was found, yet you didn't see a car when you got
2 up there, did you?

3 A Sir, I did not, no, at no time see the car.

4 Q But you were there at 6:30?

5 A Sir?

6 Q Were you there at 6:30, quarter to seven?

7 A I wasn't at the house. I was approaching
8 the house.

9 Q And there was already a commotion when you
10 approached it?

11 A I seen a commotion, sir. That's correct.

12 Q And then you said you got scared and you
13 went to Darryl's?

14 A That's incorrect, sir. I said I went into
15 the ditch.

16 Q That's right. You stayed in the ditch from
17 about seven to 9:30, is what you said.

18 A Sir, approximately.

19 Q All right. And then from 9:30 until about
20 12:30 you went to Darryl's?

21 A Approximately that time, sir.

22 Q And Darryl was bringing you messages back
23 and forth about the police?

24 A He came on several occasions, sir.

25 Q And then you went to an abandoned house for

TESTIMONY: J NIMMONS/CROSS

1 a couple hours?

2 A That's correct, sir.

3 Q And then you went in the woods for the
4 night, until night?

5 A Yes, sir.

6 Q Back and forth to the abandoned house and
7 to the woods. And then you came back Saturday
8 morning to Darryl's?

9 A Sir, that's correct.

10 Q And you stayed around, kind of hung around
11 there all day?

12 A Sir, that's correct.

13 Q You never broke into Darryl's house?

14 A Never broke into Darryl Williams' house.

15 Q You never went in there and changed
16 clothes?

17 A Sir, I never changed clothes.

18 Q Stayed in that ditch all day and never
19 changed clothes?

20 A Sir, that's correct, sir.

21 Q And then, I think you said, it was the next
22 day Darryl came up with the idea to break in a house?

23 A Sir, I don't think it was the next day. I
24 think it was that Saturday night, Saturday evening
25 sometime.

TESTIMONY: J NIMMONS/CROSS

- 1 Q But Darryl came up with that idea?
- 2 A Yes, sir.
- 3 Q He was taking care of you, wasn't he?
- 4 A Pretty much. He's my cousin.
- 5 Q Looking out for you?
- 6 A Yes, sir.
- 7 Q Did Darryl know your mama?
- 8 A That's correct, sir.
- 9 Q Did he know what had happened to your mama?
- 10 A He heard.
- 11 Q Was he close with your mama?
- 12 A We was cousins, sir.
- 13 Q Y'all grew up together?
- 14 A That's correct.
- 15 Q He spent a lot of time with your mother?
- 16 A Who, Darryl?
- 17 Q Yeah.
- 18 A I don't think so.
- 19 Q You don't know?
- 20 A No. I would say no to that answer, sir.
- 21 Q Okay. Thank you.
- 22 So, Darryl came up with this idea we'll go
- 23 break in that house. You knew those people weren't
- 24 really living there very often anyway, didn't you?
- 25 A Sir, I will say this. Darryl Williams --

TESTIMONY: J NIMMONS/CROSS

1 Q Please answer the question. You knew those
2 people weren't in there very much, didn't you?

3 A I didn't know that at the time.

4 Q You knew the Stewarts?

5 A Yes, sir.

6 Q They live right across the way from you,
7 don't they?

8 A Yes, sir.

9 Q And you knew that house was empty, didn't
10 you?

11 A I sure didn't, sir.

12 Q Darryl came up with that idea?

13 A He told me they was out of town, sir.

14 Q And it was Darryl's idea to kick the door
15 in, wasn't it?

16 A That's correct, sir.

17 Q He was taking care of you, wasn't he?

18 A He was looking out for me. He my cousin.

19 Q You wouldn't do a thing like that, would
20 you?

21 A I sure wouldn't.

22 Q You wouldn't do that even if you were
23 hungry, would you?

24 A I sure wouldn't.

25 Q But you went in, didn't you?

TESTIMONY: J NIMMONS/CROSS

1 A Yes, I went in.

2 Q You were there when he kicked it in,
3 weren't you?

4 A That's correct, sir.

5 Q You were the one that stayed in there,
6 aren't you?

7 A That's correct, sir.

8 Q And you're the one that got in that
9 refrigerator and ate food, didn't you?

10 A Sir, ate soda and cookies, sir.

11 Q Just some cookies.

12 A Yes, sir.

13 Q It's been a day and a half and you haven't
14 had anything is what your testimony was, you're going
15 to eat a soda and some cookies?

16 A That's what I ate, sir.

17 Q There wasn't food in the cupboard?

18 A No, sir.

19 Q There was no other food in the
20 refrigerator?

21 A Food was in the refrigerator but I didn't
22 take the time to cook any food.

23 Q You wouldn't do anything like that, would
24 you?

25 A If I was hungry enough I would, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q You weren't hungry enough, you just wanted
2 the soda and cookies after a day and a half in the
3 woods and Darryl's house?

4 A What was available, sir, that's what I eat,
5 sir.

6 Q All right. Then you called your cousin?

7 A That's correct, sir.

8 Q Used Mr. Stewart's phone for that, didn't
9 you?

10 A I sure did.

11 Q Was that Darryl's idea, too?

12 A No, it was my idea.

13 Q You did that?

14 A That's correct.

15 Q So, you called and he told you you better
16 turn yourself in?

17 A This -- pretty much.

18 Q Pretty much?

19 A Pretty much.

20 Q You called Mr. Bell, didn't you?

21 A Yes, sir.

22 Q This whole time you're still in shock;
23 right?

24 A Sir?

25 Q This whole time you're still in shock?

TESTIMONY: J NIMMONS/CROSS

1 A That's correct, sir.

2 Q Numb?

3 A That's correct.

4 Q Isn't it true, Mr. Nimmons, you got in the
5 car with Mr. Yon that night?

6 A Sir, I never did got in the car with
7 Mr. Yon.

8 Q And he didn't take you across town and left
9 you off?

10 A Sir, no, sir.

11 Q And you didn't tell him to take you away
12 from the crime scene and drop you off, did you?

13 A Sir, no, sir.

14 Q You wouldn't do that?

15 A Sir, no, sir.

16 Q And you didn't end up back over in the
17 neighborhood later on and run into Mr. Yon again, did
18 you?

19 A No, sir.

20 Q You never left that part of town?

21 A No, sir, never did, other than going to
22 Grace Foundation, sir.

23 Q And do you remember seeing Miss Rosa on the
24 sidewalk by your house at that time?

25 A I never at one time saw Miss Rosa.

TESTIMONY: J NIMMONS/CROSS

1 Q You never saw her at ten o'clock?

2 A No, sir.

3 Q What about this shirt (displaying)? Did
4 you ever have that shirt?

5 A No, sir.

6 Q Look good. State's Exhibit 5. Do you see
7 it?

8 A Sir, give me time.

9 Q Yeah. Here. Hold it. Look at it. Look
10 hard now.

11 A You want me to answer now?

12 Q Yes, sir.

13 A Sir, I don't even own a shirt like that.

14 Q You don't own a shirt like that?

15 A No, sir.

16 Q Is that your house?

17 A That look like my house.

18 Q Does that look like your hamper?

19 A That's correct.

20 Q You never saw that shirt before?

21 A Never in my life.

22 Q Just got there somehow?

23 A I don't know how it got there, sir.

24 Q Okay. So, you called and you asked for Joe
25 Bell, didn't you?

388

TESTIMONY: J NIMMONS/CROSS

1 A Yes, sir.

2 Q Because you knew him?

3 A He was the one that I thought of at the
4 time.

5 Q And he came and got you?

6 A Yes, sir.

7 Q Took you down to the station; right?

8 A Took me down to the station.

9 Q And you're still in shock at this time;
10 right?

11 A That's correct, sir.

12 Q Now, let's talk about this rights form just
13 for a minute.

14 Now, when you were testifying you said you
15 vividly remember signing this form. Is that what you
16 meant?

17 A That's what I meant, sir.

18 Q Now, vividly to me means clearly. Is that
19 what you're thinking?

20 A That's your opinion, sir.

21 Q Okay. Tell us what you meant without using
22 vividly. Use the words you know so we'll all
23 understand what you're saying.

24 A I don't understand.

25 Q Tell us without using vividly how your mind

TESTIMONY: J NIMMONS/CROSS

1 was when you signed this paper.

2 A At that time I don't even recall signing
3 the form, the paper.

4 Q Is that your signature?

5 A It looks like my signature.

6 Q Is it your signature?

7 A It looks like my signature.

8 Q Answer the question, please. Is it your
9 signature?

10 A I'm answering the question, sir. It looks
11 like my signature.

12 Q Well, Mr. Nimmons, is it or isn't it?

13 A I think so.

14 Q Is that a yes?

15 A That's a yes, sir.

16 Q Okay. That's your signature, but you don't
17 remember if you were in your right mind when you
18 signed it.

19 Is that what you're saying?

20 A Not at that time, sir.

21 Q Because you were in shock?

22 A Yes, sir.

23 Q Okay. Now, I believe when we started
24 talking about Mr. Folk's statement, your testimony
25 today is that you went in this room with Mr. Folk and

390

TESTIMONY: J NIMMONS/CROSS

1 he was yelling at you?

2 A Yes. He yell at me verbally.

3 Q And being ugly to you?

4 A I wouldn't say ugly-ugly, but verbally.

5 Q And you still weren't clear, right?

6 A Sir?

7 Q Your head still wasn't real clear; correct?

8 A I don't think so.

9 Q And he didn't ask you too many questions, I
10 think is what you told Mr. Koger?

11 A That's correct, sir.

12 Q And you didn't give him any information?

13 A Sir?

14 Q You didn't give him any information to
15 write a statement?

16 A No, sir.

17 Q You didn't tell him any facts about
18 anything?

19 A No, sir.

20 Q Didn't tell him a word?

21 A Sir?

22 Q You didn't tell him anything?

23 A He was doing the talking, sir.

24 Q And so anything he wrote here came out of
25 his head?

TESTIMONY: J NIMMONS/CROSS

1 A I wouldn't say. I can't recall at the
2 time, sir.

3 Q Sir, please answer me. Did you or did you
4 not tell Mr. Folk things to write down?

5 A I don't think so, sir.

6 Q Yes or no, please.

7 A I don't think so, sir.

8 THE COURT: Answer his question,
9 please. Answer his question, please.

10 BY MR. GIBBONS:

11 Q Did you tell him things to write on this
12 paper?

13 A No, sir.

14 Q Nothing?

15 A I don't think so, sir.

16 Q Yes or no?

17 A No, sir.

18 Q So, anything on this paper came straight
19 out of his head?

20 A I don't recall at the time, sir.

21 Q Please answer the question.

22 A I don't recall what you're saying, sir.

23 Q Okay. What I'm saying is, if he wrote
24 something down here saying you said it, that's
25 completely his idea?

392

TESTIMONY: J NIMMONS/CROSS

1 A I would say this, sir. I would say I may
2 have told him something. I'm not sure.

3 Q You don't remember what you said. Well,
4 let me show you here on State's Exhibit 17, there's a
5 mark right at the top of the typed part.

6 Do you recognize that mark, right here
7 (indicating)?

8 A Yes, sir.

9 Q What is that?

10 A It looks like my initials, sir.

11 Q Is that your writing?

12 A Yes, sir.

13 Q And the signature at the bottom, is that
14 your writing?

15 A It looks like it, sir.

16 Q Now, what about this other page, there's
17 some more handwriting on it.

18 Is that your writing?

19 A That look like my initials.

20 Q Is that your writing?

21 A Yes, sir.

22 Q So, you did sign it?

23 A Yes, sir.

24 Q Did you read it?

25 A No, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q You didn't read this?

2 A No, sir.

3 Q You've been in law enforcement all this
4 time and you didn't read this?

5 A Sir, at that point I didn't read it. At
6 that time it happened to me I didn't read it.
7 Happened to me.

8 Q Well, the rights on this form and the
9 rights on this form, you've heard that language
10 before, haven't you?

11 A Heard what language, sir?

12 Q You have the right to remain silent,
13 anything you say -- you've heard that before?

14 A I heard it before.

15 Q You heard that before in law enforcement
16 training, haven't you?

17 A Yes, sir.

18 Q You knew what it means; right?

19 A I mean, I heard people talking about it,
20 sir.

21 Q You heard it before in your training?

22 A Not at Savannah River Site.

23 Q Not at Savannah River Site as a security
24 guard?

25 A As a correctional officer.

394

TESTIMONY: J NIMMONS/CROSS

1 Q As a correctional officer you've heard that
2 before?

3 A That's correct.

4 Q You've been taught what it means?

5 A I haven't been taught what it means, sir.

6 Q But you know what it means?

7 A Pretty much.

8 Q Pretty much. What's not clear about that?

9 A Sir?

10 Q Tell me what part's not clear. You have
11 the right to remain silent.

12 Any problem understanding that, what that
13 means?

14 A Sir, at that time I didn't.

15 Q No. Right now?

16 A No.

17 Q Any problem?

18 A No, sir.

19 Q Anything you say can be used against you in
20 court. Is that pretty clear? Do you understand
21 that?

22 A Pretty much.

23 Q Yes or no?

24 A Yeah.

25 Q You have the right to talk to a lawyer for

TESTIMONY: J NIMMONS/CROSS

1 advice before we ask you any questions and to have
2 him with you during questioning.

3 Anything that you don't understand about
4 that?

5 A Yes, sir.

6 Q What don't you understand about that?

7 A I said, yes, sir. I understand.

8 Q You do understand that one.

9 If you cannot afford a lawyer one will be
10 appointed for you before any questioning if you wish.

11 Do you understand that?

12 A Yes, sir.

13 Q If you decide to answer questions now
14 without a lawyer present, you will still have the
15 right to stop answering at anytime.

16 Do you understand that all right?

17 A Yes, sir; I do.

18 Q You also have the right to stop answering
19 at anytime until you talk to a lawyer.

20 What about that?

21 A I understand it right now.

22 Q You understand it right now, but you're not
23 sure if you did then?

24 A At this date, I understand it right now.

25 Q But when you signed this form, you're not

TESTIMONY: J NIMMONS/CROSS

1 sure what you were thinking?

2 A That's correct.

3 Q And when you signed the form with the same
4 thing on top of it here on the typed statement,
5 State's Exhibit 17, did you understand it?

6 A Not at that date.

7 Q Not at that date. All right.

8 Well, let's see what Mr. Folk came up with
9 out of his head. You hadn't told him anything?

10 A Sir, I told him a few things. I'm not
11 sure.

12 Q Now, you told him a few things. What few
13 things did you tell him before he typed this
14 statement?

15 A If you read it to me, I can answer.

16 Q No, sir. You tell me what you told him.

17 A I'm not sure, sir.

18 Q Well, think hard.

19 A I don't recall. This was last year, sir.

20 Q It's eight months ago.

21 A It was last year, sir.

22 Q Yeah. So was three months ago was last
23 year. It was eight months ago.

24 A That's correct, sir.

25 Q And you've seen this since then, haven't

TESTIMONY: J NIMMONS/CROSS

1 you?

2 A Been in here. Right here in court, sir.

3 Q You've seen it?

4 A Yes, sir.

5 Q You've heard it read, haven't you?

6 A Yes, sir.

7 Q What pieces of this document did you tell
8 Mr. Folk?

9 A I don't recall at this time, sir.

10 Q Okay. Let me help you a little bit. Where
11 did he get the information about her wallet was in
12 her pocketbook?

13 A Sir?

14 Q Where did he get that information to write
15 that your mom's wallet was in her pocketbook?

16 A I may have told him that.

17 Q You may have told him that. So, now you
18 did tell him some information?

19 A Yes, sir.

20 Q A few minutes ago you said you didn't. You
21 remember now?

22 A I said I wasn't sure, sir.

23 Q Oh. Okay. Are you sure now?

24 A As you said it.

25 Q No. Are you sure?

398

TESTIMONY: J NIMMONS/CROSS

1 A Right now?

2 Q Yes, sir.

3 A Of that statement you made?

4 Q Yes, sir. Let's see what else maybe you
5 told him.

6 You took her car and your cousin, Darryl
7 Williams, said a guy from Norway that you owed close
8 to five thousand dollars to ten thousand dollars for
9 dope was looking for you?

10 A I didn't.

11 Q You didn't say that to him?

12 A I didn't take her car, sir.

13 Q I'm asking you: Did you give him that
14 information before he typed this?

15 A Repeat your question, please.

16 Q All right. I'm going to read part of this
17 statement and you tell me if that's something you
18 told Folk or something he came up with. Okay.

19 Says you took her car keys and the money
20 from her wallet. It was somewhere between one
21 hundred to one hundred twenty and you took her car
22 and your cousin Darryl Williams said a guy from
23 Norway that you owe close to ten thousand dollars for
24 dope was looking for you?

25 A She gave me consent to take the car, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q I'm asking you: Did Mr. Folk come up with
2 that or did you tell him that?

3 A I didn't tell him that.

4 Q So, Mr. Folk came up with that?

5 A I think he did.

6 Q How did he come up with a guy from Norway?

7 A I told him about the Norway.

8 Q Oh. You did tell him the part about the
9 Norway, some guy from Norway?

10 A Yes, sir.

11 Q And you initialed here a correction where
12 five to ten thousand dollars was corrected?

13 A Sir?

14 Q You initialed a correction on this
15 statement.

16 A Yeah. I owe that much money. I owed him
17 that much.

18 Q So, you did tell him about owing some dope
19 dealer some money?

20 A Yes, sir.

21 Q You didn't tell us that when you were
22 talking to Mr. Koger. Why did you leave that out?

23 A He didn't ask me.

24 Q Oh. He didn't ask you.

25 Is there anything else that you know about

400

TESTIMONY: J NIMMONS/CROSS

1 that he didn't ask you?

2 A Sir, I don't recall right now.

3 Q Okay. Let's see. You hung out at the
4 Grace Foundation.

5 Did you tell Mr. Folk that or did he come
6 up with that?

7 A I recall at this time telling him that,
8 sir.

9 Q So, now you remember another thing?

10 A At this moment, I do, sir.

11 Q And you mentioned Andre?

12 A Yes, sir.

13 Q You must have told him that, too?

14 A I may have.

15 Q Okay. And saw a bunch of cars at your
16 house, knew something was wrong.

17 Now, you said here, sometime Saturday
18 morning I broke in the front door of Mr. Albert
19 Stewart's house and stayed there until I turned
20 myself in?

21 A That's incorrect.

22 Q That's incorrect, but you signed it?

23 A At that time I did.

24 Q Did Mr. Folk come up with that or did you
25 tell him that?

TESTIMONY: J NIMMONS/CROSS

1 A Say that again, sir.

2 Q Did Mr. Folk come up with that or did you
3 tell him about Mr. Stewart's house?

4 A I didn't tell him about Stewart's house.

5 Q You didn't tell him anything about that?

6 A (Shakes head negatively.)

7 Q Now, after Mr. Folk got done with you he
8 left, didn't he?

9 A Sir?

10 Q After Mr. Folk got done talking to you he
11 left, didn't he?

12 A I think he left out the room, sir.

13 Q You were kind of in a daze still?

14 A Pretty much.

15 Q And so when you said in your prior
16 statement to Mr. Koger if you gave any information to
17 Mr. Folk and you said, no, I didn't give him any
18 information. He stayed in there and talked to me for
19 fifteen minutes.

20 That wasn't correct; was it?

21 A No, that wasn't correct.

22 Q You're correct now?

23 A In front of Folk.

24 Q I brought it back to you.

25 A Yes, sir.

402

TESTIMONY: J NIMMONS/CROSS

1 Q All right. After Mr. Folk talked to you
2 then Mr. Martin came in; right?

3 A Approximately twenty, thirty minutes later.

4 Q And you say he was verbally threatening
5 you?

6 A Yes, sir.

7 Q Was he yelling at you?

8 A Yes, sir.

9 Q Loud?

10 A Not real loud.

11 Q Did he threaten to hit you?

12 A Not threaten to hit me.

13 Q Hold a gun at you?

14 A Verbally threatened.

15 Q He said he was going to hit you?

16 A He never did, sir.

17 Q He said he was going to shoot you?

18 A He never did, sir.

19 Q What kind of verbal threats?

20 A You better confess. We know you did it.

21 We got the hammer, the prints.

22 He scared me, to tell you the truth.

23 Q He did, did he? And so you gave a
24 statement, didn't you?

25 A Sir?

TESTIMONY: J NIMMONS/CROSS

1 Q You didn't give a statement to Mr. Bell
2 then, did you?

3 A Mr. Bell?

4 Q Yes, sir. You didn't talk while Mr. Bell
5 wrote?

6 A I might have said a few things to him. I'm
7 not sure at this point.

8 Q Do you remember what information you gave
9 him?

10 A I sure don't at this point.

11 Q Do you think I can help you remember
12 something?

13 A If -- you may, sir.

14 Q All right. Have you ever seen this before?

15 A I seen a hammer in my life before.

16 Q Have you seen this hammer before?

17 A Never.

18 Q Never?

19 A Never in my life.

20 Q So, in this statement Mr. Bell wrote where
21 it says, I got the hammer from the drawer in the
22 kitchen; you didn't say that?

23 A No. Investigator said that, told me to say
24 that.

25 Q And you signed it; correct?

TESTIMONY: J NIMMONS/CROSS

1 Let's look at State's Exhibit 18. That's
2 got initials off to the side and writing, too.

3 A Yes, it do, sir.

4 Q And, are those yours?

5 A It looks like my signature.

6 Q Are they yours?

7 A It looks like.

8 Q Is it yours?

9 A I would say, yes.

10 Q What about the signature at the bottom?

11 A That's my signature.

12 Q On the second page?

13 A Yes, sir.

14 Q Those are all your signature?

15 A Looks like it, sir.

16 Q Is it yes or no?

17 A Yes.

18 Q And the rights at the top?

19 A Right.

20 Q Where it does all that, you have the right
21 to remain silent stuff, that's the top of that one,
22 too, isn't it?

23 A That's what's on the paper, sir.

24 Q And you initialed to the left of that;
25 correct?

TESTIMONY: J NIMMONS/CROSS

1 A Yes.

2 Q Now, do you have a hammer in your house or
3 did you at that time?

4 A At the time, I'm not sure, sir.

5 Q You're not sure?

6 A No, sir.

7 Q You're not sure if you had a hammer in your
8 house?

9 A I'm not sure.

10 Q So, when that was written that didn't come
11 from you?

12 A Say again.

13 Q That stuff written about a hammer coming
14 from a drawer in the kitchen, that didn't come from
15 you?

16 A No, sir.

17 Q What about, I then went to the back door
18 and threw the hammer out; that didn't come from you
19 either?

20 A That's something investigator told me.

21 Q Sir, that didn't come from you?

22 A Sir?

23 Q That wasn't something you told them?

24 A I don't remember, sir.

25 Q Yes or no, please.

TESTIMONY: J NIMMONS/CROSS

1 A I don't remember, sir.

2 Q You don't recall if you told them that or
3 not?

4 A That's something he told me, that the
5 hammer was in the drawer.

6 Q I gave Darryl the keys to the car. Did you
7 tell them that?

8 A No, sir.

9 Q You didn't tell them that. I got a hundred
10 twenty dollars from my mom?

11 A I didn't tell them that.

12 Q You didn't tell them that.

13 I'm going to show you what's been marked
14 State's Exhibit 23. Do you recognize that?

15 A It's a check stub.

16 Q And whose is it?

17 A My mother's.

18 Q And how much money is it on there?

19 A Sir, one forty-one point seventy-four
20 (\$141.74).

21 Q Hundred forty-one dollars?

22 A Yes, sir.

23 Q Now this video, you were being verbally
24 threatened by Mr. Martin --

25 A Yes, sir.

TESTIMONY: J NIMMONS/CROSS

1 Q -- is your testimony, and he tricked you?

2 A He manipulated me, sir.

3 Q He manipulated you and made you say these
4 things on this video?

5 A I think he did.

6 Q You think he did. Did he?

7 A Yes.

8 Q And did he tell you exactly what to say
9 before he turned the machine on?

10 A Yes, sir.

11 Q He gave you word for word what you ought to
12 say?

13 A Yes, sir, pretty much.

14 Q Did he tell you to say, I love my mama to
15 death?

16 A Well, I said that.

17 Q He didn't tell you to say that part?

18 A Not that part.

19 Q And did he tell you to say, something told
20 me not to do it, then something told me to do it.

21 He gave you those words?

22 A He told me to say those things.

23 Q So that was just like a play, acting out a
24 play?

25 A Sir?

TESTIMONY: J NIMMONS/CROSS

1 Q He told you what to say and then he turned
2 the machine on and you said back to him what was
3 playing and that's how the whole thing happened?

4 A That's correct.

5 Q You were in a daze because you would never
6 agree to do that; is that correct?

7 A That's correct.

8 Q You were in shock; right?

9 A That's correct.

10 Q Now, something you said to Mr. Koger I want
11 to ask you about. You told him that you were in a
12 daze and you were in shock and that you hadn't had
13 anything to eat.

14 Is that correct?

15 A Are you asking a question, sir?

16 Q Yes, sir. Is that correct?

17 A I had something to eat at Miss Stewart
18 house.

19 Q No, sir. You said that you gave that
20 statement and we can read it back if you need to
21 because you were, your head wasn't straight and you
22 hadn't had much sleep and you hadn't had anything to
23 eat.

24 A At Miss Stewart house?

25 Q Sir, I'm asking you. That was your

TESTIMONY: J NIMMONS/CROSS

1 testimony to Mr. Koger?

2 A Yes.

3 Q Isn't it true that the officer got you some
4 food that day?

5 A At this time, I don't recall.

6 Q Is it true or not?

7 A I don't recall, sir.

8 MR. GIBBONS: Your Honor, may we
9 approach?

10 THE COURT: Yes, sir.

11 (Off-the-record discussion.)

12 BY MR. GIBBONS:

13 Q Mr. Nimmons, when Mr. Koger was talking to
14 you about the video statement, and we can play it
15 back if we have to, you testified that you, part of
16 the reason you gave this video statement is because
17 you were tired and you were confused and you hadn't
18 had anything to eat.

19 Isn't it true that at a prior hearing you
20 testified under oath that the officers gave you two
21 hamburgers and a large soda?

22 A Sir, at this time I don't recall.

23 Q Answer the question. Is it true that at a
24 prior hearing you did testify to that effect?

25 A Sir, I don't recall at the time.

410

TESTIMONY: J NIMMONS/CROSS

1 Q Are you confused?

2 A Right now?

3 Q Yes, sir.

4 A No, sir.

5 Q Are you tired?

6 A No, sir.

7 Q Have you had enough to eat today?

8 A Yes, sir.

9 Q I'll ask you one more time. Is it or is it
10 not true that at a prior hearing you gave testimony
11 that you had had, that the officers gave you two
12 hamburgers and a large soda?

13 A Sir, I cannot give you an answer if I'm not
14 sure.

15 Q Your answer is you don't recall?

16 A I can't say yes and I can't say no. I, I'm
17 not sure.

18 MR. GIBBONS: I have nothing further.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. KOGER:

22 Q What was your state of mind during the time
23 you gave the various statements?

24 A Sir, I was in shock and mentally in
25 torment, mourning my mother, couldn't understand

TESTIMONY: J NIMMONS/REDIRECT

1 really what was going on, confused, baffled, numb.

2 MR. KOGER: No further questions.

3 THE COURT: Recross?

4 MR. GIBBONS: Nothing further, Your
5 Honor.

6 THE COURT: Thank you, sir. You may
7 step down Mr. Nimmons.

8 THE DEFENDANT: Thank you, sir.

9 THE COURT: Next witness.

10 MR. KOGER: That's the defense's case.

11 THE COURT: Anything in reply?

12 MR. GIBBONS: No, sir.

13 THE COURT: Ladies and gentlemen of the
14 jury, that concludes all the testimony and
15 evidence that will be received in this matter.
16 What remains will be the closing arguments and
17 then my charge or instruction on the law that
18 applies to this case.

19 We're going to take a short break at this
20 time to allow the lawyers some time to finish up
21 their closing statements or their closing
22 arguments and as I prepare my charge on
23 instruction on the law.

24 While I send you to the jury room, let me
25 remind you once again that you are not to discuss

1 this case in any fashion whatsoever while you're
2 in the jury room.

3 You may retire to the jury room. We'll get
4 you back in just a few minutes.

5 (Jury exits courtroom at 10:40 A.M.)

6 THE COURT: All right. Any further
7 motions?

8 MR. GIBBONS: None from the State, Your
9 Honor.

10 MR. KOGER: Your Honor, I just like to
11 reiterate my earlier motion at this particular
12 point.

13 THE COURT: All right. Prior motion,
14 of course, has been ruled upon by the Court for a
15 directed verdict.

16 I think certainly there is question of fact
17 to be determined by the triers of fact, that
18 being the jury, and the State has produced
19 evidence that would allow the jurors to make a
20 determination.

21 And, as such, the motion is denied.

22 MR. GIBBONS: Thank you, Your Honor.

23 THE COURT: All right. Any specific
24 requests for charge, gentlemen?

25 MR. KOGER: No, Your Honor.

1 MR. GIBBONS: No, not that we spoke
2 about yesterday, Your Honor.

3 THE COURT: I am going to, of course,
4 give the expert witness charge, what the jury is
5 to consider in regards to statements, the
6 intoxication or influence charge, that that is
7 not a defense, prior record of a witness, and
8 also prior record, what is to be considered prior
9 record of a Defendant. Also give a charge on
10 murder and armed robbery.

11 All right. Thank you very much. We'll
12 take -- we'll be back in about ten minutes.
13 (At 10:36 A.M. a break was taken. At 10:50 A.M. the
14 trial resumed as follows:)

15 THE COURT: All right. Gentlemen, are
16 you ready to proceed?

17 MR. GIBBONS: Yes, sir.

18 MR. KOGER: Yes, Your Honor.

19 THE COURT: Is the defense -- is the
20 State going to open or defense going to require
21 that?

22 MR. GIBBONS: I can do it either way.

23 MR. KOGER: I'll waive that, Your
24 Honor.

25 THE COURT: All right. So the defense

1 will open, State will close.

2 Ladies and gentlemen who are here present in
3 the courtroom, let me remind you that once we get
4 started there will be no leaving the courtroom.
5 It's very distracting to the jurors and to the
6 lawyers, so please remain seated.

7 If you don't think that you can be in here
8 for, oh, an hour and a few minutes, then you need
9 to remove yourself at this time because, once
10 again, the doors will be locked.

11 It is disconcerting when someone stands if
12 the lawyer's in his argument or if I'm giving the
13 charge on the law because everyone in the
14 courtroom will look. So, please keep that in
15 mind.

16 If you need to leave at this time, do so.

17 MR. GIBBONS: I think there may be a
18 juror in the room. I don't know if that's a
19 problem.

20 MADAM CLERK: I think we got one juror.

21 THE COURT: That's no problem. Be an
22 educational experience for him.

23 All right. Let's bring our jury back.

24 (Jury returns to courtroom at 10:52 A.M.)

25 THE COURT: Mr. Foreman, ladies and

1 gentlemen of the jury, as I told you when you
2 left the courtroom, we've concluded all the
3 testimony and evidence in this case and what
4 remains are the closing arguments of the lawyers
5 and then my charge or instruction on the law that
6 applies to this case.

7 Now, I want you to give the lawyers your
8 undivided attention during their closing
9 arguments because they're going to be pointing
10 out things to you that they've seen develop
11 through the testimony and evidence throughout the
12 course of the trial.

13 But I also want you to remember that what
14 the lawyers say does not represent evidence in
15 this case. The evidence in this case comes from
16 the testimony of the sworn witnesses who appeared
17 on this witness stand, together with all the
18 evidence that's been introduced into this matter.

19 So, if the lawyers make any comment as to
20 any testimony or evidence that's been received
21 and you recall it to be different than what the
22 lawyers say, then, of course, you will follow
23 your recollection because that is your role as
24 the finders of facts.

25 Also, if the lawyers make any comment as to

1 the law in this case and it differs with what I
2 instruct you the law is and the law that you're
3 to follow then, of course, you will follow the
4 law as I instruct you.

5 Now the defense will have the opening
6 argument and the State will have the final
7 argument.

8 We'll begin that process now. Mr. Koger.

9 MR. KOGER: May it please the Court.

10 THE COURT: Yes, sir.

11 MR. KOGER: Solicitor Gibbons.

12 I told you from the very outset that Juan
13 loved his mother very much. Juan took the stand
14 here today and he testified to his relationship
15 with his mother. And what I told you in the
16 opening he testified to; spending time together,
17 sharing a mother and son relationship.

18 And Juan got on this stand here today and
19 told you, not what he said back on August 9th,
20 1998, but today, that he did not kill his mother.

21 Now, the overriding question and the
22 question you, the jury, want to have answered is:
23 Why would someone admit to something like this.
24 Why would someone admit to inflicting injury upon
25 the person that brought him into the world, upon

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 the person, according to his very own testimony,
2 Mr. Nimmons, that would have given her last for
3 him.

4 That was the only person in the world that
5 stood by him through thick and thin from day one,
6 when he was good, to the point in which he turned
7 bad.

8 And, make no mistake about it, drug
9 addiction is a bad thing. It is a scourge in our
10 society. It's a scourge here in Bamberg County.

11 But according to my client, Juan's
12 testimony, his mother stood by him. And as Juan
13 testified to, Miss Robinson saying, this is my
14 bad child, implying that she was going to stick
15 by him.

16 Now I never got an opportunity to express my
17 condolences to the Nimmons' family. I'd like to
18 do that now in my closing statement.

19 This is a terrible crime. It is a horrific
20 crime and the perpetrator of this crime needs to
21 be punished, no doubt.

22 You as citizens of Bamberg County, also a US
23 citizen, this family needs to know who committed
24 this horrific crime.

25 Back to the question of the day, the one

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 million-dollar question. Why would someone, why
2 would Juan Nimmons admit to killing or inflicting
3 serious injury or to robbing his beloved mother,
4 Miss Robinson.

5 Juan took the stand and I directly examined
6 him for approximately forty-five minutes to an
7 hour, and Solicitor Gibbons Cross Examined
8 Mr. Nimmons for approximately forty-five minutes
9 to an hour. And he told you bit-by-bit,
10 piece-by-piece what happened during that time
11 frame.

12 He testified to, from the morning of August
13 6th up through the end of the videotaped
14 statement, 1:23 P.M, August 9th, and he testified
15 to coming up to the scene on the morning of
16 August 7th and Juan testified to hearing the
17 accusation that he was responsible for his
18 mother's death.

19 And he also told you before that particular
20 time what he did up until that point, the night
21 before. And it was not pretty.

22 He was doing things that we as law-abiding
23 citizens despise, using the rock, using crack
24 cocaine, something that society certainly does
25 not condone and probably the single most

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 contributor to crime in this nation today, but he
2 testified to it and he was honest with you. He
3 testified to it.

4 He testified to getting forty dollars from
5 his mother, not telling Miss Robinson that he was
6 going to use the forty dollars to purchase crack
7 cocaine.

8 He testified to, he told Miss Robinson that
9 he was going to take a young lady out. And being
10 the loving mother that she was, she gave him the
11 forty dollars and told him, do not stay out too
12 late.

13 But Juan stated on that stand that he knew
14 at that point that he wasn't going to take a lady
15 out, that he was going to use that forty dollars
16 to purchase some crack cocaine and then after
17 that he was going to pawn the car.

18 And that was what he testified to, to
19 pawning that car to Travis Yon for a hundred
20 fifty dollars and later on in my closing
21 statement we'll get to the testimony of Travis
22 Yon.

23 After he testified to, when he arrived to
24 the scene, seeing the commotion, hearing someone
25 exclaim, Butch did it. Then he went on a

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 two-and-a-half-day odyssey trying to deal with
2 the accusations that he killed his mother, being
3 afraid for his well-being because Miss Robinson,
4 according to my conversations with Juan, was
5 beloved in the community. And the community was
6 upset, the family was upset, and they had a right
7 to be upset.

8 And Juan knew this. And he stayed away, he
9 stayed away, he stayed away, until he called his
10 cousin Mr. Howell in Texas and he convinced
11 Mr. Nimmons to turn himself in.

12 Juan testified to his treatment, the general
13 atmosphere, the general environment at Denmark
14 Police Station from approximately nine o'clock
15 that morning up until the video. The VCR was
16 turned off at 1:23.

17 Juan testified to entering that station as a
18 grieving man, a broken man, still trying to deal
19 with the fact, because at that point it became a
20 fact that the person that he loved most, the
21 person that he loved most was gone.

22 And at that point Juan knew that from that
23 point for the rest of his life he was going to be
24 alone because, according to Juan, his testimony,
25 no one else cared about him.

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 Now, the State must prove their case beyond
2 a reasonable doubt, that Mr. Nimmons committed
3 these hideous crimes. And they must prove every
4 element of each crime beyond a reasonable doubt,
5 that Mr. Nimmons is guilty of these horrific
6 crimes.

7 If you, as the jury, have any doubt that
8 would cause a reasonable person to hesitate to
9 act, then you have to consider acquittal for my
10 client.

11 Judge Clary will give the instruction on
12 beyond a reasonable doubt after closing
13 statements. And if I misspoke in my closing
14 about the charge on reasonable doubt, listen to
15 Judge Clary. He will give you the charge on
16 that. Well, you have to keep that in mind.

17 Now this case was not too lengthy, but we
18 did have some witnesses. The State had the
19 majority of the witnesses and, of course, I had
20 Juan come in and testify.

21 The first witness that the State brought in
22 was Beverly Whetstone, Juan Nimmons' aunt. A
23 very personable young lady, and she testified to
24 seeing Miss Robinson alive between the hours of
25 8:30 and 8:45. Possibly could have been the last

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 person that saw her alive.

2 What's important with Miss Whetstone's
3 testimony is that she saw someone come out of
4 that trailer at four o'clock. She was in her
5 bathroom, the bathroom was facing the front of
6 the trailer and she testified to, well, I
7 couldn't tell the gender but looked like she had
8 on a long skirt -- the person, excuse me, had on
9 a long skirt.

10 She testified to on initial Direct that she
11 couldn't tell whether it was a man or woman. But
12 I asked her if it had been Juan would she have
13 known, and she hesitated but then she said she
14 didn't think it was Juan because this person had
15 a hairdo.

16 That's my client. That's my client's short
17 hair. That's one thing that you have to
18 consider, look over, when determining whether the
19 State had proven their case.

20 Now when the State put up Doctor McConnell
21 and she testified to initially that she conducted
22 over three hundred autopsies but then upon
23 further probing, mostly natural causes of death,
24 some gunshot wounds. As far as with the cases of
25 this type, with blunt-force trauma, I think she

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 testified to this being her second one.

2 But what is remarkable are -- two things are
3 remarkable about her testimony is that, first of
4 all, one, she testified to one blow could not
5 have caused thirteen lacerations.

6 She testified to as many as thirteen blows
7 could have caused the thirteen lacerations and
8 you heard the testimony. And make your judgment
9 off of what you heard from this stand.

10 But, what's most remarkable about Doctor
11 McConnell's testimony, no time of death. There
12 has been no testimony of the time of death.

13 Now, Doctor McConnell testified that she is
14 a forensic pathologist, well trained, and that
15 they received the body, I think, the next day it
16 was -- it was refrigerated -- the next day, I
17 think, up in Newberry, but what's important is
18 that, whether Doctor McConnell would have been a
19 proper person to gauge the time of death or not.

20 The fact remains that no time of death came
21 out of this trial. That evidence was not
22 submitted. What we do know from the testimony in
23 this case that Miss Robinson was seen alive by
24 her sister between 8:30 and 8:45 and that,
25 unfortunately, her father, Mr. William Nimmons,

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 found his daughter the next morning.

2 The next person that testified was Agent
3 Gooding from SLED. And she testified to being,
4 she was qualified by the Court as being a
5 fingerprint experts and a blood splatter expert.

6 According to the pictures and her testimony,
7 there was blood at the scene, there was blood
8 throughout the house. She testified to arriving
9 around ten o'clock and she testified to staying
10 until approximately three or 3:30.

11 So, maybe about five, five, or five and a
12 half hours and the scene was thoroughly
13 processed, thoroughly processed; the scene dusted
14 for fingerprints, swabbed for blood evidence,
15 thoroughly processed, five hours. Evidence
16 collected.

17 And she went through the procedure of
18 fingerprints. She went through a direction of
19 castoff and blood splatter. But what is
20 remarkable about her testimony was what was not
21 said.

22 No analysis or results of any blood was
23 submitted in this trial. None. She testified to
24 blood being around the sink, on the sofa.
25 Picture was submitted in evidence that shows some

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 blood on the ceiling, maybe the walls.

2 And y'all can take those pictures back there
3 with you and look at them and make your judgment.
4 But no blood analysis and no blood results were
5 submitted in this trial.

6 Now, I'm sure that the State is going -- it
7 was testified to and I can't remember whether
8 Agent Goodwin testified to it or whether it was
9 Captain Bell, about some blood being on that
10 shirt in the hamper. And surely the State will
11 bring that up.

12 But no analysis of blood, results of that
13 blood was submitted here in court during this
14 trial.

15 No prints, no prints that positively
16 identified my client, Juan Nimmons, were found in
17 the trailer. Miss Goodwin, she testified to it.
18 The hammer that was found in the back yard, Agent
19 Goodwin testified to that hammer approximately
20 found about twenty-five to thirty-five feet
21 beyond the fence with blood on it.

22 Captain Bell told you by testifying he
23 initially saw the hammer. He didn't touch it.
24 He informed the SLED processing crew that the
25 hammer was in the back, was dusted for

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 fingerprints. Not -- excuse me.

2 Not only dusted, according to Agent
3 Goodwin's testimony, she used some type of fume
4 test as the first test, then it was dusted the
5 second test, and because of the discoloration of
6 the hammer she used what they use standardly, an
7 amino black test.

8 This alleged weapon went through three tests
9 and the results were all the same; no prints
10 positively identifying Mr. Nimmons, no prints
11 positively identifying Mr. Nimmons, no prints
12 positively identifying Mr. Nimmons.

13 I may be out of order but I think the next
14 witness or a subsequent witness was Darryl
15 Williams. Now, Mr. Williams, he was honest with
16 the fact that he was a drug user.

17 Mr. Nimmons was honest with the fact that he
18 was a drug user and from Mr. Nimmons'
19 testimony -- not Mr. Nimmons' testimony but from
20 Mr. Williams' testimony they actually engaged
21 sometime during the night in drug usage.

22 So, you make your determination when it
23 comes to believing Mr. Williams and believing my
24 client.

25 From Mr. Williams' testimony he came to

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 court and he was somewhat vague with the
2 identification of the checkered shirt. He
3 wasn't really clear at least on yesterday on that
4 identification. And that's just another piece of
5 the puzzle because this is a puzzle.

6 We realize at this point and we're going to
7 address it at the end, we realize the most
8 damaging piece of evidence that we have is that
9 videotape statement but it's not an open and shut
10 case. That is one piece of the puzzle and other
11 testimony are other pieces of the puzzle.

12 Mr. Washington took the stand. He was
13 honest. He had a drug conviction, he was honest
14 about it. He didn't, he didn't try to hide from
15 that fact.

16 And he was unclear about the clothing that
17 Mr. Nimmons had on that particular night.
18 Understandably so. It happened eight months ago.

19 Rosa Whetstone was another subsequent
20 witness and she testified to -- after Solicitor
21 Gibbons showed her the picture, that that was the
22 shirt.

23 But after she was not looking at the shirt
24 and I asked her to describe what she saw on
25 August 6th, 1998 she attempted to describe it.

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 She testified to a red and blue striped but she
2 stayed with stripe until I inadvertently used
3 plaid, then she stated stripe or plaid.

4 You have to evaluate that testimony to see
5 whether she could possibly identify that shirt.

6 And that's just another piece of the puzzle
7 that the State has to satisfy to your
8 satisfaction beyond a reasonable doubt in order
9 to try to obtain a conviction in these crimes.

10 Now, we had -- we had Travis Yon. He was
11 another subsequent witness. And he was somewhat
12 evasive on the stand and hopefully today you know
13 why he was evasive.

14 He stated on the stand, well, you know, I
15 hang out here sometimes. Well, he was just
16 evasive on the stand. And then he came up with
17 the coke man story. Well, I gave Juan fifteen
18 dollars and I can use the car the rest of the
19 night. We negotiated a deal a deal.

20 Juan got on the stand and told you what this
21 deal was. Juan stated in the various statements
22 that Travis Yon is a drug dealer. He stated that
23 the car was traded for hundred fifty dollars of
24 crack cocaine.

25 Surely -- and I asked him about drug usage.

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 Surely he wasn't going to admit that under oath
2 on the stand. But, use your common sense when
3 coming to your determination of whether he's even
4 credible in this, in this particular case.

5 But the defense realize that we have a hard
6 row to hoe in this particular case. But
7 Mr. Nimmons, he got on the stand and from day
8 one, from day one in the representation
9 Mr. Nimmons, it was never a doubt in his mind
10 whether he was going to sit on this witness stand
11 and finally tell his non-participation in this
12 hideous crime.

13 Now, Mr. Nimmons testified to the treatment
14 he received at the Denmark Police Department. He
15 testified to the overall atmosphere. He
16 testified to the threats. He testified to the
17 promises of leniency.

18 He testified to all of this and you as the
19 jury have to, it is your duty to look at every
20 single situation on why the statement was given,
21 and you can choose that as the jury to decide
22 that that statement was not free and voluntary
23 and not even consider the videotape statement.
24 That is just one piece of the puzzle.

25 Mr. Nimmons loved his mother very much.

CLOSING ARGUMENT ON BEHALF OF THE DEFENSE

1 That was a theme that I stated at the outset
2 because from the first time I saw Mr. Nimmons he
3 said, Mr. Koger, I didn't do this because I loved
4 my mother very much.

5 I submit to you that the State has not
6 proven their case beyond a reasonable doubt and
7 that you, the jury, after going through every
8 piece of evidence, every piece of testimony --
9 take your time back in that jury room, no one is
10 in a hurry -- but after you go through every
11 piece of evidence, I am confident that you will
12 come up with a verdict of not guilty on murder
13 and armed robbery.

14 Thank you for your attention.

15 THE COURT: Solicitor?

16 MR. GIBBONS: May it please the Court,
17 Mr. Koger.

18 I believe one line can sum up this whole
19 case; I loved my mama to death.

20 I believe he loved his mama. I believe he
21 was a mama's boy. I believe his mama stood by
22 him and I believe his mama took care of him. He
23 was a grown man. His mama still took care of
24 him, but not in the way he's thinking.

25 Here we have a grown man, good jobs, can't

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 seem to stay at them long, good money, strong man
2 smart man, but he kept by his mama. And when he
3 needs money for crack; mama. When he needs a
4 roof over his head; mama. When he needs a car to
5 drive around town; mama.

6 And mama's not here anymore. Now, I don't
7 know what went on that night other than this, and
8 this, (displaying exhibits).

9 Maybe mama decided it was time to say no.
10 She'd been keeping him, giving him money long
11 enough.

12 Because, this isn't just a killing. This
13 isn't knocking someone out. This is a rage.
14 This is anger. This is somebody that's mad.

15 Maybe mama said no. Maybe she had finally
16 gotten to the bottom of that spiral, the bottom
17 of that road and said, enough is enough.

18 And that man sitting at that table, already
19 cracked out, hungry for another piece, had
20 finally been told no and the rage came out.

21 Now, the Judge is going to tell you it
22 doesn't matter if he was on cocaine for three
23 weeks, doesn't matter if he was drunk out of his
24 mind. If you find that he picked up that hammer
25 and smashed in his mama's skull, the law says

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 he's just as guilty as if he was stone cold
2 sober.

3 So, don't let that enter in your mind at
4 all. It may give you a reason why he got to that
5 point, but it is no excuse.

6 Crack cocaine is not an excuse to bash your
7 mom's head in with a hammer. Let's be clear
8 about that.

9 Let's talk about a few other things. I grew
10 up in the country and there was fellow that lived
11 next door. He had some chickens, and he started
12 losing his chickens. And he saw some fox tracks.

13 Now, I'm sure everyone has always heard
14 crazy like a fox or clever as a fox, sneaky as a
15 fox.

16 He decide he was going to set him a trap.
17 So, he went out in the woods a little ways and he
18 set him a trap.

19 And I think he forgot about it because one
20 day as I was walking along I found a little place
21 in the woods where all the bushes had been chewed
22 out and was bare ground and it was a circle and
23 there was a stake in the middle of the chain.
24 And I followed the chain over to the edge and
25 there was a trap there and there was the foot of

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 a fox in the trap.

2 And why am I bringing that up? Well, you
3 saw a fox today caught in a trap. And you seen
4 him chew up every bit of everything that he could
5 get his hands on trying to get out.

6 I think you've noticed, anything that might
7 make it look like he didn't do this thing, he
8 remembers clearly about it. Anything that may
9 make it look like he did do this thing, either he
10 doesn't remember, someone else was lying, someone
11 else did it, I was out my head, I don't remember.

12 That's not a foolish man over there. That's
13 a smart man. Don't let him fool you. In shock,
14 confused; how many times did he say that today?
15 Crazy like a fox.

16 Don't fall for it, folks, because the man
17 that smashed this woman's head in with a hammer
18 does not need to be, does not need to be walking
19 around Denmark, South Carolina or Bamberg County.

20 Well, I'd like to go through and just
21 briefly speak about some of the things we do know
22 because as I told you at the git-go we're not
23 going to have every answer. That's real life.

24 TV has about ruined the justice system. You
25 watch that TV and every little thing is

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 explained. By the end of the show, the last five
2 minutes, every answer is filled in. We know
3 exactly what happened.

4 Every time somebody on TV touches anything
5 there's fingerprints. Every test in the world
6 can be run on every piece of evidence in the
7 world in the movie, but you're not in a movie
8 today.

9 That's not real life, just like the SLED
10 agent told you, sometimes you leave a print and
11 sometimes you don't. She said you pick up this
12 card and I touch it all over like that
13 (indicating), maybe there will be, maybe there
14 won't.

15 And she went through that house. And who
16 lived in that house? Who said he cooked
17 breakfast in the house that day? Juan Nimmons.

18 Well, she's an expert and she did her best
19 to find a print but, hey, this isn't TV. She
20 didn't find one, even though he lives there.
21 What if she had found one? Big deal. He lives
22 there. That wouldn't have told you anything.
23 That wouldn't have proven anything.

24 And about this blood not being tested, well,
25 no one else was injured that night. Miss Zola

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 was laying in her blood on the couch. I guess
2 maybe it was chicken blood that was spread all
3 over the ceiling and on the sink and on the rag
4 and on that shirt that so conveniently
5 Mr. Nimmons doesn't remember owning that was in
6 the hamper, which is the same shirt he was seen
7 in by Miss Rosa.

8 Well, Miss Beverly said something that was
9 very important. She said that her sister, who
10 Doctor McConnell said had operations removing her
11 breasts, kept her valuables in her bra. What
12 does that mean? Now, who's going to know that?
13 Some thief in the night?

14 What else does she tell us? Well, it's got
15 black powder on it but she had -- it had blood on it
16 when she got it off that love seat. How did that
17 happen? Somebody knew she kept her money in her bra.
18 Somebody got blood on it.

19 Well, she was laying in her blood. The
20 same person that was cold enough to bash in her head,
21 make her bleed all over herself, was also cold enough
22 to get in her bra and get her money out.

23 Does that sound like where some crazed
24 person breaking in houses and killing people would
25 look for money, in someone's bra, or does that sound

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 like somebody that she knew and knew her and her
2 house?

3 Well, what else did she find in the house
4 that day? No fingerprints on the hammer. No
5 fingerprints on the hammer. If you look at the
6 picture, the blood up on the top but you don't see
7 any blood on the handle.

8 Well, what else did she find? We had a lot
9 of testimony about this blood going across the
10 ceiling as that hammer came back and flipped clear
11 across the room. She said whoever did it stood about
12 right here (indicating), and delivered those blows
13 that ended Zola's life.

14 But what else did she say? She said -- and
15 there's some pictures of it. Over by the sink is,
16 was some washed-out blood. What does that tell us?

17 Well, let's look a little further. Where
18 else did she find out some washed-out blood? On the
19 sink in the bathroom. And where else did she say she
20 found some? She found a cloth that looked like it
21 had blood on it. Where was it? On the washer.
22 Where was that? Not too far from the shirt.

23 Crazy like a fox.

24 The reason there aren't any prints on that
25 hammer is because before it was thrown out that back

CLOSING ARGUMENT ON BEHALF OF THE STATE

1 door it was cleaned up. And whoever cleaned it up
2 might have used that towel and might have taken his
3 shirt off and put it in the hamper while he was
4 standing there.

5 Does that sound like somebody coming off
6 the street, trying to rob somebody, to clean up, put
7 something in the hamper, or does that sound like
8 someone that knows her, knows that house?

9 What else? Well, she drew the picture of
10 Miss Robinson right here and she put her legs crossed
11 and she testified that her legs were crossed and that
12 she was laying on that couch.

13 What did Mr. Nimmons say? He said some
14 very important things. He said at about 7:30 in the
15 morning Darryl came by and dropped off Pat's keys.

16 Now, he got the keys and went back to take
17 them to her trailer but he got out to the trailer and
18 he had to go back and get his key to go in the
19 trailer. He went out -- went back and got his key
20 and went out and got in the trailer and found her.

21 And what did he say? She was covered up,
22 her arm was hanging out. Does someone come in off
23 the street to rob somebody need to put that towel
24 there, or is that someone who has realized what
25 they've done and can't bear to look at it, can't bear