

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Sumter County

D. Craig Brown, Circuit Court Judge

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ANDRE M. MASSEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001389

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APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF SUMTER

2008-CP-43-0853

THE STATE OF SOUTH CAROLINA

:

:

-VS-

:

TRANSCRIPT OF RECORD

:

ANDRE M. MASSEY

:

AUGUST 3 - 5, 2009

SUMTER, SOUTH CAROLINA

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JURY.

A P P E A R A N C E S:

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ARTHUR WILDER, ESQUIRE  
ATTORNEYS FOR THE DEFENDANT

DAPHNE D. HELMS  
CIRCUIT COURT REPORTER

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1 (COURT REPORTER'S NOTE: COURT REPORTER MARGARET  
2 SULLIVAN WAS THE COURT REPORTER PRESENT FOR THE JURY  
3 QUALIFICATION AND IMPANELING OF THE JURY.)

4 THE COURT: ALL RIGHT. HAVE A SEAT. THANK YOU. OKAY.  
5 OF COURSE, THIS IS JUST -- Y'ALL MAKE A NOTE THAT WE HAVE A  
6 SECOND COURT REPORTER. THIS IS THE STATE VERSUS MASSEY. IN  
7 CASE THERE'S ANY ISSUE PERTAINING -- APPELLATE ISSUE  
8 PERTAINING TO JURY SELECTION, THAT WAS WITH MARGARET  
9 SULLIVAN. ALL RIGHT. ANY AGREEMENT ON THE ORDER WE ADDRESS  
10 THE PENDING MOTIONS?

11 MR. SPRATLIN: YOUR HONOR, I DON'T BELIEVE WE HAVE  
12 REACHED AN AGREEMENT. THE STATE HAS A WITNESS ISSUE WITH THE  
13 MOTION TO SUPPRESS. MR. BILLY LYONS IS ONE OF THE WITNESSES  
14 ON THAT CASE. HE IS TESTIFYING FIRST UP IN THE MURDER TRIAL  
15 TAKING PLACE NEXT DOOR. HIS TESTIMONY, FROM TALKING WITH MS.  
16 FANT AND FROM TALKING WITH HIM, SHOULD NOT TAKE MORE THAN 30  
17 OR 40 MINUTES IN THE MURDER CASE. WE WOULD ACTUALLY ASK THAT  
18 THE MOTION TO SUPPRESS GO LAST SO WE CAN ACCOMMODATE MR.  
19 LYONS AS MUCH AS POSSIBLE AND THE MURDER CASE GOING NEXT DOOR  
20 AS MUCH AS POSSIBLE.

21 THE COURT: OKAY. WELL, YOU MIGHT WANT TO GO DOWN THE  
22 HALL AND SEE WHETHER OR NOT THAT MURDER CASE IS GOING TO  
23 START TODAY, IF AT ALL, BECAUSE THERE'S A CONTINUANCE MOTION  
24 THAT'S BEEN MADE IN THAT CASE, TOO. SO I'LL -- I'M HAPPY TO  
25 ADDRESS THESE IN ANY ORDER THAT Y'ALL WANT TO, AND WE CAN DO

1 IT THAT WAY.

2 MR. SPRATLIN: YOUR HONOR, I THINK OBVIOUSLY THE FIRST  
3 MATTER SHOULD BE THE MOTION FOR A CONTINUANCE MADE BY THE  
4 DEFENSE IN THIS CASE.

5 THE COURT: ALL RIGHT. AFTER -- AFTER THAT MOTION, WE  
6 HAVE A MOTION TO QUASH THE LIFE-WITHOUT-PAROLE NOTICE?

7 MR. HASTIE: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. THEN WE HAVE A MOTION TO  
9 SUPPRESS EVIDENCE OBTAINED DURING THE SEARCH?

10 MR. SPRATLIN: YES, YOUR HONOR.

11 MR. HASTIE: YES, YOUR HONOR.

12 THE COURT: THEN WE HAVE A JACKSON VERSUS DENNO?

13 MR. HASTIE: YES, SIR.

14 THE COURT: AND ANY OTHER ONES?

15 MR. SPRATLIN: WE HAD A MOTION REGARDING THE IN-COURT  
16 IDENTIFICATION, YOUR HONOR, REGARDING THE VICTIM IN THIS  
17 CASE.

18 THE COURT: OKAY.

19 MR. HASTIE: AND I WANT TO RENEW MY BRADY MOTION, YOUR  
20 HONOR.

21 MR. WILDER: PUT THAT ONE FIRST.

22 MR. HASTIE: I'D LIKE TO DO THAT FIRST, YOUR HONOR.

23 THE COURT: ALL RIGHT. GO AHEAD AND MAKE THAT MOTION,  
24 PLEASE, MR. HASTIE, ABOUT RENEWAL OF THE BRADY AND RULE 5.

25 MR. HASTIE: YES, SIR. MAY IT PLEASE THE COURT? YOUR

1 HONOR, I MAKE THIS MOTION BECAUSE JUST, AS YOU MAY NOT KNOW,  
2 MR. JACK HOWLE HAD THIS CASE AND THIS IS A 2007 CASE, AND I  
3 WAS ASSIGNED TO THIS CASE ABOUT SIX MONTHS AGO. AFTER  
4 CHECKING THE FILE, MR. JACK HOWLE FILED A BRADY MOTION ON  
5 JUNE THE 28TH OF 2007, AND WE DID GET SOME DISCOVERY IN  
6 OCTOBER OF 2007, BUT THAT ONLY CONSISTED OF AN INDICTMENT, A  
7 THREE-LINE INDICTMENT, AND MY CLIENT'S CRIMINAL RECORD.  
8 THAT'S ALL.

9 YOUR HONOR, THERE'S BEEN NO DISCOVERY ON THIS CASE UNTIL  
10 MAY OF 2009. I GOT SOME DISCOVERY IN MAY OF 2009, JUNE 30TH  
11 OF 2009, JULY 8TH OF 2009, AND I STILL GOT SOME DISCOVERY  
12 LAST WEEK ON THIS CASE.

13 THE COURT: ALL RIGHT. LET'S BACK UP. WHEN DID -- WHEN  
14 DID MR. HOWLE RECEIVE THE INDICTMENT AND THE -- WHAT WAS THE  
15 OTHER THING HE RECEIVED?

16 MR. HASTIE: THE INDICTMENT.

17 THE COURT: CRIMINAL RECORD?

18 MR. HASTIE: CRIMINAL RECORD. IT WAS AN INCIDENT  
19 REPORT, NOT INDICTMENT. IT'S AN INCIDENT REPORT.

20 THE COURT: ALL RIGHT. WHEN DID HE RECEIVE THE INCIDENT  
21 REPORT AND THE CRIMINAL RECORD?

22 MR. HASTIE: THE DATE IS OCTOBER THE 4TH, 2007.

23 THE COURT: ALL RIGHT. WHAT WAS RECEIVED IN MAY OF  
24 2009?

25 MR. HASTIE: THE INDICTMENT, I THINK IT WAS, WAS

1 RECEIVED IN MAY OF 2009.

2 THE COURT: THE INDICTMENT WAS HANDED DOWN JULY 17, '08.

3 MR. HASTIE: YES, SIR.

4 THE COURT: ANYTHING ELSE RECEIVED IN MAY OF 2009?

5 MR. HASTIE: NO, SIR, NOT ANYTHING ELSE IN MAY.

6 THE COURT: ALL RIGHT. HOW ABOUT JUNE THE 30TH?

7 MR. HASTIE: JUNE THE 30TH THERE WAS A SUPPLEMENTAL RULE  
8 5 INFORMATION SUBMITTED TO ME.

9 THE COURT: AND WHAT DID YOU GET?

10 MR. HASTIE: I GOT SOME PICTURES.

11 THE COURT: PICTURES OF WHAT?

12 MR. HASTIE: PICTURES OF HIS HOME, I BELIEVE A SEARCH  
13 WARRANT.

14 THE COURT: SAY THAT AGAIN. PICTURES OF HIS HOME AND  
15 WHAT ELSE?

16 MR. HASTIE: WHERE THEY SEARCHED HIS HOME.

17 THE COURT: ARE YOU TALKING ABOUT THE RETURN?

18 MR. HASTIE: YES, SIR.

19 THE COURT: OKAY. SO YOU HAVE PICTURES OF HIS HOME, AND  
20 YOU SAID YOU RECEIVED WHAT THEY GOT IN THE SEARCH WARRANT.

21 MR. HASTIE: THE PICTURE WAS TAKEN INSIDE HIS HOME.

22 THE COURT: RIGHT.

23 MR. HASTIE: AND NOT WHAT THEY RECEIVED, JUST THE  
24 EVIDENCE THE STATE FILED---

25 THE COURT: PHOTOGRAPHS OF INSIDE THE HOME.

## COLLOQUY

15

1 MR. HASTIE: YES, SIR.

2 THE COURT: OKAY. WHAT ELSE?

3 MR. HASTIE: THEN THERE WAS AN INVESTIGATIVE REPORT THAT  
4 I RECEIVED.

5 THE COURT: DATED WHAT?

6 MR. HASTIE: DATED JUNE THE 7TH.

7 THE COURT: OF WHAT?

8 MR. HASTIE: OF -- THIS -- I HAVE THIS WITH THE JULY 8TH  
9 INFORMATION, YOUR HONOR.

10 THE COURT: WAIT A MINUTE. SO WHAT DID YOU GET ON JUNE  
11 THE 30TH?

12 MR. HASTIE: I GOT A VICTIM'S STATEMENT.

13 THE COURT: WHAT'S THE DATE OF THAT STATEMENT?

14 MR. HASTIE: THE STATEMENT IS DATED JUNE THE 12TH.

15 THE COURT: OF WHAT YEAR?

16 MR. HASTIE: '07.

17 THE COURT: OKAY.

18 MR. HASTIE: THEN I'VE GOT A WITNESS STATEMENT DATED  
19 JUNE THE 12TH.

20 THE COURT: '07?

21 MR. HASTIE: '07, YES, SIR. THEN THERE'S AN INTERVIEW  
22 FORM DATED JUNE THE 7TH, '07.

23 THE COURT: INTERVIEW FORM FOR WHO?

24 MR. HASTIE: INTERVIEW FORM FOR -- FROM MY CLIENT WHERE  
25 THEY SAY YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU

1 SAY CAN---

2 THE COURT: OKAY. AND THAT'S DATED JUNE 12, '07?

3 MR. HASTIE: YES, SIR.

4 THE COURT: ALL RIGHT. HAVE YOU GOT A COPY OF YOUR  
5 CLIENT'S STATEMENTS?

6 MR. HASTIE: YES, SIR.

7 THE COURT: WHEN DID YOU GET THOSE?

8 MR. HASTIE: COURT'S INDULGENCE, YOUR HONOR. JUNE THE  
9 30TH, YOUR HONOR.

10 THE COURT: IT'S DATED JUNE THE 30TH, '07?

11 MR. HASTIE: YES, SIR.

12 MR. WILDER: NO, NO. YOU RECEIVED IT JUNE THE 30TH OF  
13 THIS YEAR. RIGHT?

14 MR. HASTIE: I RECEIVED IT JUNE THE 30TH OF '09.

15 THE COURT: RECEIVED WHAT?

16 MR. HASTIE: I RECEIVED -- THIS IS A SUSPECT STATEMENT.

17 THE COURT: SO YOU RECEIVED THE DEFENDANT'S STATEMENT  
18 THIS YEAR?

19 MR. HASTIE: YES, SIR.

20 THE COURT: AND YOU'LL HAVE A CHANCE TO RESPOND.

21 MR. HASTIE: THEN THERE'S A WITNESS STATEMENT THAT I  
22 RECEIVED.

23 THE COURT: A WITNESS? WHO?

24 MR. HASTIE: WELL, JERMAINE ROBINSON IS A WITNESS.

25 THE COURT: IS HE THE ONLY WITNESS STATEMENT YOU

## COLLOQUY

17

1 RECEIVED SO FAR?

2 MR. HASTIE: NO, SIR. THERE'S OTHER STATEMENTS.

3 THE COURT: OKAY. I'M CONFUSED. YOU RECEIVED A WITNESS  
4 STATEMENT AND THE VICTIM'S STATEMENT---

5 MR. HASTIE: RIGHT.

6 THE COURT: ---AND THE DEFENDANT'S STATEMENT ALL ON JUNE  
7 THE 30TH. OKAY. ANY OTHER WITNESS STATEMENTS THAT YOU  
8 RECEIVED?

9 MR. HASTIE: NO OTHER WITNESS STATEMENTS.

10 THE COURT: ALL RIGHT. ALL RIGHT. WHAT IS THERE THAT  
11 YOU DON'T THINK YOU HAVE?

12 MR. HASTIE: WELL, WHAT I WOULD LIKE, YOUR HONOR, IF  
13 AVAILABLE BY THE STATE: NAMES OF ANYONE ELSE THAT WAS IN THE  
14 STORE AT THE TIME OF THE INCIDENT, NAMES OF ANYONE ELSE THAT  
15 MAY HAVE BEEN CHARGED WITH THIS OFFENSE.

16 THE COURT: HAS ANYBODY ELSE BEEN CHARGED?

17 MR. SPRATLIN: NO, YOUR HONOR. NO ONE ELSE HAS BEEN  
18 CHARGED.

19 THE COURT: OKAY. ALL RIGHT. ANYBODY ELSE IN THE STORE  
20 THAT WAS INTERVIEWED THAT YOU HAVEN'T PROVIDED A NAME TO  
21 THEM?

22 MR. SPRATLIN: YOUR HONOR, THERE WAS SOMEONE ELSE IN THE  
23 STORE. IT WAS PROVIDED IN DISCOVERY. I ACTUALLY -- AS I  
24 TOLD YOU, I RECEIVED THIS CASE FROM MS. FANT. IN AN  
25 OVERABUNDANCE OF CAUTION, I REDID RULE 5 IN THIS CASE---

1 THE COURT: SO WHAT WAS THAT WITNESS'S NAME?

2 MR. SPRATLIN: CAROLINE BRUNSON.

3 THE COURT: ALL RIGHT. HAS THAT BEEN -- HAS THAT  
4 BEEN---

5 MR. SPRATLIN: CAROL BRUNSON. I'M SORRY.

6 THE COURT: HAS THAT BEEN PROVIDED TO THEM?

7 MR. SPRATLIN: YOUR HONOR, IT WAS PROVIDED IN THE  
8 VICTIM'S STATEMENT WHICH WAS PROVIDED AS RULE 5. I WENT  
9 AHEAD AND GAVE THE DEFENDANT THE VICTIM'S STATEMENT WHICH  
10 DOES MENTION THE NAME OF CAROL BRUNSON BEING IN THE STORE  
11 MOMENTS BEFORE THIS ARMED ROBBERY OCCUR.

12 THE COURT: ALL RIGHT. OKAY. ALL RIGHT. THAT ANSWERS  
13 THE QUESTION. ALL RIGHT. SO, MR. HASTIE, THE MOTION WAS  
14 ORIGINALLY MADE IN JUNE OF '07. OCTOBER OF '07 YOU RECEIVED  
15 THE INCIDENT REPORT AND HIS CRIMINAL RECORD.

16 MR. HASTIE: YES, SIR.

17 THE COURT: ALL RIGHT. AND THEN IN MAY OF '09 YOU  
18 RECEIVED THE INDICTMENT.

19 MR. HASTIE: YES, SIR.

20 THE COURT: AND THAT'S ALL YOU RECEIVED ON MAY THE 9TH;  
21 RIGHT?

22 MR. HASTIE: YES, SIR.

23 THE COURT: JUNE THE 30TH YOU RECEIVED PHOTOS OF THE  
24 INSIDE OF THE DEFENDANT'S HOME.

25 MR. HASTIE: YES, SIR.



1           **THE COURT:** ANY -- ANY REASON WHY IT TOOK THAT LONG TO  
2 GET THEM THE PHOTOS?

3           **MR. SPRATLIN:** YOUR HONOR, I DID NOT KNOW ABOUT THE  
4 PHOTOS.

5           **THE COURT:** WHERE DID THEY -- HOW DID YOU FIND OUT ABOUT  
6 THEM?

7           **MR. SPRATLIN:** FROM THE LAW ENFORCEMENT. I BEGAN  
8 TALKING TO LAW ENFORCEMENT ABOUT THIS CASE IN PREPARING THIS  
9 CASE FOR THIS TERM'S TRIAL. I WAS MADE AWARE THAT THERE WERE  
10 PHOTOGRAPHS AVAILABLE. I WAS ORIGINALLY GIVEN---

11           **THE COURT:** OKAY. THAT ANSWERS MY QUESTION; I JUST  
12 WANTED TO KNOW WHEN. INVESTIGATIVE REPORT: WHAT WAS THAT  
13 DATED? YOU'VE MENTIONED AN INCIDENT REPORT AND AN  
14 INVESTIGATIVE REPORT.

15           **MR. HASTIE:** RIGHT. THE INCIDENT REPORT IS...

16           **THE COURT:** IT SHOULD HAVE A DATE ON THE BOTTOM OF IT,  
17 SOMEWHERE. DO YOU KNOW, MR. SPRATLIN?

18           **MR. SPRATLIN:** YOUR HONOR, I DO KNOW WHEN THAT INCIDENT  
19 REPORT WAS CREATED -- I MEAN THE INVESTIGATIVE SUMMARY WAS  
20 CREATED. IT WAS CREATED ON---

21           **THE COURT:** AND AT SOME POINT, MR. SPRATLIN, ARE YOU  
22 GOING TO ARGUE THESE WEREN'T BRADY OR RULE 5 MATERIALS  
23 ANYWAY?

24           **MR. SPRATLIN:** YES, YOUR HONOR.

25           **THE COURT:** SO WHY DID YOU GIVE THEM TO HIM?

1       **MR. SPRATLIN:** I GAVE THEM TO HIM IN AN OVERABUNDANCE OF  
2 CAUTION.

3       **THE COURT:** OVERABUNDANCE OF CAUTION FOR WHAT?

4       **MR. SPRATLIN:** THE DEFENDANT BEING ABLE TO PREPARE FOR  
5 HIS TRIAL, YOUR HONOR.

6       **THE COURT:** WELL, I'M JUST ASKING. NO NEED TO -- NO  
7 NEED TO -- TO -- TO EXPRESS PUZZLEMENT AT MY QUESTION.

8       **MR. SPRATLIN:** NO, SIR.

9       **THE COURT:** I'M JUST ASKING -- ASKING: IF YOU DON'T  
10 HAVE TO GIVE THEM TO HIM, WHY GIVE THEM TO HIM?

11       **MR. SPRATLIN:** YOUR HONOR, I GAVE HIM THE REPORT BECAUSE  
12 THE DEFENDANT'S OWN -- HIS ATTORNEY HAD TALKED TO ME ABOUT  
13 THE CASE. I DIDN'T SEE ANY REASON NOT TO GIVE HIM THE  
14 REPORT.

15       **THE COURT:** OKAY.

16       **MR. SPRATLIN:** I UNDERSTAND RULE 5 HAS CERTAIN  
17 RESTRICTIONS ON WHAT WE DO AND DO NOT PROVIDE. HOWEVER,  
18 BRADY IS AN ENTIRE DIFFERENT BALL GAME. ANYTHING EXCULPATORY  
19 IN OUR HANDS HAS TO GO TO THE DEFENDANT.

20       **THE COURT:** RIGHT.

21       **MR. SPRATLIN:** IN AN OVERABUNDANCE OF CAUTION, I GAVE  
22 THE DEFENDANT THE INVESTIGATIVE SUMMARY. I REDACTED IT FOR  
23 CERTAIN INFORMATION.

24       **THE COURT:** AND YOU'RE PROBABLY RIGHT, BUT I GUESS WHAT  
25 I'M SAYING IS: IF IT'S AN OVERABUNDANCE OF CAUTION, WHY WAIT

1 ALMOST TWO YEARS 'TIL AFTER THE CHARGE WAS MADE?

2 MR. SPRATLIN: YOUR HONOR, I CANNOT ADDRESS WHY IT TOOK  
3 OVER TWO YEARS FOR MR. HASTIE TO GET DISCOVERY. I WOULD  
4 MENTION THAT THIS CASE WAS ONLY MR. HASTIE'S FOR THE LAST SIX  
5 MONTHS. BEFORE THAT, IT WAS MR. HOWLE'S. THIS CASE HAS ONLY  
6 BEEN MY CASE FOR ABOUT THE LAST SIX WEEKS.

7 THE COURT: OKAY. SO -- ALL RIGHT. YOU GOT THE  
8 VICTIM'S STATEMENT DATED JUNE 12TH OF '07. YOU GOT THAT ON  
9 JUNE THE 30TH OF '09. IS THAT RIGHT, MR. HASTIE?

10 MR. HASTIE: YES, SIR.

11 THE COURT: ALL RIGHT. WITNESS JERMAINE ROBINSON:  
12 JUNE 12, '07. YOU GOT THAT JUNE THE 30TH---

13 MR. HASTIE: YES, SIR.

14 THE COURT: ---OF '09. AND THEN INTERVIEW FORM AND THE  
15 DEFENDANT'S TWO STATEMENTS. IS THAT RIGHT?

16 MR. HASTIE: YES, SIR.

17 THE COURT: ALL RIGHT. ARE THOSE NOT SUBJECT TO RULE 5?

18 MR. SPRATLIN: THOSE ARE, YOUR HONOR, AND---

19 THE COURT: AND HE GOT THOSE IN JUNE OF THIS YEAR.

20 MR. SPRATLIN: HE DID. HE RECEIVED THEM WHEN I PREPARED  
21 THE RULE 5 WHEN I HAD THE FILE, YOUR HONOR.

22 THE COURT: WHY IS THAT? WHY DID IT TAKE THAT LONG?

23 MR. SPRATLIN: YOUR HONOR, I CANNOT SPEAK TO THAT. THIS  
24 FILE -- I HAVE ONLY BEEN ASSIGNED THIS FILE FOR THE LAST SIX  
25 WEEKS. I CAN---

1           **THE COURT:** ALL RIGHT. WELL -- AND I UNDERSTAND. I'M  
2 NOT FUSSING AT ANYBODY. I'M JUST MAKING SOME OBSERVATIONS.  
3 WHEN Y'ALL CAME BACK TO MY OFFICE THREE OR FOUR HOURS AGO AND  
4 MR. HASTIE WANTED A CONTINUANCE BECAUSE OF HIM BEING ON THE  
5 CASE FOR ONLY WHAT HE VIEWED AS A VERY SHORT TIME, YOU SAID  
6 THAT WAS NO EXCUSE IN ESSENCE, AND YOU DIDN'T PUT IT THAT  
7 WAY. AND ALL -- EVERYTHING WAS VERY CORDIAL. BUT NOW THAT  
8 YOU'VE ONLY HAD THE CASE FOR SIX WEEKS AND THAT'S WHY YOU  
9 DIDN'T GIVE IT TO HIM -- I UNDERSTAND THAT. WHY DIDN'T THE  
10 OTHER PROSECUTOR GIVE SOMETHING THAT IS -- FALLS SQUARELY  
11 UNDER RULE 5?

12           **MR. SPRATLIN:** YOUR HONOR, I CANNOT ANSWER THAT.

13           **THE COURT:** AND THE DEFENDANT'S POSITION IS, THROUGH MR.  
14 HASTIE: HE'S FACING MANDATORY LIFE IMPRISONMENT WITHOUT  
15 PAROLE. HE'S GOT A TWO-YEAR-OLD BRADY MOTION -- I MEAN, TWO-  
16 YEAR-OLD BRADY AND RULE 5 MOTION, AND HE GETS THIS STUFF A  
17 MONTH BEFORE THE TRIAL.

18           **MR. SPRATLIN:** I UNDERSTAND THAT, YOUR HONOR, AND ALL I  
19 CAN SAY IS I DID PROVIDE MR. HASTIE WITH THE RULE 5 DISCOVERY  
20 AS SOON AS I WAS ABLE TO PROVIDE IT TO HIM.

21           **THE COURT:** AND WHO HAD THE CASE BEFORE YOU?

22           **MR. SPRATLIN:** CATHERINE FANT, YOUR HONOR. AND, YOUR  
23 HONOR, INITIALLY WHEN I FIRST GOT THIS CASE I DID TRY TO  
24 SERVE RULE 5 ON MR. JACK HOWLE, THINKING THAT HE WAS STILL  
25 THE ATTORNEY. WHEN I CONTACTED THE PUBLIC DEFENDER'S OFFICE

1 AND ACTUALLY WENT DOWN THERE AND TRIED TO SERVE RULE 5, I WAS  
2 TOLD THAT IT HAD BEEN TRANSFERRED TO MR. HASTIE.

3 THE COURT: AND I KNOW FROM DEALING WITH YOU THAT YOU  
4 COVERED THESE BASES VERY THOROUGHLY, AND I'M NOT FINDING  
5 FAULT WITH ANYTHING YOU'VE DONE. WHAT I'M TRYING TO FIND IS  
6 SOME CONSISTENCY WHEN ONE SIDE IS WANTING SOME RELIEF AND THE  
7 OTHER SIDE IS SAYING, WELL, THAT DOESN'T -- THAT'S JUST NOT  
8 GOOD ENOUGH ABOUT WHY SO MUCH TIME HAS GONE BY AND SO FORTH.  
9 THE DEFENDANT'S STATEMENT WAS TWO YEARS OLD EXACTLY---

10 MR. SPRATLIN: YES, YOUR HONOR.

11 THE COURT: ---WHEN IT WAS TURNED OVER. OKAY. AND WHAT  
12 ELSE DID YOU GET ON JUNE THE 30TH, MR. HASTIE, OTHER THAN THE  
13 VICTIM'S STATEMENT OF JUNE OF '07, WITNESS JERMAINE  
14 ROBINSON'S STATEMENT OF JUNE 12, '07, THE INTERVIEW FORM, AND  
15 THE DEFENDANT'S STATEMENT FROM JUNE 30, '07? WHAT ELSE DID  
16 YOU GET?

17 MR. HASTIE: I GOT THE NOTICE OF INTENTION TO SEEK LIFE  
18 IMPRISONMENT.

19 THE COURT: IS THERE -- ALL RIGHT. THAT'S -- SO YOU DID  
20 GET THAT NOTICE. ALL RIGHT. WHAT ELSE DID YOU GET JUNE THE  
21 30TH?

22 MR. HASTIE: I GOT MORE INFORMATION ABOUT THE INDICTMENT  
23 AND DIFFERENT CHARGES.

24 THE COURT: SO THE SECOND CHARGE FOR THE...

25 MR. HASTIE: THE BURGLARY.

1 THE COURT: WAS IT BURGLARY? IN THIS CASE?

2 MR. SPRATLIN: NO, YOUR HONOR.

3 MR. HASTIE: THIS IS---

4 MR. SPRATLIN: I BELIEVE MR. HASTIE IS REFERRING TO WHEN  
5 I -- WHEN I SERVED HIM WITH THE NOTICE OF INTENTION TO SEEK  
6 LIFE, I INCLUDED, ATTACHED TO THAT NOTICE, THE CERTIFIED  
7 COPIES OF ALL OF THE DEFENDANT'S PRIOR MOST SERIOUS OFFENSES  
8 THAT---

9 THE COURT: OKAY. THAT'S PART OF THE NOTICE.

10 MR. SPRATLIN: YES, SIR.

11 MR. HASTIE: YES, SIR.

12 THE COURT: ALL RIGHT. OKAY. AND WHAT ELSE DID YOU GET  
13 JUNE THE 30TH? MR. SPRATLIN, IF YOU HAVE ANYTHING ELSE --  
14 ANY OTHER INFORMATION---

15 MR. SPRATLIN: YOUR HONOR, THE DEFENSE SHOULD HAVE  
16 RECEIVED A WITNESS STATEMENT FROM MS. LATRELL BILLIE. THEY  
17 SHOULD HAVE RECEIVED THAT ALONG WITH ALL THE OTHER  
18 INFORMATION THAT WAS---

19 THE COURT: ON THAT DATE?

20 MR. SPRATLIN: ON THAT DATE AS WELL.

21 THE COURT: OKAY. ANYTHING ELSE THAT HE MAY HAVE GOTTEN  
22 ON THAT DATE?

23 MR. SPRATLIN: YOUR HONOR, I BELIEVE HE DID RECEIVE A  
24 COPY OF THE SEARCH WARRANT THAT WAS EXECUTED IN THIS CASE ON  
25 THAT DATE. HE WOULD HAVE RECEIVED A COPY OF THE

1 INVESTIGATIVE SUMMARY. AGAIN, IT WAS REDACTED TO EXCLUDE  
2 CERTAIN WITNESS INFORMATION.

3 THE COURT: REDACTED TO EXCLUDE WHAT?

4 MR. SPRATLIN: WITNESS INFORMATION: BASICALLY THE NAME  
5 -- I MEAN, THE PHONE NUMBER AND THE ADDRESS OF THE VICTIM IN  
6 THIS CASE.

7 THE COURT: REDACTED TO REDACT THE VICTIM'S NAME?

8 MR. SPRATLIN: YES, YOUR HONOR, AND CONTACT NUMBERS,  
9 CELL PHONE AND WORK PHONE NUMBERS. HE WOULD HAVE RECEIVED A  
10 COPY OF THE INCIDENT REPORT PREPARED BY CHEVIS RIDGEWAY. HE  
11 WOULD HAVE RECEIVED A COPY OF THE INVESTIGATIVE REPORT AGAIN  
12 IN THE OVERABUNDANCE OF CAUTION UNDER BRADY---

13 THE COURT: OKAY.

14 MR. SPRATLIN: ---PREPARED BY DETECTIVE IRENE CULICK.  
15 HE WOULD HAVE RECEIVED THE VICTIM'S STATEMENT PREPARED BY MR.  
16 HERBERT HUFF. HE WOULD HAVE RECEIVED THE WITNESS STATEMENT  
17 PREPARED BY MS. LATRELL BILLIE. HE WOULD HAVE RECEIVED A  
18 COPY OF THE SEARCH WARRANT. HE WOULD HAVE RECEIVED A COPY OF  
19 THE DEFENDANT'S CRIMINAL HISTORY, AND, YOUR HONOR, HE WOULD  
20 HAVE RECEIVED A COPY OF THE AFFIDAVIT THAT WENT ALONG WITH  
21 THE SEARCH WARRANT AS WELL AS THE RETURN.

22 THE COURT: ALL RIGHT. WAS THE SEARCH WARRANT AND THE  
23 RETURN PROVIDED BEFORE JUNE OF '09?

24 MR. SPRATLIN: YOUR HONOR, I DO NOT SEE IN MY FILE WHERE  
25 IT WAS, HENCE, WHY I, WHEN I RECEIVED THE FILE, WENT AHEAD

1 AND REDID IT. I KNOW THAT---

2 THE COURT: IF YOU WERE DEFENDING THE CASE, WOULD YOU  
3 THINK THAT BEFORE JUNE 30, '09, THERE WAS A SHORTCOMING IN  
4 THE BRADY AND RULE 5 RESPONSE?

5 MR. SPRATLIN: YES, YOUR HONOR, I WOULD HAVE.

6 THE COURT: OKAY. ALL RIGHT. CAN WE MOVE FORWARD TO  
7 JULY 8TH OR WAS THERE MORE THAT WAS GIVEN ON JUNE THE 30TH?

8 MR. SPRATLIN: YOUR HONOR, I BELIEVE THAT IS THE BASIS  
9 OF WHAT I PROVIDED THE DEFENSE ON JULY 8TH.

10 THE COURT: I THOUGHT---

11 MR. SPRATLIN: I MEAN JUNE 30TH.

12 THE COURT: OKAY.

13 MR. SPRATLIN: I'M SORRY. I'M SORRY, YOUR HONOR.

14 THE COURT: WHAT WAS TURNED OVER ON JULY THE 8?

15 MR. SPRATLIN: ON JULY 8TH, YOUR HONOR, AFTER TALKING  
16 WITH LAW ENFORCEMENT, I CAME INTO POSSESSION OF SEVERAL  
17 PHOTOGRAPHS THAT WERE TAKEN DURING THE EXECUTION OF A SEARCH  
18 WARRANT, AND THEY WERE ALSO TAKEN AT THE SCENE WHERE THE  
19 CRIME OCCURRED. I DID MAKE COPIES FOR MR. HASTIE. I HAD  
20 DIGITAL COPIES MADE FOR MR. HASTIE AND PROVIDED HIM---

21 THE COURT: TALK A LITTLE SLOWER. PHOTOS TAKEN DURING  
22 THE EXECUTION OF THE WARRANT AND OF THE SITE OF THE CRIME?

23 MR. SPRATLIN: YES, YOUR HONOR, AND THOSE WERE TURNED  
24 OVER TO MR. HASTIE. I ACTUALLY MADE HIM COPIES ON COMPACT  
25 DISKS, DIGITAL COPIES.



1           **THE COURT:** OKAY. ARE THOSE -- ARE THOSE -- IS THAT  
2 RULE 5 MATERIAL?

3           **MR. SPRATLIN:** I BELIEVE IT IS, YOUR HONOR.

4           **THE COURT:** AND WHERE HAVE THOSE BEEN FOR THE  
5 PRECEDING---

6           **MR. SPRATLIN:** THEY WERE IN EVIDENCE, YOUR HONOR. AND  
7 IN MY INITIAL RULE 5 TO MR. HASTIE I DID MAKE REFERENCE TO  
8 PHOTOGRAPHS AND OTHER TANGIBLE OBJECTS BEING AVAILABLE FOR  
9 HIS INSPECTION UPON APPOINTMENT.

10          **THE COURT:** INSPECTION AT THE LAW ENFORCEMENT CENTER?

11          **MR. SPRATLIN:** YES, YOUR HONOR.

12          **THE COURT:** OKAY. WHAT ELSE WAS GIVEN ON JULY THE 8TH?

13          **MR. SPRATLIN:** YOUR HONOR, I BELIEVE I ALSO GAVE THE  
14 DEFENDANT COPIES OF THE PRINTED PHOTOGRAPHS AT ISSUE. I'M  
15 NOT CERTAIN ABOUT THAT, BUT I NORMALLY MAKE CRUDE BUT COPIES.  
16 THEY'RE BLACK-AND-WHITE COPIES OF COLOR PHOTOGRAPHS.

17          **THE COURT:** ALL RIGHT. ANYTHING ELSE ON THAT DATE?

18          **MR. SPRATLIN:** I DON'T BELIEVE SO, YOUR HONOR. OH,  
19 THERE WERE PHOTOGRAPHS OF THE DEFENDANT TAKEN BY IRENE CULICK  
20 GIVEN TO THE DEFENDANT THAT DAY AS WELL.

21          **THE COURT:** AND WHERE WERE THOSE TAKEN?

22          **MR. SPRATLIN:** THOSE WERE TAKEN WHEN HE WAS TAKEN INTO  
23 CUSTODY.

24          **THE COURT:** THOSE ARE MUG SHOTS OR ARE THOSE JUST...

25          **MR. SPRATLIN:** THEY WERE NOT MUG SHOTS, YOUR HONOR.

1 THEY WERE PHOTOGRAPHS TAKEN FOCUSING ON THE TATTOO THAT THE  
2 DEFENDANT HAD ON HIS ARM, FOCUSING ON THE EARRINGS THE  
3 DEFENDANT HAD AND THE CLOTHING THAT HE WAS WEARING.

4 THE COURT: OKAY.

5 MR. SPRATLIN: AGAIN, THAT WOULD HAVE BEEN ON THOSE  
6 COMPACT DISKS, I BELIEVE. IF NOT, YOUR HONOR, I ACTUALLY  
7 RECEIVED A SECOND COMPACT DISK FROM MR. JIM ALSBROOK, THE  
8 EVIDENCE CUSTODIAN, LATER ON WHICH DID INCLUDE THOSE, AND I  
9 MADE MR. HASTIE A COPY OF THAT ONE AS WELL, BUT THAT WAS, I  
10 BELIEVE, A WEEK AFTER JUNE 8. SO IT WOULD HAVE BEEN JUNE  
11 15TH -- JULY 15TH, I BELIEVE.

12 THE COURT: ALL RIGHT. MR. HASTIE, HAS HE COVERED  
13 EVERYTHING YOU RECEIVED ON THOSE DATES?

14 MR. HASTIE: I RECEIVED SOME MORE DISCOVERY FROM HIM ON  
15 JULY THE 24TH. THAT MAY BE A COPY OF THE PICTURES THAT HE'S  
16 TALKED ABOUT ALREADY.

17 MR. SPRATLIN: I BELIEVE THAT IS, YOUR HONOR.

18 MR. HASTIE: HE GAVE THEM TO ME ON A DISK ON JULY THE  
19 24TH WHICH WAS LAST WEEK.

20 MR. SPRATLIN: I PROVIDED HIM MULTIPLE COPIES OF THE  
21 DISKS, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 MR. SPRATLIN: BASICALLY MAKING SURE THAT I'VE GIVEN HIM  
24 EVERYTHING THAT I HAVE.

25 THE COURT: JULY 8 AND JULY 24. ALL RIGHT. SO AS FAR

1 AS A RENEWAL OF THE BRADY AND THE RULE 5, IS THAT EVERYTHING?

2 MR. SPRATLIN: THAT'S EVERYTHING I HAVE, YOUR HONOR.

3 LET ME CONFER WITH... YOUR HONOR, THAT IS ALL THE STATE HAS  
4 IN THEIR POSSESSION.

5 THE COURT: ANY VERBAL STATEMENTS GIVEN BY THE DEFENDANT  
6 TO ANYBODY?

7 MR. SPRATLIN: NO, YOUR HONOR.

8 THE COURT: SO IF THEY WERE TO TESTIFY DURING A HEARING  
9 OR TRIAL THAT I SPOKE TO THE DEFENDANT AND HE TOLD ME---

10 MR. SPRATLIN: YOUR HONOR, THERE WAS---

11 THE COURT: THAT WOULD NOT OCCUR.

12 MR. SPRATLIN: THERE WAS A VERBAL STATEMENT WHICH WAS  
13 SERVED UPON THE DEFENDANT AND MS. LATRELL BILLIE'S STATEMENT  
14 WHERE HE SAID SOMETHING TO HER TO THE EFFECT OF: IT WOULD BE  
15 EASY TO ROB THAT GUY, TALKING WITH THE DEFENDANT -- I MEAN,  
16 TALKING ABOUT THE VICTIM IN THIS CASE, MR. HERBERT HUFF.  
17 HONESTLY, THE STATE WAS TORN ON WHETHER OR NOT WE WERE GOING  
18 TO INTRODUCE THAT, AND MS. BILLIE IS NOT A LAW ENFORCEMENT  
19 AGENT. THIS WAS IN NO WAY A CUSTODIAL STATEMENT, BUT IT WAS  
20 PROVIDED AND SERVED ON THE DEFENDANT IN ACCORDANCE WITH ALL  
21 THE OTHER RULE 5 MATERIAL.

22 THE COURT: OKAY.

23 MR. SPRATLIN: YOUR HONOR, OBVIOUSLY THE WAIVER OF  
24 RIGHTS FORM WOULD IN AND OF ITSELF---

25 THE COURT: I MEAN, LATRELL BILLIE WASN'T A PROSECUTION

1 AGENT AT THAT TIME.

2 MR. SPRATLIN: NO, YOUR HONOR.

3 THE COURT: ALL RIGHT. ANYTHING ELSE? ANY STATEMENTS  
4 MADE TO ANY PROSECUTING AGENT?

5 MR. SPRATLIN: YOUR HONOR, IN ADDITION TO THE TWO  
6 STATEMENTS, HE DID SIGN A WAIVER OF RIGHTS FORM. THAT COULD  
7 BE CONSTRUED AS A STATEMENT.

8 THE COURT: BUT THEY GOT THAT.

9 MR. SPRATLIN: I HAVE GIVEN THAT OVER TO THE DEFENSE IN  
10 THIS CASE.

11 THE COURT: ALL RIGHT.

12 MR. HASTIE: YOUR HONOR, MAY I?

13 THE COURT: I'M JUST WANTING TO MAKE SURE HE'S -- YOUR  
14 RENEWAL OF YOUR BRADY AND RULE 5 IS TO GET EVERYTHING, NOT TO  
15 ARGUE ABOUT---

16 MR. HASTIE: YES, SIR.

17 THE COURT: ---WHAT WAS GIVEN AND WHEN IT WAS GIVEN. WE  
18 HAVEN'T GOTTEN THERE YET.

19 MR. HASTIE: I DON'T WANT TO ARGUE BUT -- WERE THERE ANY  
20 DRUGS FOUND AT HIS LOCATION?

21 MR. SPRATLIN: YOUR HONOR, AND THERE WAS ONE ADDITIONAL  
22 STATEMENT WHICH THE STATE HAS NO INTENTION OF INTRODUCING.  
23 IT WAS GIVEN TO AGENT SUMTER OF THE PARDON AND PAROLE BEFORE  
24 THE DEFENDANT'S PAROLE HEARING. THE DEFENDANT DID MAKE A  
25 STATEMENT SAYING THAT HE DID IT TO AGENT SUMTER. HOWEVER, WE

1 FEEL THAT WE WOULD NOT BE ABLE TO ESTABLISH THAT THE  
2 DEFENDANT DID THAT STATEMENT FULLY KNOWINGLY AND VOLUNTARILY  
3 AT THAT TIME, SO---

4 THE COURT: YOU DON'T INTEND TO INTRODUCE THAT.

5 MR. SPRATLIN: WE DO NOT INTEND ON INTRODUCING THAT OR  
6 MENTIONING ANYTHING ABOUT THAT STATEMENT.

7 THE COURT: ALL RIGHT. OKAY.

8 MR. HASTIE: YES, YOUR HONOR. WERE THERE ANY CASH  
9 REGISTER RECEIPTS FILED OR REQUESTED?

10 MR. SPRATLIN: THERE WERE NO CASH REGISTER RECEIPTS OR  
11 ANYTHING LIKE THAT TAKEN INTO EVIDENCE OR USED.

12 THE COURT: HOW ABOUT THE CASH THAT WAS SEIZED WHEN HE  
13 WAS ARRESTED?

14 MR. SPRATLIN: YOUR HONOR---

15 THE COURT: EXCUSE ME. CASH THAT WAS FOUND WHEN HE WAS  
16 ARRESTED. I DON'T KNOW IF IT WAS SEIZED OR NOT.

17 MR. SPRATLIN: YOUR HONOR, IN THE DEFENDANT'S STATEMENT  
18 HE DID MAKE MENTION OF THAT CASH. IN HIS FIRST STATEMENT HE  
19 MADE A STATEMENT SAYING THAT HE'D GOTTEN IT FROM HIS JOB, AT  
20 HIS GIRLFRIEND'S JOB, BY WAY OF CASHING BOTH OF THEIR  
21 PAYCHECKS. IN HIS SECOND STATEMENT HE ADMITTED THAT HE HAD,  
22 IN FACT -- THERE WAS, IN FACT, THE MONEY TAKEN FROM THE STORE  
23 AND MR. HUFF IN THAT -- THAT WAS ALL OF IT MINUS ABOUT EIGHT  
24 DOLLARS, BUT AGAIN THAT WAS PROVIDED IN THE DEFENDANT'S  
25 STATEMENT.

1       **THE COURT:** OKAY. ALL RIGHT. SO AS FAR AS YOU REMAKING  
2 THESE MOTIONS, IS THERE ANYTHING ELSE THAT YOU THINK THAT  
3 THEY HAVE THAT YOU DON'T HAVE? THAT'S DIFFICULT FOR YOU TO  
4 ADDRESS.

5       **MR. HASTIE:** A MOMENT.

6       **THE COURT:** I GUESS ANOTHER QUESTION: MR. SPRATLIN, AS  
7 AN OFFICER OF THE COURT, OF COURSE, KEEPING IN MIND THAT LAW  
8 ENFORCEMENT IS ON THE SAME STRING YOU ARE WITH BRADY AND RULE  
9 5, YOU GOT EVERYTHING TO HIM?

10       **MR. SPRATLIN:** YOUR HONOR, I'VE GIVEN MR. HASTIE  
11 EVERYTHING I HAD AND THEN SOME.

12       **THE COURT:** ALL RIGHT. OKAY. WHAT'S YOUR NEXT MOTION,  
13 MR. HASTIE?

14       **MR. HASTIE:** YOUR HONOR -- EXCUSE ME, YOUR HONOR. MY  
15 NEXT MOTION IS MY CONTINUANCE MOTION.

16       **THE COURT:** ALL RIGHT. AND THAT'S BASED ON WHAT?

17       **MR. HASTIE:** BASED ON WHAT WE'VE JUST HEARD, YOUR HONOR,  
18 JUST RECEIVING THIS EVIDENCE. THEY'VE HAD OVER A YEAR AND A  
19 HALF AT LEAST. JUST RECEIVING THIS EVIDENCE WITHIN THE LAST  
20 MONTH OR SO... THERE'S CERTAINLY THE MAIN EVIDENCE. YOUR  
21 HONOR, I JUST DON'T THINK IN FAIRNESS TO MY CLIENT -- HE WAS  
22 IN S.C.D.C. WE FINALLY BROUGHT HIM OVER HERE A WEEK AGO, MY  
23 FIRST TIME MEETING MY CLIENT, AND I'VE ONLY MET WITH HIM  
24 TWICE AND PRESENTED HIM SOME OF THE EVIDENCE. HE SHARED WITH  
25 ME SOME THINGS THAT I WOULD LIKE TO HAVE TIME TO INVESTIGATE.

1 I HIRED AN INVESTIGATOR, BUT I HAVE NOT HAD TIME TO JUST TALK  
2 TO ALL THE ISSUES THAT WERE BROUGHT UP AND I REALLY JUST  
3 THINK THIS IS A FAIRNESS ISSUE ON HIS PART TO TRY TO  
4 REPRESENT -- THIS IS LIFE WITHOUT PAROLE, AS WE ALL KNOW --  
5 TO TRY TO BRING HIM INTO COURT TOMORROW WHEN THERE'S SO MANY  
6 ISSUES IN THIS -- IN THIS EVIDENCE THAT WERE JUST GIVEN TO  
7 ME.

8 SOME OF THESE PICTURES, YOUR HONOR, I HAVE NOT SHOWN  
9 HIM. THE ONES THAT I JUST GOT ON THE 24TH I HAVE NOT SHOWN  
10 -- HAVE NOT HAD A CHANCE TO GO OVER THE PICTURES WITH MY  
11 CLIENT. I JUST THINK THAT IN AN ABUNDANCE OF FAIRNESS, YOUR  
12 HONOR, THAT I SHOULD BE GRANTED A CONTINUANCE IN THIS MATTER.

13 THE COURT: DO YOU INTEND TO USE THE STATEMENT OF THE  
14 DEFENDANT?

15 MR. SPRATLIN: YES, YOUR HONOR, WE DO.

16 THE COURT: DO YOU HAVE ANY IDEA WHY THAT STATEMENT --  
17 YOU SAID THERE ARE TWO. IS THAT RIGHT?

18 MR. SPRATLIN: THERE ARE TWO STATEMENTS, YOUR HONOR.

19 THE COURT: ANY IDEA WHY THOSE WEREN'T DELIVERED TO THE  
20 DEFENDANT'S ATTORNEY BEFORE JUNE 30TH OF THIS YEAR? AND I  
21 UNDERSTAND YOU'VE ONLY BEEN INVOLVED IN THIS CASE FOR SIX  
22 WEEKS, BUT DO YOU HAVE ANY IDEA WHAT HAPPENED DURING THE  
23 PRECEDING TWO YEARS?

24 MR. SPRATLIN: NO, YOUR HONOR, I DO NOT. THE ONLY THING  
25 I WOULD MENTION IS THAT MY OFFICE -- WE WERE STILL ACTING

1 UNDER THE ASSUMPTION THAT MR. HOWLE WAS REPRESENTING THE  
2 DEFENDANT IN THIS CASE.

3 THE COURT: WELL, BUT YOU WOULD HAVE GIVEN THEM TO MR.  
4 HOWLE.

5 MR. SPRATLIN: I DON'T BELIEVE THEY WERE EVER GIVEN TO  
6 MR. HOWLE, YOUR HONOR. I DO NOT HAVE ANY EXPLANATION OR  
7 WOULD OFFER ANY REASON FOR WHY THEY WERE NOT.

8 THE COURT: OKAY. AND, FOR THE RECORD, THAT'S JACK  
9 HOWLE. HE'S THE CHIEF DEFENDER FOR THE THIRD CIRCUIT.

10 MR. SPRATLIN: YES, YOUR HONOR.

11 THE COURT: AND HE'S STILL THE CHIEF DEFENDER. HE JUST  
12 DOESN'T HAVE AS HEAVY A CASELOAD ANYMORE.

13 MR. HASTIE: THAT'S CORRECT, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 MR. SPRATLIN: YOUR HONOR, IF I MAY?

16 THE COURT: UH-HUH.

17 MR. SPRATLIN: DETECTIVE CULICK JUST INFORMED ME THAT  
18 ACTUALLY SOME OF THE STUFF, WHILE NOT FORMALLY SERVED UPON  
19 MR. HOWLE UNDER RULE 5, WAS PROVIDED TO HIM AT THE  
20 PRELIMINARY HEARING IN THIS CASE.

21 THE COURT: SUCH AS?

22 MR. SPRATLIN: SUCH AS THE STATEMENT OF THE TWO  
23 DEFENDANTS -- THE DEFENDANT'S TWO STATEMENTS TO LAW  
24 ENFORCEMENT.

25 THE COURT: SO YOU GAVE HIM COPIES OF THOSE.



1       **MR. SPRATLIN:** AND THE STATEMENT OF LATRELL BILLIE. I'M  
2 NOT CERTAIN IF HE WAS GIVEN COPIES, YOUR HONOR. IF I COULD  
3 CONFER WITH DETECTIVE CULICK FOR ONE SECOND.

4       **MR. HASTIE:** YOUR HONOR, AS YOU KNOW---

5       **THE COURT:** WAIT JUST A SECOND. AND, MR. WILDER, IT  
6 SUITS ME FINE IF YOU TALK, TOO. IT DOESN'T HURT MY FEELINGS.

7       **MR. WILDER:** YOUR HONOR, I'VE BEEN TO A LOT OF  
8 PRELIMINARY HEARINGS. THEY USUALLY DON'T GIVE US COPIES OF  
9 ANYTHING, AND I DOUBT SERIOUSLY THEY READ IT VERBATIM. EVERY  
10 NOW AND THEN YOU CAN GET THEM TO READ VERBATIM SOMETHING, BUT  
11 I'VE JUST NEVER SEEN THEM GIVE US COPIES OF ANYTHING AT A  
12 PRELIMINARY HEARING.

13       **THE COURT:** WERE COPIES OF THE STATEMENTS GIVEN?  
14 PHOTOCOPIES?

15       **MR. SPRATLIN:** YOUR HONOR, I DON'T BELIEVE COPIES WERE  
16 GIVEN TO MR. HOWLE. HE WAS MADE AWARE THAT THE STATEMENT  
17 EXISTED AND THE SUBSTANCES OF THE STATEMENT.

18       **THE COURT:** WELL, THEN, WHAT ELSE COULD HE DO OTHER THAN  
19 ASK FOR IT IN A RULE 5 MOTION?

20       **MR. SPRATLIN:** I UNDERSTAND THAT, YOUR HONOR, AND I  
21 AGAIN OFFER NO EXCUSES OR APOLOGIES.

22       **THE COURT:** SO I GUESS IF YOU -- AND I DON'T KNOW  
23 ANYTHING ABOUT THE CASE OTHER THAN WHAT Y'ALL HAVE BRIEFLY  
24 TOLD ME. IF WE GO FORWARD, YOU RUN THE RISK OF NOT BEING  
25 ABLE TO USE THE STATEMENT BECAUSE IT WASN'T TURNED OVER

1 TIMELY.

2 MR. SPRATLIN: YOUR HONOR, I BELIEVE THAT---

3 THE COURT: AND YOU RUN THAT RISK. HOW LONG DOES RULE 5  
4 GIVE YOU TO RESPOND?

5 MR. SPRATLIN: YOUR HONOR, I DON'T BELIEVE THERE IS A  
6 TIME LIMIT ON IT.

7 THE COURT: IT JUST SAYS THERE'S A CONTINUING DUTY TO  
8 DISCLOSE.

9 MR. SPRATLIN: YES, YOUR HONOR, AND I DO -- I DO BELIEVE  
10 THERE IS SOME RULE REGARDING AT LEAST TEN DAYS OUT AT TRIAL  
11 THAT THE STATEMENTS AND EVERYTHING HAVE TO BE -- THAT THE  
12 STATEMENTS AT LEAST HAVE TO BE TURNED OVER. IF I COULD LOOK  
13 AT THE RULE 5, THE LANGUAGE OF IT, IN THE RULE BOOK. RULE  
14 5...

15 THE COURT: THAT'S ALIBI. LOOK AT RULE 5(A)(3), AND THE  
16 30-DAY TIME REQUIREMENT IN MOST INSTANCES IS NOT REASONABLE  
17 TO EXPECT FULL COMPLIANCE BECAUSE THE INVESTIGATION MAY NOT  
18 BE OVER OR LAW ENFORCEMENT IS STILL WORKING ON IT OR WHATEVER  
19 BUT... OKAY. SO ANYTHING ELSE ON YOUR CONTINUANCE MOTION?

20 MR. HASTIE: COURT'S INDULGENCE.

21 THE COURT: MR. SPRATLIN, WHAT'S HE IN S.C.D.C. FOR NOW?

22 MR. SPRATLIN: YOUR HONOR, HIS PAROLE WAS REVOKED BASED  
23 ON THIS CHARGE. HE RECEIVED, I BELIEVE, A REVOCATION OF 14  
24 YEARS.

25 THE COURT: OKAY.

1       **MR. HASTIE:** YOUR HONOR, EVEN THOUGH THE RULE TALKS  
2 ABOUT 30 DAYS, I THINK A YEAR AND A HALF OR ALMOST TWO YEARS  
3 IS JUST INEXCUSABLE AS FAR AS THIS SITUATION IS CONCERNED.  
4 ALSO, I WOULD LIKE TO ENTER MY BRADY -- JACK HOWLE'S BRADY  
5 MOTION AS PART OF THE COURT'S RECORD.

6       **THE COURT:** OKAY. YOU CAN HAND THAT TO THE COURT  
7 REPORTER. THAT WOULD BE COURT'S EXHIBIT NUMBER 1.

8       **MR. HASTIE:** I'M CONCERNED ABOUT FAIRNESS TO MY CLIENT,  
9 AND I MENTIONED THAT EARLIER.

10       **THE COURT:** ALL RIGHT. YOU WERE APPOINTED SIX MONTHS  
11 AGO. JACK HOWLE WAS APPOINTED?

12       **MR. HASTIE:** IN '07.

13       **THE COURT:** WHEN? AND I KNOW THE COURT REPORTER DOESN'T  
14 COME TO SUMTER MUCH. HIS NAME IS H-O-W-L-E.

15       **COURT REPORTER:** YES, SIR.

16       (COURT'S EXHIBIT 1 WAS MARKED FOR IDENTIFICATION ONLY.)

17       **MR. HASTIE:** I DON'T HAVE THE APPLICATION, YOUR HONOR.

18       **THE COURT:** HAVE YOU GOT ANY IDEA, MR. SPRATLIN?

19       **MR. SPRATLIN:** I'M SORRY, YOUR HONOR. WHAT WAS...

20       **THE COURT:** DO YOU HAVE ANY IDEA WHEN MR. HOWLE WAS  
21 APPOINTED?

22       **MR. SPRATLIN:** YOUR HONOR---

23       **THE COURT:** LET'S JUST ASSUME IT WAS AT OR ON THE SAME  
24 -- ON OR ABOUT THE SAME DAY AS THE RULE 5 AND BRADY MOTION  
25 BEING MADE.

1           MR. SPRATLIN: THAT SEEMS LIKE A FAIR ASSUMPTION.

2           THE COURT: ALL RIGHT. SO YOU ALSO WANT A CONTINUANCE  
3 TO TALK TO WITNESSES. IS THAT WHAT YOU SAID?

4           MR. HASTIE: YES, SIR.

5           THE COURT: BUT THAT DOESN'T HAVE ANYTHING TO DO WITH  
6 ANY SHORTCOMING IN RESPONSE TO BRADY.

7           MR. HASTIE: WELL---

8           THE COURT: OR RULE 5.

9           MR. HASTIE: NOT REALLY. BUT THERE ARE WITNESS  
10 STATEMENTS -- I'VE JUST GOT THOSE WITNESS STATEMENTS AND...

11          THE COURT: SO YOU NEED TIME JUST TO TALK TO THOSE  
12 WITNESSES.

13          MR. HASTIE: YES, SIR. THERE'S ONE WITNESS I HAVE NOT  
14 BEEN ABLE TO CONTACT AT ALL.

15          THE COURT: WELL, HOW ABOUT -- THE SHOE IS ON THE OTHER  
16 FOOT. HOW ABOUT THE LAST TWO YEARS?

17          MR. HASTIE: WHAT ABOUT THE LAST TWO YEARS?

18          THE COURT: TRYING TO FIND THAT WITNESS SINCE MR. HOWLE  
19 CAME ON BOARD. WELL, OCTOBER OF '07 WHEN HIS MOTION WAS  
20 MADE...

21          MR. HASTIE: EXCUSE ME. YOUR HONOR, IT'S JUST WHEN I  
22 GOT THE INFORMATION FROM THE STATE AND I SAW SOME OF THE  
23 STATEMENTS BY SOME OF THE WITNESSES THAT HE PRESENTED, I JUST  
24 DID NOT HAVE TIME BECAUSE OF THE CASELOAD THAT I MENTIONED TO  
25 YOU EARLIER. WHEN I CAME ON BOARD, I WAS GIVEN 160 CASES AND

1 THEN 50 ADDITIONAL JUVENILE CASES AND HAD NO NOTICE THAT THIS  
2 WAS GOING TO BE A LIFE WITHOUT PAROLE. THIS WAS NOT PUT ON  
3 THE TRIAL LIST UNTIL THIS TERM.

4 THE COURT: BUT ARMED ROBBERY CARRIES A PRETTY HEFTY  
5 SENTENCE OTHERWISE, TOO. RIGHT?

6 MR. HASTIE: YES, SIR.

7 THE COURT: OKAY. ANYTHING ELSE ON THE CONTINUANCE  
8 MOTION?

9 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD JUST MENTION  
10 -- I BELIEVE MR. HASTIE MENTIONED SOMETHING ABOUT THE WITNESS  
11 STATEMENTS THAT THE STATE PROVIDED AS BEING THE IMPETUS FOR  
12 PART OF ITS CONTINUANCE MOTION. RULE 5 DOES NOT ACTUALLY  
13 REQUIRE THE DISCLOSURE OF THE WITNESS STATEMENTS---

14 THE COURT: YOU'RE RIGHT ABOUT THAT.

15 MR. SPRATLIN: ---UNTIL THE WITNESS TESTIFIES. I DID  
16 PROVIDE THE DEFENSE WITH THOSE WITNESS STATEMENTS EARLY, NOT  
17 BECAUSE THE LAW MAKES ME BUT KIND OF OUT OF A COURTESY, BUT I  
18 DON'T BELIEVE THAT THAT SHOULD GIVE A BASIS, SOMETHING THAT  
19 THEY'RE NOT EVEN ENTITLED TO, SHOULD GIVE THE BASIS FOR A  
20 CONTINUANCE MOTION.

21 THE COURT: ALL RIGHT. ANYTHING ELSE ON THE  
22 CONTINUANCE?

23 MR. HASTIE: NOTHING MORE THAN JUST THE FAIRNESS THAT I  
24 MENTIONED EARLIER TO MY CLIENT, YOUR HONOR. JUST -- I THINK  
25 WE NEED MORE TIME BECAUSE OF THE SERIOUSNESS OF THIS

1 PARTICULAR CHARGE. THEN I CAN TALK WITH MY CLIENT. WE CAN  
2 REVIEW THE EVIDENCE AND PREPARE A BETTER DEFENSE FOR HIM.  
3 THANK YOU.

4 THE COURT: OKAY. ALL RIGHT. THE NEXT MOTION WOULD BE  
5 A MOTION -- THESE AREN'T IN ANY PARTICULAR ORDER, JUST THE  
6 ONES THAT YOU MENTIONED: A MOTION TO QUASH THE LIFE-WITHOUT-  
7 PAROLE NOTICE. WE HAVE THE IN-COURT IDENTIFICATION. JACKSON  
8 VERSUS DENNO, MOTION TO SUPPRESS THE SEARCH WARRANT. WHICH  
9 ONE DO Y'ALL WANT TO DO NEXT? QUASH THE L-WOP NOTICE?

10 MR. SPRATLIN: I BELIEVE THAT PROBABLY WOULD BE BEST,  
11 YOUR HONOR.

12 MR. HASTIE: YES.

13 THE COURT: OKAY. MR. HASTIE, HOW ABOUT THE LIFE-  
14 WITHOUT-PAROLE NOTICE?

15 MR. HASTIE: YOUR HONOR, I WOULD LIKE TO CALL A WITNESS  
16 IF I COULD AT THIS TIME.

17 THE COURT: ALL RIGHT.

18 MR. HASTIE: OFFICER CULICK.

19 IRENE CULICK, AFTER BEING DULY SWORN, TESTIFIED AS  
20 FOLLOWS IN CAMERA:

21 THE CLERK: HAVE A SEAT UP HERE, PLEASE. STATE YOUR  
22 FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

23 THE WITNESS: IT'S IRENE CULICK. C-U-L-I-C-K.  
24  
25

DIRECT EXAMINATION

1  
2 BY MR. HASTIE:

3 Q. GOOD AFTERNOON.

4 A. GOOD AFTERNOON.

5 Q. WHAT WAS YOUR ROLE IN THE APPREHENSION OF THE DEFENDANT  
6 HERE IN THIS PARTICULAR CASE?

7 A. I WAS THE LEAD INVESTIGATOR ON THE CASE. I RESPONDED TO  
8 THE SCENE WHEN THE ARMED ROBBERY CALL CAME OUT, FOLLOWED UP  
9 ON LEADS THAT LED ME TO MR. ANDRE MASSEY, AND ARRESTED HIM.

10 Q. OKAY. DO YOU HAVE ANY INFORMATION CONCERNING WHEN THE  
11 OFFER OF LIFE WITHOUT PAROLE WAS ACTUALLY MADE?

12 A. I JUST FOUND OUT RECENTLY THAT HE WAS GETTING -- WELL,  
13 THEY HAD SERVED HIM WITH A LIFE WITHOUT PAROLE. I DIDN'T  
14 KNOW AHEAD OF TIME THAT HE WAS SERVED WITH IT.

15 Q. DO YOU HAVE ANY KNOWLEDGE OF ANY OTHER PLEA THAT WAS  
16 OFFERED TO THIS CLIENT?

17 A. I KNOW -- NO, NO OTHER KNOWLEDGE OF A PLEA. I KNOW HIS  
18 ATTORNEY, MR. HOWLE, AT THE PRELIMINARY HEARING, AFTER I HAD  
19 PRESENTED ALL THE EVIDENCE THAT WAS THERE AGAINST HIM, HAD  
20 STATED HE NEEDED TO GO AHEAD AND PLEAD AND HAVE IT RUN  
21 CONCURRENT WITH HIS 14 YEARS PAROLE, AND THAT STOOD OUT  
22 BECAUSE I HAD NEVER HEARD AN ATTORNEY IN A PRELIMINARY  
23 HEARING TELL THEIR CLIENT THEY NEEDED TO PLEAD GUILTY AT THAT  
24 TIME.

25 Q. DO YOU KNOW WHO IN THE SOLICITOR'S OFFICE ASKED FOR THIS

1 LIFE-WITHOUT-PAROLE CHARGE?

2 A. WHEN I TALKED TO MR. MARTIN SPRATLIN WHO HAS THE CASE, I  
3 ASKED HIM ABOUT IT, AND HE TOLD ME THAT THE LAW STATES THAT  
4 YOU MUST, IF IT'S THE SECOND OFFENSE WHICH IS SOMETHING I  
5 DIDN'T KNOW -- I HAVE NOT WORKED ONE OF THESE OR HAD THIS  
6 BEFORE COME UP.

7 Q. IF THERE WAS A LESSER PLEA OFFERED TO MY CLIENT, WOULD  
8 YOU BE OPPOSED TO IT?

9 A. A LESSER PLEA? LESSER THAN LIFE?

10 Q. LESSER THAN LIFE, YES.

11 A. I WOULD NOT BE OPPOSED.

12 Q. YOU WOULD NOT BE OPPOSED. NO FURTHER QUESTIONS, YOUR  
13 HONOR.

14 THE COURT: ANY QUESTIONS, MR. SPRATLIN?

15 MR. SPRATLIN: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU CAN STEP  
17 DOWN.

18 THE WITNESS: THANK YOU.

19 THE COURT: ANY OTHER WITNESSES, MR. HASTIE?

20 MR. HASTIE: YES, YOUR HONOR. I WOULD LIKE TO CALL MY  
21 CLIENT, MR. MASSEY, TO THE STAND.

22 THE COURT: ALL RIGHT. MR. MASSEY, YOU CAN COME ON UP.

23 ANDRE M. MASSEY, AFTER BEING DULY SWORN, TESTIFIED  
24 AS FOLLOWS IN CAMERA:

25 THE CLERK: HAVE A SEAT OVER THERE.



1 THE COURT: ALL RIGHT.

2 THE CLERK: STATE YOUR FULL NAME, AND SPELL YOUR LAST  
3 NAME, PLEASE.

4 THE WITNESS: ANDRE MAURICE MASSEY. M-A-S-S-E-Y.

5 DIRECT EXAMINATION

6 BY MR. HASTIE:

7 Q. MR. MASSEY, WHEN WERE YOU -- WHEN DID YOU LEARN THAT  
8 THIS OFFER OF LIFE WITHOUT PAROLE WAS MADE IN YOUR BEHALF?

9 A. FORTY-EIGHT HOURS BEFORE I CAME TO THE COUNTY.

10 Q. FORTY-EIGHT HOURS. WHEN DID YOU COME TO THE COUNTY?

11 A. I CAME HERE WEDNESDAY, AND I GOT THE PAPERS THAT MONDAY.

12 COURT REPORTER: I CAN'T HEAR YOU.

13 THE WITNESS: I CAME WEDNESDAY AND I CAME -- I GOT THE  
14 PAPERS THAT MONDAY.

15 BY MR. HASTIE:

16 Q. DID ANYONE TALK WITH YOU ABOUT ANY TYPE OF PLEA---

17 A. NO, SIR.

18 Q. ---ARRANGEMENT?

19 A. NO, SIR.

20 Q. IF YOU WERE OFFERED A PLEA TO A LESSER CHARGE, WOULD YOU  
21 HAVE TAKEN IT?

22 A. YES, SIR.

23 Q. COURT'S INDULGENCE, YOUR HONOR. AND, MR. MASSEY, YOU  
24 AND I HAVE HAD SOME CONVERSATION ABOUT THIS TWO STRIKE.

25 A. YES, SIR.

1 Q. NOW, WHEN YOU WERE CONVICTED YEARS AGO -- 1995?

2 A. YES, SIR.

3 Q. 1995. DID ANYONE TELL YOU THAT THIS WOULD BE A FIRST  
4 MOST SERIOUS OFFENSE AND IF YOU GOT ONE MORE THAT YOU COULD  
5 POSSIBLY SERVE A LIFE-WITHOUT-PAROLE SENTENCE?

6 A. NO, SIR.

7 Q. NO ONE TALKED WITH YOU ABOUT THAT.

8 A. NO, SIR.

9 Q. MR. JACK HOWLE DIDN'T TALK WITH YOU ABOUT THAT.

10 A. NO, SIR.

11 Q. HOW OFTEN DID YOU MEET WITH MR. JACK HOWLE?

12 A. AT THE PRELIMINARY HEARING.

13 THE COURT: ON THIS CASE OR THE OTHER CASE?

14 MR. HASTIE: FOR THIS CASE.

15 THE COURT: ALL RIGHT.

16 THE WITNESS: FOR THIS CASE.

17 BY MR. HASTIE:

18 Q. AT THE PRELIMINARY HEARING -- YOU'RE GOING TO HAVE TO  
19 SPEAK UP. YOUR ONLY CONVERSATION WITH MR. JACK HOWLE WAS AT  
20 THE PRELIMINARY HEARING? IS THAT CORRECT?

21 A. YES, SIR.

22 MR. HASTIE: OKAY. YOUR HONOR, I HAVE NO FURTHER  
23 QUESTIONS OF THIS WITNESS.

24 MR. SPRATLIN: JUST BRIEFLY, YOUR HONOR.  
25

CROSS-EXAMINATION

BY MR. SPRATLIN:

Q. MR. MASSEY?

A. YES, SIR.

Q. ON OCTOBER 17, 1995, YOU WERE CONVICTED OF FIVE COUNTS OF KIDNAPPING AND ONE COUNT OF ASSAULT AND BATTERY WITH INTENT TO KILL. CORRECT?

A. YES, SIR.

Q. ON THAT SAME TIME DATE YOU WERE CONVICTED OF TWO COUNTS OF BURGLARY IN THE FIRST DEGREE. CORRECT?

A. YES, SIR.

Q. OKAY. AND YOU WERE REPRESENTED ON THOSE GUILTY PLEAS, WERE YOU NOT?

A. YES, SIR.

Q. WHO WERE YOU REPRESENTED BY?

A. MR. JOHN CLARKE.

MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME I WOULD LIKE TO TENDER THESE INTO EVIDENCE. THESE ARE CERTIFIED COPIES OF THE CONVICTIONS THAT I'VE REFERENCED, INDICTMENT NUMBER---

THE COURT: ANY OBJECTION TO THOSE?

MR. HASTIE: NONE, YOUR HONOR.

THE COURT: ALL RIGHT. THOSE WOULD BE COURT'S EXHIBITS.

(COURT'S EXHIBITS 2 THROUGH 4 MARKED FOR IDENTIFICATION ONLY.)

1 BY MR. SPRATLIN:

2 Q. NOW, MR. MASSEY, YOU SAID THAT YOU WERE SERVED WITH THE  
3 NOTICE OF LIFE OR THAT YOU FOUND OUT ABOUT LIFE TWO DAYS  
4 BEFORE YOU CAME HERE TO SUMTER COUNTY.

5 A. YES, SIR.

6 Q. WOULD THAT HAVE BEEN ON JUNE THE 15TH -- I MEAN, JULY  
7 THE 15TH?

8 A. YES, SIR.

9 Q. I'M SORRY?

10 A. THAT SOUNDS ABOUT RIGHT. I'M NOT A HUNDRED PERCENT SURE  
11 ABOUT THE DATE, BUT THAT SOUNDS ABOUT RIGHT.

12 Q. AND WERE YOU, IN FACT, GIVEN A COPY OF -- LET ME SHOW  
13 YOU THIS DOCUMENT. IF WE COULD MARK THIS FOR IDENTIFICATION  
14 PURPOSES.

15 (STATE'S EXHIBIT 1 WAS MARKED FOR IDENTIFICATION ONLY.)

16 BY MR. SPRATLIN:

17 Q. I SHOW YOU THAT DOCUMENT, MR. MASSEY. DO YOU RECOGNIZE  
18 THE DOCUMENT I JUST HANDED YOU?

19 A. YES, SIR.

20 Q. IS THAT THE SAME DOCUMENT OR A SIMILAR COPY OF A  
21 DOCUMENT THAT YOU RECEIVED AT THE KERSHAW CORRECTIONAL  
22 INSTITUTE?

23 A. A SIMILAR COPY.

24 MR. SPRATLIN: OKAY. THANK YOU. YOUR HONOR, AT THIS  
25 TIME I WOULD TENDER THIS CERTIFIED COPY FROM THE CLERK'S

1 OFFICE INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 1?

2 THE COURT: OKAY. WELL, IT'S NOT FOR THE JURY THOUGH.

3 MR. SPRATLIN: NO, YOUR HONOR. IT'S JUST FOR THIS  
4 HEARING.

5 THE COURT: IF IT'S STATE'S NUMBER 1, IT'S GOING TO BE  
6 IN FRONT OF THE JURY. SO LET'S JUST CALL IT ANOTHER COURT  
7 EXHIBIT.

8 MR. SPRATLIN: YES, YOUR HONOR.

9 THE COURT: BECAUSE I'M THE ONLY ONE THAT'S GOING TO SEE  
10 IT.

11 MR. SPRATLIN: YES, YOUR HONOR.

12 (COURT'S EXHIBIT 5 WAS MARKED FOR IDENTIFICATION ONLY.)

13 MR. SPRATLIN: YOUR HONOR, IF I COULD APPROACH WITH THE  
14 DOCUMENT.

15 BY MR. SPRATLIN:

16 Q. NOW, MR. MASSEY, THAT DOCUMENT WAS SERVED ON YOU BY A  
17 MS. CAROLINE SANDERS, WAS IT NOT?

18 A. YES, SIR.

19 Q. IT WAS SERVED ON YOU BY A CORRECTIONS OFFICER?

20 A. YES, SIR.

21 Q. OKAY.

22 THE COURT: JUST FOR THE RECORD, THIS COURT'S EXHIBIT 5  
23 SAYS CERTIFIED COPIES OF THE PLEA SHEETS AND THE INDICTMENTS  
24 IN THE ABOVE-MENTIONED CONVICTIONS ARE ATTACHED TO THIS  
25 NOTICE. COURT'S EXHIBIT 5 DOESN'T HAVE THOSE, BUT ARE THOSE

1 1 THROUGH 4?

2 MR. SPRATLIN: YES, YOUR HONOR. THOSE ARE COURT'S  
3 EXHIBITS 1 THROUGH 4.

4 THE COURT: ALL RIGHT.

5 MR. SPRATLIN: YOUR HONOR, I WOULD ALSO LIKE TO MARK  
6 THIS AS A COURT EXHIBIT. IT IS A CERTIFIED COPY FROM THE  
7 CLERK'S OFFICE OF THE PROOF OF SERVICE FILLED OUT BY MS.  
8 CAROLINE SANDERS, SWORN AND ASCRIBED.

9 THE COURT: OKAY. IT WILL BE NUMBER 6.

10 (COURT'S EXHIBIT 6 WAS MARKED FOR IDENTIFICATION ONLY.)

11 MR. SPRATLIN: AND, YOUR HONOR, FOR THE RECORD, THIS  
12 SERVICE SAYS, "PERSONALLY APPEARED BEFORE ME, CAROLINE  
13 SANDERS, WHO UPON FIRST BEING DULY SWORN DEPOSES AND STATES  
14 THAT SHE DID SERVE THE NOTICE OF INTENTION TO SEEK LIFE  
15 IMPRISONMENT UPON THE DEFENDANT, ANDRE MASSEY, BY PERSONALLY  
16 DELIVERING A COPY OF SAME TO THE DEFENDANT AT THE KERSHAW  
17 CORRECTIONAL INSTITUTE, 4848 GOLD MINE HIGHWAY, KERSHAW,  
18 SOUTH CAROLINA, 29067." IT IS SIGNED BY CAROLINE SANDERS.  
19 SHE DID PRINT HER NAME BELOW IT, AND IT IS SWORN AND AFFIRMED  
20 BEFORE CATHERINE A. AMOS WHO IS A NOTARY PUBLIC.

21 THE COURT: THANK YOU.

22 MR. SPRATLIN: AND LASTLY, YOUR HONOR, IF I COULD HAVE  
23 THIS DOCUMENT MARKED AS A COURT'S EXHIBIT.

24 (COURT'S EXHIBIT 7 WAS MARKED FOR IDENTIFICATION ONLY.)

25 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I'D LIKE TO

1 TENDER INTO EVIDENCE A CERT -- THIS IS A CERTIFIED COPY FROM  
2 THE CLERK'S OFFICE. IT'S A PUBLIC DOCUMENT UNDER SEAL  
3 TITLED, "RECEIPT OF SERVICE OF ACKNOWLEDGEMENT," AND IT'S  
4 RECEIPT OF THE ABOVE-REFERENCED NOTICE OF INTENTION TO LIFE  
5 IMPRISONMENT IN THE ABOVE-CAPTIONED CASE. IT'S HEREBY  
6 ACKNOWLEDGED THE 30TH DAY OF JUNE, 2009. IT IS SIGNED BY AN  
7 EMPLOYEE OF THE PUBLIC DEFENDER'S OFFICE FOR CALVIN HASTIE.

8 THE COURT: OKAY. THESE -- THE NOTICES WERE PREPARED BY  
9 YOUR OFFICE?

10 MR. SPRATLIN: THEY WERE PREPARED BY ME PERSONALLY AND  
11 FILED AND THEN SERVED. THANK YOU, YOUR HONOR. THAT'S ALL  
12 THE QUESTIONS I HAVE AT THIS TIME.

13 THE COURT: ANY FOLLOW-UP, MR. HASTIE, OF THIS WITNESS?

14 MR. HASTIE: NONE, YOUR HONOR.

15 THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN. ANY  
16 ADDITIONAL WITNESSES?

17 MR. HASTIE: NOT ON THIS MOTION, YOUR HONOR.

18 THE COURT: OKAY. WOULD Y'ALL COME AROUND FOR JUST A  
19 SECOND?

20 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

21 THE COURT: WE'LL TAKE FIVE MINUTES.

22 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

23 THE COURT: OKAY. ALL RIGHT. ANYTHING ELSE ON THE --  
24 WELL, ANY ARGUMENT THAT YOU HAVE ON THE LIFE-WITHOUT-PAROLE  
25 NOTICE, MR. HASTIE? THE STATUTE REQUIRES THAT IT ONLY BE

1 GIVEN WITHIN TEN DAYS OF THE TRIAL; THAT'S ALL IT SAYS. IT  
2 DOESN'T -- IT HAS NOTHING TO DO WITH THE TRIAL OF THE CASE.  
3 IT JUST HAS TO DO WITH WHAT THE SENTENCE MIGHT BE IF A  
4 DEFENDANT IS CONVICTED. SO, ACCORDING TO THE INFORMATION  
5 THAT I'VE BEEN GIVEN, THE NOTICE WAS SERVED ON MR. MASSEY  
6 WELL BEFORE THE TEN DAYS, AND I DON'T KNOW ABOUT SERVICE ON  
7 MR. HASTIE. HE'S -- WAS HE GIVEN NOTICE OF IT, TOO?

8 MR. SPRATLIN: YOUR HONOR, HE WAS. IN FACT, THE  
9 SECOND -- I THINK IT WAS THE LAST COURT'S EXHIBIT I HANDED UP  
10 TO YOU WAS A CERTIFICATE OF -- OR ACKNOWLEDGMENT OF SERVICE  
11 BY MR. HASTIE'S OFFICE.

12 THE COURT: I SEE.

13 MR. SPRATLIN: AND I'M NOT -- LET ME CHECK WHAT THE DATE  
14 WAS.

15 THE COURT: JUNE 30TH.

16 MR. SPRATLIN: YES, YOUR HONOR, AGAIN MORE THAN TEN DAYS  
17 OUT.

18 THE COURT: OKAY. ALL RIGHT. ANY -- WHAT'S YOUR  
19 POSITION ON THE -- WHY ARE YOU ENTITLED TO HAVE THE NOTICE  
20 QUASHED?

21 MR. HASTIE: YOUR HONOR, BECAUSE OF THE INSUFFICIENCY OF  
22 THE NOTICE, BECAUSE THE NOTICE DOES SAY LIFE IMPRISONMENT AND  
23 NOT LIFE WITHOUT PAROLE.

24 THE COURT: ANYTHING ELSE?

25 MR. HASTIE: YES, SIR. I'M CONCERNED ABOUT THIS CASE



1 BECAUSE I WANT TO RENEW MY CONTINUANCE MOTION BECAUSE I DID  
2 NOT GET THE DISCOVERY FOR ALMOST A TWO-YEAR PERIOD OF TIME.  
3 THEN I DID NOT GET THIS -- EVEN THOUGH IT DOES SAY THE TEN  
4 DAYS, HE WAS NEVER GIVEN AN OPPORTUNITY TO PLEAD TO A LESSER  
5 CHARGE. HIS---

6 THE COURT: WHY SHOULD HE BE GIVEN AN OPPORTUNITY TO  
7 PLEAD TO A LESSER CHARGE? WHY IS THAT -- WHAT -- LIKE COMMON  
8 LAW ROBBERY? IN OTHER WORDS, DOES ANY DEFENDANT HAVE A RIGHT  
9 TO PLEAD TO A LESSER CHARGE?

10 MR. HASTIE: THEY DON'T HAVE A RIGHT. THEY GET THAT  
11 RIGHT ALL THE TIME RIGHT HERE IN THIS COURTROOM.

12 THE COURT: ARE YOU GOING TO OFFER HIM A PLEA TO COMMON  
13 LAW ROBBERY?

14 MR. SPRATLIN: NO, YOUR HONOR.

15 THE COURT: OKAY. WELL, THAT ANSWERS THAT, UNLESS THEY  
16 CHANGE THEIR MIND. NOW, IF I WERE TO QUASH THE NOTICE, I'M  
17 SURE MR. -- IF I WERE TO QUASH THE NOTICE FOR FAILURE TO SAY  
18 SEEK IMPRISONMENT -- LIFE IMPRISONMENT WITHOUT SAYING --  
19 WITHOUT PAROLE, THEN I'M SURE HE WOULD NOT CALL THIS CASE FOR  
20 TRIAL AND THEN JUST SIMPLY SERVE THE CORRECT NOTICE WITHIN  
21 THE NEXT 30 DAYS WHICH MIGHT IN THE END GET WHAT -- THE  
22 CONTINUANCE YOU WANTED.

23 SO THE CASE LAW ON 17-25-45 IS -- I GUESS THE BEST WORD  
24 TO DESCRIBE IT: SOMETIMES UNCERTAIN. FOR EXAMPLE, I KNOW  
25 THERE'S A CASE OUT THERE THAT SAYS: THE STATUTE SAYS WRITTEN

1 NOTICE, BUT ACTUAL NOTICE IS FINE. I DON'T REMEMBER WHICH  
2 CASE SAYS THAT. AND MR. SPRATLIN IS GOING TO ARGUE THAT EVEN  
3 THOUGH THE NOTICE ITSELF DOESN'T SAY WITHOUT PAROLE, THE  
4 FIRST WORDS OF THE NOTICE ARE PURSUANT TO S.C. CODE 17-25-45  
5 AND THEN IT SAYS SEEKS LIFE IMPRISONMENT. HE SAYS THE  
6 "WITHOUT PAROLE" IS INCORPORATED IN IT. ISN'T THAT WHAT YOU  
7 SAID?

8 MR. SPRATLIN: YOUR HONOR, I WOULD ARGUE THAT SINCE THE  
9 NOTICE ACTUALLY REFERENCES THE STATUTE -- AND THE STATUTE  
10 ITSELF CALLS IT A LIFE SENTENCE FOR A PERSON CONVICTED OF  
11 CERTAIN CRIMES, AND IT'S ONLY IN THE ENUMERATION OF THE  
12 STATUTE THAT THE WORD "WITHOUT PROBATION OR PAROLE" IS  
13 MENTIONED. I ALSO HAVE THAT CASE, YOUR HONOR, I WAS  
14 DISCUSSING. IT'S JAMES V. STATE. IT'S 372 SOUTH CAROLINA  
15 287. IT DOES SAY IN RELEVANT PORTION: SO LONG AS THE  
16 DEFENDANT AND HIS COUNSEL AT LEAST TEN DAYS PRIOR TO TRIAL  
17 POSSESS ACTUAL NOTICE OF THE STATE'S INTENTION TO SEEK A  
18 SENTENCE UNDER RECIDIVIST SENTENCING STATUTE, THE STATUTE'S  
19 NOTICE REQUIREMENTS HAVE BEEN SATISFIED.

20 THE COURT: AND ACTUAL NOTICE WOULD BE CALLING MR.  
21 HASTIE UP AND TELLING HIM ON THE PHONE.

22 MR. SPRATLIN: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: AND TELLING THE DEFENDANT IN OPEN COURT OR  
24 IN THE HOLDING CELL.

25 MR. SPRATLIN: YES, YOUR HONOR.

1           **THE COURT:** JUST HOLLERING BACK THERE, "HEY, WE'RE  
2 SEEKING LIFE WITHOUT PAROLE ON THIS..." OKAY. AND SO THE  
3 WORD "WRITTEN" UNDER THE JAMES CASE MEANS LITTLE OR NOTHING.  
4 OKAY. WHEN WE GET -- AND YOU'RE WILLING TO TAKE A CHANCE ON  
5 THAT LIFE-WITHOUT-PAROLE INCORPORATION THAT YOU'VE SAID.  
6 YOU'RE WILLING TO GO THROUGH THIS TRIAL AND HAVE THIS HOLD UP  
7 AS PROPER NOTICE.

8           **MR. SPRATLIN:** YES, YOUR HONOR, AND WE FEEL THAT IT  
9 WOULD HOLD UP AS PROPER NOTICE, ESPECIALLY GIVEN THE COURT'S  
10 RECENT DECISION IN JAMES AND...

11           **THE COURT:** WELL, I DON'T HAVE ANY -- ANY -- OF COURSE,  
12 WE DON'T HAVE ANY LAW IN THIS STATE ON THAT. I DON'T KNOW OF  
13 ANY LAW IN ANY OTHER STATE ON THAT POINT. OKAY. ANYTHING  
14 ELSE -- AND, MR. HASTIE, THE ONLY PART OF YOUR MOTION THAT I  
15 WOULD GRANT IT ON WOULD BE THE FAILURE TO INCLUDE THAT  
16 LANGUAGE IN THE WRITTEN NOTICE UNLESS THERE WAS SOME EVIDENCE  
17 OF ACTUAL NOTICE OF "WITHOUT PAROLE." I DON'T KNOW ABOUT  
18 THAT. I'M NOT ASKING FOR ANY EVIDENCE OF IT UNLESS YOU'VE  
19 GOT SOMETHING.

20           **MR. SPRATLIN:** YOUR HONOR, IT WOULD JUST BE A PROFFER TO  
21 THE COURT ABOUT A CONVERSATION I'VE HAD WITH MR. HASTIE.

22           **THE COURT:** THAT WOULD BE A PROFFER FROM YOU.

23           **MR. SPRATLIN:** YES, YOUR HONOR, THAT I DID INFORM MR.  
24 HASTIE PERSONALLY THAT WE WERE SEEKING LIFE WITHOUT PAROLE IN  
25 THIS CASE, AND I FELT I DIDN'T HAVE AN OPTION BUT TO SEEK

1 LIFE WITHOUT PAROLE, GIVEN THE WORDING OF THE STATUTE WHERE  
2 UNDER THE THREE-STRIKE LAW IT APPEARS THAT IT IS  
3 DISCRETIONARY. HOWEVER, UNDER THE PROVISIONS OF THE TWO-  
4 STRIKE LAW, THE STATUTE USES THE TERMS "SHALL BE MANDATORY."

5 THE COURT: YEAH.

6 MR. SPRATLIN: AND I TALKED TO MR. HASTIE AT LENGTH  
7 BEFORE -- EVEN WHEN I FIRST GOT THIS CASE THAT WE WERE GOING  
8 TO BE SEEKING LIFE WITHOUT PAROLE, AND I KNOW FROM HIS  
9 CONVERSATIONS TO ME, WHAT HE TOLD ME HE TOLD HIS CLIENT, THAT  
10 HE HAD INFORMED HIS CLIENT---

11 MR. HASTIE: OBJECTION, YOUR HONOR.

12 MR. SPRATLIN: ---OF THAT.

13 THE COURT: OBJECTION TO WHAT?

14 MR. HASTIE: BASED ON WHAT HE'S SAYING WHAT I TOLD MY  
15 CLIENT. THAT'S PRIVILEGED INFORMATION.

16 MR. SPRATLIN: I'M SIMPLY SAYING WHAT MR. HASTIE TOLD ME  
17 THAT HE TOLD HIS CLIENT.

18 THE COURT: OKAY. WHAT'S NEXT ON YOUR LIST OF MOTIONS?

19 MR. SPRATLIN: YOUR HONOR, I THINK IF WE COULD DO THE  
20 IDENTIFICATION---

21 THE COURT: OKAY.

22 MR. SPRATLIN: ---HEARING NEXT. I ACTUALLY HAVE SOME  
23 CASE LAW THAT WE SHOULD PROBABLY DISCUSS PRIOR TO THIS. AS  
24 YOUR HONOR KNOWS, DURING THE IN-CHAMBERS HEARING WE DISCUSSED  
25 THAT THERE WAS NO OUT-OF-COURT IDENTIFICATION DONE IN THIS

1 CASE. THERE WAS NO LINE-UP, NO SHOW-OFF, NO PHOTO ARRAY.  
2 THOSE WERE NOT CONDUCTED. I HAVE A CASE OUT OF SOUTH  
3 CAROLINA, YOUR HONOR: 375 SOUTH CAROLINA 302. THAT IS STATE  
4 OF SOUTH CAROLINA V. RICE. YOUR HONOR, ON PAGE 328 OF THE  
5 OPINION IT DOES READ WHERE A WITNESS IS ONLY -- HERE THE  
6 WITNESS ONLY TESTIFIED OR ONLY IDENTIFIED RICE AT TRIAL, NOT  
7 AT ANY TIME PRIOR TO TRIAL. THEREFORE, THE FACTORS PROVIDED  
8 IN NEIL -- AND THEY'RE REFERRING TO NEIL VERSUS---

9 THE COURT: THEY DON'T APPLY.

10 MR. SPRATLIN: ---BIGGERS. BUT IT JUST DOES NOT APPLY.

11 THE COURT: BUT DON'T I NEED TO HAVE SOME FACTS BEFORE  
12 WE GET INTO THE CASE LAW?

13 MR. SPRATLIN: WELL, YOUR HONOR, THIS SEEMS TO ME---

14 THE COURT: WELL, THERE'S ANOTHER ONE THAT'S CALLED -- I  
15 THINK IT'S CALLED STATE VERSUS MCCORD THAT SAYS THE SAME  
16 THING, BUT YOU'RE RIGHT THAT THE NEIL VERSUS BIGGERS DOESN'T  
17 APPLY EVERY TIME.

18 MR. SPRATLIN: AND, YOUR HONOR, BUT IT WOULD SEEM TO ME  
19 WHEN THERE IS -- THIS CASE IS SAYING THAT WHERE THERE IS NO  
20 OUT-OF-COURT STATEMENT, THE PROTECTIONS OF CROSS-EXAMINATION  
21 ARE SUFFICIENT TO BASICALLY ATTACK AN IN-COURT  
22 IDENTIFICATION, AND, THUS, WE WOULD NOT EVEN NEED TO GO  
23 THROUGH THE NECESSITIES OF AN IDENTIFICATION HEARING, IF I'M  
24 READING THIS CORRECTLY.

25 THE COURT: WELL, BUT SOMEBODY RAISED IT AS A PRETRIAL

1     ISSUE, AND YOU'RE SAYING IT'S NOT A PRETRIAL ISSUE.  SO DON'T  
2     I HAVE TO HEAR SOMETHING ABOUT THE FACTS OF THE CASE ON THE  
3     RECORD SO I CAN KNOW WHAT THE CASE IS ABOUT?  SO TELL ME WHO  
4     GOT ROBBED.

5           **MR. SPRATLIN:**  YOUR HONOR, THE INDIVIDUAL WHO GOT ROBBED  
6     WAS MR. HERBERT HUFF WHO IS HERE IN THE COURTROOM TODAY.

7           **THE COURT:**  OKAY.  AND HE WAS -- HE WAS WHERE?

8           **MR. SPRATLIN:**  HE WAS WORKING AT THE TOTAL LIVING STORE  
9     WHICH IS LOCATED AT, I BELIEVE, DUGAN STREET.  IT IS 25 DUGAN  
10    STREET.  IT'S NO LONGER THERE, BUT AT THIS POINT IN TIME IT  
11    WAS STATIONED THERE.  IT'S A CLOTHING STORE.  THEY SELL --  
12    THEY SOLD SOAPS, A LOT OF AFRICAN MEMORABILIA.

13           YOUR HONOR, THE STATE ALLEGES THAT ON JUNE 7TH, 2007,  
14    THE DEFENDANT WENT IN THERE AND COMMITTED A ROBBERY OF MR.  
15    HUFF.  HIS FACE WAS NOT OBSCURED.  AND, YOUR HONOR,  
16    SUBSEQUENT TO THE POLICE RESPONDING TO THE SCENE, THEY NEVER  
17    DID A PHOTO ARRAY OR NEVER DID ANY SORT OF OUT-OF-COURT  
18    IDENTIFICATION OF THE DEFENDANT.  RATHER, THROUGH OTHER  
19    INVESTIGATORY MEANS, THEY FOCUSED IN ON A SUSPECT.  THEY  
20    FOCUSED IN ON A SUSPECT BASED OFF OF STATEMENTS MR. HUFF GAVE  
21    THEM ABOUT THE GENTLEMAN WHO ROBBED HIM AND THAT HE HAD BEEN  
22    IN THE STORE EARLIER THAT DAY WITH A WOMAN THAT WORKED NEXT  
23    DOOR, MS. LATRELL BILLIE, WHO IS ALSO IN THE COURTROOM.

24           **THE COURT:**  WHEN THE TIME COMES FOR MR. HUFF TO EITHER  
25    IDENTIFY OR NOT -- LET'S JUST ASSUME THAT HE'S GOING TO

1 IDENTIFY THE DEFENDANT AS BEING THE PERPETRATOR. I WOULD  
2 HAVE TO MAKE A RULING AT THAT POINT TO DETERMINE WHETHER OR  
3 NOT THAT IN-COURT I.D. IS RELIABLE, WOULD I NOT?

4 MR. SPRATLIN: I BELIEVE, YOUR HONOR, THAT AGAIN,  
5 ACCORDING TO THIS CASE, OBVIOUSLY YOU WOULD HAVE TO DECIDE  
6 WHETHER IT WAS RELEVANT TO THE CASE AT HAND, BUT ACCORDING TO  
7 THIS CASE THAT I'M READING, THE PROPER AVENUE FOR THE DEFENSE  
8 TO ATTACK IT WOULD BE THROUGH THE CROSS-EXAMINATION PROCESS.

9 THE COURT: ALL RIGHT. MR. HASTIE? AND THAT'S THE  
10 COURT OF APPEALS CASE FROM OCTOBER OF '07. IS THAT RIGHT?  
11 RICE?

12 MR. SPRATLIN: YES, YOUR HONOR, DECIDED OCTOBER 5TH,  
13 2007.

14 THE COURT: OKAY.

15 MR. HASTIE: THANK YOU, YOUR HONOR. YOUR HONOR, TO HAVE  
16 MR. HUFF COME IN NOW WITH MY CLIENT SITTING BY ME HERE IN THE  
17 COURTROOM IS JUST TOO SUGGESTIVE, YOUR HONOR. HE -- EVERYONE  
18 IN THIS COURTROOM KNOWS RIGHT NOW THAT HE IS THE DEFENDANT ON  
19 THE STAND. THERE WAS OPPORTUNITY FOR THEM TO DO A LINE-UP---

20 THE COURT: BUT THEY DON'T HAVE TO THOUGH.

21 MR. HASTIE: THEY DON'T HAVE TO, BUT THEY CERTAINLY  
22 COULD HAVE ASSURED THEIR CASE IF THEY HAD DONE A LINE-UP.  
23 THEY HAD OTHER WITNESSES THEY COULD HAVE ASKED TO SEE A LINE-  
24 UP, BUT THEY CHOSE NOT TO.

25 THE COURT: CAN'T YOU JUST CROSS-EXAMINE MR. HUFF ON

1 THAT AND JUST QUESTION HIM ALONG THE BASIS -- ALONG THE LINES  
2 OF, "HERE YOU ARE IN THE COURTROOM NOW, AND HE'S THE ONLY  
3 DEFENDANT IN THE COURTROOM, AND WHO ELSE IS THERE TO IDENTIFY  
4 BUT HIM?"

5 MR. HASTIE: I COULD DO THAT, YOUR HONOR.

6 THE COURT: I MEAN, MR. SPRATLIN IS CORRECT THAT THE  
7 NEIL VERSUS BIGGERS FACTORS DON'T APPLY WHEN THE ONLY  
8 IDENTIFICATION IS AN IN-COURT IDENTIFICATION.

9 MR. HASTIE: JUST A MOMENT. RIGHT. OUR CONCERN IS THEY  
10 HAVE PUT UP NO TESTIMONY FROM ANYONE THUS FAR TO SHOW THERE  
11 WAS ANY OPPORTUNITY FOR THEM TO IDENTIFY MY CLIENT IN THIS  
12 PARTICULAR INCIDENT.

13 MR. SPRATLIN: YOUR HONOR, MAY I RESPOND TO THAT?

14 THE COURT: YES, SIR.

15 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD CONTEND THAT  
16 WE WILL STILL HAVE TO LAY A PROPER FOUNDATION BEFORE  
17 INTRODUCING THE IDENTIFICATION. WE CAN'T JUST PUT MR. HUFF  
18 ON THE STAGE OR THE WITNESS STAND AND SAY, "DO YOU SEE THE  
19 MAN IN THE COURTROOM THAT ROBBED YOU?" WE'RE GOING TO HAVE  
20 TO LAY OUT THE PROPER FOUNDATION IN FRONT OF THE JURY AT  
21 TRIAL TO SUPPORT THE IN-COURT IDENTIFICATION.

22 THE COURT: WELL, LIKE THE CASE WE HAD LAST WEEK: DO  
23 YOU SEE IN THE COURTROOM THE PERSON WHO POINTED THE GUN AT  
24 YOUR MOTHER OR THE PERSON WHO POINTED THE GUN AT YOU? THAT'S  
25 DONE ALL THE TIME WITHOUT A PHOTO LINE-UP OR A LIVE LINE-UP.



## COLLOQUY

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1 AND SO YOU'RE WANTING MR. HUFF TO TAKE THE STAND NOW AND  
2 ANSWER THAT SIMPLE INQUIRY?

3 MR. HASTIE: YES, YOUR HONOR.

4 THE COURT: ALL RIGHT. WELL, WHAT IS IT ABOUT THIS CASE  
5 THAT MAKES IT ANY DIFFERENT FROM ANY CASE WHERE THE ONLY  
6 IDENTIFICATION IS IN THE COURTROOM?

7 MR. HASTIE: BECAUSE THERE HAVE BEEN TESTIMONY OR  
8 STATEMENTS MADE BY THE OTHER FOLKS THAT THIS PERSON DID POINT  
9 THE GUN. COURT'S INDULGENCE.

10 THE COURT: MR. SPRATLIN, IS IT YOUR POSITION THAT THE  
11 CASE LAW WOULDN'T EVEN PERMIT IN-CAMERA TESTIMONY ON THIS  
12 ISSUE?

13 MR. SPRATLIN: I THINK IT WOULD -- I THINK IN AN  
14 OVERABUNDANCE OF CAUTION, YOUR HONOR, WE SHOULD LEAVE IT UP  
15 TO YOUR HONOR'S DISCRETION, AND IF YOU WANT TO HEAR TESTIMONY  
16 FROM MR. HUFF, WE CAN GO AHEAD AND GET TESTIMONY FROM MR.  
17 HUFF.

18 THE COURT: ALL RIGHT. CALL HIM ON UP AND WE'LL DO  
19 THAT.

20 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD FIRST CALL  
21 MR. HERBERT HUFF TO THE STAND.

22 HERBERT HUFF, SR., AFTER BEING DULY SWORN,  
23 TESTIFIED AS FOLLOWS IN CAMERA:

24 THE CLERK: HAVE A SEAT UP HERE. WATCH YOUR STEP.  
25 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE, SIR.

1           **THE WITNESS:** HERBERT HUFF. H-U-F-F.

2                           DIRECT EXAMINATION

3 BY MR. SPRATLIN:

4 Q.   GOOD AFTERNOON, MR. HUFF. HOW ARE YOU DOING TODAY?

5 A.   I'M DOING GOOD.

6 Q.   I JUST HAVE A COUPLE OF QUESTIONS FOR YOU REAL BRIEFLY.  
7 HOW LONG HAVE YOU LIVED IN SUMTER?

8 A.   I'VE LIVED HERE FROM THE TIME I WAS 29 YEARS OLD, AND  
9 I'M 76 NOW.

10 Q.   YOU'RE 76 NOW?

11 A.   UH-HUH.

12 Q.   OKAY. SO THAT'S OVER -- THAT'S APPROXIMATELY 47 YEARS,  
13 ISN'T IT?

14 A.   RIGHT ABOUT, YES, I WOULD SAY.

15 Q.   OKAY. WERE YOU LIVING IN SUMTER -- YOU WERE OBVIOUSLY  
16 LIVING IN SUMTER BACK IN JUNE OF 2007.

17 A.   YES.

18 Q.   WHERE WERE YOU WORKING BACK IN JUNE OF 2007?

19 A.   AT THE TOTAL LIVING STORE IN -- TOTAL LIVING CLOTHING.  
20 WE DECIDED IT WOULD BE A CLOTHING STORE, BUT IT WAS A TOTAL  
21 LIVING VARIETY STORE AT ONE TIME. THEN WE MADE IT A CLOTHING  
22 STORE.

23 Q.   WHERE WAS THE STORE LOCATED?

24 A.   25 DUGAN STREET BEHIND SUMTER CUT RATE.

25 Q.   OKAY. WAS THAT WITHIN THE COUNTY LIMITS OF SUMTER?

1 A. IT WAS IN THE CITY OF SUMTER.

2 Q. OKAY. AND IS THAT IN THE COUNTY OF SUMTER?

3 A. YEAH, SUMTER COUNTY.

4 Q. OKAY. NOW, SIR, WHAT EXACTLY WERE YOU DOING AT THE  
5 TOTAL LIVING STORE AS FAR AS WHAT WAS YOUR JOB?

6 A. I WAS MANAGER OF THE STORE.

7 Q. OKAY. WHO WAS THE OWNER?

8 A. THE OWNER WAS LORETTA AND RANDOLPH -- LORETTA BLACK.  
9 LORETTA BLACK.

10 Q. OKAY. AND WERE YOU WORKING ON THE DAY OF JUNE 7TH,  
11 2007?

12 A. I WERE.

13 Q. SIR?

14 A. YES, I WERE WORKING.

15 Q. OKAY. WHAT, IF ANYTHING, WAS UNUSUAL ABOUT THAT DAY?

16 A. WELL---

17 Q. OR LET ME REPHRASE---

18 A. I DON'T KNOW OF ANYTHING THAT WAS UNUSUAL ABOUT THAT  
19 DAY. IT WAS A WORKING DAY AND I HAD A NUMBER OF CUSTOMERS IN  
20 THE STORE, AND THAT WASN'T UNUSUAL. I HAD CUSTOMERS IN THE  
21 STORE ALL THE TIME.

22 Q. OKAY. WERE YOU THE ONLY EMPLOYEE WORKING THAT DAY?

23 A. I WAS THE ONLY ONE EMPLOYED -- THE ONLY EMPLOYEE WORKING  
24 IN THE STORE AT THAT TIME.

25 Q. OKAY. SO WERE YOU -- WERE YOU PRETTY MUCH DOING

1 EVERYTHING THAT DAY?

2 A. I WAS PRETTY MUCH DOING EVERYTHING.

3 Q. OKAY. DID YOU HAVE A CHANCE TO COME INTO CONTACT WITH  
4 THE DEFENDANT, ANDRE MASSEY, ON THAT DAY?

5 A. YES, HE CAME IN THE STORE EARLIER THAT DAY.

6 Q. ALL RIGHT. WHEN IS THE FIRST TIME THAT YOU REMEMBER HIM  
7 COMING INTO THE STORE?

8 A. HE BROWSED IN ABOUT THAT AFTERNOON AROUND -- I'M GOING  
9 TO SAY THE AFTERNOON HOUR AFTER MAYBE AROUND 3:00.

10 Q. OKAY. AND WHAT WAS HE DOING WHEN HE CAME IN THE STORE  
11 THAT TIME?

12 A. HE WAS LOOKING AROUND AT THE MEN'S CLOTHES.

13 Q. OKAY. AT WHAT POINT DO YOU REMEMBER MR. MASSEY LEAVING  
14 THE STORE?

15 A. THE FIRST TIME I THINK -- WHEN HE LEFT THE STORE, A  
16 YOUNG LADY CAME IN. THAT'S SISTER BILLIE THAT CAME IN AND  
17 BEGGED FOR HIM -- I HAD CALLED FOR HIM, AND HE LEFT THE STORE  
18 WITH HER.

19 Q. OKAY. AND WHO IS -- YOU SAID SISTER BILLIE? WHO IS  
20 THAT?

21 A. MS. BILLIE?

22 Q. UH-HUH.

23 A. THAT'S THE YOUNG LADY THAT WORKED NEXT DOOR---

24 Q. OKAY.

25 A. ---IN THE WATEREE WAFT (PHONETIC) OFFICE, WATEREE AID

1 TASK STORE.

2 Q. OKAY. AND AT SOME POINT DID MR. MASSEY COME BACK INTO  
3 THE STORE?

4 A. OH, YES, HE CAME BACK IN LATE THAT EVENING AND I HAD --  
5 THAT WAS MRS. CAROL AND HER TWO CHILDREN AND TWO LITTLE  
6 CHILDREN -- THREE CHILDREN. I BELIEVE IT WAS TWO GIRLS AND A  
7 BOY, IF I'M NOT MISTAKEN.

8 Q. OKAY. WHAT WERE THEY DOING IN THE STORE?

9 A. THEY WERE SHOPPING.

10 Q. OKAY.

11 A. UH-HUH.

12 Q. AND WHAT DID THE DEFENDANT DO WHEN HE CAME BACK INTO THE  
13 STORE?

14 A. THAT'S WHEN HE CAME AND ASKED ME DID I HAVE ANY  
15 PARTICULAR SUITS IN; I THINK IT WAS 44'S.

16 Q. OKAY. AND---

17 A. I SHOWED THEM TO HIM.

18 Q. OKAY. AND WHAT DID HE DO AFTER YOU SHOWED HIM THE  
19 SUITS?

20 A. HE WENT -- WELL, HE KEPT ON LOOKING THROUGH THEM UNTIL  
21 EVERYONE LEFT OUT OF THE STORE.

22 Q. OKAY. AND I'M SORRY -- LET ME GO BACK AND ASK YOU REAL  
23 QUICK: WAS THE DEFENDANT ALONE THIS NEXT TIME HE CAME BACK  
24 IN THE STORE?

25 A. HE WAS ALONE THE LAST TIME HE CAME IN THE STORE.

1 Q. OKAY. NOW, WHEN DID MS., I THINK YOU SAID, CAROL --  
2 WHEN DID SHE LEAVE THE STORE?

3 A. WELL, SHE LEFT WITH HER CHILDREN---

4 Q. UH-HUH.

5 A. ---AT ABOUT -- I'D SAY AROUND THE LATE HOURS, 5:30,  
6 BECAUSE I ALWAYS CLOSE AT 6:00.

7 Q. OKAY.

8 A. BUT I THINK WE STAYED A LITTLE OVER.

9 Q. OKAY.

10 A. I WOULDN'T SWEAR TO IT, BUT I'M SURE WE STAYED A LITTLE  
11 OVER.

12 Q. AND WHAT HAPPENED AFTER SHE LEFT THE STORE?

13 A. WELL, AFTER SHE LEFT THE STORE, SHE -- I WALKED HER TO  
14 THE DOOR, AND SHE CAME BACK IN AND GOT SOME -- I THINK A BAR  
15 OF SOAP. AND THEN I -- THAT'S WHEN I WALKED TO THE DOOR THE  
16 FIRST TIME. THE ONLY TIME I WALK TO THE DOOR WAS THE LAST  
17 TIME, NOT THE FIRST TIME. I DIDN'T WALK HER WHEN SHE WENT  
18 WITH THE CHILDREN. WHEN SHE CAME BACK BY HERSELF, I WALKED  
19 HER TO THE DOOR, AND HE WAS STILL LOOKING AT THE CLOTHES,  
20 MEN'S SUITS OVER THERE.

21 Q. OKAY.

22 A. WHEN I... OKAY. WHEN I WALKED HER TO THE DOOR AFTER  
23 SHE CAME BACK THE SECOND TIME, THEN WHEN I TURNED HE PUT THE  
24 LITTLE GUN IN MY FACE.

25 Q. OKAY. AND WHAT KIND OF GUN WAS IT?

1 A. IT WAS A DERRINGER.

2 Q. OKAY. WHAT COLOR WAS THAT GUN?

3 A. IT WAS BLACK.

4 Q. OKAY. DID YOU SEE WHAT THE INDIVIDUAL WHO WAS HOLDING  
5 THAT DERRINGER WAS WEARING?

6 A. DID I SEE WHAT HE WAS WEARING? YES, I DID.

7 Q. WHAT WAS HE WEARING?

8 A. HE WAS WEARING A TANK TOP, BLACK PANTS WITH WHITE  
9 STRIPES IN IT.

10 Q. OKAY. DID THAT PERSON -- WAS THAT PERSON WEARING A HAT  
11 OR ANY OTHER KIND OF HEAD GEAR?

12 A. YEAH, A DOO RAG.

13 Q. OKAY. WHEN YOU SAY DOO RAG, WHAT DO YOU MEAN?

14 A. WHAT THEY TIE AROUND THEIR HEADS.

15 Q. OKAY. WAS HIS FACE OBSCURED IN ANY WAY?

16 A. NO, HIS FACE WAS NOT.

17 Q. OKAY. ALL RIGHT. WHEN HE WAS -- HAD THE GUN ON YOU  
18 WHAT, IF ANYTHING, DID HE TELL YOU?

19 A. WELL, HE SAID, "DON'T MAKE ME SHOOT YOU. I JUST WANT TO  
20 GET YOUR CASH," AND HE WENT INTO MY POCKETS AND STARTED  
21 GETTING MINE. HE PULLED MY WALLET OUT AND TAKING THE PAPER  
22 MONEY... HE DIDN'T TAKE NOTHING ELSE BUT PAPER MONEY,  
23 PERIOD.

24 Q. OKAY. DO YOU REMEMBER HOW MUCH WAS IN YOUR WALLET?

25 A. I THINK IT WAS \$22.

1 Q. OKAY. AND WHAT HAPPENED THEN?

2 A. HE TOLD ME TO GO TO THE CASH REGISTER.

3 Q. OKAY. AND WHAT HAPPENED AT THE CASH REGISTER?

4 A. HE SAID, "OPEN THE CASH REGISTER."

5 Q. AND WHAT -- AND DID YOU DO THAT?

6 A. YES, I DID.

7 Q. WHY DID YOU DO THAT?

8 A. BECAUSE A GUN WAS POINTED IN MY FACE.

9 Q. WHAT WERE YOU AFRAID HE WAS GOING TO DO IF YOU DIDN'T  
10 FOLLOW HIS COMMANDS?

11 A. WELL, WHEN A PERSON SAYS, "DON'T MAKE ME SHOOT YOU," I  
12 THINK THEY'RE GOING TO SHOOT YOU IF YOU DON'T DO WHAT THEY  
13 ASK YOU TO DO.

14 Q. OKAY. ONCE YOU OPENED THE CASH REGISTER, WHAT DID HE  
15 DO?

16 A. HE REACHED IN. HE SAID, "I JUST WANT THE PAPER MONEY,"  
17 AND HE STARTED PULLING IT OUT. THEN HE ASKED, BEFORE HE  
18 LEFT, TO GIVE HIM A TOWEL. HE WIPED THINGS DOWN.

19 Q. LIKE WHAT SORT OF THINGS DID HE WIPE DOWN?

20 A. THE GLASS COUNTER. WHATEVER HE TOUCHED HE WIPED DOWN.

21 Q. OKAY. WHERE WAS THE GUN WHEN ALL THIS WAS GOING ON?

22 A. IN MY FACE.

23 Q. OKAY. WHAT DID HE DO AFTER HE FINISHED WIPING  
24 EVERYTHING DOWN?

25 A. HE WIPED THE COUNTER DOWN, AND HE TURNED AROUND AND WENT



1 ON TO THE DOOR AND OPENED THE DOOR AND WIPED THE DOORKNOB  
2 DOWN, PUT HIS LITTLE REVOLVER -- HIS LITTLE DERRINGER AND THE  
3 MONEY IN HIS POCKET WITH THE PAPER TOWEL AND WALKED ON OUT  
4 THE DOOR. AS SOON AS HE WALKED OUT THE DOOR, I CALLED 9-1-1.

5 Q. WHEN THE GUN WAS IN YOUR FACE, HOW FAR AWAY WAS THE  
6 PERSON?

7 A. IT WAS IN MY FACE JUST ABOUT TO TOUCH ME. I COULD HAVE  
8 TOUCHED IT WITH MY HAND.

9 Q. OKAY.

10 A. HAND REACH.

11 Q. SO IS IT SAFE TO SAY OR FAIR TO SAY THAT THE PERSON WHO  
12 WAS ROBBING YOU WAS NO MORE THAN AN ARM'S LENGTH AWAY FROM  
13 YOU?

14 A. HE WAS NO MORE THAN AN ARM'S LENGTH AWAY FROM ME.

15 Q. OKAY. AND WAS HIS FACE COVERED IN ANY WAY?

16 A. NO.

17 Q. WHAT, IF ANY, ACTIONS WAS HE DOING TO TRY TO HIDE HIS  
18 IDENTITY FROM YOU?

19 A. NONE. HE DIDN'T TRY TO HIDE ANYTHING.

20 Q. WHAT ELSE, BESIDES WHAT HE WAS WEARING AND WHAT HE HAD  
21 ON HIS HEAD, DID YOU NOTICE ABOUT THE DEFENDANT -- I MEAN,  
22 ABOUT THE PERSON THAT WAS ROBBING YOU?

23 A. WELL, HE WASN'T WEARING... HE HAD A TATTOO UP ON HIS  
24 SHOULDER.

25 Q. OKAY. DO YOU REMEMBER WHAT THAT WAS A TATTOO OF?

1 A. WELL, I THOUGHT IT LOOKED LIKE THE CIRCLE IN THE SUN OF  
2 THE SUN BUT IT...

3 Q. WAS THERE ANYTHING ELSE THAT WAS KIND OF UNIQUE ABOUT  
4 HIM?

5 A. WAS THERE ANYTHING UNIQUE ABOUT HIM?

6 Q. OR ANYTHING ELSE THAT YOU NOTICED -- THAT YOU NOTICED  
7 ABOUT HIM.

8 A. NO.

9 Q. OKAY.

10 A. THE EARRING, YES. HE HAD ONE EARRING. I THOUGHT THERE  
11 WAS ONE BECAUSE I DIDN'T SEE BUT ONE, BUT THAT'S ALL.

12 Q. OKAY. ALL RIGHT. AND NOW, SIR, THIS IS VERY IMPORTANT:  
13 HOW CLEAR DO YOU REMEMBER ALL OF THESE FACTS THAT YOU'RE  
14 DESCRIBING HERE TODAY?

15 A. HOW CLEAR DO I REMEMBER? RIGHT NOW I CAN PICTURE THE  
16 GUN GOING IN MY FACE. I MEAN, I THINK I CAN REMEMBER THAT  
17 THE REST OF MY LIFE VERY CLEARLY.

18 Q. AND HOW GOOD WAS THE LIGHTING IN THE STORE?

19 A. OH, VERY GOOD.

20 Q. OKAY. NOW, SIR, DO YOU SEE THE MAN THAT PUT THAT GUN IN  
21 YOUR FACE HERE IN THE COURTROOM TODAY?

22 A. YES, I DO.

23 Q. WOULD YOU PLEASE POINT HIM OUT AND DESCRIBE AN ARTICLE  
24 OF CLOTHING THAT HE'S WEARING?

25 A. THE YOUNG MAN IN THE WHITE SHIRT RIGHT THERE WITH THE

1 BROWN PANTS AND THE GRAY-AND-BLACK TIE. HE'S LOST A LITTLE  
2 WEIGHT. THAT'S STILL THE SAME PERSON.

3 MR. SPRATLIN: PLEASE LET THE RECORD REFLECT THAT THE  
4 WITNESS HAS IDENTIFIED THE DEFENDANT.

5 THE COURT: ALL RIGHT.

6 BY MR. SPRATLIN:

7 Q. NOW, MR. HUFF, HOW CERTAIN ARE YOU THAT THAT IS THE MAN  
8 WHO PUT THE GUN IN YOUR FACE THAT DAY?

9 A. WELL, I'M VERY CERTAIN.

10 Q. OKAY. IS THERE ANY DOUBT IN YOUR MIND?

11 A. PARDON?

12 Q. IS THERE ANY DOUBT IN YOUR MIND?

13 A. NO, THERE IS NO DOUBT.

14 MR. SPRATLIN: THANK YOU. THAT'S ALL THE QUESTIONS I  
15 HAVE AT THIS TIME.

16 CROSS-EXAMINATION

17 BY MR. HASTIE:

18 Q. HOW ARE YOU DOING, MR. HUFF?

19 A. ALL RIGHT.

20 Q. I JUST WANT TO GO BACK A FEW QUESTIONS CONCERNING THAT  
21 AFTERNOON. YOU STATED EARLIER THAT THERE WERE SOME OTHER  
22 PEOPLE IN THE STORE EARLY ON THAT DAY BEFORE THIS INCIDENT  
23 HAPPENED.

24 A. OF COURSE, EARLY ON THAT DAY THERE WAS QUITE A FEW  
25 PEOPLE IN THE STORE.

1 Q. QUITE A FEW?

2 A. BUT, I MEAN, I DON'T KNOW ALL OF THEM OTHER THAN THAT;  
3 NO, I DON'T.

4 Q. I THOUGHT YOU SAID A LADY CAME IN WITH HER CHILDREN---

5 A. YES.

6 Q. ---THAT AFTERNOON.

7 A. YES. I KNEW OF HER BECAUSE SHE INTRODUCED HERSELF TO  
8 ME. SHE WAS THE SAME RELIGIOUS DENOMINATION -- IT WASN'T A  
9 DENOMINATION. WE DON'T CALL OUR CHURCH A DENOMINATION. SHE  
10 WAS THE SAME RELIGION THAT WE WERE.

11 Q. OKAY. WHAT'S HER NAME?

12 A. HER NAME, CAROL BRUNSON.

13 Q. CAROL BRUNSON. THAT'S RIGHT. CAROL BRUNSON. WHAT  
14 DENOMINATION IS THAT?

15 A. SEVENTH DAY ADVENTIST.

16 Q. SEVENTH DAY ADVENTIST?

17 A. UH-HUH.

18 Q. SHE AND HER GIRLS LEFT THE STORE AFTER THEY -- DID THEY  
19 PURCHASE ANYTHING FROM YOU?

20 A. OH, YEAH.

21 Q. THEY PURCHASED SOME THINGS. THEY PAID FOR THEM AND THEN  
22 LEFT?

23 A. UH-HUH.

24 Q. AND YOU NOTICED MR. MASSEY IN THE STORE AT THAT TIME.

25 A. OH, HE HAD ASKED ME AT THAT TIME ABOUT SUITS WITH MY

1 PARTICULAR NUMBER. I THINK IT WAS NUMBER 44 SUITS.

2 Q. OKAY. AND YOU SHOWED HIM SOME.

3 A. YES.

4 Q. HOW MANY DID YOU SHOW HIM?

5 A. I HAD A BUNCH OF THEM. I DON'T KNOW HOW MANY I SHOWED,  
6 BUT IN 44'S I AIN'T HAD NO -- I DON'T THINK I HAD THAT MANY.

7 Q. OKAY. ARE YOU TALKING ABOUT TWO, FOUR, FIVE? HOW MANY?

8 A. MAYBE TWO. MAYBE TWO OR THREE.

9 Q. JUST TWO OR THREE?

10 A. MAYBE.

11 Q. OKAY. NOW, YOU SAID HE WAS WEARING A TANK TOP AND SOME  
12 TYPE OF---

13 A. WHITE TANK TOP TEE SHIRT---

14 Q. THAT'S ONE WITH NO SLEEVES IN IT---

15 A. NO SLEEVES IN IT.

16 COURT REPORTER: I'M SORRY. Y'ALL ARE TALKING ON TOP OF  
17 EACH OTHER.

18 MR. HASTIE: I'M SORRY.

19 BY MR. HASTIE:

20 Q. THAT IS -- THAT IS ONE OF THE ONES WITH NO SLEEVES IN  
21 IT?

22 A. THAT'S CORRECT.

23 Q. OKAY. NOW, YOU DID NOTICE ON HIS ARM THAT HE HAD A  
24 PARTICULAR TYPE OF BRAND LIKE A TATTOO; RIGHT?

25 A. I JUST NOTICED THE ONE ON THE SHOULDER. I DIDN'T SEE

1 THE ONE ON THE ARM.

2 Q. OKAY.

3 A. I DIDN'T PAY NO ATTENTION TO NOTHING BUT---

4 Q. YOU SAW---

5 A. ---A GUN IN MY FACE, AND I JUST AT A GLANCE SAW THE ONE  
6 ON THE SHOULDER.

7 Q. OKAY. DID YOU NOTICE ANY OTHER TATTOOS ON THIS YOUNG  
8 MAN'S BODY?

9 A. NO, I DID NOT. I DIDN'T PAY THEM NO ATTENTION BECAUSE I  
10 WAS STEADY WITH THE GUN IN MY FACE, AND I ONLY COULD SEE -- I  
11 WAS PAYING ATTENTION TO HIM POINTING THE GUN IN MY FACE, AND  
12 I SAW A SHOULDER -- I DIDN'T PAY NO ATTENTION TO THE OTHER  
13 BECAUSE HIS SKIN IS DARK, AND I DIDN'T NOTICE BECAUSE MY EYES  
14 -- I JUST GOT MY NEW GLASSES, SO I'M GLAD ABOUT THAT. I GOT  
15 THEM IN THE MAIL TODAY.

16 Q. DID YOU? OKAY. WHAT KIND OF GLASSES DID YOU HAVE ON  
17 THIS PARTICULAR NIGHT?

18 A. THEY WERE PRESCRIPTION GLASSES.

19 Q. PRESCRIPTION GLASSES?

20 A. YEAH.

21 Q. AND HOW IS YOUR VISION -- HOW WAS YOUR VISION BACK ON  
22 THOSE DAYS?

23 A. IT WAS VERY GOOD.

24 Q. VERY GOOD?

25 A. YES. I'VE GOT MY OLD GLASSES. BACK THEN TWO YEARS AGO

1 I HAD JUST HAD THE GLASSES FOR ABOUT A YEAR OR TWO YEARS AGO.  
2 THEY WERE FOUR YEARS OLD.

3 Q. OKAY. OKAY. GOOD. NOW, SO DURING THIS THE ROBBERY  
4 TIME HE CAME IN THE STORE, PUT A GUN IN YOUR FACE. IS THAT  
5 CORRECT?

6 A. THAT IS CORRECT.

7 Q. WHICH HAND DID HE USE? LEFT OR RIGHT?

8 A. I THINK HE'S RIGHT-HANDED.

9 Q. YOU THINK HE'S RIGHT-HANDED.

10 A. I THINK HE'S RIGHT-HANDED.

11 Q. HE WAS REAL CLOSE TO YOU, AS YOU TESTIFIED.

12 A. UH-HUH.

13 Q. YOU COULD REACH OUT AND TOUCH THE GUN. OKAY. THEN YOU  
14 SAID HE REACHED IN YOUR POCKET.

15 A. UH-HUH.

16 Q. WITH HIS LEFT HAND?

17 A. I DON'T KNOW WHETHER HE CHANGED HANDS OR NOT, BUT HE  
18 REACHED IN HIS POCKET -- I THINK HE KEPT THE GUN IN ONE HAND.  
19 HE KEPT HIS GUN IN ONE -- YEAH, I'M GOING TO HAVE TO SAY HE  
20 DID IT WITH HIS LEFT HAND, IF I MIGHT.

21 Q. WHERE WAS YOUR MONEY? IN YOUR WALLET?

22 A. IN MY WALLET IN MY LEFT POCKET.

23 Q. IN YOUR WALLET---

24 A. ALWAYS IN MY LEFT POCKET.

25 Q. IN YOUR LEFT POCKET.

1 A. LEFT BACK POCKET.

2 Q. HE HAD A GUN IN HIS RIGHT HAND. SO HE REACHED OVER TO  
3 YOUR LEFT POCKET. THAT WOULD BE OVER HERE.

4 A. UH-HUH.

5 Q. DID YOU TURN AROUND AND TAKE YOUR \$20 OUT?

6 A. DID I TURN AROUND?

7 Q. DID HE TELL YOU TO TURN AROUND OR HE JUST REACHED IN  
8 YOUR POCKET STANDING IN FRONT OF YOU?

9 A. NO, HE REACHED IN MY POCKET STANDING IN FRONT OF ME, I  
10 BELIEVE.

11 Q. OKAY. OKAY. THEN HE WENT TO THE CASH REGISTER.

12 A. YES.

13 Q. GUN STILL POINTED AT YOU.

14 A. UH-HUH.

15 Q. OKAY. CASH---

16 A. THEN I WENT AROUND THE COUNTER---

17 Q. AND YOU---

18 A. ---AND HE TRAINED HIS GUN ON ME AROUND THE COUNTER AND  
19 CAME RIGHT TO THE FRONT WHERE THE CASH REGISTER WAS.

20 Q. OKAY. DO YOU HAVE ANY IDEA HOW MUCH MONEY WAS IN THE  
21 CASH REGISTER?

22 A. DO I HAVE ANY IDEA?

23 Q. YES, SIR.

24 A. I THINK RIGHT AT \$389 WAS IN THE CASH REGISTER AT THE  
25 TIME IN CASH, PAPER -- CASH MONEY, YES.



1 Q. DID HE REACH IN THE CASH REGISTER WITH HIS LEFT HAND OR  
2 RIGHT HAND - DO YOU RECALL THAT - TO TAKE THE MONEY OUT?

3 A. HE DID NOT CHANGE HANDS WITH THE GUN.

4 Q. HE DID NOT CHANGE HANDS. PROBABLY HIS LEFT HAND REACHED  
5 IN THIS CASH REGISTER. OKAY. YOU ALSO SAID HE WIPE THE  
6 COUNTER DOWN WITH A RAG?

7 A. HE WIPE DOWN WHATEVER HE TOUCHED. I DON'T KNOW WHETHER  
8 HE TOUCHED THE GLASS, BUT HE WIPE DOWN WHATEVER HE TOUCHED,  
9 AND I THINK IT WAS THE CASH REGISTER.

10 Q. THE CASH REGISTER. HE DIDN'T WIPE THE COUNTER DOWN?

11 A. I DON'T THINK SO. I DON'T THINK HE TOUCHED THE COUNTER  
12 EITHER.

13 Q. YOU DON'T THINK HE TOUCHED THE COUNTER?

14 A. NO.

15 Q. WHERE DID HE GET THE RAG FROM? DID HE ASK YOU FOR A  
16 CLOTH?

17 A. NO, A PAPER TOWEL. HE GOT A PAPER TOWEL. HE ASKED ME  
18 FOR A PAPER TOWEL.

19 Q. AND YOU GAVE HIM ONE? TWO? THREE?

20 A. I DON'T KNOW HOW MANY IT WAS.

21 Q. AND HE WIPE DOWN THE CASH REGISTER.

22 A. UH-HUH.

23 Q. DID HE WIPE DOWN ANYTHING ELSE IN THAT STORE?

24 A. NO, THE DOOR.

25 Q. THE DOOR?

1 A. DOORKNOB.

2 Q. OKAY. ON HIS WAY OUT?

3 A. ON HIS WAY OUT.

4 Q. OKAY. NOW, THE POLICE CAME BECAUSE I GUESS IF YOU  
5 CALLED 9-1-1 -- IS THAT CORRECT?

6 A. YES.

7 Q. HOW LONG DID IT TAKE FOR THEM TO COME TO YOUR BUSINESS?

8 A. IN ABOUT TWO MINUTES THEY WERE THERE.

9 Q. SO REAL QUICK.

10 A. UH-HUH.

11 Q. OKAY. DID -- AND I'M SURE YOU GAVE THEM A STATEMENT.  
12 DID YOU KNOW AT THAT TIME WHO WAS THE GENTLEMAN THAT ROBBED  
13 YOUR STORE?

14 A. NO, I DID NOT.

15 Q. YOU DIDN'T KNOW HIM AT THAT PARTICULAR TIME.

16 A. NO, I DID NOT. NOT BY NAME, NO.

17 Q. SO YOU HAVE NO IDEA WHO HE WAS.

18 A. NO.

19 Q. DID THEY SHOW YOU ANY TYPE OF LINE-UP AT THAT TIME AS TO  
20 WHO MIGHT HAVE BEEN THE GUY TO COME IN YOUR STORE?

21 A. NO.

22 Q. DID THEY SHOW YOU A LINE-UP?

23 A. NO.

24 Q. SO NO LINE-UP WAS SHOWN TO YOU AT ALL.

25 A. NO.

1 Q. DURING THIS PERIOD OF TIME.

2 A. NO.

3 Q. WHEN DID YOU HAVE -- HAVE YOU IDENTIFIED MR. MASSEY AT  
4 ANY TIME BEFORE TODAY TO THE POLICE?

5 A. NO, I DID NOT.

6 Q. SO YOU NEVER IDENTIFIED HIM BEFORE TODAY.

7 A. NO.

8 MR. HASTIE: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: MR. SPRATLIN?

10 MR. SPRATLIN: JUST REAL BRIEFLY.

11 REDIRECT EXAMINATION

12 BY MR. SPRATLIN:

13 Q. MR. HUFF, BACK ON JUNE 7TH, 2007, WERE YOU HAVING ANY  
14 TROUBLE SEEING?

15 A. WAS I HAVING ANY TROUBLE SEEING?

16 Q. YES, SIR.

17 A. NO, I DID NOT.

18 Q. TODAY ARE YOU HAVING ANY TROUBLE SEEING?

19 A. NO.

20 Q. ARE YOU CERTAIN THAT THAT IS THE MAN WHO PUT THE GUN IN  
21 YOUR FACE?

22 A. I'M VERY CERTAIN.

23 MR. SPRATLIN: THANK YOU. THAT'S ALL I HAVE.

24 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU CAN STEP  
25 DOWN. ALL RIGHT. YOUR POSITION ON THIS MOTION, MR. HASTIE?

1 YOU'RE MOVING TO -- WHAT IS YOUR MOTION EXACTLY?

2 MR. HASTIE: YOUR HONOR, I'M MOVING TO SUPPRESS THE  
3 IDENTIFICATION OF THIS MAN, OF MR. MASSEY.

4 THE COURT: AND THE BASIS FOR IT IS WHAT?

5 MR. HASTIE: NO LINE-UP WAS DONE. IMPROPER  
6 IDENTIFICATION. MR. WILDER CAN SPEAK -- HE SAID YOU CAN  
7 SPEAK IF YOU WANT TO.

8 MR. WILDER: IMPERMISSIBLY SUGGESTIVE MODE OF  
9 IDENTIFICATION, YOUR HONOR.

10 THE COURT: WHERE WAS ANY SUGGESTION?

11 MR. WILDER: YOUR HONOR, THE SUGGESTION IS IN THE  
12 ENVIRONMENT OF THE COURTROOM ITSELF, THE DEFENDANT BEING  
13 SEATED AT THE DEFENSE TABLE.

14 THE COURT: CAN'T Y'ALL -- CAN'T THERE BE SOME CROSS-  
15 EXAMINATION ON THAT POINT?

16 MR. WILDER: YOUR HONOR, I'M SURE THERE COULD BE, BUT  
17 OUR ARGUMENT IS---

18 THE COURT: SO YOU'RE SAYING THAT THAT -- WHEN THE ONLY  
19 TIME THERE'S AN I.D. IN COURT IT'S ALWAYS INADMISSIBLE?

20 MR. WILDER: NO, YOUR HONOR, AND THE -- I THINK THE  
21 QUESTION IS -- IN THIS CASE WE'VE GOT A WITNESS WHO WAS  
22 UNABLE TO TELL LAW ENFORCEMENT WHO IT WAS THAT ALLEGEDLY  
23 ROBBED HIM.

24 THE COURT: BUT---

25 MR. WILDER: THERE WAS CIRCUMSTANTIAL EVIDENCE.

1           **THE COURT:** BUT ISN'T THAT ALWAYS THE CASE: SOMEBODY  
2           ROBBED ME?

3           **MR. WILDER:** NO, THAT'S NOT -- THAT'S NOT ALWAYS THE  
4           CASE, YOUR HONOR. SOMETIMES THE PARTIES ARE WELL KNOWN TO  
5           EACH OTHER; THERE'S PRIOR CONTACT. THAT'S MY SON THAT DID  
6           THIS. THAT'S MY DAUGHTER THAT DID THIS. THAT'S SOMEBODY  
7           THAT I HAVE SEEN BEFORE. THAT'S SOMEBODY THAT I AM FRIENDS  
8           WITH. THAT SOMETIMES IS THE CASE.

9           IN THOSE KINDS OF CASES I SUBMIT THERE'S NO LINE-UP  
10          NEEDED BECAUSE THERE'S NOTHING BY THE POLICE TO SUGGEST THAT  
11          THE EYEWITNESS THEMSELVES WAS LED TO THAT PERSON AND SAID,  
12          "THIS IS WHO WE THINK DID IT. THIS IS WHO WE CHARGED WITH  
13          IT. THIS IS THE PERSON ON TRIAL." IN THIS CASE THEY WAITED  
14          FOR TWO YEARS: NO LINE-UP, NO PHOTO SHOW-UP, NO NOTHING TO  
15          SAFEGUARD THE INTEREST OF THIS DEFENDANT. AND THEY WAITED  
16          'TIL THE TIME THE TRIAL STARTS AND SAID THAT'S WHO DID IT,  
17          AND THERE'S BEEN NO CONSTITUTIONAL SAFEGUARDS OF THIS CLIENT  
18          -- OF THIS DEFENDANT'S RIGHTS TO---

19          **THE COURT:** TELL ME A CASE THAT SAYS -- TELL ME A CASE  
20          THAT SAYS THIS KIND OF I.D. IS INADMISSIBLE.

21          **MR. WILDER:** YOUR HONOR, TELFARE (PHONETIC) IS ONE  
22          THAT'S COMING TO MIND, YOUR HONOR, BUT I THINK THAT WHERE  
23          YOU'VE GOT AN INSTANCE WHERE THERE'S NO PREVIOUS CONNECTION  
24          BETWEEN THE DEFENDANT AND THE EYEWITNESS THAT IT'S IMPROPER.

25          **THE COURT:** WELL, I ASSUME THAT AT SOME POINT MR. HUFF

1 TOLD THE POLICE, "WELL, THAT FELLOW WAS IN THE STORE EARLIER  
2 TODAY, AND MS. BILLIE HOLLERED AT HIM TO COME ON OUT." I  
3 WOULD ASSUME THAT THERE'S SOME -- THAT'S HOW THE POLICE WHEN  
4 THEY WENT TO SEE MS. BILLIE AND MS. BILLIE SAID, YEAH, THAT  
5 FELLOW'S NAME WAS SO-AND-SO... I ASSUME THAT'S HOW IT  
6 HAPPENED. I DIDN'T HEAR IT FROM THIS WITNESS STAND, BUT WHAT  
7 I'M LOOKING FOR IS SOME ARGUMENT THAT THIS I.D. IS TAINTED  
8 JUST BECAUSE OF THE PASSAGE OF TIME.

9 MR. WILDER: WELL, YOUR HONOR, IF THEY JUST LET HIM  
10 TESTIFY WITHOUT IDENTIFYING THE MAN IN COURT WHO DID IT AND  
11 THEN THEY RELY ON MS. BILLIE'S IDENTIFICATION, THEN THAT'S  
12 DIFFERENT.

13 THE COURT: THEN I'M SURE YOU WOULD ARGUE THAT: LADIES  
14 AND GENTLEMEN OF THE JURY, THIS DEFENDANT NEVER -- THIS  
15 VICTIM NEVER POINTED OUT THAT DEFENDANT IN THIS COURTROOM.

16 MR. WILDER: I DON'T BELIEVE THE STATE'S ENTITLED TO  
17 THAT TESTIMONY BECAUSE THEY DIDN'T SAFEGUARD THE  
18 IDENTIFICATION PROCESS THAT THE -- THE IDENTIFICATION PROCESS  
19 IS IMPERMISSIBLY SUGGESTIVE. ALL IT IS IS WAITING UNTIL THE  
20 DAY OF TRIAL AND SAYING THAT'S HIM.

21 THE COURT: ALL RIGHT. ANYTHING IN RESPONSE, MR.  
22 SPRATLIN?

23 MR. SPRATLIN: YOUR HONOR, JUST BRIEFLY. I BELIEVE  
24 AGAIN REFERENCING STATE V. RICE, THE NEIL FACTORS DO NOT  
25 APPLY HERE BECAUSE THERE WAS NO SUGGESTIVE OUT-OF-COURT

1 IDENTIFICATION WHICH WE HAVE TO SAFEGUARD AGAINST. THE  
2 AVENUE AND THE PROTECTION OF THE DEFENDANT'S RIGHTS REGARDING  
3 THE IDENTIFICATION MADE IN COURT BY MR. HUFF IS THE CROSS-  
4 EXAMINATION PROCESS, AND SO WE WOULD STATE THAT MR. WILDER OR  
5 MR. HASTIE HAVE AN AMPLE OPPORTUNITY TO CROSS-EXAMINE MR.  
6 HUFF ABOUT HIS IDENTIFICATION AND WHY HE NEVER MADE AN  
7 OUT-OF-COURT IDENTIFICATION.

8 THE COURT: ALL RIGHT. THE DEFENDANT'S MOTION IS DENIED  
9 ON THAT POINT. YOU CAN CROSS-EXAMINE THE WITNESS ON THE VERY  
10 ISSUES THAT YOU'VE RAISED. OKAY. EXCUSE ME. YOU CAN CROSS-  
11 EXAMINE THE VICTIM ON THE VERY ISSUES YOU'VE RAISED. ALL  
12 RIGHT. WHAT DO WE HAVE NEXT? MOTION TO SUPPRESS SEARCH  
13 WARRANT AND JACKSON VERSUS DENNO ARE THE ONLY TWO LEFT. IS  
14 THAT RIGHT?

15 MR. SPRATLIN: I BELIEVE SO, YOUR HONOR. WE WOULD LEAVE  
16 IT UP TO THE COURT'S PREFERENCE AS TO WHICH TO DO NEXT.

17 THE COURT: LET'S DO THE SEARCH WARRANT.

18 MR. SPRATLIN: OKAY. YOUR HONOR, THE STATE WOULD FIRST  
19 CALL DETECTIVE IRENE CULICK TO THE STAND.

20 THE CLERK: YOU'VE ALREADY BEEN SWORN. HAVE A SEAT.

21 IRENE CULICK, HAVING BEEN PREVIOUSLY SWORN AND  
22 REMAINING UNDER OATH, TESTIFIED AS FOLLOWS IN CAMERA:

23 DIRECT EXAMINATION

24 BY MR. SPRATLIN:

25 Q. INVESTIGATOR CULICK, HOW LONG HAVE YOU BEEN -- WHERE ARE

1 YOU EMPLOYED?

2 A. I'M EMPLOYED AT THE SUMTER POLICE DEPARTMENT.

3 Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

4 A. ELEVEN YEARS. A LITTLE OVER 11 YEARS.

5 Q. OKAY. WHERE WERE YOU EMPLOYED PRIOR TO THAT?

6 A. D.H.E.C.

7 Q. OKAY. WAS THAT IN A LAW ENFORCEMENT CAPACITY AS WELL?

8 A. NO, IT WASN'T.

9 Q. OKAY. SO HAVE YOU BEEN -- HOW LONG HAVE YOU BEEN A LAW  
10 ENFORCEMENT OFFICER?

11 A. I'VE BEEN EMPLOYED WITH THEM SINCE FEBRUARY OF '98 AND  
12 WENT TO THE ACADEMY IN 2000.

13 Q. OKAY.

14 A. SO NINE YEARS.

15 Q. HOW LONG HAVE YOU BEEN A DETECTIVE IN THE POLICE  
16 DEPARTMENT?

17 A. SEVEN YEARS.

18 Q. SEVEN YEARS? OKAY. REAL BRIEFLY, WHAT IS YOUR ROLE IN  
19 THIS CASE THAT WE'RE HERE ABOUT TODAY?

20 A. LIKE WE STATED EARLIER, I'M THE LEAD DETECTIVE. I WAS  
21 ASSIGNED THIS CASE---

22 Q. OKAY.

23 A. ---AND RESPONDED WHEN IT HAPPENED.

24 Q. IF YOU WOULD, TAKE THE STATE -- I MEAN, TAKE THE COURT  
25 REAL BRIEFLY THROUGH HOW THE INVESTIGATIVE PROCESS WENT IN



1 THIS CASE.

2 A. THE CALL CAME OUT - I BELIEVE IT WAS A THURSDAY LATE IN  
3 THE AFTERNOON, AFTER 6:00---

4 Q. UH-HUH.

5 A. ---OF AN ARMED ROBBERY THAT HAPPENED AT TOTAL LIVING  
6 LOCATED AT 25 DUGAN STREET BEHIND SUMTER CUT RATE WHICH IS  
7 CLOSE TO THE LAW ENFORCEMENT CENTER. I RESPONDED TO THIS  
8 CALL. AT THAT TIME I SPOKE WITH THE VICTIM IN THIS CASE WHO  
9 WAS A MR. HUFF. PART OF WHAT WE DO IS WE RESPOND, FIND  
10 VICTIMS, WITNESSES, AND START TRYING TO INTERVIEW AND DEVELOP  
11 LEADS IF A SUSPECT IS NOT ON THE SCENE AND ARRESTED RIGHT  
12 AWAY.

13 AT THAT TIME THEY HAD DOGS THAT WERE TRYING TO TRACK THE  
14 SCENT WHERE MR. HUFF STATED THE SUSPECT RAN. I INTERVIEWED  
15 MR. HUFF WHO GAVE ME A DESCRIPTION OF THE SUSPECT. AT THAT  
16 POINT HE ALSO TOLD ME THAT HE HAD SEEN THE SUSPECT BEFORE  
17 WITH A FEMALE THAT WORKS NEXT DOOR AT THE TIME WATEREE AIDS  
18 TASK FORCE OFFICE.

19 Q. WERE YOU ABLE TO -- WERE YOU ABLE TO FIND OUT WHO THAT  
20 FEMALE WAS?

21 A. YES, I WAS ABLE TO FIND OUT WHO HE WAS TALKING ABOUT  
22 THAT WORKED AT THAT STORE.

23 Q. WHAT WAS HER NAME?

24 A. HER NAME WAS LATRICE -- LATRELL BILLIE. EXCUSE ME.

25 Q. OKAY. WHAT HAPPENED NEXT?

1 A. AFTER THAT, WE WERE ABLE TO COME INTO CONTACT WITH MS.  
2 BILLIE. WE WENT TO HER RESIDENCE. WE SPOKE TO HER ABOUT THE  
3 EVENTS OF THAT DAY, ASKED HER WHAT SHE DID, WHO SHE CAME IN  
4 CONTACT WITH. SHE TOLD US. SHE GAVE US THE NAME ANDRE  
5 MASSEY, STATED THAT SHE HAD SEEN HIM EARLIER IN THE STORE  
6 NEXT DOOR. SHE SPOKE WITH -- SHE KNEW HIM FOR SEVERAL  
7 MONTHS, HAD SPOKE TO HIM EARLIER THAT DAY.

8 WE ASKED HER TO DESCRIBE MR. MASSEY TO US, AND SHE  
9 DESCRIBED HIM THE SAME WAY THAT MR. HUFF DESCRIBED HIM, WHAT  
10 HE WAS WEARING THAT DAY, HIS PHYSICAL APPEARANCE, TATTOOS,  
11 EARRINGS, AND FROM THAT SHE ALSO TOLD US THAT HE WAS ON  
12 PROBATION AT THE TIME. WE CALLED PROBATION TO CONFIRM THAT.  
13 SHE DID ALSO STATE THAT HE WAS ON THE SEX OFFENDER REGISTRY  
14 ALSO.

15 Q. OKAY.

16 A. SO WE CALLED PROBATION. WE GOT IN TOUCH WITH AGENT  
17 SUMTER WHO WAS ACTUALLY OVER HIS -- HE WAS HIS PROBATION  
18 OFFICER, PAROLE OFFICER. HE WAS ABLE TO TELL US WHERE MR.  
19 MASSEY LIVED. I BELIEVE HE TOLD US THAT HE WAS SUPPOSED TO  
20 COME SEE HIM THAT DAY, DID NOT SHOW UP, GAVE US AN ADDRESS.  
21 MR. SUMTER -- I DON'T KNOW IF YOU WANT ME TO KEEP GOING OR...

22 Q. WELL, LET'S GO BACK FOR A SECOND. NOW, MS. BILLIE TOLD  
23 YOU THAT SHE HAD RUN INTO MR. MASSEY EARLIER THAT DAY IN THE  
24 STORE; CORRECT?

25 A. CORRECT, AT TOTAL LIVING. THIS IS THE STORE THAT WAS

1 ROBBED.

2 Q. AND WAS THAT CONSISTENT WITH THE STATEMENTS GIVEN BY MR.  
3 HUFF TO YOU?

4 A. YES. MR. HUFF STATED THAT THE INDIVIDUAL THAT HAD  
5 ROBBED HIM WAS IN HIS STORE EARLIER, AND HE WAS WITH THE  
6 FEMALE THAT WORKS NEXT DOOR.

7 Q. OKAY. AND NOW WAS MR. HUFF ABLE TO ACTUALLY TELL YOU  
8 THAT IT WAS LATRELL BILLIE OR...

9 A. NO. HE JUST KNEW IT WAS THE FEMALE THAT WORKED NEXT  
10 DOOR.

11 Q. OKAY. HE SAID THAT MS. BILLIE---

12 A. HE WAS ABLE TO TELL US WHAT SHE DROVE.

13 Q. OKAY. AND WAS -- DID MS. BILLIE DRIVE THE SAME CAR THAT  
14 -- I MEAN, DID MS. BILLIE DRIVE THE CAR THAT THE VICTIM HAD  
15 STATED THAT SHE DROVE?

16 A. SHE DID HAVE -- I THINK SHE DID HAVE THAT VEHICLE IN THE  
17 YARD.

18 Q. OKAY. NOW, IN SPEAKING WITH MS. BILLIE, WAS HER  
19 DESCRIPTION OF MR. MASSEY SIMILAR TO THE ONE THAT MR. HUFF  
20 GAVE?

21 A. YES, IT WAS.

22 Q. HOW SIMILAR?

23 A. THEY BOTH STATED THAT THE DEFENDANT WAS WEARING A WHITE  
24 TANK TOP.

25 Q. UH-HUH.

1 A. THAT HE HAD ON DARK PANTS. THEY STATED THAT HE HAD A  
2 TATTOO. SHE STATED -- MR. HUFF STATED HE HAD TATTOO ON HIS  
3 ARM. HE DESCRIBED IT AS A CIRCLE WITH POINTS COMING OUT OF  
4 IT. SHE STATED THAT HE DID HAVE A TATTOO THAT MATCHED THAT  
5 DESCRIPTION ON HIS ARM, ALONG WITH OTHER TATTOOS. SHE STATED  
6 THAT HE HAD AN EARRING. MR. HUFF STATED THAT HE HAD AN  
7 EARRING. THEIR HEIGHT, ABOUT 5'10, IS WHAT MR. HUFF HAD  
8 DESCRIBED, AND SHE STATED HE WAS SIMILAR IN THAT HEIGHT.  
9 WEIGHT: HE WAS MUSCULAR. MR. HUFF HAD DESCRIBED HIM AS  
10 MUSCULAR, MEDIUM COMPLEXION, AND THE SAME AGE RANGE, LATE  
11 TWENTIES, EARLY THIRTIES.

12 Q. OKAY. AND NOW YOU STATED THAT YOU MADE CONTACT WITH  
13 AGENT SUMTER WITH PAROLE AND PROBATION.

14 A. YES.

15 Q. DO YOU REMEMBER WHAT ADDRESS AGENT SUMTER TOLD YOU?

16 A. I BELIEVE IT WAS 1 -- IT WAS ON [REDACTED], [REDACTED]

17 [REDACTED] POSSIBLY.

18 Q. OKAY. IS THERE ANYTHING THAT WOULD REFRESH YOUR  
19 RECOLLECTION SO YOU COULD BE SURE?

20 A. YES, AND IF YOU COULD LET ME LOOK AT MY FILE, PLEASE.

21 YES, IT WAS [REDACTED], [REDACTED]

22 Q. OKAY. NOW, HOW WERE YOU ABLE TO DETERMINE THAT THAT  
23 WAS, IN FACT, THE DEFENDANT'S RESIDENCE?

24 A. IN SPEAKING WITH MR. SUMTER---

25 Q. UH-HUH.

1 A. ---HE WAS ABLE TO TELL US THAT THAT'S THE ADDRESS THAT  
2 HE WAS USING AT THAT TIME. IT IS ALSO HIS ADDRESS THROUGH  
3 THE D.M.V.

4 Q. OKAY. OKAY. AT SOME POINT DID YOU HAVE A CHANCE TO GO  
5 OVER TO 107 NORTH SALEM STREET?

6 A. YES, WE DID. AGENT SUMTER WENT BY FIRST AND CALLED US,  
7 STATED THAT HE WAS THERE. HE WAS WEARING CLOTHES -- THE SAME  
8 CLOTHES THAT WE DESCRIBED TO HIM THAT THE SUSPECT WAS WEARING  
9 DURING THE ROBBERY. AT THAT POINT WE WENT TO THE RESIDENCE  
10 THERE AND HE WAS LOCATED AT THE RESIDENCE.

11 Q. OKAY. NOW, WHEN YOU WENT TO THE RESIDENCE, WHAT WAS THE  
12 PURPOSE OF GOING TO THE RESIDENCE?

13 A. THE PURPOSE OF GOING TO THE RESIDENCE WAS TO PICK UP MR.  
14 ANDRE MASSEY.

15 Q. OKAY. AND WHAT WAS THE BASIS OF TAKING MR. MASSEY INTO  
16 CUSTODY?

17 A. ALL THE INFORMATION THAT WAS GIVEN TO US PRIOR TO THIS  
18 EVENT IN REFERENCE TO THE ARMED ROBBERY, MR. HUFF'S  
19 STATEMENTS TO US AS THE INDIVIDUAL THAT ROBBED HIM, AND MS.  
20 BILLIE CONFIRMING WHAT MR. HUFF SAID.

21 Q. OKAY. DID YOU FEEL THAT THAT ROSE TO PROBABLE CAUSE TO  
22 MAKE -- TO TAKE THE DEFENDANT INTO CUSTODY?

23 A. YES, BASED ON ALL OF THAT AND ALSO AGENT SUMTER WHO DID  
24 CONFIRM THE TATTOOS ALSO AND THE EARRING.

25 Q. OKAY. WHAT HAPPENED WHEN YOU ARRIVED AT THE RESIDENCE?

1 A. WHEN WE ARRIVED AT THE RESIDENCE, OFFICERS WENT IN. HE  
2 WAS OUTSIDE WHEN AGENT SUMTER RODE BY AND SPOKE WITH HIM, BUT  
3 WHEN OFFICERS GOT THERE, HE WAS INSIDE. KNOCKED ON THE DOOR.  
4 HE CAME TO THE DOOR. HE WAS PLACED IN HANDCUFFS. OFFICERS  
5 DID A PROTECTIVE SWEEP TO MAKE SURE, BECAUSE OF THE GUN  
6 SITUATION, THAT THERE WAS NO ONE ELSE IN THE BACK IN  
7 REFERENCE TO THIS, AND OFFICERS -- AT THAT TIME WE TOOK HIM  
8 TO THE STATION TO INTERVIEW HIM IN REFERENCE TO THIS.

9 Q. OKAY. NOW, WHEN YOU SAY PROTECTIVE SWEEP, WHAT DO YOU  
10 EXACTLY MEAN?

11 A. ANY TIME WE GO AND WE MAKE AN ARREST IN REFERENCE TO A  
12 SUSPECT THAT'S JUST COMMITTED AN ARMED ROBBERY AND WE KNOW  
13 FROM THE VICTIM THAT THERE WAS A GUN INVOLVED, JUST IN THE  
14 PROCESS OF MAKING THE ARREST AND, YOU KNOW, GETTING THE  
15 SUBJECT INTO CUSTODY, WE ALWAYS, YOU KNOW, CHECK OUR  
16 SURROUNDING AREAS TO MAKE SURE THAT THERE'S NO POTENTIAL  
17 DANGER FOR OFFICER SAFETY OUT THERE AND BYSTANDERS.

18 Q. WHAT KIND OF DANGERS ARE Y'ALL CONCERNED ABOUT?

19 A. SOMEONE ELSE GETTING THE GUN, IF SOMEONE ELSE IS  
20 INVOLVED. LOVED ONES, YOU KNOW, THAT DON'T WANT TO SEE THEIR  
21 LOVED ONE GO TO JAIL, THINGS LIKE THAT.

22 Q. IS THE PURPOSE OF A PROTECTIVE SWEEP TO OBTAIN EVIDENCE?

23 A. NO, IT'S NOT.

24 Q. OKAY.

25 A. AND WE DID NOT IN THIS CASE.

1 Q. IN THIS CASE NO EVIDENCE WAS OBTAINED AS A RESULT OF THE  
2 PROTECTIVE SWEEP?

3 A. NO, IT WASN'T.

4 Q. OKAY. WHO ACTUALLY EXECUTED THE PROTECTIVE SWEEP, IF  
5 YOU REMEMBER?

6 A. IT WAS DETECTIVE LYONS - HE WAS PART OF THE N.E.T. TEAM  
7 AT THAT TIME - AND ANOTHER OFFICER WHO IS NO LONGER WITH US,  
8 DETECTIVE SHANE LYNES. THEY HAVE THE SAME LAST NAME, NOT  
9 RELATED, BUT HE'S NOW AN A.T.F. AGENT.

10 Q. OKAY. OKAY. AND ALL THE EVENTS DESCRIBED TODAY, DID  
11 THOSE OCCUR IN SUMTER COUNTY?

12 A. YES, THEY DID.

13 Q. I THINK THAT'S ALL THE QUESTIONS I HAVE AT THIS TIME,  
14 INVESTIGATOR CULICK.

15 A. THANK YOU.

16 MR. SPRATLIN: MR. HASTIE MAY HAVE A COUPLE.

17 THE COURT: WELL, ISN'T THE MOTION TO SUPPRESS THE  
18 WARRANT?

19 MR. SPRATLIN: YOUR HONOR---

20 THE COURT: WHAT'S YOUR MOTION TO SUPPRESS IN THIS  
21 INSTANCE? SUPPRESS WHAT?

22 MR. HASTIE: THE WARRANT.

23 THE COURT: OKAY. ALL RIGHT. YOU'RE NOT GOING TO ASK  
24 HER ANY QUESTIONS ABOUT THAT?

25 MR. SPRATLIN: YOUR HONOR, MS. CULICK DID NOT ACTUALLY

1 GET THE WARRANT.

2 THE COURT: OKAY. ALL RIGHT. THEN YOU CAN GO AHEAD.

3 I'M SORRY. I APOLOGIZE.

4 MR. HASTIE: THANK YOU, YOUR HONOR.

5 CROSS-EXAMINATION

6 BY MR. HASTIE:

7 Q. I WOULD LIKE TO BACK UP -- BEFORE I ASK YOU ABOUT THE  
8 WARRANT, I WOULD LIKE TO BACK UP AND TALK ABOUT: HOW DID YOU  
9 GET NOTICE OF THIS PARTICULAR INCIDENT? THERE WAS A CALL  
10 THAT WENT OUT?

11 A. YES, IT WAS DISPATCHED OUT. THERE WAS -- WHEN A 9-1-1  
12 CALL IS MADE, OUR DISPATCHERS TAKE THAT CALL AND THEN THEY  
13 CALL IT OUT OVER THE RADIO THAT THERE'S AN ARMED ROBBERY AND  
14 WHAT LOCATION.

15 Q. SO YOU ALL WENT TO THE STORE FIRST, I PRESUME.

16 A. YES.

17 Q. NOW, HOW DID YOU GET INFORMATION ABOUT THE LOCATION OF  
18 MR. MASSEY, ONCE AGAIN WHERE HE LIVED?

19 A. FROM AGENT SUMTER.

20 Q. FROM AGENT SUMTER. AND WHO CONTACTED AGENT SUMTER  
21 CONCERNING MR. MASSEY?

22 A. I DID.

23 Q. YOU DID?

24 A. YES, SIR.

25 Q. YOU KNEW THAT HE WAS CONNECTED TO MR. MASSEY SOMEHOW?



1 A. BASED ON WHAT MS. BILLIE TOLD US THAT HE WAS ON  
2 PROBATION, YES, SIR, AND THAT HE WAS ALSO A SEX OFFENDER. HE  
3 WAS ON THE SEX OFFENDER REGISTRY.

4 Q. OKAY. NOW, MS. BILLIE TALKED ABOUT THE TATTOOS OR  
5 IDENTIFYING MARKS. SHE SAID THERE WERE SEVERAL TATTOOS?

6 A. YES.

7 Q. DID SHE DESCRIBE THE OTHER TATTOOS?

8 A. SHE STATED THAT HE HAD MORE THAN ONE, AND I DON'T  
9 REMEMBER WHAT SHE TOLD ME ABOUT THE OTHER TATTOOS ON HIM.  
10 SHE MIGHT HAVE DESCRIBED THEM.

11 Q. OKAY. NOW, HOW WAS MR. SUMTER HELPFUL IN THIS IN  
12 GETTING THE ADDRESS AND ALL OF THAT?

13 A. HE WAS HELPFUL IN US CONTACTING -- WHEN WE CONTACTED AND  
14 FOUND OUT THAT HE WAS THE AGENT THAT WAS HANDLING IT, HE WAS  
15 ABLE TO GIVE US HIS ADDRESS RIGHT AWAY, WHERE HE LIVED, TOLD  
16 US HE WAS STILL IN SUMTER. HE TOLD US THAT HE DID NOT SHOW  
17 UP TODAY, THAT DAY IN PARTICULAR ON THE 7TH OF JUNE.

18 Q. OKAY.

19 A. HE HAD AN APPOINTMENT TO MEET WITH HIM AND HE DIDN'T. A  
20 LOT OF TIMES I'VE SEEN THAT HAPPEN. DEFENDANTS ARE SUPPOSED  
21 TO SHOW UP AND THEY DON'T, AND THEN SOMETHING OCCURS WHEN  
22 THEY'RE SUPPOSED TO BE THERE OR OWE FEES. IT'S NOT UNCOMMON.  
23 BUT HE RODE BY, CONFIRMED THAT HE WAS THERE. MR. MASSEY WAS  
24 AT THE RESIDENCE. CONFIRMED WHAT HE WAS WEARING WHICH  
25 MATCHED THE DESCRIPTION THAT WAS GIVEN TO US BY MR. HUFF AND

1 ALSO MS. BILLIE.

2 Q. OKAY.

3 A. SO HE WAS HELPFUL.

4 Q. SO BUT FOR MR. SUMTER'S TESTIMONY, YOU WOULD NOT HAVE  
5 REALLY KNOWN WHERE MR. MASSEY LIVED AT THAT PARTICULAR TIME.

6 A. YEAH. WELL, DUE TO THE -- DUE TO THE NAME THAT WE HAD,  
7 YES, BECAUSE D.M.V. ALSO HAD HIM LISTED WITH THAT ADDRESS.

8 Q. AND YOU KNEW AT THE TIME THAT MR. SUMTER WAS THE  
9 PROBATION OFFICER?

10 A. YES. YES, I'VE WORKED WITH HIM BEFORE.

11 Q. NOW, WHAT WAS MR. MASSEY WEARING AT THE TIME YOU DID  
12 LOCATE HIM?

13 A. WHEN WE LOCATED HIM, HE HAD ON A WHITE TANK TOP THAT WAS  
14 DESCRIBED BY MR. HUFF AND MS. BILLIE AND ALSO AGENT SUMTER,  
15 AND HE HAD ON BLUE JEANS AT THE TIME. HE HAD CHANGED PANTS.

16 Q. SO HE DID HAVE ON BLUE JEANS AT THE TIME.

17 A. YES, SIR.

18 Q. NOW, WHEN YOU ALL ARRIVED AT THIS HOUSE, DID YOU KNOCK  
19 ON THE DOOR OR HOW DID Y'ALL GET ACCESS? WHAT HAPPENED?

20 A. I DID NOT GO TO THE DOOR.

21 Q. OKAY.

22 A. OTHER OFFICERS WENT TO THE DOOR AND KNOCKED ON IT.

23 Q. OKAY.

24 A. I BELIEVE MR. -- I BELIEVE DETECTIVE SIMS WAS ALSO AT  
25 THE DOOR---

1 Q. OKAY.

2 A. ---AT THE TIME, SO YOU WOULD HAVE TO TALK TO HIM. HE'LL  
3 BE UP HERE IN REFERENCE TO THE SEARCH WARRANT.

4 Q. OH, OKAY.

5 A. YEAH.

6 Q. THAT'S WHAT I'M ABOUT TO ASK, ABOUT THE SEARCH WARRANT.

7 A. CORRECT.

8 Q. BUT YOU WERE THERE ON SITE.

9 A. YES, JUST IN MY VEHICLE. I DIDN'T WANT TO GO UP AS FAR  
10 AS THE ARREST AND STUFF BECAUSE I WAS GOING TO BE THE  
11 INTERVIEWING OFFICER.

12 Q. SO YOU DON'T KNOW WHETHER MR. -- WHO ANSWERED THE DOOR?  
13 DO YOU KNOW WHETHER MR. MASSEY CAME TO THE DOOR OR NOT?

14 A. I DON'T KNOW IF HE ANSWERED THE DOOR. I KNOW THAT HE  
15 DID -- HE DID COME UP AND WAS PUT IN CUFFS AND BROUGHT OUT.

16 Q. NOW, THIS PROTECTIVE SWEEP THAT YOU TALKED ABOUT -- AND  
17 THAT IS DONE TO PROTECT THE POLICE OFFICERS?

18 A. AND ALSO PEOPLE WHO LIVE IN THE AREA, PASSERBYERS (SIC),  
19 THINGS LIKE THAT, YES, SIR. IT'S AN APARTMENT COMPLEX, SO, I  
20 MEAN, THERE'S PEOPLE ON -- THAT LIVE BESIDE HIM.

21 Q. ARE YOU PREPARED TO TALK ABOUT THE WARRANT OR SHOULD I  
22 BE ASKING SOMEONE ELSE? DO YOU KNOW---

23 A. I HELPED DETECTIVE SIMS. AS FAR AS THE AFFIDAVIT, HE  
24 ACTUALLY PREPARED IT, BUT AS FAR AS WHAT WE WERE LOOKING FOR,  
25 I DID GIVE HIM INFORMATION THAT WAS GIVEN TO ME FROM THE

1 VICTIM AS FAR AS THE GUN THAT WAS DESCRIBED THAT WE WERE  
2 LOOKING FOR, THE PANTS THAT WERE DESCRIBED THAT WE WERE  
3 LOOKING FOR, THINGS LIKE THE CURRENCY THAT WAS MISSING.  
4 THINGS LIKE THAT IS WHAT WE PUT DOWN ON THE SEARCH WARRANT.  
5 SO I DID TELL HIM WHAT THE VICTIM HAD TOLD ME.

6 Q. YOU WERE THERE---

7 A. BUT HE WAS THE ONE WHO ACTUALLY PREPARED THE DOCUMENT  
8 AND TOOK IT TO THE JUDGE AND WAS SWORN AND SIGNED IT.

9 Q. DID YOU HAVE A SEARCH WARRANT WHEN YOU WENT TO MR.  
10 MASSEY'S HOME?

11 A. NO, WE DID NOT, JUST PROBABLE CAUSE.

12 Q. YES, MA'AM. WHEN WAS MR. MASSEY ARRESTED?

13 A. HE WAS -- HE WAS ARRESTED THEN---

14 Q. HE WAS ARRESTED THEN?

15 A. ---WHEN WE WENT TO THE HOME. HE WAS PUT IN CUFFS, TAKEN  
16 TO THE STATION. HE WAS NOT FREE TO LEAVE AT THAT TIME AND  
17 BROUGHT DOWN AND ASKED IF HE WOULD TALK TO US.

18 Q. DID YOU ASK MR. MASSEY PERMISSION TO SEARCH HIS HOME?

19 A. HE WAS ASKED PERMISSION TO SEARCH HIS HOME, AND HE DID  
20 NOT WANT US TO SEARCH HIS HOME.

21 Q. SO HE SAID NO.

22 A. HE SAID NO TO OTHER OFFICERS, YES, NOT TO ME. THAT'S  
23 WHY WE OBTAINED A SEARCH WARRANT. IF HE WOULD HAVE SAID,  
24 "YES, YOU CAN COME IN AND SEARCH," WE WOULD HAVE HAD HIM SIGN  
25 A CONSENT FORM TO LET US SEARCH.

1 Q. TO YOUR KNOWLEDGE, DID ANY OFFICERS GO INTO HIS HOME  
2 PRIOR TO YOU ALL GETTING A SEARCH WARRANT?

3 A. NOT TO SEARCH THE RESIDENCE, NO, SIR. OFFICERS WENT IN  
4 THE HOME BUT NOT TO SEARCH THE RESIDENCE. THEY WENT IN THE  
5 HOME TO MAKE SURE NOBODY ELSE WAS THERE WHEN HE WAS TAKEN  
6 INTO CUSTODY, AND THAT WAS IT.

7 Q. OKAY.

8 A. NO ONE WENT BACK INTO THAT RESIDENCE UNTIL A SEARCH  
9 WARRANT WAS OBTAINED.

10 Q. WHO ELSE WAS IN THE HOME THAT DAY?

11 A. HIS GIRLFRIEND WAS THERE, AND ALSO ANOTHER SUBJECT WAS  
12 THERE, ROBINSON, A FRIEND OF HIS, I BELIEVE. JERMAINE  
13 ROBINSON? I BELIEVE---

14 Q. WERE THEY ARRESTED?

15 A. NO.

16 Q. NOT AS ACCOMPLICE OR ANYTHING. SO THEY WERE NOT  
17 ARRESTED.

18 A. WE WERE NOT TOLD ABOUT ANYONE ELSE. MR. HUFF JUST  
19 STATED THERE WAS ONE INDIVIDUAL INVOLVED THAT HE KNEW OF THAT  
20 WAS IN THE STORE THAT PUT THE GUN IN HIS FACE, ROBBED HIM.  
21 HE DIDN'T TELL US ABOUT ANOTHER PERSON IN THE STORE OR SEEING  
22 HIM JUMP IN A CAR WITH SOMEBODY ELSE. SO WE HAD NO REASON TO  
23 BELIEVE THEY WERE INVOLVED AT THE TIME.

24 Q. SO WHEN THIS PROTECTIVE SWEEP WAS COMPLETED, ARE YOU  
25 SAYING THAT THE OFFICERS THEN REMAINED OUTSIDE OF MR.

1 MASSEY'S HOME UNTIL YOU ALL GOT THE SEARCH WARRANT OR WHAT  
2 HAPPENED?

3 A. YEAH. TO MY KNOWLEDGE, THEY WERE OUTSIDE. NOW, I LEFT  
4 SHORTLY AFTER WITH MR. MASSEY, AND WE WENT TO THE POLICE  
5 DEPARTMENT, AND THAT'S WHERE WE TALKED.

6 Q. AND DID THEY LEAVE THE TWO OCCUPANTS IN THE HOME?

7 A. NO, THEY WERE NOT -- THEY WERE NOT IN THE HOME. THEY  
8 WERE STANDING WITH OFFICERS, I BELIEVE, OUTSIDE THE HOME---

9 Q. THEY WERE---

10 A. ---IN FRONT OF THE RESIDENCE.

11 Q. WERE THEY DETAINED?

12 A. YES.

13 Q. THEY WERE DETAINED.

14 A. I BELIEVE THEY WERE DETAINED.

15 Q. WERE THEY---

16 A. WELL, THEY WERE NOT FREE TO GO BACK IN THE HOME. SO TO  
17 ME THAT IS DETAINED.

18 Q. SO YOU WEREN'T THERE WHEN THE ARREST WARRANT WAS  
19 OBTAINED.

20 A. ARREST WARRANT OR SEARCH?

21 Q. I'M SORRY. SEARCH WARRANT.

22 A. NO, I WASN'T THERE WHEN THE SEARCH WARRANT -- WELL, I  
23 WAS THERE WHEN HE WAS TYPING IT. I WASN'T THERE WHEN HE WENT  
24 AND SWORE TO THE JUDGE.

25 Q. OKAY. AND DURING THE SEARCH, YOU WEREN'T THERE WHEN

1 THEY SEARCHED HIS HOME.

2 A. CORRECT.

3 MR. HASTIE: OKAY. COURT'S INDULGENCE, YOUR HONOR?

4 THE COURT: YES, SIR.

5 BY MR. HASTIE:

6 Q. ONE LAST QUESTION. CAN YOU IDENTIFY OR NAME THE OFFICER  
7 THAT DID GO INTO THE HOUSE FOR THAT PROTECTIVE SWEEP?

8 A. AS I STATED EARLIER, DETECTIVE LYONS AND THE OTHER LYNES  
9 THAT AREN'T RELATED---

10 Q. UH-HUH.

11 A. ---I KNOW THEY WENT IN, AND I KNOW DETECTIVE SIMS WAS  
12 THERE BECAUSE HE PUT THE CUFFS ON MR. MASSEY, BUT I DON'T  
13 THINK HE DID THE PROTECTIVE SWEEP. I THINK HE JUST PUT HIM  
14 IN CUFFS, AND I BELIEVE IT WAS DETECTIVE LYONS AND ANOTHER  
15 DETECTIVE LYNES SPELLED A DIFFERENT WAY THAT'S WITH A.T.F.  
16 NOW.

17 Q. TO YOUR KNOWLEDGE, AT LEAST THREE PEOPLE DID THE  
18 PROTECTIVE SWEEP.

19 A. TO MY KNOWLEDGE, TWO. I DON'T -- YOU CAN ASK DETECTIVE  
20 SIMS IF HE DID. I DON'T THINK HE DID, BUT HE'LL BE  
21 TESTIFYING NEXT.

22 MR. HASTIE: OKAY. THANK YOU. YOUR HONOR, I HAVE NO  
23 FURTHER QUESTIONS OF THIS WITNESS.

24 MR. SPRATLIN: JUST REAL BRIEFLY ON REDIRECT, YOUR  
25 HONOR.

REDIRECT EXAMINATION

BY MR. SPRATLIN:

Q. DETECTIVE CULICK, JUST TO CLARIFY: WAS THERE ANY EVIDENCE AT ALL OBTAINED AS A RESULT OF THIS PROTECTIVE SWEEP?

A. NO.

Q. WAS ANY OF THE -- WAS ANY INFORMATION GATHERED DURING THIS PROTECTIVE SWEEP THAT WAS LATER USED TO OBTAIN A SEARCH WARRANT?

A. NO. THE ONLY -- THE ONLY THINGS IN THE SEARCH WARRANT ARE THINGS THAT WE WERE -- THAT WE HAD KNOWLEDGE OF AHEAD OF TIME BEFORE GOING TO THE RESIDENCE THAT WE KNEW ABOUT THE ARMED ROBBERY AND THAT WE WANTED TO SEARCH FOR.

Q. AND WAS INVESTIGATOR SIMS ALONG WITH YOU FOR THIS INVESTIGATION?

A. YES, HE WAS THERE THAT NIGHT AND ASSISTED.

Q. OKAY. ALL RIGHT. THANK YOU. THAT'S ALL I HAVE.

A. THANK YOU.

THE COURT: ALL RIGHT. YOU CAN STEP DOWN. THANK YOU.

THE WITNESS: THANK YOU.

MR. SPRATLIN: YOUR HONOR, THE STATE WOULD NEXT CALL DETECTIVE BILLY LYONS TO THE STAND.

WILLIAM LYONS, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: HAVE A SEAT, PLEASE. STATE YOUR FULL NAME.



1 SPELL YOUR LAST NAME, PLEASE.

2 THE WITNESS: WILLIAM LYONS. L-Y-O-N-S.

3 DIRECT EXAMINATION

4 BY MR. SPRATLIN:

5 Q. MR. LYONS, WHERE ARE YOU EMPLOYED?

6 A. SUMTER POLICE DEPARTMENT.

7 Q. WHAT'S YOUR JOB TITLE THERE?

8 A. I'M CURRENTLY A DETECTIVE IN THE INVESTIGATIVE SERVICES  
9 DIVISION.

10 Q. HOW LONG HAVE YOU BEEN A DETECTIVE?

11 A. SINCE 2007.

12 Q. OKAY. WHEN IN 2007 DID YOU BECOME A DETECTIVE?

13 A. TOWARDS THE END OF JULY, AROUND JULY 24TH I THINK IT  
14 WAS.

15 Q. OKAY. WERE YOU WORKING WITH THE SUMTER POLICE  
16 DEPARTMENT BACK ON JUNE 7TH, 2007?

17 A. YES, I WAS.

18 Q. WHAT WAS YOUR JOB, OCCUPATION, AT THAT POINT?

19 A. AT THAT POINT IN TIME I WAS ASSIGNED TO A SPECIALIZED  
20 TEAM CALLED THE NEIGHBORHOOD ENFORCEMENT TEAM, MYSELF AND  
21 THREE OTHERS, ASSIGNED TO WORK BASICALLY STREET CRIMES,  
22 RESPOND TO INCIDENCES OF VIOLENCE SUCH AS THE ARMED ROBBERY  
23 THAT OCCURRED ON THAT DAY, STREET-LEVEL DRUG TRANSACTIONS,  
24 THINGS OF THAT NATURE.

25 Q. ON THAT DAY, JUNE 7TH, 2007, DID YOU HAVE A CHANCE TO

1 ASSIST IN THE ARREST OF A SUSPECT AT 107 NORTH SALEM STREET,  
2 APARTMENT 2?

3 A. YES, I DID. AS A MATTER OF FACT, I BELIEVE OUR TEAM WAS  
4 WORKING THAT DAY, AND WE ACTUALLY WERE KIND OF WITH THEM  
5 THROUGHOUT THE WHOLE PROCESS. WE ACTUALLY TRIED TO ASSIST  
6 THEM IN EFFECTING HIS ARREST AT MULTIPLE LOCATIONS.

7 Q. OKAY. WHAT HAPPENED AT THE 107 NORTH SALEM STREET,  
8 APARTMENT NUMBER 2?

9 A. MYSELF AND FORMER DETECTIVE SHANE LYNES WHO'S NOW A  
10 SPECIAL AGENT WITH THE A.T.F.---

11 THE COURT: JUST FOR THE RECORD, HE'S L-Y-N-E-S?

12 THE WITNESS: THAT IS CORRECT, YOUR HONOR.

13 THE COURT: ALL RIGHT.

14 THE WITNESS: WE WENT UP TO THE FRONT, ALONG WITH  
15 DETECTIVE TOD SIMS. DETECTIVE SIMS MADE CONTACT AT THE DOOR.  
16 THE DOOR WAS OPENED. MR. MASSEY WAS TAKEN INTO CUSTODY AND  
17 DETAINED. THE OTHER TWO OCCUPANTS I DO NOT KNOW THEIR NAMES  
18 - I WASN'T FAMILIAR WITH THEM - WERE ASKED TO COME OUT.  
19 MYSELF AND DETECTIVE LYNES AT THAT TIME ENTERED THE  
20 RESIDENCE. WE MADE A QUICK SWEEP OF THE RESIDENCE, CHECKING  
21 FOR ADDITIONAL PERSONS IN THE RESIDENCE THAT MAY POSE A  
22 DANGER TO US OR A DANGER TO THE COMMUNITY OR EVEN TO MR.  
23 MASSEY HIMSELF. AS, YOU KNOW, DETECTIVE CULICK STATED,  
24 OFTENTIMES FAMILY MEMBERS GET UPSET. CERTAINLY WE WANT TO  
25 MAKE SURE THERE'S NO ONE IN THERE THAT COULD POSSIBLY DESTROY

1 ANY EVIDENCE THAT THEY MIGHT HAVE NEEDED TO LOOK FOR.

2 BY MR. SPRATLIN:

3 Q. OKAY. AND WHERE WHEN YOU WERE SEARCHING THIS -- WHEN  
4 YOU WERE DOING THIS PROTECTIVE SWEEP OF THE HOUSE, WHERE WERE  
5 YOU LOOKING?

6 A. WHEN WE GO IN, WE JUST LOOK -- WE MAKE QUICK LOOKS INTO  
7 ROOMS. WE CHECK EACH ROOM VISUALLY. WE OPEN CLOSET DOORS TO  
8 MAKE SURE NO ONE IS HIDING IN A CLOSET, CHECK BATHROOMS.  
9 IT'S QUICK, IN AND OUT IN A MINUTE OR TWO. IT'S NOT AN  
10 EXTENSIVE---

11 Q. OKAY.

12 A. ---LOOK. IT'S JUST A QUICK SWEEP.

13 Q. AND, AGAIN, WHAT IS THE PURPOSE OF THIS?

14 A. BASICALLY IT'S -- FIRST, IT'S PROTECTION OF OFFICERS.

15 Q. OKAY.

16 A. ALSO---

17 Q. AND WHY -- WHY WAS PROTECTION OF OFFICERS AN ISSUE IN  
18 THIS CASE?

19 A. BECAUSE THE ALLEGED DEFENDANT HAD COMMITTED A CRIME  
20 WHILE ARMED WITH A HANDGUN.

21 Q. OKAY. SO IT'S PRETTY MUCH STANDARD PROCEDURE WHEN  
22 YOU'RE DOING AN ARREST LIKE THAT TO DO A PROTECTIVE SWEEP?

23 A. ABSOLUTELY. WE HAVE TRAINING AND OUR TEAM HAD TRAINING  
24 IN THAT, AND THAT WAS -- THAT WAS PART OF WHAT WE DID.

25 Q. OKAY. WAS -- TO YOUR KNOWLEDGE, WAS ANY EVIDENCE

1 OBTAINED DURING THIS PROTECTIVE SWEEP?

2 A. NO, NONE WHATSOEVER.

3 Q. WAS ANY INFORMATION OBTAINED IN YOUR PROTECTIVE SWEEP  
4 WHICH WAS LATER USED IN THE SEARCH WARRANT?

5 A. NO, SIR, NOT TO MY KNOWLEDGE.

6 Q. OKAY. THANK YOU, DETECTIVE LYONS. I THINK THAT'S ALL  
7 THE QUESTIONS I HAVE RIGHT NOW.

8 A. OKAY.

9 CROSS-EXAMINATION

10 BY MR. HASTIE:

11 Q. OKAY. OFFICER LYONS, I JUST WANT TO MAKE SURE THAT I'M  
12 CLEAR ON WHO ACTUALLY WENT INTO THE HOME AND DID THAT  
13 PROTECTIVE SWEEP, BUT LET'S START AT YOUR ENTRANCE INTO THE  
14 HOME. DID YOU ALL KNOCK ON THE DOOR?

15 A. YES, SIR.

16 Q. WHO ANSWERED THE DOOR?

17 A. I DO NOT KNOW. TOD SIMS KNOCKED ON THE DOOR. DETECTIVE  
18 SIMS IS THE ONE WHO MADE CONTACT WITH THE PEOPLE AT THE DOOR,  
19 AND MYSELF AND DETECTIVE LYNES -- FORMER DETECTIVE LYNES,  
20 L-Y-N-E-S, WERE ON THE OUTSIDE BEHIND HIM, AND ONCE MR.  
21 MASSEY CAME OUT OF THE RESIDENCE AND WAS PLACED INTO  
22 HANDCUFFS AND THE OTHER TWO OCCUPANTS CAME OUT, WE STEPPED IN  
23 AND MADE THE QUICK PROTECTIVE SWEEP.

24 Q. BUT YOU DON'T KNOW WHO ANSWERED THE DOOR. YOU WERE  
25 RIGHT THERE WITH HIM.

1 A. I WAS RIGHT THERE. I---

2 Q. YOU DON'T KNOW WHETHER MR. MASSEY ANSWERED THE DOOR OR  
3 ANYONE.

4 A. I WENT THERE TO ASSIST AND TO EFFECT AN ARREST.

5 Q. OKAY. NOW, SO YOU ENTERED THE HOME TO REALLY PROTECT  
6 THE OFFICERS AND FAMILY MEMBERS AS WELL.

7 A. CORRECT.

8 Q. OKAY. YOU MADE A SWEEP OF THE HOME. WHAT DID YOU SEE  
9 IN YOUR SWEEP OF THE HOME? BECAUSE YOU WENT IN THERE BECAUSE  
10 YOU WERE FEARFUL THERE MAY HAVE BEEN A GUN INVOLVED IN A  
11 ROBBERY. SO YOU CERTAINLY WERE LOOKING FOR A GUN.

12 A. NO, SIR, WE WERE NOT LOOKING FOR A GUN. WE WERE THERE  
13 LOOKING FOR ADDITIONAL PEOPLE.

14 Q. ADDITIONAL PEOPLE.

15 A. BECAUSE GUNS LAYING AROUND BY THEMSELVES DON'T HURT  
16 PEOPLE; IT'S THE PEOPLE THAT PICK UP THE GUNS. SO WE WANT TO  
17 MAKE SURE THAT THERE'S NO ADDITIONAL BODIES IN THERE THAT ARE  
18 GOING TO COME OUT AFTER WE'VE GOT MR. MASSEY AND THE OTHER  
19 TWO OCCUPANTS OUT OF THE HOUSE. YOU KNOW, WE DON'T WANT A  
20 SURPRISE, SOMEBODY ELSE COME RUNNING OUT WITH A GUN OR, YOU  
21 KNOW, SOMEBODY GETTING UPSET. YOU KNOW, WE LIKE TO MAKE SURE  
22 THAT THERE'S -- THAT THE PEOPLE THAT WE'RE TALKING TO,  
23 WHETHER THEY BE SITTING ON THE INSIDE OR ON THE OUTSIDE,  
24 THOSE ARE THE ONLY PEOPLE THAT ARE THERE.

25 WE DON'T LIKE SURPRISES. SO WE DO A QUICK SWEEP AND

1 MAKE SURE THERE'S -- AND WE ANNOUNCED OURSELVES: "POLICE.  
2 POLICE." YOU KNOW, ANYBODY ELSE IN THERE? SO THAT'S...

3 Q. THERE WAS NO ONE ELSE BUT THE TWO PEOPLE THAT YOU SAW  
4 WHEN YOU FIRST WENT IN THERE.

5 A. MR. MASSEY AND HE HAD TWO ADDITIONAL PEOPLE THAT WERE  
6 DETAINED AS WELL. I DON'T KNOW THEIR NAMES. I'M NOT  
7 FAMILIAR WITH THEM.

8 Q. AND I ASSUME THAT YOU DID GO INTO THE BEDROOMS JUST TO  
9 CHECK FOR OTHER PEOPLE.

10 A. YES, SIR, JUST A QUICK SWEEP. I OPENED THE DOORS,  
11 LOOKED AROUND. I OPENED CLOSET DOORS TO MAKE SURE THERE WAS  
12 NO ONE IN THE CLOSET AND MOVED RIGHT ON THROUGH.

13 Q. DID YOU SEE A DERRINGER DURING YOUR PROTECTIVE SWEEP OF  
14 THAT HOME?

15 A. NO, SIR.

16 Q. YOU DID NOT SEE A GUN AT ALL.

17 A. NO, SIR.

18 Q. DO YOU RECALL WHETHER OR NOT YOU SAW THE BLACK PANTS  
19 WITH SOME WHITE STRIPES ON THEM IN THAT HOME? DO YOU RECALL?

20 A. NO, SIR, I DO NOT RECALL AT ALL.

21 Q. HOW LONG DID THIS PROTECTIVE SWEEP TAKE?

22 A. PROBABLY IN AND OUT OF THE HOUSE IN LESS THAN TWO  
23 MINUTES.

24 Q. TWO MINUTES? YOUR HONOR, I HAVE NO FURTHER QUESTIONS OF  
25 THIS WITNESS.

1 THE COURT: ANYTHING ELSE?

2 MR. SPRATLIN: JUST REAL BRIEFLY.

3 REDIRECT EXAMINATION

4 BY MR. SPRATLIN:

5 Q. DETECTIVE LYONS, WHAT DID YOU DO ONCE THE SWEEP WAS  
6 OVER?

7 A. REMAINED THERE WITH DETECTIVE SIMS AND DETECTIVE LYNES  
8 AS THEY HAD THE OTHER TWO PEOPLE IN CUSTODY AND WE WERE  
9 WAITING ON THE ARRIVAL OF THE SEARCH WARRANT.

10 Q. OKAY. WHERE WERE Y'ALL WAITING?

11 A. ON THE OUTSIDE. WE WERE SITTING RIGHT THERE ON THE  
12 FRONT DOOR STEP OR JUST RIGHT OUTSIDE THE HOUSE WE SAT  
13 AROUND. I KNOW THERE WAS SOME OTHER FOLKS THERE, BUT WE SAT  
14 AROUND AND JUST TALKED TO THEM UNTIL---

15 Q. OKAY.

16 A. ---THEY CAME BACK---

17 Q. SO Y'ALL WERE NOT -- Y'ALL WERE NOT IN THE HOUSE AFTER  
18 THE PROTECTIVE SWEEP.

19 A. NO, SIR.

20 Q. YOU BASICALLY SWEEPED THE HOUSE AND THEN...

21 A. YES, SIR.

22 MR. SPRATLIN: THANK YOU. THAT'S ALL THE QUESTIONS I  
23 HAVE.

24 THE COURT: ANYTHING ELSE?

25 MR. HASTIE: YES, SIR.

RECROSS EXAMINATION

BY MR. HASTIE:

Q. AT THE TIME OF THE PROTECTIVE SWEEP, WAS MR. MASSEY  
ALREADY APPREHENDED?

A. YES, SIR. HE WAS -- HE WAS IN HANDCUFFS WHEN -- I  
BELIEVE WHEN THE DOOR FIRST OPENED HE WAS ONE OF THE FIRST  
ONES THAT WAS PLACED INTO HANDCUFFS.

Q. WHERE WERE THE OTHER TWO PEOPLE IN THE HOUSE? WERE THEY  
OUTSIDE?

A. WHEN WE GOT THERE, THERE WAS NO ONE ON THE OUTSIDE.  
THEY WERE ON THE INSIDE AS WELL.

Q. I'M TALKING ABOUT: WHEN YOU DID THE PROTECTIVE SWEEP,  
WERE THE TWO OTHER PEOPLE OUTSIDE OR STILL IN THE HOUSE?

A. OH, WERE THEY REMAINING INSIDE? NO, SIR. MR. MASSEY  
AND THE OTHER TWO FOLKS WERE ON THE OUTSIDE OF THE HOME WHILE  
WE MADE THE PROTECTIVE SWEEP THROUGH THE HOUSE.

Q. OKAY. SO NOW IS THAT POLICE POLICY? THE PEOPLE WHO ARE  
OUTSIDE THE HOME DON'T HAVE A SEARCH WARRANT -- THAT YOU CAN  
GO INTO SOMEONE'S HOME WITHOUT A SEARCH WARRANT AND DO THIS  
PROTECTIVE SWEEP? DID YOU ASK THEM WAS ANYONE ELSE IN THE  
HOME?

A. I DON'T KNOW IF WE DID OR NOT, BUT WE'RE THERE TO EFFECT  
THE ARREST OF THE PERSON WHO IS INVOLVED IN A VIOLENT FELONY.  
OBVIOUSLY WE HAVE THE RIGHT TO PROTECT OURSELVES AND PROTECT  
THE GENERAL PUBLIC BY STEPPING IN AND DOING A PROTECTIVE



1 SWEEP. IT'S NOT A SWEEP TO SEARCH FOR EVIDENCE OR ANYTHING  
2 LIKE THAT. IT'S SIMPLY A SWEEP TO SEARCH FOR ADDITIONAL  
3 FOLKS THAT COULD POSSIBLY HARM US OR THE GENERAL PUBLIC.

4 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS, YOUR  
5 HONOR.

6 THE COURT: ALL RIGHT. STEP DOWN.

7 MR. SPRATLIN: NOTHING FURTHER OF THIS WITNESS. YOUR  
8 HONOR, MAY MR. -- MAY DETECTIVE LYONS BE EXCUSED? HIS  
9 TESTIMONY WILL NOT BE NEEDED AT THE JURY TRIAL IN THIS CASE.

10 THE COURT: ALL RIGHT. YOU CAN HAVE -- YOU CAN BE  
11 EXCUSED.

12 THE WITNESS: THANK YOU, YOUR HONOR.

13 THE COURT: YOUR NEXT WITNESS?

14 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD NEXT CALL  
15 DETECTIVE TOD SIMS TO THE STAND.

16 TOD A. SIMS, AFTER BEING DULY SWORN, TESTIFIED AS  
17 FOLLOWS IN CAMERA:

18 THE CLERK: HAVE A SEAT UP THERE, PLEASE. STATE YOUR  
19 FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

20 THE WITNESS: IT'S TOD ALLEN SIMS. S-I-M-S.

21 DIRECT EXAMINATION

22 BY MR. SPRATLIN:

23 Q. MR. SIMS, WHERE ARE YOU EMPLOYED?

24 A. I'M EMPLOYED AT THE CITY OF SUMTER POLICE DEPARTMENT.

25 Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

1 A. A TOTAL OF 18 YEARS.

2 Q. WHAT'S YOUR JOB TITLE THERE?

3 A. I'M A SENIOR DETECTIVE.

4 Q. OKAY. WHAT DOES THAT JOB ENTAIL?

5 A. I AM OVERSEER OF THE PROPERTY CRIMES DIVISION AND ALSO  
6 NEXT IN COMMAND UP UNDER THE SERGEANT.

7 Q. WERE YOU WORKING OR ON DUTY THE DAY OF JUNE 7, 2007?

8 A. YES, SIR, I WAS.

9 Q. WHAT WERE YOU DOING THAT DAY?

10 A. GENERAL DUTIES AS FAR AS FOLLOWING UP ON CASES ASSIGNED  
11 TO ME THROUGH MY SERGEANT OR LIEUTENANT.

12 Q. OKAY. WHAT WAS YOUR INVOLVEMENT IN THE CASE AT HAND?

13 A. WE WERE NOTIFIED OF THE SITUATION OF THE ARMED ROBBERY  
14 THAT TOOK PLACE OVER OFF OF DUGAN STREET. ADDITIONAL  
15 DETECTIVES WERE ASKED TO COME AND START SEARCHING FOR THE  
16 INDIVIDUAL THAT COMMITTED THE CRIME.

17 Q. AND DID YOU RESPOND?

18 A. THAT'S CORRECT; I DID.

19 Q. WHO ELSE RESPONDED WITH YOU?

20 A. MYSELF, ALONG WITH DETECTIVE RICHBURG AND DETECTIVE  
21 BRIAN CHRISTMAS AND SOME OTHER ONES THAT WERE AROUND.

22 Q. OKAY. NOW, YOU HEARD -- YOU WERE IN THE COURTROOM  
23 EARLIER WHEN DETECTIVE CULICK GAVE HER STATEMENT OF THE  
24 INVESTIGATION LEADING UP TO THE ARREST OF ANDRE MASSEY. IS  
25 THAT A FAIR AND ACCURATE STATEMENT OF THE EVENTS AS YOU

1 REMEMBER THEM?

2 A. THAT'S CORRECT.

3 Q. OKAY. IS THERE ANYTHING YOU WOULD LIKE TO OMIT OR ADD  
4 TO THAT -- THOSE FACTS?

5 A. EVERYTHING WAS CORRECT.

6 Q. OKAY. NOW, ON THAT DATE DID YOU HAVE A CHANCE TO GO TO  
7 107 NORTH SALEM STREET, APARTMENT NUMBER 2?

8 A. YES, SIR, I DID.

9 Q. AND WHY WERE Y'ALL GOING THERE?

10 A. WE WERE GOING THERE TO MAKE AN EFFECTIVE ARREST ON MR.  
11 ANDRE MASSEY.

12 Q. OKAY. AND WHAT WAS YOUR ROLE IN EFFECTUATING THIS  
13 ARREST?

14 A. I WAS DRIVING ONE OF THE VEHICLES ALONG WITH ANOTHER  
15 SUBJECT WITH THE N.E.T. TEAM TO GO SET UP AND ARREST MR.  
16 MASSEY.

17 Q. OKAY. AND WHAT HAPPENED WHEN YOU ARRIVED AT 107 NORTH  
18 SALEM STREET?

19 A. I WENT TO THE FRONT OF THE RESIDENCE. MR. CALVIN  
20 FULMORE WAS WITH ME. HE WAS THE ONE THAT WENT TO THE REAR OF  
21 THE APARTMENT. I THEN WENT AND KNOCKED ON THE DOOR. AT THAT  
22 TIME THE DOOR OPENED AND A GENTLEMAN CAME FORTH, AND AT THAT  
23 TIME I PLACED CUFFS ON HIM AND I ESCORTED HIM OUTSIDE OF THE  
24 RESIDENCE.

25 Q. WAS THE GENTLEMAN WHO OPENED THE DOOR -- WAS THAT ANDRE

1 MASSEY?

2 A. THAT'S CORRECT.

3 Q. OKAY. WAS ANYONE ELSE IN THE RESIDENCE THAT YOU WERE  
4 AWARE OF?

5 A. YES, SIR. THERE WAS ANOTHER GENTLEMAN AND A FEMALE AT  
6 THE RESIDENCE OR APARTMENT.

7 Q. OKAY. DID Y'ALL -- DID YOU OR ANY OF THE OTHER OFFICERS  
8 THERE THAT YOU KNOW OF KNOW WHO THOSE INDIVIDUALS WERE?

9 A. IT WAS A FRIEND OF MR. MASSEY, A LAST NAME OF ROBINSON,  
10 AND A FEMALE I BELIEVE TO BE HIS GIRLFRIEND.

11 Q. OKAY. WHAT HAPPENED AFTER MR. MASSEY WAS PLACED INTO  
12 HANDCUFFS?

13 A. HE WAS SEARCHED FOR ANY WEAPONS OF ANY SORT AT THAT  
14 TIME. I SAW THE TWO GENTLEMEN - DETECTIVE LYNES AND  
15 DETECTIVE LYONS - ENTER THE APARTMENT DOING A PROTECTIVE  
16 SWEEP. THEY CAME OUT WITH NO RESULTS. AT THAT TIME I WENT  
17 TO THE LAW ENFORCEMENT CENTER TO OBTAIN A SEARCH WARRANT.

18 MR. SPRATLIN: OKAY. CAN I HAVE THIS MARKED AS A  
19 COURT'S EXHIBIT?

20 (COURT'S EXHIBIT 8 WAS MARKED FOR IDENTIFICATION ONLY.)

21 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH THE  
22 WITNESS?

23 THE COURT: YES, SIR.

24 BY MR. SPRATLIN:

25 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS

1 WHAT'S BEEN MARKED COURT'S EXHIBIT NUMBER 8. DETECTIVE SIMS,  
2 DO YOU RECOGNIZE THE DOCUMENT I JUST HANDED YOU?

3 A. YES, SIR, I DO.

4 Q. WHAT IS IT?

5 A. THIS IS A SEARCH WARRANT FOR A RESIDENCE.

6 Q. IS THAT A CERTIFIED COPY?

7 A. YES, SIR, IT IS.

8 Q. IS THERE A RAISED SEAL ON THAT SEARCH WARRANT?

9 A. YES, SIR, THERE IS.

10 Q. OKAY. IF YOU WOULD, PLEASE LOOK THROUGH THAT EXHIBIT.

11 A. (THE WITNESS COMPLIES.) OKAY, SIR.

12 Q. PLEASE, IF YOU WOULD, TAKE US THROUGH THE PROCESS FROM  
13 WHICH THAT SEARCH WARRANT WAS OBTAINED.

14 A. OKAY. THIS SEARCH WARRANT FIRST WAS OBTAINED DUE TO THE  
15 FACT THAT THE RESIDENTS THERE WOULD NOT GIVE US A CONSENT TO  
16 SEARCH. SO, THEREFORE, WE OBTAINED A SEARCH WARRANT OF THE  
17 APARTMENT COMPLEX, SPECIFICALLY NUMBER 2.

18 Q. UH-HUH.

19 A. THE -- IN LINE -- THE FIRST SEARCH WARRANT INDICATES A  
20 CASE NUMBER WHICH WE PUT ON A SEARCH WARRANT SO WE CAN  
21 IDENTIFY WHICH CASE IT BELONGS TO. THEN THERE'S A  
22 DESCRIPTION OF THE PREMISES, THE PREMISES TO BE SEARCHED,  
23 WHICH ENTAILS THE ADDRESS OF THE APARTMENT, THE STREET  
24 LOCATION AND THE NUMBER ON THE APARTMENT AND ALSO THE  
25 LOCATION -- A DETAILED LOCATION POSSIBLY THE SAME, LIKE IN

1 HERE, A CORNER OF A STREET OR SO FORTH, AND IT WOULD ACTUALLY  
2 DESCRIBE THAT APARTMENT. THE NEXT PART WOULD BE A  
3 DESCRIPTION OF THE PROPERTY SOUGHT.

4 Q. OKAY. NOW, BEFORE YOU WENT TO THE MAGISTRATE JUDGE,  
5 WHAT DID YOU DO TO PREPARE TO ASK FOR THE SEARCH WARRANT?

6 A. I GOT WITH DETECTIVE CULICK.

7 Q. OKAY. AND DID YOU PREPARE ANYTHING?

8 A. I PREPARED AN AFFIDAVIT.

9 Q. OKAY. WAS THAT AFFIDAVIT IN WRITING?

10 A. IT WAS TYPED, SIR; YES, SIR.

11 Q. IS THAT AFFIDAVIT THERE IN FRONT OF YOU?

12 A. YES, SIR. IT'S ATTACHED TO THIS SEARCH WARRANT.

13 Q. OKAY. WHAT -- IF YOU WOULD, PLEASE READ TO THE COURT  
14 THE CONTENTS OF YOUR AFFIDAVIT.

15 A. THE CONTENTS OF THE AFFIDAVIT CONSISTS OF: "ON JUNE  
16 THE 7TH, 2007, APPROXIMATELY 18:49 HOURS, MR. HERBERT HUFF  
17 NOTIFIED LAW ENFORCEMENT THAT HE WAS ROBBED AT GUNPOINT AT  
18 HIS BUSINESS, TOTAL LIVING, LOCATED AT 25 DUGAN STREET IN THE  
19 CITY OF SUMTER. MR. HUFF STATED THAT A BLACK MALE ENTERED  
20 THE BUSINESS AS IF HE WAS SHOPPING. AFTER ALL THE CUSTOMERS  
21 HAD LEFT, THE SUSPECT PRESENTED A SMALL HANDGUN AND DEMANDED  
22 MONEY. THE SUBJECT REMOVED ALL THE CURRENCY FROM THE  
23 REGISTER AND MR. HUFF'S WALLET. THE SUBJECT FLED ON FOOT  
24 FROM THE STORE. THE SUBJECT WAS APPROXIMATELY 5'10", HEAVY-  
25 SET, MUSCULAR BUILT, WEARING A WHITE TANK TOP TEE SHIRT,

1 BLACK PANTS WITH A WHITE STRIPE DOWN THE SIDES, AND A DARK  
2 KNIT CAP WITH A KNOT ON TOP. THE SUBJECT IS MEDIUM IN  
3 COMPLEXION WITH A TATTOO ON THE LEFT ARM OF A CIRCLE WITH  
4 POINTS COMING OUT.

5 "MR. HUFF STATED THAT JUST BEFORE THE ROBBERY HE SAW A  
6 BLACK FEMALE WHO WORKS NEXT DOOR ENTER HIS BUSINESS AND THEN  
7 WALK OUTSIDE WITH THE SUSPECT. MR. HUFF FURTHER STATED THAT  
8 HE WAS SEEN WITH A FEMALE ON ANOTHER OCCASION. THROUGH  
9 FURTHER INVESTIGATION, THE FEMALE WAS IDENTIFIED AS LATRELL  
10 BILLIE. SHE ADVISED LAW ENFORCEMENT THAT THE SUBJECT IN  
11 QUESTION WAS AN ANDRE MASSEY. SHE HAS CONFIRMED THAT SUSPECT  
12 AS WEARING THE SAME CLOTHING DESCRIBED BY MR. HUFF.

13 "THE STATE PROBATION AND PAROLE WAS GIVEN THE  
14 INFORMATION GATHERED FROM THE WITNESS AND GAVE LAW  
15 ENFORCEMENT A LOCATION OF ANDRE MASSEY'S RESIDENCE WHICH IS  
16 107 NORTH SALEM AVENUE, APARTMENT 2. LAW ENFORCEMENT LOCATED  
17 MASSEY AT THE RESIDENCE AND TOOK HIM INTO CUSTODY. AT THE  
18 TIME OF ARREST, MASSEY WAS WEARING A WHITE TANK TOP TEE SHIRT  
19 AND DID HAVE THE TATTOO DESCRIBED ON HIS LEFT ARM. IT IS  
20 THIS OFFICER'S BELIEF THAT THE ITEMS SOUGHT THAT WERE USED IN  
21 THE ARMED ROBBERY WOULD BE FOUND AT THE SAID PREMISES."

22 Q. OKAY. AND DID YOU SWEAR TO THAT AFFIDAVIT?

23 A. I SURE DID, SIR.

24 Q. AND DID YOU SIGN IT IN FRONT OF THE MAGISTRATE JUDGE?

25 A. I DID, SIR.

1 Q. OKAY.

2 THE COURT: IS THAT ALL AN EXHIBIT NOW?

3 MR. SPRATLIN: YES, YOUR HONOR. THE ENTIRE SEARCH  
4 WARRANT HAS BEEN MARKED AS A COURT'S EXHIBIT. I HAVE A COPY  
5 IF YOUR HONOR WOULD LIKE TO LOOK.

6 THE COURT: ALL RIGHT.

7 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER  
8 THAT INTO EVIDENCE AS A COURT'S EXHIBIT IN THIS CASE.

9 THE COURT: ANY OBJECTION?

10 MR. HASTIE: NONE, YOUR HONOR.

11 THE COURT: ALL RIGHT. WHAT NUMBER IS THAT?

12 MR. SPRATLIN: IT WOULD BE NUMBER 8, I BELIEVE, YOUR  
13 HONOR.

14 BY MR. SPRATLIN:

15 Q. NOW, DETECTIVE SIMS, WHAT WERE YOU HOPING TO FIND IN THE  
16 SEARCH BY EXECUTING A SEARCH WARRANT?

17 A. WE WERE HOPING TO FIND THE HANDGUN THAT WAS USED IN THE  
18 ARMED ROBBERY, THE CLOTHING THAT THE SUSPECT WAS WEARING.

19 Q. OKAY. BESIDES YOUR AFFIDAVIT, WERE THERE ANY OTHER  
20 FACTS THAT YOU ORALLY TOLD THE MAGISTRATE IN THIS CASE?

21 A. NO, SIR.

22 Q. OKAY. AND WERE YOU ABLE TO OBTAIN A SEARCH WARRANT?

23 A. YES, SIR, I DID.

24 Q. OKAY. AND WHAT -- AND JUST, IF YOU WOULD, READ FOR THE  
25 RECORD THE DESCRIPTION OF THE PREMISES AND PERSON AND PLACES



1 AND THINGS THAT YOU WERE ALLOWED TO SEARCH.

2 A. THE DESCRIPTION OF THE PREMISES TO BE SEARCHED WAS --

3 THE PREMISES TO BE SEARCHED WAS LOCATED AT 107 NORTH SALEM

4 AVENUE, APARTMENT NUMBER 2, IN THE CITY OF SUMTER, STATE OF

5 SOUTH CAROLINA. THE APARTMENT IS LIGHT GREEN IN COLOR,

6 MEDIUM GREEN TRIM WITH DARK GREEN SHUTTERS. THE APARTMENTS

7 ARE AT THE CORNER OF HAMPTON AVENUE AND NORTH SALEM AVENUE.

8 THE RENTER OF THE RESIDENCE IS ANDRE MASSEY. THE APARTMENT

9 HAS THE NUMBER 2 BESIDE THE FRONT DOOR. THE SEARCH IS ALSO

10 TO INCLUDE ANY AND ALL VEHICLES AND ALL OUTBUILDINGS ON SAME

11 PREMISES.

12 Q. OKAY. AND IF YOU WOULD READ THE DESCRIPTION OF THE

13 PROPERTY SOUGHT.

14 A. THE DESCRIPTION OF THE PROPERTY SOUGHT WERE HANDGUNS,

15 AMMUNITION, A BLACK KNIT CAP WITH A BALL ON TOP, A PAIR OF

16 BLACK PANTS WITH WHITE STRIPE DOWN THE SIDES, APPROXIMATELY

17 \$500 IN CASH, AND ANY OTHER ITEMS USED IN THE CRIME OF ARMED

18 ROBBERY.

19 Q. OKAY. AND WAS THIS SEARCH WARRANT SIGNED BY A

20 MAGISTRATE?

21 A. YES, SIR.

22 Q. WHO SIGNED IT?

23 A. JUDGE TINDAL.

24 Q. OKAY. AND WHEN DID SHE SIGN IT?

25 A. SHE SIGNED THE AFFIDAVIT, COMPLETED IT. I WENT OUT TO

1 HER RESIDENCE TO SIGN IT, AND SHE SIGNED IT APPROXIMATELY ON  
2 JUNE THE 8TH, 2007, AT 1:20 A.M.

3 Q. OKAY. NOW, HOW SOON AFTER THIS SEARCH WARRANT WAS  
4 OBTAINED WAS IT EXECUTED?

5 A. WHEN I ARRIVED BACK TO THE SCENE.

6 Q. OKAY. AND WHO WAS WITH YOU DURING THE EXECUTION OF THE  
7 SEARCH WARRANT?

8 A. MYSELF ALONG WITH AT THAT TIME DETECTIVE KEN NESBITT AND  
9 BRIAN CHRISTMAS.

10 Q. OKAY. NOW, WHAT WERE EACH OF YOUR -- DID YOU EACH HAVE  
11 ROLES OR DUTIES IN THE EXECUTION OF THE SEARCH WARRANT?

12 A. MOST OF THE TIME WHEN WE -- WHEN WE ARRIVED THERE, WHEN  
13 WE GOT THERE TO DO IT, LIEUTENANT KEN NESBITT WAS THE ONE  
14 THAT WAS GOING TO -- I EXECUTED. HE DID THE PHOTOGRAPHY AND  
15 WE ALSO -- IN LOCATING ANY ITEMS INSIDE THE RESIDENCE... AT  
16 THAT TIME DETECTIVE CHRISTMAS ACTUALLY STOOD BY WITH THE  
17 FEMALE INSIDE OF THE -- THAT WAS INSIDE THE RESIDENCE WHILE  
18 WE WERE SEARCHING.

19 Q. OKAY. SO DETECTIVE CHRISTMAS DID NOT TAKE PART IN THE  
20 ACTUAL SEARCH.

21 A. PRETTY MUCH, NO, SIR.

22 Q. OKAY. WHAT ITEMS DID YOU FIND DURING THE EXECUTION OF  
23 THE SEARCH WARRANT THAT MATCHED WHAT YOU WERE SEARCHING FOR?

24 A. DURING THE SEARCH, WE LOCATED A -- IT APPEARED TO BE  
25 LIKE A PEARL-HANDLE 22 DERRINGER ON A BED IN A BEDROOM, THE

1 KNIT CAP THAT WAS FOUND LOCATED ON THE COUCH, AND A PAIR OF  
2 DARK-COLORED PANTS WITH A WHITE STRIPE DOWN THE LEG IN THE  
3 BEDROOM NEAR WHERE THE DERRINGER WAS FOUND.

4 Q. OKAY. AND WAS A RETURN PROVIDED OR PREPARED?

5 A. THAT'S CORRECT, SIR.

6 Q. OKAY. NOW, WHEN YOU PREPARE A RETURN, WHAT DO YOU DO?

7 A. AFTER I DO THE RETURN, I GO BACK TO THE MAGISTRATE,  
8 SWEAR TO WHAT I HAVE FOUND, AND THEY KEEP THE ORIGINAL COPY.

9 Q. OKAY. AND WHEN WAS THE SEARCH WARRANT RETURNED TO THE  
10 MAGISTRATE?

11 A. IT WAS RETURNED ON THE 8TH OF JUNE.

12 Q. SO IT WAS RETURNED THE SAME DAY THAT IT WAS TAKEN OUT.

13 A. THAT'S CORRECT.

14 MR. SPRATLIN: OKAY. THANK YOU. THAT'S ALL THE  
15 QUESTIONS I HAVE RIGHT NOW.

16 CROSS-EXAMINATION

17 BY MR. HASTIE:

18 Q. HOW ARE YOU DOING?

19 A. HOW ARE YOU DOING, SIR?

20 Q. ALL RIGHT. SO YOU WERE THE PARTY THAT WENT AND GOT THE  
21 SEARCH WARRANT---

22 A. THAT'S CORRECT.

23 Q. ---THAT'S BEEN IN QUESTION. AND WERE YOU THERE -- AND  
24 YOU WERE THERE WHEN THIS PROTECTIVE SWEEP TOOK PLACE.

25 A. YES, SIR, I WAS OUTSIDE THE RESIDENCE.

1 Q. BUT YOU DID NOT TAKE PART IN THAT.

2 A. NO, SIR.

3 Q. SO IT OBVIOUSLY DIDN'T TAKE YOU VERY LONG TO GO GET THIS  
4 SEARCH WARRANT SIGNED.

5 A. NO, SIR. I MEAN, WE HAD TO GO TO THE OFFICE AND I HAD  
6 TO TYPE IT UP.

7 Q. HOW LONG DO YOU THINK IT TOOK?

8 A. PROBABLY ABOUT AN HOUR.

9 Q. ABOUT AN HOUR?

10 A. A LITTLE OVER AN HOUR.

11 Q. OKAY. YOU CAME BACK TO THIS RESIDENCE WITH THE SEARCH  
12 WARRANT---

13 A. THAT'S CORRECT.

14 Q. ---AND YOU KNOCKED ON THE DOOR?

15 A. WITH THE SEARCH WARRANT?

16 Q. DID YOU---

17 A. I MEAN, PRIOR TO THE SEARCH WARRANT, YEAH, I KNOCKED ON  
18 THE DOOR.

19 Q. AND WHEN YOU CAME BACK WITH THE SEARCH WARRANT, WHAT  
20 HAPPENED?

21 A. WE SEARCHED THE RESIDENCE.

22 Q. WERE -- I GUESS EVERYBODY WAS APPREHENDED AT THAT TIME.

23 A. THEY WERE OUTSIDE; YES, SIR.

24 Q. OKAY.

25 A. MR. MASSEY HAD ALREADY BEEN TAKEN TO THE LAW ENFORCEMENT

1 CENTER.

2 Q. LET'S BACK UP BECAUSE YOU WERE THERE AT THE BEGINNING.  
3 NOW, DID MR. MASSEY TRY TO RUN FROM YOU ALL WHEN YOU FIRST  
4 ARRIVED?

5 A. NO, SIR. HE WOULDN'T HAVE HAD TIME.

6 Q. HE WOULDN'T HAVE HAD TIME.

7 A. NO, SIR.

8 Q. HE DIDN'T TRY TO RUN OUT THE BACK DOOR OR ANYTHING LIKE  
9 THAT?

10 A. NO, SIR.

11 Q. HE CAME TO THAT FRONT DOOR AND---

12 A. THAT'S CORRECT.

13 Q. OKAY. NOW, YOU WENT IN AND YOU FOUND SEVERAL THINGS.  
14 YOU FOUND THE -- YOU DID FIND THE DERRINGER.

15 A. FOLLOWING THE SEARCH WARRANT, YES, SIR.

16 Q. WHERE IN THE HOUSE WAS THIS DERRINGER?

17 A. IT WAS ON A BED IN A BEDROOM, AND IT WAS ACTUALLY UP  
18 UNDER A SHIRT LAYING ON TOP OF A PAIR OF SHORTS.

19 Q. WHAT ABOUT THE PANTS THAT'S BEEN DESCRIBED?

20 A. RIGHT THERE ON THE SIDE OF THE BED RIGHT WHERE THE  
21 DERRINGER WAS FOUND.

22 Q. NOW, HOW MANY FOLKS WENT INTO THE HOUSE? YOU TESTIFIED  
23 ABOUT, OF COURSE, OFFICER CHRISTMAS?

24 A. ARE YOU TALKING ABOUT AS FAR AS SERVING THE SEARCH  
25 WARRANT?

1 Q. SERVING THE SEARCH WARRANT.

2 A. THAT'S CORRECT, MYSELF AND DETECTIVE CHRISTMAS AND  
3 LIEUTENANT NESBITT.

4 Q. WHAT WAS RICHBURG'S ROLE?

5 A. HE WAS JUST DRIVING THE CAR WITH THE GUYS THAT WAS GOING  
6 TO DO -- SURROUNDING THE HOUSE. HE LEFT AND HE WENT TO THE  
7 LAW ENFORCEMENT CENTER.

8 Q. SO HE NEVER DID ENTER THE HOUSE.

9 A. NO, SIR.

10 Q. HE DIDN'T PARTICIPATE IN THE SEARCH.

11 A. NO, SIR. HE WAS ASSISTING WITH DETECTIVE CULICK.

12 Q. DID YOU SEE ANYTHING ELSE IN THE HOUSE BESIDES WHAT YOU  
13 MENTIONED? BECAUSE THERE WAS SOME DISCUSSION AT LEAST HERE  
14 TODAY ABOUT DRUGS BEING SEEN IN THE HOUSE.

15 A. I CAN'T RECALL ANY, TO MY KNOWLEDGE, SIR. IF THERE WAS  
16 ANY IN THERE, IT COULD HAVE BEEN, BUT I DIDN'T NOTICE NO  
17 DRUGS MYSELF.

18 Q. OKAY. BUT IF YOU HAD NOTICED DRUGS, THEY WOULD HAVE  
19 BEEN ON THIS RETURN, I WOULD THINK?

20 A. YES, SIR. YES, SIR. YES, SIR, IT SHOULD -- COULD HAVE  
21 BEEN, YEAH. OUR MAIN GOAL WASN'T NARCOTICS. OUR MAIN GOAL  
22 WAS THE WEAPON AND CLOTHING IN QUESTION.

23 Q. I KNOW, BUT AS POLICE OFFICERS YOU MIGHT BE LOOKING FOR  
24 WEAPONS, BUT IF YOU WALK IN AND SEE DRUGS IN THE ROOM, YOU  
25 ARE GOING TO TAKE ACTION, I PRESUME.

1 A. YEAH. PRETTY MUCH, YES, SIR.

2 Q. YOU'RE GOING TO CONFISCATE THEM.

3 A. YES, SIR.

4 Q. AND HAVE THEM TESTED.

5 A. YES, SIR. IF IT CALLED FOR IT, YES, SIR.

6 Q. WHAT ABOUT PILLS? WERE THERE ANY PILLS SEEN IN THE  
7 ROOM?

8 A. I CAN'T -- I CAN'T REALLY SAY IF ANYTHING -- IF THERE  
9 WAS ANY PRESCRIPTION MEDICATION, I'D HAVE TO LOOK AT THE  
10 OVERALL PICTURES THAT WE TOOK, SIR.

11 Q. UH-HUH. AND FINALLY, TO YOUR KNOWLEDGE, THERE WERE NO  
12 DRUGS FOUND BY YOU AT LEAST IN THAT HOME---

13 A. BY ME AT LEAST, SIR---

14 Q. ---DURING THAT WARRANT.

15 A. I'D HAVE TO SAY THAT, YES, SIR, BY ME.

16 Q. AND YOU HAVE NO KNOWLEDGE THAT THERE WERE ANY DRUGS  
17 FOUND BY ANYONE ELSE BECAUSE IT WOULD HAVE BEEN ON THIS LIST.

18 A. IT'S BEEN TWO YEARS AGO. IF I WOULD HAVE FOUND ANY, IT  
19 WOULD HAVE BEEN ON THE LIST.

20 Q. IT WOULD HAVE BEEN ON THIS LIST. IS THAT CORRECT?

21 A. YES, SIR.

22 MR. HASTIE: OKAY. THANK YOU VERY MUCH. NO FURTHER  
23 QUESTIONS, YOUR HONOR.

24 THE COURT: MR. SPRATLIN?

25 MR. SPRATLIN: JUST REAL BRIEFLY ON REDIRECT.

REDIRECT EXAMINATION

BY MR. SPRATLIN:

Q. DETECTIVE SIMS, I DON'T THINK I COVERED THIS WITH YOU EARLIER. WAS ANY INFORMATION USED IN THAT SEARCH WARRANT THAT WAS OBTAINED BY THE OFFICERS DURING THE PROTECTIVE SWEEP?

A. NO, SIR, NOT AT ALL.

Q. OKAY. WAS ANYTHING THAT THEY SAW USED IN TRYING TO OBTAIN THAT SEARCH WARRANT?

A. NO, SIR.

Q. WAS THAT SEARCH WARRANT BASED ENTIRELY OFF THE INVESTIGATIVE PROCESS LEADING UP TO THE DEFENDANT'S ARREST?

A. THAT'S CORRECT.

MR. SPRATLIN: OKAY. THANK YOU. THAT'S ALL I HAVE.

RE CROSS EXAMINATION

BY MR. HASTIE:

Q. YOU LEFT A COPY OF THE SEARCH WARRANT AT THE RESIDENCE?

A. WITH THE FEMALE THAT WAS THERE.

Q. WITH THE FEMALE THAT WAS THERE?

A. YEAH. ACCORDING TO -- HER NAME IS RIGHT HERE. MS. DIONETTA PRINCE IS WHO I LEFT A COPY OF IT WITH.

MR. HASTIE: THANK YOU.

THE COURT: ALL RIGHT. YOU CAN STEP DOWN. ANY OTHER WITNESSES ON THIS ISSUE?

MR. SPRATLIN: THE LAST WITNESS THE STATE WOULD HAVE ON



KENNETH NESBITT - IN CAMERA DIRECT EXAM BY MR. SPRATLIN 123

1 THIS ISSUE WOULD BE LIEUTENANT KEN NESBITT.

2 THE COURT: AND JUST LOOKING AHEAD, WHO ARE YOUR JACKSON  
3 VERSUS DENNO WITNESSES?

4 MR. SPRATLIN: YOUR HONOR, THAT'S DETECTIVES RICHBURG  
5 AND CULICK. THAT SHOULD GO A LITTLE FASTER SINCE WE WON'T  
6 HAVE TO RECITE FACTS---

7 THE COURT: ALL RIGHT.

8 MR. SPRATLIN: ---AND WE WON'T HAVE TO GO THROUGH THE  
9 ARREST AGAIN.

10 THE COURT: OKAY.

11 THE CLERK: STATE YOUR NAME, PLEASE.

12 MR. NESBITT: KENNETH LEE NESBITT, SR.

13 KENNETH L. NESBITT, SR., AFTER BEING DULY SWORN,  
14 TESTIFIED AS FOLLOWS IN CAMERA:

15 THE CLERK: HAVE A SEAT. STATE YOUR FULL NAME AND SPELL  
16 YOUR LAST NAME, PLEASE.

17 THE WITNESS: THE LAST NAME IS NESBITT. N-E-S-B-I-T-T.  
18 KENNETH LEE, SR.

19 DIRECT EXAMINATION

20 BY MR. SPRATLIN:

21 Q. MR. NESBITT, WHERE ARE YOU EMPLOYED?

22 A. WITH THE SUMTER POLICE DEPARTMENT.

23 Q. AND WHAT'S YOUR JOB THERE?

24 A. CURRENTLY I'M THE TRAINING OFFICER.

25 Q. OKAY. WHAT'S YOUR RANK?

1 A. LIEUTENANT.

2 Q. OKAY. HOW LONG HAVE YOU BEEN EMPLOYED BY SUMTER?

3 A. JUST OVER 25 YEARS.

4 Q. OKAY. AND HAVE YOU BEEN -- IS THAT THE BASIS OF YOUR  
5 ENTIRE LAW ENFORCEMENT CAREER OR WERE YOU SOMEWHERE ELSE  
6 BEFOREHAND?

7 A. NO. IN 2007 I WAS ACTUALLY ONE OF THE TWO FORENSICS  
8 OFFICERS WITH THE DEPARTMENT, AND I'VE BEEN IN FORENSICS  
9 EITHER FULL-TIME OR PART-TIME FOR ABOUT 15 YEARS.

10 Q. OKAY. WERE YOU ON DUTY BACK ON JUNE THE 7TH AND JUNE  
11 THE 8TH OF 2007?

12 A. YES.

13 Q. OKAY. WHAT WERE YOU DOING THAT DAY?

14 A. I WAS CALLED TO ASSIST WITH WHAT WE GENERALLY CALL  
15 PROCESSING, DOING THE CRIME SCENE FORENSICS PROCESSING---

16 Q. OKAY.

17 A. ---AT AN ARMED ROBBERY ON DUGAN STREET.

18 Q. ALL RIGHT. IS IT PRETTY COMMON FOR YOU TO BE CALLED  
19 INTO THESE SITUATIONS?

20 A. DURING THAT TIME IT WAS; YES, SIR.

21 Q. OKAY. IS THAT BECAUSE YOU WERE ALSO DOING FORENSICS?

22 A. THAT'S CORRECT.

23 Q. OKAY. AT SOME POINT DID YOU HAVE AN OPPORTUNITY TO  
24 SERVE A SEARCH WARRANT?

25 A. I ASSISTED DETECTIVE SIMS IN SERVING A SEARCH WARRANT ON

1 SALEM STREET AT THE APARTMENTS; YES, SIR.

2 Q. OKAY. AND NOW WHO ALL WAS INVOLVED IN EXECUTING THE  
3 SEARCH WARRANT?

4 A. THE ONLY ONES I RECALL WAS DETECTIVE SIMS AND DETECTIVE  
5 CHRISTMAS AND MYSELF AS FAR AS THE ACTUAL SERVICE OF THE  
6 WARRANT.

7 Q. AND WHAT WERE YOUR JOB DUTIES DURING THE EXECUTION OF  
8 THIS WARRANT?

9 A. MINE WOULD HAVE BEEN TO DOCUMENT THE SCENE WITH  
10 PHOTOGRAPHS AND TO ASSIST IN SEARCHING FOR EVIDENCE AND  
11 COLLECTING THE EVIDENCE, PACKAGING THE EVIDENCE, AND  
12 TRANSPORTING IT TO THE POLICE DEPARTMENT TO BE TURNED IN TO  
13 THE EVIDENCE ROOM.

14 Q. OKAY. AND WHAT WERE -- WHAT WERE THE JOB  
15 RESPONSIBILITIES OR THE DUTIES OF DETECTIVE CHRISTMAS?

16 A. HE WOULD HAVE BEEN EITHER ASSISTING IN THE SEARCH OR  
17 STANDING BY WITH SOMEONE THAT WAS HOME. THERE WAS A YOUNG  
18 LADY IN THE HOME AT THE TIME THAT DETECTIVE CHRISTMAS STAYED  
19 WITH DURING THE SEARCH.

20 Q. AND WHAT ABOUT DETECTIVE SIMS? WHAT WERE HIS DUTIES?

21 A. HE ASSISTED IN THE SEARCH ALSO WITH ME; YES, SIR.

22 Q. OKAY. DURING THE EXECUTION OF THE SEARCH WARRANT, WERE  
23 ABLE TO OBTAIN EVIDENCE?

24 A. YES, WE WERE.

25 Q. WHAT EVIDENCE DID YOU OBTAIN?

1 A. I RECOVERED A PISTOL, A DERRINGER, A BLACK WITH WHITE  
2 HANDLE 22 DERRINGER ON THE BED.

3 Q. OKAY.

4 A. IT WAS NOT READILY VISIBLE WHEN I WALKED IN. I ALWAYS  
5 TAKE PHOTOGRAPHS OF THE SCENE THAT WE'RE SEARCHING BEFORE I  
6 MOVE ANYTHING. SO I TOOK PHOTOGRAPHS, BEFORE THE GUN WAS  
7 VISIBLE, OF THE BED, AND AS I MOVED A SHIRT OFF OF A PAIR OF  
8 PANTS ON THE BED, THE DERRINGER BECAME PLAINLY VISIBLE. I  
9 PHOTOGRAPHED IT THERE AND THEN COLLECTED IT.

10 Q. OKAY. AND WHAT OTHER EVIDENCE DID YOU FIND?

11 A. THERE WAS A PAIR OF DARK-COLORED PANTS WITH A WHITE  
12 STRIPE RIGHT BESIDE THE BED ON THE FLOOR THAT WAS COLLECTED.

13 Q. OKAY. AND WAS THERE ANYTHING ELSE FOUND?

14 A. THERE WAS A DARK-COLORED RAG COMMONLY CALLED A DOO RAG  
15 THAT WAS RECOVERED FROM THE COUCH IN THE DEN AREA.

16 Q. OKAY. WHAT DID YOU DO WITH ALL THIS EVIDENCE ONCE YOU  
17 OBTAINED IT?

18 A. I TOOK IT TO THE POLICE DEPARTMENT INTO THE FORENSICS  
19 LAB AND PHOTOGRAPHED IT AND PROCESSED FOR FINGERPRINTS. I  
20 ACTUALLY TRIED TO GET LATENT FINGERPRINTS OFF OF THE PISTOL,  
21 THE DERRINGER, AND THEN THOSE ITEMS WERE TURNED OVER TO MR.  
22 JIM ALSBROOKS IN THE EVIDENCE ROOM.

23 Q. OKAY. WERE YOU ABLE TO OBTAIN ANY FINGERPRINTS OFF THAT  
24 DERRINGER?

25 A. NO, SIR, NO IDENTIFIABLE PRINTS. I'M ALSO A LATENT

1 FINGERPRINT EXAMINER, AND SO THERE WERE NO FINGERPRINTS OF  
2 ANY VALUE FOR IDENTIFICATION FOUND ON THE HANDGUN.

3 Q. OKAY. WERE YOU -- ACTUALLY, I THINK THAT'S ALL THE  
4 QUESTIONS I HAVE. THANK YOU.

5 THE COURT: MR. HASTIE?

6 MR. HASTIE: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION

8 BY MR. HASTIE:

9 Q. NOT TO BELABOR THE POINT, YOU DID PARTICIPATE IN THE  
10 SEARCH OF THE PREMISES THERE?

11 A. THAT'S CORRECT.

12 Q. ONE OF YOUR PRIMARY DUTIES WAS TO TAKE PICTURES OF THE  
13 HOUSE.

14 A. THAT'S CORRECT.

15 Q. RIGHT? DO YOU HAVE ANY IDEA HOW MANY PICTURES DID YOU  
16 TAKE?

17 A. I DON'T KNOW. A NUMBER OF THEM, YES.

18 Q. QUITE A FEW, HONESTLY---

19 A. YES.

20 Q. ---FROM WHAT I'VE SEEN. WHEN DID YOU PROVIDE THE STATE  
21 A COPY OF THOSE PICTURES?

22 A. I DIDN'T, AND IT WOULDN'T HAVE NORMALLY BEEN MY DUTY TO  
23 DO THAT. ONCE I TURN THEM IN TO THE EVIDENCE ROOM OR THE  
24 EVIDENCE CUSTODIAN, I'M NORMALLY NOT INVOLVED IN THE  
25 TRANSFERRING OF COPIES OR EVIDENCE TO THE DEFENSE. THAT'S

1 USUALLY HANDLED BY THE...

2 Q. THIS WAS IN 2007. WHEN WERE THEY DEVELOPED? WERE THEY  
3 AUTOMATICALLY DEVELOPED?

4 A. THEY WERE PROBABLY DIGITAL PHOTOGRAPHS; I'D HAVE TO GO  
5 BACK AND LOOK. SO IT WOULD HAVE JUST BEEN A PROCESS OF DOWN-  
6 LOADING THEM ON A DISK, AND I DON'T KNOW EXACTLY WHEN THAT  
7 OCCURRED.

8 Q. NOW, FINGERPRINTS, I THINK YOU SAID THERE WERE NO  
9 FINGERPRINTS OF ANY VALUE. IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. WERE THERE ANY FINGERPRINTS, PERIOD?

12 A. I REALLY DON'T RECALL, AND BECAUSE I AM TRAINED AND  
13 QUALIFIED TO LOOK AT FINGERPRINTS OR PARTIAL PRINTS AND  
14 DETERMINE WHETHER THEY'RE OF ANY VALUE, THEN I -- IF THEY  
15 WERE OBVIOUSLY OF NO VALUE FOR IDENTIFICATION, THEN I WOULD  
16 NOT HAVE KEPT THEM. SOMETIMES YOU CAN HAVE A PRINT THAT MAY  
17 OR MAY NOT BE OF VALUE, AND IT TAKES SOME TIME TO ACTUALLY  
18 STUDY IT UNDER A MICROSCOPE OR A MAGNIFYING GLASS, I'M  
19 SORRY---

20 Q. I GUESS---

21 A. ---BEFORE YOU CAN DETERMINE THAT. IN THIS CASE THERE  
22 WERE NONE. THERE WERE EITHER NONE AT ALL OR THERE WERE NONE  
23 OF ANY IDENTIFIABLE VALUE SO---

24 Q. BUT YOU'RE SAYING THERE MAY HAVE BEEN FINGERPRINTS ON  
25 THAT -- ON THAT DERRINGER.

1 A. THERE COULD HAVE BEEN SOME FINGERPRINT RESIDUE---

2 Q. UH-HUH.

3 A. ---WHICH MEANS IT'S SOME RESIDUE TRANSFERRED FROM A  
4 FINGERTIP ON TO THE WEAPON BUT NOTHING OF ANY PATTERN THAT  
5 WOULD HAVE BEEN OF ANY VALUE FOR IDENTIFICATION.

6 Q. DID YOU TAKE ANY PICTURES OF ANY DRUGS IN THIS HOME AT  
7 ALL?

8 A. NOT TO MY KNOWLEDGE, NO, SIR. THE REASON -- LET ME  
9 CLEAR THAT UP. THE REASON I SAY THAT: THERE'S A PHOTOGRAPH  
10 OF -- OVERALL PHOTOGRAPHS OF DIFFERENT AREAS OF THE HOME, AND  
11 UNLESS THERE'S -- YOU MENTIONED EARLIER SOMETHING ABOUT MAYBE  
12 SOME PILLS. UNLESS THERE WERE SOME LOOSE PILLS ON SOMETHING  
13 THAT I PHOTOGRAPHED THAT I DIDN'T SEE OR DIDN'T NOTICE, THEN  
14 THAT'S POSSIBLE, BUT I DON'T RECALL TAKING ANY AND DIDN'T SEE  
15 ANY THAT I WOULD HAVE RECOGNIZED AS CONTRABAND BECAUSE, AS  
16 YOU SAID EARLIER, THEY WOULD HAVE BEEN ON THE RETURN.

17 Q. HOW LONG -- I KNOW THIS WAS TWO YEARS AGO. HOW LONG  
18 WERE YOU IN THE HOUSE DOING YOUR JOB?

19 A. AT LEAST AN HOUR, POSSIBLY TWO TO TWO AND A HALF HOURS.

20 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS OF THIS  
21 WITNESS.

22 MR. SPRATLIN: NOTHING FURTHER OF THIS WITNESS, YOUR  
23 HONOR.

24 THE COURT: THANK YOU, SIR. MR. NESBITT, YOU CAN STEP  
25 DOWN.

1           THE WITNESS:  THANK YOU.

2           MR. SPRATLIN:  IN REGARDS TO THIS MOTION, YOUR HONOR,  
3  THE STATE WOULD REST AT THIS TIME.

4           THE COURT:  OKAY.  WHAT'S THE DEFENDANT'S POSITION ON  
5  THE -- YOUR MOTION IS TO EXCLUDE THE ITEMS OBTAINED---

6           MR. HASTIE:  YOUR HONOR---

7           THE COURT:  THE CAP, THE GUN.  I CALL IT A CAP.  I THINK  
8  I SAW SOMEBODY REFER TO IT AS A CAP.  THE HEAD-WEAR, LET'S  
9  CALL IT, THE GUN AND THE PANTS?

10          MR. HASTIE:  YES, SIR.

11          THE COURT:  ALL RIGHT.  ON WHAT BASIS?

12          MR. HASTIE:  YOUR HONOR, I'M CONCERNED ABOUT HIS FOURTH  
13  AMENDMENT RIGHTS.  I STILL SAY THIS WAS AN IMPROPER SEARCH.  
14  HE ASKED -- HE TOLD THEM NOT TO SEARCH HIS HOUSE.  THEY DID  
15  EVENTUALLY GO INTO THIS HOUSE.  I KNOW THEY SAID THEY DID NOT  
16  REMOVE ANYTHING FROM THE HOUSE, YOUR HONOR, BUT I JUST THINK  
17  HIS FOURTH AMENDMENT RIGHTS WERE VIOLATED CONCERNING THIS  
18  PARTICULAR SEARCH AND SEIZURE.

19          THE COURT:  ALL RIGHT.

20          MR. HASTIE:  THERE'S EVIDENCE THAT THERE WAS SOME  
21  FINGERPRINTS FOUND ON THE GUN.

22          THE COURT:  NO, HE SAID THERE WAS NOTHING OF ANY VALUE.

23          MR. HASTIE:  NOTHING OF ANY VALUE.

24          THE COURT:  THERE MIGHT HAVE BEEN SOME RESIDUE BUT  
25  NOTHING OF VALUE.



1           **MR. HASTIE:** YOUR HONOR, MAY I CALL ANOTHER WITNESS  
2 CONCERNING THIS MATTER BEFORE WE...

3           **THE COURT:** OH, YES, SIR.

4           **MR. HASTIE:** I WOULD LIKE TO CALL MS. BILLIE.

5           **THE COURT:** ALL RIGHT. IS LATRELL BILLIE IN THE  
6 COURTROOM?

7           **MR. HASTIE:** YES, SIR.

8           **THE COURT:** IS THIS ON THE -- IS THIS ON THE SEARCH  
9 WARRANT ISSUE?

10          **MR. SPRATLIN:** YOUR HONOR, I'M GOING TO OBJECT ON THE  
11 GROUNDS OF RELEVANCY.

12          **THE COURT:** WELL, I DON'T KNOW. I DON'T KNOW. MS.  
13 BILLIE -- IS THIS RELEVANT TO THE SEARCH WARRANT ISSUE?

14          **MR. HASTIE:** SHE DID IDENTIFY HIM AND---

15          **THE COURT:** HAS THAT GOT ANYTHING TO DO WITH THE  
16 WARRANT?

17          **MR. HASTIE:** IT SPECIFICALLY LED TO THEM GOING TO HER --  
18 GETTING THIS PARTICULAR SEARCH WARRANT.

19          **THE COURT:** WELL, AS I UNDERSTAND IT, SHE DIDN'T PROVIDE  
20 AN ADDRESS. SHE JUST SAID HE WAS ON PROBATION, AND THAT LED  
21 SOMEBODY TO CALL MR. SUMTER WHO SAID, "I'VE GOT A FELLOW  
22 NAMED ANDRE MASSEY AS ONE OF MY PAROLEES." IS THAT WHAT YOU  
23 WANT TO TALK TO HER ABOUT?

24          **MR. HASTIE:** I WANT TO TALK TO HER ABOUT -- AND I MAY BE  
25 NOT -- MAY NOT BE ABLE TO AT THIS TIME -- ABOUT HER TESTIMONY

1 CONCERNING THAT SHE GAVE THE POLICE ABOUT ANDRE MASSEY, WHAT  
2 HE WAS WEARING WHICH LED TO THIS---

3 THE COURT: WELL, THAT'S FINE. BRING HER ON UP. MIGHT  
4 AS WELL GET IT ALL IN.

5 MR. HASTIE: YES, SIR.

6 LATRELL M. BILLIE, AFTER BEING DULY SWORN,  
7 TESTIFIED AS FOLLOWS IN CAMERA:

8 THE CLERK: HAVE A SEAT UP THERE, PLEASE, MA'AM. STATE  
9 YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

10 THE WITNESS: LATRELL MICHELLE BILLIE. B-I-L-L-I-E.

11 DIRECT EXAMINATION

12 BY MR. HASTIE:

13 Q. GOOD AFTERNOON, MS. BILLIE.

14 A. HI.

15 Q. MS. BILLIE, WHERE DO YOU WORK?

16 A. I WORK FOR D.H.E.C. I WAS LOCATED AT -- HOUSED AT THE  
17 WATEREE TASK FORCE ON DUGAN STREET.

18 Q. WHAT STREET IS THAT?

19 A. DUGAN.

20 Q. ALSO DUGAN STREET. HOW LONG HAVE YOU---

21 THE COURT: WATEREE AIDS TASK FORCE?

22 THE WITNESS: YES.

23 BY MR. HASTIE:

24 Q. AIDS TASK FORCE?

25 A. AIDS.

1 Q. HOW LONG HAVE YOU WORKED FOR THE AIDS TASK FORCE?

2 A. WELL, THAT'S MY VOLUNTEER WORK. I WORK FOR D.H.E.C. BUT  
3 HOUSED AT THE AIDS TASK FORCE, AND THAT WAS 2006, 2006 WHEN I  
4 STARTED WITH THAT.

5 Q. 2006. HOW LONG HAVE YOU KNOWN MR. MASSEY?

6 A. AROUND LATE 2006.

7 Q. LATE 2006?

8 A. YES, IF I'M NOT MISTAKEN.

9 Q. NOW, DID HE COME TO YOUR FACILITY FOR---

10 A. HE CAME TO SEE WHAT TYPE OF BUSINESS WE WERE DOING, AND  
11 I EXPLAINED TO HIM WHAT TYPE OF BUSINESS WE DO, AND HE  
12 CAME -- HE SAY HE WAS LOOKING FOR A JOB, AND WE ALSO HELP  
13 WITH EMPLOYMENT.

14 Q. OKAY.

15 A. SO I KNEW THAT GOLD KIST WAS HIRING, AND I TOLD HIM HE  
16 NEEDED TO CHECK WITH GOLD KIST.

17 Q. OKAY. THANK YOU. DID HE TAKE AN AIDS TEST?

18 A. I DON'T THINK SO.

19 Q. YOU DON'T KNOW FOR SURE WHETHER OR NOT HE---

20 A. I'M NOT SURE.

21 Q. HOW CAN YOU FIND THAT OUT? YOU ALL KEEP RECORDS?

22 A. YEAH, WE HAVE RECORDS.

23 Q. AND YOU CAN'T TELL US TODAY WHETHER OR NOT HE TOOK AN  
24 AIDS TEST---

25 A. I DON'T THINK SO.

1 Q. ---AT YOUR FACILITY.

2 A. NOT TO MY KNOWLEDGE HE DIDN'T. AS I RECALL, I DON'T  
3 THINK SO.

4 Q. SO NOW HE CAME BY YOUR WORKPLACE ON THE DAY OF THIS  
5 EVENT.

6 A. UH-HUH.

7 Q. CORRECT?

8 THE COURT: YOU NEED TO SAY YES OR NO.

9 THE WITNESS: YEAH. YES, SIR.

10 BY MR. HASTIE:

11 Q. WHAT DID HE COME BY THERE FOR?

12 A. WELL, HE CALLED ME ON MY CELL PHONE AND LET ME KNOW THAT  
13 HE WAS COMING BY BECAUSE USUALLY HE JUST -- ON HIS WAY HOME  
14 HE'LL STOP BY TO ALWAYS THANK US FOR HELPING HIM FIND A JOB.

15 Q. OKAY.

16 A. AND HE CALLED AND SAID -- ASKED ME WHAT TIME I WAS  
17 GETTING OFF WORK, AND I TOLD HIM 5, AND HE SAY HE WAS COMING.  
18 SO I SAID OKAY.

19 Q. OKAY. NOW, CONCERNING THIS INCIDENT, WHO CONTACTED YOU  
20 ABOUT THERE HAD BEEN SOME TYPE OF ROBBERY IN YOUR AREA?

21 A. THE LAW ENFORCEMENT CAME BY MY HOUSE.

22 Q. CAME BY YOUR HOUSE.

23 A. UH-HUH.

24 Q. OKAY. AND WHAT DID THEY ASK YOU?

25 A. THEY ASKED ME BASICALLY WHAT WAS I DOING THAT PARTICULAR

1 DAY AND WHO I WAS WITH THAT PARTICULAR DAY.

2 Q. AND YOU TOLD THEM THAT MR. MASSEY HAD BEEN BY?

3 A. YEAH. THEY ASKED ME WHO WAS THE LAST PERSON I WAS WITH,  
4 AND I TOLD THEM THAT I WAS TALKING TO A GUY THAT WALKED ME TO  
5 MY CAR.

6 Q. OKAY. DID MR. MASSEY -- EXCUSE ME. DID MR. MASSEY  
7 MENTION ANYTHING TO YOU ABOUT ROBBING A PLACE?

8 A. OH, NO. NO.

9 Q. NOTHING ABOUT ANY TYPE OF ROBBERY.

10 A. NO.

11 Q. AT ALL.

12 A. NO.

13 Q. OKAY. IF MR. MASSEY HAD TAKEN AN AIDS TEST FROM YOUR  
14 FACILITY, WOULDN'T THAT BE CONFIDENTIAL INFORMATION?

15 A. YEAH.

16 Q. AND YOU WOULD NOT BE ALLOWED TO DISCUSS---

17 A. NO, SIR.

18 Q. ---THAT HE HAD TAKEN AN AIDS TEST---

19 A. I CANNOT---

20 Q. ---OR ANYTHING LIKE THAT WITH ANYONE. IS THAT CORRECT?

21 A. NO, WITH ANYONE. I COULD NOT SAY THAT.

22 Q. OKAY. AND TO YOUR KNOWLEDGE, YOU'RE SAYING TODAY YOU  
23 BELIEVE THAT HE DID NOT TAKE AN AIDS TEST AT YOUR FACILITY.  
24 IS THAT YOUR TESTIMONY?

25 A. UH-HUH. UH-HUH.

1 Q. BUT YOU'RE NOT 100 PERCENT SURE, ARE YOU?

2 A. I CAN'T REMEMBER. I CAN'T REMEMBER.

3 MR. HASTIE: NO FURTHER QUESTIONS.

4 THE COURT: MR. SPRATLIN?

5 MR. SPRATLIN: JUST REAL BRIEFLY.

6 CROSS-EXAMINATION

7 BY MR. SPRATLIN:

8 Q. JUST REAL BRIEFLY. MS. BILLIE, WHEN THE POLICE CAME TO  
9 YOUR RESIDENCE TO ASK ABOUT MR. MASSEY---

10 A. UH-HUH.

11 Q. ---WHAT DID YOU TELL THEM HE WAS WEARING THAT DAY?

12 A. A WHITE TANK TOP LIKE A WHITE SHIRT AND BLACK SKI PANTS.

13 Q. OKAY.

14 THE COURT: BLACK WHAT?

15 THE WITNESS: SKI PANTS.

16 THE COURT: OKAY.

17 BY MR. SPRATLIN:

18 Q. OKAY. AND WHAT DID YOU TELL THEM -- TELL THE POLICE IN  
19 REGARDS TO TATTOOS?

20 A. THAT HE HAD ONE ON HIS SHOULDER.

21 Q. OKAY. AND WHAT ABOUT EARRINGS?

22 A. YEAH, HAD A DIAMOND OR SOMETHING.

23 Q. OKAY. I THINK THAT'S ALL THE QUESTIONS I HAVE FOR RIGHT  
24 NOW, MS. BILLIE. WE'RE STILL GOING TO NEED YOUR TESTIMONY  
25 DURING THE TRIAL OF THE CASE, BUT THAT'S ALL THE QUESTIONS I

1 HAVE RIGHT NOW.

2 THE COURT: ANYTHING ELSE, MR. HASTIE, OF THIS WITNESS?

3 MR. HASTIE: NONE, YOUR HONOR.

4 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN FOR THE  
5 TIME BEING. YOU'RE STILL UNDER SUBPOENA THOUGH.

6 THE WITNESS: OKAY.

7 THE COURT: ALL RIGHT. ANY OTHER WITNESSES ON THIS  
8 ISSUE, MR. HASTIE?

9 MR. HASTIE: NONE, YOUR HONOR.

10 THE COURT: ALL RIGHT. I'M JUST CURIOUS: WHAT'S THE  
11 SIGNIFICANCE OF THE TESTIMONY ABOUT WHETHER OR NOT HE TOOK AN  
12 AIDS TEST?

13 MR. HASTIE: REALLY THE CONFIDENTIALITY OF THAT AIDS  
14 TEST AND SHE TOLD THE POLICE THAT HE HAD TAKEN AN AIDS TEST;  
15 HE HAD AIDS I BELIEVE THAT THERE'S SOMEWHERE...

16 THE COURT: WELL, I DIDN'T HEAR -- I MAY HAVE TOTALLY  
17 MISSED IT, BUT I DIDN'T HEAR -- DID AN OFFICER TESTIFY TO  
18 THAT TODAY, MR. SPRATLIN?

19 MR. SPRATLIN: NO, YOUR HONOR. I BELIEVE MR. HASTIE IS  
20 REFERRING TO MS. BILLIE'S STATEMENT WHERE SHE MENTIONED THAT  
21 SHE HAD TALKED TO THE DEFENDANT ABOUT POSSIBLY TAKING AN AIDS  
22 TEST.

23 THE COURT: OKAY.

24 MR. SPRATLIN: NOT THAT HE DID TAKE AN AIDS TEST.

25 MR. HASTIE: IT'S ON THERE.

1       **MR. SPRATLIN:** NOT THAT HE HAS TAKEN AN AIDS TEST.

2       **THE COURT:** ALL RIGHT. WHAT'S YOUR ARGUMENT ON THE  
3 SEARCH WARRANT OTHER THAN -- I MEAN, TALKING ABOUT THE FOURTH  
4 AMENDMENT COMPONENT, ANYTHING THAT THIS WITNESS ADDS TO THAT,  
5 MR. HASTIE?

6       **MR. HASTIE:** NOT AFTER HER TESTIMONY, YOUR HONOR, OTHER  
7 THAN THAT AIDS TEST AND CONFIDENTIALITY WHICH I WAS TRYING TO  
8 GET INTO THAT.

9       **THE COURT:** ALL RIGHT. WHAT'S THE STATE'S POSITION ON  
10 THE WARRANT?

11       **MR. SPRATLIN:** YOUR HONOR, THE STATE WOULD CONTEND THAT  
12 THE WARRANT IS, IN FACT, VALID. I DO HAVE SEVERAL CASES  
13 SHOWING THAT A PROTECTIVE SWEEP IS ALLOWED, THE MAIN ONE  
14 BEING STATE V. ABDULLA WHERE THE COURT SAID THAT A  
15 WARRANTLESS SEARCH IS JUSTIFIED UNDER EXIGENT DOCTRINE TO  
16 PREVENT A SUSPECT FROM FLEEING OR WHERE THERE IS A RISK OF  
17 DANGER TO THE POLICE OR OTHERS OUTSIDE THE DWELLING.

18       **THE COURT:** THIS WASN'T A SEARCH THOUGH.

19       **MR. SPRATLIN:** IT WASN'T A SEARCH, YOUR HONOR, SO THIS  
20 IS EVEN LESS THAN THEY DID IN THIS CASE. IN THIS CASE THEY  
21 ACTUALLY FOUND EVIDENCE DURING THE PROTECTIVE SWEEP, EVIDENCE  
22 IN PLAIN VIEW. YOUR HONOR, HERE WE HAVE EVIDENCE FROM EVERY  
23 LAW ENFORCEMENT OFFICER THAT TESTIFIED SHOWING THAT NOTHING  
24 WAS GAINED DURING THIS PROTECTIVE SWEEP THAT WAS LATER USED  
25 TO OBTAIN THE SEARCH WARRANT. THE SEARCH WARRANT IS NOT THE



1 FRUIT OF ANY POISONOUS TREE. THUS, THE SEARCH WARRANT --  
2 AND, YOUR HONOR, YOU MUST DECIDE WHETHER OR NOT THE SEARCH  
3 WARRANT -- IF THERE WAS ENOUGH EVIDENCE IN THE AFFIDAVIT ON  
4 ITS FACE TO PROVIDE THE MAGISTRATE JUDGE WITH PROBABLE CAUSE  
5 TO BELIEVE THAT EVIDENCE WOULD BE FOUND. WE WOULD SUBMIT TO  
6 THE COURT THAT THERE IS, GIVEN THE TESTIMONY OF MR. SIMS  
7 ABOUT WHAT HE TOLD THE MAGISTRATE, GIVEN THE AFFIDAVIT ITSELF  
8 WHICH IS IN EVIDENCE. WE FEEL THAT WE HAVE ESTABLISHED THAT  
9 THE WARRANT WAS PROPERLY ISSUED BY THE MAGISTRATE. IT WAS  
10 BASED ON AN AFFIDAVIT IN WRITING, AND IT WAS RETURNED TO THE  
11 MAGISTRATE WITHIN TEN DAYS OF BEING ISSUED.

12 THE COURT: ALL RIGHT. ANYTHING IN RESPONSE, MR.  
13 HASTIE?

14 MR. HASTIE: YES, SIR. I WOULD LIKE TO ADDRESS -- I'M  
15 SURE CODE 24-21-290 TALKS ABOUT INFORMATION RECEIVED BY  
16 PROBATION AGENTS. IT'S PRIVILEGED INFORMATION. AND THE  
17 OFFICER SAID ON THE STAND BUT FOR THE TESTIMONY OF MR. SUMTER  
18 TELLING THEM THE INFORMATION ABOUT MR. MASSEY, WHERE HE  
19 LIVED, ABOUT HIS BEING ON PAROLE WITH THEM, HE PRETTY MUCH  
20 GUIDED THEM, DIRECTED THEM, TO MR. MASSEY.

21 THE COURT: SO YOU'RE SAYING THAT A PAROLE AGENT CAN  
22 NEVER PROVIDE THAT TYPE OF ASSISTANCE IN LOCATING A SUSPECT  
23 BASED ON THAT STATUTE?

24 MR. HASTIE: I MEAN, I MAY NOT SAY NEVER, BUT THAT'S  
25 WHAT THE STATUTE SAYS HERE, YOUR HONOR.

1       **MR. SPRATLIN:** YOUR HONOR, IF I COULD -- MR. HASTIE,  
2       WHAT STATUTE -- WHAT WAS THAT STATUTE AGAIN?

3       **MR. HASTIE:** CODE 24-21-290.

4       **THE COURT:** ALL RIGHT. ANYTHING ELSE, MR. HASTIE?

5       **MR. HASTIE:** NO, SIR.

6       **THE COURT:** OKAY. ALL RIGHT. IT'S 5:25, AND WE STILL  
7       HAVE TO DEAL WITH THE JACKSON VERSUS DENNO MATTER, AND I'M  
8       NOT LOOKING FOR ANY TYPE OF LOW ESTIMATE. I'M LOOKING FOR AN  
9       HONEST ESTIMATE OF HOW LONG THIS IS GOING TO TAKE.

10       **MR. SPRATLIN:** I WOULD ESTIMATE, YOUR HONOR, AT LEAST AS  
11       LONG AS THE SUPPRESSION HEARING.

12       **THE COURT:** ALL RIGHT. YOU TOLD ME IT WASN'T GOING TO  
13       TAKE NEARLY AS LONG.

14       **MR. SPRATLIN:** WELL, IT WON'T TAKE AS LONG---

15       **THE COURT:** BUT WE'RE TALKING AN HOUR BECAUSE WE STARTED  
16       THAT---

17       **MR. SPRATLIN:** WE'RE TALKING---

18       **THE COURT:** THEN WE'RE GOING TO STOP.

19       **MR. SPRATLIN:** WE'RE TALKING ABOUT 45 MINUTES.

20       **THE COURT:** ALL RIGHT. WELL, THEN WE'LL STOP. OKAY.  
21       WE'LL STOP FOR THE DAY. IF YOU WOULD BE BACK HERE AT 9:15,  
22       WE'LL BEGIN AT THAT TIME. AND LEAVE YOUR -- LEAVE YOUR  
23       TELEPHONE NUMBERS THIS EVENING WITH MY LAW CLERK, AND I'LL  
24       CALL YOU AND I'LL LET YOU KNOW THIS EVENING ABOUT THE  
25       CONTINUANCE.

1       **MR. HASTIE:** YES, SIR.

2       **MR. SPRATLIN:** YES, YOUR HONOR.

3       **THE COURT:** OKAY. THANK Y'ALL. THANK YOU FOR DOING  
4 THAT IN AN ORDERLY FASHION.

5       (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:29 P.M.  
6 AND RESUMED THE FOLLOWING DAY, AUGUST 4TH, 2009 AS FOLLOWS.)

7       **THE COURT:** ALL RIGHT. HAVE A SEAT. THANK YOU VERY  
8 MUCH. ALL RIGHT. MR. HASTIE AND MR. WILDER, LET ME ASK YOU  
9 THIS QUESTION: 24-21-290 SAYS ALL DATA AND INFORMATION  
10 OBTAINED IN THE DISCHARGE OF HIS OFFICIAL DUTY BY A PROBATION  
11 AGENT. WAS MR. SUMTER ACTING AS A PROBATION AGENT IN THIS  
12 CASE OR WAS HE ACTING AS A COMMUNITY SUPERVISION AGENT?

13       **MR. WILDER:** IF IT PLEASE THE COURT, ARTICLE 3 OF THE  
14 CODE MAKES HIM -- I MEAN, HIS EMPLOYMENT, I BELIEVE, IS AS A  
15 PROBATION/PAROLE AGENT. ALL OF THAT PROBATION, PAROLE, AND  
16 PARDON IS ALL PART OF THE SAME STATUTORY SCHEME. HE IS A  
17 PROBATION AGENT, AND I BELIEVE THE LANGUAGE OF THAT STATUTE  
18 INTENDS TO APPLY TO MR. SUMTER.

19       **THE COURT:** ALL RIGHT. HERE'S WHAT I'M GOING TO DO.  
20 NOW, WE'VE TALKED ABOUT THE PRACTICALITIES OF TRYING THIS  
21 CASE. THE MOTION FOR A CONTINUANCE IS DENIED . THE  
22 SOLICITOR CALLING THE CASE IS NOT GOOD CAUSE FOR A  
23 CONTINUANCE, AND SOME MAY QUESTION WHY IT'S BEEN CALLED WITH  
24 THESE WARTS, IF YOU WILL, ON THE CASE, BUT THAT'S -- THAT  
25 DOESN'T FALL UNDER MY ANALYSIS.

1 I'M NOT -- AND I KNOW MR. SPRATLIN THAT YOU DISAGREE  
2 WITH MY INTERPRETATION OF WHAT THE COURT IN STATE VERSUS HOOK  
3 SAID. IT SAYS THAT 24-21-290 MAKES INFORMATION GIVEN BY A  
4 PROBATIONER TO HIS PROBATION AGENT, PROBATION AGENT -- HE'S  
5 NOT A PROBATION AGENT, BUT THAT MAY BE JUST A MISSPEAK BY THE  
6 COURT -- INADMISSIBLE WITH NO EXCEPTION. AND I'M SURE THAT  
7 THE GENERAL COUNSEL FOR THE DEPARTMENT WOULD TAKE ISSUE WITH  
8 THAT, BUT THE GENERAL COUNSEL WOULD BE WRONG. A PLAIN  
9 READING OF THE STATUTE LEAVES NO ROOM FOR GRAFTING ONTO IT AN  
10 EXCEPTION TO EXCLUSION WHEN THE EVIDENCE IN THAT CASE WAS  
11 USED FOR IMPEACHMENT PURPOSES.

12 NOW, IN MY VIEW DETECTIVE CULICK TESTIFIED THAT THEY  
13 ALSO HAD MR. MASSEY'S ADDRESS FROM D.M.V. RECORDS. SO THEY  
14 WOULD HAVE FOUND HIM ANYWAY. SO I'M NOT GOING TO RULE OUT  
15 THE FRUITS OF THE SEARCH BECAUSE OF THAT. ALSO, THIS STATUTE  
16 SAYS THAT THE INFORMATION GIVEN IS INADMISSIBLE. IT DOESN'T  
17 SAY IT RENDERS EVERYTHING DERIVED FROM IT INADMISSIBLE. IT  
18 SAYS THAT -- IT BASICALLY SAYS IT'S NOT RECEIVABLE AS  
19 EVIDENCE IN A COURT. SO I'M NOT GOING TO ALLOW AGENT SUMTER  
20 TO TESTIFY. AND, MR. SPRATLIN, YOU CAN WALK THE LINE, AS YOU  
21 SEE FIT, WHEN YOU QUESTION DETECTIVE CULICK ON HOW THEY GOT  
22 HIS ADDRESS OR, EXCUSE ME, HOW -- ALL THEY HAVE TO SAY IS  
23 THAT THEY HAD A NAME AND THEY WENT TO HIS RESIDENCE AND  
24 ARRESTED HIM.

25 NOW, THEY'RE GOING TO HAVE AN ISSUE AT SOME POINT AS TO

1 WHETHER OR NOT THE WHOLE SEARCH IS POISONED BECAUSE IT CAME  
2 -- BECAUSE THE ADDRESS INFORMATION CAME FROM A PROBATION  
3 AGENT WHO OBTAINED THE GENTLEMAN'S ADDRESS IN THE DISCHARGE  
4 OF HIS OFFICIAL DUTY. THAT'S THE ONLY REASON MR. SUMTER  
5 WOULD HAVE HAD A REASON TO HAVE MR. MASSEY'S ADDRESS. SO IF  
6 YOU WANT TO WALK THAT LINE, YOU CAN WALK IT AND TAKE YOUR  
7 CHANCES WHEN IT COMES UP ON APPEAL, BUT I'M GOING TO ALLOW --  
8 I'M NOT GOING TO GRANT YOUR CERT -- YOUR MOTION TO DISMISS  
9 THE FRUITS OF THE SEARCH. YES, SIR, MR. WILDER?

10 MR. WILDER: AND THAT'S WHAT I WANT TO MAKE SURE, YOUR  
11 HONOR, WITH MR. HASTIE'S PERMISSION AND THE COURT'S  
12 PERMISSION. THE MOTION IS TO SUPPRESS THE ARREST OF THE  
13 DEFENDANT BECAUSE IT WAS BASED ON TAINTED INFORMATION THAT  
14 CAME IN VIOLATION OF THIS COURT -- IN THIS VIOLATION OF THE  
15 STATUTE.

16 THE COURT: I SEE.

17 MR. WILDER: THE SEIZURE OF THE DEFENDANT, HIS  
18 CONFESSION, THE SEARCH OF HIS HOUSE, EVERYTHING RESULTING  
19 FROM THE INFORMATION THAT MR. SUMTER GAVE WE BELIEVE IS ALL  
20 FRUIT OF THE POISONOUS TREE, AND THE WHOLE THING SHOULD  
21 UNRAVEL BECAUSE OF THE STATE'S VIOLATION OF THIS CODE  
22 SECTION.

23 THE COURT: ALL RIGHT.

24 MR. WILDER: AND THAT'S WHAT WE WANT TO MAKE SURE THE  
25 RECORD IS PROTECTED.

1       **THE COURT:** FOR THE RECORD, YESTERDAY THE MOTION WAS  
2 ONLY AS FAR AS THE SEARCH WAS CONCERNED, NOT THE SEIZURE OR  
3 THE ARREST AND THE STATEMENTS, BUT I DISAGREE WITH YOUR  
4 BROADER INTERPRETATION OF 24-21-290. IT DOESN'T SAY THAT --  
5 THERE IS NO AUTHORITY FOR THE PROPOSITION THAT EVERYTHING  
6 RECEIVED AS A RESULT OF THAT IS THE FRUIT OF THE POISONOUS  
7 TREE, ESPECIALLY BECAUSE THIS DOESN'T -- TO ME IT DOESN'T  
8 IMPLICATE THE FOURTH AMENDMENT.

9       **MR. WILDER:** RESPECTFULLY, YOUR HONOR, THE SEARCH  
10 WARRANT HAS TO BE BASED ON EVIDENCE THAT THEY PRESENT TO A  
11 MAGISTRATE, AND THAT IS -- THAT'S SOMETHING THAT THE  
12 MAGISTRATE RECEIVED IN ORDER TO ISSUE THE SEARCH WARRANT.  
13 THE PROBABLE CAUSE, YOUR HONOR, WE SUBMIT -- BUT, ANYWAY I  
14 RESPECT THE COURT'S RULING. I'M NOT TRYING TO ARGUE WITH YOU  
15 IN ANY SENSE.

16       **THE COURT:** NO. THAT SUITS ME FINE IF YOU DO.

17       **MR. WILDER:** WELL, I WOULD NEVER DO THAT, YOUR HONOR.

18       **THE COURT:** THE STATUTE---

19       **MR. WILDER:** BUT TO---

20       **THE COURT:** ---TO ME AS A PRACTICAL MATTER MAKES NO  
21 SENSE, BUT THAT'S NOT FOR ME TO DECIDE BECAUSE THE SUPREME  
22 COURT HAS SAID THAT. THAT'S WHAT THE LEGISLATURE SAYS, AND I  
23 CAN -- I KNOW, WITHOUT EVEN LOOKING OVER THERE, MR. SUMTER IS  
24 ABOUT TO JUMP OUT OF HIS SKIN.

25       **MR. WILDER:** WELL, YOU KNOW, IT'S OUR POSITION THAT HE

1     ACTED UNLAWFULLY BY GIVING THEM ANY INFORMATION AT ALL.

2             **THE COURT:**    OKAY.

3             **MR. WILDER:**   AND HE'S STILL OVER THERE GIVING THEM  
4     INFORMATION, AND WE OBJECT TO THAT, TOO.   BUT BE THAT AS IT  
5     MAY, WE DO ASK THE RECORD TO BE PROTECTED SO THAT THE ISSUE  
6     CAN BE ADDRESSED BY AN APPELLATE COURT.

7             **THE COURT:**   WELL, ANYTHING THAT HE'S GIVING TO THEM IS  
8     NOT RECEIVABLE AS EVIDENCE IN COURT, BUT IN THIS CASE -- AND  
9     I WOULD ASSUME THAT MR. SPRATLIN IS THE ONE WHO'S MAKING SURE  
10    THAT DOESN'T OCCUR---

11            **MR. SPRATLIN:**   (NODDED HEAD UP AND DOWN.)

12            **THE COURT:**   ---OR THAT THE INFORMATION... IT'S NOT  
13    AGAINST THE LAW FOR HIM TO GIVE THEM INFORMATION. IT'S JUST  
14    NOT RECEIVABLE IN COURT. IN MY VIEW, FROM DETECTIVE CULICK'S  
15    TESTIMONY, THEY WOULD HAVE FOUND HIM ANYWAY AT THAT ADDRESS,  
16    AND I WOULD ASSUME THAT HER TESTIMONY ON THAT IS TRUE, AND  
17    I'LL HAVE TO ACCEPT IT AS TRUE BASED ON HER STATEMENTS  
18    YESTERDAY.

19            **MR. WILDER:**   YOUR HONOR, NOT TO BELABOR THE POINT, BUT  
20    THE STATUTE AS IT'S READ IN THE BODY SAYS ANY---

21            **THE COURT:**   YOU'RE RIGHT. IT SAYS MAY NOT BE DISCLOSED  
22    DIRECTLY OR INDIRECTLY.

23            **MR. WILDER:**   IS PRIVILEGED INFORMATION, IS NOT  
24    RECEIVABLE AS EVIDENCE, AND MAY NOT BE DISCLOSED DIRECTLY OR  
25    INDIRECTLY TO ANYONE, AND THAT'S THE LANGUAGE AND THAT'S ALL

1 WE'RE ASKING IS THAT THE RECORD BE PROTECTED.

2 THE COURT: WELL, IF THERE IS A FINDING OF GUILT IN THIS  
3 CASE, THEN THIS IS GOING TO BE AN ISSUE---

4 MR. WILDER: YES, SIR.

5 THE COURT: ---AND ALONG WITH CERTAIN OTHER ISSUES THAT  
6 MR. SPRATLIN IS FULLY AWARE OF.

7 MR. WILDER: YOUR HONOR, WE WILL -- I'LL TRY TO PROMPT  
8 MR. HASTIE, AND I KNOW HE INTENDS TO OBJECT AT EVERY STAGE.  
9 MAY THE RECORD BE PROTECTED THROUGHOUT ON THIS ISSUE?

10 THE COURT: EVEN IF I SAID IT WAS, THERE'S A CASE THAT  
11 CAME OUT RECENTLY THAT SAYS I CAN'T -- EVEN IF I SAY THAT,  
12 THEN IT'S NOT PROTECTED. Y'ALL CAN OBJECT THE FIRST TIME  
13 THAT IT'S OFFERED IN FRONT OF THE JURY, AND THEN AFTER THAT  
14 YOUR OBJECTION CAN CARRY THROUGH, BUT YOU WILL HAVE TO  
15 OBJECT.

16 MR. WILDER: THANK YOU, YOUR HONOR, AND WE'RE NOT---

17 THE COURT: AND I'LL TAKE NO OFFENSE AT ANY TIME A  
18 LAWYER IS TRYING TO PROTECT THE RECORD.

19 MR. WILDER: THANK YOU. THAT'S ALL WE'RE TRYING TO DO.

20 THE COURT: NO PROBLEM ON MY END.

21 MR. SPRATLIN: YOUR HONOR---

22 THE COURT: ALL RIGHT. ALL RIGHT. IS ALL THE JURY  
23 HERE, MR. HERRING?

24 THE CLERK: YES, SIR.

25 THE COURT: ALL RIGHT. IF YOU WOULD -- IF YOU WOULD --



1 THIS IS GOING TO TAKE 30, 45 MINUTES?

2 MR. SPRATLIN: I WOULD IMAGINE SO, YOUR HONOR.

3 THE COURT: ALL RIGHT. IF YOU WOULD TELL THE JURY, MR.  
4 HERRING -- IS THERE ANY OBJECTION FROM EITHER SIDE THAT THE  
5 JURY MAY, SINCE THEY HAVEN'T BEEN SWORN, THEY MAY EXCUSE  
6 THEMSELVES UNTIL 10:30 FROM THE JURY ROOM? ANY OBJECTION?

7 MR. SPRATLIN: NONE FROM THE STATE, YOUR HONOR.

8 MR. HASTIE: NONE, YOUR HONOR.

9 THE COURT: ALL RIGHT. TELL THEM IF THEY WANT TO STAY  
10 IN THERE THEY CAN, BUT IF THEY -- THAT THEY CAN TURN THEIR  
11 BADGES IN AND GET RESCANNED AND THEN COME BACK. OKAY? GO  
12 AHEAD, MR. SPRATLIN.

13 MR. SPRATLIN: THANK YOU, YOUR HONOR. I ASSUME WE'RE  
14 ADDRESSING THE JACKSON/DENNO ISSUE AT THIS POINT IN TIME?

15 THE COURT: YES, SIR.

16 MR. SPRATLIN: THE STATE WOULD FIRST CALL DETECTIVE  
17 IRENE CULICK TO THE STAND.

18 IRENE CULICK, AFTER BEING DULY SWORN, TESTIFIED AS  
19 FOLLOWS IN CAMERA TESTIMONY:

20 THE CLERK: STATE YOUR NAME AND SPELL YOUR LAST NAME.

21 THE WITNESS: IT'S DETECTIVE IRENE CULICK. C-U-L-I-C-K.

22 DIRECT EXAMINATION

23 BY MR. SPRATLIN:

24 Q. DETECTIVE CULICK, YOU'VE ALREADY ESTABLISHED WHERE  
25 YOU'RE EMPLOYED AND HOW LONG YOU'VE BEEN WORKING THERE.

1 CORRECT?

2 A. CORRECT.

3 Q. AND YOU'VE ALREADY ESTABLISHED WHAT THE INVESTIGATIVE  
4 PROCESS WAS LEADING UP TO THE ARREST OF THE DEFENDANT, ANDRE  
5 MASSEY.

6 A. YES.

7 Q. CORRECT? WHEN THE DEFENDANT WAS ARRESTED, WHAT DID YOU  
8 DO?

9 A. WHEN THE DEFENDANT WAS ARRESTED, HE WAS TRANSPORTED TO  
10 THE POLICE DEPARTMENT. ONCE AT THE POLICE DEPARTMENT, HE WAS  
11 TAKEN TO OUR INTERVIEW ROOM WHERE MYSELF AND DETECTIVE  
12 RICHBURG WENT IN TO TALK TO HIM. HE WAS FIRST GIVEN HIS  
13 WAIVER OF RIGHTS FORM THAT WE HAVE AT THE SUMTER POLICE  
14 DEPARTMENT.

15 (STATE'S EXHIBIT 1 WAS MARKED FOR IDENTIFICATION ONLY.)

16 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH THE  
17 WITNESS?

18 THE COURT: ALL RIGHT.

19 BY MR. SPRATLIN:

20 Q. DETECTIVE CULICK, DO YOU RECOGNIZE THAT DOCUMENT I JUST  
21 HANDED YOU?

22 A. YES.

23 Q. WHAT IS THAT DOCUMENT?

24 A. THIS IS THE SUMTER POLICE DEPARTMENT'S INTERVIEW FORM  
25 THAT HAS THE DEFENDANT'S RIGHTS ON IT, AND THIS IS WHAT WE

1 USE TO EXPLAIN THE RIGHTS TO DEFENDANTS BEFORE WE QUESTION  
2 THEM IN REFERENCE TO A CRIME OR INFORMATION IN REFERENCE TO A  
3 CRIME.

4 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I'D LIKE TO MARK  
5 THAT EXHIBIT AS STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION  
6 PURPOSES AT THIS TIME.

7 THE COURT: ALL RIGHT. THAT'S THE WAIVER FORM?

8 MR. SPRATLIN: YES, YOUR HONOR.

9 THE COURT: ANY OBJECTION? THIS IS JUST FOR I.D.

10 MR. HASTIE: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 BY MR. SPRATLIN:

13 Q. NOW, DETECTIVE CULICK, WHAT IS THE PROCESS IN WHICH YOU  
14 GO OVER THE RIGHTS WITH THE DEFENDANTS?

15 A. WHAT WE DO IS WE SHOW THEM THE FORM AND EXPLAIN TO THEM  
16 THAT THIS IS THEIR RIGHTS AND THAT WE'RE GOING TO READ IT TO  
17 THEM LINE BY LINE. EVEN IF THEY CAN READ, THEY'RE JUST TO  
18 FOLLOW ALONG WITH US.

19 Q. UH-HUH.

20 A. I READ HIS RIGHTS TO HIM, MR. MASSEY. THE FORM WAS  
21 PLACED IN FRONT OF HIM, AND THEN I READ LINE BY LINE TO HIM.  
22 I STATED, "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST  
23 UNDERSTAND YOUR RIGHTS." HE WAS EXPLAINED, "YOU HAVE THE  
24 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST  
25 YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR

1 ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM OR HER  
2 WITH YOU DURING THE QUESTIONING. IF YOU CANNOT AFFORD A  
3 LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING  
4 IF YOU WISH, AND IF YOU DECIDE TO ANSWER ANY QUESTIONS NOW  
5 WITHOUT A LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP  
6 ANSWERING AT ANY TIME UNTIL YOU TALK WITH A LAWYER." AND  
7 THEN WE FILL OUT THE NEXT SECTION. WE EXPLAIN TO THEM,  
8 "BEFORE ANY QUESTIONING, I WAS FURNISHED THE ABOVE STATEMENTS  
9 OF MY RIGHTS AT," AND IT WAS AT 11:36 P.M. ON JUNE THE 7TH,  
10 2007, AT THE SUMTER POLICE DEPARTMENT BY DETECTIVE CULICK OF  
11 THE SUMTER POLICE DEPARTMENT.

12 Q. YOUR HONOR---

13 A. AND I READ TO HIM, "I HAVE READ OR HAD READ TO ME THIS  
14 STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE.  
15 I'M WILLING TO ANSWER QUESTIONS AT THIS TIME WITHOUT A LAWYER  
16 PRESENT. NO PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO  
17 PRESSURE HAS BEEN USED AGAINST ME." MR. MASSEY STATED HE  
18 UNDERSTOOD THOSE RIGHTS. HE AGREED THAT NOBODY HAD  
19 THREATENED HIM OR PROMISED HIM ANYTHING, AND HE SIGNED  
20 STATING HE DID WANT TO TALK TO US.

21 Q. AND WHO ELSE SIGNED THAT FORM?

22 A. MYSELF AND DETECTIVE RICHBURG WHO WAS IN THE ROOM WHEN  
23 THIS WAS DONE.

24 Q. WAS ALL THAT DONE IN YOUR PRESENCE?

25 A. YES.

1 Q. SO ALL SIGNATURES WERE OBTAINED IN YOUR PRESENCE.

2 A. YES.

3 MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME I WOULD  
4 TENDER STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION PURPOSES  
5 INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 1.

6 THE COURT: YOU'LL HAVE TO DO THAT IN FRONT OF THE JURY,  
7 SO LET'S JUST LEAVE IT FOR I.D. RIGHT NOW.

8 MR. SPRATLIN: YES, YOUR HONOR.

9 BY MR. SPRATLIN:

10 Q. NOW, DETECTIVE CULICK, AFTER ADVISING THE DEFENDANT OF  
11 HIS RIGHTS, DID HE ASK -- DID HE INVOKE ANY OF THOSE RIGHTS?

12 A. NO.

13 Q. DID HE ASK FOR A LAWYER?

14 A. NO, HE DIDN'T.

15 Q. DID HE STATE THAT HE WISHED TO REMAIN SILENT?

16 A. NO.

17 Q. DID HE, IN FACT, JUST REMAIN SILENT?

18 A. NO. HE TALKED WITH US.

19 Q. OKAY. IN YOUR OPINION, DID HE DO ANYTHING TO INDICATE  
20 THAT HE DID NOT WISH TO PARTAKE IN THE INTERVIEW WITH YOU?

21 A. NO. HE WAS VERY COOPERATIVE, TALKATIVE, WANTED TO --  
22 WANTED TO GET THE SITUATION RESOLVED.

23 Q. OKAY. NOW, WHEN YOU FIRST BEGAN QUESTIONING THE  
24 DEFENDANT, WHAT WERE YOU QUESTIONING HIM ABOUT?

25 A. WE WERE ASKING HIM JUST BASIC QUESTIONS: WHAT DID YOU

1 DO TODAY? WHERE WERE YOU AT? DO YOU WORK ANYWHERE,  
2 QUESTIONS ALONG THOSE LINES JUST TO ESTABLISH A TIMELINE,  
3 WHAT HE WAS DOING DURING THE DAY.

4 Q. OKAY. AND WHEN YOU WERE FIRST QUESTIONING HIM, WHAT DID  
5 HE TELL YOU?

6 A. WHEN WE WERE FIRST QUESTIONING HIM ABOUT WHAT HE DID  
7 THAT DAY, HE KNEW THAT WE WERE QUESTIONING HIM ABOUT A  
8 ROBBERY THAT TOOK PLACE AT TOTAL LIVING ON 25 DUGAN STREET.  
9 HE KNEW WHERE WE WERE TALKING ABOUT. HE KNEW WHERE THE  
10 BUSINESS WAS. HE KNEW THE FEMALE THAT WORKED NEXT DOOR. HE  
11 TALKED TO US ABOUT BEING AROUND THE STORE THAT DAY AND  
12 OVERHEARING A CONVERSATION THAT TOOK PLACE WITH THE -- HE  
13 REFERRED TO HIM AS THE OLD DUDE THAT WORKED AT THE STORE AND  
14 SOMETHING ABOUT A CONVERSATION THAT TOOK PLACE BETWEEN HIM  
15 AND ANOTHER PERSON IN REFERENCE TO MAYBE A SCAM THAT THEY  
16 WERE TRYING TO DO.

17 Q. OKAY. WAS THIS INITIAL STATEMENT GIVEN IN WRITING?

18 A. YES, HE DID.

19 MR. SPRATLIN: OKAY. MARK THAT AS STATE'S EXHIBIT  
20 NUMBER 2.

21 (STATE'S EXHIBIT 2 WAS MARKED FOR IDENTIFICATION ONLY.)

22 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH THE  
23 WITNESS?

24 THE COURT: ALL RIGHT.

25

1 BY MR. SPRATLIN:

2 Q. DETECTIVE CULICK, DO YOU RECOGNIZE THE DOCUMENT I JUST  
3 HANDED YOU?

4 A. YES, I DO.

5 Q. WHAT IS THAT DOCUMENT?

6 A. THIS IS A STATEMENT---

7 THE COURT: DOES IT HAVE A NUMBER ON IT?

8 MR. SPRATLIN: IT DOES, YOUR HONOR. IT'S MARKED FOR  
9 IDENTIFICATION PURPOSES AS STATE'S EXHIBIT NUMBER 2.

10 THE WITNESS: IT'S THE SUSPECT STATEMENT FORM THAT WE  
11 DID. MR. MASSEY WANTED TO GIVE A WRITTEN STATEMENT---

12 BY MR. SPRATLIN:

13 Q. OKAY.

14 A. ---AS TO WHAT OCCURRED THAT DAY AND WHAT HAPPENED, AND  
15 THIS IS THE FIRST STATEMENT THAT HE DID WITH US THAT DAY.

16 Q. OKAY. NOW, WHO REQUESTED THAT THE STATEMENT BE IN  
17 WRITING.

18 A. I ASKED IF HE WOULD MIND DOING A STATEMENT IN WRITING OR  
19 TAPED, AND HE STATED HE WOULD DO ONE IN WRITING.

20 Q. OKAY.

21 A. AND HE REQUESTED THAT WE TYPE IT BECAUSE WE OFFERED TO  
22 LET HIM WRITE OR WE COULD IT OR TYPE IT.

23 Q. SO HOW WAS THAT STATEMENT PREPARED?

24 A. WE WENT TO DETECTIVE RICHBURG'S OFFICE AT THAT TIME. HE  
25 HAS A REST ROOM IN THERE. SO WE WENT BACK THERE. WE USED

1 HIS OFFICE, AND I TYPED THE STATEMENT AS HE WAS TALKING.

2 Q. OKAY. WAS THE DEFENDANT THEN EITHER READ HIS STATEMENT  
3 OR GIVEN A CHANCE TO READ HIS STATEMENT?

4 A. YES. YES, THE STATEMENT WAS READ TO HIM AGAIN AFTER WE  
5 WERE THROUGH. HE AGREED THAT THAT WAS HIS STATEMENT AND THAT  
6 EVERYTHING IN HERE WAS CORRECT. HE DID NOT INDICATE THAT WE  
7 NEEDED TO CHANGE ANYTHING OR ADD ANYTHING, AND THEN HE SIGNED  
8 IT TO SHOW THAT THIS WAS HIS STATEMENT.

9 Q. OKAY. WAS IT SIMPLY READ TO HIM OR WAS HE GIVEN AN  
10 OPPORTUNITY TO READ IT AS WELL?

11 A. NO, HE WAS GIVEN AN OPPORTUNITY TO READ IT AS WELL,  
12 WHILE I'M READING IT TO HIM, TO MAKE SURE THAT HE UNDERSTANDS  
13 WHAT'S IN THERE.

14 Q. OKAY. WHAT, IF ANYTHING, DID THE DEFENDANT DO TO RATIFY  
15 THAT STATEMENT AS BEING HIS?

16 A. HE SIGNED IT.

17 Q. OKAY. AND WHO ELSE SIGNED IT?

18 A. I SIGNED IT AND ALSO DETECTIVE RICHBURG, AND HE ALSO  
19 SIGNED THE DATE ON HERE.

20 Q. AND WAS THAT STATEMENT GIVEN ENTIRELY IN YOUR PRESENCE?

21 A. YES.

22 Q. AND WAS THAT STATEMENT GIVEN ENTIRELY IN DETECTIVE  
23 RICHBURG'S PRESENCE?

24 A. YES, IT WAS.

25 Q. NOW, AFTER THAT INITIAL STATEMENT WAS GIVEN, WHAT DID



1 YOU DO THEN?

2 A. AFTER THIS INITIAL STATEMENT WAS GIVEN, I CALLED THE  
3 DETECTIVES THAT WERE AT THE -- AT MR. MASSEY'S RESIDENCE THAT  
4 DID THE SEARCH WARRANT TO ASK, YOU KNOW, HAD THEY FOUND ANY  
5 ITEMS THAT WERE RELATED TO THIS ARMED ROBBERY. ALSO, THEY  
6 WERE TALKING TO THE WITNESSES AT THE HOME, HIS GIRLFRIEND AND  
7 ANOTHER FRIEND THAT WAS THERE, WHAT THEY HAD SAID ABOUT THE  
8 EVENTS OF THE DAY. WERE THEY WITH HIM DURING THE TIME OF THE  
9 ROBBERY? THINGS LIKE THAT. I TALKED TO DETECTIVE SIMS WHO  
10 STATED THAT THEY HAD LOCATED THE GUN THAT WAS DESCRIBED BY  
11 OUR VICTIM, A TWO-SHOT DERRINGER, IN MR. MASSEY'S BEDROOM.  
12 THEY HAD LOCATED PANTS THAT MATCHED THE DESCRIPTION MR. HUFF  
13 GAVE WHICH WAS BLACK PANTS WITH A WHITE STRIPE DOWN THE SIDE,  
14 AND ALSO THEY LOCATED A DOO RAG THAT HAD A KNOT TIED IN IT---

15 Q. OKAY.

16 A. ---THAT WAS SIMILAR TO WHAT MR. HUFF SAID THE SUSPECT  
17 WAS WEARING.

18 Q. AND WHAT DID YOU DO WITH THIS INFORMATION?

19 A. I WENT BACK AND TOLD ANDRE MASSEY ABOUT WHAT THEY HAD  
20 FOUND IN HIS RESIDENCE.

21 Q. AND WAS THE EVIDENCE THEY FOUND IN HIS RESIDENCE  
22 CONSISTENT WITH THE STATEMENT THAT HE GAVE YOU, THE FIRST  
23 STATEMENT THAT HE GAVE YOU?

24 A. NO, IT WASN'T.

25 Q. OKAY.

1 A. THERE WERE A LOT OF INCONSISTENCIES, AND SO WE WENT OVER  
2 THERE, AND I EXPLAINED TO HIM THE INCONSISTENCIES AND WHAT  
3 WAS FOUND AT THE RESIDENCE.

4 Q. HOW SOON AFTER THAT FIRST STATEMENT WAS GIVEN DID THE  
5 SECOND STATEMENT OCCUR?

6 A. SHORTLY AFTER. MR. MASSEY STARTED TALKING. HE GOT  
7 UPSET. HE STARTED CRYING. HE STARTED TALKING ABOUT -- IF  
8 YOU'LL LET ME LOOK AT THE OTHER STATEMENT TO REFRESH MY  
9 MEMORY. HE STARTED TALKING ABOUT HOW HARD IT WAS BEING ON  
10 PROBATION AND PAROLE, AND IT'S HARD TO FIND A JOB. HE  
11 STARTED TALKING ABOUT THE RENT WAS DUE. HE THOUGHT HIS  
12 GIRLFRIEND WAS PREGNANT AT THE TIME. THEY WERE -- HE WAS  
13 WORRIED THEY WERE GOING TO BE EVICTED. I BELIEVE THE LIGHTS  
14 WERE TURNED OFF.

15 I BELIEVE HE SAID HE WENT TO 130 JOB INTERVIEWS, AND HE  
16 HAD BEEN TURNED DOWN 130 TIMES BECAUSE OF HIS RECORD, AND IT  
17 WAS JUST REALLY HARD FOR HIM. HE DIDN'T WANT TO DO IT.

18 I HAD ALSO TALKED TO HIM ABOUT MR. HUFF, THE VICTIM, AND  
19 HOW I REALLY DIDN'T THINK MR. HUFF WAS INVOLVED WITH A SCAM  
20 OR TRYING TO PLAN A ROBBERY TO THE BUSINESS BECAUSE HE STATED  
21 TO MR. MASSEY AS HE WAS LEAVING AFTER THE ARMED ROBBERY THAT  
22 HE WOULD PRAY FOR HIM. AND SO HE JUST -- HE STARTED JUST  
23 TELLING US ABOUT ALL THESE PROBLEMS HE WAS HAVING WITH MONEY  
24 AND THAT HE WAS SORRY.

25 Q. NOW, YOU MENTIONED THE VICTIM RUNNING A SCAM. WAS THAT

1 THE BASIS OF THE DEFENDANT'S FIRST STATEMENT?

2 A. YES, IT WAS.

3 MR. SPRATLIN: OKAY. YOUR HONOR, I DEFER TO THE COURT  
4 ON WHETHER OR NOT YOU WOULD LIKE TO HAVE THESE STATEMENTS  
5 READ INTO EVIDENCE AT THIS POINT IN TIME OR...

6 THE COURT: HAVE YOU GOT COPIES FOR ME?

7 MR. SPRATLIN: I DO, YOUR HONOR. YOUR HONOR -- AND MR.  
8 -- I HAVEN'T PRESENTED THIS AS AN EXHIBIT YET. HOWEVER, THE  
9 SECOND STATEMENT THE DEFENDANT GAVE, I'VE GOTTEN WITH MR.  
10 HASTIE ABOUT REDACTING THE STATEMENT. IT DID MAKE MENTION OF  
11 PAROLE ON TWO SEPARATE PLACES. WE SIMPLY, FROM MY DISCUSSION  
12 WITH MR. HASTIE, AGREED TO TAKE OUT THE WORD PAROLE.

13 FOR INSTANCE, THE ORIGINAL SENTENCE SAID, "I WAS  
14 THINKING THAT I COULD PAY MY PAROLE." WE SIMPLY TOOK --  
15 REDACTED OUT PAROLE AND DID NOT WRITE ANY OTHER WORDS IN,  
16 SIMPLY SAID, "I WAS THINKING I COULD PAY MY..." AND WE WOULD  
17 LET THE JURY INFER---

18 THE COURT: OR I WAS THINKING I COULD.

19 MR. SPRATLIN: I'M SORRY, YOUR HONOR?

20 THE COURT: OR TAKE THE WHOLE SENTENCE OUT OR --  
21 WHATEVER Y'ALL AGREE ON SUITS ME FINE. I'M NOT GOING TO --  
22 I'M NOT GOING TO DISTURB ANY AGREEMENT THAT Y'ALL HAVE.

23 MR. SPRATLIN: LET ME SHOW YOU -- LET ME SHOW YOU BOTH.  
24 THIS IS A COPY OF THE FIRST STATEMENT WHICH HAS ALREADY BEEN  
25 ENTERED INTO EVIDENCE.

1       **THE COURT:** AND IF THE STATEMENTS COME IN, THEN THE  
2 OFFICER IS GOING TO HAVE TO BE INSTRUCTED NOT TO TESTIFY  
3 ABOUT, "I WAS WORRIED ABOUT PAYING MY PAROLE."

4       **MR. SPRATLIN:** YES, YOUR HONOR.

5       **THE COURT:** AND ANYTHING THAT WAS SAID OUTSIDE OF THESE  
6 TYPED LINES.

7       **MR. SPRATLIN:** THAT'S THE SECOND STATEMENT THAT HAS NOT  
8 YET GONE INTO EVIDENCE AS AN IDENTIFICATION EXHIBIT.

9       (STATE'S EXHIBIT 3 WAS MARKED FOR IDENTIFICATION ONLY.)

10       **MR. SPRATLIN:** YES, YOUR HONOR, AND I HAVE EXPLAINED TO  
11 LAW ENFORCEMENT -- I HAVE EXPLAINED TO LAW ENFORCEMENT, YOUR  
12 HONOR, NOT TO MENTION PAROLE WHEN THEY ARE---

13       **THE COURT:** WELL, TO ME THE SECOND ONE: I WAS BEHIND ON  
14 MY BLANK FEES BY EIGHT PAYMENTS, I WOULD JUST TAKE THE WHOLE  
15 SENTENCE OUT.

16       **MR. SPRATLIN:** YES, YOUR HONOR. I'LL PREPARE ANOTHER---

17       **THE COURT:** WHATEVER Y'ALL AGREE TO SUITS ME FINE, BUT I  
18 JUST -- THAT'S JUST MY OBSERVATION. ALL RIGHT. ARE THESE  
19 COPIES FOR ME?

20       **MR. SPRATLIN:** YES, YOUR HONOR, AND I'LL ACTUALLY FINISH  
21 REDACTING THAT IF MR. HASTIE---

22       **THE COURT:** AND THERE'S ANOTHER -- THERE'S ANOTHER  
23 REFERENCE TO PAROLE THAT HASN'T BEEN REDACTED. IT'S THREE  
24 LINES UP ABOVE THE SECOND MARK-OUT. "I WAS ABOUT TO BE  
25 EVICTED FROM MY APARTMENT, AND BEING ON PAROLE YOU HAVE TO

1 HAVE A PLACE TO LIVE."

2 MR. SPRATLIN: I'M SORRY YOUR HONOR. I'LL---

3 THE COURT: I WOULD JUST TAKE OUT---

4 MR. SPRATLIN: ANYTHING AFTER BEING EVICTED FROM MY  
5 APARTMENT.

6 THE COURT: I WOULD PUT -- TAKE OUT THE WORDS "BEING ON  
7 PAROLE." I WAS ABOUT TO BE EVICTED FROM MY APARTMENT, AND  
8 YOU HAVE TO HAVE A PLACE TO LIVE.

9 MR. SPRATLIN: YES, YOUR HONOR. WE'LL HAVE THAT  
10 REMOVED. I MISSED THAT, AND I BELIEVE MR. HASTIE DID AS  
11 WELL.

12 THE COURT: ALL RIGHT.

13 MR. SPRATLIN: SO I'LL HAVE THOSE CHANGES REMOVED. BY  
14 THE TIME WE'RE READY TO INTRODUCE THIS AT TRIAL, I'LL HAVE A  
15 FULLY REDACTED COPY READY FOR YOUR HONOR'S APPROVAL AND MR.  
16 HASTIE'S APPROVAL.

17 THE COURT: OKAY.

18 BY MR. SPRATLIN:

19 Q. DETECTIVE CULICK, DO YOU RECOGNIZE THE DOCUMENT I JUST  
20 HANDED YOU?

21 A. YES.

22 Q. OKAY. AND FOR THE RECORD, YOUR HONOR, THAT IS MARKED AS  
23 STATE'S EXHIBIT NUMBER 3 FOR IDENTIFICATION PURPOSES. WHAT  
24 IS THAT DOCUMENT?

25 A. THIS IS THE SECOND STATEMENT MR. MASSEY GAVE AFTER HE

1 WAS CONFRONTED WITH THE INCONSISTENCIES IN HIS FIRST  
2 STATEMENT AND THE EVIDENCE LOCATED AT HIS APARTMENT.

3 Q. OKAY. WITHOUT READING THE STATEMENT, COULD YOU -- COULD  
4 YOU PROVIDE A BRIEF OVERVIEW ABOUT WHAT THAT STATEMENT SAYS?

5 A. BASICALLY, LIKE I WAS SAYING BEFORE, HE GOT UPSET. HE  
6 WAS SAYING THAT HE COULDN'T FIND A JOB BECAUSE OF HIS PAST  
7 AND HIS HISTORY. BEING ON PAROLE, IT'S HARD FOR HIM, AND  
8 HE'S GOT AN EXTENSIVE RECORD. HE STATED HE WAS TRYING TO DO  
9 GOOD. HE STATED THAT HE DIDN'T REALLY WANT TO DO THAT MAN  
10 LIKE THAT, MEANING MR. HUFF IN THIS CASE, THE VICTIM. HE  
11 STATED HE WAS SHOCKED AND SURPRISED HOW MUCH MONEY HE GOT.  
12 HE STATED THAT THE MONEY IN HIS POCKETS WAS EVERYTHING THAT  
13 HE HAD GOTTEN FROM THE STORE AND MR. HUFF OUT OF HIS POCKET  
14 EXCEPT FOR ABOUT \$8 THAT HE BOUGHT SOME BEER WITH.

15 HE TALKED TO US ABOUT AFTER HE LEFT HE WAS JUST WALKING  
16 AROUND IN A DAZE. HE WANTED TO TAKE THE MONEY BACK BECAUSE  
17 OF WHAT MR. HUFF TOLD HIM, THAT HE WAS GOING TO PRAY FOR HIM,  
18 AND HE TOLD HIM, YES, PRAY FOR ME BECAUSE HE WAS GOING  
19 STRAIGHT TO HELL. HE ALSO STATED THAT HE KNEW HE HAD BILLS  
20 TO PAY, AND THE NEXT DAY HE WAS GOING TO GO TRY TO PAY A  
21 LITTLE BIT TO DIFFERENT PLACES, JUST SPREAD IT OUT TO LET  
22 THEM KNOW THAT HE WAS TRYING TO MAKE THE PAYMENTS AND JUST  
23 BASICALLY THAT -- JUST TOLD US ABOUT HE BORROWED THE GUN. HE  
24 DID STATE THAT IT WAS A TWO-SHOT DILLINGER (SIC).

25 HE JUST TOLD US ABOUT WHEN HE WENT IN THE BUSINESS THERE

1 WERE SOME OTHER PEOPLE IN THE BUSINESS TO START WITH, THAT  
2 THAT WAS HIS SECOND TRIP TO THE STORE WHICH MATCHED WHAT MR.  
3 HUFF SAID THAT HE WAS THERE EARLIER WITH LATRELL BILLIE WHICH  
4 MATCHED THE INFORMATION WE HAD EARLIER. HE ALSO STATED --  
5 CONFIRMED THAT HE TOOK A PAPER TOWEL AND WIPE DOWN THE GLASS  
6 CASE IN FRONT OF THE CASH REGISTER AND WIPE THE DOOR DOWN AS  
7 HE LEFT OUT AND JUST HIS PATH THAT HE TOOK HOME AND THAT HE  
8 WAS SORRY PRETTY MUCH THAT THIS HAD HAPPENED. HE JUST DIDN'T  
9 KNOW WHAT TO DO.

10 Q. WERE THE DETAILS THAT HE PROVIDED IN THIS STATEMENT TO  
11 YOU -- WERE THEY SIGNIFICANTLY SIMILAR TO THE ONES GIVEN TO  
12 YOU BY MR. HUFF?

13 A. YES, THEY WERE SIMILAR TO THE ONES THAT WERE GIVEN BY  
14 MR. HUFF AND FROM MS. BILLIE.

15 Q. OKAY. NOW, DETECTIVE CULICK, LET ME ASK YOU ABOUT THE  
16 DEFENDANT'S DEemeanOR THAT DAY. HOW WAS HE ACTING?

17 A. AT FIRST HE -- HE WAS JUST TRYING TO SIT BACK. HE ACTED  
18 NORMAL, JUST TRYING TO SEE WHAT WE KNEW, KIND OF FEELING US  
19 OUT AS MUCH AS WE WERE FEELING HIM OUT ABOUT WHAT HE WAS  
20 DOING THAT DAY. HE ANSWERED APPROPRIATELY. HE RESPONDED.  
21 HE WAS NICE, USED MANNERS. HE WASN'T BELLIGERENT, YELLING OR  
22 UPSET, AND THEN TOWARDS THE END OF THE INTERVIEW WHEN HE WAS  
23 TELLING ABOUT ALL HIS HARDSHIPS AND HIS PROBLEMS, HE WAS A  
24 LITTLE UPSET, CRYING, DISAPPOINTED IN HISSELF (SIC) SINCE HE  
25 WAS DOING SO GOOD, JUST DISAPPOINTED IN WHAT HE HAD DONE

1 AGAIN AND WISHED HE COULD TAKE IT BACK.

2 Q. DID HE AT ANY TIME DURING THE INTERVIEW PROCESS APPEAR  
3 TO HAVE TROUBLE UNDERSTANDING YOU?

4 A. NO, HE DIDN'T.

5 Q. DID HE APPEAR TO SPEAK THE ENGLISH LANGUAGE  
6 PROFICIENTLY?

7 A. OH, YES.

8 Q. IF YOU KNOW, IS THE DEFENDANT ABLE TO READ?

9 A. I DON'T REMEMBER ASKING HIM. HE APPEARED TO ME LIKE HE  
10 COULD READ. HE FOLLOWED ALONG. HE LOOKED LIKE HE WAS  
11 READING HIS STATEMENT, BUT I ALWAYS READ IN CASE SOMEBODY IS  
12 JUST EMBARRASSED TO TELL ME.

13 Q. OKAY. AT ANY TIME DURING THE INTERVIEW PROCESS DID HE  
14 SAY HE DIDN'T UNDERSTAND SOMETHING?

15 A. NO, HE DIDN'T.

16 Q. AT ANY TIME DID HE ASK FOR CLARIFICATION ON ANYTHING?

17 A. NO.

18 Q. OKAY. DETECTIVE CULICK, YOU'VE BEEN IN LAW ENFORCEMENT  
19 FOR QUITE SOME TIME; CORRECT? HOW MANY YEARS DID YOU SAY  
20 AGAIN?

21 A. ELEVEN.

22 Q. DURING THAT TIME, HAVE YOU HAD A CHANCE TO COME INTO  
23 CONTACT WITH PEOPLE WHO ARE UNDER THE INFLUENCE OF DRUGS OR  
24 ALCOHOL?

25 A. YES, I HAVE.



1 Q. HOW OFTEN WOULD YOU SAY YOU'VE HAD THAT OPPORTUNITY?

2 A. NUMEROUS OCCASIONS OVER MY CAREER.

3 Q. OKAY. DID THE DEFENDANT APPEAR TO YOU TO BE UNDER THE  
4 INFLUENCE OF ANY KIND OF DRUGS OR ALCOHOL?

5 A. NO.

6 Q. WAS HE RESPONDING TO THE QUESTIONS THAT WERE BEING  
7 ASKED?

8 A. YES, HE WAS RESPONDING. HE WAS ASKING QUESTIONS  
9 HISSELF. HE SEEMED JUST VERY AWARE, INTELLIGENT.

10 Q. DID HE IN ANY WAY APPEAR TO BE IN A CONFUSED STATE TO  
11 YOU?

12 A. NO.

13 Q. WAS HE SLURRING HIS SPEECH IN ANY MANNER?

14 A. NO, HE WASN'T.

15 Q. OKAY. ALL IN ALL---

16 A. HE WASN'T SLURRING, FALLING ASLEEP, SLUMPING OVER. HE  
17 WASN'T VERY EXCITED, HYPER, BELLIGERENT. HE WAS JUST NORMAL.

18 Q. ALL IN ALL, DETECTIVE, DO YOU KNOW HOW LONG THE  
19 INTERVIEW OF MR. MASSEY TOOK?

20 A. PROBABLY THE WHOLE PROCESS FROM THE TRANSPORTATION TO  
21 THE WAIVER TO PHOTOS TAKEN AFTERWARDS, PROBABLY ABOUT FOUR  
22 HOURS.

23 Q. OKAY. AT ANY TIME DURING THIS INTERVIEW DID THE  
24 DEFENDANT ASK FOR A LAWYER?

25 A. NO, HE DIDN'T.

1 Q. AT ANY TIME DURING THE INTERVIEW DID THE DEFENDANT  
2 INVOKE HIS RIGHT TO REMAIN SILENT?

3 A. NO, HE DID NOT.

4 Q. AT ANY TIME DURING THE INTERVIEW DID THE DEFENDANT STATE  
5 OR INSINUATE IN ANY WAY THAT HE DID NOT WISH TO TALK TO YOU?

6 A. NO.

7 Q. NOW, DETECTIVE CULICK, DURING THE INTERVIEW WAS THE  
8 DEFENDANT DENIED ACCESS TO FOOD?

9 A. NO.

10 Q. WHAT ABOUT ACCESS TO WATER?

11 A. NO. HE HAD A DRINK WHILE WE WERE IN THERE. THE REST  
12 ROOMS WERE THERE. I DON'T BELIEVE HE ASKED FOR A SNACK, BUT  
13 HE DID HAVE A DRINK AND...

14 Q. YOU MENTIONED THE REST ROOMS. WAS THE DEFENDANT ABLE TO  
15 ACCESS A BATHROOM, IF NEEDED?

16 A. YEAH. WE WERE -- THE ROOM THAT WE WERE IN, IN DETECTIVE  
17 RICHBURG'S OFFICE THERE IS A REST ROOM RIGHT THERE.

18 Q. OKAY.

19 A. HE DID USE IT.

20 Q. AT ANY POINT DURING THE INTERVIEW DID THE DEFENDANT ASK  
21 FOR SOMETHING THAT WAS NOT PROVIDED?

22 A. NO.

23 Q. PRIOR TO OR DURING EITHER OF THE DEFENDANT'S TWO  
24 STATEMENTS, WAS HE PROMISED ANY SORT OF LENIENCY IN EXCHANGE  
25 FOR HIS STATEMENT?

1 A. NO. I COULDN'T PROMISE HIM ANYTHING. THAT WAS ANOTHER  
2 REASON HE WAS SO UPSET, WHICH I KNOW WE CAN'T TALK ABOUT IT  
3 IN COURT, WAS BECAUSE HE WAS FACING BEING REVOKED ON PAROLE  
4 FOR 14 YEARS.

5 Q. WAS HE -- WAS HE CONCERNED ABOUT HOW MUCH TIME HE WAS  
6 GOING TO GET?

7 A. YES, HE WAS.

8 Q. OKAY. AND WHAT, IF ANYTHING, DID YOU TELL HIM ABOUT THE  
9 TIME?

10 A. AFTER HE GAVE THE STATEMENTS AND HE WAS CRYING, HE WAS  
11 TALKING ABOUT HOW HIS PAROLE -- AND, YOU KNOW, 14 YEARS AND  
12 HE HAD MESSED UP AND HE WAS DONE AND OVER. YOU KNOW, I TOLD  
13 HIM HIS BEST BET IS TO JUST TELL THE TRUTH AND WHEN HE TALKS  
14 TO HIS ATTORNEY LET HIM KNOW, AND MAYBE HE CAN JUST GO  
15 FORWARD FROM THERE SINCE HE'S ALREADY GOT TO DO PROBATION  
16 TIME.

17 Q. OKAY. DETECTIVE CULICK, DID YOU OR ANYONE IN YOUR  
18 PRESENCE THREATEN OR INTIMIDATE THE DEFENDANT IN ANY WAY  
19 DURING THIS INTERVIEW PROCESS?

20 A. NO.

21 Q. OKAY. DID YOU OR ANYONE IN YOUR PRESENCE DO ANYTHING  
22 THAT WOULD GIVE THE DEFENDANT THE SLIGHTEST HOPE OF BENEFIT?

23 A. NO.

24 Q. DID YOU OR ANYONE IN YOUR PRESENCE DO ANYTHING THAT IN  
25 YOUR OPINION WOULD GIVE THE DEFENDANT THE REMOTEST FEAR OF

1 INJURY?

2 A. NO.

3 Q. WAS ANYTHING DONE BY YOU OR SOMEONE IN YOUR PRESENCE  
4 THAT WOULD PUT MR. MASSEY UNDER ANY KIND OF DURESS DURING  
5 THIS INTERVIEW?

6 A. NO.

7 Q. IN YOUR OPINION, DETECTIVE CULICK, WERE BOTH OF THESE  
8 STATEMENTS GIVEN FREELY AND VOLUNTARILY?

9 A. YES, THEY WERE, AND IT STATES THAT ON THE TOP OF THE  
10 STATEMENT THAT THEY ARE GIVEN FREELY AND VOLUNTARILY WITHOUT  
11 FEAR OF THREAT OR PROMISE OF REWARD TO DETECTIVE CULICK WHO'S  
12 IDENTIFIED HERSELF AS A POLICE OFFICER OF THE SUMTER POLICE  
13 DEPARTMENT, AND HE SIGNED THESE INDICATING THAT THERE WAS  
14 NO...

15 Q. AND, AGAIN, THE DEFENDANT, HE WAS READ HIS RIGHTS PRIOR  
16 TO THESE STATEMENTS BEING MADE?

17 A. CORRECT.

18 Q. AND HE NEVER, DURING THE COURSE OF THIS INTERVIEW,  
19 INVOKED ANY OF THOSE RIGHTS?

20 A. NO, HE DIDN'T.

21 Q. THANK YOU, DETECTIVE CULICK. THAT'S ALL THE QUESTIONS I  
22 HAVE FOR RIGHT NOW.

23 A. THANK YOU.

24 THE COURT: MR. HASTIE?

25 MR. HASTIE: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

1 BY MR. HASTIE:

2 Q. GOOD MORNING, MS. CULICK.

3 A. GOOD MORNING.

4 Q. CAN YOU TELL ME: WHAT TIME DID THIS QUESTIONING START  
5 FOR MR. MASSEY? WHAT TIME APPROXIMATELY?

6 A. HE SIGNED THE WAIVER OF RIGHTS AT 11:30 -- WELL, 11:36  
7 IS WHEN THEY WERE FURNISHED AND HE SIGNED IT 11:37 P.M., AND  
8 THAT WAS ON THE 7TH AND THE INTERVIEW WENT INTO THE 8TH.

9 Q. OKAY. YOU SAID THE INTERVIEW LASTED ABOUT FOUR HOURS  
10 MAYBE?

11 A. NO. THE TOTAL PROCESS WITH HIM LASTED ABOUT FOUR HOURS;  
12 THE INTERVIEW DID NOT.

13 Q. OKAY. WHAT TIME DID YOU ALL END THE INTERVIEW DO YOU  
14 THINK? ABOUT APPROXIMATELY WHAT TIME?

15 A. WITH THE LAST STATEMENT AND ALL? I'M JUST GUESSING---

16 Q. OKAY.

17 A. ---BECAUSE I DIDN'T WRITE THAT DOWN, AND USUALLY WE HAVE  
18 A TIME. I JUST DON'T SEE IT ON HERE. I WOULD SAY AROUND  
19 2:45.

20 Q. A.M.?

21 A. YES, ON THE 8TH.

22 Q. NOW, HE WAS ARRESTED APPROXIMATELY WHAT TIME WHEN Y'ALL  
23 WENT TO HIS HOME AND ARRESTED HIM? IS THAT IN THE---

24 A. AROUND 11.

1 Q. AROUND 11:00 A.M.?

2 A. AROUND 11:00 P.M. ON THE 7TH.

3 Q. OKAY. NOW, DURING THE FIRST STATEMENT THAT HE MADE, HE  
4 TALKED ABOUT HE MET SOMEONE NAMED TYRONE.

5 A. HE SAID THAT PEOPLE CALL HIM T-DOG. HIS REAL NAME IS  
6 TYRONE. HE DIDN'T KNOW A LAST NAME, AND HE CALLED HIM T-Y OR  
7 TY.

8 Q. AND HE TALKED ABOUT TY, I GUESS, INFORMED HIM ABOUT A  
9 POSSIBLE SCAM THAT HAD BEEN GOING ON AT THE STORE THERE. DID  
10 YOU TALK TO ANYBODY ABOUT ANY POSSIBLE SCAM AT ALL?

11 A. NO.

12 Q. OKAY. YOU DIDN'T ASK MR. HUFF THAT IF THEY -- HAVE THEY  
13 BEEN ROBBED IN THE PAST? HAVE THINGS BEEN MISSING FROM THE  
14 STORE IN THE PAST BY ANYONE ELSE?

15 A. NO, I DID NOT ASK MR. HUFF THAT.

16 Q. BUT IF SOMEONE REPORTED THAT A SCAM WAS GOING ON AT THE  
17 STORE, WOULDN'T YOU THINK IT WOULD BE A GOOD IDEA TO  
18 INVESTIGATE SUCH AN ACCUSATION?

19 A. OH, YES. THIS IS WHY I TOOK THIS STATEMENT, THIS FIRST  
20 STATEMENT. AND IF HE WOULD NOT HAVE GIVEN HIS SECOND  
21 STATEMENT, THEN I WOULD HAVE FOLLOWED UP ON ALL OF THOSE  
22 LEADS TO EITHER CONFIRM OR DISPROVE WHAT HE TOLD US---

23 Q. OKAY.

24 A. ---TO HELP THE CASE.

25 Q. THANK YOU. YOU SAID YOU TYPED THE STATEMENT FOR HIM AS

1 HE WAS TALKING.

2 A. YES.

3 Q. OKAY. AND ONCE YOU FINISHED TYPING IT, HE READ THE  
4 STATEMENT?

5 A. YES, HE WAS GIVEN THE OPPORTUNITY TO READ IT.

6 Q. OKAY.

7 A. AND I READ ALONG.

8 Q. OKAY.

9 A. OUT LOUD.

10 Q. AND HE SEEMED AS IF HE COULD READ THIS. THERE DIDN'T  
11 SEEM TO BE A DOUBT IN YOUR MIND THAT HE UNDERSTOOD WHAT HE  
12 WAS DOING. CORRECT?

13 A. CORRECT.

14 Q. YOU ALSO MENTIONED THAT HE WAS -- HE STARTED CRYING.  
15 WHAT WAS THAT ABOUT AGAIN?

16 A. YEAH. AFTER WE CONFRONTED HIM WITH THE EVIDENCE THAT  
17 WAS FOUND AT HIS HOUSE---

18 Q. UH-HUH.

19 A. ---AND, YOU KNOW, WE HAD TALKED TO MS. BILLIE, THERE WAS  
20 A LOT OF INCONSISTENCIES IN HIS STATEMENT.

21 Q. UH-HUH.

22 A. A LOT OF -- A LOT OF TIMES WHEN SOMEONE IS NOT TELLING  
23 TRUTH, THINGS DON'T MAKE SENSE.

24 Q. UH-HUH.

25 A. AND THERE WAS A LOT THAT DIDN'T MAKE SENSE. WE ALSO

1 TOLD HIM THAT WE WOULD BE CHECKING INTO THINGS. WE WOULD GO  
2 TO THE BARBERSHOP TO SEE IF HE WAS THERE, TO SEE IF THERE'S  
3 SOMEONE NAMED T-Y. WE WOULD BE GOING TO GREAT STEAK IN THE  
4 MALL WHERE HE SAID THAT HE WORKED. WE WOULD BE QUESTIONING  
5 ALL OF THESE THINGS, AND, YOU KNOW, HE HAD ALSO SAID IN HIS  
6 FIRST STATEMENT THAT MS. BILLIE GAVE HIM A RIDE AND DROPPED  
7 HIM OFF. SHE DIDN'T INDICATE SHE HAD GIVEN HIM A RIDE THAT  
8 DAY. THEY JUST WENT THEIR SEPARATE WAYS AFTER SHE SAW HIM  
9 BECAUSE SHE HAD TO GET HER KIDS. ALSO, THE GUN IS AT HIS  
10 HOUSE. THE CLOTHING IS AT HIS HOUSE, YOU KNOW, THAT'S  
11 DESCRIBED BY THE VICTIM IN THIS CASE THAT WAS USED. ALSO, WE  
12 TALKED ABOUT HIS FRIEND THAT HE STATED HE SAW WHEN HE WAS  
13 WALKING HOME, JERMAINE ROBINSON, THAT WAS AT HIS HOUSE. HE  
14 HAD GIVEN A STATEMENT TO DETECTIVE CHRISTMAS HE WAS AT WORK  
15 'TILL 9:30. SO ALL THESE WERE INCONSISTENT.

16 Q. SO YOU THINK HE WAS CRYING ABOUT ALL THOSE  
17 INCONSISTENCIES---

18 A. WELL, AFTER WE GOT THROUGH THOSE AND STARTED TALKING  
19 ABOUT IT---

20 Q. UH-HUH.

21 A. THEN WHEN HE STARTED TALKING ABOUT HOW HE HAD BEEN TO  
22 130 JOB INTERVIEWS AND---

23 Q. UH-HUH.

24 A. ---AND HE HAD BEEN TURNED DOWN 130 TIMES AND JUST HOW  
25 HARD IT WAS, THEN HE STARTED CRYING.



- 1 Q. OKAY.
- 2 A. AND HE HAD LET HIS FAMILY DOWN AND HIS GIRL DOWN.
- 3 Q. WAS HIS GIRLFRIEND ARRESTED AT THIS TIME? WAS SHE---
- 4 A. NO.
- 5 Q. ---APPREHENDED?
- 6 A. NO, SHE WAS NEVER CHARGED---
- 7 Q. SHE WAS NEVER CHARGED.
- 8 A. ---WITH ANYTHING.
- 9 Q. EXCUSE ME. DID HE MENTION WANTING TO SEE HIS GIRLFRIEND
- 10 AT ANY TIME DURING THIS INTERVIEW?
- 11 A. I DON'T RECALL.
- 12 Q. YOU DON'T RECALL?
- 13 A. I KNOW HE ASKED IF I WOULD GIVE HER HIS CELL PHONE.
- 14 Q. OKAY.
- 15 A. WHICH I DID.
- 16 Q. DID HE ASK FOR CIGARETTES OR ANYTHING DURING THIS
- 17 INTERVIEW?
- 18 A. I DON'T KNOW. WE HAVE A LOT THAT ASK FOR CIGARETTES
- 19 DURING INTERVIEWS.
- 20 Q. DID HE ASK AS FAR AS ANYTHING - GIRLFRIEND, CIGARETTE,
- 21 FOOD, ANYTHING - IF YOU GIVE ME THESE THINGS THAT I WOULD BE
- 22 UPFRONT WITH YOU ALL ABOUT MY STORY?
- 23 A. NO.
- 24 Q. NOTHING -- NO WORDS OF THAT EFFECT.
- 25 A. NO. WE -- IT'S JUST LIKE WE TOLD MR. MASSEY: WE'VE GOT

1 A VICTIM, MR. HUFF, WHO CALLED 9-1-1 AND SAID HE WAS ROBBED.  
2 HE DESCRIBED THE PERSON WHO HAD BEEN ROBBED, DESCRIBED THE  
3 PERSON THAT HAD BEEN THERE IN THE STORE WITH MS. BILLIE OR  
4 THE LADY THAT WORKED NEXT DOOR WHICH WE LATER FOUND OUT WAS  
5 MS. BILLIE. WE HAD TALKED TO HER. SHE STATED HE WAS IN THE  
6 STORE. THE CLOTHING, THE GUN, EVERYTHING WAS IN HIS HOUSE.  
7 YOU KNOW, IS THIS REALLY WHAT YOU WANT AS FAR AS THIS  
8 STATEMENT THAT SOMEBODY NAMED T-DOG -- I MEAN, SOMEBODY NAMED  
9 T-DOG, TY, TYRONE -- YOU KNOW, I WAS WITH THESE PEOPLE; IS  
10 THAT TRUE?

11 Q. UH-HUH. HE DID MENTION THAT HE BORROWED A GUN, THE  
12 DERRINGER.

13 A. YEAH. WE TRIED TO ESTABLISH HOW LONG HE HAD HAD IT,  
14 WHERE HE GOT THE GUN FROM, BECAUSE HE'S NOT ABLE TO GO  
15 PURCHASE A GUN AND IS NOT SUPPOSED TO HAVE IT, AND HE DID NOT  
16 TELL US WHO HE GOT IT FROM. HE DIDN'T WANT TO GET ANYBODY  
17 ELSE IN TROUBLE. HE JUST STATED HE BORROWED IT, AND SO WE  
18 LEFT IT LIKE THAT.

19 Q. DID YOU ALL DO ANY TYPE OF SEARCH ON THE GUN TO SEE THE  
20 OWNERSHIP?

21 A. THE GUN WAS NOT LISTED STOLEN THROUGH N.C.I.C., AND I DO  
22 NOT KNOW WHO THE GUN BELONGS TO. I'M NOT SURE IF THERE'S  
23 BEEN A TRACE THROUGH A.T.F. OR NOT.

24 Q. OKAY. DID HE APPEAR TO -- DID YOU SMELL ALCOHOL OR  
25 ANYTHING ON HIM THAT NIGHT?

1 A. NO.

2 Q. NO ALCOHOL AT ALL?

3 A. I DIDN'T.

4 Q. AND YOU SAID EARLIER HE DID NOT APPEAR TO BE UNDER THE  
5 INFLUENCE OF ANY DRUGS THAT YOU COULD TELL.

6 A. CORRECT.

7 Q. DURING THE INTERVIEW, HE SEEMED TO BE CLEAR AND AWARE OF  
8 WHAT HE WAS SAYING.

9 A. THAT'S CORRECT.

10 Q. AND DURING THIS TIME -- I SUPPOSE IT'S DURING THIS TIME  
11 WHEN HE WAS CRYING THAT HE DID TELL YOU THAT HE WAS UPSET  
12 BECAUSE HE WAS DOING SOME GOOD AT THIS PARTICULAR TIME. DID  
13 HE SAY HOW -- WHAT WAS HE TALKING ABOUT WHEN HE SAID HE WAS  
14 DOING SOME GOOD?

15 A. WHEN HE TOLD ME HE WAS DOING GOOD, I JUST ASSUMED THAT  
16 HE MEANT HE HAD BEEN OUT -- HE WAS DOING GOOD, NOT GETTING --  
17 I ASSUMED HE MEANT NOT GETTING INTO ANY TROUBLE. HE TOLD ME  
18 THAT HE WAS WORKING AT RED BONE. SO I ASSUMED THAT MEANT HE  
19 HAD A JOB AND HE WAS TRYING TO DO GOOD AND NOT GET IN ANY  
20 MORE TROUBLE.

21 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS, YOUR  
22 HONOR.

23 THE COURT: MR. SPRATLIN?

24 MR. SPRATLIN: JUST REAL BRIEFLY ON REDIRECT, YOUR  
25 HONOR.

REDIRECT EXAMINATION

BY MR. SPRATLIN:

Q. DETECTIVE CULICK, I KNOW I ASKED YOU THIS ABOUT THE FIRST STATEMENT. I DON'T THINK I ASKED YOU THIS ABOUT THE SECOND STATEMENT. WAS THIS STATEMENT PREPARED IN THE SAME MANNER AS THAT FIRST STATEMENT?

A. YES, IT WAS.

Q. OKAY. AND WAS A COPY OF THAT STATEMENT GIVEN TO THE DEFENDANT?

A. I'M NOT SURE IF HE WANTED A COPY. I MEAN, IT WAS GIVEN TO HIM TO READ---

Q. OKAY.

A. ---BEFORE HE SIGNED IT, BUT A LOT OF PEOPLE DON'T WANT TO TAKE THEIR STATEMENTS TO JAIL BECAUSE THEY DON'T WANT ANYBODY KNOWING OR SEEING WHAT THEY'VE TALKED ABOUT. SO AS FAR AS THAT GOES, I'M NOT SURE, BUT HE DID READ HIS STATEMENT. IT WAS READ TO HIM AND HE SIGNED THIS AS BEING CORRECT.

Q. OKAY. AND, AGAIN, WHO ELSE SIGNED IT?

A. MYSELF AND ALSO DETECTIVE RICHBURG.

Q. AND IT WAS READ TO HIM IN YOUR PRESENCE; CORRECT?

A. CORRECT. I DID IT.

MR. SPRATLIN: OKAY. THANK YOU. THAT'S ALL THE QUESTIONS I HAVE.

THE COURT: ANYTHING ELSE, MR. HASTIE?

1 MR. HASTIE: NOTHING, YOUR HONOR.

2 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN.

3 THE WITNESS: THANK YOU.

4 THE COURT: MR. SPRATLIN, ANY MORE WITNESSES ON THIS  
5 POINT?

6 MR. SPRATLIN: JUST ONE MORE, YOUR HONOR. DETECTIVE  
7 ROBERT RICHBURG.

8 ROBERT RICHBURG, AFTER BEING DULY SWORN, TESTIFIED  
9 AS FOLLOWS IN CAMERA:

10 THE CLERK: HAVE A SEAT, PLEASE. IF YOU WOULD, STATE  
11 YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

12 THE WITNESS: ROBERT RICHBURG. R-I-C-H-B-U-R-G.

13 DIRECT EXAMINATION

14 BY MR. SPRATLIN:

15 Q. MR. RICHBURG, WHERE ARE YOU EMPLOYED?

16 A. SUMTER CITY POLICE DEPARTMENT.

17 Q. WHAT'S YOUR JOB THERE?

18 A. I AM CURRENTLY A DETECTIVE WITH THE INVESTIGATIVE  
19 SERVICES DIVISION.

20 Q. HOW LONG HAVE YOU BEEN IN THAT DIVISION?

21 A. ROUGHLY FIVE YEARS.

22 Q. BEFORE THAT, HOW LONG WERE YOU WITH SUMTER POLICE  
23 DEPARTMENT?

24 A. TWO YEARS ON THE ROAD, AND I HAD TWO YEARS AT THE  
25 SUMMERTON POLICE DEPARTMENT BEFORE I COME TO SUMTER.

1 Q. OKAY. WERE YOU ON DUTY BACK ON THE NIGHT OF JUNE 7TH,  
2 2007?

3 A. YES, SIR, I WAS.

4 Q. WERE YOU INVOLVED IN THE INVESTIGATION OF THE ARMED  
5 ROBBERY AT THE TOTAL LIVING STORE?

6 A. YES, SIR. ORIGINALLY DISPATCHED -- I WAS RIDING AROUND  
7 WITH SENIOR DETECTIVE SIMS LOOKING, KIND OF GATHERING  
8 INFORMATION, AND AFTER WE EFFECTED THE ARREST AT THE  
9 APARTMENT, I WENT ALONG WITH DETECTIVE CULICK TO THE  
10 INTERVIEW.

11 Q. OKAY. AND NOW WHERE DID THIS INTERVIEW TAKE PLACE?

12 A. AT THE POLICE DEPARTMENT IN THE INVESTIGATIVE SERVICES  
13 DIVISION.

14 Q. OKAY. AND WHO ALL WAS PRESENT DURING THIS INTERVIEW?

15 A. IT WAS ME AND DETECTIVE CULICK.

16 Q. IS IT STANDARD PROCEDURE FOR MORE THAN ONE DETECTIVE TO  
17 PERFORM AN INTERVIEW?

18 A. YES, SIR.

19 Q. WHY IS THAT?

20 A. BECAUSE WHILE WE'RE IN THERE, WE OFTEN HAVE TO STEP OUT  
21 OF THE ROOM TO SWAP INFORMATION WITH DETECTIVES THAT ARE OUT  
22 ON THE PERIMETER, IN THIS CASE A SEARCH WARRANT OR WHEREVER  
23 THEY MAY BE, ALSO OFFICER SAFETY ISSUE, AND PLUS A LOT OF  
24 TIMES ONE WILL TALK WHILE THE OTHER ONE TAKES NOTES.

25 Q. OKAY. WHAT WAS THE FIRST THING THAT WAS DONE DURING

1 THIS INTERVIEW?

2 A. WE READ HIM HIS RIGHTS.

3 Q. OKAY. LET ME SHOW YOU WHAT'S ALREADY BEEN MARKED AS  
4 STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION PURPOSES. DO YOU  
5 RECOGNIZE THAT DOCUMENT I JUST HANDED YOU?

6 A. YES, SIR. THIS IS OUR SUMTER POLICE DEPARTMENT  
7 INTERVIEW FORM AND WAIVER OF RIGHTS.

8 Q. OKAY. WHAT WAS DONE WITH THAT FORM IN REGARDS TO THE  
9 DEFENDANT?

10 A. IT WAS READ TO HIM, AND HE WAS ASKED TO SIGN IT.

11 Q. OKAY. WAS IT READ TO HIM IN YOUR PRESENCE?

12 A. YES, SIR, IT WAS.

13 Q. WHO READ IT TO HIM?

14 A. SENIOR DETECTIVE CULICK.

15 Q. OKAY. AND YOU WERE THERE -- YOU WERE PRESENT THE ENTIRE  
16 TIME IT WAS READ.

17 A. YES, SIR.

18 Q. ARE YOU CERTAIN THAT IT WAS READ IN ITS ENTIRETY?

19 A. YES, SIR.

20 Q. OKAY. AND WAS IT SIGNED?

21 A. YES, SIR, IT WAS.

22 Q. WHO ALL SIGNED IT?

23 A. IT WAS SIGNED BY MR. MASSEY, DETECTIVE CULICK, AND  
24 MYSELF.

25 Q. OKAY. ALL RIGHT. AT ANY TIME AFTER BEING ADVISED OF

1 THAT FORM, DID THE DEFENDANT ASK TO SPEAK TO A LAWYER?

2 A. NO, SIR, HE DIDN'T.

3 Q. AT ANY TIME DID HE INVOKE HIS RIGHT TO REMAIN SILENT?

4 A. NO, SIR.

5 Q. DID HE SIMPLY JUST REMAIN SILENT?

6 A. NO, SIR.

7 Q. OKAY. DID HE DO ANYTHING THAT WOULD INDICATE TO YOU  
8 THAT HE DID NOT WISH TO TALK TO LAW ENFORCEMENT?

9 A. NO, SIR.

10 Q. OKAY. NOW, WHEN YOU BEGAN TALKING TO THE DEFENDANT,  
11 WHAT DID HE TELL YOU IN REGARDS TO THE ROBBERY AT THE TOTAL  
12 LIVING STORE?

13 A. IN THE BEGINNING -- AT THE FIRST HE SAID THAT IT WAS A  
14 SCAM OR A SET-UP BECAUSE THE STORE WAS ACTUALLY ABOUT TO GO  
15 OUT OF BUSINESS.

16 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S  
17 EXHIBIT NUMBER 2 FOR IDENTIFICATION PURPOSES.

18 A. YES, SIR.

19 Q. DO YOU RECOGNIZE THAT DOCUMENT I JUST HANDED YOU?

20 A. YES, SIR. THIS IS THE FIRST STATEMENT.

21 Q. WHAT IS -- SO IT'S THE FIRST STATEMENT THE DEFENDANT  
22 PROVIDED?

23 A. YES, SIR.

24 Q. OKAY. HOW WAS THAT STATEMENT PREPARED?

25 A. IT WAS TYPED.



1 Q. DO YOU REMEMBER WHO TYPED IT?

2 A. SENIOR DETECTIVE CULICK.

3 Q. OKAY. NOW, WHAT -- HOW DID SHE KNOW WHAT TO TYPE?

4 A. SAY THAT AGAIN.

5 Q. HOW DID SHE KNOW WHAT TO TYPE?

6 A. HE TOLD HER.

7 Q. OKAY. WAS -- SO SHE WAS TYPING IT AS THE DEFENDANT WAS  
8 GIVING THE STATEMENT?

9 A. YES, SIR. HE WAS TALKING AND SHE WAS TYPING.

10 Q. AFTER THE STATEMENT WAS PREPARED, WHAT WAS DONE WITH THE  
11 STATEMENT?

12 A. IT WAS GIVEN TO HIM, READ TO HIM, AND HE WAS GIVEN AN  
13 OPPORTUNITY TO SIGN IT.

14 Q. WAS IT READ TO HIM IN ITS ENTIRETY?

15 A. YES, SIR.

16 Q. OKAY. AT ANY POINT AFTER IT WAS READ TO HIM, DID THE  
17 DEFENDANT STATE THAT THAT WASN'T HIS STATEMENT?

18 A. NO.

19 Q. DID HE DO ANYTHING TO SAY THAT SOMETHING WAS WRONG?

20 A. NO.

21 Q. AND, AGAIN, WAS HE GIVEN A FORM TO READ ALONG WITH IT?

22 A. YES, SIR.

23 Q. OKAY. WHAT, IF ANYTHING, DID THE DEFENDANT DO TO RATIFY  
24 THAT STATEMENT AS BEING HIS?

25 A. NOTHING.

1 Q. DID HE DO SOMETHING TO SAY THAT, YES, IT IS MY  
2 STATEMENT?

3 A. YES, SIR. HE SIGNED IT.

4 Q. OKAY. AND WHO ELSE SIGNED IT?

5 A. IT WAS SIGNED BY ME AND SENIOR DETECTIVE CULICK.

6 Q. OKAY. WAS EVERYTHING THAT WAS DONE IN REGARDS TO THAT  
7 STATEMENT DONE IN YOUR PRESENCE?

8 A. YEAH.

9 Q. OKAY. NOW, AFTER THAT FIRST STATEMENT WAS GIVEN, WHAT  
10 HAPPENED THEN?

11 A. SENIOR DETECTIVE CULICK WENT OUT, WAS GIVEN THE  
12 INFORMATION FROM THE OFFICERS DOING THE SEARCH WARRANT, CAME  
13 BACK IN. HE WAS CONFRONTED ABOUT THE EVIDENCE THAT WAS  
14 COLLECTED AT THE APARTMENT, AND THEN HE TOLD US THE TRUTH  
15 ABOUT WHAT REALLY HAPPENED.

16 Q. OKAY. LET ME SHOW YOU WHAT'S ALREADY BEEN MARKED  
17 STATE'S EXHIBIT NUMBER 3 FOR IDENTIFICATION PURPOSES. DO YOU  
18 RECOGNIZE THE DOCUMENT I JUST HANDED YOU?

19 A. YES, SIR. THIS IS THE SECOND STATEMENT.

20 Q. OKAY. HOW WAS THAT STATEMENT PREPARED?

21 A. IT WAS TYPED.

22 Q. OKAY. WHO TYPED THAT ONE?

23 A. SENIOR DETECTIVE CULICK.

24 Q. AND HOW DID SHE KNOW WHAT TO SAY?

25 A. SAY THAT AGAIN.

1 Q. HOW DID SHE KNOW WHAT TO SAY?

2 A. HE TOLD HER.

3 Q. OKAY. AFTER THAT STATEMENT WAS PREPARED, WHAT WAS DONE  
4 WITH IT?

5 A. IT WAS GIVEN TO HIM, READ, AND HE WAS OFFERED THE CHANCE  
6 TO SIGN.

7 Q. OKAY. AT ANY POINT WHEN IT WAS BEING READ TO HIM, DID  
8 HE STATE THAT THERE WAS ANY INCONSISTENCIES IN IT?

9 A. NO, SIR.

10 Q. DID HE STATE THAT THAT WAS NOT, IN FACT, HIS STATEMENT?

11 A. NO, SIR.

12 Q. ALL RIGHT. DO YOU KNOW HOW LONG AFTER THE FIRST  
13 STATEMENT WAS GIVEN THAT THE SECOND STATEMENT WAS TAKEN?

14 A. IT WAS JUST A MATTER OF MINUTES. IT'S JUST A FEW  
15 MINUTES, NOT LONG AFTERWARDS.

16 Q. OKAY. PRIOR TO THAT SECOND STATEMENT BEING -- I KNOW  
17 YOU'VE ALREADY TESTIFIED THAT HE DIDN'T ASK FOR A LAWYER,  
18 DIDN'T INVOKE HIS RIGHT TO REMAIN PRIOR TO THE FIRST  
19 STATEMENT. PRIOR TO THAT SECOND STATEMENT, DID THE DEFENDANT  
20 ASK FOR A LAWYER?

21 A. NO, SIR.

22 Q. DID HE INVOKE HIS RIGHT TO REMAIN SILENT?

23 A. NO, SIR.

24 Q. DID HE ATTEMPT IN ANY WAY TO TERMINATE THE INTERVIEW?

25 A. NO, SIR.

1 Q. OKAY. AT ANY POINT DURING THE COURSE OF THAT STATEMENT  
2 DID HE ASSERT ANY OF THOSE RIGHTS?

3 A. NO, SIR, HE DIDN'T.

4 Q. OKAY. NOW, LET ME ASK YOU ABOUT THE DEFENDANT'S  
5 DEMEANOR THAT DAY. HOW WAS HE ACTING?

6 A. AT FIRST, YOU KNOW, IT WAS KIND OF A FEEL-ME-OUT TYPE,  
7 AND THEN THE SECOND ONE WAS VERY REMORSEFUL.

8 Q. OKAY. DID HE APPEAR TO HAVE ANY TROUBLE UNDERSTANDING  
9 YOU?

10 A. NO, SIR.

11 Q. DID HE APPEAR TO SPEAK ENGLISH PROFICIENTLY?

12 A. YES, SIR.

13 Q. DO YOU KNOW IF THE DEFENDANT CAN READ?

14 A. WE DIDN'T ASK; NO, SIR. HE APPEARED AS IF HE COULD. HE  
15 DIDN'T SAY THAT HE COULDN'T.

16 Q. AT ANY TIME DID HE STATE THAT HE DIDN'T UNDERSTAND  
17 SOMETHING?

18 A. NO, SIR, HE DIDN'T.

19 Q. AT ANY TIME DID HE ASK FOR FURTHER CLARIFICATION ON  
20 ANYTHING?

21 A. NO, SIR.

22 Q. DETECTIVE RICHBURG, YOU'VE BEEN IN LAW ENFORCEMENT FOR  
23 NINE YEARS?

24 A. YES, SIR.

25 Q. HOW OFTEN WOULD YOU SAY YOU COME INTO CONTACT WITH

1 PEOPLE WHO ARE UNDER THE INFLUENCE OF EITHER DRUGS OR  
2 ALCOHOL?

3 A. QUITE FREQUENTLY.

4 Q. OKAY. ARE YOU FAMILIAR WITH THE WAY THAT PEOPLE UNDER  
5 THE INFLUENCE OF CERTAIN DRUGS AND ALCOHOL ACT?

6 A. YES, SIR.

7 Q. DID THE DEFENDANT APPEAR TO YOU TO BE UNDER THE  
8 INFLUENCE OF ANY KIND OF DRUGS OR ALCOHOL THAT DAY?

9 A. NO, SIR.

10 Q. WAS HE RESPONDING TO THE QUESTIONS THAT WERE BEING ASKED  
11 OF HIM?

12 A. YES, SIR.

13 Q. DID HE APPEAR IN ANY WAY TO BE IN A CONFUSED STATE?

14 A. NO, SIR.

15 Q. WAS HE ACTING MANIC AT ALL?

16 A. NO, SIR.

17 Q. HYPER? WAS HE SLURRING HIS SPEECH IN ANY WAY?

18 A. NO, SIR, HE WASN'T.

19 Q. ALL IN ALL, DETECTIVE RICHBURG, HOW LONG WOULD YOU SAY  
20 THE INTERVIEW OF MR. MASSEY TOOK?

21 A. THREE AND A HALF TO FOUR HOURS.

22 Q. OKAY. AT ANY TIME DURING THAT INTERVIEW DID THE  
23 DEFENDANT ASK FOR A LAWYER?

24 A. NO, SIR.

25 Q. AT ANY TIME DID THE DEFENDANT INVOKE HIS RIGHT TO REMAIN

1 SILENT?

2 A. NO, SIR.

3 Q. AT ANY TIME DID HE INSINUATE TO YOU IN ANY WAY THAT HE  
4 WISHED TO TERMINATE THE INTERVIEW PROCESS?

5 A. NO, SIR.

6 Q. NOW, IN YOUR PRESENCE WAS THE DEFENDANT DENIED ACCESS TO  
7 ANY KIND OF FOOD?

8 A. NO, SIR.

9 Q. DID HE ASK FOR ANYTHING THAT WASN'T GIVEN?

10 A. NO, SIR.

11 Q. DID HE HAVE -- WAS HE DENIED A DRINK?

12 A. NO, SIR.

13 Q. WAS HE DENIED ACCESS TO A BATHROOM?

14 A. NO, SIR, HE WASN'T.

15 Q. NOW, DETECTIVE RICHBURG, DID EITHER YOURSELF OR ANYONE  
16 IN YOUR PRESENCE PROMISE ANY SORT OF LENIENCY TO THE  
17 DEFENDANT IN EXCHANGE FOR HIS STATEMENTS?

18 A. NO, SIR, WE DIDN'T.

19 Q. OKAY. DID YOU OR ANYONE IN YOUR PRESENCE THREATEN OR  
20 INTIMIDATE THE DEFENDANT IN ANY WAY DURING THIS INTERVIEW  
21 PROCESS?

22 A. NO, SIR.

23 Q. DID YOU OR ANYONE IN YOUR PRESENCE PROVIDE THE DEFENDANT  
24 WITH THE SLIGHTEST HOPE OF BENEFIT---

25 A. NO, SIR.

1 Q. ---IF HE GAVE A STATEMENT? WHAT ABOUT THE REMOTEST FEAR  
2 OF INJURY?

3 A. NO, SIR.

4 Q. WAS ANYTHING DONE BY YOU OR SOMEONE IN YOUR PRESENCE  
5 THAT WOULD PUT MR. MASSEY UNDER ANY SORT OF DURESS THAT DAY?

6 A. NO, SIR.

7 Q. WERE BOTH OF THESE STATEMENTS, IN YOUR OPINION, PROVIDED  
8 FREELY AND VOLUNTARILY?

9 A. YES, SIR.

10 MR. SPRATLIN: THANK YOU, DETECTIVE. THAT'S ALL THE  
11 QUESTIONS I HAVE RIGHT NOW.

12 THE COURT: MR. HASTIE?

13 CROSS-EXAMINATION

14 BY MR. HASTIE:

15 Q. GOOD MORNING, DETECTIVE.

16 A. GOOD MORNING.

17 Q. I'LL JUST ASK YOU JUST STARTING OUT: DURING THE  
18 INTERVIEW PROCESS, DID YOU DETECT ANY ODOR OF ALCOHOL, BEER,  
19 OR ANYTHING LIKE THAT ON MR. MASSEY?

20 A. NO, SIR.

21 Q. HE DID NOT APPEAR TO BE DRINKING AT ALL.

22 A. NO, SIR.

23 Q. OKAY. NOW, IN YOUR VIEW OR MIND, HOW LONG DID THIS  
24 INTERVIEW PERIOD LAST? STARTED OUT AT 11:30 OR SO?

25 A. YEAH. AS WAS STATED EARLIER, BETWEEN THREE AND A HALF

1 TO FOUR HOURS.

2 Q. THREE AND A HALF TO FOUR HOURS.

3 A. YES, SIR.

4 Q. SO IT ENDED APPROXIMATELY WHAT TIME?

5 A. TWO-ISH BALLPARK. THREE AND A HALF TO FOUR HOURS AFTER  
6 THE WAIVER WAS SIGNED AT 11:30.

7 Q. HE MENTIONED IN HIS FIRST STATEMENT ABOUT THIS SCAM THAT  
8 WAS GOING ON.

9 A. RIGHT.

10 Q. DID YOU THINK THAT THAT NEEDED TO BE INVESTIGATED AT ANY  
11 POINT?

12 A. IF IT COULD HAVE BEEN -- IF HE WOULDN'T HAVE COME BACK  
13 WITH THE SECOND ONE, THEN, YES, WE WOULD HAVE INVESTIGATED  
14 IT.

15 Q. AND THE REASON HE CAME BACK WITH THE SECOND ONE IS  
16 BECAUSE YOU ALL CONFRONTED HIM WITH THIS EVIDENCE THAT WAS  
17 OBTAINED BY THE OFFICERS THAT WERE STILL AT HIS HOME?

18 A. THAT'S CORRECT.

19 Q. AND THEY HAD MR. ROBINSON AND HIS GIRLFRIEND AT THAT  
20 LOCATION.

21 A. I DON'T RECALL WHO WAS AT THE OTHER HOUSE, BUT I KNOW HE  
22 WAS CONFRONTED ABOUT THE STUFF THAT WAS RECOVERED PURSUANT TO  
23 THE SEARCH WARRANT.

24 Q. WHO PASSED THIS INFORMATION ON TO YOU ALL ABOUT THIS NEW  
25 INFORMATION?



1 A. IT WAS THE OFFICERS ON THE SCENE: SENIOR DETECTIVE  
2 SIMS, LIEUTENANT NESBITT, AND DETECTIVE CHRISTMAS.

3 Q. SO THEY CALLED YOU ALL ON THE TELEPHONE AND SAID, "HEY,  
4 WE'VE GOT A DIFFERENT STORY"?

5 A. I DON'T RECALL WHO MADE THE CALL. IT COULD HAVE BEEN  
6 THEM CALLING OR IT COULD HAVE BEEN SENIOR DETECTIVE CULICK  
7 STEPPING OUT OF THE ROOM. AS I SAID EARLIER, THAT'S WHY WE  
8 HAVE TWO IN THE INTERVIEW ROOMS SO SOMEBODY CAN MAINTAIN  
9 CONTACT WITH THEM SO WE CAN STEP OUT AND EXCHANGE  
10 INFORMATION.

11 Q. SO AS FAR AS YOU KNOW, THIS INFORMATION WAS GAINED FROM  
12 THIS SEARCH THAT TOOK PLACE AT MR. MASSEY'S APARTMENT.

13 A. THE INFORMATION ABOUT THE GUN AND ALL THAT BEING  
14 RECOVERED, YES.

15 Q. PURSUANT -- IT WAS PURSUANT TO THIS SEARCH WARRANT AND  
16 THE SEARCH THAT WAS CONDUCTED AT MR. MASSEY'S APARTMENT.

17 A. THAT'S CORRECT.

18 Q. NOW, SO YOU WERE THERE WHEN HE STARTED CRYING.

19 A. YES, SIR.

20 Q. ALL RIGHT. AND IN YOUR VIEW WHAT WAS THIS CRYING ALL  
21 ABOUT?

22 A. AS I SAID EARLIER, HIS Demeanor -- HE WAS VERY  
23 REMORSEFUL ABOUT WHAT HAPPENED.

24 Q. VERY REMORSEFUL?

25 A. YES, SIR.

1 Q. DID HE ASK FOR ANYTHING DURING THIS INTERVIEW PERIOD OF  
2 TIME? DID HE ASK TO SEE ANYONE, MAKE ANY PHONE CALLS?

3 A. NO, SIR, NOT THAT I RECALL.

4 Q. DID YOU ALL PROMISE HIM ANYTHING DURING THIS PERIOD OF  
5 TIME?

6 A. NO, SIR.

7 Q. DID HE ASK FOR CIGARETTES DURING THIS PERIOD OF TIME?

8 A. NOT THAT I RECALL, NO, SIR. IT'S NOT UNCOMMON FOR THEM  
9 TO AND WE'LL LET THEM SIT RIGHT THERE IN THE OFFICE AND SMOKE  
10 THEM IF THEY DO MOST OF THE TIME, SO...

11 Q. NOW, HE GAVE TWO STATEMENTS.

12 A. THAT'S RIGHT.

13 Q. HOW OFTEN DOES THAT HAPPEN IN YOUR EXPERIENCE WHEN---

14 A. QUITE OFTEN.

15 Q. QUITE OFTEN.

16 A. YES, SIR.

17 Q. SOMEONE COMES IN, AND Y'ALL CONFRONT THEM WITH EVIDENCE  
18 FOUND---

19 A. THE TIMES THAT WE ONLY GET ONE STATEMENT THAT IS TRUTH  
20 IS FAR LESS THAN THE ONES WE GET MULTIPLES.

21 Q. SO YOU OFTEN GET TWO STATEMENTS.

22 A. YES, SIR.

23 MR. HASTIE: THANK YOU VERY MUCH.

24 THE COURT: REDIRECT?

25 MR. SPRATLIN: NOT AT THIS TIME, YOUR HONOR.

1           **THE COURT:** ALL RIGHT. THANK YOU, SIR. YOU CAN STEP  
2 DOWN. ANY OTHER WITNESSES?

3           **MR. SPRATLIN:** NO, YOUR HONOR. IN REGARDS TO THE DENNO  
4 HEARING, THE STATE RESTS.

5           **THE COURT:** MR. HASTIE, ANY WITNESSES?

6           **MR. HASTIE:** YOUR HONOR, COULD WE TAKE A FIVE-MINUTE  
7 RECESS AT THIS TIME?

8           **THE COURT:** YES, SIR.

9           **MR. HASTIE:** THANK YOU.

10          **THE COURT:** ALL RIGHT. WE'LL TAKE FIVE MINUTES. MAKE  
11 SURE THAT Y'ALL DON'T DISCUSS THE CASE IN THAT BACK HALL  
12 BECAUSE SOME OF THE JURY MIGHT BE COMING IN.

13          **MR. HASTIE:** YES, SIR.

14          (WHEREUPON, A SHORT BREAK WAS TAKEN.)

15          **THE COURT:** ALL RIGHT. HAVE A SEAT. ALL RIGHT. MR.  
16 HASTIE, ANYTHING ON THIS ISSUE?

17          **MR. HASTIE:** YES, YOUR HONOR. I WOULD LIKE TO CALL ONE  
18 OTHER -- ONE WITNESS, IF I COULD.

19          **THE COURT:** OKAY.

20          **MR. HASTIE:** I'D LIKE TO CALL MS. PRINCE, YOUR HONOR,  
21 DIONETTA PRINCE.

22                 DIONETTA Y. PRINCE, AFTER BEING DULY SWORN,  
23 TESTIFIED AS FOLLOWS IN CAMERA:

24          **THE CLERK:** HAVE A SEAT IN THE CHAIR, PLEASE, MA'AM.  
25 STATE YOUR FULL NAME. SPELL YOUR LAST NAME, PLEASE.

1 COURT REPORTER: AND YOUR FIRST NAME, PLEASE.

2 THE WITNESS: DIONETTA YOLANDA PRINCE. D-I-O-N-E-T-T-A.  
3 PRINCE, P-R-I-N-C-E.

4 DIRECT EXAMINATION

5 BY MR. HASTIE:

6 Q. MISS PRINCE, GOOD MORNING.

7 A. GOOD MORNING.

8 Q. QUESTION: WERE YOU AT THE HOUSE, THE APARTMENT, THE DAY  
9 THAT MR. MASSEY WAS ARRESTED?

10 A. YES, I WAS.

11 Q. OKAY. WERE YOU ARRESTED?

12 A. NO, I WAS NOT.

13 Q. OKAY. WERE YOU APPREHENDED AT ANY POINT?

14 A. YES. WHEN THEY CAME THERE -- WHEN, YOU KNOW, THEY CAME  
15 THERE, YOU KNOW, WE WERE ESCORTED OUT OF THE HOUSE AT  
16 GUNPOINT. I WAS HANDCUFFED.

17 Q. YOU WERE HANDCUFFED?

18 A. YES, SIR, I WAS.

19 Q. BUT YOU WEREN'T TAKEN TO JAIL AT ALL.

20 A. NO.

21 Q. ABOUT WHAT TIME WAS THAT?

22 A. I REALLY DON'T KNOW. I REALLY DON'T HAVE ANY IDEA---

23 Q. IT WAS AT NIGHT---

24 A. ---OTHER THAN---

25 THE COURT: Y'ALL ARE TALKING AT THE SAME TIME.

1 MR. HASTIE: I'M SORRY.

2 BY MR. HASTIE:

3 Q. NOW, THE ONE QUESTION I WANT TO JUST CLARIFY IS THAT YOU  
4 HEARD TESTIMONY HERE TODAY THAT WHEN HE WAS APPREHENDED, IN  
5 CUSTODY, THAT HE DID NOT MAKE ANY PHONE CALLS OR ANYTHING  
6 LIKE THAT. DID YOU -- DID HE CALL YOU FROM THE JAIL THAT  
7 NIGHT AT ALL?

8 A. YES, HE DID.

9 Q. OKAY. WHAT DID HE HAVE TO SAY?

10 A. HE TOLD ME THAT THEY SAID---

11 MR. SPRATLIN: YOUR HONOR, I'M GOING TO OBJECT TO THIS  
12 ON THE GROUND THAT IT'S HEARSAY.

13 THE COURT: OVERRULED. GO AHEAD.

14 THE WITNESS: HE SAID TO ME THAT THEY TOLD HIM THAT THEY  
15 WOULDN'T ALLOW HIM TO CALL OR TALK TO ME UNTIL HE HAD TOLD  
16 THEM WHAT THEY WANTED TO KNOW.

17 BY MR. HASTIE:

18 Q. OKAY. HE TOLD YOU THAT THAT NIGHT.

19 A. YES, HE DID.

20 Q. ANYTHING ELSE DID HE TALK ABOUT?

21 A. (NO RESPONSE.)

22 Q. LET ME REPHRASE THE QUESTION. WAS HE CRYING AT THAT  
23 TIME, TO YOUR RECOLLECTION?

24 A. NO, HE WAS NOT.

25 Q. HE WAS NOT CRYING. HOW LONG DID THIS CONVERSATION TAKE

1 PLACE?

2 A. NOT LONG.

3 Q. OKAY.

4 A. I WOULD SAY MAYBE -- AT THE MAX MAYBE FIVE MINUTES.

5 Q. HE CALLED YOU ON WHAT PHONE?

6 A. AN OFFICER'S CELL PHONE.

7 Q. ON AN OFFICER'S CELL PHONE?

8 A. YES. A CELL PHONE WAS HANDED TO ME.

9 Q. DO YOU KNOW WHICH OFFICER'S CELL PHONE YOU WERE USING AT  
10 THAT TIME?

11 A. NO, I DO NOT.

12 Q. OKAY. DO YOU KNOW WHAT PHONE HE CALLED FROM?

13 A. NO.

14 Q. I THINK YOU HAD NO IDEA. THANK YOU VERY MUCH.

15 THE COURT: MR. SPRATLIN?

16 MR. SPRATLIN: THANK YOU, YOUR HONOR. REAL BRIEFLY.

17 CROSS-EXAMINATION

18 BY MR. SPRATLIN:

19 Q. MS. PRINCE, WERE YOU PRESENT DURING THE QUESTIONING OF  
20 ANDRE MASSEY?

21 A. NO, I WAS NOT.

22 Q. OKAY. WERE YOU PRESENT WHEN HE WAS ADVISED OF HIS  
23 RIGHTS?

24 A. NO, I WAS NOT.

25 Q. WERE YOU PRESENT WHEN HE GAVE EITHER STATEMENT THAT'S

1 BEEN INTRODUCED INTO EVIDENCE AS -- TO THE TWO LAW  
2 ENFORCEMENT OFFICERS?

3 A. NO, I WAS NOT.

4 Q. OKAY. NOW, YOU SAID THAT HE CALLED YOU FROM AN  
5 OFFICER'S CELL PHONE. DO YOU KNOW WHERE THAT CALL WAS COMING  
6 FROM?

7 A. NO.

8 Q. YOU DON'T KNOW WHETHER HE WAS ALREADY AT THE JAIL WHEN  
9 THAT CALL WAS MADE.

10 A. NO.

11 MR. SPRATLIN: OKAY. THANK YOU. I HAVE NO FURTHER  
12 QUESTIONS.

13 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN. ALL  
14 RIGHT. MR. HASTIE, ANY ADDITIONAL WITNESSES?

15 MR. HASTIE: NO MORE WITNESSES, YOUR HONOR.

16 THE COURT: ALL RIGHT. WHAT'S THE STATE'S POSITION ON  
17 THE STATEMENT?

18 MR. SPRATLIN: YOUR HONOR, THE STATE FEELS THAT WE HAVE  
19 PROVEN THAT THE STATEMENT WAS GIVEN FREELY AND VOLUNTARILY,  
20 THAT THE DEFENDANT WAS ADVISED OF HIS RIGHTS. THERE HAS BEEN  
21 NO EVIDENCE TO SHOW THAT HE WAS MADE ANY KIND OF PROMISES OF  
22 LENIENCY, THAT HE WAS NOT PUT UNDER DURESS BY FEAR OF INJURY  
23 IN ANY WAY. HE WAS NOT PROMISED ANYTHING. HE WAS NOT  
24 DEPRIVED OF A BATHROOM. HE WAS NOT DEPRIVED OF FOOD. HE WAS  
25 NOT DEPRIVED OF WATER. YOUR HONOR, THE STATEMENT IN THE

1 SURROUNDING -- THE SURROUNDINGS IN WHICH THE STATEMENTS WERE  
2 GIVEN ARE CONDUCIVE WITH A VOLUNTARY AND FREELY-GIVEN  
3 STATEMENT, AND WE WOULD ASK FOR THE COURT TO FIND AS SUCH.

4 THE COURT: ALL RIGHT. MR. HASTIE?

5 MR. HASTIE: THANK YOU, YOUR HONOR. YOUR HONOR, WE FEEL  
6 THAT THIS STATEMENT SHOULD NOT BE ALLOWED. THESE STATEMENTS  
7 ARE A RESULT OF THE INFORMATION THEY RECEIVED FROM MR.  
8 SUMTER, IN VIOLATION OF THE CODE 24-21-290. WE FEEL THAT  
9 EVEN THE ARREST WAS IMPROPER AND -- BECAUSE EVERYTHING THAT  
10 THEY GOT TO INCLUDE ON THESE STATEMENTS HERE TODAY WAS THE  
11 RESULT OF THE INFORMATION THAT THEY RECEIVED FROM MR. SUMTER.

12 THE COURT: ALL RIGHT. HOW ABOUT THE JACKSON VERSUS  
13 DENNO ISSUES, THE VOLUNTARINESS, FREE FROM -- MADE WITHOUT  
14 HIM BEING COERCED, SO FORTH AND SO ON? ANY POINTS YOU'D LIKE  
15 TO MAKE ALONG THOSE LINES?

16 MR. HASTIE: YES, SIR. I STILL BELIEVE THAT HE WAS --  
17 HE WAS COERCED. YOU HEARD THEM TESTIFY THAT HE WAS NOT  
18 ALLOWED TO MAKE ANY PHONE CALLS. NOW WE'VE GOT TESTIMONY  
19 THAT HE WAS ALLOWED TO MAKE A PHONE CALL. HE CALLED TO MS.  
20 PRINCE'S PHONE. HE WAS ALLOWED TO MAKE A PHONE CALL TO HIS  
21 GIRLFRIEND AND---

22 THE COURT: WHICH CUTS IN HIS FAVOR, DOESN'T IT?

23 MR. HASTIE: WELL, IT CUTS IN HIS FAVOR BECAUSE I'M  
24 SAYING THAT HE WAS COERCED BECAUSE HE SAID THAT: LET ME CALL  
25 MY GIRLFRIEND, AND I'LL TELL YOU WHAT I NEED TO KNOW -- YOU



1 WANT TO KNOW.

2 THE COURT: WELL, WHERE IS THAT COMING FROM? WHO  
3 TESTIFIED TO THAT?

4 MR. HASTIE: IT HASN'T BEEN TESTIFIED TO AS OF YET.

5 THE COURT: ALL RIGHT. BASED ON THE EVIDENCE AT HAND,  
6 AFTER CONSIDERING ALL THE EVIDENCE, I'M CONVINCED BY THE  
7 GREATER WEIGHT OF THE EVIDENCE THAT THE ALLEGEDLY  
8 INCRIMINATING STATEMENT WAS OBTAINED AFTER HE WAS ADVISED OF  
9 ALL OF HIS RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS,  
10 SPECIFICALLY THAT HE HAD THE RIGHT TO REMAIN SILENT AND HE  
11 WAS ADVISED THAT IF HE WAIVED THAT RIGHT AND IF HE MADE A  
12 STATEMENT THAT IT WOULD BE USED AGAINST HIM IN COURT. HE WAS  
13 ADVISED OF HIS RIGHT TO AN ATTORNEY AND THAT IF HE DIDN'T  
14 HAVE THE MONEY TO HIRE AN ATTORNEY, ONE WOULD BE APPOINTED  
15 FOR HIM FREE OF CHARGE, AND HE ALSO WAS ADVISED THAT HE HAD  
16 THE RIGHT TO HAVE HIS ATTORNEY PRESENT WITH HIM DURING  
17 QUESTIONING AND THAT HE HAD THE RIGHT TO CONSULT WITH AN  
18 ATTORNEY BEFORE INTERROGATION AND THAT HE HAD THE RIGHT TO  
19 STOP THE INTERROGATION AT ANY TIME. HE WAS ALSO TOLD THAT IF  
20 HE WANTED TO STOP THE INTERROGATION THAT HE COULD HAVE HIS  
21 ATTORNEY WITH HIM BEFORE INTERROGATION CONTINUED AND THAT HE  
22 DIDN'T EVEN HAVE TO CONTINUE WITH THE INTERROGATION.

23 THE STATEMENTS WERE OBTAINED FREELY AND VOLUNTARILY AND  
24 WITHOUT DURESS, WITHOUT COERCION OR UNDUE INFLUENCE, HOPE OF  
25 REWARD, AND WITHOUT ANY PROMISE OR HOPE OF REWARD OR

1 LENIENCY. AND THERE WAS NO THREAT OF INJURY, AND THERE WAS  
2 NO COMPULSION OR INDUCEMENT OF ANY KIND, THAT THE STATEMENTS  
3 WERE THE VOLUNTARY PRODUCT OF HIS FREE AND UNCONSTRAINED  
4 WILL. AND, AGAIN, THOSE FINDINGS ARE BY THE GREATER WEIGHT  
5 OF THE EVIDENCE, AND THE JURY WILL BE GIVEN THE APPROPRIATE  
6 CHARGE AS TO WHETHER OR NOT IT FEELS THE SAME BEYOND A  
7 REASONABLE DOUBT.

8 MR. SPRATLIN, WHAT STILL CONCERNS ME GREATLY IS THE FACT  
9 THAT THESE STATEMENTS UNDER RULE 5 WERE DUE TO BE TURNED OVER  
10 WITHIN 30 DAYS, AND I UNDERSTAND AND EVERYBODY IN HERE  
11 UNDERSTANDS THAT THAT 30 DAYS IS IN ESSENCE A NON-FACTOR  
12 BECAUSE OF CERTAIN CIRCUMSTANCES THAT COME UP DURING CASES,  
13 BUT EVEN THOUGH THERE IS NO DEMONSTRATION OF PREJUDICE, WHERE  
14 AT SOME POINT IS A JUDGE GOING TO DRAW THE LINE AND SAY  
15 ENOUGH IS ENOUGH? TWO YEARS IS TOO LONG. AND WHY SHOULDN'T  
16 I SUPPRESS THE STATEMENTS, FIRST OF ALL, ON THAT BASIS?

17 MR. SPRATLIN: YOUR HONOR---

18 THE COURT: JUST THE TWO YEARS.

19 MR. SPRATLIN: BASED ON THE TWO YEARS, YOUR HONOR, LIKE  
20 I TOLD YOU EARLIER, I DO NOT OFFER ANY KIND OF EXCUSES FOR  
21 WHY THEY WERE NOT TURNED OVER IN TWO YEARS. THIS CASE WAS  
22 REASSIGNED TO ME ABOUT SIX WEEKS AGO, AND AT THAT POINT IN  
23 TIME I DID PREPARE---

24 THE COURT: BUT YOU AGREE THAT MAKES NO DIFFERENCE.

25 MR. SPRATLIN: I AGREE THAT MAKES NO DIFFERENCE. I

1 AGREE IT'S MY OFFICE. I AGREE THAT I'M ACCOUNTABLE FOR WHAT  
2 THE OTHER SOLICITOR DID BEFORE ME, AND I UNDERSTAND THAT.  
3 BUT, YOUR HONOR, THE FACT THAT THE DEFENDANT HAS SHOWN NO  
4 PREJUDICE GIVEN---

5 THE COURT: AND ALL THIS COULD BE CURED -- AND, AGAIN,  
6 I'M GOING ON THE LACK OF PREJUDICE. ARGUABLY, ALL THIS COULD  
7 BE CURED IF THIS CASE WEREN'T CALLED THIS WEEK. IT COULD BE  
8 CURED.

9 MR. SPRATLIN: YOUR HONOR, I UNDERSTAND THAT. HOWEVER,  
10 GIVEN THE FACT THAT WE HAVE ALL OF OUR WITNESSES HERE---

11 THE COURT: ARE THEY GOING ANYWHERE?

12 MR. SPRATLIN: THEY COULD, YOUR HONOR.

13 THE COURT: THEY COULD BE GONE IN TWO YEARS WHEN THIS  
14 CASE COMES BACK OFF APPEAL. COULD BE REALLY GONE THEN.

15 MR. SPRATLIN: I UNDERSTAND. I UNDERSTAND THAT, YOUR  
16 HONOR, AND I HAVE DISCUSSED IT WITH MY SUPERIORS AND  
17 DISCUSSED IT THOROUGHLY. I FEEL WE MUST GO FORWARD WITH THIS  
18 CASE AT THIS TIME.

19 THE COURT: ALL RIGHT. AND THE SECOND POINT I STILL --  
20 YOU THINK THE RECORD IS CLEAR AT THIS TIME ABOUT THE  
21 INEVITABLE DISCOVERY OF THE ADDRESS OF THE DEFENDANT.

22 MR. SPRATLIN: YOUR HONOR, I WOULD JUST ASK---

23 THE COURT: AND THIS IS IN THE CONTEXT OF 24-21-290.

24 MR. SPRATLIN: I WOULD, YOUR HONOR. I WOULD ACTUALLY  
25 ASK TO BE ABLE TO CALL DETECTIVE CULICK BACK TO THE STAND ON

1 THAT ISSUE JUST TO MAKE SURE THAT THERE IS A SUFFICIENT  
2 RECORD ON THAT.

3 THE COURT: ALL RIGHT. COME ON BACK UP, DETECTIVE.  
4 YOU'RE STILL UNDER OATH.

5 MR. SPRATLIN: WE ARE GOING TO BE DISCUSSING AGENT  
6 SUMTER HERE. OBVIOUSLY DURING THE TRIAL OF THE MATTER, AGENT  
7 SUMTER'S NAME WILL NOT BE MENTIONED. HOWEVER---

8 THE COURT: THIS IS -- NO JURY IS IN HERE, SO YOU CAN GO  
9 AHEAD.

10 IRENE CULICK, HAVING BEEN PREVIOUSLY SWORN AND  
11 REMAINING UNDER OATH, TESTIFIED AS FOLLOWS IN CAMERA:

12 DIRECT EXAMINATION

13 BY MR. SPRATLIN:

14 Q. DETECTIVE CULICK, WHEN YOU CENTERED IN ON ANDRE MASSEY  
15 AS A SUSPECT, WHAT DID YOU DO TO TRY TO LOCATE ANDRE MASSEY?

16 A. WHEN WE LEARNED THAT ANDRE MASSEY WAS ON PAROLE, HE ALSO  
17 WAS A SEX OFFENDER. WE CALLED, OF COURSE, THE PROBATION AND  
18 PAROLE OFFICE. WE HAD TO GET PERSON ON CALL'S NUMBER, AND WE  
19 WERE WAITING FOR THEM TO CALL BACK TO FIND OUT WHO WAS THE  
20 AGENT WHO COULD ASSIST US. AND THEN WE WENT WITH OUR D.M.V.  
21 RECORDS, WHAT THEY HAD, AND THROUGH THE SEX OFFENDER  
22 REGISTRY---

23 Q. OKAY.

24 A. ---WHAT THEY HAD HIM REGISTERED AS. AND THROUGH D.M.V.  
25 HE HAD THE ADDRESS THAT WE WENT TO, THE 107 SALEM STREET

1 ADDRESS, AND I BELIEVE THERE WAS ANOTHER ADDRESS WHICH I  
2 DON'T HAVE WITH ME THAT WAS ALSO LISTED.

3 Q. OKAY.

4 A. AND SO PRETTY MUCH AGENT -- A LOT OF TIMES D.M.V.  
5 RECORDS ARE WRONG. I MEAN, THAT'S JUST MY CASE. A LOT OF  
6 PEOPLE DON'T GO AND UPDATE THEIR RECORDS WHERE THEY'RE  
7 STAYING, BUT IN MY EXPERIENCE, 11 YEARS, PROBATION AND PAROLE  
8 ALWAYS HAS A GOOD ADDRESS FOR A DEFENDANT, SO...

9 Q. OKAY.

10 A. I MEAN, WE -- WE WOULD HAVE BEEN AT THOSE RESIDENCE  
11 WHETHER WE COULD HAVE GOTTEN IN TOUCH WITH AGENT SUMTER THAT  
12 NIGHT, WHO WAS HANDLING THE CASE, OR NOT.

13 Q. SO, DETECTIVE CULICK, AGENT SUMTER BASICALLY  
14 ELIMINATED---

15 A. CONFIRMED.

16 Q. ---ONE OF THOSE ADDRESSES FOR YOU.

17 A. RIGHT, AND CONFIRMED.

18 Q. BUT YOU ALREADY HAD BOTH ADDRESSES EVEN PRIOR TO  
19 SPEAKING WITH AGENT SUMTER.

20 A. CORRECT.

21 Q. OKAY. AND SO WHAT WOULD HAVE BEEN YOUR NEXT STEP IN THE  
22 PROCESS HAD YOU NOT TALKED TO AGENT SUMTER?

23 A. MY NEXT STEP IN THE PROCESS?

24 Q. YEAH.

25 A. KNOCKING ON THE DOOR.

1 Q. WHICH DOOR?

2 A. THE SAME THING WE DID---

3 THE COURT: WHICH DOOR?

4 THE WITNESS: THE 107.

5 THE COURT: ALL RIGHT.

6 MR. SPRATLIN: OKAY. THANK YOU, DETECTIVE CULICK.

7 THE WITNESS: IF HE WAS WASN'T THERE -- I MEAN, BOTH  
8 DOORS IF WE HADN'T TALKED TO HIM, I MEAN.

9 THE COURT: OKAY.

10 MR. SPRATLIN: THANK YOU.

11 THE COURT: MR. HASTIE?

12 MR. HASTIE: THANK YOU, YOUR HONOR.

13 CROSS-EXAMINATION

14 BY MR. HASTIE:

15 Q. MS. CULICK, YOU MENTIONED KNOCKING ON THE DOOR AT 107.  
16 107, WHERE IS THAT?

17 A. 107 SALEM STREET.

18 Q. HE LIVED AT APARTMENT -- WHICH APARTMENT?

19 A. NUMBER 2.

20 Q. NUMBER 2. OKAY. HOWEVER, YOU ALL DID INVOLVE MR.  
21 SUMTER IN LOCATING MASSEY'S APARTMENT.

22 A. YEAH. WE CALLED AGENT SUMTER FOR A NUMBER OF REASONS.

23 Q. OKAY.

24 A. ONE IS, YOU KNOW, CONFIRM WHERE HE IS LIVING. DOES HE

25 STILL HAVE THAT ADDRESS LISTED OR IS IT THE -- I THINK IT WAS

1 ANOTHER STREET. I DON'T KNOW IF IT WAS SUMTER STREET OR --  
2 I'M GOING FROM MEMORY.

3 Q. OKAY.

4 A. AND THEN WE ALSO ASKED: HAS HE BEEN SHOWING UP? WHEN  
5 IS THE LAST TIME YOU SAW HIM? THINGS LIKE THAT.

6 Q. UH-HUH. UH-HUH.

7 A. AND WE WERE TOLD THAT HE WAS SUPPOSED TO COME SEE HIM  
8 THAT DAY. HE DID NOT SHOW UP TO SEE AGENT SUMTER, AND AGENT  
9 SUMTER SAID HE WOULD BE GLAD -- HE WAS STILL IN SUMTER. HE  
10 WOULD BE GLAD TO RIDE BY AND SEE IF HE WAS THERE AT THE  
11 RESIDENCE.

12 Q. OKAY. OKAY. SO AGENT SUMTER REALLY SORT OF CONFIRMED  
13 BECAUSE YOU DID SAY THAT OFTENTIMES THE D.M.V. RECORDS ARE  
14 WRONG.

15 A. OFTENTIMES THEY ARE. A LOT OF PEOPLE DON'T UPDATE OR  
16 THEY PUT THEIR PARENTS' ADDRESS DOWN AND ACTUALLY LIVE WITH A  
17 GIRLFRIEND OR SOMEWHERE ELSE. SO OFTENTIMES I FIND D.M.V. IS  
18 WRONG.

19 Q. SO TO MAKE SURE THAT YOU CAN FIND THE ADDRESS OF MR.  
20 MASSEY THAT---

21 A. WE WOULD HAVE GONE TO ALL THE ADDRESSES WE HAD. WE'D  
22 HAVE LOOKED INTO JAIL FILES. WE'D HAVE LOOKED INTO AN  
23 ACCURINT WEBSITE THAT WE HAVE. WE WOULD HAVE LOOKED INTO  
24 EVERY RESOURCE THAT WE COULD TO LOCATE HIM, AND IF HE WASN'T  
25 THERE, DID HE LIVE HERE AT ONE TIME? DO YOU KNOW HIM? ARE

1 YOU A RELATIVE? WE WOULD HAVE FOUND MR. MASSEY.

2 Q. BUT YOU DID CALL MR. SUMTER FIRST.

3 A. I DID. I CALLED MR. SUM -- WELL, I CALLED PROBATION AND  
4 PAROLE, GOT A SUPERVISOR THAT WAS ON CALL.

5 Q. ON CALL. RIGHT.

6 A. AND THEY CALLED MR. SUMTER WHO CALLED ME.

7 Q. AND MR. SUMTER SHARED THE INFORMATION EXACTLY WHERE HE  
8 LIVED AND DID HE---

9 A. WHAT HE HAD ON HIS RECORDS.

10 Q. ON HIS RECORD. HE HAD BEEN BY THERE THAT DAY, YOU  
11 TESTIFIED TO?

12 A. NO. HE DID NOT SHOW UP THAT DAY, BUT AGENT SUMTER SAID  
13 HE WAS IN TOWN. IF WE WOULD LIKE HIM TO, HE WOULD RIDE BY  
14 AND SEE IF HE WAS THERE.

15 Q. OKAY. SO IN ASSISTING YOU, AGENT SUMTER DECIDED TO RIDE  
16 BY HIS HOME TO ASSIST YOU ALL ---

17 A. YEAH, THAT'S SOMETHING THAT HE DOES AS A PROBATION AND  
18 PAROLE OFFICER IS RIDE BY AND CHECK ON HIS CLIENTS, AND IT'S  
19 NOT UNCOMMON FOR HIM TO GO BY, ESPECIALLY IF THEY DON'T SHOW  
20 UP.

21 Q. BUT THIS PARTICULAR TIME HE WAS ASSISTING YOU---

22 A. HE WAS -- YOU'RE CORRECT. YES, HE WAS.

23 Q. ---IN YOUR INVESTIGATION.

24 A. HE ASSISTED AS FAR AS THAT, BUT NONE OF THAT WAS USED  
25 AND HE'S NOT TESTIFYING TODAY TO USE THAT.



1 Q. YEAH, WE KNOW THAT BUT... THANK YOU, YOUR HONOR. NO  
2 FURTHER QUESTIONS.

3 A. THANK YOU.

4 MR. SPRATLIN: NOTHING ON REDIRECT.

5 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN.

6 THE WITNESS: THANK YOU.

7 THE COURT: ALL RIGHT. THE STATUTE IS CLEAR. IT SAYS  
8 THAT ALL INFORMATION AND DATA OBTAINED IN THE DISCHARGE OF  
9 HIS OFFICIAL DUTY BY A PROBATION AGENT IS PRIVILEGED  
10 INFORMATION, IS NOT RECEIVABLE -- RECEIVABLE AS EVIDENCE IN  
11 COURT, AND MAY NOT BE DISCLOSED DIRECTLY OR INDIRECTLY TO  
12 ANYONE. I'M PERPLEXED AT WHY THAT'S THERE SINCE IN MANY  
13 INSTANCES PROBATION AGENTS SEEM TO KNOW WHERE PEOPLE ARE, BUT  
14 THAT'S WHAT THE STATUTE SAYS. AND THE FACT THAT MR. SUMTER  
15 WOULD ROUTINELY ASSIST LAW ENFORCEMENT OFFICERS IN THAT  
16 REGARD IS CERTAINLY UNDERSTANDABLE, BUT IT SEEMS TO BE  
17 CONTRARY TO THE STATUTE. AND THE COURT -- THE SUPREME COURT  
18 SAID IN THE -- I BELIEVE IT'S THE HOOK CASE THAT THAT  
19 RESTRICTIVE LANGUAGE HAS NO EXCEPTION.

20 IN THIS CASE I'M SURE IT WILL BE AN ISSUE HEREAFTER,  
21 DEPENDING UPON THE JURY'S VERDICT IN THIS CASE, BUT IT'S MY  
22 CONCLUSION THAT THE D.M.V. RECORDS WOULD HAVE LED THE  
23 OFFICER -- OFFICERS TO THE SAME ADDRESS, AND I WILL ALSO NOTE  
24 THAT THERE WAS SOME TESTIMONY THAT THE DEFENDANT WAS ON THE  
25 SEX OFFENDER REGISTRY. THAT'S NOT INFORMATION OBTAINED BY A

1 PAROLE AGENT, BUT IN MY VIEW THAT CERTAINLY IS EXTREMELY AND  
2 UNDULY PREJUDICIAL TO THE DEFENDANT.

3 IF THE DEFENDANT MOVES, I'M SURE THE STATE WOULD  
4 PROBABLY AGREE THAT THAT WON'T BE A SOURCE OF INFORMATION OF  
5 HOW TO FIND THE GENTLEMAN. I THINK THAT THE INFORMATION THAT  
6 HE WAS -- IS A SEX OFFENDER -- DID THAT COME FROM MR. SUMTER,  
7 TOO?

8 MR. SPRATLIN: NO, YOUR HONOR. I BELIEVE---

9 THE COURT: THAT CAME FROM MS. BILLIE.

10 MR. SPRATLIN: WELL, YES, YOUR HONOR, IT DID COME FROM  
11 MS. BILLIE IN THEIR CONVERSATIONS TO HIM AS WELL AS THE  
12 OFFICERS' ROUTINE INVESTIGATION.

13 THE COURT: ALL RIGHT. SO I THINK THAT THE VIOLATION,  
14 IF YOU WILL, OF THE TITLE 24 STATUTE DOESN'T FORECLOSE MY  
15 EXAMINATION OF WHETHER OR NOT THEY WOULD HAVE STILL LOCATED  
16 MR. MASSEY AT THAT ADDRESS. I'M GOING TO NOT GRANT YOUR  
17 MOTION ON THAT BASIS, MR. HASTIE. ALL RIGHT. BUT MAKE SURE  
18 THAT THE WITNESSES ARE CAUTIONED, AND IF MR. HASTIE CHOOSES  
19 TO PUSH THE ISSUE ON CROSS ABOUT HOW THEY FOUND HIM, THEN WE  
20 HAVE AN ISSUE OF WHETHER OR NOT THE SEX OFFENDER DOOR IS  
21 OPENED, AND SO THE QUESTIONS WOULD BE -- HAVE TO BE TAILORED  
22 ACCORDINGLY.

23 NOW, I'VE ALREADY RULED ON THE JACKSON VERSUS DENNO  
24 MATTER. I'M STILL A LITTLE DISTURBED ON THE TWO-YEAR ISSUE,  
25 BUT I DON'T SEE ANY PREJUDICE RESULTING IN THIS CASE. IT

1 JUST -- I JUST DON'T UNDERSTAND.

2 MR. SPRATLIN: I UNDERSTAND, YOUR HONOR.

3 THE COURT: IT MAKES NO SENSE, AND SOME OTHER JUDGE MAY  
4 WELL IN HIS OR HER DISCRETION SAY, "YOU CALLED THE CASE.  
5 FINE. BUT YOUR STATEMENTS ARE SUPPRESSED."

6 MR. SPRATLIN: YES, YOUR HONOR, I UNDERSTAND.

7 THE COURT: AND THAT MAY ALSO BE AN ISSUE LATER ON.  
8 YES, SIR?

9 MR. HASTIE: JUDGE, DO YOU HAVE THE AUTHORITY TO REQUEST  
10 THAT THEY PUT THIS TRIAL ON THE NEXT TERM WHICH IS SEPTEMBER?

11 THE COURT: CERTAINLY I DO. THAT'S IN YOUR MOTION FOR A  
12 CONTINUANCE WHICH I HAVE DENIED, AND THAT IS ALSO A MATTER OF  
13 DISCRETION IN YOUR ARGUMENT ON APPEAL. IT WOULD BE THAT I  
14 ABUSED MY DISCRETION IN SEVERAL WAYS. ONE, ALLOWING THE CASE  
15 TO GO TO TRIAL ON THIS TECHNICALLY DEFECTIVE L-WOP NOTICE.  
16 TWO, NOT CONTINUING THE CASE IN THE FACE OF THEIR TWO-YEAR  
17 DELAY IN TURNING OVER DISCOVERY TO YOU AND, THREE, NOT  
18 SUPPRESSING THE STATEMENT WHEN IT WAS HANDED OVER AFTER THEY  
19 HAD IT FOR TWO YEARS.

20 SO I'M EXERCISING MY DISCRETION IN DETERMINING THAT  
21 THERE'S NO PREJUDICE DEMONSTRATED FOR THE FAILURE TO TURN THE  
22 DOCUMENTS OVER IN DISCOVERY; AT LEAST NONE HAS BEEN SHOWN TO  
23 ME. AND IF -- IF THAT RULING IS TO BE DISTURBED, THEN THE  
24 APPELLATE COURTS CAN CERTAINLY DO IT. ALL RIGHT?

25 MR. SPRATLIN: AND, YOUR HONOR, FOR THE RECORD, THE

1 STATE WILL NOT BE INTRODUCING ANY EVIDENCE IN REGARDS TO THE  
2 SEX OFFENDER REGISTRY AS LONG AS MR. HASTIE DOES NOT OPEN THE  
3 DOOR ON CROSS-EXAMINATION.

4 THE COURT: RIGHT. AND WE'LL HAVE TO TAKE THAT AS IT  
5 COMES. ALL RIGHT. ARE WE READY FOR THE JURY?

6 MR. SPRATLIN: YOUR HONOR, IF WE COULD HAVE ONE MINUTE  
7 TO DISCUSS A MATTER.

8 THE COURT: WITH ME?

9 MR. SPRATLIN: WITH LAW ENFORCEMENT.

10 THE COURT: OKAY. ALL RIGHT.

11 (PAUSE IN PROCEEDINGS.)

12 THE COURT: KEEP YOUR SEATS.

13 MR. HASTIE: YOUR HONOR, BEFORE WE BEGIN, I WOULD LIKE  
14 TO MAKE A MOTION DUCES TECUM FOR MS. BILLIE TO BRING HER  
15 RECORDS TO -- I'M GOING TO ISSUE A SUBPOENA FOR HER TO BRING  
16 HER RECORDS TO COURT.

17 THE COURT: RECORDS ON WHAT?

18 MR. HASTIE: ON THE AIDS QUESTION THAT I ASKED HER ABOUT  
19 YESTERDAY, SHE SAID SHE COULD NOT REMEMBER.

20 THE COURT: SHE CAN BRING THEM. THAT DOESN'T MEAN  
21 THEY'RE GOING TO COME IN. SO YOU HAVE NO WAY TO OBJECT TO  
22 IT, THE SUBPOENA.

23 MR. SPRATLIN: NO, YOUR HONOR, WE DON'T.

24 THE COURT: OKAY. BUT IF THEY COME INTO EVIDENCE,  
25 THAT'S A DIFFERENT MATTER.

1       **MR. HASTIE:** I JUST WANTED TO BRING IT TO THE COURT'S  
2 ATTENTION.

3       **THE COURT:** SO, MS. BILLIE, ARE YOU STILL EMPLOYED AT  
4 THAT LOCATION?

5       **MS. BILLIE:** MY OFFICE IS AT D.H.E.C., BUT THE WATEREE  
6 TASK FORCE IS LOCATED ON 108 WEST LIBERTY.

7       **THE COURT:** ARE YOU STILL EMPLOYED THERE? DO YOU STILL  
8 VOLUNTEER THERE?

9       **MS. BILLIE:** YES, SIR.

10       **THE COURT:** ALL RIGHT. IF SHE IS NOT ONE WHO HAS THE  
11 ABILITY TO OBTAIN THOSE RECORDS, YOU'LL HAVE TO ISSUE A  
12 WRITTEN SUBPOENA TO THE DIRECTOR OR THE HEAD OF THAT AGENCY.  
13 I WOULD DOUBT THAT A VOLUNTEER CAN WALK IN THERE WITH A  
14 SUBPOENA AND SAY, "HEY, I'M PULLING THESE RECORDS." SO IF  
15 YOU WANT TO GET UP THE APPROPRIATE SUBPOENA DURING THE LUNCH  
16 HOUR, THAT WILL BE FINE. IT CAN BE SERVED AT 108?

17       **MS. BILLIE:** 108 WEST LIBERTY STREET.

18       **THE COURT:** 108 WEST... DO YOU KNOW WHO THE HEAD OF  
19 THAT AGENCY IS?

20       **MS. BILLIE:** KEVIN JOHNSON IS THE EXECUTIVE DIRECTOR.  
21 THE CHAIR PERSON IS---

22       **THE COURT:** THE EXECUTIVE DIRECTOR IS KEVIN JOHNSON?

23       **MS. BILLIE:** UH-HUH.

24       **THE COURT:** ALL RIGHT. IS HE THERE USUALLY?

25       **MS. BILLIE:** IN AND OUT.

1       **THE COURT:**   OKAY.   YOU'LL HAVE TO SUBPOENA -- SEND THAT  
2       SUBPOENA TO HIM AND HAVE IT SERVED ON THEM.

3       **MR. HASTIE:**   YES, SIR, I WILL.

4       **THE COURT:**   OKAY?   BUT I DON'T FEEL COMFORTABLE IN  
5       ORDERING A VOLUNTEER WITH THE ORGANIZATION TO GO GET THOSE  
6       RECORDS BECAUSE THEY WOULD PROBABLY LAUGH AT HER.   OKAY?

7       **MR. HASTIE:**   OKAY.

8       **THE COURT:**   ALL RIGHT.

9       **MR. SPRATLIN:**  YOUR HONOR -- AND THAT WAS THE STATE'S  
10      CONCERN.

11      **THE COURT:**   WELL, BUT YOU -- YOUR CONCERN IS NOT  
12      RELEVANT BECAUSE YOU HAVE NO -- YOU'RE NOT THEIR LAWYER.

13      **MR. SPRATLIN:**  I UNDERSTAND THAT.

14      **THE COURT:**   OKAY.   ALL RIGHT.   ARE Y'ALL READY TO GO?

15      **MR. SPRATLIN:**  YOUR HONOR, WE'RE READY TO GO.

16      **THE COURT:**   OKAY.   ARE YOU READY, MR. HASTIE?

17      **MR. HASTIE:**   YES, WE ARE, JUDGE.

18      **THE COURT:**   ALL RIGHT.   BRING IN THE JURY.

19      (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
20      11:16 A.M.)

21      **THE COURT:**   ALL RIGHT.   MR. LASH?

22      **MR. LASH:**    YES.

23      **THE COURT:**   YOU'RE GOING TO BE THE FOREPERSON OF THIS  
24      JURY.   FOR RIGHT NOW YOU CAN SIT WHERE YOU ARE, BUT THE NEXT  
25      TIME THE JURY COMES IN IF YOU COULD SIT IN THE SEAT THAT'S

1 CLOSEST TO THE DOOR ON THE FRONT ROW, AND I'LL BE TALKING TO  
2 YOU LATER ABOUT WHAT YOUR RESPONSIBILITIES ARE.

3 FOREMAN: YES, SIR.

4 THE COURT: AND BEFORE WE GET STARTED, LADIES AND  
5 GENTLEMEN, THE BAILIFF IS GOING TO SWEAR YOU, SO IF YOU COULD  
6 PLEASE STAND.

7 (WHEREUPON, THE JURY WAS SWORN AT 11:17 A.M.)

8 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, YOU NOW  
9 HAVE BEEN SWORN IN AS JURORS FOR THE TRIAL OF THE CASE OF THE  
10 STATE OF SOUTH CAROLINA VERSUS ANDRE MAURICE MASSEY. MR.  
11 MASSEY IS CHARGED WITH THE OFFENSE OF ARMED ROBBERY AND THE  
12 OFFENSE OF POSSESSION OF A FIREARM DURING THE COMMISSION OF A  
13 VIOLENT CRIME.

14 AS I TOLD YOU YESTERDAY, THE FACT THAT A PERSON IS  
15 ARRESTED, CHARGED, AND INDICTED FOR ANYTHING MEANS ABSOLUTELY  
16 NOTHING INSOFAR AS YOU, THE JURY, IS CONCERNED. THAT IS  
17 BECAUSE MR. MASSEY HAS ENTERED PLEAS OF NOT GUILTY TO THESE  
18 TWO CHARGES, AND THAT PLEA PUTS THE BURDEN OF PROOF ON THE  
19 STATE TO PROVE HIS GUILT BEYOND A REASONABLE DOUBT. THE  
20 DEFENDANT DOES NOT HAVE TO PROVE ANYTHING, AND THE DEFENDANT  
21 DOESN'T HAVE TO DISPROVE ANYTHING. AND, AGAIN, I REFERENCE  
22 THE INDICTMENT SIMPLY FOR INFORMATION PURPOSES AND NOT  
23 INSOFAR AS ANY EVIDENCE IS CONCERNED.

24 NOW, AS FAR AS THIS TRIAL IS CONCERNED, YOU, LADIES AND  
25 GENTLEMEN, ARE THE SOLE JUDGES OF THE FACTS. THE ONLY

1 DIFFERENCE BETWEEN ME AND YOU IN THAT REGARD IS YOU DON'T  
2 WEAR A BLACK ROBE, BUT IT IS EXTREMELY IMPORTANT FOR YOU TO  
3 UNDERSTAND THAT YOU ARE THE ONLY PEOPLE IN THE WORLD WHO CAN  
4 DECIDE WHAT THE FACTS ARE IN THIS CASE.

5 YOU WILL NOTICE THAT DURING THE COURSE OF THIS TRIAL  
6 WHEN YOU ARE IN THE COURTROOM THE WITNESSES WILL BE  
7 TESTIFYING TO YOU. THEY WON'T BE TESTIFYING TO ME UNLESS  
8 PERHAPS I DIDN'T HEAR WHAT A WITNESS SAID. THAT'S BECAUSE I  
9 HAVE NO ROLE IN DETERMINING WHAT THE FACTS ARE. EVEN IF I  
10 HAD A VIEW OF THE FACTS IN THIS CASE, WHICH I DON'T, I  
11 WOULDN'T BE PERMITTED TO EXPRESS IT TO YOU. YOU WILL ALSO  
12 NOTICE THAT WHEN THE LAWYERS MAKE THEIR OPENING STATEMENTS  
13 AND TALK ABOUT FACTS, THEY WILL BE TALKING TO YOU. THEY  
14 WON'T BE TALKING TO ME. WHEN THE LAWYERS MAKE THEIR CLOSING  
15 ARGUMENTS AT THE END OF THE CASE, THEY'LL BE MAKING THOSE  
16 ARGUMENTS TO YOU, AND THAT IS BECAUSE PURELY AND SIMPLY YOU  
17 ARE THE ONLY PEOPLE WHO MATTER AS FAR AS THE FACTS ARE  
18 CONCERNED.

19 NOW, THE EVIDENCE WILL COME TO YOU IN VARIOUS SOURCES.  
20 IT WILL COME TO YOU FROM WITNESSES WHO TESTIFY FROM THIS  
21 CHAIR AFTER THEY'VE BEEN SWORN IN. IT'S YOUR DUTY TO LISTEN  
22 EXTREMELY CAREFULLY TO EVERYTHING THAT THE WITNESSES SAY.  
23 THE TESTIMONY OF THE FIRST WITNESS IS NO MORE AND NO LESS  
24 IMPORTANT THAN THE TESTIMONY OF THE SECOND, THIRD, FOURTH,  
25 FIFTH OR HOW EVER MANY WITNESSES THERE ARE. SO IT'S YOUR



1 OBLIGATION TO LISTEN CAREFULLY TO EVERYTHING THAT IS SAID  
2 FROM THE WITNESS STAND, EVEN THOUGH YOU MIGHT THINK THAT  
3 YOU'VE HEARD CERTAIN TESTIMONY BEFORE AND YOU NEED NOT  
4 LISTEN. YOU JUST NEED TO CONTINUE TO LISTEN VERY, VERY  
5 CAREFULLY.

6 THE EVIDENCE WILL ALSO COME TO YOU PERHAPS IN THE FORM  
7 OF EXHIBITS WHICH MEANS DOCUMENTS OR OTHER ITEMS THAT MAY BE  
8 INTRODUCED. THE EVIDENCE MAY ALSO COME TO YOU IN THE FORM OF  
9 STIPULATIONS WHICH MEANS AGREEMENTS BETWEEN THE TWO ATTORNEYS  
10 WHICH WILL BE MADE KNOWN TO YOU OR PUBLISHED TO YOU. SO  
11 THOSE ARE THE WAYS THAT EVIDENCE MAY COME BEFORE YOU. IT'S  
12 YOUR -- IT'S GOING TO BE YOUR OBLIGATION AT THE END OF THIS  
13 CASE TO WEIGH ALL OF THAT EVIDENCE TO DETERMINE WHETHER OR  
14 NOT THE STATE HAS MET ITS BURDEN OF PROOF.

15 NOW, I'LL MAKE THE DECISION IN CERTAIN EVENTS WHETHER OR  
16 NOT EVIDENCE ACTUALLY COMES IN. THAT'S ONE OF MY ROLES  
17 BECAUSE I'M THE JUDGE OF THE LAW. YOU'RE THE JUDGE OF THE  
18 FACTS; I'M THE JUDGE OF THE LAW. IF THERE IS A DISPUTE AS TO  
19 WHETHER OR NOT EVIDENCE COMES IN, I MAKE THAT DETERMINATION.  
20 IF I MAKE A RULING THAT THE EVIDENCE COMES IN, THEN YOU CAN  
21 CONSIDER IT. IF SOMETHING IS SAID DURING THE COURSE OF THE  
22 TRIAL AND I TELL YOU TO DISREGARD WHAT HAS BEEN SAID, THEN  
23 YOU HAVE TO UNDER YOUR OATH DISREGARD TESTIMONY OR PERHAPS A  
24 QUESTION THAT WAS ASKED. IT WILL BE YOUR DUTY TO PUT THAT  
25 OUT OF YOUR MIND COMPLETELY.

1       NOW, AS I'LL TELL YOU AT THE END OF THE CASE, THE LAW  
2       THAT I CHARGE YOU IS WHAT YOU TAKE, ALONG WITH YOUR VIEW OF  
3       THE FACTS, AND THAT'S HOW YOU REACH A VERDICT IN THIS CASE,  
4       AND YOUR VERDICT AT THE END OF THE CASE WILL HAVE TO BE  
5       UNANIMOUS WHICH MEANS ALL OF YOU HAVE TO AGREE ON THAT. NOW,  
6       ONE THING YOU CAN'T DO DURING THE COURSE OF THE TRIAL IS TALK  
7       ABOUT THE CASE AMONGST EACH OTHER, AND BEFORE WE BREAK FOR  
8       LUNCH AND EVERY TIME WE BREAK AT THE END OF THE DAY I'LL BE  
9       TELLING YOU THAT YOU CAN'T TALK ABOUT THIS CASE. YOU CAN'T  
10      TALK ABOUT IT AND BEGIN TO MAKE ANY DECISIONS UNTIL I TELL  
11      YOU THAT YOU CAN, AND THAT'S BECAUSE SINCE THE TESTIMONY OF  
12      THE LAST WITNESS IS JUST AS IMPORTANT AS THE TESTIMONY OF THE  
13      FIRST WITNESS, IT WOULDN'T BE APPROPRIATE FOR YOU TO BEGIN  
14      MAKING UP YOUR MIND AS TO ANYTHING UNTIL YOU'VE HEARD AND  
15      SEEN EVERYTHING THAT THERE IS TO SEE AND HEAR.

16       NOW, AS THE FACT FINDERS, LADIES AND GENTLEMEN, YOU  
17      NECESSARILY HAVE TO EVALUATE THE BELIEVABILITY OF THE  
18      WITNESSES WHO TESTIFY. WELL, HOW DO YOU DO THAT? YOU CAN --  
19      YOU CAN BELIEVE EVERY WORD OF WHAT A WITNESS HAS TO SAY. YOU  
20      CAN DISBELIEVE PARTS AND REJECT THE REST OR YOU CAN REJECT OR  
21      DISBELIEVE EVERYTHING THAT A WITNESS HAS TO SAY. THAT WILL  
22      BE ENTIRELY UP TO YOU. YOU CAN USE ANYTHING WITHIN YOUR  
23      ARSENAL OF COMMON SENSE IN MAKING THOSE DECISIONS. HOW DOES  
24      THE WITNESS APPEAR ON THE WITNESS STAND? WAS THE WITNESS  
25      HESITANT OR STRAIGHTFORWARD IN ANSWERING QUESTIONS? DOES THE

1 WITNESS HAVE A REASON TO GIVE TESTIMONY THAT WOULD HELP OR  
2 HURT ONE SIDE OVER THE OTHER? IN OTHER WORDS, IS THE WITNESS  
3 BIASED OR PREJUDICED?

4 ALSO, YOU CAN MAKE YOUR DECISION ON WHETHER OR NOT YOU  
5 BELIEVE SOMEONE ON WHETHER OR NOT THAT WITNESS'S TESTIMONY IS  
6 STRENGTHENED OR WEAKENED BY OTHER TESTIMONY OR EVIDENCE  
7 THAT'S IN THE RECORD. ABOVE ALL, JUST USE YOUR COMMON SENSE.  
8 YOU DO IT EVERY DAY, OR AT LEAST WE HOPE WE DO, IN  
9 DETERMINING WHO TO BELIEVE AND WHAT TO BELIEVE WHEN WE HEAR  
10 PEOPLE TALK.

11 DURING THE TRIAL YOU WILL MOST PROBABLY HEAR ONE OR BOTH  
12 OF THE LAWYERS AT VARIOUS TIMES STAND UP AND OBJECT TO A  
13 QUESTION OR OBJECT TO AN ANSWER THAT'S GIVEN, AND THAT'S  
14 BECAUSE WE DO HAVE IN SOUTH CAROLINA THE SOUTH CAROLINA RULES  
15 OF EVIDENCE. THEY'RE IN THIS BOOK, AND THERE ARE A FEW DOZEN  
16 RULES OF EVIDENCE, AND MANY TIMES THE RULES AND THE OPERATION  
17 OF THE RULES IS SUBJECT TO INTERPRETATION. THAT'S WHERE I  
18 COME IN. IF A LAWYER ASKS A QUESTION THAT'S OBJECTED TO,  
19 THAT DOESN'T MEAN THAT LAWYER IS TRYING TO SLIP SOMETHING IN  
20 INAPPROPRIATELY, AND THE FACT THAT A LAWYER OBJECTS TO  
21 SOMETHING DOES NOT MEAN THAT THAT LAWYER IS TRYING TO HIDE  
22 SOMETHING FROM YOU. AGAIN, THOSE RULES ARE OPEN TO  
23 INTERPRETATION.

24 I MAKE THE DECISION WHETHER OR NOT THE EVIDENCE COMES  
25 IN. I MAY HAVE TO SEND YOU OUT OF THE COURTROOM. THAT'S NOT

1 TO HIDE ANYTHING FROM YOU. THAT'S NOT TO HIDE ANYTHING FROM  
2 YOU. IT'S JUST SIMPLY THE METHOD THAT IS USED TO DETERMINE  
3 WHETHER OR NOT EVIDENCE IS ADMISSIBLE.

4 IF I SEND YOU OUT, DON'T TAKE OFFENSE BECAUSE YOU WILL  
5 TAKE COMFORT IN KNOWING THAT AT THE END OF THE CASE WHEN YOU  
6 TALK ABOUT THE FACTS IN YOUR JURY ROOM, WE DON'T GO WITH YOU.  
7 THE LAWYERS DON'T GO. THE COURT REPORTER DOESN'T GO. I  
8 DON'T GO. THE BAILIFFS DON'T GO. THERE'S NO CAMERA AND NO  
9 RECORDING DEVICES IN THERE. IT'S SIMPLY YOU AND YOU ALONE.  
10 AND BY THE SAME TOKEN, WHEN THERE IS A DISPUTE ABOUT A POINT  
11 OF LAW, I MAY WELL HAVE TO SEND YOU OUT OF THE COURTROOM, AND  
12 THAT'S THE WAY OUR RULES OPERATE, AND I APOLOGIZE FOR THAT.

13 NOW, I WILL TELL YOU THIS: CASES ARE NEVER TRIED LIKE  
14 YOU SEE ON TELEVISION, SO DON'T EXPECT THAT. ON TELEVISION  
15 THEY DON'T HAVE RULES. IF THEY DO, THEY DON'T FOLLOW THEM.  
16 SO WE WILL FOLLOW THE RULES. THE LAWYERS KNOW WHAT THOSE  
17 RULES ARE, AND YOU DON'T NEED TO EXPECT ANY THEATRICALS, ANY  
18 SLAMMING OF HANDS ON TABLES, AND ANY RAISED VOICES. THE CASE  
19 WILL BE TRIED ACCORDING TO THE RULES, AND I HAVE EVERY  
20 CONFIDENCE THAT THE LAWYERS WILL GET THAT DONE.

21 THE TRIAL WILL BE CONDUCTED IN PHASES. FIRST IS THE  
22 OPENING STATEMENTS OF THE LAWYERS. THEY'RE GOING TO TELL YOU  
23 WHAT THEY THINK THE EVIDENCE WILL OR WILL NOT SHOW. THEN THE  
24 STATE WILL PRESENT ITS CASE IN CHIEF, AND AFTER THAT THE  
25 DEFENDANT, IF HE CHOOSES - HE DOESN'T HAVE TO - CAN PRESENT

1 EVIDENCE, AND THE DEFENDANT DOESN'T HAVE TO DO THAT BECAUSE  
2 HE HAS NO BURDEN AT ALL. AFTER THAT IS DONE, IF THE RULES  
3 PERMIT, THE STATE CAN CALL REPLY EVIDENCE OR PRESENT REPLY  
4 EVIDENCE, AND AFTER THAT THE LAWYERS WILL GIVE THEIR CLOSING  
5 ARGUMENTS, AND THEN I'LL GIVE YOU THE CHARGE ON THE LAW, AND  
6 THEN YOU'LL BE FREE TO DELIBERATE THIS CASE.

7 SO RULE NUMBER ONE: LISTEN EXTREMELY CAREFULLY TO THE  
8 WITNESSES WHO TESTIFY, AND PAY VERY CLOSE ATTENTION TO THE  
9 EVIDENCE THAT'S INTRODUCED, BECAUSE YOU'LL BE CALLED UPON TO  
10 RENDER A UNANIMOUS VERDICT THAT SPEAKS THE TRUTH, AND THE  
11 ONLY WAY THAT YOU CAN DO THAT IS TO PAY VERY CLOSE ATTENTION  
12 TO ALL OF THE FACTS INTRODUCED.

13 ALL RIGHT. MR. SPRATLIN AND MR. HASTIE, ARE YOU READY  
14 TO PROCEED?

15 MR. SPRATLIN: YES, YOUR HONOR.

16 MR. HASTIE: YES, YOUR HONOR.

17 THE COURT: MR. SPRATLIN?

18 MR. SPRATLIN: GOOD MORNING, LADIES AND GENTLEMEN. AS  
19 THE JUDGE SAID, I'M MARTIN SPRATLIN. I'M THE ATTORNEY  
20 REPRESENTING THE STATE IN THIS CASE. I'M AN ASSISTANT  
21 SOLICITOR TO YOUR ELECTED SOLICITOR, KELLY JACKSON, AND WE'RE  
22 HERE TODAY -- AS THE JUDGE TOLD YOU, THIS IS AN ARMED ROBBERY  
23 CASE. THERE'S ALSO ANOTHER COUNT OF POSSESSION OF A FIREARM  
24 DURING THE COMMISSION OF A VIOLENT CRIME.

25 WHAT THE EVIDENCE IS GOING TO SHOW YOU TODAY, LADIES AND

1 GENTLEMEN -- AND THAT'S WHAT THE PURPOSE OF THIS OPENING  
2 STATEMENT IS: TO BASICALLY GIVE YOU AN OVERVIEW OF WHAT THE  
3 EVIDENCE IS GOING TO SHOW YOU TODAY. I LIKE TO THINK OF IT  
4 AS THE PREVIEWS OF A MOVIE. IF YOU SEE ENOUGH OF ANY -- YOU  
5 SEE ENOUGH OF THE PREVIEWS TO GIVE YOU AN IDEA OF WHAT THE  
6 MOVIE IS ABOUT, BUT YOU DON'T GET THE WHOLE STORY UNTIL YOU  
7 ACTUALLY WATCH THE MOVIE, AND THE MOVIE IN THIS CASE, THE  
8 EVIDENCE, IS GOING TO BE COMING FROM THAT WITNESS STAND.

9 NOW, LET ME TALK TO YOU A LITTLE BIT ABOUT WHAT EVIDENCE  
10 YOU'RE GOING TO BE HEARING TODAY FROM THE WITNESS STAND. THE  
11 FIRST WITNESS YOU'RE GOING TO HEAR FROM IS MR. HERBERT HUFF.  
12 NOW, MR. HUFF, BACK IN JUNE OF 2007, WAS WORKING AT A STORE  
13 CALLED TOTAL LIVING. IT WAS LOCATED HERE ON DUGAN STREET  
14 HERE IN SUMTER CITY. HE WAS WORKING ON A PARTICULAR DAY,  
15 JUNE THE 7TH, AND THAT'S THE DAY WE'RE HERE ABOUT. WE'RE  
16 HERE ABOUT JUNE THE 7TH.

17 ON JUNE THE 7TH MR. HUFF WAS THE VICTIM OF A CRIME. HE  
18 WAS ROBBED AT GUNPOINT. MONEY WAS TAKEN FROM HIM, AND MONEY  
19 WAS TAKEN FROM THE CASH REGISTER AT THE STORE. AND, LADIES  
20 AND GENTLEMEN, THE EVIDENCE IS GOING TO SHOW YOU THAT MR.  
21 MASSEY IS THE MAN THAT WENT IN THE STORE THAT DAY, THAT MR.  
22 MASSEY IS THE MAN THAT PUT THE GUN IN HIS FACE, THAT MR.  
23 MASSEY IS THE MAN THAT REACHED INTO MR. HUFF'S POCKET AND  
24 TOOK THE MONEY OUT OF HIS POCKET AND THAT MR. MASSEY IS THE  
25 MAN THAT MADE MR. HUFF AT GUNPOINT WALK AROUND TO THE CASH

1 REGISTER, OPEN THE CASH REGISTER, AND TAKE THE MONEY OUT.  
2 YOU'RE GOING TO HEAR EVIDENCE ABOUT THAT TODAY, LADIES AND  
3 GENTLEMEN.

4 NOW, THE ACTUAL DESCRIPTION OF THE CRIME, THE WITNESS IS  
5 GOING TO BE MR. HERBERT HUFF. HE'S GOING TO TELL YOU WHERE  
6 HE WAS AT THAT DAY, WHAT HAPPENED, WHO ELSE WAS IN THE STORE.  
7 HE'S ALSO GOING TO TELL YOU WHO DID THIS, WHAT THAT MAN WAS  
8 WEARING, WHAT THAT MAN HAD ON HIS ARM, A TATTOO, WHAT THAT  
9 MAN HAD IN HIS EAR, AN EARRING. HE'S GOING TO TELL YOU ALL  
10 THAT. BUT THE WAY THE POLICE GOT TO MR. MASSEY IS VERY  
11 INTERESTING AND IT'S VERY INVOLVED AND IT'S VERY -- IT'S A  
12 VERY IN-DEPTH INVESTIGATION. SO YOU'RE GOING TO HAVE TO PAY  
13 SPECIAL ATTENTION TO THE INVESTIGATIVE PROCESS IN THIS CASE  
14 AND HOW MR. MASSEY CAME TO BE THE SUSPECT BECAUSE YOU'RE  
15 GOING TO HEAR MR. HUFF TALK TO YOU ABOUT SOMEONE ELSE WHO WAS  
16 IN THE STORE WITH HIM THAT DAY.

17 NOW, MR. MASSEY, AS THE EVIDENCE IS GOING TO SHOW YOU,  
18 CAME IN THE STORE AND ROBBED MR. HUFF, BUT THE EVIDENCE IS  
19 GOING TO SHOW YOU THAT THAT WAS NOT THE FIRST TIME HE HAD  
20 GONE IN THE STORE THAT DAY. HE'D GONE IN THE STORE EARLIER  
21 THAT DAY, AND HE'D ACTUALLY TALKED TO AND MET UP WITH A WOMAN  
22 THAT MR. HUFF KNEW WORKED NEXT DOOR, THAT BEING MS. LATRELL  
23 BILLIE.

24 NOW, THAT, LADIES AND GENTLEMEN, WAS THE FIRST STEP IN  
25 THE INVESTIGATIVE PROCESS: MR. HUFF KNOWING THAT THE PERSON

1 THAT ROBBED HIM WAS IN THE STORE EARLIER TALKING TO MS.  
2 LATRELL BILLIE. THE POLICE THEN WENT AND QUESTIONED MS.  
3 LATRELL BILLIE, AND YOU'RE GOING TO HEAR EVIDENCE ABOUT THAT.  
4 YOU'RE GOING TO HEAR EVIDENCE FROM MS. BILLIE HERSELF TELLING  
5 YOU WHO WAS IN THE STORE WITH HER EARLIER THAT DAY WHO WAS  
6 MR. ANDRE MASSEY.

7 MR. MASSEY AND MS. BILLIE WERE ACQUAINTANCES. SHE HAD  
8 ACTUALLY -- MR. MASSEY, AS THE EVIDENCE IS GOING TO SHOW YOU,  
9 HAD TALKED TO MS. BILLIE SOMETIME PRIOR ABOUT A JOB AND THEY  
10 KIND OF FORMED AN ACQUAINTANCESHIP AND HE WOULD OCCASIONALLY  
11 COME AND TALK TO HER AT HER OFFICE WHICH, AS THE EVIDENCE IS  
12 GOING TO SHOW YOU, IS RIGHT NEXT DOOR TO THE TOTAL LIVING  
13 STORE, THE PLACE WHERE THE ROBBERY OCCURRED.

14 NOW, MS. BILLIE IS GOING TO TELL YOU THAT SHE GOT A CALL  
15 FROM MR. MASSEY ABOUT DOING SOME WORK ON HER CAR ON THE  
16 UPCOMING WEEKEND AND THAT SHE HAD ACTUALLY TOLD MR. MASSEY TO  
17 COME BY HER BUSINESS WHICH AGAIN WAS RIGHT NEXT DOOR TO THE  
18 TOTAL LIVING STORE AND THAT SHE WAS ACTUALLY LEAVING OUT OF  
19 THE BUSINESS AT 5:00 WHEN SHE WENT IN THE TOTAL LIVING STORE  
20 TO TALK TO THE PROPRIETOR OF THAT STORE ABOUT PURCHASING A  
21 WATERMELON. APPARENTLY, THE PROPRIETOR, NOT MR. HUFF BUT THE  
22 OTHER GENTLEMAN WHO OWNED THE STORE, SOLD WATERMELONS OUT OF  
23 THE STORE AS WELL.

24 SHE WENT IN THE STORE TO TALK TO HIM. SHE RAN INTO MR.  
25 ANDRE MASSEY. SHE WAS EXPECTING TO SEE HIM AT HER OFFICE



1 EARLIER THAT DAY. HE DIDN'T SHOW UP THERE, BUT SHE RAN INTO  
2 HIM AT TOTAL LIVING WHEN SHE WENT INTO THAT STORE. THEY  
3 STARTED TALKING. THEY LEFT THE STORE. MS. BILLIE IS GOING  
4 TO TELL YOU THAT THEY WENT TO HER CAR. THEY DISCUSSED MR.  
5 MASSEY TAKING HER CAR ON SATURDAY AND VACUUMING IT OUT FOR  
6 HER AND THAT SHE THEN GOT IN HER CAR AND THAT SHE THEN LEFT  
7 TO GO PICK HER KIDS UP FROM DAYCARE, LEAVING MR. MASSEY AT OR  
8 NEAR THE TOTAL LIVING STORE.

9 NOW, THIS ALL HAPPENED SOME TIME BETWEEN THE TIME OF  
10 5:00 TO 5:15. MS. BILLIE IS GOING TO BE ABLE TO TELL YOU  
11 THAT BECAUSE MR. MASSEY -- BECAUSE SHE HAD TO GO PICK HER  
12 KIDS UP FROM DAYCARE, AND SHE ALWAYS MADE SURE SHE WAS  
13 PICKING HER KIDS UP FROM DAYCARE ABOUT 5:15. SO THE POLICE,  
14 AFTER REVIEWING THE REPORT OF THE ROBBERY, BEING TOLD THAT  
15 THE PERSON THAT ROBBED MR. HUFF WAS IN THE STORE EARLIER IN  
16 THE DAY TALKING WITH THE WOMAN NEXT DOOR, WENT AND TALKED TO  
17 MS. BILLIE. MS. BILLIE TOLD THE POLICE ALL THAT SHE'S GOING  
18 TO TELL YOU FROM THE WITNESS STAND.

19 SO THE POLICE NOW HAD A NAME. THE POLICE HAD THE NAME  
20 ANDRE MASSEY. WHAT DID THE POLICE DO TO LOCATE MR. MASSEY?  
21 THEY FOUND OUT WHERE HE LIVED. THEY WENT TO HIS RESIDENCE.  
22 THEY -- ALSO, LADIES AND GENTLEMEN, LET ME GO BACK A LITTLE  
23 BIT. MR. HUFF WAS ALSO ABLE TO DESCRIBE SOME -- THE  
24 IDENTIFICATION, LIKE I TOLD YOU, THE IDENTIFYING DESCRIPTION  
25 OF THE DEFENDANT AND HOW TALL HE WAS, HIS BUILD, WHAT HE WAS

1 WEARING, HIS EARRING AND A TATTOO WHICH MR. HUFF DESCRIBED AS  
2 A CIRCLE WITH POINTS COMING OUT OF IT.

3 FROM TALKING WITH MS. BILLIE, SHE WAS ABLE TO CONFIRM  
4 THAT MR. MASSEY WAS, IN FACT, WEARING THE SAME KIND OF  
5 CLOTHING DESCRIBED BY MR. HUFF AND THAT HE DID HAVE TATTOOS  
6 ON HIS ARM AND WORE AN EARRING IN HIS EAR. SO THE POLICE  
7 WENT TO WHERE THE DEFENDANT LIVED TO EFFECTUATE AN ARREST ON  
8 MR. MASSEY. THEY WENT THERE. THEY DID PLACE MR. MASSEY  
9 UNDER ARREST, AND AT THIS POINT, AS THE EVIDENCE IS GOING TO  
10 SHOW YOU, THE INVESTIGATION TOOK TWO DIFFERENT DIRECTIONS  
11 ESSENTIALLY. NOW, TWO OF THE OFFICERS WHO WERE THERE WHEN  
12 MR. MASSEY WAS ARRESTED WAS DETECTIVE IRENE CULICK AND  
13 DETECTIVE ROBERT RICHBURG.

14 MR. HASTIE: YOUR HONOR, I WOULD LIKE TO OBJECT BASED ON  
15 THIS SEARCH AND SEIZURE THAT TOOK PLACE AT MR.---

16 THE COURT: THE OBJECTION IS OVERRULED.

17 MR. HASTIE: THANK YOU, YOUR HONOR.

18 MR. SPRATLIN: NOW, AS I WAS SAYING, THE INVESTIGATION  
19 BASICALLY TOOK TWO FORKS, TWO DIFFERENT PATHS HERE.  
20 DETECTIVE IRENE CULICK AND DETECTIVE ROBERT RICHBURG TOOK THE  
21 DEFENDANT INTO CUSTODY, TOOK HIM BACK TO THE STATION FOR  
22 QUESTIONING AND INTERVIEW. NOW, THE OTHER DETECTIVES -  
23 DETECTIVE TOD SIMS, DETECTIVE KEN NESBITT, AND SEVERAL OTHER  
24 LAW ENFORCEMENT OFFICERS WHO WERE AT THE SCENE - THEY  
25 ACTUALLY WENT AND SECURED A SEARCH WARRANT.

1           NOW, THE WAY -- BASICALLY I WANT TO FOLLOW THIS IN THE  
2 ORDER THAT YOU'RE GOING TO HEAR THE EVIDENCE TODAY, BUT AGAIN  
3 I'M TRYING TO GIVE YOU AN OVERVIEW OF WHAT THE EVIDENCE IS  
4 GOING TO SHOW YOU. AND SO THE FIRST WITNESS -- LAW  
5 ENFORCEMENT WITNESS YOU'RE GOING TO HEAR FROM IS DETECTIVE  
6 IRENE CULICK. NOW, DETECTIVE CULICK IS GOING TO TELL YOU ON  
7 THE STAND ALL ABOUT THE INVESTIGATIVE PROCESS. SHE'S GOING  
8 TO GO OVER HOW THEY TRACKED DOWN MR. MASSEY AS BEING THE  
9 SUSPECT, HOW THEY WENT TO HIS HOUSE, HOW THEY ARRESTED HIM,  
10 HOW---

11           MR. HASTIE: YOUR HONOR, EXCUSE ME. I WOULD LIKE TO  
12 OBJECT AGAIN. I WOULD LIKE TO ENSURE THAT MY OBJECTION RUNS  
13 THROUGHOUT THIS ENTIRE OPENING STATEMENT.

14           THE COURT: YES, SIR, IT DOES.

15           MR. HASTIE: THANK YOU, YOUR HONOR.

16           MR. SPRATLIN: NOW---

17           THE COURT: AS WELL AS TO ANY -- THE ISSUE OF THE  
18 STATEMENT.

19           MR. HASTIE: THANK YOU, SIR.

20           THE COURT: OKAY?

21           MR. SPRATLIN: NOW, SHE'S GOING TO TELL YOU HOW THEY  
22 TOOK HIM INTO CUSTODY, HOW THEY ADVISED HIM OF HIS RIGHTS,  
23 HOW HE GAVE TWO STATEMENTS TO LAW ENFORCEMENT OFFICERS. NOW,  
24 THE SUBSTANCE OF THESE STATEMENTS IS GOING TO BE MADE FULLY  
25 TO YOU LATER ON. YOU'RE GOING TO HAVE THE STATEMENTS READ TO

1 YOU, AND YOU'RE GOING TO ACTUALLY HAVE THE STATEMENTS  
2 AVAILABLE TO YOU. BUT SHE'S GOING TO TELL YOU THE FIRST  
3 STATEMENT WAS KIND OF A STATEMENT OF: "I DIDN'T DO IT. IT'S  
4 ALL A FRAME-UP. SOMEBODY IS TRYING TO FRAME ME."

5 THE SECOND STATEMENT, HOWEVER, WHEN CONFRONTED WITH  
6 INCONSISTENCIES -- BECAUSE WHILE -- AS I TOLD YOU, THE  
7 INVESTIGATION TOOK TWO DIFFERENT PRONGS. WHILE DETECTIVE  
8 CULICK AND DETECTIVE RICHBURG ARE QUESTIONING THE SUSPECT,  
9 DETECTIVE TOD SIMS WAS OBTAINING A SEARCH WARRANT FOR THE  
10 SUSPECT'S HOME. AND SO AFTER THE SUSPECT GAVE HIS FIRST  
11 STATEMENT, DETECTIVE CULICK LEFT. SHE WENT AND TALKED TO  
12 DETECTIVE SIMS ABOUT THE EVIDENCE THAT WAS FOUND DURING THE  
13 SEARCH.

14 WHAT WAS FOUND DURING THE SEARCH? A GUN, A GUN WHICH  
15 MATCHED TO A T. THE DESCRIPTION OF THE GUN GIVEN BY MR.  
16 HERBERT HUFF, THE VICTIM IN THIS CASE, A PAIR OF PANTS WHICH  
17 MATCHED TO A T. THE DESCRIPTION OF THE PANTS THE PERSON THAT  
18 ROBBED HIM WAS WEARING, GIVEN BY MR. HERBERT HUFF. AND NEXT,  
19 LADIES AND GENTLEMEN, A CAP, A LITTLE BANDANA, DOO RAG, SKULL  
20 CAP KIND OF THING WAS ALSO FOUND WHICH AGAIN MATCHED TO A T.  
21 WHAT MR. HERBERT HUFF SAID THE PERSON THAT ROBBED HIM WAS  
22 WEARING.

23 SO THEY CONFRONTED THE SUSPECT WITH ALL THIS EVIDENCE  
24 OBTAINED AT HIS HOUSE, OBTAINED FROM HIM, HIS RESIDENCE.  
25 THEY CONFRONTED HIM WITH IT, AND WHAT DID HE DO? HE CAME

1 CLEAN. HE GAVE A SECOND STATEMENT TO LAW ENFORCEMENT. HE  
2 TOLD THEM THAT HE DID IT, AND, AGAIN, THAT STATEMENT IS GOING  
3 TO BE INTRODUCED. IT'S GOING TO BE A VERY DETAILED STATEMENT  
4 GIVEN BY THE DEFENDANT IN THIS CASE THAT DETAILS THE CRIME,  
5 DETAILS WHY HE DID IT, AND, LADIES AND GENTLEMEN, YOU'RE  
6 GOING TO HAVE THAT STATEMENT AVAILABLE TO YOU TODAY, TOO.  
7 AND ALL OF THIS WAS DONE WITH THE DEFENDANT BEING AWARE OF  
8 HIS RIGHTS. HE WAS CONFRONTED WITH THE INCONSISTENCIES IN  
9 HIS FIRST STATEMENT, AND I GUESS HE FELT IT WAS TIME TO COME  
10 CLEAN WITH WHAT HE DID.

11 NOW, LADIES AND GENTLEMEN, ONCE YOU HEAR ALL THAT  
12 EVIDENCE TODAY, YOU'RE GOING TO BE LEFT WITH NO CHOICE BUT TO  
13 DECIDE THAT THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT  
14 THE DEFENDANT COMMITTED THE OFFENSE OF ARMED ROBBERY, AND AS  
15 YOU'RE ALSO GOING TO HEAR, THAT ARMED ROBBERY IS CLASSIFIED  
16 AS A CRIME OF VIOLENCE UNDER THE LAWS OF SOUTH CAROLINA AND  
17 IT'S A SEPARATE OFFENSE FOR ANYONE TO POSSESS A FIREARM WHEN  
18 COMMITTING A CRIME OF VIOLENCE. AND SO YOU'RE GOING TO ALSO  
19 FIND THAT HE DID COMMIT THE OFFENSE OF POSSESSION OF A  
20 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. IT KIND OF  
21 COMES FROM THE SAME -- THE FACT THAT THE ARMED ROBBERY IS A  
22 VIOLENT CRIME MAKES IT A SECOND COUNT.

23 SO ALL THAT WILL BE MADE CLEAR TO YOU. YOU'RE ALSO  
24 GOING TO HAVE THE INDICTMENT, I BELIEVE, BE ABLE TO LOOK AT  
25 THAT AND READ THROUGH IT. IT WILL ALL BE MADE CLEAR TO YOU.

1 IF YOU DON'T UNDERSTAND IT ALL RIGHT NOW, DON'T WORRY ABOUT  
2 IT. AT THE END EVERYTHING -- YOU'LL -- YOU'LL HAVE ALL THE  
3 INFORMATION YOU NEED, BUT THAT'S BASICALLY THE EVIDENCE  
4 YOU'RE GOING TO HEAR.

5 NOW, I THINK ONCE THE STATE'S ABLE TO SHOW YOU ALL THAT,  
6 YOU'RE GOING TO BE LEFT WITH NO OTHER CHOICE BUT TO COME BACK  
7 GUILTY, AND I LOOK FORWARD TO PRESENTING THAT EVIDENCE TO YOU  
8 TODAY. THANK YOU.

9 THE COURT: THANK YOU, MR. SPRATLIN. MR. HASTIE, YOU  
10 CAN MAKE AN OPENING STATEMENT, IF YOU'D LIKE TO MAKE ONE.

11 MR. HASTIE: YES, SIR. THANK YOU, YOUR HONOR. GOOD  
12 MORNING, LADIES AND GENTLEMEN. MY NAME IS CALVIN HASTIE.  
13 I'M A PUBLIC DEFENDER HERE IN SUMTER. I'VE BEEN IN THIS JOB  
14 ABOUT A YEAR AND A HALF NOW. I SPENT 20 YEARS IN THE  
15 MILITARY, RETIRED, WENT TO LAW SCHOOL, PRACTICED LAW IN  
16 COLUMBIA FOR 10 YEARS, DECIDED TO COME HOME TO SUMTER - I'M  
17 FROM SUMTER - AND PRACTICE LAW HERE FOR THE PUBLIC DEFENDER.

18 DURING MY TIME IN THE MILITARY, THEY USED TO HAVE US  
19 HURRY UP TO DO SOMETHING, AND WE ALWAYS ENDED UP WAITING  
20 AROUND AND SITTING AROUND FOR SOMETHING TO HAPPEN, AND YOU  
21 MAY SPEND SOME OF YOUR TIME DOING THAT TODAY, AND YOU  
22 PROBABLY SPENT SOME OF YOUR TIME DOING THAT THIS MORNING. I  
23 CANNOT IMPRESS UPON YOU HOW IMPORTANT YOUR JOB IS. AS THE  
24 JUDGE ALREADY MENTIONED, THE DECISION HERE TODAY DOESN'T EVEN  
25 REST WITH THE JUDGE. IT DOESN'T REST WITH THE ATTORNEYS.

1 THE DECISION IN THIS CASE RESTS WITH YOU, YOU 12.

2 THE CONSTITUTION OF SOUTH CAROLINA AND THE CONSTITUTION  
3 OF THE UNITED STATES PLACES THE BURDEN OF PROOF ON THE STATE  
4 TO PROVE BEYOND A REASONABLE DOUBT THAT THIS INCIDENT  
5 HAPPENED AS THEY SAID IT HAPPENED. WE JUST SIMPLY ASK THAT  
6 YOU LISTEN TO ALL THE EVIDENCE HERE TODAY AND THAT AT THE END  
7 OF THE DAY YOU MAKE YOUR DECISION WHETHER OR NOT THE STATE  
8 HAS MET ITS BURDEN BECAUSE, REMEMBER NOW, ALL OF US HAVE A  
9 PRESUMPTION OF INNOCENCE. ALL OF US HAVE A PRESUMPTION OF  
10 INNOCENCE. IT'S LIKE A ROBE OF RIGHTEOUSNESS THAT WE ALL  
11 WEAR, AND THE STATE JUST CAN'T PULL ON THE ROBE AND TUG AT  
12 THE ROBE. THEY'VE GOT TO COMPLETELY REMOVE THE ROBE. AND I  
13 WANT YOU TO JUST LISTEN TO THEIR EVIDENCE, AND YOU DETERMINE  
14 WHETHER OR NOT WHAT THEY'VE SAID CONVINCES YOU BEYOND A  
15 REASONABLE DOUBT THAT THIS INCIDENT HAPPENED AS THEY SAID IT  
16 DID.

17 PLEASE REMEMBER THAT ALL STORIES HAVE TWO SIDES, AND AS  
18 AN OLD FRIEND OF MINE WOULD SAY ALL THE TIME: EVERY PANCAKE  
19 HAS TWO SIDES. SO IT'S JUST VERY IMPORTANT THAT YOU LISTEN  
20 CAREFULLY TO THE EVIDENCE THAT'S PRESENTED, AND THEN IN THE  
21 VERY END YOU WILL MAKE THE DECISION, NOT THE JUDGE, NOT THE  
22 SOLICITOR, NOT ME. THANK YOU FOR YOUR TIME.

23 THE COURT: THANK YOU, MR. HASTIE.

24 MR. HASTIE: THANK YOU.

25 THE COURT: ALL RIGHT. MR. SPRATLIN, YOU CAN CALL YOUR

1 FIRST WITNESS.

2 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD FIRST CALL  
3 MR. HERBERT HUFF TO THE STAND.

4 HERBERT HUFF, SR., AFTER BEING DULY SWORN,  
5 TESTIFIED AS FOLLOWS:

6 THE CLERK: HAVE A SEAT UP HERE. WATCH YOUR STEP.  
7 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR ME, PLEASE.

8 THE WITNESS: HERBERT HUFF. H-U-F-F. HUFF.

9 DIRECT EXAMINATION

10 BY MR. SPRATLIN:

11 Q. THANK YOU, MR. HUFF. MR. HUFF, HOW LONG HAVE YOU LIVED  
12 IN SUMTER?

13 A. FROM THE TIME I WAS 29 YEARS OLD UP UNTIL NOW. I'M 76  
14 YEARS OLD.

15 Q. SO YOU'RE 76 YEARS?

16 A. NOT QUITE SEVEN YEARS.

17 Q. AND WHAT ARE YOU CURRENTLY DOING FOR A LIVING?

18 A. WHAT AM I CURRENTLY DOING FOR A LIVING? I'M RETIRED.

19 Q. OKAY. WHERE WERE YOU WORKING BACK IN JUNE OF 2007?

20 A. AT THE TOTAL LIVING STORE, 25 DUGAN STREET, SUMTER,  
21 SOUTH CAROLINA.

22 Q. OKAY. AND DO YOU KNOW IF THAT IS IN SUMTER COUNTY?

23 A. YES, IT IS.

24 Q. OKAY. AND WHAT KIND OF BUSINESS IS THE TOTAL LIVING  
25 STORE?



1 A. IT'S A CLOTHING -- WELL, IT WAS A -- TOTAL LIVING WAS A  
2 -- STARTED OUT AS A VARIETY STORE, BUT NOW WE GOT MORE STOCK  
3 OF CLOTHING IN, SO IT'S A CLOTHING STORE REALLY. WE SELL  
4 MORE CLOTHING THAN ANYTHING ELSE, SO WE JUST SAY IT'S A  
5 CLOTHING STORE.

6 Q. OKAY. AND YOU SAID THAT IT WAS LOCATED OFF OF DUGAN  
7 STREET?

8 A. 25 DUGAN STREET.

9 Q. OKAY. WHAT WAS YOUR JOB AT TOTAL LIVING?

10 A. I MANAGED THE STORE.

11 Q. OKAY. WHAT ALL DID THAT ENTAIL?

12 A. OH, KEEPING THE RECORDS, KEEPING THE FINANCES STRAIGHT,  
13 AND SELLING THE ITEMS IN THE STORE.

14 Q. OKAY. NOW, MR. HUFF---

15 A. KEEPING INVENTORY.

16 Q. THANK YOU. SORRY TO INTERRUPT YOU. MR. HUFF, WERE YOU  
17 WORKING AT THE STORE BACK ON JUNE 7TH, 2007?

18 A. I WAS.

19 Q. WHAT WERE YOU DOING THAT DAY?

20 A. SELLING MY MERCHANDISE.

21 Q. OKAY. WERE YOU THE ONLY EMPLOYEE WORKING THAT DAY?

22 A. I WAS THE ONLY EMPLOYEE WORKING AT THAT TIME.

23 Q. OKAY. AT SOME POINT DID YOU HAVE A CHANCE TO COME INTO  
24 CONTACT WITH THE DEFENDANT, ANDRE MASSEY, ON THAT DATE?

25 A. HE CAME IN THE STORE THAT AFTERNOON EARLIER.

1 Q. WHAT WAS HE DOING THE FIRST TIME HE CAME INTO THE STORE?

2 A. LOOKING AROUND MAINLY AT MEN'S CLOTHING.

3 Q. OKAY. HOW LONG WAS HE IN THE STORE FOR?

4 A. NOT VERY LONG. NOT VERY LONG BECAUSE THE YOUNG LADY  
5 CAME IN AND CALLED HIM OUT OR CALLED TO HIM THAT SHE WAS  
6 READY TO GO OR SOMETHING LIKE THAT.

7 Q. OKAY. AND DO YOU KNOW WHO THAT YOUNG LADY WAS?

8 A. I DIDN'T KNOW HER NAME. NO, I DID NOT.

9 Q. DID YOU KNOW WHERE SHE WORKED?

10 A. YES, I KNEW HER PLACE OF WORK.

11 Q. AND WHERE WAS THAT?

12 A. THAT WAS NEXT DOOR TO MY STORE.

13 Q. OKAY. AND DO YOU KNOW WHAT KIND OF BUSINESS THAT WAS?

14 A. THAT WAS CALLED WAFT (PHONETIC), WATEREE AIDS TASK  
15 FORCE.

16 Q. NOW, SIR, DID YOU KNOW THE DEFENDANT, MR. MASSEY, BEFORE  
17 THIS INCIDENT?

18 A. I DID NOT.

19 Q. OKAY. HOW MANY TIMES WOULD YOU SAY MR. MASSEY CAME INTO  
20 THE STORE THAT DAY?

21 A. THAT TIME AND THE SECOND -- THE LAST TIME.

22 Q. OKAY.

23 A. THAT WOULD BE TWO TIMES.

24 Q. OKAY. WHEN WOULD YOU ESTIMATE THAT MR. MASSEY CAME INTO  
25 THE STORE FOR THE LAST TIME THAT DAY?

1 A. IT WOULD BE BEFORE CLOSING.

2 Q. OKAY. WHAT TIME WOULD YOU SAY THAT WOULD BE?

3 A. WELL, I ALWAYS CLOSE AT 6, SO I'M GOING TO HAVE TO SAY  
4 IT WAS AROUND 5:30.

5 Q. OKAY. WAS ANYONE ELSE IN THE STORE AT THE TIME THAT MR.  
6 MASSEY CAME IN?

7 A. I HAD CUSTOMERS IN THE STORE. I HAD THE LADY AND TWO --  
8 SHE HAD TWO GIRLS AND A BOY, I THINK THREE CHILDREN, AND I  
9 HAD MORE CUSTOMERS THAT WAS IN THE STORE, AND I JUST REMEMBER  
10 -- WELL, THERE WAS THREE OTHER -- I BELIEVE THERE WAS THREE  
11 OTHER WOMEN OTHER THAN THE LADY THAT CAME IN.

12 Q. OKAY. DO YOU REMEMBER THE NAME OF THE LADY THAT WAS IN  
13 THE STORE THAT YOU WERE REFERENCING?

14 A. I KNOW HER NAME IS CAROL BRUNSON.

15 Q. OKAY. AND HOW DO YOU KNOW CAROL BRUNSON?

16 A. WE MADE ACQUAINTANCE IN THE STORE.

17 Q. OKAY. DID YOU KNOW HER FROM ANYTHING -- IN ANY WAY  
18 OUTSIDE OF THE STORE?

19 A. NO, I DID NOT.

20 Q. OKAY. NOW, WHILE ALL THOSE PEOPLE WERE IN THE STORE,  
21 WHAT WAS MR. MASSEY DOING?

22 A. HE WAS LOOKING AT THE MEN'S LINES OF CLOTHING.

23 Q. OKAY. DO YOU REMEMBER SPECIFICALLY WHAT HE WAS LOOKING  
24 AT?

25 A. WELL, THE LAST TIME HE CAME -- ARE YOU TALKING THE FIRST

1 OR THE LAST?

2 Q. THE LAST TIME, SIR.

3 A. THE LAST TIME HE CAME IN HE WAS LOOKING AT -- HE WENT  
4 SPECIFICALLY -- HE ASKED FOR A SIZE 44---

5 Q. OKAY.

6 A. ---IN SUITS. DID I HAVE A SIZE 44 IN SUITS? AND I  
7 SHOWED HIM SOME, AND HE CONTINUED TO LOOK AT THEM.

8 Q. OKAY. AND ARE YOU CERTAIN ABOUT THAT?

9 A. PARDON?

10 Q. ARE YOU CERTAIN ABOUT THAT?

11 A. YES, I AM.

12 Q. OKAY. NOW, WHEN MR. MASSEY WAS LOOKING AT THESE SUITS  
13 THAT YOU DESCRIBED, HOW WAS HE ACTING TOWARDS YOU? WAS HE  
14 BEING FRIENDLY OR WHAT WAS HE DOING?

15 A. I REALLY DIDN'T PAY ANY ATTENTION -- I HAD MORE  
16 CUSTOMERS IN THERE TO PAY ATTENTION TO, SO I DIDN'T PUT TOO  
17 MUCH ATTENTION ON HIS ACTIONS TOWARDS ME.

18 Q. OKAY. AT SOME POINT DID THE OTHER CUSTOMERS LEAVE?

19 A. PARDON? YES. YES, AT SOME POINT THE OTHER -- ALL THE  
20 OTHER CUSTOMERS LEFT INCLUDING MS. CAROL.

21 Q. OKAY.

22 A. AND I HAD ALREADY MADE THE -- I HAD ALREADY STARTED THE  
23 ATTEMPTING TO CLOSE UP. THAT'S WHY MY BLINDS WAS CLOSED---

24 Q. UH-HUH.

25 A. ---AND MY DOOR WAS CLOSED.

1 Q. OKAY. WAS THIS SOMETHING YOU DID PRETTY MUCH EVERY  
2 NIGHT AT CLOSING TIME?

3 A. EVERY EVENING, YES, I CLOSED MY BLINDS, TURNED MY SIGN  
4 ON "CLOSED," AND CLOSED THE DOOR.

5 Q. OKAY.

6 A. AND IF I HAD CUSTOMERS IN THERE, I HAD IT LOCKED. THE  
7 CUSTOMERS ON THE OUTSIDE COULDN'T GET IN---

8 Q. OKAY.

9 A. ---BUT I LET THE CUSTOMERS OUT.

10 Q. OKAY. AND WHEN WOULD YOU SAY THAT MS. BRUNSON LEFT THE  
11 STORE?

12 A. BEFORE I CLOSED UP, I WENT AND -- I'M GOING TO SAY  
13 BEFORE CLOSING TIME BECAUSE---

14 Q. OKAY.

15 A. ---MY CLOSING TIME IS 6:00 SO...

16 Q. OKAY. AND WHAT HAPPENED -- HOW DID MS. BRUNSON COME TO  
17 LEAVE THE STORE? DID SHE JUST LEAVE OR WAS SHE HELPED OUT  
18 OR...

19 A. I ESCORTED HER OUT THE LAST TIME. SHE CAME IN THE  
20 STORE, SHE AND HER CHILDREN, AND THEN HER PURCHASING. THEN  
21 SHE WENT OUT AND PUT THE CHILDREN IN THE CAR. SHE CAME BACK  
22 IN AND SHE PURCHASED ANOTHER BAR OF SOAP.

23 Q. SO SHE ACTUALLY LEFT THE STORE AND CAME BACK?

24 A. THEN I ESCORTED HER OUT THE LAST TIME.

25 Q. SO SHE ACTUALLY LEFT THE STORE AND CAME BACK.

1 A. YES.

2 Q. OKAY. WHAT HAPPENED AFTER YOU ESCORTED MS. BRUNSON OUT  
3 OF THE STORE?

4 A. I CLOSED THE DOOR AND ATTEMPTED TO WALK BACK TOWARDS THE  
5 COUNTER. THAT'S WHEN I WAS PRESENTED -- MR. -- THE -- MR.  
6 MASSEY PRESENTED THE HANDGUN---

7 Q. OKAY.

8 A. ---AND TOLD ME TO -- YOU KNOW, "DON'T MAKE ME WANT TO  
9 HAVE TO SHOOT YOU. I JUST WANT YOUR CASH," AND HE BEGAN TO  
10 SEARCH MY POCKETS FOR MY CASH.

11 Q. WHEN HE TOLD YOU THAT, DID YOU BELIEVE HIM?

12 A. YES, I DID BELIEVE HIM.

13 Q. WHY DID YOU BELIEVE HIM?

14 A. WELL, HE WASN'T CRACKING A SMILE, AND HE WAS VERY COLD  
15 LOOKING AT ME, COLD-LOOKING, STARING AT ME WITH THE GUN IN MY  
16 FACE.

17 Q. WHAT WAS THE FIRST THING HE DID WHEN HE HAD THE GUN ON  
18 YOU?

19 A. THE FIRST THING HE DID WAS TO GO INTO MY POCKETS AND GET  
20 THE CASH OUT.

21 Q. OKAY. WHAT DID HE TAKE FROM YOUR POCKETS?

22 A. A TWENTY AND TWO DOLLARS FROM MY WALLET.

23 Q. OKAY. WHAT DID HE DO THEN?

24 A. HE ASKED ME TO GO TO THE CASH REGISTER.

25 Q. OKAY.

1 A. OPEN THE CASH REGISTER.

2 Q. AND DID YOU?

3 A. I DID.

4 Q. OKAY. WHAT HAPPENED AT THE CASH REGISTER?

5 A. I OPENED THE CASH REGISTER, AND HE PROCEEDED TO TAKING  
6 THE MONIES OUT OF THE CASH REGISTER. HE KNEW WHERE IT ALL  
7 WAS.

8 Q. OKAY.

9 A. HE PROCEEDED TO TAKING IT OUT.

10 Q. AND DO YOU KNOW ABOUT HOW MUCH MONEY WAS TAKEN FROM THE  
11 CASH REGISTER?

12 A. \$389 WAS TAKEN FROM THE CASH REGISTER IN PAPER MONEY.

13 Q. OKAY. DID HE SAY ANYTHING TO YOU WHILE HE WAS DOING  
14 THIS?

15 A. YES, HE ASKED ME FOR A TOWEL -- A TOWEL.

16 Q. AND---

17 A. I GAVE HIM A PAPER TOWEL.

18 Q. OKAY. WAS THE GUN STILL POINTED AT YOU AT THIS POINT IN  
19 TIME?

20 A. YES, IT WAS.

21 Q. OKAY. WHAT DID HE DO WITH THE TOWEL THAT YOU GAVE HIM?

22 A. HE PROCEEDED TO WIPE DOWN THE ITEMS HE HAD TOUCHED.

23 Q. OKAY. AND WHAT ALL WERE THOSE ITEMS, IF YOU REMEMBER?

24 A. I WOULD SAY THE CASH REGISTER, COUNTER, AND AFTER HE  
25 OPENED THE DOOR, THE DOORKNOB.

1 Q. OKAY. AND WAS THE DOOR -- NOW, YOU SAID EARLIER THAT  
2 YOU LOCKED IT SO THAT PEOPLE COULDN'T COME IN. WAS HE ABLE  
3 TO LEAVE WITHOUT UNLOCKING IT?

4 A. ON THE INSIDE YOU CAN DO THAT.

5 Q. OKAY. WHEN HE WAS LEAVING, DID YOU HAPPEN TO SAY  
6 ANYTHING TO HIM?

7 A. YES.

8 Q. WHAT DID YOU TELL HIM?

9 A. I TOLD HIM, "YOUNG MAN, I'M GOING TO PRAY FOR YOU."

10 Q. DID HE SAY ANYTHING BACK TO YOU?

11 A. HE DID. HE SAID, "YES, PRAY FOR ME BECAUSE I'M GOING  
12 STRAIGHT TO HELL."

13 Q. OKAY. WHAT DID YOU DO AFTER HE LEFT, MR. HUFF?

14 A. I CALLED 9-1-1 IMMEDIATELY.

15 Q. OKAY. ALL RIGHT. NOW, MR. HUFF, I WANT TO GO BACK AND  
16 TALK TO YOU A LITTLE BIT ABOUT THE MAN THAT ROBBED YOU AND  
17 THE GUN THAT WAS USED. WHAT KIND OF GUN WAS IT?

18 A. IT WAS A DERRINGER.

19 Q. HOW BIG WOULD YOU SAY IT IS?

20 A. JUST LIGHT ENOUGH TO HOLD -- YOU CAN HOLD IT IN THE PALM  
21 OF YOUR HAND. IF YOU PUT THE OTHER HAND OVER IT, YOU  
22 COULDN'T SEE IT.

23 THE COURT: LAWYERS, Y'ALL COME AROUND FOR JUST A  
24 MOMENT.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)



1           **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, IF YOU  
2           WOULD PLEASE STEP TO YOUR JURY ROOM FOR JUST A MOMENT. YOU  
3           MAY NOT DISCUSS CASE, AND WHEN YOU COME BACK IN, IF YOU WANT  
4           TO BRING YOUR COFFEE OR WATER OR WHATEVER WITH YOU, THAT'S  
5           PERFECTLY FINE.

6           (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT  
7           11:54 A.M.)

8           **THE COURT:** ALL RIGHT. MR. HUFF, YOU CAN STEP DOWN FOR  
9           JUST A MOMENT. YOU CAN'T DISCUSS THE CASE WITH ANYBODY.  
10          OKAY? ALL RIGHT. THANK YOU, SIR. YOU CAN STEP DOWN.

11          ALL RIGHT. DO YOU WANT TO BE TALKING ABOUT -- YOU'RE  
12          GOING TO BE TALKING ABOUT THE WEAPON OBVIOUSLY?

13          **MR. SPRATLIN:** YES, YOUR HONOR.

14          **THE COURT:** ALL RIGHT. LET'S SET SOME GROUND RULES FOR  
15          THAT. DO YOU HAVE THE WEAPON HERE?

16          **MR. SPRATLIN:** I DO, YOUR HONOR. IT'S IN POSSESSION OF  
17          THE EVIDENCE CUSTODIAN, JIM ALSBROOK.

18          **THE COURT:** ALL RIGHT. MR. ALSBROOK, CAN YOU COME ON  
19          UP, PLEASE, SIR?

20          **MR. ALSBROOK:** DO YOU WANT ME TO BRING THE WEAPON, SIR?

21          **THE COURT:** YES, SIR. CAN YOU CONFIRM FOR ME THAT IT'S  
22          UNLOADED?

23          **MR. ALSBROOK:** IT IS, SIR.

24          **THE COURT:** OKAY. IS IT OPEN OR IS IT---

25          **MR. ALSBROOK:** IT'S OPEN.

1       **THE COURT:** IT WILL -- IT WILL REMAIN OPEN. MR.  
2       SPRATLIN, THE WEAPON WILL REMAIN OPEN, AND YOU'VE CHECKED THE  
3       -- ON A DERRINGER DO YOU CALL THAT A CHAMBER OR WHAT DO YOU  
4       CALL THAT WHERE THE PROJECTILE COMES OUT? I KNOW THAT'S  
5       THE---

6       **MR. RICHBURG:** THE CHAMBER OR THE BARREL.

7       **MR. ALSBROOK:** THE BARREL.

8       **THE COURT:** ALL BULLETS HAVE BEEN REMOVED AND SO FORTH.

9       **MR. ALSBROOK:** YES, SIR.

10      **THE COURT:** OKAY. NOW, YOU'RE GOING TO SHOW IT TO THE  
11      WITNESS NOW TO ESTABLISH A FOUNDATION FOR ITS ADMISSIBILITY?

12      **MR. SPRATLIN:** WELL, YOUR HONOR, I INTEND ON CALLING --  
13      I INTEND ON ADMITTING IT UNDER A DIFFERENT WITNESS, MR. KEN  
14      NESBITT. I SIMPLY AM GOING TO INQUIRE OF THE WITNESS---

15      **THE COURT:** SHOW IT TO THIS WITNESS.

16      **MR. SPRATLIN:** YES, TO ESTABLISH THAT -- IF THIS IS A  
17      SIMILAR GUN TO THE ONE THAT WAS USED IN THE ROBBERY.

18      **THE COURT:** ALL RIGHT. AND DURING ANY RECESS, ONCE IT'S  
19      BEEN REFERRED TO, YOU CAN MARK IT WITH A STICKER FOR I.D.  
20      PURPOSES, BUT THEY'RE GOING TO BE KEPT LOCKED IN A SECURED  
21      CABINET, BUT ALL OTHER TIMES IT WILL BE KEPT UP HERE WITH THE  
22      COURT REPORTER.

23      **MR. SPRATLIN:** YES, YOUR HONOR.

24      **THE COURT:** ALL RIGHT. OKAY.

25      **MR. SPRATLIN:** I WOULD LIKE TO GO AHEAD AND MARK IT AS A

1 STATE'S EXHIBIT.

2 THE COURT: ALL RIGHT. AND HANDLE IT BY THE BARREL, IF  
3 YOU WILL.

4 MR. SPRATLIN: I WILL, YOUR HONOR.

5 THE COURT: OKAY. AND IF ANYBODY WANTS TO USE IT DURING  
6 ANY CLOSING ARGUMENT, YOU NEED TO GET MY PERMISSION FIRST AND  
7 CLEAR THAT WITH ME.

8 MR. SPRATLIN: YES, YOUR HONOR.

9 THE COURT: OKAY. WHAT WILL THIS BE? STATE'S NUMBER 3  
10 FOR I.D.?

11 COURT REPORTER: NO, NUMBER 4.

12 MR. SPRATLIN: I BELIEVE NUMBER 4, YOUR HONOR.

13 THE COURT: AND AT SOME POINT IF YOU WANT TO -- I DON'T  
14 KNOW IF ON A DERRINGER WHETHER OR NOT THERE'S ANYTHING TO  
15 LOOP A STRING AROUND TO ATTACH A TAG TO, BUT RIGHT NOW YOU  
16 CAN JUST PUT THE IDENTIFYING STICKER ON THE HANDLE OR ON A  
17 STRING THAT WILL BE ATTACHED TO THE HANDLE.

18 MR. SPRATLIN: YES, YOUR HONOR.

19 THE COURT: OKAY. THIS IS NUMBER 4?

20 MR. SPRATLIN: IT IS, YOUR HONOR.

21 COURT REPORTER: IT'S NOT EVEN STICKING, JUDGE.

22 THE COURT: OKAY. SO WHAT WE CAN DO IS DURING A BREAK  
23 -- IT'S MARKED FOR I.D. NOW. JUST GET A STRING AND ATTACH  
24 THE STICKER TO IT, AND THEN IT WILL BE IN THAT FASHION.  
25 OKAY. ALL RIGHT. Y'ALL READY FOR JURY?

1           MR. SPRATLIN: YES, YOUR HONOR.

2           MR. HASTIE: YES, SIR, YOUR HONOR. YOUR HONOR, OF  
3 COURSE, I WOULD LIKE TO OBJECT TO THAT GUN COMING IN BECAUSE  
4 OF THE PREJUDICIAL VALUE THAT IT WOULD HAVE UPON THE JURY AND  
5 TO -- IT ALSO WAS PART OF THE SEARCH THAT I MENTIONED IN MY  
6 EARLIER OBJECTION.

7           THE COURT: ALL RIGHT.

8           MR. HASTIE: SO I WOULD OBJECT AT THIS TIME.

9           THE COURT: THAT OBJECTION IS OVERRULED.

10          MR. SPRATLIN: YOUR HONOR, I ALSO INTEND ON THROUGH THIS  
11 WITNESS ASKING HIM AGAIN, FOR DEMONSTRATION PURPOSES, IF  
12 THESE -- THE PANTS THAT WERE TAKEN DURING THE SEARCH WARRANT  
13 ARE SIMILAR TO THE PANTS THAT THE ROBBER WAS WEARING THAT  
14 DAY.

15          THE COURT: ALL RIGHT. WELL, IT SUITS ME FINE THAT ONCE  
16 YOU OBJECT TO THE GUN THAT THE OBJECTION TO ANYTHING FOUND  
17 DURING THE SEARCH WILL CONTINUE.

18          MR. HASTIE: OKAY.

19          THE COURT: NOW, WHEN THE WITNESS IDENTIFIES MR. MASSEY,  
20 YOU'LL HAVE TO RENEW YOUR IDENTIFICATION OBJECTIONS---

21          MR. HASTIE: YES, SIR.

22          THE COURT: ---AND THAT WILL RUN THROUGHOUT. BUT,  
23 AGAIN, I WON'T TAKE ANY OFFENSE IF YOU THINK, WELL, MAYBE I  
24 HAVEN'T DONE IT ENOUGH OR I HAVEN'T DONE IT RIGHT. DON'T  
25 FEEL SELF-CONSCIOUS ABOUT STANDING UP BECAUSE I UNDERSTAND

1 WHAT YOU HAVE TO DO---

2 MR. HASTIE: YES, SIR.

3 THE COURT: ---AS FAR AS PRESERVING THE RECORD. OKAY.  
4 MAKE SURE THAT ANY WITNESS WHO HOLDS THIS GUN -- FIRST OF  
5 ALL, BEFORE YOU PASS IT TO A WITNESS, GET MY PERMISSION.

6 MR. SPRATLIN: YES, YOUR HONOR.

7 THE COURT: I WOULD PREFER THAT YOU NOT PASS IT TO MR.  
8 HUFF.

9 MR. SPRATLIN: I DO NOT INTEND TO.

10 THE COURT: AND ANY OBJECTION TO ME TELLING THE LADIES  
11 AND GENTLEMEN THAT THE WEAPON IS NOT LOADED AND THAT IT IS  
12 BROKEN DOWN, SO TO SPEAK? OKAY? OR IT'S OPEN.

13 MR. SPRATLIN: THANK YOU, YOUR HONOR.

14 THE COURT: ALL RIGHT. YOU CAN BRING IN THE JURY.

15 (STATE'S EXHIBIT 4 WAS MARKED FOR IDENTIFICATION ONLY.)

16 BAILIFF: CAN MR. HUFF TAKE THE STAND, PLEASE?

17 THE COURT: YES, SIR. MR. HUFF, DO YOU WANT TO COME  
18 BACK UP?

19 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
20 12:00 NOON.)

21 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, SOME  
22 REFERENCE MAY BE MADE TO A FIREARM AT THIS POINT. I WANTED  
23 TO MAKE SURE YOU UNDERSTAND THIS: IT IS UNLOADED AND IT WILL  
24 BE IN AN OPEN POSITION AT ALL TIMES, AND IT WILL BE HANDLED  
25 BY THE BARREL, AND ALL THE WITNESSES OR, EXCUSE ME, THE

1 ATTORNEYS HAVE BEEN INSTRUCTED IN THAT FASHION. SO I JUST  
2 DIDN'T WANT YOU TO TAKE ANY OR HAVE ANY RESERVATIONS ABOUT  
3 THAT. YOU CAN GO AHEAD, MR. SPRATLIN.

4 MR. SPRATLIN: THANK YOU, YOUR HONOR.

5 BY MR. SPRATLIN:

6 Q. NOW, MR. HUFF, YOU MENTIONED -- PLEASE DESCRIBE FOR THE  
7 JURY AGAIN WHAT KIND OF GUN WAS IT THAT WAS USED DURING THE  
8 ROBBERY.

9 A. IT WAS A SMALL DERRINGER.

10 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S  
11 EXHIBIT -- FOR IDENTIFICATION STATE'S EXHIBIT NUMBER 4.  
12 I'M -- I'M NOT ALLOWED TO HAND IT TO YOU, BUT JUST LOOKING AT  
13 IT: DOES THIS APPEAR TO BE A GUN OR THE GUN OR SIMILARLY --  
14 OR A SIMILAR GUN TO THE ONE THAT WAS USED IN THE ROBBERY?

15 A. IT'S BLACK JUST LIKE THE ONE THERE---

16 Q. OKAY.

17 A. ---THAT I HAD POINTED IN MY FACE. YES, IT SEEMS TO BE  
18 THE RIGHT GUN.

19 MR. SPRATLIN: OKAY. YOUR HONOR, PERMISSION TO TURN THE  
20 FIREARM OVER TO THE COURT REPORTER?

21 THE COURT: ALL RIGHT. AND THE I.D. TAG WILL STAY ON  
22 THE HANDLE.

23 MR. SPRATLIN: YES, YOUR HONOR, AND WE WILL GET A  
24 STRING.

25 THE COURT: OKAY.

1 BY MR. SPRATLIN:

2 Q. NOW, MR. HUFF, HOW GOOD A LOOK DURING THE ROBBERY DID  
3 YOU GET AT THE PISTOL?

4 A. OH, IT WAS RIGHT IN MY FACE. I COULDN'T HELP BUT SEE  
5 IT.

6 Q. OKAY. HOW LONG WAS IT IN YOUR FACE?

7 A. THE WHOLE TIME.

8 Q. OKAY. AND HOW LONG WOULD YOU ESTIMATE THE ROBBERY TOOK  
9 PLACE?

10 A. I WOULD SAY FIVE TO SIX MINUTES HE WAS IN AND OUT. IT  
11 WAS DONE.

12 Q. NOW, WHEN YOU SAY IT WAS IN YOUR FACE, HOW CLOSE TO YOU  
13 WAS THE PISTOL?

14 A. ARM'S LENGTH.

15 Q. WAS IT YOUR ARM'S LENGTH AWAY---

16 A. HUH?

17 Q. ---OR...

18 A. HUH?

19 Q. HOW FAR FROM YOUR FACE WOULD YOU SAY THE BARREL OF THE  
20 PISTOL WAS?

21 A. OH, FROM MY FACE?

22 Q. YES, SIR.

23 A. OH, WELL, IT WAS ABOUT -- YES, I WOULD -- NOT ARM'S  
24 LENGTH, MY ARM'S LENGTH, BUT HE HAD -- THE LENGTH OF HIS ARM  
25 HE WAS -- HE WAS FROM ME THE LENGTH OF HIS ARM, SO HE WAS

1 RIGHT IN MY FACE WITH THE PISTOL.

2 Q. OKAY. SO THE GENTLEMAN HOLDING THE PISTOL WAS AT ARM'S  
3 LENGTH FROM YOU.

4 A. YES.

5 Q. OKAY.

6 A. THAT'S WHAT IT WAS.

7 Q. AND WOULD YOU -- COULD YOU PROVIDE AN ESTIMATE FOR THE  
8 COURT ON HOW FAR AWAY THE BARREL OF THE GUN WAS FROM YOUR  
9 FACE?

10 A. OKAY. I WOULD SAY IT WASN'T TOUCHING BUT, SAY, FROM SIX  
11 TO EIGHT.

12 Q. SIX OR EIGHT?

13 A. INCHES AWAY FROM MY FACE.

14 Q. OKAY. NOW, THE MAN WHO WAS HOLDING THAT GUN IN YOUR  
15 FACE, WAS HIS FACE OBSCURED IN ANY WAY?

16 A. NO, HIS FACE WAS NOT OBSCURED IN ANY WAY.

17 Q. DID IT APPEAR TO YOU THAT HE WAS DOING ANYTHING TO TRY  
18 TO HIDE HIS IDENTITY?

19 A. NO, HE WAS NOT TRYING TO HIDE HIS IDENTITY.

20 Q. OKAY. DID HE HAVE ON A HAT OR ANYTHING AS SUCH?

21 A. HE HAD ON A DOO RAG, WE CALL IT.

22 Q. NOW, WHEN YOU SAY DOO RAG, WHAT DO YOU MEAN?

23 A. IT'S A HEAD RAG THAT'S GOT A LONG STRING -- STRAP ON IT  
24 THAT YOU TIE AROUND YOUR HEAD.

25 Q. OKAY. DOES THAT COVER UP THE FACE AT ALL?



1 A. NO, IT DID NOT.

2 Q. OKAY. NOW, SIR, HOW GOOD OF A LOOK WOULD YOU SAY YOU  
3 GOT AT THE FACE OF THE PERSON THAT ROBBED YOU?

4 A. I GOT A GOOD LOOK AT THE FACE BECAUSE, LIKE I SAID, HIS  
5 FACE WASN'T COVERED ENOUGH TO SEE THAT HE HAD EARRINGS ON. I  
6 SAW AN EARRING ON, BUT I DIDN'T SEE TWO EARRINGS.

7 Q. OKAY. AND NOW DO YOU SEE THE INDIVIDUAL THAT WAS  
8 HOLDING THAT GUN IN FRONT OF YOUR FACE? DO YOU SEE HIM IN  
9 THE COURTROOM TODAY?

10 A. YES, SIR, I DO.

11 MR. HASTIE: OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.

13 BY MR. SPRATLIN:

14 Q. WOULD YOU PLEASE POINT THAT PERSON OUT AND DESCRIBE AN  
15 ARTICLE OF CLOTHING THAT HE IS WEARING?

16 A. YES, THE YOUNG MAN SITTING RIGHT OVER THERE IN THE SEAT  
17 WITH THE BROWN PANTS ON, THE WHITE SHIRT, THE GRAY-AND-BLACK  
18 TIE WITH HIS HANDS LACED.

19 Q. OKAY. PLEASE LET THE RECORD REFLECT THAT THE WITNESS  
20 HAS IDENTIFIED THE DEFENDANT. NOW, DURING THE ROBBERY, WHAT,  
21 IF ANY, DISTINGUISHING MARKS OR TATTOOS DID YOU NOTICE ON THE  
22 DEFENDANT -- ON THE DEFENDANT?

23 A. OKAY. I DISTINCTLY SAW UP ON THE SHOULDER HERE A ROUND  
24 CIRCLE WITH POINTS AROUND IT.

25 Q. OKAY. AND WAS THAT HIS RIGHT OR LEFT SHOULDER?

1 A. THAT WAS THE LEFT SHOULDER.

2 Q. OKAY.

3 (STATE'S EXHIBIT 5 WAS MARKED FOR IDENTIFICATION ONLY.)

4 MR. SPRATLIN: PERMISSION TO APPROACH THE WITNESS, YOUR  
5 HONOR?

6 THE COURT: YES, SIR.

7 BY MR. SPRATLIN:

8 Q. MR. HUFF, WOULD YOU MIND TAKING THAT PHOTOGRAPH FOR A  
9 SECOND?

10 A. (THE WITNESS COMPLIES.)

11 Q. WHAT IS THAT -- THE ITEM PICTURED IN THAT PHOTOGRAPH,  
12 DOES APPEAR TO YOU TO BE A SIMILAR TATTOO TO THE ONE YOU SAW  
13 THAT DAY?

14 A. IT IS.

15 Q. OKAY. AND, YOUR HONOR, I'D LIKE TO SHOW IT FOR THE  
16 RECORD THAT I'M SHOWING WHAT'S BEEN MARKED FOR IDENTIFICATION  
17 PURPOSES AS STATE'S EXHIBIT NUMBER 5. I WILL TENDER IT INTO  
18 EVIDENCE AT A LATER TIME, BUT FOR NOW LET'S MARK IT AS  
19 IDENTIFICATION PURPOSES. OKAY. NOW, MR. HUFF, YOU WEAR  
20 GLASSES OBVIOUSLY; CORRECT?

21 A. YES, I WEAR GLASSES.

22 Q. ARE YOU ABLE TO SEE TODAY?

23 A. YES, I AM.

24 Q. DO YOU FEEL THAT YOUR VISION IS IN ANY WAY IMPAIRED?

25 A. NO, IT'S NOT.

1 Q. OKAY. BACK ON JUNE 7TH, 2007, WERE YOU WEARING GLASSES?

2 A. YES, I WERE.

3 Q. OKAY. WAS IT THE SAME PAIR OF GLASSES?

4 A. IT'S THE SAME PAIR.

5 Q. DID YOU HAPPEN TO NOTICE -- BESIDES THE TATTOO, BESIDES  
6 THE EARRING AND THE HEAD SCARF, DID YOU HAPPEN TO NOTICE WHAT  
7 KIND OF CLOTHING THE PERSON THAT ROBBED YOU -- WHAT THEY WERE  
8 WEARING?

9 A. YES. HE HAD ON A TANK TOP SHIRT WITH -- THEN HE HAD ON  
10 BLACK PANTS A WHITE STRIPE DOWN THEM.

11 Q. OKAY.

12 THE COURT: MR. HASTIE, YOUR OBJECTION WILL CONTINUE AS  
13 TO THESE ITEMS AS WELL.

14 MR. HASTIE: THANK YOU, YOUR HONOR.

15 (STATE'S EXHIBIT 6 WAS MARKED FOR IDENTIFICATION ONLY.)  
16 BY MR. SPRATLIN:

17 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
18 WHAT HAS BEEN MARKED FOR IDENTIFICATION PURPOSES AT THIS TIME  
19 AS STATE'S EXHIBIT NUMBER 6. MR. HUFF, THIS PAIR OF PANTS,  
20 DOES THIS APPEAR TO BE EITHER THE SAME PANTS OR A  
21 SUBSTANTIALLY SIMILAR PAIR OF PANTS AS THE PERSON THAT ROBBED  
22 YOU THAT DAY WAS WEARING?

23 A. THEY SEEM TO BE THE SAME PANTS.

24 Q. WOULD YOU NEED TO HOLD THEM OR HAVE A CLOSER LOOK AT  
25 THEM?

1 A. NO, I DON'T.

2 Q. OKAY. 'BEG THE COURT'S INDULGENCE FOR ONE SECOND. NOW,  
3 JUST FOR CLARIFICATION, SIR, DID YOU FEEL THAT IF YOU DIDN'T  
4 DO EVERYTHING THAT MAN TOLD YOU THAT HE WOULD SHOOT YOU?

5 A. OH, I FEEL THAT HE WOULD HAVE DONE JUST WHAT HE SAID HE  
6 WOULD DO.

7 Q. OKAY. THANK YOU, SIR. THAT'S -- ACTUALLY, I DO HAVE A  
8 COUPLE MORE QUESTIONS. I ACTUALLY... CAN I GET THESE  
9 MARKED?

10 (STATE'S EXHIBITS 7 THROUGH 19 WERE MARKED FOR  
11 IDENTIFICATION ONLY.)

12 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH?

13 THE COURT: YES, SIR.

14 BY MR. SPRATLIN:

15 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
16 WHAT HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER 7 AT THIS  
17 POINT FOR IDENTIFICATION PURPOSES. MR. HUFF, CAN YOU TELL  
18 THE COURT WHAT THAT IS A PHOTOGRAPH OF?

19 A. YES. THIS IS THE PHOTOGRAPH OF THE TOTAL LIVING STORE,  
20 25 DUGAN STREET.

21 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW THE  
22 TOTAL LIVING STORE APPEARED BACK ON JUNE 7TH---

23 A. YES, IT IS.

24 Q. ---2007?

25 A. YES.

1 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER  
2 THAT PHOTOGRAPH INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 7.

3 THE COURT: ANY OBJECTION?

4 MR. HASTIE: NONE, YOUR HONOR.

5 THE COURT: ALL RIGHT. NUMBER 7 IS IN WITHOUT  
6 OBJECTION.

7 (STATE'S EXHIBIT 7 WAS RECEIVED IN EVIDENCE.)

8 MR. SPRATLIN: THANK YOU, YOUR HONOR.

9 BY MR. SPRATLIN:

10 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
11 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 8 FOR  
12 IDENTIFICATION PURPOSES. SIR, COULD YOU PLEASE TELL THE  
13 COURT WHAT THAT IS A PHOTOGRAPH OF?

14 A. THIS IS -- THIS PHOTOGRAPH IS OF THE MEN'S SECTION OF  
15 THE TOTAL LIVING STORE.

16 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE WAY  
17 THE STORE APPEARED ON JUNE 7TH, 2007?

18 A. YES, IT IS.

19 MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I WOULD TENDER  
20 THAT PHOTOGRAPH INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 8.

21 MR. HASTIE: NO OBJECTION.

22 THE COURT: ALL RIGHT. THAT'S IN.

23 (STATE'S EXHIBIT 8 WAS RECEIVED IN EVIDENCE.)

24 BY MR. SPRATLIN:

25 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS

1 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 9 FOR

2 IDENTIFICATION PURPOSES. SIR, WOULD YOU PLEASE TELL THE

3 COURT WHAT THAT IS A PHOTOGRAPH OF?

4 A. OKAY. THIS IS A PHOTOGRAPH OF BEHIND THE COUNTER, THE  
5 COUNTER, THE CASH REGISTER.

6 Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
7 EVERYTHING APPEARED ON JUNE 7TH, 2007?

8 A. YES, IT IS.

9 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER  
10 THAT PHOTOGRAPH INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 9.

11 THE COURT: ANY OBJECTION?

12 MR. HASTIE: NONE, YOUR HONOR.

13 THE COURT: ALL RIGHT.

14 (STATE'S EXHIBIT 9 WAS RECEIVED IN EVIDENCE.)

15 THE COURT: THAT'S A PHOTO OF WHAT?

16 MR. SPRATLIN: THE CASH REGISTER, YOUR HONOR. IT'S THE  
17 CASH REGISTER AND THE COUNTER.

18 THE COURT: OKAY.

19 BY MR. SPRATLIN:

20 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS

21 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 10 FOR

22 IDENTIFICATION PURPOSES. SIR, COULD YOU PLEASE TELL THE

23 COURT WHAT THAT IS A PHOTOGRAPH OF?

24 A. OKAY. THIS IS THE FRONT VIEW OF THE CASH REGISTER FROM  
25 THE PURCHASER'S SIDE OF THE COUNTER.

1 Q. IS THAT, SIR, A PICTURE -- IS THAT PICTURE A FAIR AND  
2 ACCURATE REPRESENTATION---

3 A. YES.

4 Q. ---OF HOW IT APPEARED ON JUNE 7TH?

5 A. YES, IT IS.

6 MR. SPRATLIN: THANK YOU. AT THIS TIME, YOUR HONOR, I  
7 WOULD TENDER THIS PHOTOGRAPH INTO EVIDENCE AS STATE'S EXHIBIT  
8 NUMBER 10.

9 MR. HASTIE: NO OBJECTION, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 (STATE'S EXHIBIT 10 WAS RECEIVED IN EVIDENCE.)

12 BY MR. SPRATLIN:

13 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
14 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 11 FOR  
15 IDENTIFICATION PURPOSES. SIR, WOULD YOU PLEASE TELL THE  
16 COURT WHAT THAT IS A PHOTOGRAPH OF?

17 A. OKAY. THIS IS THE SUITS THAT'S ON A RACK.

18 Q. OKAY. AND WHERE WAS THAT PHOTOGRAPH TAKEN, IF YOU KNOW?

19 A. THIS IS ON THE LEFT SIDE OF THE STORE AS YOU GO IN THE  
20 DOOR.

21 Q. AND IS---

22 A. IT'S THE MEN'S SUIT RACK.

23 Q. AND, AGAIN, IS THAT A FAIR AND ACCURATE REPRESENTATION  
24 OF HOW IT APPEARED ON JUNE 7TH, 2007?

25 A. IT IS.

1           MR. SPRATLIN: THANK YOU. AT THIS TIME, YOUR HONOR, I  
2           WOULD TENDER THAT PHOTOGRAPH INTO EVIDENCE AS STATE'S EXHIBIT  
3           NUMBER 11.

4           MR. HASTIE: WITHOUT OBJECTION.

5           THE COURT: IT'S IN. NO OBJECTION.

6           (STATE'S EXHIBIT 11 WAS RECEIVED IN EVIDENCE.)

7           BY MR. SPRATLIN:

8           Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
9           WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 12. SIR, COULD  
10          YOU PLEASE DESCRIBE FOR THE COURT WHAT THAT IS A PHOTOGRAPH  
11          OF?

12          A. OKAY. THIS IS ANOTHER MEN'S SUIT RACK WITH SHOES DOWN  
13          AT THE BOTTOM OF IT, YES.

14          Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE  
15          TOTAL LIVING STORE ON JUNE 7TH, 2007?

16          A. THIS IS.

17          MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I'D MOVE---

18          THE COURT: ANY OBJECTION TO THAT?

19          MR. HASTIE: NONE, YOUR HONOR.

20          THE COURT: OKAY. IT'S IN.

21          MR. SPRATLIN: I WOULD ENTER IT AS STATE'S EXHIBIT  
22          NUMBER 12.

23          (STATE'S EXHIBIT 12 WAS RECEIVED IN EVIDENCE.)

24          BY MR. SPRATLIN:

25          Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS



1 WHAT'S BEEN MARKED AS STATE'S EXHIBIT 13 FOR IDENTIFICATION  
2 PURPOSES. COULD YOU BRIEFLY DESCRIBE TO THE COURT WHAT THAT  
3 IS A PHOTOGRAPH OF?

4 A. OKAY. THIS IS THE FULL LEFT SIDE -- CORRECTION. I'M  
5 SAYING LEFT SIDE, BUT IT'S THE FULL RIGHT SIDE OF THE STORE.  
6 I KEEP SAYING LEFT SIDE, BUT THIS IS THE FULL RIGHT SIDE OF  
7 THE STORE.

8 Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
9 THE STORE APPEARED ON JUNE 7TH, 2007?

10 A. YES, IT IS.

11 MR. SPRATLIN: AT THIS TIME I TENDER THAT INTO EVIDENCE,  
12 YOUR HONOR, AS NUMBER 13.

13 THE COURT: NO OBJECTION?

14 MR. HASTIE: NO OBJECTION.

15 (STATE'S EXHIBIT 13 WAS RECEIVED IN EVIDENCE.)

16 BY MR. SPRATLIN:

17 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
18 WHAT HAS BEEN MARKED STATE'S EXHIBIT 14 FOR IDENTIFICATION  
19 PURPOSES. WOULD YOU PLEASE BRIEFLY, MR. HUFF, DESCRIBE TO  
20 THE COURT WHAT THAT IS A PHOTOGRAPH OF?

21 A. OKAY. THIS IS A SHOE RACK. IT'S LADIES' SHOES, AND  
22 IT'S RIGHT AT THE EDGE OF THE SUIT RACK ON THE RIGHT SIDE OF  
23 THE STORE.

24 Q. OKAY. AND, MR. HUFF, IS THAT A FAIR AND ACCURATE  
25 REPRESENTATION OF HOW THE STORE APPEARED ON JUNE THE 7TH,

1 2007?

2 A. YES, IT IS.

3 THE COURT: ANY OBJECTION?

4 MR. HASTIE: NONE, YOUR HONOR.

5 THE COURT: THAT'S NUMBER 14.

6 MR. SPRATLIN: THANK YOU, YOUR HONOR.

7 (STATE'S EXHIBIT 14 WAS RECEIVED IN EVIDENCE.)

8 BY MR. SPRATLIN:

9 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
10 WHAT HAS BEEN MARKED NUMBER 15 FOR IDENTIFICATION PURPOSES.  
11 COULD YOU PLEASE TELL THE COURT WHAT THAT IS A PHOTOGRAPH OF?

12 A. OKAY. THIS ALMOST A FULL VIEW OF THE STORE. IT IS  
13 SHOWING THE JEWELRY RACK AND THE WHOLE RIGHT SIDE AS A  
14 PORTION OF THE LEFT SIDE AND THE AISLE -- IT'S IN THE AISLE  
15 OF THE STORE.

16 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW THE  
17 STORE APPEARED ON JUNE THE 7TH, 2007?

18 A. YES, IT IS.

19 THE COURT: ANY OBJECTION TO THAT?

20 MR. HASTIE: NONE, YOUR HONOR.

21 MR. SPRATLIN: YOUR HONOR, I BELIEVE THAT WOULD BE  
22 NUMBER 15.

23 (STATE'S EXHIBIT 15 WAS RECEIVED IN EVIDENCE.)

24 BY MR. SPRATLIN:

25 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS

1 WHAT HAS BEEN MARKED NUMBER 16 FOR IDENTIFICATION PURPOSES.

2 WHAT IS THAT A PHOTOGRAPH OF, SIR?

3 A. THIS IS A FLOWER IDENTIFIED -- I USED TO KNOW THE NAME  
4 OF IT, BUT RIGHT NOW I CAN'T PULL THE NAME OF IT UP. BUT  
5 IT'S AN AFRICAN PLANT THAT IS IN THE LEFT SIDE OF THE STORE  
6 AS YOU COME IN THE STORE.

7 Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
8 THE STORE APPEARED ON JUNE THE 7TH?

9 A. YES, IT IS.

10 MR. SPRATLIN: THANK YOU. I TENDER THAT INTO EVIDENCE,  
11 YOUR HONOR, AS STATE'S EXHIBIT 16.

12 THE COURT: ALL RIGHT. THAT'S IN WITHOUT OBJECTION.

13 (STATE'S EXHIBIT 16 WAS RECEIVED IN EVIDENCE.)

14 BY MR. SPRATLIN:

15 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
16 WHAT HAS BEEN MARKED NUMBER 17 FOR IDENTIFICATION PURPOSES.  
17 WOULD YOU BRIEFLY DESCRIBE THAT PHOTOGRAPH FOR THE JURY AND  
18 THE COURT?

19 A. OKAY. THIS IS THE WOMEN'S CLOTHING DEPARTMENT --  
20 SECTION, AND IT IS ON THE LEFT SIDE. NOW, THIS IS ON THE  
21 LEFT SIDE OF THE STORE.

22 Q. OKAY. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
23 THE STORE APPEARED---

24 A. YES.

25 Q. ---ON JUNE THE 7TH?

1 A. IT IS.

2 THE COURT: ANY OBJECTION TO THAT?

3 MR. HASTIE: I HAVE NONE.

4 (STATE'S EXHIBIT 17 WAS RECEIVED IN EVIDENCE.)

5 MR. SPRATLIN: YOUR HONOR, AT THIS TIME LET THE RECORD  
6 SHOW -- REFLECT THAT I'M SHOWING THE WITNESS WHAT HAS BEEN  
7 MARKED STATE'S EXHIBIT NUMBER 18 FOR IDENTIFICATION---

8 THE COURT: YOU CAN JUST SAY THAT YOU'RE HANDING IT TO  
9 HIM. THE RECORD WILL JUST GO BY WHAT YOU SAY.

10 MR. SPRATLIN: YES, YOUR HONOR.

11 BY MR. SPRATLIN:

12 Q. WHAT IS THAT A PHOTOGRAPH OF, MR. HUFF?

13 A. OKAY. THIS IS A -- I SEE A GLASS COUNTER WHICH IT'S ON  
14 THE LEFT SIDE, AND THIS IS THE FLOWER PLANT AND THE WOMEN'S  
15 RACK THAT'S ON THE LEFT SIDE OF THE STORE.

16 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE STORE  
17 ON JUNE 7TH, 2007?

18 A. YES, IT IS.

19 Q. THANK YOU.

20 THE COURT: ANY OBJECTION?

21 MR. HASTIE: NONE, YOUR HONOR.

22 (STATE'S EXHIBIT 18 WAS RECEIVED IN EVIDENCE.)

23 BY MR. SPRATLIN:

24 Q. AND FINALLY, MR. HUFF, STATE'S 19, COULD YOU PLEASE  
25 DESCRIBE THAT PHOTOGRAPH FOR THE JURY---

1 A. OKAY.

2 Q. ---AND THE COURT?

3 A. THIS IS ANOTHER VIEW OF THE WOMEN'S AREA, AND IT IS ON  
4 THE LEFT SIDE OF THE STORE.

5 Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
6 THE STORE APPEARED---

7 A. YES, IT IS.

8 Q. ---ON JUNE THE 7TH?

9 THE COURT: ANY OBJECTION TO THAT?

10 MR. HASTIE: NONE, YOUR HONOR.

11 THE COURT: OKAY. THAT'S IN.

12 (STATE'S EXHIBIT 19 WAS RECEIVED IN EVIDENCE.)

13 BY MR. SPRATLIN:

14 Q. NOW, MR. HUFF, THE ONE THING THAT STRUCK ME WHEN I WAS  
15 LOOKING AT THESE PHOTOGRAPHS: THIS TOTAL LIVING IS NOT A  
16 VERY LARGE STORE, WAS IT?

17 A. NO, IT'S NOT.

18 Q. OKAY. SO WITH TWO PEOPLE IN THE STORE, THE DEFENDANT  
19 WOULD NEVER HAVE BEEN VERY FAR FROM YOU, WOULD HE?

20 A. HE WOULDN'T HAVE.

21 MR. SPRATLIN: OKAY. THANK YOU. YOUR HONOR, PERMISSION  
22 TO PUBLISH THESE EXHIBITS TO THE JURY?

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, IF A  
24 PHOTOGRAPH OR EXHIBIT IS PUBLISHED TO YOU, THAT MEANS IT'S  
25 SIMPLY BEING SHOWN TO YOU. YOU MAY PASS IT THROUGH THE JURY

1 BOX OR BETWEEN EACH OTHER, BUT PLEASE MAKE SURE THAT YOU  
2 CONTINUE TO PAY VERY CLOSE ATTENTION TO THE TESTIMONY OF THE  
3 WITNESSES.

4 MR. SPRATLIN: I'LL START OVER HERE. THAT'S ALL THE  
5 QUESTIONS I HAVE FOR MR. HUFF RIGHT NOW.

6 THE COURT: ALL RIGHT. MR. HASTIE, WOULD YOU LIKE TO  
7 WAIT UNTIL THE EXHIBITS HAVE BEEN PASSED THROUGH THE JURY  
8 BOX?

9 MR. HASTIE: YES, I WOULD, YOUR HONOR.

10 THE COURT: ALL RIGHT. WHILE THEY'RE DOING THAT,  
11 LAWYERS, IF YOU WOULD COME AROUND FOR JUST A SECOND.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

13 THE COURT: ALL RIGHT. MR. HASTIE?

14 MR. HASTIE: THANK YOU, YOUR HONOR.

15 CROSS-EXAMINATION

16 BY MR. HASTIE:

17 Q. GOOD AFTERNOON, MR. HUFF.

18 A. . GOOD AFTERNOON.

19 Q. NOW, THE STORE THAT YOU WORKED AT, HOW LONG HAD YOU  
20 WORKED AT THE STORE BEFORE THIS INCIDENT HAPPENED?

21 A. A YEAR AND EIGHT MONTHS I WAS WORKING AT THAT -- BEFORE  
22 THE INCIDENT HAPPENED, I WOULD SAY A YEAR AND ABOUT SEVEN  
23 MONTHS BEFORE THE INCIDENT HAPPENED.

24 Q. OKAY. OKAY. DURING YOUR TIME AT THE STORE, HAS THE  
25 STORE EVER BEEN ROBBED BEFORE?

1 A. NO.

2 Q. NEVER ROBBED BEFORE. NOW, WHO IS THE OWNER OF THE  
3 STORE?

4 A. RANDOLPH BLACK AND REVEREND BLACK.

5 Q. SO YOU WERE HIRED BY THE BLACKS TO WORK AT THE STORE?

6 A. YES.

7 Q. OKAY. LET'S LOOK AT THE DAY THAT THIS INCIDENT  
8 HAPPENED. YOU SAID THERE WERE OTHER PEOPLE IN THE STORE.  
9 THERE WAS A LADY WITH HER THREE CHILDREN, I BELIEVE YOU  
10 TESTIFIED TO?

11 A. YES.

12 Q. DID YOU KNOW THAT LADY---

13 A. BY NAME, NO, I DID NOT.

14 Q. ---BY NAME? AND HAD SHE BEEN A CUSTOMER IN YOUR STORE  
15 BEFORE, THIS LADY AND HER THREE CHILDREN?

16 A. I DON'T THINK SO.

17 Q. YOU DON'T RECALL HER.

18 A. I DON'T RECALL.

19 Q. BUT THERE WAS SOMEONE IN THE STORE THAT YOU KNEW AND  
20 THAT WAS MS. CAROL BRUNSON? IS THAT CORRECT?

21 A. THAT'S THE LADY WITH THE THREE CHILDREN THAT I WAS  
22 TALKING ABOUT; I DIDN'T KNOW HER. WE INTRODUCED OURSELVES IN  
23 THE STORE.

24 Q. WAS THAT MS. CAROL BRUNSON?

25 A. THAT'S CORRECT.

1 Q. OH, OKAY. SO YOU'D JUST MET HER IN THE STORE.

2 A. UH-HUH.

3 Q. OKAY. WHAT DID MS. BRUNSON -- WHAT WAS SHE WEARING THAT  
4 DAY?

5 A. NOW, TWO YEARS BACK, I WOULDN'T SWEAR TO WHAT SHE WAS  
6 WEARING THAT DAY.

7 Q. HOW MANY CHILDREN DID SHE HAVE? HOW MANY CHILDREN? DID  
8 SHE HAVE THREE, YOU SAID?

9 A. YES.

10 Q. YOU THINK THREE. WHAT WERE HER CHILDREN WEARING THAT  
11 DAY?

12 A. I WOULDN'T SWEAR TO THAT EITHER.

13 Q. BUT YOU HAVE SWORN THAT YOU REMEMBER WHAT MR. MASSEY WAS  
14 WEARING THAT DAY. IS THAT CORRECT?

15 A. YES, I DO. I DO REMEMBER THAT BECAUSE I DESCRIBED IT TO  
16 THE OFFICERS WHEN THEY CAME AND ASKED ME. THAT'S WHY I COULD  
17 REMEMBER THAT, YES.

18 Q. DID YOU SEE MR. MASSEY -- HAVE YOU SEEN MR. MASSEY  
19 BEFORE THIS DAY?

20 A. HAVE I SEEN HIM?

21 Q. SEEN HIM, YES, SIR.

22 A. I'VE SEEN HIM A NUMBER OF TIMES BACKWARDS AND FORTH IN  
23 GOING -- YES.

24 Q. BUT YOU DIDN'T KNOW -- DID YOU KNOW MR. MASSEY?

25 A. NO. NO.



1 Q. YOU DIDN'T KNOW HIM.

2 A. HUH-UH.

3 Q. OKAY. NOW, AFTER THIS ROBBERY, DID THE POLICE EVER COME  
4 AND SHOW YOU A LINE-UP AT ALL?

5 A. NO, THEY DID NOT.

6 Q. SO THEY DIDN'T SHOW YOU A LINE-UP AT ALL, DID THEY?

7 A. NO.

8 Q. AND YOU REALLY DIDN'T KNOW MR. MASSEY PRIOR TO THIS  
9 INCIDENT.

10 A. NO, I DID NOT.

11 Q. YOU HAD NO IDEA WHO HE WAS.

12 A. NO.

13 Q. NO LINE-UP WAS SHOWN; RIGHT? SO YOUR FIRST  
14 IDENTIFICATION OF MR. MASSEY THEN WAS IN THIS COURTROOM TODAY  
15 SINCE THAT INCIDENT?

16 A. MY FIRST IDENTIFICATION OF MR. MASSEY WAS IN THIS  
17 COURTROOM?

18 Q. YES. YOUR FIRST TIME SEEING HIM AFTER THE INCIDENT WAS  
19 IN THE COURTROOM TODAY.

20 A. THE FIRST TIME SEEING HIM AFTER THE INCIDENT---

21 Q. YES, SIR.

22 A. ---WAS IN THIS COURTROOM, YES. OKAY. AFTER THE  
23 INCIDENT.

24 Q. AFTER THE INCIDENT WAS THIS IN-COURT IDENTIFICATION.

25 A. IN THE COURTROOM, YES.

1 Q. NOW, LET'S TALK ABOUT THE ROBBERY ITSELF. YOU SAID HE  
2 APPROACHED YOU WITH A DERRINGER IN HIS HAND. CORRECT?

3 A. YES.

4 Q. WHICH HAND WAS THE DERRINGER IN? DO YOU RECALL?

5 A. NOW, YOU'RE SAYING WHICH HAND WAS THE DERRINGER IN? THE  
6 DERRINGER WAS IN MY FACE. I MEAN, AS FAR AS WHICH HAND THE  
7 DERRINGER WAS IN, I WAS ASSUMING IT WAS IN THE RIGHT HAND.

8 Q. YOU THINK IT MIGHT HAVE BEEN IN THE RIGHT HAND.

9 A. UH-HUH.

10 Q. AND HE ASKED YOU DID YOU HAVE ANY MONEY. HE TOOK MONEY  
11 FROM YOU; CORRECT?

12 A. YES.

13 Q. HOW MUCH MONEY DID HE TAKE FROM YOU?

14 A. TWENTY AND TWO DOLLARS.

15 Q. TWENTY AND TWO DOLLARS.

16 A. THAT WAS A WAD.

17 Q. THAT WAS A WAD. SO HE HAD A DERRINGER IN HIS RIGHT  
18 HAND. YOU WERE IN THE STORE. YOU WEREN'T BEHIND THE  
19 COUNTER. YOU WERE IN THE STORE AT THAT TIME.

20 A. I WAS IN -- YEAH, WE WAS IN THE AISLE.

21 Q. THE GUN WAS IN YOUR FACE. AND DID HE REACH IN YOUR  
22 POCKET FOR YOUR WALLET OR YOU GAVE HIM YOUR WALLET?

23 A. NO, HE REACHED IN AND GOT IT HIMSELF.

24 Q. HE PROBABLY REACHED IN WITH HIS LEFT HAND AND TOOK YOUR  
25 WALLET.

1 A. WELL, THAT'S PROBABLY... IF THE GUN WAS IN THE RIGHT  
2 HAND, HE WOULD HAVE TO REACH WITH HIS LEFT HAND AND GET IT.

3 Q. OKAY. THEN HE ASKED YOU, "LET'S GO TO THE CASH  
4 REGISTER." CORRECT?

5 A. YES.

6 Q. OKAY. YOU WENT TO THE CASH REGISTER. HOW MUCH MONEY  
7 WAS TAKEN FROM THE CASH REGISTER?

8 A. IT WAS \$389. I'D ALREADY COUNTED THE MONEY UP.

9 Q. YOU COUNTED THE MONEY UP?

10 A. UH-HUH.

11 Q. DO YOU ALL HAVE RECEIPTS TO -- HAVE THE RECEIPTS TO SHOW  
12 THAT THAT AMOUNT OF MONEY WAS TAKEN OR THAT AMOUNT OF MONEY  
13 WAS -- THOSE ITEMS WERE SOLD FOR THAT AMOUNT OF MONEY THAT  
14 DAY? DO YOU HAVE ANY RECEIPTS OF THE MONEY?

15 A. WE HAVE A LEDGER, A TOTAL LEDGER, OF WHAT WAS PUT IN THE  
16 BOOKS. I BELIEVE IT SHOULD BE THERE.

17 Q. OKAY.

18 A. FOR TAX PURPOSES, I BELIEVE IT WAS THERE.

19 Q. YOU MENTIONED IN YOUR TESTIMONY THAT HE WAS WEARING ON  
20 THAT DAY A PAIR OF BLACK TROUSERS WITH WHITE STRIPES. IS  
21 THAT CORRECT?

22 A. UH-HUH.

23 Q. OKAY. NOW, THESE TROUSERS THAT WERE SHOWN TO YOU TODAY,  
24 CAN YOU SEE WHAT COLOR THESE STRIPES ARE?

25 A. I SEE THE WHITE STRIPES.

1 Q. DO YOU SEE ANOTHER STRIPE?

2 A. I SEE GRAY AND LOOKS LIKE CHARCOAL GRAY STRIPES.

3 Q. OKAY. SO YOU DO SEE DIFFERENT STRIPES ON THERE. THERE  
4 ARE THREE DIFFERENT STRIPES ON THIS PAIR OF PANTS PRESENTED  
5 TO YOU TODAY.

6 A. UH-HUH.

7 THE COURT: YOU NEED TO ANSWER OUT LOUD, PLEASE, SIR,  
8 MR. HUFF.

9 THE WITNESS: PARDON?

10 THE COURT: YOU NEED TO ANSWER THE QUESTION OUT LOUD SO  
11 THE COURT REPORTER CAN HEAR YOU.

12 THE WITNESS: OH.

13 BY MR. HASTIE:

14 Q. GLASSES. I SEE YOU'RE WEARING GLASSES TODAY; RIGHT?

15 A. YES.

16 Q. WERE YOU WEARING GLASSES ON THE DAY OF THE ROBBERY?

17 A. YES, I WERE.

18 Q. OKAY. WERE THOSE -- ARE THOSE THE SAME GLASSES YOU HAVE  
19 ON TODAY THAT YOU HAD ON THAT DAY?

20 A. YES, THEY ARE.

21 MR. HASTIE: OKAY. YOUR HONOR, MAY WE APPROACH?

22 THE COURT: YES, SIR.

23 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

24 THE COURT: ALL RIGHT. YOU CAN CONTINUE, MR. HASTIE.

25 MR. HASTIE: THANK YOU, YOUR HONOR.

1 BY MR. HASTIE:

2 Q. NOW, YOU'RE SAYING THOSE ARE THE SAME GLASSES THAT YOU  
3 HAD ON IN 2007, THE DAY OF THE ROBBERY?

4 A. YES.

5 Q. OKAY. DID YOUR PRESCRIPTION CHANGE FOR THOSE GLASSES?

6 A. DID MY PRESCRIPTION CHANGE?

7 Q. CHANGE FOR THOSE GLASSES, YES, SIR.

8 A. WELL, I HAD JUST GOTTEN A NEW PAIR OF GLASSES YESTERDAY,  
9 AND I PUT THEM ON AND THEY WERE INCORRECT, SO I HAD TO -- I  
10 SENT A LETTER TO SEND THEM BACK.

11 Q. OKAY. SO THE GLASSES YOU HAD ON YESTERDAY ARE NOT THE  
12 GLASSES THAT YOU HAVE ON TODAY.

13 A. WHEN I WAS IN THE COURT?

14 Q. YES, SIR.

15 A. EARLIER?

16 Q. YES, SIR.

17 A. THE GLASSES I HAD ON YESTERDAY, NO, WERE NOT THE GLASSES  
18 I HAVE -- I HAD TO PUT MY OLD GLASSES BACK ON.

19 Q. OKAY. OKAY. THAT'S WHY I WAS ASKING YOU ABOUT IT.

20 A. THAT'S IT. OKAY.

21 Q. THAT'S WHY YOU WERE HAVING A DIFFERENT PAIR OF GLASSES  
22 ON YESTERDAY.

23 A. RIGHT.

24 Q. OKAY. THANK YOU VERY MUCH. SO HE ASKED YOU -- SO YOU  
25 HAD THIS GUN IN YOUR FACE. HE TOOK THE MONEY FROM THE CASH

1 REGISTER, AND HE THEN WIPED DOWN THE COUNTER, I BELIEVE YOU  
2 SAID. WIPED DOWN THE CASH REGISTER, NOT THE COUNTER.

3 A. CASH REGISTER.

4 Q. CASH REGISTER. WHAT DID HE WIPE IT DOWN WITH?

5 A. A PAPER TOWEL.

6 Q. WHERE DID HE GET THE PAPER TOWEL FROM?

7 A. I GAVE IT -- HE ASKED ME TO GIVE HIM A TOWEL.

8 Q. OKAY. WHERE WAS THE PAPER TOWEL -- YOU WERE STANDING  
9 BEHIND THE COUNTER. WHERE WAS THE PAPER TOWEL IN PROXIMITY  
10 TO WHERE YOU WERE STANDING?

11 A. FROM WHERE I WAS STANDING?

12 Q. YEAH.

13 A. OH, RIGHT IN HAND REACH. ALL I HAD TO DO IS TURN AROUND  
14 AND GIVE HIM THE PAPER---

15 Q. JUST GIVE HIM THE PAPER TOWEL.

16 A. YEAH.

17 Q. WHAT DID HE DO WITH THE PAPER TOWEL?

18 A. PARDON?

19 Q. WHAT DID HE DO WITH THE PAPER TOWEL?

20 A. HE WIPED DOWN THE THINGS HE TOUCHED.

21 Q. AND WHAT DID HE TOUCH, IF YOU CAN RECALL?

22 A. WELL, IT WOULD HAVE BEEN THE CASH REGISTER, AND I DO  
23 BELIEVE THAT HE DID TOUCH THE COUNTER, AND I KNOW HE TOUCHED  
24 THE DOOR, AND HE WIPED DOWN THE CASH REGISTER, THE COUNTER,  
25 THE DOORKNOB.

1 Q. NOW, YOU ALSO MENTIONED ABOUT TATTOOS THAT HE WAS -- YOU  
2 SAW ON HIS ARM, I BELIEVE. HE HAD A TATTOO---

3 A. YES.

4 Q. CAN YOU DESCRIBE THE TATTOO, PLEASE, SIR?

5 A. WELL, I DESCRIBED IT AS A CIRCLE WITH POINTS STICKING  
6 OUT FROM IT.

7 Q. UH-HUH. DID YOU NOTICE ANY OTHER TATTOOS ON HIS BODY?

8 A. NO, I DID NOT.

9 Q. YOU DID NOT.

10 A. I JUST SAW THE TOP ONE.

11 Q. OKAY. DID YOU NOTICE WHETHER HE WAS WEARING ANY  
12 EARRINGS?

13 A. YES, I DID SEE AN EARRING IN HIS LEFT EAR.

14 Q. JUST ONE EARRING---

15 A. THAT'S ALL I SAW.

16 Q. ---ON THE LEFT EAR?

17 A. UH-HUH.

18 Q. OKAY. HE DID HAVE ON A WHITE TANK TOP, I THINK YOU  
19 TESTIFIED TO?

20 A. YES.

21 Q. OKAY. AND JUST -- JUST IN CLOSING, I JUST WANT TO  
22 REITERATE ONCE AGAIN: THE POLICE AT NO TIME SHOWED YOU A  
23 LINE-UP AT ANY TIME OF MR. MASSEY AFTER THE ROBBERY.

24 A. NONE. AT NO TIME.

25 Q. AND YOU DID NOT IDENTIFY TO THE POLICE, TO THEM, WHO

1 ROBBED THE STORE BECAUSE YOU DIDN'T KNOW WHO MR. MASSEY WAS,  
2 IS THAT CORRECT, AT THAT TIME?

3 A. YOU'RE SAYING BECAUSE I DIDN'T KNOW WHO HE WAS?

4 Q. YOU DIDN'T---

5 A. I DIDN'T KNOW BY NAME WHO HE WAS, BUT I HAD SEEN HIM  
6 BEFORE.

7 Q. UH-HUH.

8 A. THAT WHOLE WEEK I SEEN HIM OFF AND ON WITH THE YOUNG  
9 LADY.

10 Q. OKAY. SO YOU COULD NOT TELL THEM HIS NAME AT THE TIME  
11 OF THE ROBBERY.

12 A. NO, I COULD NOT.

13 Q. OKAY. THANK YOU VERY MUCH.

14 A. UH-HUH.

15 THE COURT: REDIRECT?

16 MR. SPRATLIN: REAL BRIEFLY.

17 REDIRECT EXAMINATION

18 BY MR. SPRATLIN:

19 Q. MR. HUFF, IS THERE ANY DOUBT IN YOUR MIND THAT MR.  
20 MASSEY IS THE ONE WHO PUT THE GUN IN YOUR FACE THAT DAY?

21 A. THERE'S NO DOUBT IN MY MIND, SIR.

22 Q. OKAY. AND BACK ON JUNE 7TH, 2007, WERE YOU ABLE TO SEE  
23 WHAT WAS GOING ON?

24 A. YES, I WAS ABLE TO SEE.

25 Q. WAS YOUR VISION FINE THAT DAY?



1 A. MY VISION WAS FINE THAT DAY.

2 Q. AND IS YOUR VISION FINE HERE TODAY?

3 A. YES, IT IS.

4 Q. OKAY. NOW, SIR, MR. HASTIE DID ASK YOU ABOUT WHAT OTHER  
5 PEOPLE WHO WERE IN THE STORE -- WHAT THEY WERE WEARING, AND  
6 YOU COULD NOT REMEMBER WHAT MS. BRUNSON WAS WEARING THAT DAY.  
7 CORRECT?

8 A. THAT'S CORRECT.

9 Q. OKAY. BUT -- BUT YOU ARE 100 PERCENT SURE ABOUT WHAT  
10 THE DEFENDANT WAS WEARING THAT DAY.

11 A. YES, BECAUSE I HAD ALREADY IDENTIFIED THAT TO THE  
12 OFFICERS THAT CAME ON THE SCENE. I COULD REMEMBER TO KEEP  
13 THAT IN MY REMEMBRANCE.

14 Q. WHEN YOU SHUT YOUR EYES AND THINK ABOUT THAT ROBBERY,  
15 CAN YOU PICTURE THE DEFENDANT?

16 A. WHEN I SHUT MY EYES AND THINK ABOUT IT -- I DREAMED  
17 ABOUT THAT ROBBERY ALL LAST NIGHT, AND I COULDN'T SEE NOTHING  
18 BUT THAT DEFENDANT WITH THE GUN IN MY FACE. YES, I...

19 Q. AND THAT'S THE MAN SITTING RIGHT THERE?

20 A. THAT IS HIM SITTING RIGHT THERE.

21 MR. SPRATLIN: THANK YOU.

22 THE COURT: ANY ELSE, MR. HASTIE?

23 MR. HASTIE: NOTHING, YOUR HONOR.

24 THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN. ALL  
25 RIGHT. MR. SPRATLIN, YOU INDICATED YOU HAD A WITNESS THAT

1 COULD BE CONCLUDED BY 1?

2 MR. SPRATLIN: I BELIEVE SO, YOUR HONOR. MS. CAROL  
3 BRUNSON.

4 THE COURT: MS. BRUNSON, YOU CAN COME FORWARD.

5 CAROL J. BRUNSON, AFTER BEING DULY SWORN, TESTIFIED  
6 AS FOLLOWS:

7 THE CLERK: HAVE A SEAT UP THERE, PLEASE, MA'AM. STATE  
8 YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

9 THE WITNESS: CAROL J. BRUNSON. B-R-U-N-S-O-N.

10 DIRECT EXAMINATION

11 BY MR. SPRATLIN:

12 Q. GOOD MORNING OR I SHOULD SAY AFTERNOON NOW, MS. BRUNSON.  
13 HOW ARE YOU DOING?

14 A. FINE. AND YOU?

15 Q. I'M DOING PRETTY WELL. HOW LONG HAVE YOU LIVED IN  
16 SUMTER?

17 A. ALL OF MY LIFE.

18 Q. ALL RIGHT. AND WHERE ARE YOU WORKING CURRENTLY?

19 A. AT PILGRIM'S PRIDE.

20 COURT REPORTER: I'M SORRY. COULD YOU REPEAT THAT?

21 THE WITNESS: PILGRIM'S PRIDE.

22 THE COURT: PILGRIM'S PRIDE?

23 THE WITNESS: UH-HUH.

24 BY MR. SPRATLIN:

25 Q. BACK IN 2007, DID YOU HAVE AN OPPORTUNITY TO VISIT THE

1 STORE CALLED TOTAL LIVING?

2 A. YEAH. QUITE A FEW TIMES WHEN MR. BLACK WAS WORKING  
3 THERE I VISIT THERE.

4 Q. OKAY. AND DID YOU KNOW A GENTLEMAN BY THE NAME OF  
5 HERBERT HUFF?

6 A. YEAH, I MET HIM IN THE STORE.

7 Q. WAS HE WORKING THERE?

8 A. YEAH.

9 Q. DID YOU HAPPEN TO GO INTO THE STORE BACK ON JUNE THE  
10 7TH, 2007, IF YOU REMEMBER?

11 A. YEAH.

12 Q. OKAY.

13 A. UH-HUH.

14 Q. WHAT WAS DIFFERENT ABOUT THAT DAY THAN ANY OF THE OTHER  
15 TIMES YOU WENT IN THERE?

16 A. WELL, WHEN I ENTERED THE STORE, I HAD BEEN LOOKING  
17 AROUND TO SEE WHAT I REALLY WANT. I REALLY WENT IN THERE FOR  
18 SOME WATERMELON, AND I SAW A GENTLEMAN WALKING AROUND BACK  
19 AND FORTH IN THE STORE AND I GOT SUSPICIOUS. I WAS KIND OF  
20 AFRAID BECAUSE I SAID SOMETHING SEEMED STRANGE, SO I WAS KIND  
21 OF SCARED. I WAS LOOKING AROUND. I THINK I ASKED -- I ASKED  
22 HIM WHAT HE WAS LOOKING FOR. I THINK HE TOLD ME HE WAS  
23 LOOKING FOR A SUIT.

24 Q. SO YOU ACTUALLY ASKED THE GENTLEMAN THAT WAS WALKING  
25 AROUND THE STORE?

1 A. UH-HUH.

2 Q. OKAY.

3 A. SO I WALKED BACK OUT OF THE STORE, AND I CAME BACK  
4 BECAUSE I SAID, "I HOPE NOBODY DON'T DO ANYTHING FUNNY IN  
5 HERE," BECAUSE I'M KIND OF AFRAID FOR HIM, HIS LIFE.

6 Q. WHOSE LIFE WERE YOU AFRAID FOR?

7 A. MR. HUFF.

8 Q. OKAY.

9 A. BECAUSE I -- IT LOOKED LIKE -- YOU KNOW, I KNEW  
10 SOMETHING WASN'T (UNINTELLIGIBLE WORD SPOKEN), YOU KNOW,  
11 WEARY. SO I'M KIND OF AFRAID.

12 Q. WHO ELSE WAS IN THE STORE WITH YOU THAT DAY?

13 A. DURING THE TIME, IT WAS ME AND MY DAUGHTER AND MY LITTLE  
14 GRANDS WAS IN THERE.

15 Q. WHEN YOU SAY GRANDS---

16 A. THEY WERE KIND OF SUSPICIOUS, TOO. THEY WERE KIND OF  
17 SUSPICIOUS.

18 Q. AND SO YOU ACTUALLY CAME BACK INTO THE STORE?

19 A. YEAH, TO LOOK AND SEE WHETHER, YOU KNOW, IF EVERYTHING  
20 BE ALL RIGHT.

21 Q. OKAY.

22 A. UH-HUH.

23 Q. NOW, YOU MENTIONED THAT YOU ACTUALLY SPOKE WITH THE  
24 GENTLEMAN YOU WERE CONCERNED ABOUT.

25 A. UH-HUH.

1 Q. DO YOU -- I KNOW IT'S OVER TWO YEARS NOW, BUT DO YOU  
2 REMEMBER THAT GENTLEMAN?

3 A. I'M SORRY. I SEEN HIM, BUT, YOU KNOW, HE LOOKS KIND OF  
4 DIFFERENT THOUGH.

5 Q. HOW DOES -- HOW DOES HE LOOK DIFFERENT?

6 A. HE HAD ON DIFFERENT CLOTHES, THE CLOTHES HE WORE LIKE...

7 Q. DO YOU REMEMBER WHAT CLOTHES HE WAS WEARING?

8 A. NOT REALLY. I KNOW HE HAD SOMETHING OVER HIS HEAD, BUT  
9 I DON'T REALLY KNOW WHAT KIND OF CLOTHES HE HAD ON.

10 Q. OKAY. NOW, THIS IS THE FIRST TIME YOU'VE BEEN ASKED TO  
11 DESCRIBE THIS INCIDENT; CORRECT?

12 A. UH-HUH.

13 Q. OKAY. LAW ENFORCEMENT NEVER EVEN HAD THE OPPORTUNITY TO  
14 TALK TO YOU.

15 A. NO, NOT REALLY.

16 Q. OKAY. SO PRETTY MUCH JUST OUT OF THE BLUE---

17 A. YEAH.

18 Q. ---WE CALLED YOU AND ASKED YOU TO COME HERE.

19 A. YEAH. UH-HUH. THE STATE DID.

20 Q. AND I UNDERSTAND THAT -- I UNDERSTAND YOU CAN'T BE  
21 CERTAIN. IS IT POSSIBLE THAT THIS MAN COULD BE THE PERSON  
22 THAT YOU SAW IN THE STORE THAT DAY?

23 MR. HASTIE: OBJECTION.

24 THE COURT: BASED ON SPECULATION?

25 MR. HASTIE: YES, SIR.

1 THE COURT: MR. SPRATLIN, YOU CAN REPHRASE THE QUESTION.

2 MR. SPRATLIN: OKAY.

3 THE COURT: THAT OBJECTION IS SUSTAINED, BUT YOU CAN  
4 REPHRASE IT.

5 MR. SPRATLIN: YES, YOUR HONOR. IF YOU WOULD, WOULD YOU  
6 PLEASE POINT OUT THE PERSON THAT YOU BELIEVE WAS THE PERSON  
7 IN THE STORE THAT DAY?

8 MR. HASTIE: OBJECTION.

9 (THE WITNESS POINTS TO THE DEFENDANT.)

10 MR. HASTIE: OBJECTION, YOUR HONOR.

11 THE COURT: YES, SIR.

12 MR. HASTIE: IT'S IN-COURT IDENTIFICATION.

13 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED. YOU  
14 CAN CROSS-EXAMINE ON THAT POINT.

15 MR. HASTIE: YES, SIR.

16 BY MR. SPRATLIN:

17 Q. WOULD YOU PLEASE POINT OUT THE PERSON, IF YOU WOULD, IF  
18 YOU KNOW? IF NOT, THAT'S---

19 A. YEAH, I DON'T KNOW.

20 Q. OKAY. YOU CAN'T BE CERTAIN?

21 A. NO, NOT REALLY.

22 Q. OKAY. ALL RIGHT. WELL, BUT YOU DID SEE SOMEONE WALKING  
23 AROUND THE STORE THAT DAY?

24 A. UH-HUH. YEAH.

25 Q. AND YOU WERE CONCERNED ENOUGH THAT YOU ACTUALLY CAME

1 BACK IN THE STORE?

2 A. YEAH, I WAS CONCERNED.

3 Q. AND HE WAS WEARING SOMETHING ON HIS HEAD.

4 A. YEAH.

5 Q. AND THAT YOU CAN BE CERTAIN OF.

6 A. YEAH.

7 MR. SPRATLIN: OKAY. THANK YOU. THAT'S ALL THE  
8 QUESTIONS I HAVE.

9 THE COURT: MR. HASTIE?

10 MR. HASTIE: THANK YOU, YOUR HONOR.

11 CROSS-EXAMINATION

12 BY MR. HASTIE:

13 Q. GOOD AFTERNOON.

14 A. GOOD AFTERNOON.

15 Q. YOU WORK AT PILGRIM'S PRIDE?

16 A. UH-HUH.

17 Q. HOW LONG HAVE YOU BEEN WORKING THERE?

18 A. FOURTEEN YEARS.

19 Q. A LONG TIME. NOW, YOU OFTEN EVIDENTLY GO BY MR. BLACK'S  
20 STORE.

21 A. YEAH.

22 Q. YEAH?

23 A. UH-HUH.

24 Q. DO YOU KNOW MR. BLACK PERSONALLY?

25 A. VERY WELL.

1 Q. DO YOU?

2 A. YEAH.

3 Q. OKAY. OKAY. ON THIS PARTICULAR DAY YOU SAID YOU REALLY  
4 WENT DOWN THERE TO LOOK FOR SOME WATERMELONS.

5 A. UH-HUH.

6 Q. YOU LIKE WATERMELONS?

7 A. OH, YEAH.

8 Q. NOW, DO THEY SELL WATERMELONS INSIDE THE STORE?

9 A. IT WAS ON THE OUTSIDE. THEY USED TO HAVE IT INSIDE THE  
10 STORE, BACK WHEN THEY USED TO HAVE WATERMELONS, BANANAS.  
11 THERE WAS A LOT OF PRODUCTS AND STUFF.

12 Q. BUT ON THIS PARTICULAR DAY, THE WATERMELONS WERE LOCATED  
13 OUTSIDE THE STORE. IS THAT CORRECT?

14 A. YEAH. UH-HUH.

15 Q. SO YOU DID GO INSIDE THE STORE TO LOOK FOR WHAT?

16 A. TO LOOK FOR, YOU KNOW, LIKE SOAP.

17 Q. JUST LOOK AROUND---

18 A. UH-HUH.

19 Q. ---SO FORTH.

20 A. ALL THE PRODUCTS.

21 Q. DO YOU NORMALLY STOP PEOPLE WHEN YOU GO INTO A STORE  
22 THAT YOU DON'T KNOW TO SAY, "WHAT ARE YOU LOOKING FOR?" YOU  
23 DON'T WORK THERE, DO YOU?

24 A. NO.

25 Q. LET ME -- DO YOU NORMALLY STOP PEOPLE----



1 A. YEAH, I USUALLY STOP THERE LIKE ON FRIDAYS WHEN I GET  
2 OFF AND JUST SOMETIMES DURING THE WEEK AND SEE WHAT THEY  
3 HAVE.

4 Q. YES, MA'AM. BUT DO YOU NORMALLY ASK CUSTOMERS WHAT ARE  
5 THEY LOOKING FOR WHEN YOU GO TO A STORE?

6 A. CLOTHES.

7 Q. CLOTHES?

8 A. CLOTHES, LIKE WEAR SHOES AND PURSES AND STUFF.

9 Q. OKAY. MY QUESTION AGAIN IS: WHEN YOU GO TO ANY STORE,  
10 DO YOU NORMALLY STOP PEOPLE THAT YOU DON'T KNOW---

11 A. OH, YEAH. YEAH.

12 Q. ---AND ASK THEM WHAT ARE THEY LOOKING FOR?

13 A. NO. THAT PARTICULAR TIME IT WAS A SUSPICION.

14 Q. SUSPICION.

15 A. YEAH.

16 Q. WHAT WAS SUSPICIOUS ABOUT THIS PARTICULAR STORE?

17 A. I MEAN, JUST, YOU KNOW, WALKING BACK AND FORTH, WALKING  
18 IN AND BACK. YOU KNOW, YOU KNOW SOMETHING WAS UP.

19 Q. OKAY. YOU REALLY---

20 A. YOU...

21 Q. EXCUSE ME. ARE YOU FINISHED?

22 A. YEAH. GO AHEAD.

23 Q. BUT YOUR TESTIMONY HERE TODAY IS THAT YOU CANNOT TODAY  
24 IDENTIFY WHO THAT SUSPICIOUS PERSON WAS WALKING BACK AND  
25 FORTH, CAN YOU?

1 A. BUT IT SEEM LIKE HIM.

2 Q. SEEMS LIKE HIM.

3 A. IT LOOK LIKE -- LIKE, YOU KNOW (UNINTELLIGIBLE WORDS  
4 SPOKEN).

5 COURT REPORTER: CAN YOU REPEAT THAT?

6 THE WITNESS: IT SEEMS LIKE THE GUY RIGHT THERE. LOOKS  
7 MORE LIKE HIM.

8 BY MR. HASTIE:

9 Q. BUT YOU'RE NOT 100 PERCENT SURE.

10 A. NO, I'M NOT A HUNDRED PERCENT.

11 Q. WAS ANYONE ELSE WALKING AROUND IN THE STORE AT THAT  
12 TIME? ANYBODY ELSE IN THE -- ANY OTHER CUSTOMERS IN THE  
13 STORE?

14 A. YEAH. IF I REMEMBER, MY DAUGHTER WAS THERE, AND I THINK  
15 ANOTHER GENTLEMAN -- ANOTHER PERSON WAS IN THERE.

16 Q. OKAY. DID THIS OTHER PERSON LOOK SUSPICIOUS TO YOU?

17 A. NO.

18 Q. BUT YOU JUST GOT A SUSPICIOUS FEELING---

19 A. YEAH.

20 Q. ---THERE WAS SOMETHING.

21 A. YEAH.

22 Q. BUT YOU'RE NOT SURE WHAT.

23 A. HUH-UH. I JUST GOT A SUSPICION LIKE SOMETHING -- LIKE  
24 SOMETHING REALLY WAS GOING TO HAPPEN OR SOMETHING, YOU KNOW.

25 I DON'T KNOW. I JUST HAVE THAT FEELING SOMETHING WASN'T

1 RIGHT THAT DAY.

2 Q. OKAY. THANK YOU VERY MUCH.

3 A. UH-HUH.

4 MR. HASTIE: NO FURTHER QUESTIONS, YOUR HONOR.

5 THE COURT: MR. SPRATLIN?

6 MR. SPRATLIN: NO REDIRECT, YOUR HONOR.

7 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN.

8 THE WITNESS: THANK YOU.

9 MR. SPRATLIN: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

10 THE COURT: ANY OBJECTION, MR. HASTIE?

11 MR. HASTIE: NO, YOUR HONOR.

12 THE COURT: MS. BRUNSON, YOU'RE EXCUSED. OKAY? YOU CAN

13 LEAVE OR STAY, WHICHEVER YOU'D LIKE. ALL RIGHT. ANY

14 WITNESSES BEFORE LUNCH, MR. SPRATLIN?

15 MR. SPRATLIN: NO, YOUR HONOR. I DON'T THINK WE HAVE  
16 ANY WITNESSES THAT WE COULD GET IN BETWEEN NOW AND THE LUNCH  
17 HOUR.

18 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE'RE  
19 GOING TO TAKE A LUNCH BREAK NOW. I WANT TO CAUTION YOU,  
20 HOWEVER, THAT YOU MAY NOT DISCUSS THIS CASE WITH ANYBODY.  
21 THAT INCLUDES FRIENDS, FAMILY, CO-WORKERS, ANYBODY YOU MAY BE  
22 IN CONTACT WITH. I WANT YOU TO BE BACK IN YOUR JURY ROOM AT  
23 2:15. THAT CLOCK SAYS 20 MINUTES 'TIL 1. YOUR CLOCK MAY BE  
24 DIFFERENT; MINE IS. BUT YOU HAVE AN HOUR AND 35 MINUTES FOR  
25 LUNCH, WHATEVER THAT FALLS ON YOUR WATCH.

1           AND I WANT TO REMIND YOU, LADIES AND GENTLEMEN: YOU  
2       CANNOT DISCUSS THIS CASE AMONGST YOURSELVES OR WITH ANYBODY  
3       ELSE. YOU CAN'T READ OR LISTEN TO ANY NEWS REPORTS ABOUT THE  
4       CASE. YOU CANNOT USE ANY COMPUTER, CELL PHONE, OR ANY OTHER  
5       ELECTRONIC DEVICE WHILE IN ATTENDANCE DURING THIS TRIAL OR  
6       DURING YOUR LUNCH BREAK, AND IF YOU USE THOSE DURING YOUR  
7       LUNCH BREAK, YOU CANNOT USE THOSE ITEMS TO OBTAIN OR DISCLOSE  
8       INFORMATION ABOUT A PARTY, A WITNESS, AN ATTORNEY, OR ANY  
9       COURT OFFICER OR ANY NEWS ACCOUNTS ABOUT THE CASE OR ANY  
10      INFORMATION COLLECTED FROM ANY OTHER SOURCE, AND YOU CANNOT  
11      CONDUCT ANY RESEARCH ON YOUR OWN. ALL RIGHT. SEE YOU BACK  
12      AT 2:15 OR AN HOUR AND 35 MINUTES.

13           (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO GO  
14      TO LUNCH AT 12:45 P.M.)

15           **THE COURT:** ALL RIGHT. ANYTHING BEFORE WE BREAK? FROM  
16      THE STATE?

17           **MR. SPRATLIN:** NO, YOUR HONOR.

18           **THE COURT:** FROM THE DEFENSE?

19           **MR. HASTIE:** NOTHING, YOUR HONOR.

20           **THE COURT:** ALL RIGHT. WE'LL BE -- IF THE LAWYERS WOULD  
21      BE BACK AT 2, THAT WOULD BE GOOD. THANK YOU.

22           **MR. SPRATLIN:** YES, YOUR HONOR.

23           (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

24           **THE COURT:** OKAY. ALL RIGHT. WE HAVE AN ISSUE TO TAKE  
25      UP?

1       **MR. SPRATLIN:** YES, YOUR HONOR, JUST REAL BRIEFLY.  
2 DURING A PRETRIAL HEARING, THE DEFENSE COUNSEL CALLED MS.  
3 LATRELL BILLIE TO THE STAND AND PROCEEDED TO ASK HER NUMEROUS  
4 QUESTIONS ABOUT THE DEFENDANT AND AN AIDS TEST.

5       **THE COURT:** OKAY. WELL, CALL HER UP TO THE STAND. COME  
6 ON UP, MS. BILLIE. SHE'S STILL UNDER OATH FROM YESTERDAY.  
7 IS SHE YOUR NEXT WITNESS, MR. SPRATLIN?

8       **MR. SPRATLIN:** SHE IS, YOUR HONOR.

9       **THE COURT:** THOSE ARE THE KIND OF THINGS THAT I WOULD  
10 NEED TO KNOW WHEN I ASK Y'ALL TO BE BACK AT 2. LET ME KNOW  
11 WHAT THOSE ARE SO WE CAN DO IT BEFORE THE JURY IS BACK THERE  
12 WAITING.

13       **MR. SPRATLIN:** YES, YOUR HONOR, AND I APOLOGIZE FOR NOT  
14 CATCHING THAT EARLIER.

15       **MR. HASTIE:** YOUR HONOR, SPEAKING OF THAT, I'M GOING TO  
16 WITHDRAW THE QUESTIONS ABOUT THE AIDS, IF THAT WILL HELP THE  
17 PROCESS.

18       **THE COURT:** YOU CAN STEP DOWN. THANK YOU, MA'AM. OKAY.  
19 MR. SPRATLIN, ARE YOU READY FOR THE JURY?

20       **MR. SPRATLIN:** YES, YOUR HONOR.

21       **THE COURT:** MR. HASTIE?

22       **MR. HASTIE:** YES, SIR.

23       **THE COURT:** OKAY. YOU CAN BRING IN THE JURY.

24       (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 2:26  
25 P.M.)

1       **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, WE ARE  
2 READY TO MOVE FORWARD WITH THE PRESENTATION OF EVIDENCE, AND  
3 I KNOW THAT MOST OF YOU PROBABLY DID HAVE LUNCH, BUT IF  
4 YOU'RE -- IF YOU HAVE A TENDENCY TO GET A LITTLE GROGGY IN  
5 THE AFTERNOONS, TRY TO RESIST THAT, BUT WE WILL BE TAKING A  
6 BREAK IN ABOUT AN HOUR. ALL RIGHT. MR. SPRATLIN?

7       **MR. SPRATLIN:** THANK YOU, YOUR HONOR. THE STATE WOULD  
8 NEXT CALL MS. LATRELL BILLIE TO THE STAND.

9               LATRELL M. BILLIE, AFTER BEING DULY SWORN,  
10 TESTIFIED AS FOLLOWS:

11       **THE CLERK:** STATE YOUR FULL NAME AND SPELL YOUR LAST  
12 NAME, PLEASE.

13       **THE WITNESS:** LATRELL MICHELLE BILLIE, B-I-L-L-I-E.

14                       DIRECT EXAMINATION

15 BY MR. SPRATLIN:

16 Q. MS. BILLIE, GOOD AFTERNOON.

17 A. HEY.

18 Q. HOW LONG HAVE YOU LIVED IN SUMTER?

19 A. ALL MY LIFE, 30 YEARS.

20 Q. OKAY. AND WHAT DO YOU DO FOR A LIVING?

21 A. I'M A HUMAN SERVICE COORDINATOR FOR D.H.E.C., AND I  
22 VOLUNTEER FOR THE WATEREE TASK FORCE.

23 Q. I'M SORRY. WHAT WAS THAT AGAIN?

24 A. I VOLUNTEER AT THE WATEREE AIDS TASK FORCE.

25 Q. THE WATEREE AIDS TASK FORCE?

1 A. UH-HUH.

2 Q. OKAY. AND WHERE IS THAT LOCATED?

3 A. CURRENTLY IT'S LOCATED AT 108 WEST LIBERTY STREET.

4 Q. YOU SAY CURRENTLY.

5 A. UH-HUH.

6 Q. WAS IT LOCATED SOMEWHERE DIFFERENT PREVIOUSLY?

7 A. YEAH, 25 DUGAN STREET.

8 Q. OKAY. WHAT BUSINESSES WERE NEAR THE WATEREE AIDS TASK  
9 FORCE WHEN IT WAS LOCATED AT 25 DUGAN STREET?

10 A. NEXT DOOR, TOTAL LIVING.

11 Q. OKAY.

12 A. AND KUT-RATE.

13 Q. ALL RIGHT. MS. BILLIE, DO YOU KNOW A MAN BY THE NAME OF  
14 HERBERT HUFF?

15 A. UH-HUH.

16 Q. HOW DO YOU KNOW HIM?

17 A. HE WORKED NEXT DOOR.

18 Q. DO YOU KNOW WHERE -- WHEN YOU SAY NEXT DOOR, WHAT DO YOU  
19 MEAN?

20 A. AT TOTAL LIVING.

21 Q. OKAY. AND HOW DO YOU KNOW HIM?

22 A. FROM IN AND OUT -- HE COMES IN AND OUT OF THE STORE JUST  
23 TO SPEAK TO SEE HOW WE'RE DOING FROM TIME TO TIME.

24 Q. AND, MS. BILLIE, DO YOU KNOW THE DEFENDANT, ANDRE  
25 MASSEY?

1 A. YES, SIR.

2 Q. OKAY. HOW DO YOU KNOW HIM?

3 A. HE CAME TO OUR BUSINESS THE END OF 2006, AROUND THAT  
4 TIME FRAME, WANTING TO KNOW WHAT TYPE OF BUSINESS WE DO.

5 Q. OKAY. AND WHAT, IF ANYTHING, DID Y'ALL -- DID YOU HELP  
6 HIM DO?

7 A. I HELPED HIM FIND A JOB.

8 Q. OKAY. AND WHERE DID YOU HELP HIM FIND A JOB?

9 A. I GAVE HIM SOME INFORMATION. GOLD KIST WAS HIRING, SO  
10 HE WENT DOWN THERE AND HE GOT THE JOB.

11 Q. OKAY. AFTER HELPING HIM GET A JOB, DID YOU SEE MR.  
12 MASSEY AGAIN?

13 A. YEAH, HE WOULD COME IN AND OUT OF THE STORE.

14 Q. OKAY. DO YOU KNOW WHY HE WAS COMING BACK TO YOUR STORE?

15 A. JUST TO THANK US.

16 Q. OKAY. WAS THERE ANYTHING ELSE THAT WOULD BE BRINGING  
17 HIM TO THAT AREA BESIDES JUST THANKING Y'ALL, TO YOUR  
18 KNOWLEDGE?

19 A. I KNOW HE STAY OR HIS PARENTS STAY ACROSS THE STREET.

20 Q. OKAY. WAS THAT THE ENTIRE NATURE OF YOUR RELATIONSHIP  
21 WITH MR. MASSEY?

22 A. YEAH.

23 Q. OKAY. LET ME DIRECT YOUR ATTENTION TO THE DAY OF  
24 JUNE 7TH, 2007. DID YOU HAVE AN OPPORTUNITY TO SEE MR.  
25 MASSEY ON THAT DATE?



1 A. YES, SIR.

2 Q. OKAY. WHERE DID YOU FIRST SEE MR. MASSEY?

3 A. INSIDE TOTAL LIVING.

4 Q. OKAY. NOW, LEADING UP TO YOUR SEEING MR. MASSEY THERE  
5 AT TOTAL LIVING, DID YOU HAVE A CHANCE TO HAVE A CONVERSATION  
6 WITH HIM EARLIER THAT DAY?

7 A. BRIEFLY. HE CALLED ME TO ASK ME WHAT TIME I WAS GETTING  
8 OFF, AND I TOLD HIM AROUND 5.

9 Q. OKAY.

10 A. AND HE TOLD ME THAT HE WOULD COME TO THE STORE.

11 Q. DO YOU KNOW WHY HE WAS COMING TO YOUR STORE?

12 A. NO. HE ALWAYS JUST COMES JUST TO SEE HOW WE WAS DOING.

13 Q. OKAY. AND WAS IT NORMAL FOR HIM TO CALL YOU BEFOREHAND?

14 A. YEAH, CALLED OR STOPPED BY.

15 Q. OKAY. NOW, WHEN YOU SAW MR. MASSEY IN TOTAL LIVING THAT  
16 DAY, WHY WERE YOU GOING INTO THE STORE?

17 A. I TOLD REVEREND BLACK THAT I WOULD PURCHASE A WATERMELON  
18 FROM HIM.

19 Q. AND WHO IS REVEREND BLACK?

20 A. HE'S THE OWNER OF TOTAL LIVING.

21 Q. OKAY. ALL RIGHT. AND WHEN YOU WENT INTO THE STORE WHEN  
22 YOU SAW MR. MASSEY THERE, WHAT, IF ANYTHING, DID YOU DO?

23 A. NOTHING. HE WALKED -- WHEN I TOLD MR. HUFF THAT---

24 Q. UH-HUH.

25 A. ---TO TELL REVEREND BLACK THAT I WOULD BE BACK THE NEXT

1 DAY TO PAY FOR MY WATERMELON, AS I WALKED OUT OF THE STORE  
2 ANDRE FOLLOWED ME.

3 Q. OKAY. AND WHAT HAPPENED AFTER Y'ALL GOT OUT OF THE  
4 STORE?

5 A. HE WALKED ME TO MY CAR.

6 Q. ALL RIGHT. WHAT DID Y'ALL TALK ABOUT AS YOU WERE  
7 WALKING TO YOUR CAR?

8 A. WE WERE -- JUST BASICALLY GENERAL CONVERSATION AND HE  
9 MENTIONED ABOUT A PICTURE THAT WAS EXPENSIVE, AND I SAID THAT  
10 I WOULDN'T PAY THAT MUCH FOR -- PERSONALLY I WOULDN'T PAY  
11 THAT MUCH FOR A PICTURE.

12 Q. OKAY. NOW, MS. BILLIE, WHAT TIME OF DAY WOULD YOU SAY  
13 IT WAS THAT YOU AND MR. MASSEY PARTED WAYS?

14 A. WHAT TIME IT WAS?

15 Q. YEAH.

16 A. 5 BECAUSE I GOT OFF AT 5.

17 Q. HOW CAN YOU BE CERTAIN THAT IT WAS RIGHT AROUND 5?

18 A. BECAUSE I GET OFF AT 5 AND I PICK UP MY KIDS FROM DAY  
19 CARE BY 5:15.

20 Q. OKAY. WHEN YOU LEFT TOTAL LIVING, HOW DID YOU -- OR THE  
21 AREA AROUND TOTAL LIVING, HOW DID YOU LEAVE?

22 A. I LEFT IN MY CAR GOING TO -- WHERE THE CITY OFFICE IS  
23 AT, I WENT THAT WAY.

24 Q. OKAY. AND WAS MR. MASSEY IN THE CAR WITH YOU?

25 A. NO, SIR.

1 Q. OKAY. DID YOU SEE HOW HE LEFT?

2 A. YEAH. HE GOT ON HIS BIKE AND RODE HIS BIKE UP TOWARDS  
3 MAIN STREET.

4 Q. OKAY. SO YOU TWO PARTED WAYS AT THIS POINT IN TIME.

5 A. UH-HUH.

6 Q. WHEN WAS THE NEXT TIME, FROM TALKING WITH MR. MASSEY,  
7 THAT YOU WERE GOING TO SEE HIM AGAIN?

8 A. SATURDAY.

9 Q. AND WHY WERE YOU GOING TO SEE HIM ON SATURDAY?

10 A. BECAUSE I ASKED HIM COULD HE VACUUM MY CAR OUT.

11 Q. AND WHAT DID HE SAY WHEN YOU ASKED HIM TO DO THAT?

12 A. AND HE SAID, "YEAH."

13 Q. ALL RIGHT. NOW, I KNOW IT'S TWO YEARS AGO, BUT DO YOU  
14 REMEMBER WHAT MR. MASSEY WAS WEARING WHEN YOU SAW HIM THAT  
15 DAY?

16 A. YEAH.

17 Q. WHAT WAS HE WEARING?

18 A. A WHITE WIFE BEATER SHIRT.

19 COURT REPORTER: WHAT KIND OF SHIRT?

20 THE WITNESS: WIFE BEATER. IT'S A TANK TOP.

21 BY MR. SPRATLIN:

22 Q. OKAY. AND DO YOU REMEMBER WHAT KIND OF PANTS HE HAD ON?

23 A. BLACK SKI PANTS.

24 Q. OKAY. AND HOW DO YOU REMEMBER THAT FROM TWO YEARS AGO?

25 A. BECAUSE THAT'S JUST -- WHAT, REMEMBER IT?

1 Q. UH-HUH.

2 A. I JUST REMEMBER THAT DAY BECAUSE OF BEING QUESTIONED---

3 Q. OKAY.

4 A. ---ABOUT IT.

5 Q. SO THE WAY YOU REMEMBER IT IS WHEN THE OFFICER HAD  
6 QUESTIONED YOU ABOUT IT, WHEN IT WAS MORE FRESH IN YOUR MIND.

7 A. YEAH.

8 Q. AND YOU REMEMBER WHAT YOU TOLD THE OFFICERS.

9 A. YEAH.

10 Q. AND WERE YOU ACCURATE IN YOUR DESCRIPTION TO THE  
11 OFFICERS AT THAT TIME?

12 A. YES, SIR.

13 Q. NOW, MS. BILLIE, HAVE YOU HAD THE OPPORTUNITY TO OBSERVE  
14 THE DEFENDANT'S ARMS?

15 A. YEAH.

16 Q. HAVE YOU NOTICED WHETHER OR NOT HE HAS TATTOOS?

17 A. YEAH.

18 Q. OKAY. AND DID YOU TELL THE POLICE THAT THE DEFENDANT  
19 HAD TATTOOS?

20 A. YEAH.

21 Q. OKAY. AND YOU TOLD THE POLICE WHAT THE DEFENDANT WAS  
22 WEARING THAT DAY.

23 A. YEAH.

24 MR. SPRATLIN: OKAY. BEG THE COURT'S INDULGENCE FOR ONE  
25 SECOND. NO MORE QUESTIONS AT THIS TIME, YOUR HONOR.

1 THE COURT: MR. HASTIE?

2 MR. HASTIE: THANK YOU, YOUR HONOR.

3 CROSS-EXAMINATION

4 BY MR. HASTIE:

5 Q. GOOD AFTERNOON, MS. BILLIE.

6 A. HEY.

7 Q. I JUST WANT -- LET'S GO BACK. YOU MENTIONED EARLIER  
8 ABOUT HE CAME TO OUR BUSINESS. WHAT TYPE OF BUSINESS WAS  
9 THAT AGAIN?

10 A. IT'S A BUSINESS. WE DO S.T.D. AND H.I.V. PREVENTION AND  
11 AWARENESS. WE DO JOB SEARCH.

12 Q. OKAY. AND JOB SEARCH.

13 A. UH-HUH.

14 Q. AND YOU DID HELP HIM FIND A JOB.

15 A. YEAH. I GAVE HIM THE INFORMATION THAT I KNOW PLACES  
16 THAT HIRE -- THAT WAS HIRING AT THE TIME. I GAVE HIM THE  
17 INFORMATION.

18 Q. DID HE GET A JOB AS A RESULT OF YOUR HELP?

19 A. YES, SIR.

20 Q. HE DID?

21 A. UH-HUH.

22 Q. WHERE?

23 A. GOLD KIST.

24 Q. OKAY. AT GOLD KIST. WHAT SPECIFICALLY IS YOUR JOB AT  
25 THIS -- YOUR PLACE OF BUSINESS?

1 A. MY JOB?

2 Q. YES.

3 A. I'M THE HELPER CASE MANAGER AND THEY DO---

4 Q. WHAT TYPE OF CASE?

5 A. IT'S HOUSING OPPORTUNITY FOR PERSONS LIVING WITH AIDS.

6 Q. OKAY.

7 A. I HELP THEM WITH HOUSING, AND I ALSO WAS LIKE THE OFFICE  
8 ADMINISTRATOR AT THAT TIME.

9 Q. YOU MENTIONED THAT HIS PARENTS STAYED ACROSS THE STREET?

10 A. UH-HUH.

11 THE COURT: YOU NEED TO SAY EITHER YES OR NO.

12 THE WITNESS: YES, SIR. OKAY.

13 THE COURT: NOT UH-HUH OR HUH-UH.

14 THE WITNESS: YES, SIR.

15 BY MR. HASTIE:

16 Q. HIS PARENTS DID STAY ACROSS THE STREET?

17 A. YES, SIR.

18 Q. WOULD HE COME TO YOUR PLACE OF BUSINESS WHILE GOING TO  
19 VISIT HIS PARENTS FROM TIME TO TIME?

20 A. YES. I GUESS ON HIS WAY HOME HE WOULD STOP BY BECAUSE  
21 HE ALWAYS STOPPED BY AND TELL US HOW THANKFUL HE WAS FOR US  
22 HELPING HIM WITH THE JOB.

23 Q. DO YOU ON OCCASION ASK HIM TO VACUUM YOUR CAR OR WASH  
24 YOUR CAR? HOW OFTEN DO YOU DO THAT -- HAVE YOU DONE THAT?

25 A. THAT WAS MY FIRST TIME ASKING.

1 Q. THAT WAS YOUR FIRST TIME?

2 A. YES, SIR.

3 Q. AND HE AGREED TO WASH YOUR CAR.

4 A. UH-HUH.

5 Q. DID HE WASH IT AT YOUR PLACE OF BUSINESS OR AT YOUR---

6 A. NO, HE WAS GOING TO DO IT THAT SATURDAY.

7 Q. WHERE?

8 A. AT THE CAR WASH ON PINEWELL STREET.

9 Q. OKAY. ON PINEWELL STREET. WHERE DID HE GET THE CAR?  
10 AT YOUR HOME?

11 A. WHERE WOULD HE GET THE CAR?

12 Q. YES, MA'AM.

13 A. I WAS GOING TO PICK HIM UP TO TAKE HIM OR EITHER HE  
14 WOULD MEET ME. HE TOLD ME -- I TOLD HIM TO CALL ME THAT  
15 SATURDAY.

16 Q. OKAY. SO THIS PARTICULAR SATURDAY DID YOU GO TO HIS  
17 APARTMENT AND PICK HIM UP?

18 A. NO, NO. I HAVE NOT SPOKEN TO HIM BECAUSE I'M ASSUMING  
19 THAT HE WAS PICKED UP.

20 Q. OKAY. EXCUSE ME.

21 A. UH-HUH.

22 Q. I'M TALKING ABOUT THE DAY HE VACUUMED YOUR CAR OUT.

23 A. NO, HE DIDN'T VACUUM MY CAR OUT. HE WAS SUPPOSED TO  
24 VACUUM MY CAR OUT---

25 Q. SO THAT NEVER HAPPENED.

1 A. THAT NEVER HAPPENED.

2 Q. OKAY. OKAY. I'M SORRY ABOUT THAT. NOW, THIS STORE --  
3 TOTAL LIVING IS IT CALLED?

4 A. YES, SIR.

5 Q. IT'S SORT OF ACROSS THE STREET OR NEXT DOOR TO WHERE YOU  
6 WORKED?

7 A. NEXT DOOR.

8 Q. NEXT DOOR?

9 A. UH-HUH.

10 Q. AND DO YOU -- YOU FREQUENT THAT STORE PRETTY OFTEN, I  
11 CAN IMAGINE.

12 A. YEAH. BASICALLY ON MY WAY OUT, I WOULD STOP IN AND LOOK  
13 AT THE PERFUME, AND USUALLY REVEREND BLACK AND MR. HUFF WILL  
14 COME IN FROM TIME TO TIME, JUST GENERAL CONVERSATION WITH US.

15 Q. YOU'VE KNOWN MR. HUFF A PRETTY GOOD WHILE.

16 A. YEAH.

17 Q. AND REVEREND BLACK.

18 A. YES, SIR.

19 Q. SO YOU WENT THERE AND YOU GOT A WATERMELON?

20 A. WELL, I DIDN'T ACTUALLY PURCHASE IT BECAUSE OF ALL OF  
21 THE STUFF THAT WENT ON, BUT I TOLD HIM THAT I WOULD COME BACK  
22 THE NEXT DAY TO PAY FOR THE WATERMELON, TO BUY THE  
23 WATERMELON.

24 Q. TO BUY.

25 A. YES.



1 Q. YOU DIDN'T TAKE A WATERMELON WITH YOU---

2 A. NO.

3 Q. ---AND PAY FOR IT THE NEXT DAY.

4 A. WELL, I NEVER WENT BACK IN THE STORE SINCE THEN BECAUSE  
5 OF THIS STUFF.

6 Q. ALL RIGHT. THE WATERMELONS THAT YOU'RE SPEAKING OF,  
7 WERE THEY IN THE STORE OR OUTSIDE THE STORE?

8 A. OUTSIDE THE STORE.

9 Q. THEY WERE OUTSIDE THE STORE.

10 A. YEAH.

11 Q. THEY'RE NOT IN THE STORE.

12 A. NO.

13 Q. AT ANY TIME DID MR. MASSEY MENTION TO YOU ANYTHING ABOUT  
14 A ROBBERY?

15 A. NO. NO, SIR.

16 Q. THAT HE WAS CONSIDERING A ROBBERY.

17 A. NO, SIR.

18 Q. AT NO TIME.

19 A. NO, SIR.

20 MR. HASTIE: NO FURTHER QUESTIONS, YOUR HONOR.

21 THE COURT: MR. SPRATLIN?

22 REDIRECT EXAMINATION

23 BY MR. SPRATLIN:

24 Q. MS. BILLIE, WHEN YOU WERE OUTSIDE TALKING WITH THE  
25 DEFENDANT AFTER LEAVING THE STORE, WHAT, IF ANYTHING, DID HE

1 TELL YOU ABOUT MR. HUFF?

2 A. THE ONLY THING HE SAY, HE MENTIONED THAT -- HE MADE A  
3 STATEMENT. AT THAT POINT -- AT THAT TIME I DIDN'T THOUGHT  
4 ANYTHING, BUT HE STATED THAT IT'S EASY TO ROB HIM BECAUSE HE  
5 ALWAYS SLEEP, AND I SAID, "UH-HUH," AND THAT'S IT.

6 Q. AND WHAT DID YOU DO WHEN HE SAID THAT?

7 A. I SAID, "UH-HUH," AND THAT'S IT, AND HE TOTALLY CHANGED  
8 THE SUBJECT.

9 Q. WERE YOU AT THAT POINT CONCERNED FOR MR. HUFF OR  
10 ANYTHING LIKE THAT?

11 A. NO.

12 Q. DID YOU THINK IT WAS KIND OF AN OFF-THE-CUFF STATEMENT?

13 A. YEAH.

14 Q. NOW, FOLLOWING YOUR LEAVING MR. MASSEY -- AND I ASSUME  
15 GOING TO PICK YOUR CHILDREN UP FROM DAY CARE?

16 A. UH-HUH.

17 Q. DID YOU HAVE A CHANCE LATER THAT NIGHT TO TALK TO ANY  
18 LAW ENFORCEMENT OFFICERS?

19 A. YEAH, THEY CAME TO MY HOUSE.

20 Q. OKAY. AND YOU BASICALLY DESCRIBED TO THEM ALL THE  
21 DETAILS THAT YOU'VE TOLD US HERE IN COURT TODAY?

22 A. YES, SIR.

23 MR. SPRATLIN: ALL RIGHT. THANK YOU. THAT'S ALL THE  
24 QUESTIONS I HAVE.

25 MR. HASTIE: NONE.

1 THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN.

2 MR. SPRATLIN: YOUR HONOR, MAY THE WITNESS BE EXCUSED?

3 THE COURT: ANY OBJECTION, MR. HASTIE?

4 MR. HASTIE: NONE, YOUR HONOR.

5 THE COURT: YOU CAN BE EXCUSED, MA'AM. THANK YOU.

6 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD NEXT CALL  
7 DETECTIVE IRENE CULICK TO THE STAND.

8 IRENE CULICK, AFTER BEING DULY SWORN, TESTIFIED AS  
9 FOLLOWS:

10 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST  
11 NAME, PLEASE.

12 THE WITNESS: IT'S IRENE CULICK, C-U-L-I-C-K.

13 DIRECT EXAMINATION

14 BY MR. SPRATLIN:

15 Q. MS. CULICK, WHERE ARE YOU EMPLOYED?

16 A. I'M EMPLOYED AT THE SUMTER POLICE DEPARTMENT.

17 Q. OKAY. WHAT IS YOUR JOB THERE?

18 A. I'M A SENIOR DETECTIVE OVER THE VIOLENT CRIMES DIVISION.

19 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE SUMTER CITY  
20 POLICE DEPARTMENT?

21 A. ELEVEN YEARS.

22 Q. OKAY. IN ALL THAT TIME HAVE YOU BEEN A DETECTIVE?

23 A. NO. I STARTED OUT IN EVIDENCE AND WORKED THAT FOR A  
24 COUPLE OF YEARS, AND THEN I WORKED ON THE ROAD AS A PATROL  
25 OFFICER FOR A COUPLE OF YEARS, AND THE LAST SEVEN YEARS I'VE

1 BEEN ASSIGNED TO THE DETECTIVE DIVISION.

2 Q. HOW MANY CASES WOULD YOU SAY YOU'VE INVESTIGATED OVER  
3 THOSE SEVEN YEARS?

4 A. THOUSANDS.

5 Q. OKAY. WERE YOU ON DUTY BACK IN JUNE 7TH OF 2007?

6 A. YES, SIR, I WAS.

7 Q. WHAT WERE YOU DOING ON THAT DAY?

8 A. I WAS AT THE STATION WORKING WHEN AN ARMED ROBBERY CALL  
9 CAME OUT.

10 Q. OKAY. DO YOU REMEMBER WHERE THAT ARMED ROBBERY CALL  
11 CAME FROM?

12 A. YES. DISPATCH CALLED OUT AN ARMED ROBBERY AND STATED  
13 THERE WAS ONE AT 25 DUGAN STREET WHICH IS THE BUSINESS TOTAL  
14 LIVING.

15 Q. OKAY. AND DO YOU KNOW WHAT COUNTY THAT BUILDING IS IN?

16 A. IT'S IN SUMTER COUNTY. IT'S BEHIND THE SUMTER KUT-RATE  
17 DRUGSTORE ON MAIN STREET.

18 Q. OKAY. AND FROM YOUR INVESTIGATION, WHEN YOU ARRIVED AT  
19 THE SCENE WHAT DID YOU DO?

20 A. WHEN I ARRIVED AT THE SCENE, PATROL OFFICERS WERE THERE  
21 ALREADY. USUALLY THEY'RE THE FIRST TO ARRIVE ON THE SCENE,  
22 AND THEY WERE CALLING OUT A CANINE TO TRY TO TRACK THE TRACE  
23 WHERE THE SUSPECT RAN. AT THAT POINT MR. HUFF, WHO WAS  
24 VICTIM IN THIS CASE, WAS OUTSIDE OF THE BUSINESS. WE ALWAYS  
25 BRING THE VICTIMS OUTSIDE SO WE CAN KEEP THE AREA SECURE FOR

1 PROCESSING AFTER THE DOG GETS THROUGH BECAUSE THEY NEED A  
2 SCENT AND THEY DON'T NEED OUR OFFICERS' SCENTS OR THE  
3 VICTIMS' SCENTS TO TRY TO PICK UP ON. AT THAT TIME I  
4 INTERVIEWED MR. HUFF IN REFERENCE TO WHAT HAPPENED IN THE  
5 BUSINESS TO TRY TO GAIN FURTHER INFORMATION TO HELP US  
6 DEVELOP A SUSPECT.

7 Q. OKAY. AND WHEN YOU WERE TALKING WITH MR. HUFF, WHAT WAS  
8 HIS DEMEANOR THAT DAY? HOW DID HE APPEAR TO YOU?

9 A. HE WAS SHAKEN UP. HE HAD REPORTED TO ME THAT HE HAD  
10 JUST BEEN ROBBED AT GUNPOINT, AND NOTHING LIKE THAT HAD EVER  
11 HAPPENED TO HIM BEFORE---

12 Q. OKAY.

13 A. ---AND HE WAS SHAKEN UP.

14 Q. WAS MR. HUFF ABLE TO PROVIDE YOU WITH ANY KIND OF  
15 INFORMATION ABOUT THE IDENTITY OF THE MAN THAT ROBBED HIM?

16 A. YES. I ASKED HIM ABOUT THE IDENTITY AND WHAT ACTUALLY  
17 HAPPENED, AND HE WAS ABLE TO TELL ME THAT HE WAS IN THE STORE  
18 WITH SOME OTHER CUSTOMERS AND THAT WHEN HE CLOSED THE DOOR  
19 AFTER ONE CUSTOMER LEFT, THE SUSPECT WAS STILL IN THE STORE  
20 AT THE TIME. HE LOCKED THE DOOR OR HE HAD CLOSED THE DOOR  
21 BACK, AND WHEN HE TURNED AROUND, THE SUSPECT HAD A GUN IN HIS  
22 FACE. HE DESCRIBED THE GUN AS A BLACK GUN. HE SAID IT WAS A  
23 TWO-SHOT DERRINGER. HE SAID THAT IT WAS THE TYPE THAT HAD  
24 ONE BARREL ON TOP AND UNDERNEATH WHICH IS UNUSUAL. WE DON'T  
25 GET A LOT LIKE THAT.

1 Q. OKAY.

2 A. I THEN ASKED HIM WHAT HAPPENED NEXT. HE STATED THAT THE  
3 PERSON TOLD HIM NOT TO MAKE ANY FUNNY MOVES, THAT HE WOULD  
4 SHOOT HIM, THAT HE WAS JUST THERE FOR THE CASH. HE DIDN'T  
5 WANT ANY CHECKS, ANY CREDIT CARDS. HE STATED THAT THE  
6 SUSPECT WENT THROUGH NOT ONLY THE CASH REGISTER BUT HIS  
7 WALLET AND/OR POCKETS, TOOK MONEY OUT OF HIS POCKETS AND OUT  
8 OF THE CASH REGISTER.

9 WE TALKED TO HIM ABOUT WHAT THE SUBJECT TOUCHED INSIDE  
10 THE STORE SO WE COULD DO PROCESSING FOR FINGERPRINTS, THINGS  
11 LIKE THAT. HE INDICATED THAT THE SUSPECT TOLD HIM AFTER HE  
12 GOT THE MONEY TO GIVE HIM A PAPER TOWEL AND THAT HE ACTUALLY  
13 WIPE DOWN THINGS TO PREVENT US FROM GETTING FINGERPRINTS.

14 Q. WERE YOU ABLE TO GET ANY FINGERPRINTS FROM THE STORE, TO  
15 YOUR KNOWLEDGE?

16 A. LIEUTENANT NESBITT PROCESSED THE STORE AND, NO, NOT TO  
17 MY KNOWLEDGE.

18 Q. ALL RIGHT. NOW, AT SOME POINT DURING YOUR  
19 INVESTIGATION, WERE YOU ABLE TO CENTER IN ON A SUSPECT?

20 A. YEAH. HE CONTINUED TO TELL ME THINGS THAT HAPPENED IN  
21 THE STORE. HE STATED THAT THE SUSPECT LEFT OUT WITH THE  
22 MONEY, THE GUN, WIPING DOWN THE DOOR AFTERWARDS. HE STATED  
23 THAT HE TOLD THE SUSPECT THAT HE WOULD PRAY FOR HIM AND THAT  
24 THE SUSPECT TOLD HIM, "YES, PRAY FOR ME BECAUSE I'M GOING  
25 STRAIGHT TO HELL." HE TOLD ME THAT HE BELIEVED THE SUSPECT

1 WOULD SHOOT HIM; THAT'S WHY HE COMPLIED.

2 HE STATED THAT THE SUSPECT WAS SHORTER THAN HIM,  
3 APPROXIMATELY 5'10". HE STATED HE WAS IN HIS LATE TWENTIES,  
4 EARLY THIRTIES. HE STATED THAT HE HAD A MUSCULAR BUILD. HE  
5 STATED THE SUSPECT WAS WEARING A WHITE TANK TOP AND BLACK  
6 PANTS, AND HE REMEMBERED A WHITE STRIPE DOWN THE SIDE. I  
7 ASKED HIM ABOUT ANY TYPE OF HAIR OR EARRINGS, TATTOOS, ANY  
8 OTHER IDENTIFIABLE MARKS. HE STATED THE SUSPECT DID HAVE A  
9 TATTOO ON HIS LEFT ARM. HE STATED IT WAS A CIRCLE WITH  
10 POINTS COMING OUT FROM IT, POSSIBLY THE SUN. HE ALSO STATED  
11 THAT HE REMEMBERED SEEING AN EARRING IN THE EAR AND THAT THE  
12 DEFENDANT HELD THE GUN IN HIS LEFT HAND.

13 Q. OKAY.

14 A. THAT'S WHAT HE TOLD ME. HE THEN STATED THAT HE HAS SEEN  
15 THE SUSPECT BEFORE. I ASKED IF HIS FACE WAS COVERED IN ANY  
16 KIND OF WAY, AND HE SAID "NO." HE STATED THAT HE HAD SEEN  
17 THE SUSPECT BEFORE, DID NOT KNOW HIS NAME, BUT THAT HE HAD  
18 SEEN THE SUSPECT WITH THE GIRL THAT WORKS NEXT DOOR.

19 Q. OKAY. NOW, GIVEN ALL THE INFORMATION YOU RECEIVED FROM  
20 MR. HUFF, WHAT DID YOU DO NEXT?

21 A. THEN I STARTED WORKING ON WHO WORKS -- WHO'S EMPLOYED  
22 NEXT DOOR AT THE WATEREE AIDS TASK FORCE AND TRIED TO FIND  
23 THE PERSON THAT HE HAD SEEN THE DEFENDANT IN THE STORE WITH  
24 THAT DAY, THAT HE HAD SEEN, YOU KNOW, THE DEFENDANT IN THE  
25 STORE WITH A FEMALE THAT WORKS NEXT DOOR, AND SO WE WERE ABLE

1 TO FIND OUT THAT MS. LATRELL BILLIE THAT JUST TESTIFIED  
2 BEFORE ME DID WORK NEXT DOOR, AND WE WENT TO SEE HER.

3 Q. OKAY. AND WHEN YOU WENT TO SEE MS. BILLIE, WHAT DID SHE  
4 HAVE TO TELL YOU?

5 A. WELL, WHEN I WENT TO SEE MS. BILLIE, I WASN'T SURE IF  
6 SHE WAS INVOLVED IN THIS IN ANY KIND OF WAY. HE SAID THAT HE  
7 HAD SEEN THEM BEFORE TOGETHER. HE HAD SEEN THE DEFENDANT  
8 VISITING HER NEXT DOOR BECAUSE A LOT OF TIMES HE WOULD SIT  
9 OUTSIDE THE STORE. HE TOLD ME THAT -- SO JUST IN MY MIND I  
10 DIDN'T KNOW IF MAYBE SHE WAS INVOLVED IN ANY KIND OF WAY  
11 BECAUSE THEY WERE IN THE STORE BEFORE THIS ROBBERY HAPPENED.

12 SO WHEN I WENT OUT THERE TO TALK TO HER, I JUST  
13 BASICALLY ASKED HER WHERE SHE WORKED, WHERE SHE WAS THAT DAY,  
14 WHO WAS SHE WITH, THINGS LIKE THAT, AND JUST AFTER TALKING TO  
15 HER I DID NOT FEEL LIKE SHE WAS INVOLVED AT ALL. SHE WAS  
16 VERY FORTHCOMING, STATED SHE DID GO INTO TOTAL LIVING THAT  
17 DAY, THAT AFTERNOON, WHEN SHE GOT OFF. SHE STATED THERE WAS  
18 AN ANDRE MASSEY THERE THAT SHE KNEW AND SHE SPOKE WITH HIM,  
19 AND HE EXITED THE STORE. SHE TALKED TO HIM.

20 I ASKED WHAT HE WAS WEARING. SHE TOLD ME HE WAS WEARING  
21 A WHITE TANK TOP AND BLACK SKI PANTS. I ASKED HER IF HE HAD  
22 ANY TATTOOS OR ANY DISTINGUISHING MARKS, AND SHE STATED HE  
23 DID HAVE TATTOOS, NOT ONLY A TATTOO ON HIS SHOULDER BUT MORE  
24 TATTOOS. SHE STATED HE DID HAVE EARRINGS. SHE STATED THAT  
25 HE -- SHE DIDN'T KNOW HIS ADDRESS, BUT SHE STATED THAT HE HAD



1 FAMILY ACROSS THE STREET AND SHE GAVE ME A CELL PHONE NUMBER  
2 OF HIS.

3 Q. BASED ON THE INFORMATION YOU HAD BEEN ABLE TO GARNER  
4 FROM YOUR INVESTIGATION, WERE YOU -- DID YOU FEEL YOU HAD  
5 ENOUGH EVIDENCE TO MAKE AN ARREST ON MR. ANDRE MASSEY?

6 A. YES, I DID.

7 Q. OKAY. AND HOW DID YOU GO ABOUT LOCATING MR. MASSEY?

8 A. WE WENT BACK AND PULLED UP MR. MASSEY'S D.L.

9 Q. UH-HUH. WHAT'S THAT?

10 A. DRIVER'S LICENSE.

11 Q. OKAY.

12 A. THROUGH THE D.M.V. AND WERE ABLE TO LOCATE AN ADDRESS ON  
13 HIM AND WE WENT TO THAT ADDRESS TO SEE IF HE WAS THERE.

14 Q. OKAY. DO YOU REMEMBER WHAT ADDRESS THAT WAS?

15 A. YES, SIR. IT WAS 107 SALEM STREET, APARTMENT NUMBER 2.

16 Q. OKAY. NOW, WHEN YOU WENT TO THAT APARTMENT, WAS THE  
17 DEFENDANT THERE?

18 A. YES, HE WAS.

19 Q. OKAY. AND WERE YOU ABLE TO TAKE HIM INTO CUSTODY?

20 A. HE WAS TAKEN INTO CUSTODY.

21 Q. OKAY. WHAT HAPPENED WHEN THE DEFENDANT WAS TAKEN INTO  
22 CUSTODY? WHAT DID YOU DO THEN?

23 A. WHEN HE WAS TAKEN INTO CUSTODY, IT WAS BY ANOTHER  
24 DETECTIVE. AT THAT POINT HE WAS BROUGHT DOWN TO THE POLICE  
25 DEPARTMENT WHERE MYSELF AND DETECTIVE RIDGEWAY INTERVIEWED

1 HIM.

2 Q. OKAY.

3 A. AND WHILE WE WERE DOING THAT, OFFICERS WERE STILL AT HIS  
4 HOUSE. WE HAD ASKED FOR CONSENT, IF HE WOULD CONSENT TO LET  
5 US SEARCH THE RESIDENCE. AT THE TIME THAT HE WAS PLACED  
6 UNDER ARREST---

7 Q. DETECTIVE CULICK, AT THIS POINT WE -- WE'LL TALK ABOUT  
8 THAT WITH AN OFFICER LATER ON IN REGARDS TO THE WARRANT.

9 NOW, WHEN MR. MASSEY WAS TAKEN INTO CUSTODY, WHAT DID YOU DO?

10 A. WHEN HE WAS TAKEN INTO CUSTODY, HE WAS WEARING A WHITE  
11 TANK TOP, THE SAME THAT WAS DESCRIBED BY MR. HUFF AND ALSO  
12 MS. BILLIE. HE WAS BROUGHT TO THE POLICE DEPARTMENT AT THAT  
13 TIME, AND MYSELF AND DETECTIVE RIDGEWAY, WE READ HIM HIS  
14 RIGHTS AND EXPLAINED TO HIM WE WANTED TO TALK TO HIM ABOUT AN  
15 ARMED ROBBERY THAT HAD OCCURRED THAT AFTERNOON.

16 Q. ALL RIGHT. BACK IT UP FOR A SECOND. DID YOU HAPPEN TO  
17 NOTICE -- YOU SAID THAT HE WAS WEARING A WHITE TANK TOP?

18 A. YES.

19 Q. WERE HIS ARMS BARE?

20 A. YES, THEY WERE.

21 Q. DID YOU HAPPEN TO NOTICE ANY TATTOOS ON THE DEFENDANT?

22 A. YES, I DID.

23 Q. WHAT TATTOO DID YOU NOTICE---

24 A. HE HAD---

25 Q. ---IN PARTICULAR?

1 A. ---A TATTOO ON HIS LEFT UPPER SHOULDER, AND IT'S CIRCLES  
2 WITH POINTS COMING OUT, LIKE THE VICTIM DESCRIBED. IT WASN'T  
3 A SUN THOUGH; IT WAS ACTUALLY A SPIDER WEB.

4 Q. OKAY.

5 A. HE ALSO HAD SOME OTHER TATTOOS VISIBLE ON HIS ARM AND  
6 EARRINGS.

7 Q. OKAY. NOW, SO YOU SAID THAT YOU TOOK HIM BACK TO THE  
8 POLICE STATION.

9 A. YES.

10 Q. BEFORE WE GET INTO QUESTIONING, LET ME JUST MAKE SURE  
11 WE'RE TALKING ABOUT THE SAME PERSON. DO YOU SEE THE  
12 INDIVIDUAL THAT YOU KNOW AS ANDRE MASSEY HERE IN THE  
13 COURTROOM TODAY?

14 A. YES.

15 Q. WOULD YOU PLEASE POINT HIM OUT AND THE ARTICLE OF  
16 CLOTHING THAT HE IS WEARING?

17 A. YES. IT'S THE DEFENDANT SITTING AT THE TABLE WITH THE  
18 WHITE SHIRT, TIE, AND KHAKI PANTS.

19 Q. OKAY. PLEASE LET THE RECORD REFLECT THAT THE WITNESS  
20 HAS IDENTIFIED THE DEFENDANT IN THIS CASE. NOW, DETECTIVE  
21 CULICK, YOU STATED THAT YOU WENT OVER HIS RIGHTS WITH HIM  
22 PRIOR TO AN INTERVIEW. WHY IS THAT NECESSARY?

23 A. WE GO OVER -- EVERY TIME WE INTERVIEW SOMEBODY THAT'S IN  
24 CUSTODY OR WE FEEL IS CHARGED OR INVOLVED IN A CRIME, WE READ  
25 THEM THEIR RIGHTS.

1 Q. OKAY.

2 A. AND IN THIS CASE WE WEREN'T OUT ON THE STREET; WE WERE  
3 ACTUALLY IN THE OFFICE. SO I DIDN'T JUST VERBALLY... I  
4 ACTUALLY HAVE IT ON PAPER WHERE I READ HIM HIS RIGHTS AND HE  
5 SIGNED ACKNOWLEDGING THAT HE UNDERSTOOD HIS RIGHTS.

6 Q. OKAY.

7 A. COMMONLY KNOWN AS MIRANDA RIGHTS.

8 Q. LET ME SHOW YOU WHAT'S BEEN ALREADY BEEN MARKED AS  
9 STATE'S EXHIBIT -- OR STATE'S EXHIBIT NUMBER 1 FOR PURPOSES  
10 OF IDENTIFICATION AT THIS POINT. DO YOU RECOGNIZE THAT  
11 DOCUMENT I JUST HANDED YOU?

12 A. YES, I DO.

13 Q. WHAT IS THAT DOCUMENT?

14 A. THIS IS OUR INTERVIEW FORM THAT WE USE AT THE POLICE  
15 DEPARTMENT THAT HAS HIS RIGHTS OR THE DEFENDANT'S RIGHTS ON  
16 THEM.

17 Q. OKAY.

18 A. THAT WE...

19 Q. HOW WAS THAT FORM USED IN THE INTERVIEW PROCESS?

20 A. BEFORE WE INTERVIEW ANYONE, WE GO OVER THEIR RIGHTS WITH  
21 THEM. I ALWAYS READ THEM JUST TO MAKE SURE. SOME PEOPLE ARE  
22 EMBARRASSED TO TELL ME IF THEY CAN'T READ, AND SO I READ THEM  
23 TO THEM AND MAKE SURE THAT THEY UNDERSTAND THEIR RIGHTS AND  
24 ASK THEM IF THEY WOULD LIKE TO TALK TO ME.

25 Q. OKAY. NOW, WOULD YOU PLEASE READ THAT FORM FOR THE JURY

1 JUST SO THEY KNOW EXACTLY WHAT THE DEFENDANT WAS ADVISED THAT  
2 HE HAD THE RIGHTS OF?

3 A. YES. I ADVISED HIM THIS WAS THE SUMTER POLICE  
4 DEPARTMENT INTERVIEW FORM, AND BEFORE WE ASK YOU ANY  
5 QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE  
6 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST  
7 YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR  
8 ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM OR HER  
9 WITH YOU AT ANY TIME DURING THE QUESTIONING. IF YOU CANNOT  
10 AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY  
11 QUESTIONING IF YOU WISH. IF YOU DECIDE TO ANSWER ANY  
12 QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE  
13 THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK WITH A  
14 LAWYER.

15 AND THEN IT STATES, "WAIVER OF RIGHTS. BEFORE ANY  
16 QUESTIONING, I WAS FURNISHED THE ABOVE STATEMENTS OF MY  
17 RIGHTS AT," AND AT THAT TIME IT WAS 11:36 P.M., AND THIS WAS  
18 ON JUNE THE 7TH, 2007, AT THE SUMTER POLICE DEPARTMENT BY  
19 DETECTIVE CULICK OF THE SUMTER POLICE DEPARTMENT. AND THEN I  
20 READ TO HIM THAT: I HAVE READ OR HAD READ TO ME THIS  
21 STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE.  
22 I'M WILLING TO ANSWER QUESTIONS AT THIS TIME WITHOUT A LAWYER  
23 PRESENT. NO PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO  
24 PRESSURE HAS BEEN USED AGAINST ME.

25 Q. AND DID THE DEFENDANT ACKNOWLEDGE THAT HE UNDERSTOOD

1 THOSE RIGHTS IN ANY WAY?

2 A. YES, HE DID.

3 Q. HOW DID HE DO THAT?

4 A. HE WANTED TO TALK, AND HE ACKNOWLEDGED BY SIGNING.

5 Q. OKAY. WHO ELSE SIGNED THAT FORM?

6 A. I ALSO SIGNED IT AND DETECTIVE RICHBURG SIGNED IT.

7 Q. OKAY. NOW, YOU MENTIONED EARLIER DETECTIVE RIDGEWAY.

8 A. DID I? I'M SORRY. RICHBURG.

9 Q. OKAY.

10 A. WE ALSO HAVE A DETECTIVE RIDGEWAY. THAT'S MY PARTNER

11 NOW.

12 Q. JUST TO CLARIFY, WHO WAS THE DETECTIVE IN THE ROOM WITH  
13 YOU DURING ALL THIS?

14 A. DETECTIVE RICHBURG. SORRY.

15 Q. AND WAS---

16 A. HE'S HERE.

17 Q. ---DETECTIVE RICHBURG IN THE ROOM WHEN THE RIGHTS WERE  
18 READ TO THE DEFENDANT?

19 A. YES, HE WAS AND HE SIGNED.

20 MR. SPRATLIN: OKAY. ALL RIGHT. YOUR HONOR, AT THIS  
21 TIME I WOULD TENDER WHAT'S ALREADY BEEN MARKED AS STATE'S  
22 EXHIBIT NUMBER 1 FOR IDENTIFICATION PURPOSES INTO EVIDENCE AS  
23 STATE'S NUMBER 1.

24 THE COURT: MR. HASTIE? SAME OBJECTION PREVIOUSLY?

25 MR. HASTIE: YES, YOUR HONOR.

1 THE COURT: ALL RIGHT. THAT'S IN EVIDENCE AS EXHIBIT 1.

2 MR. SPRATLIN: THANK YOU, YOUR HONOR.

3 (STATE'S EXHIBIT 1 WAS RECEIVED IN EVIDENCE.)

4 BY MR. SPRATLIN:

5 Q. NOW, AFTER BEING ADVISED OF HIS RIGHTS, DID THE  
6 DEFENDANT -- DID HE IN ANY WAY ASSERT ANY OF THOSE RIGHTS?

7 A. NO, HE DIDN'T.

8 Q. DID HE ASK FOR A LAWYER?

9 A. NO, HE DIDN'T.

10 Q. DID HE INVOKE HIS RIGHT TO REMAIN SILENT?

11 A. NO, HE DIDN'T.

12 Q. DID HE SIMPLY NOT SPEAK TO YOU?

13 A. NO, HE TALKED.

14 Q. DID HE IN ANY WAY INDICATE TO YOU THAT HE DID NOT WISH  
15 TO TALK TO YOU OR DETECTIVE RICHBURG?

16 A. NO, HE DIDN'T.

17 Q. OKAY. NOW, WHEN YOU BEGAN TALKING TO THE DEFENDANT,  
18 WHAT SORT OF QUESTIONS WERE YOU ASKING HIM?

19 A. IN THE BEGINNING WE WERE JUST ASKING HIS NAME, HIS  
20 ADDRESS, WHAT HE DID THAT DAY, BASICALLY A TIMELINE, WHAT HE  
21 WAS DOING, WHERE WAS HE, QUESTIONS LIKE THAT.

22 Q. OKAY. AND AT SOME POINT DID THE DEFENDANT STATE THAT HE  
23 WISHED TO GIVE YOU A STATEMENT?

24 A. YES.

25 Q. OKAY. AND WHAT -- LET ME SHOW YOU -- OKAY. LET ME SHOW

1 YOU WHAT'S ALREADY BEEN MARKED AS STATE'S EXHIBIT NUMBER 2  
2 FOR THE PURPOSES OF IDENTIFICATION. DETECTIVE CULICK, DO YOU  
3 RECOGNIZE THAT DOCUMENT I JUST HANDED YOU?

4 A. YES, I DO.

5 Q. WHAT IS THAT DOCUMENT?

6 A. THIS IS A STATEMENT FORM THAT WE DID WITH MR. ANDRE  
7 MASSEY AFTER WE TALKED WITH HIM. HE TOLD US WHAT HAPPENED  
8 THAT DAY. HE TOLD US WHAT HE KNEW, AND I ASKED HIM IF HE  
9 WOULD PUT HIS VERBAL STATEMENT EITHER IN WRITING OR HAVE US  
10 TYPE IT FOR HIM OR RECORD IT, AND HE STATED THAT WE COULD  
11 TYPE AS HE TALKED AND TOLD US HIS STATEMENT AS TO THE EVENTS  
12 THAT HAPPENED THAT DAY.

13 Q. OKAY. AND SO WHO WAS DOING THE TYPING ON THAT  
14 STATEMENT?

15 A. I WAS.

16 Q. OKAY. AND WERE YOU SIMPLY TYPING WHAT THE DEFENDANT WAS  
17 SAYING?

18 A. YES.

19 Q. OKAY.

20 A. AS HE TALKED, I TYPED.

21 Q. AND IS THAT DOCUMENT IN YOUR HAND -- IS THAT THE  
22 ORIGINAL STATEMENT GIVEN BY THE DEFENDANT?

23 A. YES, IT IS.

24 Q. OKAY. IS IT SIGNED BY HIM?

25 A. YES, IT IS.



1 Q. IS IT SIGNED BY ANYONE ELSE?

2 A. YES. IT'S SIGNED BY DETECTIVE RICHBURG.

3 MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME I WOULD  
4 TENDER WHAT'S ALREADY BEEN MARKED STATE'S EXHIBIT NUMBER 2  
5 INTO EVIDENCE.

6 THE COURT: ANY OBJECTIONS OTHER THAN THE PREVIOUSLY-  
7 NOTED OBJECTIONS?

8 MR. HASTIE: NONE, YOUR HONOR.

9 THE COURT: ALL RIGHT. THAT'S IN AS NUMBER 1, EXCUSE  
10 ME, NUMBER 2. I APOLOGIZE.

11 (STATE'S EXHIBIT 2 WAS RECEIVED IN EVIDENCE.)

12 MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I WOULD ASK  
13 THAT DETECTIVE CULICK BE ALLOWED TO READ THAT STATEMENT ALOUD  
14 TO THE JURY.

15 THE COURT: ALL RIGHT.

16 THE WITNESS: OKAY. IT SAYS---

17 THE COURT: THIS WILL BE -- THE OBJECTION WILL CONTINUE  
18 THROUGHOUT.

19 THE WITNESS: OKAY. IT SAYS, "SUSPECT STATEMENT. I,  
20 ANDRE M. MASSEY, OF 107 NORTH SALEM AVENUE, APARTMENT NUMBER  
21 2, SUMTER, SOUTH CAROLINA, HAVE BEEN ADVISED OF MY  
22 CONSTITUTIONAL RIGHTS AND, HAVING SIGNED A WAIVER OF THOSE  
23 RIGHTS, DO HEREBY GIVE THE FOLLOWING STATEMENT FREELY AND  
24 VOLUNTARILY, WITHOUT FEAR OR THREAT OR PROMISE OF REWARD TO  
25 DETECTIVE CULICK WHO HAS IDENTIFIED HERSELF AS A POLICE

1 OFFICER OF THE SUMTER POLICE DEPARTMENT." IT HAS HIS NAME,  
2 ANDRE M. MASSEY, ADDRESS [REDACTED] --

3 THE COURT: NO NEED TO PUBLISH THE SOCIAL SECURITY  
4 NUMBER.

5 THE WITNESS: NUMBER TWO -- OKAY. DATE OF BIRTH WAS  
6 [REDACTED] 5 AND THE PHONE NUMBER.

7 BY MR. SPRATLIN:

8 Q. OKAY.

9 A. IT STATES, "THIS AFTERNOON AROUND 2 P.M. BUT BEFORE 4  
10 P.M. CATS WAS TALKING, THE OLD DUDE AND THE OTHER DUDE. THE  
11 OLD DUDE IS THE ONE THAT WORKS AT THE STORE, THE ONE THAT WAS  
12 ROBBED. THE OTHER DUDE THEY CALL T-DOG, BUT HIS REAL NAME IS  
13 TYRONE. I CALL HIM T-Y OR TY. THEY WERE TALKING, STANDING  
14 OUTSIDE THE STORE LIKE THEY WAS LOOKING AT WATERMELONS. HE  
15 HAD A SHOPPING CART WHERE THE WATERMELONS WERE AT. THE OLD  
16 DUDE WAS TELLING TY THAT TOMORROW IS HIS LAST DAY AND THAT  
17 SOMEBODY OR WHOEVER RUNS THE STORE IS GOING TO TURN IT INTO A  
18 WAREHOUSE OR A WHOLE STORE.

19 "SO TY ASKED HIM WHAT WAS UP WITH WHAT THEY TALKED  
20 ABOUT, AND THE OLD MAN SAID SOMETHING REAL LOW, BUT I DON'T  
21 KNOW WHAT HE SAID. TY STARTED LAUGHING AND SAID, 'OKAY.' SO  
22 AFTER THAT TY TOLD HIM, 'I'LL SEE YOU LATER.' SO THEN AFTER  
23 THAT, THAT IS WHEN I WENT NEXT DOOR AND HOLLERED AT MY LITTLE  
24 FRIEND. I LEFT AND TOLD HER I WOULD BE RIGHT BACK. I WENT  
25 TO THE BARBERSHOP, CAUGHT UP WITH TY, AND I ASKED HIM WHAT

1 WAS GOING ON. HE WAS LIKE, 'WHAT YOU MEAN?' I SAID,  
2 'BETWEEN YOU AND THE OLD MAN.' HE WAS LIKE, 'NOTHING. ME  
3 AND THE OLD MAN GOT SOME BUSINESS TO HANDLE.' SO I ASKED  
4 WHAT ABOUT, AND HE TOLD ME THAT HIM AND THE OLD MAN WAS  
5 PULLING A SCAM. THEN HE SAID IT WAS REAL EASY AND IT WAS  
6 GOOD MONEY IN IT. HE SAID THE OLD MAN DID IT BEFORE BECAUSE  
7 THE OLD MAN HAD GOT A LADY OR SOMETHING TO ROB HIM, TO TAKE  
8 SOME SHOES. THEN HE SAID THAT WHAT HE WAS DOING WAS  
9 SOMETHING LIKE THAT, BUT IT WAS MORE MONEY INVOLVED,  
10 ESPECIALLY WHEN THE OLD MAN GOT PAID. I TOLD HIM HE WAS  
11 CRAZY, AND I WENT HOME. WELL, WE SAT THERE AND CHITCHATTED  
12 ABOUT BULL SHIT.

13 "I LEFT AND WENT HOME. I FORGOT. I WENT BACK TO SEE MY  
14 FRIEND, AND THAT IS WHEN WE WENT INTO THE STORE. WE WENT  
15 THERE ABOUT 4:45 P.M. I STARTED TRIPPING ABOUT A \$450  
16 PICTURE, AND HE SAID IT WAS HANDMADE FROM AFRICA AND THAT'S  
17 WHY IT COST SO MUCH. WE LEFT AND I WENT HOME AROUND 5:15  
18 P.M. SHE DROPPED ME OFF ON THE CORNER OF WASHINGTON AND  
19 HAMPTON. SHE DRIVES RED CAR, A LITTLE BURGUNDY. I WALKED  
20 HOME AND SEEN JERMAINE ROBINSON ON THE WAY. WE WALKED AND  
21 TALKED AND BULL SHIT. I ASKED HIM WHERE HE WAS GOING, AND HE  
22 SAID, 'TO THE BARBERSHOP.' HE ASKED ME WHAT BARBERS WAS UP  
23 THERE AND I TOLD HIM. HE ASKED ME IF IT WAS FULL AND I TOLD  
24 HIM, 'NO. JUST TYRONE AND TWO LITTLE KIDS.'

25 "MY FIANCEE, DIONETTA PRINCE, CAME HOME AROUND 5:30 OR 6

1 P.M. I DID NOT ROB THE MAN AT ALL. I THINK HE IS TRYING TO  
2 USE ME AS AN ESCAPE GOAT. I DO NOT HAVE A GUN. I HAVE ABOUT  
3 \$400 IN MY POCKET. IT IS FROM HER AND MY PAYCHECK COMBINED.  
4 I WORK AT RED BONE ALLEY."

5 Q. THANK YOU, DETECTIVE CULICK. NOW, ONCE THAT STATEMENT  
6 WAS TYPED AND PREPARED AND PRINTED OUT, WAS IT READ TO THE  
7 DEFENDANT JUST LIKE YOU READ IT HERE TODAY?

8 A. YES. I WENT OVER IT WITH HIM TO MAKE SURE THAT THIS WAS  
9 CORRECT, THAT IF HE WANTED TO ADD ANYTHING OR CHANGE ANYTHING  
10 WE COULD DO THAT, AND HE STATED THIS WAS CORRECT, AND HE  
11 SIGNED HIS NAME AND DATED IT TO SHOW THAT IT WAS CORRECT AND  
12 THIS WAS HIS STATEMENT.

13 Q. I THINK WE ALREADY COVERED IT, BUT JUST TO MAKE SURE:  
14 WHO ELSE SIGNED THAT FORM?

15 A. MYSELF AND DETECTIVE RICHBURG.

16 Q. OKAY. NOW, AT ANY TIME DURING THE TIME THAT THE  
17 DEFENDANT WAS GIVING YOU THAT STATEMENT, DID HE ASK FOR A  
18 LAWYER?

19 A. NO.

20 Q. DID HE STATE THAT HE WISHED TO TERMINATE THE INTERVIEW?

21 A. NO.

22 Q. DID HE SIMPLY JUST STOP TALKING?

23 A. NO.

24 Q. DID HE DO ANYTHING THAT INSINUATED TO YOU THAT HE WISHED  
25 TO NOT TALK TO YOU?

1 A. NO.

2 Q. OKAY. AT THE TIME THAT HE GAVE YOU THAT STATEMENT --  
3 BEFORE HE GAVE YOU THAT STATEMENT OR AT ANY TIME DURING THE  
4 STATEMENT, WAS HE PROMISED ANY SORT OF LENIENCY IN EXCHANGE  
5 FOR THAT STATEMENT?

6 A. NO.

7 Q. DID HE -- WAS HE -- DID YOU OR ANYONE IN YOUR PRESENCE  
8 INTIMIDATE OR THREATEN VIOLENCE UPON THE DEFENDANT TO GET HIM  
9 TO PROVIDE THAT STATEMENT?

10 A. NO, SIR.

11 Q. IN YOUR OPINION, DID YOU OR ANYONE IN YOUR PRESENCE PUT  
12 ANY SORT OF DURESS ON THE DEFENDANT TO MAKE HIM PROVIDE THAT  
13 STATEMENT?

14 A. NO, WE DID NOT.

15 Q. OKAY. NOW, ONCE HE GAVE THAT YOU STATEMENT, WHAT DID  
16 YOU DO THEN?

17 A. AFTER HE GAVE ME THE STATEMENT, AT THAT POINT I CALLED  
18 DETECTIVES THAT WERE DOING A SEARCH WARRANT THAT I TALKED  
19 ABOUT EARLIER---

20 Q. UH-HUH.

21 A. ---TO ASK IF THEY HAD FOUND ANYTHING OR LOCATED ANYTHING  
22 THAT COULD HAVE BEEN INVOLVED IN THIS CRIME.

23 Q. AND WHAT, IF ANYTHING, DID THOSE OFFICERS TELL YOU THAT  
24 YOU LATER USED IN YOUR INTERROGATION OR IN THE INTERVIEW?

25 A. I WAS TOLD THAT THEY LOCATED A 22---

1 THE COURT: THE SAME OBJECTION WILL CONTINUE.

2 MR. HASTIE: SAME OBJECTION, YOUR HONOR.

3 THE WITNESS: ---22 DERRINGER PISTOL-TYPE, BLACK. THAT  
4 WAS DESCRIBED BY THE VICTIM. I WAS TOLD THAT SOME BLACK  
5 PANTS WERE FOUND WITH A WHITE STRIPE DOWN THE SIDE, AND I WAS  
6 TOLD THEY ALSO FOUND A BLACK DOO RAG AT THE HOUSE THAT HAD A  
7 KNOT TIED IN IT.

8 BY MR. SPRATLIN:

9 Q. OKAY. NOW, WHY WERE THESE PARTICULAR ITEMS IMPORTANT TO  
10 YOU?

11 A. THESE WERE IMPORTANT BECAUSE THESE ARE THE SAME ITEMS  
12 THAT THE VICTIM HAD DESCRIBED EARLIER THAT THE SUSPECT USED  
13 IN THE ARMED ROBBERY.

14 Q. OKAY. ONCE YOU GOT THAT INFORMATION, WHAT DID YOU DO  
15 THEN?

16 A. AT THAT TIME I TOLD ANDRE MASSEY WHAT THEY FOUND WHEN  
17 THEY DID THE SEARCH WARRANT, WHAT THEY FOUND IN HIS ROOM,  
18 ABOUT THE GUN, ABOUT THE PANTS. I TALKED TO HIM ABOUT THE  
19 INCONSISTENCIES IN HIS STATEMENT. I LET HIM KNOW THAT I KNEW  
20 WHO THE LITTLE FRIEND WAS NEXT DOOR, THAT I KNEW IT WAS MS.  
21 BILLIE AND I HAD ALREADY SPOKE TO HER. SHE HAD CONFIRMED  
22 WHAT HE WAS WEARING. SHE STATED THAT SHE WAS NOT -- SHE DID  
23 NOT DROP HIM OFF ANYWHERE. THAT WAS DIFFERENT THAN WHAT WAS  
24 IN THE STATEMENT.

25 I ALSO LET HIM KNOW THAT THE FRIEND THAT HE SAID HE SAW

1 ON THE WAY HOME, JERMAINE ROBINSON, HAD SPOKE WITH DETECTIVES  
2 ON THE SCENE. HE WAS AT HIS HOUSE WHEN WE WENT THERE TO  
3 ARREST HIM, AND HE SPOKE TO OFFICERS ON THE SCENE AND STATED  
4 THAT HE WAS AT WORK UNTIL 9:30 THAT NIGHT. SO I JUST TALKED  
5 TO HIM ABOUT ALL THESE DIFFERENT INCONSISTENCIES. I SPOKE TO  
6 HIM ABOUT WHAT THE VICTIM SAID TO HIM ABOUT THAT HE WOULD  
7 PRAY FOR HIM AND THAT I JUST REALLY DID NOT FEEL LIKE HE WAS  
8 INVOLVED IN ANY TYPE OF ROBBERY AND THAT WE WOULD BE  
9 FOLLOWING UP TRYING TO FIND THIS TYRONE, T-DOG, TY.

10 WE WOULD GO TO THE BARBERSHOP, AND WE WOULD JUST BE  
11 INVESTIGATING ALL THE THINGS THAT HE SAID BUT THAT IT'S FUNNY  
12 THAT THE VICTIM ONLY SAID ONE PERSON WAS IN HIS STORE. HE  
13 DESCRIBED THAT PERSON. HE MATCHES IT TO A T., AND ALL THESE  
14 ITEMS ARE FOUND IN HIS HOUSE, AND HE HAD 300 AND I BELIEVE  
15 \$88 AND SOME CHANGE IN HIS POCKET AND FROM A CHECK THAT HE  
16 DIDN'T GET PAID THAT DAY. SO USUALLY I DON'T HAVE THAT MUCH  
17 AFTER I'M PAID A WEEK. SO JUST -- WE JUST TALKED ABOUT ALL  
18 THESE INCONSISTENCIES, AND I JUST REALLY DID NOT FEEL LIKE  
19 MR. HUFF WAS INVOLVED WITH ANYBODY ELSE IN A ROBBERY AND HE  
20 STARTED -- THAT'S WHEN HE STARTED TALKING ABOUT MONEY  
21 PROBLEMS AND---

22 Q. OKAY. BEFORE GETTING INTO THE SUBSTANCE OF THAT, IS IT  
23 UNUSUAL IN AN INTERVIEW PROCESS TO DO WHAT YOU DID HERE AFTER  
24 A SUSPECT GIVES A FIRST STATEMENT?

25 A. NO, IT'S NOT UNUSUAL.

1 Q. WHY IS THAT?

2 A. TO BE HONEST, IT'S HARD TO CONFESS THAT YOU'VE ROBBED  
3 SOMEBODY OR YOU'VE DONE A CRIME. IT'S HARD TO TELL THOSE  
4 THINGS. YOU JUST -- YOU DON'T WANT TO. YOU JUST -- YOU JUST  
5 -- FOR A NUMBER OF DIFFERENT REASONS BUT WE SEE IT A LOT.  
6 RARELY DO WE HAVE PEOPLE WHO COME IN AND SIT DOWN AND SAY,  
7 "YES, I DID IT."

8 Q. WERE YOU CONVINCED BY -- DID YOU BELIEVE THE DEFENDANT'S  
9 FIRST STATEMENT TO YOU?

10 A. NO, I DIDN'T, BUT IF THIS IS THE STATEMENT HE WANTED TO  
11 GIVE, THEN THAT'S THE STATEMENT I WAS GOING TO TAKE AND  
12 THEN---

13 Q. OKAY.

14 A. ---I WOULD FOLLOW UP AFTERWARDS TO PROVE OR DISPROVE.

15 Q. OKAY. AFTER CONFRONTING HIM WITH THE STATEMENTS, THE  
16 INCONSISTENCIES IN HIS STATEMENT AND THE EVIDENCE OBTAINED  
17 DURING THE SEARCH WARRANT AS YOU'VE TESTIFIED TO EARLIER,  
18 WHAT DID THE DEFENDANT DO?

19 A. HE JUST STARTED SAYING THAT HE HAD GONE TO 130 JOB  
20 INTERVIEWS AND THAT HE HAD BEEN TURNED DOWN 130 TIMES. HE  
21 STARTED TALKING TO US ABOUT BEING EVICTED. RENT WAS DUE. HE  
22 WAS BEHIND ON BILLS.

23 Q. DID HE PREPARE ANOTHER STATEMENT?

24 A. YES, HE DID.

25 Q. OKAY. AND HOW WAS THAT STATEMENT TAKEN?



1 A. THE SAME WAY. I TYPED AS HE TALKED TO ME AND WAS  
2 TELLING ME ABOUT ALL THIS.

3 Q. OKAY.

4 THE COURT: BRING IT AROUND HERE FOR A SECOND.

5 (STATE'S EXHIBIT 20 WAS MARKED FOR IDENTIFICATION ONLY.  
6 A BENCH CONFERENCE WAS HELD.)

7 THE COURT: ALL RIGHT. YOU CAN CONTINUE QUESTIONING THE  
8 WITNESS, MR. SPRATLIN.

9 MR. SPRATLIN: THANK YOU, YOUR HONOR. NOW, LET ME SHOW  
10 YOU, DETECTIVE CULICK, WHAT'S BEEN MARKED AS STATE'S EXHIBIT  
11 NUMBER 20 FOR IDENTIFICATION PURPOSES AT THIS TIME.

12 THE COURT: TWENTY?

13 MR. SPRATLIN: YES, YOUR HONOR.

14 THE COURT: OKAY.

15 BY MR. SPRATLIN:

16 Q. WHAT IS THAT DOCUMENT I JUST HANDED YOU?

17 A. THIS IS THE SECOND STATEMENT THAT WAS TAKEN.

18 Q. OKAY. AND, AGAIN, IS THAT THE STATEMENT YOU DESCRIBED  
19 EARLIER, THE SECOND STATEMENT THAT YOU DESCRIBED EARLIER?

20 A. YEAH. THIS IS WHAT I WAS STARTING TO DESCRIBE, YES.

21 Q. OKAY. AND, AGAIN, HOW WAS THAT STATEMENT PREPARED?

22 A. THE SAME WAY THE OTHER ONE WAS. HE TALKED AS I TYPED.

23 Q. AND WAS HE GIVEN A CHANCE TO READ THAT STATEMENT?

24 A. YES, HE WAS.

25 Q. AND WAS IT READ TO HIM?

1 A. HE READ IT. I READ IT TO HIM, MADE SURE THAT THIS WAS  
2 EVERYTHING; THIS WAS THE CORRECT STATEMENT. HE HAD TOLD US  
3 ALL HE DIDN'T WANT TO ADD ANY MORE, AND HE STATED THAT WAS IT  
4 AND SIGNED AND DATED. I ALSO SIGNED AND DETECTIVE RICHBURG  
5 SIGNED.

6 Q. OKAY. AND WAS ALL THAT DONE IN YOUR PRESENCE?

7 A. YES, EVERYTHING WAS IN MY PRESENCE.

8 MR. SPRATLIN: OKAY. AT THIS TIME, YOUR HONOR, I WOULD  
9 TENDER STATE'S EXHIBIT NUMBER 20 FOR I.D. INTO EVIDENCE AS  
10 STATE'S EXHIBIT NUMBER 20.

11 THE COURT: ANY ADDITIONAL OBJECTIONS?

12 MR. HASTIE: NONE, YOUR HONOR.

13 THE COURT: ALL RIGHT. IT'S IN AS NUMBER 20.

14 (STATE'S EXHIBIT 20 WAS RECEIVED IN EVIDENCE.)

15 MR. SPRATLIN: AND, YOUR HONOR, AT THIS TIME I WOULD ASK  
16 THAT DETECTIVE CULICK BE ALLOWED TO READ THAT EXHIBIT AND  
17 PUBLISH IT TO THE JURY IN THAT MANNER.

18 THE COURT: ALL RIGHT.

19 THE WITNESS: IT'S "SUSPECT STATEMENT" AND IT STATES,  
20 "I, ANDRE M. MASSEY, OF 107 NORTH SALEM AVENUE, APARTMENT  
21 NUMBER 2, SUMTER, SOUTH CAROLINA, HAVE BEEN ADVISED OF MY  
22 CONSTITUTIONAL RIGHTS AND, HAVING SIGNED A WAIVER OF THOSE  
23 RIGHTS, DO HEREBY GIVE THE FOLLOWING STATEMENT FREELY AND  
24 VOLUNTARILY WITHOUT FEAR OR THREAT OR PROMISE OF REWARD TO  
25 DETECTIVE CULICK WHO HAS IDENTIFIED HERSELF AS A POLICE

1 OFFICER OF THE SUMTER POLICE DEPARTMENT."

2 AND IT STATES "ANDRE M. MASSEY" AND HIS ADDRESS, [REDACTED]  
3 [REDACTED], [REDACTED] HIS DATE OF BIRTH AND  
4 SOCIAL AND HIS PHONE NUMBER. IT STATES, "I HAVE GONE TO 130  
5 JOB INTERVIEWS AND I HAVE BEEN TURNED DOWN 130 TIMES. I  
6 SWEAR FOR GOD, MAN, I WAS TRYING TO DO GOOD. I FEEL BAD,  
7 MAN. THAT SHIT HURT ME. I DID NOT WANT TO DO THAT MAN LIKE  
8 THAT. REALLY, I WAS SHOCKED AND SURPRISED AT HOW MUCH MONEY  
9 I GOT. I DIDN'T KNOW IT WAS GOING TO BE THAT MUCH. IT WAS  
10 WHATEVER I HAD IN MY POCKETS MINUS ABOUT EIGHT DOLLARS" IS  
11 WHAT HE GOT FROM THE BUSINESS.

12 "THAT'S THE ONLY REASON I DID IT, TO GET MY HEAD ABOVE  
13 WATER AND GET OUT OF THE RED. I TRIED EVERYTHING I COULD,  
14 EVERY AVENUE THAT I KNEW POSSIBLE. I WENT TO TEMP SERVICES  
15 AND ALL. I FELT BAD BECAUSE THE MAN SAID HE WAS GOING TO  
16 PRAY FOR ME, AND I WAS WALKING HOME WITH MY HANDS IN MY  
17 POCKETS IN A DAZE. I WANTED TO TURN AROUND AND GO BACK TO  
18 THE STORE BECAUSE I WANTED TO GIVE HIM THE MONEY BACK BECAUSE  
19 I DIDN'T FEEL RIGHT.

20 "MY GIRL ASKED ME, 'WHAT'S WRONG?' AND I TOLD HER, 'I  
21 JUST DON'T FEEL RIGHT.' I WALKED HOME AND DECIDED I WAS JUST  
22 GOING TO GO HOME AND CHILL, AND THEN TOMORROW I WAS GOING TO  
23 GO HANDLE MY BUSINESS, PAY MY BILLS, PAY SOME HERE, PAY SOME  
24 THERE AND SPREAD IT OUT. THAT WAY PEOPLE WOULD SAY, 'AT  
25 LEAST YOU'RE MAKING AN EFFORT.' THE LIGHTS AND THE WATER

1 WERE ABOUT TO BE CUT OFF. I WAS ABOUT TO BE EVICTED FROM MY  
2 APARTMENT, AND YOU HAVE TO HAVE A PLACE TO LIVE. RENT IS DUE  
3 BY THE 1ST OF THE MONTH, AND THEY GIVE A FIVE-DAY GRACE  
4 PERIOD, AND THEN YOU HAVE TO PAY A \$30 FEE AFTER THE 5TH BUT  
5 BEFORE THE 7TH. ON THE 8TH OF THE MONTH THEY WILL EVICT YOU.

6 "I BORROWED A GUN. IT WAS A TWO-SHOT" - IT SAYS  
7 DILLINGER - "22 CALIBER, TODAY, 6/7/08. I WALKED TO THE  
8 MAN'S BUSINESS, AND WHEN I WENT INSIDE THERE WERE PEOPLE IN  
9 THERE. THERE WERE TWO LADIES AND A LITTLE GIRL IN THE STORE.  
10 IT WAS AFTER 6 P.M. THIS WAS MY SECOND TRIP TO THE STORE. I  
11 WENT THERE EARLIER WITH MY FRIEND, LATRELL BILLIE. I WAITED  
12 INSIDE THE STORE UNTIL THEY LEFT.

13 "AFTER THEY LEFT, I WAITED FOR ABOUT ANOTHER GOOD 10 TO  
14 15 MINUTES. THAT'S WHEN IT WENT DOWN. I PULLED THE GUN OUT  
15 AND TOLD POP TO OPEN THE REGISTER. I TOLD HIM I WAS NOT  
16 GOING TO HURT HIM OR DO NOTHING TO HIM. I TOLD HIM I DID NOT  
17 WANT NO CREDIT CARDS OR CHECKS. I JUST WANTED THE CASH AND I  
18 WOULD BE GONE. HE GAVE ME THE CASH AND TOLD ME THAT HE WOULD  
19 PRAY FOR ME. I TOLD HIM, 'PLEASE DO BECAUSE I'M GOING TO  
20 HELL.'

21 "BEFORE I LEFT THE STORE, I GOT A PAPER TOWEL THAT WAS  
22 SITTING RIGHT THERE AND WIPED DOWN THE LITTLE GLASS CASE IN  
23 FRONT BY THE CASH REGISTER, AND THEN I WALKED TO THE DOOR AND  
24 WIPED IT DOWN. I THREW THE BLACK STOCKING CAP IN THE TRASH  
25 RIGHT BEHIND KUT-RATE RIGHT AFTER I LEFT THE STORE. I WALKED

1 TO LIBERTY STREET BY THE PAINT PLACE AND THE DOUGHNUT SHOP,  
2 WALKED TO WASHINGTON STREET BEHIND THE KANGAROO AND WENT  
3 THROUGH THE WACHOVIA PARKING LOT TOWARDS HOME.

4 "I SAT AT HOME FOR A LITTLE WHILE UNTIL MY GIRL,  
5 DIONETTA PRINCE, GOT HOME, AND THEN I WENT TO THE STORE,  
6 KANGAROO, AND BOUGHT SOME BEER, ABOUT EIGHT DOLLARS, AND BEEN  
7 AT HOME EVER SINCE. AFTER I BOUGHT THE BEER, I WENT HOME AND  
8 CHANGED MY PANTS. I WAS WEARING SOME OLD BLACK SWEATS. I  
9 THREW THE GUN IN A ROOM SOMEWHERE. I AM SORRY FOR WHAT I  
10 DID. I DIDN'T WANT TO ROB HIM."

11 BY MR. SPRATLIN:

12 Q. THANK YOU, DETECTIVE---

13 A. "ANDRE MASSEY."

14 Q. THANK YOU, DETECTIVE CULICK. AND THAT STATEMENT WAS  
15 READ TO HIM JUST LIKE IT WAS READ HERE?

16 A. CORRECT.

17 Q. AND HE DID, IN FACT, SIGN IT.

18 A. RIGHT.

19 Q. THANK YOU.

20 A. AND I HAD ALSO TALKED TO HIM ABOUT THE FACT THAT I  
21 THOUGHT THAT HE WANTED TO GET CAUGHT BECAUSE HE---

22 MR. HASTIE: OBJECTION, YOUR HONOR. SHE HAS NOT BEEN  
23 ASKED A QUESTION. SHE'S---

24 THE COURT: SUSTAINED.

25 BY MR. SPRATLIN:

1 Q. DETECTIVE CULICK, LET ME REAL BRIEFLY ASK YOU A COUPLE  
2 OF QUESTIONS ABOUT THAT STATEMENT. PRIOR TO OR AT ANY TIME  
3 DURING THAT STATEMENT, DID THE DEFENDANT ASK FOR AN ATTORNEY?

4 A. NO.

5 Q. AT ANY POINT PRIOR TO OR DURING THAT STATEMENT, DID THE  
6 DEFENDANT SAY THAT HE DID NOT WISH TO TALK TO YOU?

7 A. NO. HE WAS -- HE WAS -- HE WAS CRYING, UPSET,  
8 REMORSEFUL FOR WHAT HE HAD DONE.

9 Q. AT ANY POINT DID THE DEFENDANT DO ANY ACTION THAT  
10 INDICATED TO YOU THAT HE WISHED TO TERMINATE THE INTERVIEW?

11 A. NO.

12 Q. OKAY. PRIOR TO OR DURING THAT STATEMENT, WAS THE  
13 DEFENDANT PROMISED ANY SORT OF LENIENCY IN EXCHANGE FOR  
14 PROVIDING THAT STATEMENT?

15 A. NO, HE WASN'T.

16 Q. OKAY. PRIOR TO OR DURING THAT INTERVIEW, DID YOU OR  
17 ANYONE IN YOUR PRESENCE DO ANYTHING WHICH WOULD PUT THE  
18 DEFENDANT IN FEAR OF RECEIVING INJURY PRIOR TO -- IN EXCHANGE  
19 FOR THAT STATEMENT?

20 A. NO, WE DIDN'T.

21 Q. DID YOU OR ANYONE IN YOUR PRESENCE DO ANYTHING THAT  
22 WOULD PUT THE DEFENDANT UNDER DURESS?

23 A. NO.

24 Q. OKAY. NOW, LET ME ASK YOU ABOUT THE DEFENDANT'S  
25 DEMEANOR. HOW WAS HE ACTING THAT DAY?

1 A. AT FIRST HE WAS JUST ACTING NORMAL. HE WAS IN THERE  
2 TALKING. HE ANSWERED QUESTIONS WELL, APPROPRIATELY. HE  
3 ASKED QUESTIONS OF US. AND THEN AFTER WE GOT INTO IT, THE  
4 INCONSISTENCIES, WHAT WAS FOUND AT HIS HOUSE, WHAT I WAS  
5 TRYING TO SAY IS I HAD TOLD HIM: YOU WENT IN THE STORE AND  
6 DIDN'T TRY TO COVER YOUR FACE, YOUR TATTOOS. YOU HAD BEEN IN  
7 THERE BEFORE AND WITH THE GIRL THAT WORKS NEXT DOOR. YOU  
8 KNOW, IT SEEMED TO ME LIKE HE ALMOST WANTED TO GET CAUGHT,  
9 AND WE JUST TALKED ABOUT THAT AND HE JUST -- HE GOT UPSET AND  
10 STATED HE HAD JUST HAD A HARD TIME, HAD BILLS AND JUST---

11 Q. OKAY.

12 A. ---JUST DID IT.

13 Q. DID HE APPEAR TO HAVE ANY TROUBLE UNDERSTANDING YOU AT  
14 ALL THAT DAY?

15 A. NO, I DIDN'T.

16 Q. DID HE HAVE ANY TROUBLE UNDERSTANDING YOU?

17 A. NO, HE DIDN'T HAVE ANY TROUBLE UNDERSTANDING ME, AND I  
18 DIDN'T HAVE ANY TROUBLE UNDERSTANDING HIM.

19 Q. OKAY. DID HE APPEAR TO SPEAK ENGLISH PROFICIENTLY?

20 A. OH, YES.

21 Q. OKAY.

22 A. AND HE COULD WRITE -- HE SIGNED HIS NAME. HE SIGNED THE  
23 WAIVER AND THE STATEMENTS LEFT-HANDED.

24 Q. AND I APOLOGIZE, DETECTIVE CULICK. I BELIEVE YOU SAID  
25 YOU'VE BEEN IN LAW ENFORCEMENT FOR 11 YEARS? CORRECT?

1 A. YES.

2 Q. HOW OFTEN WOULD YOU SAY DURING THOSE 11 YEARS YOU'VE HAD  
3 AN OPPORTUNITY TO COME IN CONTACT WITH SOMEONE WHO IS UNDER  
4 THE INFLUENCE OF DRUGS OR ALCOHOL?

5 A. SEVERAL -- NUMEROUS TIMES.

6 Q. DID THE DEFENDANT APPEAR TO YOU TO BE UNDER THE  
7 INFLUENCE OF ANY SORT OF DRUGS OR ALCOHOL AT THE TIME HE  
8 PROVIDED EITHER OF THOSE STATEMENTS?

9 A. NO, HE DIDN'T.

10 Q. OKAY. WAS HE RESPONDING TO THE QUESTIONS THAT WERE  
11 ACTUALLY BEING ASKED?

12 A. YES.

13 Q. WAS HE IN ANY WAY ACTING EITHER TOO EXCITED OR TOO  
14 DEPRESSED?

15 A. NO, HE WAS JUST ACTING NORMAL TO ME.

16 Q. OKAY. DID HE APPEAR---

17 A. HE WASN'T BELLIGERENT, NOT CONFUSED NOT SLURRING.

18 Q. OKAY.

19 A. NOT SLUMPED OVER, NOT TRYING TO FALL ASLEEP, JUST  
20 NORMAL.

21 Q. DETECTIVE CULICK, ALL IN ALL HOW LONG WOULD YOU SAY THE  
22 INTERVIEW OF MR. MASSEY TOOK?

23 A. THE TOTAL PROCESS WAS PROBABLY AROUND FOUR HOURS, AND  
24 THAT WAS FROM THE ARREST AND THE PHOTOGRAPHING. I TOOK  
25 PHOTOS OF HIM, THINGS LIKE THAT.



1 Q. OKAY.

2 A. COLLECTED THE MONEY ON HIM THAT HE STATED CAME FROM THE  
3 BUSINESS. SO ABOUT A TOTAL TIME OF FOUR HOURS.

4 Q. OKAY. AND DURING THAT TIME WAS THE DEFENDANT DENIED  
5 ACCESS TO WATER?

6 A. NO, HE HAD A DRINK, THE REST ROOM THERE.

7 Q. WAS HE DENIED ACCESS TO ANY FOOD, IF HE WANTED IT?

8 A. NO, HE WAS NOT.

9 Q. OKAY. WAS THE DEFENDANT GIVEN THE SLIGHTEST HOPE OF  
10 BENEFIT IN EXCHANGE FOR EITHER ONE OF THE STATEMENTS YOU  
11 DESCRIBED TODAY?

12 A. NO, I HAD NOTHING TO OFFER FOR HIM.

13 Q. WAS HE PUT IN THE REMOTEST FEAR OF INJURY, OF RECEIVING  
14 INJURY?

15 A. NO.

16 Q. OKAY. ALL RIGHT. AND NOW AFTER THE STATEMENTS WERE  
17 DONE, YOU SAID THAT YOU TOOK SOME PHOTOGRAPHS?

18 A. YES, I DID.

19 Q. OKAY. AND WHAT WERE THOSE PHOTOGRAPHS OF?

20 A. I TOOK PHOTOGRAPHS OF MR. MASSEY. I TOOK PHOTOGRAPHS OF  
21 HIS TATTOO THAT WAS DESCRIBED BY MR. HUFF, AN OVERALL  
22 PICTURE. I TOOK A PICTURE TO SHOW HIM HIM WEARING THE WHITE  
23 TANK TOP THAT WAS DESCRIBED, TO SHOW THE EARRING IN HIS  
24 EAR---

25 Q. OKAY.

1 A. ---AND THE MONEY - I THINK I SAID THAT - THAT WAS IN HIS  
2 POCKET.

3 Q. OKAY.

4 THE COURT: LADIES AND GENTLEMEN, IF YOU WANT TO, WHY  
5 DON'T YOU JUST STAND IN PLACE WHERE YOU ARE RIGHT NOW AND  
6 STRETCH? WE'LL BE TAKING A BREAK IN JUST A FEW MINUTES  
7 ANYWAY. YOU DON'T HAVE TO, BUT IF YOU WANT TO, YOU CAN STAND  
8 AND STRETCH RIGHT WHERE YOU ARE.

9 (STATE'S EXHIBITS 21 THROUGH 27 WERE MARKED FOR  
10 IDENTIFICATION ONLY.)

11 THE COURT: ARE THOSE NEWLY-NUMBERED EXHIBITS?

12 MR. SPRATLIN: ALL EXCEPT FOR ONE, YOUR HONOR. ONE WAS  
13 PREVIOUSLY NUMBERED, BUT THE OTHER ONES ARE NEWLY NUMBERED,  
14 AND I BELIEVE THEY'RE NUMBERED EFFECTIVELY STATE'S EXHIBIT 21  
15 THROUGH 27.

16 THE COURT: ALL FOR I.D. AT THIS TIME?

17 MR. SPRATLIN: ALL FOR IDENTIFICATION AT THIS POINT IN  
18 TIME, YOUR HONOR.

19 THE COURT: OKAY.

20 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH THE  
21 WITNESS?

22 THE COURT: YEAH.

23 BY MR. SPRATLIN:

24 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
25 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 5 FOR

1 IDENTIFICATION PURPOSES. DETECTIVE CULICK, WOULD YOU PLEASE  
2 IDENTIFY THAT PHOTOGRAPH?

3 A. YES. THIS IS A PHOTOGRAPH OF ANDRE MASSEY'S LEFT ARM  
4 WHICH SHOWS THE SPIDER WEB ON THE UPPER LEFT SHOULDER AREA.

5 Q. OKAY. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE  
6 WAY MR. MASSEY'S SHOULDER APPEARED ON THE DATE IN JUNE? I  
7 BELIEVE THIS WOULD HAVE ACTUALLY HAPPENED JUNE 8TH SINCE IT  
8 WAS AFTER MIDNIGHT; IS THAT CORRECT?

9 A. CORRECT.

10 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW HIS  
11 SHOULDER APPEARED ON JUNE 8, 2007?

12 A. YES, IT IS.

13 MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I TENDER THIS  
14 INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 5.

15 THE COURT: MR. HASTIE?

16 MR. HASTIE: NO OBJECTION.

17 THE COURT: ALL RIGHT. THAT'S IN WITHOUT OBJECTION.

18 (STATE'S EXHIBIT 5 WAS RECEIVED IN EVIDENCE.)

19 BY MR. SPRATLIN:

20 Q. IF YOU WOULD, JUST SIT IT RIGHT HERE AND THEN I'LL  
21 PRESENT THEM TO THE JURY IN A MINUTE. PLEASE LET THE RECORD  
22 REFLECT I'M SHOWING EXHIBIT 21 FOR I.D. PURPOSES. DETECTIVE  
23 CULICK, WOULD YOU PLEASE IDENTIFY THAT PHOTOGRAPH?

24 A. IT'S JUST ANOTHER PHOTOGRAPH PRETTY MUCH OF THE SAME  
25 THING. IT'S THE LEFT SHOULDER AREA THAT SHOWS THE TATTOO,

1 AND THIS ACTUALLY HAS THE SIDE OF HIS FACE IN IT, AS YOU CAN  
2 SEE THE EARRING ALSO, MR. MASSEY'S FACE.

3 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW MR.  
4 MASSEY APPEARED ON JUNE 8, 2007?

5 A. YES.

6 MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I WOULD TENDER  
7 THAT INTO EVIDENCE AS STATE'S EXHIBIT 21.

8 THE COURT: MR. HASTIE?

9 MR. HASTIE: NO OBJECTION, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 (STATE'S EXHIBIT 21 WAS RECEIVED IN EVIDENCE.)

12 BY MR. SPRATLIN:

13 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING EXHIBIT NUMBER  
14 22 FOR I.D. PURPOSES. WOULD YOU PLEASE DESCRIBE THAT PHOTO,  
15 DETECTIVE CULICK?

16 A. YES. THIS IS A PICTURE OF THE RIGHT SIDE OF MR. ANDRE  
17 MASSEY.

18 Q. OKAY. IS THAT---

19 A. HIS UPPER SHOULDER AREA AND SIDE -- THE RIGHT SIDE OF  
20 HIS FACE.

21 Q. AND IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW  
22 THE DEFENDANT APPEARED ON JUNE 7 -- JUNE 8, 2007?

23 A. YES, IT IS.

24 MR. SPRATLIN: AT THIS TIME I TENDER THAT INTO EVIDENCE,  
25 YOUR HONOR, AS STATE'S EXHIBIT 22.

1 THE COURT: ANY OBJECTION?

2 MR. HASTIE: NO OBJECTION.

3 (STATE'S EXHIBIT 22 WAS RECEIVED IN EVIDENCE.)

4 BY MR. SPRATLIN:

5 Q. LET THE RECORD REFLECT I'M SHOWING STATE'S EXHIBIT 23  
6 FOR IDENTIFICATION PURPOSES. WOULD YOU PLEASE TELL THE COURT  
7 WHAT THAT IS A PHOTOGRAPH OF, DETECTIVE CULICK?

8 A. THAT IS AN OVERALL FULL-BODY PHOTOGRAPH OF MR. ANDRE  
9 MASSEY AS HE APPEARED.

10 Q. IS THAT HOW HE APPEARED ON JUNE 7TH -- JUNE 8TH---

11 A. THE 7TH AND THE 8TH, YES.

12 MR. SPRATLIN: AT THIS TIME I'D TENDER THAT INTO  
13 EVIDENCE, YOUR HONOR, AS STATE'S EXHIBIT 23.

14 THE COURT: ANY OBJECTION?

15 MR. HASTIE: NO OBJECTION, YOUR HONOR.

16 (STATE'S EXHIBIT 23 WAS RECEIVED IN EVIDENCE.)

17 BY MR. SPRATLIN:

18 Q. ABOUT FOUR MORE, DETECTIVE CULICK.

19 A. OKAY.

20 Q. LET THE RECORD REFLECT I'M SHOWING THE WITNESS WHAT'S  
21 BEEN MARKED STATE'S EXHIBIT 24 FOR IDENTIFICATION PURPOSES.  
22 DETECTIVE CULICK, WHAT IS THAT A PHOTOGRAPH OF?

23 A. THIS IS KIND OF LIKE AN I.D. SHOT TO LET OUR EVIDENCE  
24 TECH KNOW WHAT THIS MONEY GOES WITH, WHAT CASE, AND I'VE GOT  
25 THE CASE NUMBER ON THE TOP UP HERE: ARMED ROBBERY, TOTAL

1 LIVING, ANDRE MASSEY, THE DATE OF THE ROBBERY, AND THE MONEY  
2 THAT WAS SEIZED FROM HIS POCKET. IT'S KIND OF A TOP OVERALL  
3 PICTURE.

4 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE MONEY  
5 THAT WAS TAKEN OUT OF THE DEFENDANT'S POCKET ON THAT DATE?

6 A. YES, IT IS.

7 THE COURT: ANY OBJECTION?

8 MR. HASTIE: NONE, YOUR HONOR.

9 (STATE'S EXHIBIT 24 WAS RECEIVED IN EVIDENCE.)

10 BY MR. SPRATLIN:

11 Q. LET THE RECORD REFLECT I'M SHOWING THE WITNESS WHAT HAS  
12 BEEN MARKED STATE'S EXHIBIT 25 FOR I.D. PURPOSES. PLEASE  
13 DESCRIBE THAT PHOTO.

14 A. THIS IS JUST ANOTHER PICTURE -- THE OTHER ONE WAS A  
15 CLOSE-UP. THIS IS JUST ANOTHER PICTURE OF ALL THE MONEY THAT  
16 WAS TAKEN OUT OF HIS POCKETS, HOW IT LOOKED, YOU KNOW, AS WE  
17 TOOK IT OUT.

18 Q. AGAIN, IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE  
19 MONEY AS YOU REMEMBER IT?

20 A. YES.

21 Q. LET ME SHOW YOU -- LET ME GO AHEAD AND JUST SHOW YOU  
22 BOTH STATE'S EXHIBIT 26 AND STATE'S EXHIBIT 27. YOUR HONOR,  
23 I'D MOVE STATE'S EXHIBIT 25 INTO EVIDENCE.

24 THE COURT: ANY OBJECTION TO 25?

25 MR. HASTIE: NONE, YOUR HONOR.

1 (STATE'S EXHIBIT 25 WAS RECEIVED IN EVIDENCE.)

2 BY MR. SPRATLIN:

3 Q. EXHIBIT 26 AND 27, DETECTIVE CULICK, WHAT ARE THOSE  
4 PHOTOGRAPHS OF?

5 A. THEY'RE JUST MORE SHOTS OF THE MONEY.

6 Q. OKAY.

7 A. IT JUST SHOWS THE DENOMINATIONS AND...

8 Q. AND ARE THEY FAIR AND ACCURATE REPRESENTATIONS OF THE  
9 SCENE AS YOU REMEMBER IT?

10 A. YES.

11 MR. SPRATLIN: AT THIS TIME I WOULD TENDER THOSE TWO  
12 EXHIBITS INTO EVIDENCE AS WELL, YOUR HONOR.

13 MR. HASTIE: NO OBJECTION, YOUR HONOR.

14 THE COURT: OKAY.

15 (STATE'S EXHIBITS 26 AND 27 WERE RECEIVED IN EVIDENCE.)

16 BY MR. SPRATLIN:

17 Q. I'LL PUBLISH THOSE IN A SECOND. DETECTIVE CULICK, THE  
18 PICTURES OF THE MONEY, WHERE DID THAT MONEY COME FROM?

19 A. ANDRE MASSEY'S POCKETS.

20 Q. OKAY. AND WHERE DID HE TELL YOU THAT HE GOT THAT MONEY?

21 A. FROM TOTAL LIVING AND MR. HUFF.

22 Q. THAT WAS IN HIS SECOND STATEMENT; CORRECT?

23 A. CORRECT.

24 Q. AND---

25 A. MINUS EIGHT DOLLARS THAT HE SPENT AT THE STORE.

1 Q. AND DO YOU KNOW WHAT HAPPENED TO THAT MONEY?

2 A. YES, IT WAS RETURNED TO THE VICTIM.

3 Q. OKAY.

4 A. THE VICTIMS. EXCUSE ME.

5 Q. SO WE DON'T HAVE IT IN COURT TODAY.

6 A. NO, WE DON'T HAVE THAT. IT WAS RETURNED.

7 Q. BUT WE DO HAVE THE PHOTOGRAPHS.

8 A. CORRECT.

9 MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME AT THIS  
10 TIME I'D ASK TO BE ABLE TO PUBLISH THESE PHOTOGRAPHS TO THE  
11 JURY, AND I HAVE NO FURTHER QUESTIONS OF DETECTIVE CULICK AT  
12 THIS TIME.

13 THE COURT: ALL RIGHT. MR. HASTIE, DO YOU WANT TO  
14 CROSS-EXAMINE WHILE THE PHOTOS ARE BEING PUBLISHED.

15 MR. HASTIE: NO, SIR.

16 THE COURT: ALL RIGHT. WE'LL WAIT FOR JUST A FEW  
17 MOMENTS AND... LET'S DO THIS. MR. FOREMAN, IF YOU WOULD PUT  
18 THE PHOTOS RIGHT BACK UP THERE. WE'LL TAKE A BREAK. THEN  
19 WE'LL COME BACK IN MOMENTARILY. LADIES AND GENTLEMEN, PLEASE  
20 DO NOT DISCUSS CASE. ALL RIGHT.

21 MR. SPRATLIN: YOUR HONOR, MAY DETECTIVE CULICK STEP  
22 DOWN?

23 THE COURT: IN JUST A MOMENT.

24 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 3:27  
25 P.M.)



1       **THE COURT:** ALL RIGHT. YOU CAN STEP DOWN. YOU CAN'T  
2 DISCUSS YOUR TESTIMONY WITH ANYBODY.

3       **THE WITNESS:** THANK YOU.

4       **THE COURT:** ALL RIGHT. YES, SIR, DID YOU HAVE A...

5       **MR. HASTIE:** NO.

6       **THE COURT:** ALL RIGHT. WE'LL TAKE A BREAK FOR LET'S SAY  
7 ABOUT 10 MINUTES.

8       **MR. SPRATLIN:** THANK YOU, YOUR HONOR.

9       **MR. HASTIE:** THANK YOU, YOUR HONOR.

10       (WHEREUPON, A SHORT BREAK WAS TAKEN.)

11       **THE COURT:** OKAY. MR. SPRATLIN, ARE YOU READY?

12       **MR. SPRATLIN:** YES, YOUR HONOR, THE STATE'S READY.

13       **THE COURT:** MR. HASTIE?

14       **MR. HASTIE:** YES, SIR.

15       **THE COURT:** ARE YOU READY?

16       **MR. HASTIE:** YES, YOUR HONOR.

17       **THE COURT:** ALL RIGHT. YOU CAN BRING IN THE JURY.

18       (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 3:45  
19 P.M.)

20       **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, WE'RE  
21 READY TO MOVE FORWARD. MR. HASTIE, YOU CAN CROSS-EXAMINE THE  
22 WITNESS.

23       **MR. HASTIE:** THANK YOU, YOUR HONOR.

24       **MR. SPRATLIN:** YOUR HONOR, IF I MAY, I THINK THERE WAS  
25 STILL THE PUBLICATION OF THE EXHIBITS THAT WERE ENTERED INTO

1 EVIDENCE TO THE JURY.

2 THE COURT: ALL RIGHT. YOU CAN PASS THOSE AROUND. MR.  
3 FOREMAN AND LADIES AND GENTLEMEN, YOU CAN TAKE A LOOK AT  
4 THOSE. MR. HASTIE, YOU CAN WAIT UNTIL THEY FINISH IF YOU'D  
5 LIKE TO.

6 MR. HASTIE: YES, SIR, I WOULD LIKE TO.

7 THE COURT: ALL RIGHT.

8 (PAUSE IN PROCEEDINGS WHILE THE JURY VIEWS THE  
9 PHOTOGRAPHS.)

10 THE COURT: ALL RIGHT. MR. HASTIE?

11 MR. HASTIE: THANK YOU, YOUR HONOR.

12 CROSS-EXAMINATION

13 BY MR. HASTIE:

14 Q. GOOD AFTERNOON, DETECTIVE.

15 A. GOOD AFTERNOON.

16 Q. FIRST LET'S TALK ABOUT -- WE HEARD TESTIMONY THIS  
17 MORNING FROM MR. HUFF SAYING THAT HE REALLY DID NOT KNOW MR.  
18 MASSEY BEFORE THIS PARTICULAR DAY. IS THAT CORRECT?

19 A. THAT HE HAD SEEN HIM I BELIEVE WAS THE TESTIMONY BUT HE  
20 DIDN'T KNOW HIM BY NAME.

21 Q. DIDN'T KNOW HIM BY NAME. THAT'S CORRECT. AND THEN WE  
22 HEARD TESTIMONY FROM MS. BILLIE DESCRIBING THAT SHE KNEW HIM  
23 AND SHE HELPED HIM AND -- AND THAT HE HAD BEEN IN THE STORE,  
24 SHE TESTIFIED, THAT PARTICULAR DAY. WAS THERE A LINE-UP DONE  
25 FOR MR. HUFF AT ANY TIME?

1 A. NO, THERE WAS NOT.

2 Q. DON'T YOU ALL NORMALLY DO LINE-UPS FOR THIS TYPE CASE?

3 A. IT DEPENDS ON THE TYPE OF CASE THAT WE HAVE. WE HAVE  
4 SOME CASES WHERE A VICTIM MIGHT KNOW SOMEBODY BY A NICKNAME  
5 OR THEY MIGHT KNOW AN ADDRESS OR WE MIGHT DEVELOP A SUSPECT  
6 AND WE MIGHT -- WE MIGHT GET A PHOTO LINE-UP WHERE WE TAKE  
7 THE INDIVIDUAL -- THE SUSPECT'S PICTURE AND THEN WE'LL PUT IT  
8 ON A PAGE ALONG WITH FIVE OTHER PICTURES, SO WE HAVE A TOTAL  
9 OF SIX, AND SHOW IT TO A VICTIM AND SAY, "DO YOU RECOGNIZE  
10 THE PERSON THAT DID THIS?"

11 Q. OKAY.

12 A. YES, WE DO DO THAT SOMETIMES.

13 Q. ANY REASON YOU DID NOT DO A LINE-UP IN THIS CASE?

14 A. I DID NOT FEEL THAT WE NEEDED TO DO A LINE-UP. I FELT  
15 LIKE I HAD ENOUGH PROBABLE CAUSE AT THAT TIME BASED ON THE  
16 FACTS THAT WERE GIVEN ME FROM MR. HUFF AND BY MS. BILLIE, AND  
17 IT WAS 11 SOMETHING AT NIGHT. LINE-UPS ARE -- YOU KNOW, IT  
18 TAKES AWHILE TO DO LINE-UPS. WE REQUEST OURS THROUGH  
19 S.L.E.D., THE STATE LAW ENFORCEMENT DIVISION IN COLUMBIA, AND  
20 DUE TO THE FACT THAT IT WAS THAT TIME OF NIGHT, I WANTED TO  
21 MAKE AN ARREST BEFORE ANY OTHER ARMED ROBBERIES POSSIBLY TAKE  
22 PLACE BY THIS INDIVIDUAL AND TO ALSO TRY TO OBTAIN FURTHER  
23 EVIDENCE OF THIS CRIME. THE LONGER IT GOES BEFORE YOU EFFECT  
24 AN ARREST, THE LONGER THE PERSON HAS TO GET RID OF EVIDENCE.

25 Q. AREN'T YOU ALL TRAINED ABOUT WHEN AND HOW TO DO LINE-UPS

1 IN YOUR DETECTIVE TRAINING?

2 A. WE ARE -- WE ARE TRAINED ON HOW TO WORK CASES.

3 Q. OKAY.

4 A. AND SOME CASES REQUIRE LINE-UPS. SOME CASES DON'T  
5 REQUIRE LINE-UPS.

6 Q. OKAY.

7 A. BUT ALL CASES, WHERE AN ARREST IS INVOLVED, REQUIRE  
8 PROBABLE CAUSE, AND I FELT LIKE WE HAD ENOUGH PROBABLE CAUSE  
9 TO GO AHEAD AND PICK MR. ANDRE MASSEY UP.

10 Q. WHAT TYPE CASES REQUIRE LINE-UPS, FOR EXAMPLE?

11 A. A TYPE OF CASE THAT WOULD REQUIRE A LINE-UP IS JUST LIKE  
12 I SAID EARLIER. IF A VICTIM KNOWS SOMEBODY BUT THEY ONLY  
13 KNOW THEM BY A NICKNAME OR A STREET NAME, THEN I WOULD GO  
14 BACK AND LOOK UP AND TRY TO FIND OUT IN OUR NICKNAME LIST:  
15 DO WE HAVE THAT PERSON LISTED? MAYBE A REAL NAME OR, YOU  
16 KNOW, RESEARCH, ASK PEOPLE IN THE AREA OF THE COMMUNITY, "DO  
17 YOU KNOW THIS PERSON'S REAL NAME?" THEN IF I ESTABLISH A  
18 REAL NAME, THEN I WOULD PUT THAT IN A PHOTO LINE-UP, AND I  
19 WOULD SHOW IT TO THE VICTIM AND SAY, "DO YOU SEE THE PERSON  
20 THAT YOU CALL T-DOG IN HERE?" YOU KNOW, THAT'S -- THAT WOULD  
21 BE ONE INSTANCE.

22 Q. AND MS. BILLIE TESTIFIED THAT SHE KNEW HIM, BUT SHE KNEW  
23 NOTHING OF ANY TYPE OF ROBBERY OR HE DID NOT SHARE ANYTHING  
24 ABOUT PARTICIPATING IN A ROBBERY WITH HER. IS THAT CORRECT?

25 A. CORRECT. SHE -- SHE KNEW HIM. SHE KNEW HIS NAME. SHE

1 KNEW THAT HE WAS IN THE STORE WITH HER.

2 Q. OKAY.

3 A. THE TIME FRAME SHE GAVE IS THE SAME AS WHAT MR. HUFF  
4 GAVE AS FAR AS THEM BEING IN THE STORE; SO THAT MATCHED UP.  
5 THE TATTOOS, THE CLOTHING, THE EARRING, JUST THE PHYSICAL  
6 CHARACTERISTICS, ALL OF THOSE MATCHED UP---

7 Q. OKAY.

8 A. ---THAT SHE SAID, ON TOP OF JUST -- MR. HUFF JUST MADE  
9 ME FEEL LIKE I HAD ENOUGH PROBABLE CAUSE TO GO PICK HIM UP  
10 FOR THIS INCIDENT.

11 Q. AND THE WAY THAT YOU LEARNED HOW AND WHERE TO PICK HIM  
12 UP WAS FROM THE D.M.V. RECORDS?

13 A. CORRECT.

14 Q. OKAY. SO YOU CONTACTED D.M.V.?

15 A. NO. WE HAVE ACCESS -- DURING THE NIGHT, WE RUN TAGS,  
16 D.L.'S ON PEOPLE'S NAMES, THINGS LIKE THAT. IF WE STOP  
17 SOMEBODY AND THEY SAY, "I LEFT MY LICENSE AT HOME; HERE IS MY  
18 NAME," WE CAN RUN IT BY THAT TO INSURE THEY DO HAVE A  
19 LICENSE, THINGS LIKE THAT.

20 Q. SO YOU WERE ABLE TO OBTAIN HIS ADDRESS FROM THE D.M.V.  
21 RECORDS.

22 A. CORRECT.

23 Q. OKAY. SO YOU WENT TO 107 SALEM STREET? WHAT'S THE NAME  
24 OF THAT STREET?

25 A. YES.

1 Q. SALEM STREET?

2 A. 107 SALEM STREET, APARTMENT 2.

3 Q. ABOUT WHAT TIME OF NIGHT WAS THAT?

4 A. APPROXIMATELY 11.

5 Q. AROUND 11:00 AT NIGHT? DID YOU HAVE A SEARCH WARRANT TO  
6 ENTER HIS PREMISES?

7 A. NO, WE DIDN'T HAVE A SEARCH WARRANT AT THAT TIME. WE  
8 JUST WENT TO PICK UP MR. ANDRE MASSEY IN REFERENCE TO THIS,  
9 IF HE WAS THERE. IF NOT, POSSIBLY ASK IF -- OR IF ANYONE WAS  
10 HOME, WHERE WAS HE? WHERE COULD WE FIND HIM?

11 Q. WHEN YOU PICKED HIM UP, DID YOU PUT HIM UNDER ARREST?

12 A. YEAH, HE WAS CUFFED AND TAKEN TO THE STATION. HE WAS  
13 NOT ALLOWED TO -- YES.

14 Q. SO HE WAS PUT UNDER ARREST. DID ANYONE READ HIM HIS  
15 RIGHTS AT THE TIME OF HIS ARREST?

16 A. NO, HE WAS NOT QUESTIONED AT THAT TIME. NOT UNTIL WE  
17 WERE GOING TO QUESTION HIM WAS HE READ HIS RIGHTS.

18 Q. SO HE WAS NOT READ HIS RIGHTS AT THAT TIME.

19 A. NO, WE DIDN'T QUESTION HIM ABOUT THE CRIME OR ANYTHING  
20 THERE.

21 Q. OKAY. SO AT THE STATION -- WHILE HE WAS AT THE STATION,  
22 YOU AND DETECTIVE RICHBURG WERE THE DETECTIVES THAT  
23 QUESTIONED HIM?

24 A. YES.

25 Q. OKAY. DO YOU ALL WEAR YOUR WEAPONS WHEN YOU QUESTION A

1 CLIENT?

2 A. NO.

3 Q. SO YOU DIDN'T HAVE THE WEAPONS WITH YOU AT THAT TIME.

4 A. CORRECT, WE DO NOT.

5 Q. NOW, IN HIS FIRST STATEMENT HE TALKED ABOUT SOMEONE  
6 NAMED T-DOG, TYRONE, I BELIEVE. DID YOU DO ANY INVESTIGATION  
7 TO TRY TO LOCATE THIS PERSON NAMED TYRONE?

8 A. NO, I DIDN'T.

9 Q. WHY NOT?

10 A. IF HE WOULD HAVE JUST GIVEN US ONE STATEMENT, THAT FIRST  
11 STATEMENT THAT HE GAVE, THEN I WOULD HAVE TRIED TO LOCATE WHO  
12 HE WAS TALKING ABOUT, AND THAT WOULD BE A CASE WHERE I WOULD  
13 DO A PHOTO LINE-UP AND I WOULD GO BACK AND SHOW HIM AND SAY,  
14 "IS THIS THE TYRONE THAT YOU'RE TALKING ABOUT OR TY THAT  
15 WORKS AT THE GREAT STEAK?" I WOULD -- THAT WOULD BE A CASE  
16 THAT I WOULD DO THAT BECAUSE THEY DIDN'T KNOW A LAST NAME.  
17 IT WAS JUST A FIRST NAME, NICKNAMES, THINGS LIKE THAT, AND I  
18 WOULD HAVE FOLLOWED THROUGH WITH THAT ASKING HIM, "DID YOU  
19 SEE HIM? WERE YOU INVOLVED? DID YOU TALK TO MR. HUFF THAT  
20 DAY?" BUT SINCE HE GAVE A SECOND STATEMENT AND WHAT HE TOLD  
21 US I FELT WAS THE TRUTH AND FROM HIS HEART AND IT MATCHED UP  
22 WITH WHAT MR. HUFF HAD STATED, I DID NOT FEEL LIKE THERE WAS  
23 A NEED TO GO FIND A TY OR T-DOG.

24 Q. SO EVEN THOUGH HIS TESTIMONY TALKED ABOUT A SCAM THAT  
25 WAS BEING RUN AT THE STORE, YOU FELT THE NEED NOT TO

1 INVESTIGATE ANY OF THAT.

2 A. NO, NOT WHEN HE GAVE US THE SECOND STATEMENT. IF HE  
3 WOULD NOT HAVE GIVEN US THE SECOND STATEMENT ADMITTING TO  
4 DOING THIS CRIME, THEN I WOULD HAVE GONE OUT AND TRIED TO  
5 FIND WHO HE WAS TALKING ABOUT AND ALL THE WITNESSES IN THE  
6 CASE.

7 Q. NOW, MR. HUFF TESTIFIED THIS MORNING THAT THE GENTLEMAN  
8 THAT WAS IN THE STORE REQUESTED TO LOOK AT A SIZE 44 SUIT.

9 A. CORRECT.

10 Q. DO YOU RECALL THAT?

11 A. CORRECT.

12 Q. DO YOU HAVE ANY IDEA WHAT SIZE SUIT MR. MASSEY MIGHT  
13 WEAR?

14 A. AT THIS TIME I WOULDN'T KNOW. BACK WHEN HE WAS ARRESTED  
15 TWO YEARS AGO, AS YOU CAN SEE FROM THE PHOTOS, HE WAS  
16 MUSCULAR AND HE WAS THICK ACROSS THE CHEST AREA, AND THAT  
17 COULD HAVE BEEN HIS SIZE BACK THEN. MY HUSBAND IS LARGER UP  
18 TOP AND MUSCULAR AND DOES WEAR IN THE FORTIES AND HAS TO GET  
19 IT TAILORED DOWN IN THE WAIST AREA SO...

20 Q. OKAY. THANK YOU. YOU DID READ HIM HIS RIGHTS AT THE --  
21 WHEN YOU ALL INTERROGATED HIM, JUST BEFORE YOU INTERROGATED  
22 HIM.

23 A. YES, I DID.

24 Q. AND HE CLEARLY UNDERSTOOD WHAT HE WAS DOING.

25 A. YES, IT APPEARED THAT HE DID.



1 Q. IT APPEARED THAT WAY.

2 A. IT APPEARED THAT HE UNDERSTOOD WHAT WE WERE TALKING  
3 ABOUT, HE UNDERSTOOD HIS RIGHTS, AND THAT HE WANTED TO TALK.

4 Q. OKAY. DID HE ASK FOR AN ATTORNEY AT THAT TIME?

5 A. NO, AT NO TIME.

6 Q. OKAY. DID HE ASK TO MAKE A PHONE CALL AT ANY TIME?

7 A. NOT THAT I RECALL.

8 Q. YOU DON'T RECALL WHETHER OR NOT HE ASKED TO USE A PHONE  
9 TO---

10 A. IF HE ASKED ME TO USE A PHONE TO CALL AN ATTORNEY, THEN,  
11 YES, THEN I WOULD HAVE MADE NOTE OF THAT AND MENTIONED. BUT,  
12 NO, HE DID NOT ASK ME AS FAR AS ANY KIND OF PHONE CALL FOR AN  
13 ATTORNEY OR SOMEONE TO REPRESENT HIM OR, "I DON'T WANT TO  
14 TALK ANYMORE; I JUST WANT TO MAKE A PHONE CALL." NOW,  
15 SOMETIMES AFTER WE INTERVIEW PEOPLE, WE HAVE A LOT THAT SAY,  
16 "CAN I MAKE A PHONE CALL BEFORE I'M TRANSPORTED OR BEFORE YOU  
17 TAKE ME OUT TO THE DETENTION CENTER?" YOU KNOW, AND WE WILL  
18 LET PEOPLE MAKE PHONE CALLS IF THEY REQUEST THAT. NOW, IN  
19 THIS CASE I CAN'T REMEMBER IF HE ASKED TO USE ONE BEFORE HE  
20 WENT TO THE CORRECTIONAL CENTER OR NOT SO... BUT AS FAR AS  
21 AN ATTORNEY OR ANYTHING LIKE THAT, NO, HE DID NOT.

22 Q. WHAT ABOUT HIS GIRLFRIEND? DID HE ASK TO CALL HIS  
23 GIRLFRIEND AT ANY TIME?

24 A. I DON'T KNOW. I HEARD MENTION OF THAT EARLIER AND --  
25 AND I DON'T KNOW. I KNOW THAT HE ASKED TO GIVE HIS CELL

1 PHONE -- HE ASKED IF WE NEEDED THAT. HE KNEW THAT THE MONEY,  
2 OF COURSE, WE WERE TAKING BECAUSE THAT'S WHAT HE TOOK FROM  
3 THE BUSINESS, BUT HE ALSO HAD A CELL PHONE ON HIM AT THE  
4 TIME. I KNOW HE ASKED IF SHE COULD GET THAT, AND I STATED  
5 SHE COULD, IN WHICH SHE CAME UP AT A LATER DATE AND PICKED  
6 THAT UP.

7 Q. IF YOU ALL DID ALLOW A PHONE CALL FROM HIM THAT NIGHT  
8 WHILE YOU ALL HAD HIM IN CUSTODY, HE WOULD HAVE HAD TO CALL A  
9 DETECTIVE, I PRESUME, TO TALK TO HIS GIRLFRIEND BECAUSE SHE  
10 WAS APPREHENDED AS WELL, WASN'T SHE?

11 A. SHE WASN'T APPREHENDED. SHE WAS AT THE RESIDENCE WHEN  
12 HE WAS ARRESTED, AND EVERYBODY THAT WAS INSIDE WAS BROUGHT  
13 OUTSIDE AND DETAINED UNTIL THE SEARCH WARRANT WAS THROUGH FOR  
14 OFFICER SAFETY.

15 Q. WAS SHE HANDCUFFED?

16 A. I BELIEVE SHE WAS.

17 Q. OKAY. SO SHE WAS HANDCUFFED AT THE TIME.

18 A. YEAH, SHE WAS DETAINED. SHE WAS NOT ARRESTED. SHE WAS  
19 DETAINED. SHE WASN'T BEING CHARGED WITH ANYTHING, BUT IT'S  
20 JUST FOR OFFICER SAFETY BECAUSE WHEN YOU HAVE AN ARMED  
21 ROBBERY AND A GUN, YOU KNOW, FOR OFFICER SAFETY AND THE  
22 COMMUNITY'S SAFETY, WE ALWAYS DO THAT. AND SOMETIMES YOU  
23 HAVE GIRLFRIENDS' FAMILY MEMBERS GET UPSET WHEN YOU'RE  
24 ARRESTING SOMEBODY THAT THEY LOVE OR A FAMILY MEMBER, AND  
25 THEY COULD HAVE KNOWLEDGE OF THE GUN OR WHERE IT'S AT, SO WE

1 DO THAT FOR SAFETY.

2 Q. SO NOW IF A PHONE CALL WAS MADE FROM YOUR LOCATION, IT  
3 WOULD HAVE TO BE MADE TO A DETECTIVE BECAUSE SHE WOULD  
4 HAVE---

5 A. IT DEPENDS WHEN THE PHONE CALL WAS MADE. IF IT WAS MADE  
6 AT THE POLICE DEPARTMENT AND IT WAS BEFORE HE WENT BACK, SHE  
7 COULD HAVE BEEN BACK IN THE APARTMENT BY THEN AND FINISHED  
8 WITH THE INVESTIGATION. HE COULD HAVE CALLED THE RESIDENCE.  
9 IF SHE HAS A CELL PHONE, HE COULD HAVE CALLED HER CELL PHONE.  
10 I DON'T KNOW IF THAT'S THEIR ONLY CELL PHONE, THE ONE HE HAD.  
11 I WOULDN'T KNOW ABOUT THAT, OR IF HE CALLED FROM THE JAIL,  
12 I'M NOT SURE.

13 Q. WHEN YOU ALL ARRIVED AT HIS HOUSE, YOU DID NOT HAVE A  
14 SEARCH WARRANT.

15 A. NO, SIR.

16 Q. ALL RIGHT. DID ANYONE ENTER THE HOME PRIOR TO GETTING A  
17 SEARCH WARRANT?

18 A. WHEN HE WAS ARRESTED? AT THE SAME TIME THAT HE WAS  
19 TAKEN INTO CUSTODY, A PROTECTIVE SWEEP WAS DONE TO MAKE SURE  
20 THAT NO ONE ELSE WAS IN THE RESIDENCE. THERE WAS ANOTHER  
21 GENTLEMAN AT THE RESIDENCE AND A FEMALE, HIS GIRLFRIEND, AND  
22 THEY WERE TAKEN OUTSIDE OF THE RESIDENCE AND TOLD THAT THEY  
23 HAD TO WAIT OUTSIDE OF THE RESIDENCE UNTIL -- AND NO ONE ELSE  
24 WENT BACK INSIDE THE RESIDENCE. PEOPLE -- THE OFFICERS STOOD  
25 BY UNTIL A SEARCH WARRANT WAS DONE AND SIGNED BY A

1 MAGISTRATE---

2 Q. OKAY.

3 A. ---TO MAKE ENTRY INTO THE HOME TO SEARCH FOR THE ITEMS  
4 LISTED IN THE SEARCH WARRANT.

5 Q. OKAY. BUT YOU WEREN'T THERE DURING THIS PROTECTIVE  
6 SWEEP, WERE YOU?

7 A. YES, I WAS.

8 Q. YOU WERE THERE DURING THE PROTECTIVE SWEEP?

9 A. I DID NOT GO IN THERE, BUT I WAS OUTSIDE OF THE  
10 APARTMENT.

11 Q. OKAY. WHEN DID YOU LEAVE THAT LOCATION?

12 A. ALL THAT WAS DONE WITHIN A MATTER OF A MINUTE. HE'S  
13 PLACED INTO CUFFS, AND OFFICERS LOOK AND GLANCE REAL QUICK:  
14 IS ANYBODY IN HERE? ANYONE IN THIS ROOM? AND THEY'RE OUT.  
15 AND THEY WERE OUTSIDE. MR. MASSEY WAS OUTSIDE. HE WAS  
16 PATTED DOWN.

17 Q. OKAY.

18 A. I PATTED HIM DOWN AGAIN TO MAKE SURE HE HAD NO WEAPONS  
19 ON HIM BEFORE WE TRANSPORTED HIM, AND THEN I LEFT TO TAKE HIM  
20 BACK TO THE STATION.

21 Q. SO ABOUT A MINUTE. SO THIS HAD TO BE AROUND WHAT?  
22 11:30 SOMETHING MAYBE?

23 A. SOMEWHERE IN THERE BECAUSE -- I KNOW THIS BECAUSE HE  
24 SIGNED HIS WAIVER OF RIGHTS AROUND 11:36, 11:37, SOMEWHERE IN  
25 THERE. SO IT WAS SHORTLY BEFORE THAT.

1 Q. SO AFTER YOU LEFT THE SITE THERE, YOU REALLY HAVE NO  
2 KNOWLEDGE WHETHER OR NOT ANYONE ENTERED THAT HOUSE AFTER YOU  
3 LEFT OR NOT.

4 A. OTHER THAN WHAT OFFICERS HAVE STATED.

5 Q. NOW, AT THE STORE MR. HUFF STATED THAT THIS MAN HAD THE  
6 GUN IN HIS RIGHT HAND. DO YOU RECALL THAT TESTIMONY THIS  
7 MORNING?

8 A. I HEARD HIS TESTIMONY; I DID.

9 Q. AND I NOTICED YOU SAID HE MUST HAVE TOLD YOU THAT THE  
10 GUN WAS IN THE LEFT HAND?

11 A. HE DID TELL ME. HE TOLD ME THE GUN -- AND I TALKED TO  
12 HIM MINUTES AFTER THE ARMED ROBBERY HAPPENED, AND I ASKED HIM  
13 SPECIFICALLY WHICH HAND THE GUN WAS IN, AND HE TOLD ME IN THE  
14 LEFT HAND. THE GUN WAS IN THE LEFT HAND, AND THE TATTOO WAS  
15 ON THE LEFT UPPER SHOULDER AREA. AND WHEN WE ARRESTED MR.  
16 MASSEY, HE HAD THE TATTOO ON HIS LEFT UPPER SHOULDER AREA AND  
17 HE SIGNED WITH HIS LEFT HAND.

18 Q. NOW, ONE OF THE STATEMENTS SAID HE HAD SOME TYPE OF A  
19 BLACK CAP ON HIS HEAD. WAS THAT FOUND AT HIS HOME?

20 A. THERE WAS A DOO RAG THAT WAS FOUND AT THE RESIDENCE ON  
21 THE SEARCH WARRANT, AND IT HAD A KNOT TIED IN IT.

22 Q. OKAY. IN HIS SECOND STATEMENT I NOTICED HE SAID THAT HE  
23 THREW THIS BLACK CAP IN THE TRASH -- IN THE DUMPSTER BEHIND  
24 KUT-RATE DRUGSTORE.

25 A. CORRECT; THAT'S WHAT HE SAID.

1 Q. DID YOU QUESTION HIM ABOUT THAT AT THAT TIME AS TO --  
2 BECAUSE THE CAP, THE BLACK CAP---

3 A. WELL, YEAH, BECAUSE THERE WAS A DOO RAG AT THE HOUSE---

4 Q. THAT'S RIGHT.

5 A. ---AND HE'S SAYING HE THREW IT IN THERE. WE WENT BACK  
6 THERE TO TRY TO FIND DUMPSTERS BEHIND KUT-RATE AND STUFF, AND  
7 WE COULD NOT -- JUST FROM LOOKING -- NOW, I DIDN'T CLIMB IN  
8 THE DUMPSTER, BUT JUST FROM LOOKING, I DIDN'T SEE ANYTHING ON  
9 THE TOP AS FAR AS A CAP IN THE TRASH CAN.

10 Q. OKAY. SO YOU DID -- SOMEONE DID GO AND LOOK IN THE  
11 DUMPSTERS.

12 A. YES, BEFORE I WENT HOME I SURE DID.

13 Q. AND THAT WAS NOT FOUND.

14 A. I DID NOT FIND IT.

15 Q. NOW, YOU ALSO MENTIONED ABOUT THE FIRST STATEMENT THAT  
16 HE MADE YOU DIDN'T REALLY BELIEVE THAT HE WAS TELLING THE  
17 TRUTH AT THAT TIME.

18 A. I DIDN'T, BUT THAT'S THE STATEMENT HE WANTED TO GIVE ME  
19 AND THAT'S THE STATEMENT I TOOK. IT'S NOT FOR ME TO TELL HIM  
20 WHAT HIS STATEMENT IS.

21 Q. BUT AFTER YOU STARTED RECEIVING SOME PHONE CALLS FROM  
22 THE OFFICERS THAT DID GO IN THE HOUSE TO CONDUCT A SEARCH  
23 AFTER THE SEARCH WARRANT ARRIVED, THEY STARTED TELLING YOU A  
24 DIFFERENT STORY.

25 A. YEAH. I CALLED THEM.

1 Q. YOU CALLED THEM?

2 A. YES, TO FIND OUT IF THEY HAD LOCATED ANYTHING, IF THERE  
3 WAS ANYTHING I COULD USE THERE TO GO BACK IN THERE AND SAY,  
4 "LOOK. YOU KNOW, THIS IS WHAT THEY FOUND," AND THAT'S WHAT I  
5 DID.

6 Q. OKAY. AND THEY DESCRIBED TO YOU -- THEY DID FIND THE  
7 DERRINGER?

8 A. YES.

9 Q. THE CAP?

10 A. YES.

11 Q. THE BLACK PANTS?

12 A. YES.

13 Q. I GUESS HE HAS A WHITE TOP?

14 A. HE HAD THE WHITE TOP ON, AND THEY FOUND EVERYTHING ELSE.  
15 AND I WAS LIKE, YEAH, IT'S NOT OFTEN THAT WE GET A CASE WHERE  
16 WE FIND EVERYTHING LIKE THAT. WE FIND BITS AND PIECES AND  
17 YOU HAVE TO PUT IT ALL TOGETHER, BUT, I MEAN, THAT WAS A LOT,  
18 YOU KNOW, TO FIND.

19 Q. NOW, BACK AT THE STORE, MR. HUFF TALKED THIS MORNING  
20 ABOUT HIM WIPING DOWN THE COUNTER. DID YOU ALL FINGERPRINT  
21 -- DID ANYONE FINGERPRINT THE COUNTER AT ALL?

22 A. LIEUTENANT NESBITT WILL BE HERE TESTIFYING AND HE  
23 WILL -- HE PROCESSED THE SCENE.

24 Q. HE DID?

25 A. AND HE WILL -- HE WILL BE ABLE TO TELL YOU WHAT HE DID

1 INSIDE THE BUSINESS; YES, SIR.

2 Q. SO HE'LL BE ABLE TO TESTIFY WHETHER OR NOT THERE WERE  
3 FINGERPRINTS ON THE WEAPON ITSELF, ON THE DERRINGER, OR  
4 ANYWHERE IN THE STORE?

5 A. YES, SIR, HE'LL BE ABLE TO TESTIFY TO THAT.

6 Q. OKAY. NOW, YOU DID ASK MR. HUFF ABOUT HOW MUCH MONEY  
7 WAS TAKEN FROM THE STORE.

8 A. CORRECT.

9 Q. OKAY. BECAUSE I SEEN IN ONE OF THE STATEMENTS BY HIM  
10 THE NUMBER WAS \$500?

11 A. \$500?

12 Q. YES.

13 A. I BELIEVE IT WAS 389.

14 Q. RIGHT.

15 A. AND \$22 TAKEN OUT OF HIS POCKET, BUT I THINK HE HAD 389  
16 FROM THE BUSINESS.

17 Q. THAT'S RIGHT. COURT'S INDULGENCE, YOUR HONOR. AND AT  
18 THE TIME YOU READ HIM HIS RIGHTS---

19 A. YES, SIR.

20 Q. ---THERE WAS -- WAS THERE ANY SMELL OF ALCOHOL ON HIM AT  
21 ALL THAT YOU COULD DETECT?

22 A. NOT THAT I COULD DETECT. I MEAN, I WASN'T---

23 Q. IN HIS FACE?

24 A. ---IN HIS FACE, BUT JUST FROM -- YOU KNOW, PROBABLY FROM  
25 HERE TO OVER HERE, NO, I COULD NOT SMELL---



1 Q. ALL RIGHT.

2 A. ---ALCOHOL, MARIJUANA. I DID NOT SMELL ANY OF THAT---

3 Q. THAT'S WHAT I WAS---

4 A. ---PRESENT ON HIM.

5 Q. ---GOING TO ASK, BUT BEING A DETECTIVE 11 YEARS OR SO,  
6 CERTAINLY IF SOMEONE WAS UNDER THE INFLUENCE OF ALCOHOL OR  
7 HAD SMOKED SOME MARIJUANA, YOU PROBABLY WOULD HAVE BEEN ABLE  
8 TO DETECT THAT BY THEIR MOTIONS, THEIR MOVEMENT?

9 A. IT DEPENDS ON HOW MUCH AND HOW FREQUENT OR HOW USED TO  
10 THEY ARE WITH DRINKING. SOME PEOPLE CARRY THEIRSELF (SIC)  
11 BETTER, BUT IN ALL MY YEARS EXPERIENCE, IF SOMEBODY IS  
12 IMPAIRED FROM ALCOHOL OR DRUGS, YOU KNOW, THEY ARE SLURRING.  
13 THEY ARE UNSTEADY ON THEIR FEET. THEY ARE NOT TALKING LIKE  
14 YOU AND I ARE TALKING. THEIR SPEECH IS SLURRED OR THEY MIGHT  
15 NOT ANSWER APPROPRIATE, JUST TIRED, FALLING OVER. HE DIDN'T  
16 DISPLAY ANY OF THOSE CHARACTERISTICS OR MAKE ME THINK THAT HE  
17 WAS UNDER THE INFLUENCE OF ANYTHING.

18 Q. DURING YOUR INTERVIEW, DID HE ASK FOR CIGARETTES OR  
19 ANYTHING LIKE THAT?

20 A. I CAN'T REMEMBER. WE HAVE A LOT OF SUSPECTS THAT ASK  
21 FOR CIGARETTES. WE DO KEEP CIGARETTES ON HAND JUST FOR THAT  
22 REASON IN THE OFFICE. WE'VE HAD SOME BREAK-INS AT DIFFERENT  
23 STORES, AND IF WE RECOVER SOME, SOMETIMES THE STORES LET US  
24 KEEP THEM AND SOMETIMES WE BUY OUR OWN, BUT IF HE ASKED, WE  
25 PROBABLY LET HIM.

1 Q. SO JUST IN CLOSING, IN REVIEW, NO LINE-UP WAS DONE IN  
2 THIS PARTICULAR CASE.

3 A. NO, SIR. I JUST DID NOT FEEL THAT---

4 Q. DIDN'T FEEL IT WAS NECESSARY.

5 A. I DIDN'T FEEL LIKE WE NEEDED IT.

6 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS, YOUR  
7 HONOR.

8 THE COURT: REDIRECT?

9 MR. SPRATLIN: REAL BRIEFLY, YOUR HONOR.

10 REDIRECT EXAMINATION

11 BY MR. SPRATLIN:

12 Q. DETECTIVE CULICK, NOW IN REGARDS TO THE LINE-UP, YOU  
13 STATED THAT IT WAS LATE AT NIGHT. CORRECT?

14 A. CORRECT.

15 Q. AFTER TALKING WITH THE DEFENDANT AND GETTING HIS  
16 CONFESSION, DID YOU FEEL THERE WAS ANY NEED FOR A LINE-UP?

17 A. NO, I DIDN'T.

18 Q. OKAY. AND IT WAS MENTIONED, WHEN MR. HASTIE TALKED  
19 ABOUT THE ARREST, A PROTECTIVE SWEEP. JUST SO THE JURY IS  
20 CLEAR ON WHAT EXACTLY THAT IS, WHAT IS A PROTECTIVE SWEEP AND  
21 WHY IS IT DONE?

22 A. A PROTECTIVE SWEEP IS DONE -- JUST LIKE I WAS SAYING, IF  
23 YOU HAVE SOMEBODY THAT'S CHARGED WITH ARMED ROBBERY AND YOU  
24 KNOW THERE WAS A GUN INVOLVED AND YOU GO TO MAKE AN ARREST OF  
25 THAT PERSON, THEN, YOU KNOW, YOU'RE GOING TO CHECK AND MAKE

1 SURE THAT THERE'S NO ONE ELSE AROUND OR NEARBY THAT COULD  
2 GRAB A GUN OR SOMETHING ELSE AND SHOOT AN OFFICER, HURT US,  
3 HURT A SUSPECT, OR INNOCENT BYSTANDERS OR NEIGHBORS WHILE  
4 THIS IS GOING ON. BUT IT'S MAINLY FOR A SAFETY REASON ONLY,  
5 AND OFFICERS ONLY GLANCE AND LOOK. IT IS NOT A SEARCH OF THE  
6 HOUSE WHERE YOU'RE PICKING UP THE MATTRESS, MAKING SURE  
7 NOBODY IS HIDING OR UNDER THE BED. YOU GLANCE QUICKLY IN THE  
8 OPEN AREAS, A CLOSET, A ROOM, A BATHROOM TO MAKE SURE NO ONE  
9 IS IN THERE THAT COULD HARM YOU.

10 Q. AND THAT'S AN AUTHORIZED POLICE PROCEDURE; CORRECT?

11 A. CORRECT.

12 Q. OKAY. AND THE LAST THING I WANTED TO ADDRESS WITH YOU:  
13 THE DEFENDANT'S STATEMENT. YOU TYPED IT AS HE SPOKE IT;  
14 CORRECT?

15 A. CORRECT.

16 Q. AND YOU TYPED EXACTLY WHAT HE SAID.

17 A. CORRECT.

18 Q. ANY GRAMMATICAL ERRORS OR STUFF LIKE -- OR SUCH OTHER  
19 KIND OF PROBLEMS WITH THAT STATEMENT, THAT'S BECAUSE THE  
20 DEFENDANT SAID IT THAT WAY, IS IT NOT?

21 A. HE SAID IT THAT WAY. HE READ IT, AND HE STATED IT WAS  
22 OKAY. EVERYTHING WAS HIS.

23 MR. SPRATLIN: THANK YOU, DETECTIVE CULICK. THAT'S ALL  
24 THE QUESTIONS I HAVE.

25 THE COURT: ANYTHING ELSE, MR. HASTIE?

1 MR. HASTIE: NONE, YOUR HONOR.

2 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN.

3 THE WITNESS: THANK YOU.

4 THE COURT: NEXT WITNESS.

5 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD NEXT CALL  
6 DETECTIVE ROBERT RICHBURG TO THE STAND.

7 ROBERT RICHBURG, AFTER BEING DULY SWORN, TESTIFIED  
8 AS FOLLOWS:

9 THE CLERK: HAVE A SEAT UP HERE, PLEASE. STATE YOUR  
10 FULL NAME AND SPELL YOUR LAST NAME, PLEASE, SIR.

11 THE WITNESS: ROBERT RICHBURG, R-I-C-H-B-U-R-G.

12 DIRECT EXAMINATION

13 BY MR. SPRATLIN:

14 Q. MR. RICHBURG, WHERE ARE YOU EMPLOYED?

15 A. SUMTER CITY POLICE DEPARTMENT.

16 Q. AND WHAT'S YOUR JOB TITLE?

17 A. CURRENTLY I'M ASSIGNED TO THE INVESTIGATIVE SERVICES  
18 DIVISION AS A DETECTIVE.

19 Q. OKAY. AND, DETECTIVE RICHBURG, HOW LONG HAVE YOU BEEN  
20 WITH SUMTER COUNTY -- I MEAN SUMTER CITY?

21 A. SEVEN -- WITH THE CITY, I'VE BEEN WITH THE CITY OF  
22 SUMTER FOR SEVEN YEARS NOW, AND I WAS PRIOR IN SUMMERTON  
23 POLICE DEPARTMENT FOR TWO YEARS.

24 Q. SO YOU'VE BEEN IN LAW ENFORCEMENT FOR NINE YEARS?

25 A. YES, SIR.

1 Q. OKAY. HOW MANY OF THOSE YEARS HAVE YOU BEEN A  
2 DETECTIVE?

3 A. WITH THE CITY OF SUMTER, I'VE BEEN IN INVESTIGATIONS NOW  
4 GOING ON MY FIFTH YEAR.

5 Q. OKAY. WERE YOU ON DUTY, DETECTIVE, BACK ON JUNE 7TH,  
6 2007?

7 A. YES, SIR, I WAS.

8 Q. WHAT WERE YOU DOING THAT DAY?

9 A. NORMAL DAILY ACTIVITIES, FOLLOWING UP ON CASES, WHEN  
10 THIS CALL WAS DISPATCHED. SENIOR DETECTIVE SIMS AND I WENT  
11 TO THE AREA AND WAS RIDING THE AREA LOOKING FOR THE SUSPECT.

12 Q. IS THAT STANDARD PROCEDURE?

13 A. YES, SIR.

14 Q. OKAY. WHAT WAS YOUR ROLE IN THE INVESTIGATION OF THE  
15 CASE?

16 A. OTHER THAN JUST BEING WITH DETECTIVES AND CHECKING  
17 AREAS, FOLLOWING UP ON THE LEADS, WE WENT AND MADE THE ARREST  
18 OF MR. MASSEY. I ACCOMPANIED SENIOR DETECTIVE CULICK TO THE  
19 LAW ENFORCEMENT CENTER FOR QUESTIONING.

20 Q. WHO IS THE LEAD INVESTIGATOR ON THIS CASE?

21 A. SENIOR DETECTIVE CULICK IS THE LEAD INVESTIGATOR.

22 Q. OKAY. YOU ACCOMPANIED DETECTIVE CULICK TO THE LAW  
23 ENFORCEMENT FACILITY, I THINK YOU SAID?

24 A. YES, SIR.

25 Q. WHAT WAS THE PURPOSE OF YOUR ACCOMPANYING HER?

1 A. WHEN WE INTERVIEW, WE GENERALLY INTERVIEW IN TEAMS.  
2 THAT'S DONE SO ONE WILL TALK AND THE OTHER ONE WILL TAKE  
3 NOTES. ALSO, OFTEN WE HAVE TO LEAVE THE ROOM TO GET WITH  
4 OTHER DETECTIVES WHO MAY BE PROCESSING A SCENE OR FOLLOWING  
5 UP ON STUFF TO PASS ON INFORMATION. THAT WAY THERE IS A  
6 DETECTIVE IN CONTACT WITH THE SUSPECT AT ALL TIMES, AND IT'S  
7 ALSO AN OFFICER SAFETY ISSUE.

8 Q. AND IN FURTHERANCE OF THE INVESTIGATION OF THIS ARMED  
9 ROBBERY AT THE TOTAL LIVING STORE, WHO WERE YOU INTERVIEWING  
10 THAT DAY?

11 A. MR. ANDRE MASSEY.

12 Q. OKAY. DO YOU SEE THE INDIVIDUAL THAT YOU KNOW AS ANDRE  
13 MASSEY HERE IN THE COURTROOM?

14 A. YES, SIR, I DO.

15 Q. WOULD YOU PLEASE POINT HIM OUT AND IDENTIFY AN ARTICLE  
16 OF CLOTHING THAT HE'S WEARING?

17 A. HE'S WEARING A WHITE SHIRT WITH KHAKI PANTS.

18 Q. PLEASE LET THE RECORD REFLECT THE WITNESS HAS IDENTIFIED  
19 THE DEFENDANT IN THIS CASE. NOW, DETECTIVE, DO YOU KNOW  
20 ABOUT WHAT TIME THE INTERVIEW PROCESS BEGAN?

21 A. IT WAS IN THE BALLPARK OF 11, 11:30.

22 Q. AND WHAT WAS THE FIRST THING THAT WAS DONE DURING THE  
23 INTERVIEW PROCESS?

24 A. HE WAS READ HIS RIGHTS.

25 Q. OKAY. LET ME GO AHEAD AND SHOW YOU WHAT'S ALREADY BEEN

1 MARKED AND ENTERED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER  
2 1 -- NUMBER 1, YES. DO YOU RECOGNIZE THAT DOCUMENT I JUST  
3 HANDED YOU?

4 A. YES, SIR. THIS IS OUR SUMTER POLICE DEPARTMENT  
5 INTERVIEW FORM.

6 Q. OKAY. IT'S ALREADY BEEN READ BY DETECTIVE CULICK INTO  
7 EVIDENCE, BUT REAL BRIEFLY, WERE YOU IN THE ROOM WHEN THAT  
8 FORM WAS GONE OVER WITH THE DEFENDANT?

9 A. YES, SIR, I WAS AND I SIGNED AT THE BOTTOM AS A WITNESS.

10 Q. WHO WENT OVER THAT FORM WITH THE DEFENDANT?

11 A. SENIOR DETECTIVE CULICK DID.

12 Q. WERE YOU PRESENT AT ALL TIMES WHEN SHE WAS READING THE  
13 RIGHTS ON THAT FORM?

14 A. YES, SIR, I WAS.

15 Q. OKAY. AT ANY POINT DID SHE DISCUSS ANYTHING WHERE YOU  
16 WEREN'T WITHIN EARSHOT?

17 A. NO, SIR.

18 Q. OKAY. THANK YOU. OKAY. NOW, WHEN YOU FIRST BEGAN  
19 TALKING WITH MR. MASSEY, WHAT WAS -- WHAT WAS YOUR -- WERE  
20 YOU -- WERE ONE OF YOU ASKING QUESTIONS AND ONE OF YOU TYPING  
21 OR WHAT WAS THE PROCEDURE GOING ON?

22 A. WHENEVER WE FIRST DID THE INTERVIEW, SENIOR DETECTIVE  
23 CULICK WAS TALKING AND I WAS TAKING SOME NOTES, JOTTING SOME  
24 NOTES DOWN.

25 Q. OKAY. AND WHERE DID THIS INTERVIEW TAKE -- THESE

1 INTERVIEWS TAKE PLACE?

2 A. WE BEGAN IN OUR INTERVIEW ROOM, BUT WHENEVER IT COME TO  
3 THE POINT WHERE HE WAS ASKED IF HE WANTED TO PUT IT ON TAPE,  
4 IT MOVED TO MY OFFICE.

5 Q. WHY IS THAT?

6 A. BECAUSE MY OFFICE IS -- WE HAVE A COMPUTER AND THERE'S A  
7 BATHROOM THERE. IT'S A LITTLE BIT MORE OPEN THAN WHAT SENIOR  
8 DETECTIVE CULICK'S OFFICE IS.

9 Q. OKAY. SO IN THE INTERVIEW ROOM THERE'S NO COMPUTER---

10 A. NO, SIR.

11 Q. ---OR BATHROOM. OKAY. NOW, WHEN THE DEFENDANT WAS  
12 FIRST BEING ASKED ABOUT THE CRIME AT ISSUE HERE, WHAT DID HE  
13 TELL YOU AND DETECTIVE CULICK?

14 A. THE ORIGINAL STATEMENT WAS IS THAT IT WAS A SET-UP BY  
15 THE MAN THAT OWNS THE STORE, THAT HE HEARD SOME PEOPLE  
16 TALKING ABOUT IT AND DENIED ANY KNOWLEDGE OR ANY INVOLVEMENT  
17 IN IT.

18 Q. OKAY. LET ME SHOW YOU WHAT'S ALREADY BEEN MARKED AS  
19 STATE'S -- AND ENTERED INTO EVIDENCE AS STATE'S EXHIBIT  
20 NUMBER 2. DO YOU RECOGNIZE THE DOCUMENT I JUST HANDED YOU?

21 A. YES, SIR.

22 Q. WHAT IS THAT DOCUMENT?

23 A. THIS IS THE FIRST STATEMENT THAT WAS GIVEN BY MR.  
24 MASSEY.

25 Q. OKAY. WAS THAT DOCUMENT PREPARED IN YOUR PRESENCE?



1 A. YES, SIR, IT WAS.

2 Q. HOW WAS IT PREPARED?

3 A. IT WAS TYPED ON MY COMPUTER BY SENIOR DETECTIVE CULICK.

4 Q. OKAY. AND WAS THAT STATEMENT READ TO THE DEFENDANT IN  
5 YOUR PRESENCE?

6 A. YES, SIR, IT WAS.

7 Q. ALL RIGHT. AND IN YOUR PRESENCE DID THE DEFENDANT DO  
8 ANYTHING TO STATE THAT THAT WAS HIS STATEMENT?

9 A. YES, SIR. HE SIGNED IT AT THE BOTTOM.

10 Q. OKAY. AND WHO ELSE SIGNED THAT?

11 A. I SIGNED IT AND SENIOR DETECTIVE CULICK SIGNED IT.

12 Q. OKAY. AND YOU'RE SURE THAT THE DEFENDANT WAS READ THAT  
13 STATEMENT.

14 A. YES, SIR.

15 Q. OKAY. AND ALL THAT WAS DONE IN YOUR PRESENCE.

16 A. YES, SIR.

17 Q. ALL RIGHT. NOW, PRIOR TO OR DURING THE WRITING OF THAT  
18 STATEMENT, DID THE DEFENDANT ASK FOR AN ATTORNEY?

19 A. NO, SIR, HE DID NOT.

20 Q. DID THE DEFENDANT STATE THAT HE WISHED TO REMAIN SILENT?

21 A. NO, SIR, HE DID NOT.

22 Q. DID THE DEFENDANT DO ANYTHING THAT MADE YOU BELIEVE THAT  
23 HE WISHED TO TERMINATE THE INTERVIEW?

24 A. NO, SIR.

25 Q. PRIOR TO OR DURING THAT STATEMENT, WAS THE DEFENDANT

1 PROMISED ANY SORT OF LENIENCY IN EXCHANGE FOR THAT STATEMENT?

2 A. NO, SIR.

3 Q. PRIOR TO OR DURING THAT STATEMENT, WAS THE DEFENDANT  
4 THREATENED WITH ANY KIND OF HARM IF HE DID NOT PROVIDE A  
5 STATEMENT?

6 A. NO, SIR.

7 Q. WAS THE DEFENDANT GIVEN THE SLIGHTEST HOPE OF BENEFIT IN  
8 EXCHANGE FOR THAT STATEMENT?

9 A. NO, SIR, HE WAS NOT.

10 Q. WAS THE DEFENDANT, IN YOUR OPINION, PUT IN THE REMOTEST  
11 FEAR OF INJURY?

12 A. NO, SIR.

13 Q. OKAY. AND WERE YOU PRESENT AT ALL TIMES DURING THE  
14 INTERVIEW PROCESS?

15 A. YES, SIR.

16 Q. SO HAD ANY KIND OF VIOLENCE BEEN THREATENED OR ANY SORT  
17 OF PROMISES BEEN MADE, YOU WOULD HAVE BEEN PRESENT TO HEAR  
18 THAT.

19 A. YES, SIR, I WOULD HAVE.

20 Q. OKAY. NOW, WHAT HAPPENED AFTER THE DEFENDANT SIGNED  
21 THAT STATEMENT RIGHT THERE?

22 A. SENIOR DETECTIVE CULICK STEPPED OUT. AS I SAID, THAT'S  
23 WHY WE DO TEAMS. THAT WAY IF SOMEBODY NEEDS TO STEP OUT AND  
24 COMPARE INFORMATION WITH PEOPLE ON THE SCENE... SHE COME  
25 BACK IN, AND HE WAS CONFRONTED WITH THE STUFF THAT WAS

1 RECOVERED AT THE HOUSE AND THE INCONSISTENCIES IN HIS FIRST  
2 STATEMENT.

3 Q. AND WHAT HAPPENED WHEN HE WAS CONFRONTED WITH THOSE  
4 INCONSISTENCIES?

5 A. HE GAVE US THE SECOND STATEMENT IN WHICH HE ADMITTED TO  
6 THE ARMED ROBBERY.

7 Q. LET ME SHOW YOU WHAT HAS ALREADY BEEN MARKED AND ENTERED  
8 INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 20. DO YOU RECOGNIZE  
9 THAT DOCUMENT I JUST HANDED YOU?

10 A. YES, SIR. THIS IS THE SECOND STATEMENT THAT WAS DONE.

11 Q. OKAY. WAS THAT STATEMENT PREPARED IN YOUR PRESENCE?

12 A. YES, SIR.

13 Q. OKAY. AND WAS THAT STATEMENT -- I KNOW DETECTIVE CULICK  
14 ALREADY READ IT. WAS THAT STATEMENT READ TO THE DEFENDANT IN  
15 YOUR PRESENCE?

16 A. YES, SIR.

17 Q. WAS THE DEFENDANT GIVEN AN OPPORTUNITY TO READ THAT  
18 STATEMENT HIMSELF?

19 A. YES, SIR, HE WAS.

20 Q. AND DID THE DEFENDANT DO ANYTHING TO STATE THAT THAT  
21 WAS, IN FACT, HIS STATEMENT?

22 A. YES, SIR, HE SIGNED IT. THE SAME -- IT WAS SIGNED BY ME  
23 AND SENIOR DETECTIVE CULICK AS WELL.

24 Q. AND ALL THAT WAS DONE IN YOUR IMMEDIATE PRESENCE.

25 A. YES, SIR.

1 Q. OKAY. NOW, PRIOR TO OR DURING THAT STATEMENT, DID THE  
2 DEFENDANT ASK TO SPEAK TO A LAWYER?

3 A. NO, SIR.

4 Q. PRIOR TO OR DURING THAT STATEMENT, DID THE DEFENDANT  
5 INVOKE HIS RIGHT TO REMAIN SILENT?

6 A. NO, SIR.

7 Q. PRIOR TO OR DURING THAT STATEMENT, DID THE DEFENDANT DO  
8 ANYTHING THAT WOULD HAVE LED YOU TO BELIEVE THAT HE WISHED TO  
9 TERMINATE THIS INTERVIEW?

10 A. NO, HE DID NOT.

11 Q. OKAY. NOW, AGAIN, PRIOR TO OR DURING THAT STATEMENT,  
12 WAS THE DEFENDANT PROMISED ANY SORT OF LENIENCY IN EXCHANGE  
13 FOR HIS STATEMENT?

14 A. NO, SIR, HE WASN'T.

15 Q. WAS HE PUT IN FEAR OF RECEIVING HARM IF HE DIDN'T  
16 PROVIDE A STATEMENT?

17 A. NO.

18 Q. WAS HE GIVEN THE SLIGHTEST HOPE OF BENEFIT OR THE  
19 REMOTEST FEAR OF INJURY IF HE DID NOT COMPLY WITH THAT  
20 STATEMENT?

21 A. NO.

22 Q. NOW, REAL BRIEFLY, DETECTIVE RICHBURG, I WANT TO ASK YOU  
23 ABOUT THE DEFENDANT'S DEMEANOR THAT DAY. HOW WAS HE ACTING  
24 DURING THE INTERVIEW PROCESS?

25 A. THE FIRST -- DURING THE FIRST STATEMENT, IT WAS JUST

1 CASUAL CONVERSATION. HE WAS RESPONSIVE TO OUR QUESTIONS. WE  
2 ASKED QUESTIONS. THE SECOND ONE HE WAS VERY REMORSEFUL AND  
3 EMOTIONAL.

4 Q. WHEN YOU SAY EMOTIONAL, HOW WAS HE BEHAVING?

5 A. HE CRIED SOME, AND HE WAS APOLOGIZING FOR WHAT HE HAD  
6 DONE.

7 Q. OKAY. DID THE DEFENDANT HAVE ANY -- APPEAR TO HAVE ANY  
8 TROUBLE UNDERSTANDING YOU THAT DAY?

9 A. NO, SIR, HE DIDN'T.

10 Q. DID IT APPEAR TO YOU THAT HE SPOKE ENGLISH PROFICIENTLY?

11 A. YES, SIR.

12 Q. DID IT APPEAR TO YOU THAT THE DEFENDANT WAS FOLLOWING  
13 ALONG WITH DETECTIVE CULICK WHEN SHE WAS READING THAT  
14 STATEMENT?

15 A. YES, SIR.

16 Q. OKAY. AND NOW, DETECTIVE RICHBURG, YOU SAID YOU'VE BEEN  
17 IN LAW ENFORCEMENT FOR NINE YEARS?

18 A. YES, SIR.

19 Q. HOW OFTEN WOULD YOU SAY DURING THOSE NINE YEARS YOU'VE  
20 HAD AN OPPORTUNITY TO COME INTO CONTACT WITH PEOPLE WHO ARE  
21 UNDER THE INFLUENCE OF DRUGS OR ALCOHOL?

22 A. QUITE FREQUENTLY.

23 Q. OKAY. WAS THE DEFENDANT DOING ANYTHING THAT WOULD LEAD  
24 YOU TO BELIEVE THAT HE WAS UNDER THE INFLUENCE OF DRUGS OR  
25 ALCOHOL TO THE EXTENT THAT HE COULD NOT PROVIDE A PROPER

1 STATEMENT?

2 A. NO, HE DID NOT.

3 Q. OKAY. WAS HE RESPONDING TO THE QUESTIONS THAT WERE  
4 ACTUALLY BEING ASKED OF HIM?

5 A. YES, HE WAS.

6 Q. AND DID HE APPEAR TO YOU TO BE EITHER TOO EXCITED OR TOO  
7 DEPRESSED?

8 A. NO.

9 Q. DID HE APPEAR IN ANY WAY TO BE IN A CONFUSED STATE?

10 A. NO.

11 Q. WAS HIS SPEECH SLURRED AT ALL?

12 A. NO, SIR.

13 Q. OKAY. AND, DETECTIVE RICHBURG, DO YOU KNOW ABOUT HOW  
14 LONG THE INTERVIEW OF MR. MASSEY TOOK PLACE?

15 A. THE INTERVIEW ITSELF -- THE WHOLE PROCESS FROM WHEN WE  
16 PHOTOGRAPHED, FINGERPRINTED, THE WHOLE PROCESS WAS BETWEEN  
17 THREE AND A HALF TO FOUR HOURS.

18 Q. OKAY. AND, AGAIN, HE NEVER ASKED FOR AN ATTORNEY DURING  
19 THAT ENTIRE TIME.

20 A. NO, SIR.

21 Q. HE NEVER INVOKED HIS RIGHT TO REMAIN SILENT.

22 A. NO, SIR.

23 Q. WAS HE DENIED ACCESS TO ANY SORT OF FOOD?

24 A. NO, SIR, BECAUSE WHEN WE GO FROM THE INTERVIEW ROOM TO  
25 MY OFFICE, THERE'S ACTUALLY A VENDING MACHINE AND A DRINK

1 MACHINE RIGHT THERE, AND INSIDE MY OFFICE THERE'S A BATHROOM  
2 THAT THE DOOR STAYS OPEN, THAT YOU COULD ACTUALLY SEE THE  
3 COMMODE FROM MY DESK.

4 Q. HAD HE REQUESTED -- I KNOW IT WAS LATE AT NIGHT, BUT' HAD  
5 HE REQUESTED ANY FOOD, WOULD SOME HAVE BEEN PROVIDED?

6 A. NO, SIR. IF HE HAD REQUESTED? YES, SIR, WE WOULD HAVE  
7 PROVIDED IT.

8 Q. DID HE REQUEST ANY FOOD?

9 A. NO, SIR.

10 Q. OKAY. AT ANY POINT DURING THE ENTIRE INTERVIEW PROCESS,  
11 DID THE DEFENDANT ASK FOR SOMETHING THAT WAS NOT GIVEN TO  
12 HIM?

13 A. NO, HE DID NOT.

14 Q. OKAY. AND HE WAS NOT PROMISED ANY SORT OF LENIENCY IN  
15 EXCHANGE FOR GIVING A STATEMENT OR AT ANY POINT DURING THE  
16 INTERVIEW PROCESS.

17 A. NO.

18 Q. CORRECT? AND HE WAS NOT PUT UNDER DURESS OF PHYSICAL  
19 INJURY OR ANY KIND OF INJURY DURING THE COURSE OF THIS  
20 INTERVIEW.

21 A. NO.

22 Q. IN YOUR OPINION, DETECTIVE RICHBURG, WERE BOTH  
23 STATEMENTS BY THE DEFENDANT GIVEN FREELY AND VOLUNTARILY?

24 A. YES, THEY WERE.

25 MR. SPRATLIN: OKAY. THANK YOU. THAT'S ALL THE

1 QUESTIONS I HAVE RIGHT NOW.

2 THE COURT: MR. HASTIE?

3 MR. HASTIE: THANK YOU, YOUR HONOR.

4 CROSS-EXAMINATION

5 BY MR. HASTIE:

6 Q. GOOD AFTERNOON, DETECTIVE.

7 A. GOOD AFTERNOON, MR. HASTIE.

8 Q. YOU HAVE BEEN WITH THE SUMTER POLICE DEPARTMENT SEVEN  
9 YEARS YOU SAID?

10 A. YES.

11 Q. AND SUMMERTON TWO YEARS.

12 A. YES, SIR.

13 Q. HOW MANY LINE-UPS HAVE YOU PARTICIPATED IN DURING THIS  
14 SEVEN-YEAR PERIOD HERE IN SUMTER?

15 A. I COULDN'T ANSWER THAT. NUMEROUS.

16 Q. NUMEROUS LINE-UPS.

17 A. HAVE I PARTICIPATED IN OR HAVE I HAD MADE AND SHOWN TO  
18 SOMEBODY?

19 Q. MADE AND SHOWN TO SOMEBODY.

20 A. SEVERAL. NUMEROUS. NUMEROUS.

21 Q. WHEN YOU SAY NUMEROUS, ARE YOU TALKING ABOUT TEN?  
22 FIFTY? A HUNDRED?

23 A. I COULDN'T PUT A NUMBER ON IT, TO BE HONEST WITH YOU.

24 Q. OKAY. WE'LL STAY WITH NUMEROUS. OKAY. DO YOU RECALL  
25 DURING THIS INTERVIEW PERIOD WHETHER OR NOT MR. MASSEY ASKED



1 TO SPEAK TO HIS GIRLFRIEND AT ALL?

2 A. I DON'T RECALL.

3 Q. YOU DON'T RECALL?

4 A. NO, SIR, I DON'T REMEMBER---

5 Q. YOU DON'T RECALL---

6 A. ---HIM ASKING.

7 COURT REPORTER: I CAN'T TAKE YOU BOTH AT THE SAME TIME.

8 BY MR. HASTIE:

9 Q. YOU DON'T RECALL?

10 A. I DON'T REMEMBER HIM ASKING THAT; NO, SIR.

11 Q. YOU SAID HE DID NOT ASK FOR ANYTHING TO EAT OR DRINK.

12 A. NOT TO MY KNOWLEDGE, NO, SIR. HE WAS GIVEN A DRINK AT  
13 SOME POINT IN TIME.

14 Q. HE WAS GIVEN A DRINK?

15 A. YES, SIR.

16 Q. OKAY. WHAT KIND OF DRINK WAS HE GIVEN?

17 A. I DON'T REMEMBER.

18 Q. DO YOU KNOW WHAT TIME IT WAS?

19 A. NO.

20 Q. IT STARTED AT 11:30 AT NIGHT, AROUND ABOUT FOUR HOURS.

21 SO WE'RE TALKING ABOUT 3:00 IN THE MORNING THAT THIS

22 INTERVIEW IS STILL GOING ON?

23 A. AROUND ABOUT. IT WAS FOUR HOURS.

24 Q. YES. AND DURING THAT TIME HE WAS ONLY OFFERED OR SEEN  
25 HAVING A DRINK? IS THAT YOUR TESTIMONY?

1 A. I REMEMBER THAT HE HAD A DRINK BECAUSE NORMALLY IF I SIT  
2 IN THE INTERVIEW FOR THREE OR FOUR HOURS, EVERYONE CAN LOOK  
3 AT ME -- I DON'T GO LONG WITHOUT FOOD OR DRINK MYSELF, SO I  
4 WOULD HAVE ONE AND I WOULD OFFER HIM ONE.

5 Q. WOULD YOU HAVE SOMETHING TO EAT AS WELL?

6 A. NOT ALL THE TIME, NO, SIR. IF HE WOULD HAVE ASKED, HE  
7 WOULD HAVE GOT IT.

8 Q. WERE YOU AT MR. MASSEY'S HOME THAT NIGHT WHEN HE WAS---

9 A. WHENEVER WE FIRST WENT TO THE HOUSE, I WAS DRIVING  
10 SOMEBODY ELSE'S VEHICLE.

11 Q. LET ME ASK A QUESTION. WERE YOU AT MR. MASSEY'S  
12 HOUSE---

13 A. YES, I WAS.

14 Q. OKAY. THANK YOU. HOW DID THE INITIAL ENTRANCE INTO HIS  
15 HOME TAKE PLACE?

16 A. I WAS AT THE VEHICLES. AS I WAS SAYING, I WAS DRIVING  
17 ONE OF THE VEHICLES THAT WAS CONTAINING A COUPLE OF THE OTHER  
18 OFFICERS SO SHOULD SOMEONE RUN -- I'M NOT REALLY KNOWN FOR  
19 BEING FAST ON FOOT, SO I DROVE, STOPPED, LET THEM OUT, AND I  
20 MAINTAINED RIGHT THERE AT THE VEHICLES---

21 Q. OKAY.

22 A. ---UNTIL THEY WERE FINISHED.

23 Q. DID ANYONE RUN OUT OF THE HOUSE---

24 A. NO, SIR.

25 Q. ---DURING THIS PERIOD OF TIME? OKAY. SO SOMEONE WENT

1 TO THE DOOR, I PRESUME?

2 A. YES, SIR.

3 Q. YOU COULD SEE THE DOOR---

4 A. SENIOR DETECTIVE SIMS MADE---

5 THE COURT: WAIT A MINUTE. YOU'VE GOT TO LET HIM FINISH

6 THE QUESTION. EVEN THOUGH YOU MIGHT KNOW WHAT IT'S GOING TO

7 BE, YOU'VE GOT TO LET HIM FINISH. GO AHEAD, MR. HASTIE.

8 BY MR. HASTIE:

9 Q. YOU COULD SEE THE DOOR FROM WHERE YOU WERE SITTING?

10 A. YES, SIR.

11 Q. OKAY. WHO WENT TO THE DOOR AND KNOCKED ON THE DOOR?

12 A. SENIOR DETECTIVE SIMS KNOCKED ON THE DOOR.

13 Q. SIMS KNOCKED ON THE DOOR.

14 A. YES, SIR.

15 Q. WHO CAME TO THE DOOR?

16 A. MR. MASSEY CAME TO THE DOOR.

17 Q. MR. MASSEY CAME TO THE DOOR.

18 A. YES, SIR.

19 Q. OKAY. I'M SURE YOU COULDN'T HEAR THE CONVERSATION.

20 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)

21 Q. WE'LL GET TO HIM AT THAT POINT. MR. MASSEY CAME TO THE  
22 DOOR.

23 A. YES, SIR.

24 Q. HOW LONG FROM THE TIME PERIOD THAT HE WALKED TO THE DOOR

25 'TIL HE WAS TAKEN INTO CUSTODY? THAT MAY BE THE WRONG WORD.

1 A. HOW LONG FROM THE TIME?

2 Q. YES.

3 A. AS SOON AS SENIOR DETECTIVE SIMS MADE CONTACT WITH HIM,  
4 HE PLACED HIM IN CUFFS.

5 Q. THEY ARRESTED HIM IMMEDIATELY. WELL, TOOK HIM INTO  
6 CUSTODY IMMEDIATELY.

7 A. RIGHT.

8 Q. THEN DID ANYONE ELSE COME OUT OF THE HOUSE AT THAT TIME?

9 A. THE -- THERE WAS A FEMALE AND A MALE THERE AT THE HOUSE.

10 Q. SO TWO OTHER PEOPLE CAME OUT OF THE HOUSE.

11 A. RIGHT. RIGHT.

12 Q. THEY ALSO WERE TAKEN INTO CUSTODY.

13 A. YES, SIR.

14 Q. DO YOU KNOW WHETHER ANY OF THEM WERE READ THEIR RIGHTS?

15 A. I WASN'T THERE WHENEVER THEY DID ALL THAT STUFF.

16 Q. BUT YOU WERE SURE THAT THERE WAS---

17 A. THERE WAS NO QUESTIONING BEING DONE ON BY THE CRIME --  
18 THERE WAS NO NEED TO READ THEM THEIR RIGHTS. THEY WERE NOT  
19 BEING QUESTIONED ON THE SCENE. AS HE WAS QUESTIONED AT THE  
20 OFFICE, AND THAT'S WHEN HE WAS READ HIS RIGHTS.

21 Q. OKAY. YOU WERE SURE AT THAT TIME THAT YOU ALL DID NOT  
22 HAVE A SEARCH WARRANT. IS THAT CORRECT?

23 A. SAY THAT AGAIN.

24 Q. YOU WERE SURE AT THAT TIME THAT YOU ALL DID NOT HAVE A  
25 SEARCH WARRANT WHEN THEY WERE ORIGINALLY---

1 A. WHEN WE WENT TO THE -- WHEN WE WENT TO THE RESIDENCE,  
2 NO, WE DID NOT HAVE A SEARCH WARRANT.

3 Q. DID NOT A SEARCH WARRANT.

4 A. YES.

5 Q. THANK YOU. THE SWEEP -- THIS PROTECTIVE SWEEP THAT  
6 WE'RE HEARING ABOUT, DID YOU PARTICIPATE IN THE PROTECTIVE  
7 SWEEP?

8 A. NO, SIR, I DID NOT.

9 Q. DO YOU KNOW WHO PARTICIPATED IN THE PROTECTIVE SWEEP?

10 A. IT WAS OFFICER BILLY LYONS AND OFFICER SHANE LYNES WHO  
11 WERE MEMBERS OF OUR NEIGHBORHOOD ENFORCEMENT TEAM AT THAT  
12 TIME.

13 Q. AND THIS PROTECTIVE SWEEP TAKES ABOUT ONE MINUTE?

14 A. SMALL APARTMENT.

15 Q. SMALL APARTMENT? THREE PEOPLE GOING IN ONE APARTMENT?

16 A. TWO.

17 Q. TWO? AND IN THE PROTECTIVE SWEEP THEY NORMALLY LOOK FOR  
18 WHAT?

19 A. OTHER PEOPLE.

20 Q. OTHER PEOPLE. BUT THERE WERE TWO ALREADY OUTSIDE;  
21 CORRECT?

22 A. THAT'S CORRECT.

23 Q. DID THEY FIND ANY OTHER PEOPLE, TO YOUR KNOWLEDGE?

24 A. NO, SIR.

25 Q. SO THEN YOU LEFT WITH MR. MASSEY AND DETECTIVE CULICK, I

1 PRESUME AT SOME POINT, AND YOU ALL WENT BACK TO THE STATION.

2 A. THAT'S RIGHT.

3 Q. OKAY. THEN AT THE STATION THIS IS WHERE HE WAS READ HIS  
4 RIGHTS AT THAT TIME.

5 A. YES, SIR.

6 Q. OKAY. DID YOU READ HIM HIS RIGHTS?

7 A. NO, SIR.

8 Q. DETECTIVE CULICK DID.

9 A. THAT'S RIGHT.

10 Q. BUT YOU WERE PRESENT.

11 A. I WAS IN THE ROOM; YES, SIR.

12 Q. AND I HATE TO BE REDUNDANT, BUT I JUST WANT TO MAKE SURE  
13 I COVER EVERYTHING. WHEN HE WAS BEING READ HIS RIGHTS, IN  
14 YOUR OPINION HE WAS CLEAR MINDED; HE SEEMED TO UNDERSTAND  
15 WHAT HE WAS DOING.

16 A. YES, SIR, HE DID.

17 Q. AT ANY TIME DID HE ASK FOR AN ATTORNEY?

18 A. NO.

19 Q. AT ANY TIME HE SAID, "I DON'T WANT TO TALK TO YOU GUYS  
20 ANYMORE"?

21 A. NO.

22 Q. AND AT ANY TIME DID HE ASK FOR CIGARETTES?

23 A. I DON'T RECALL.

24 Q. YOU DON'T RECALL.

25 A. HUH-UH.

1 Q. AND THIS INTERVIEW AND READING HIM HIS RIGHTS TOOK ABOUT  
2 FOUR HOURS.

3 A. NO, THE WHOLE PROCESS.

4 Q. THE WHOLE PROCESS.

5 A. WE PHOTOGRAPHED HIM. WE FINGERPRINTED HIM AND  
6 EVERYTHING ELSE. THAT WHOLE PROCESS WAS IN THE BALLPARK OF  
7 FOUR HOURS.

8 Q. OKAY. THEN HE WAS TAKEN WHERE AFTER THE INTERVIEW?

9 A. TO THE DETENTION CENTER.

10 Q. SO YOU TOOK HIM TO THE DETENTION CENTER ABOUT 3 OR 4:00  
11 IN THE MORNING.

12 A. YES.

13 Q. ALL RIGHT. DID YOU GO WITH HIM---

14 A. APPROXIMATELY. NO, SIR, HE WAS TRANSPORTED AT THAT TIME  
15 BY PATROL -- SENIOR DETECTIVE CULICK, AND I ACCOMPANIED HER  
16 TO LOOK THROUGH THE DUMPSTERS AND LOOK IN THE STUFF FOR THE  
17 DOO RAG THAT SHE SAID SHE... IT WAS THE TWO OF US TOGETHER  
18 AFTER WE FINISHED.

19 Q. SO YOU ALL WENT AND LOOKED IN THE DUMPSTERS AT 3 OR 4:00  
20 IN THE MORNING?

21 A. YES, SIR.

22 Q. OKAY.

23 A. OUR JOB ISN'T ALWAYS CONVENIENT. SOMETIMES WE HAVE TO  
24 DO STUFF LIKE THAT.

25 Q. BUT YOU DIDN'T FIND IT CONVENIENT ENOUGH TO DO A LINE-UP

1 BECAUSE IT WAS LATE AT NIGHT AND---

2 A. SENIOR DETECTIVE CULICK HAS ALREADY ANSWERED THAT  
3 QUESTION.

4 Q. THE DUMPSTER -- WHAT DID YOU FIND IN THE DUMPSTER?

5 A. NOTHING.

6 Q. DID YOU GO IN THE DUMPSTER?

7 A. NO, SIR. WE CHECKED ON THE TOP. SHOULD THERE HAVE BEEN  
8 ANYTHING THAT APPEARED AS IF IT COULD HAVE BEEN, YES, SIR, I  
9 WOULD HAVE.

10 Q. SO YOU JUST LOOKED ON THE TOP OF THE DUMPSTERS.

11 A. THAT'S WHERE IT WOULD HAVE BEEN. THAT TIME OF THE  
12 AFTERNOON TO WHERE WE'RE AT, THAT'S NOT THAT MUCH BUSINESS,  
13 NOT THAT MUCH TIME, NOT THAT MUCH STUFF GOING IN THOSE  
14 DUMPSTERS.

15 Q. MEANING TIME OF NIGHT.

16 A. RIGHT.

17 Q. SO YOU DIDN'T OPEN THE LID OF THE DUMPSTERS OR---

18 A. WE CHECKED IN THE TOP. YOU CAN SLIDE UNDERNEATH AT THE  
19 TOP -- WHENEVER WE CHECKED, WE LOOKED IN THE TOP OF THE  
20 DUMPSTERS.

21 Q. AT 3 OR 4:00 IN THE MORNING I ASSUME YOU HAD A  
22 FLASHLIGHT.

23 A. YES, SIR.

24 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS, YOUR  
25 HONOR.



1 THE COURT: REDIRECT?

2 MR. SPRATLIN: JUST BRIEFLY, YOUR HONOR.

3 REDIRECT EXAMINATION

4 BY MR. SPRATLIN:

5 Q. DETECTIVE RICHBURG, IN YOUR EXPERIENCE AND OPINION AS A  
6 DETECTIVE, IS IT NECESSARY TO DO A LINE-UP AFTER A SUSPECT  
7 HAS CONFESSED TO THE CRIME?

8 A. NO, SIR, IT'S NOT.

9 Q. AND ARE YOU AWARE IF A LINE-UP WOULD EVEN BE AVAILABLE  
10 AT 11:30 AT NIGHT?

11 A. NO. WE HAVE TO SEND IT OFF TO S.L.E.D. AND THAT IS --  
12 WE'RE AT THEIR DISCRETION, AND SOMETIMES IT COULD BE TWO OR  
13 THREE DAYS BEFORE WE GET A LINE-UP. SOMETIMES WE GET IT BACK  
14 THE SAME DAY. ESPECIALLY THAT TIME OF NIGHT, THERE WOULD  
15 HAVE BEEN NO ONE AT S.L.E.D. TO PROCESS THAT REQUEST.

16 Q. S.L.E.D. HAS TO KEEP MORE REGULARLY WORKING HOURS THAN  
17 THE SUMTER POLICE---

18 A. AT THAT TIME IT WAS ALL DONE THROUGH THE S.L.E.D.  
19 FORENSIC PHOTOGRAPHY. SO THEY'RE WORKING, YOU KNOW, NORMAL  
20 BUSINESS DAYS. IT WOULD HAVE HAD TO HAVE BEEN SENT OFF TO  
21 THEM, AND IT WOULD HAVE BEEN NORMAL BUSINESS DAYS BEFORE WE  
22 HAD A RESPONSE.

23 Q. OKAY. AND MR. HASTIE BROUGHT UP THE ISSUE OF THE OTHER  
24 PEOPLE NOT BEING READ THEIR MIRANDA RIGHTS. IS IT NECESSARY  
25 TO READ RIGHTS TO A PERSON?

1 A. NO, SIR. THAT'S ONLY NECESSARY IF THEY'RE BEING  
2 QUESTIONED ABOUT A CRIME, AND THEY WERE NOT.

3 Q. AND WAS THE DEFENDANT READ HIS RIGHTS BEFORE BEING  
4 QUESTIONED ABOUT ANY CRIME?

5 A. NO, SIR, HE WAS NOT.

6 Q. WAS THE DEFENDANT READ HIS RIGHTS?

7 A. HE WAS READ HIS RIGHTS BEFORE HE WAS QUESTIONED ABOUT  
8 THE CRIME. HE WAS NOT READ THEM UNTIL -- HE WASN'T  
9 QUESTIONED UNTIL WE READ HIM HIS RIGHTS.

10 MR. SPRATLIN: OKAY.

11 THE COURT: ANY OTHER QUESTIONS?

12 MR. SPRATLIN: NO, YOUR HONOR. I HAVE NO FURTHER  
13 QUESTIONS.

14 THE COURT: MR. HASTIE?

15 MR. HASTIE: JUST ONE QUESTION.

16 RECROSS EXAMINATION

17 BY MR. HASTIE:

18 Q. YOU MENTIONED THAT IT WAS NOT NECESSARY TO DO A LINE-UP  
19 AFTER SOMEONE CONFESSED? THAT'S WHAT YOU JUST SAID?

20 A. THAT'S RIGHT. HE CONFESSED TO THE CRIME. HE  
21 INCRIMINATED HISSELF (SIC).

22 Q. BUT YOU NORMALLY DON'T WAIT FOR SOMEONE TO CONFESS TO DO  
23 A LINE-UP---

24 A. IT ALL DEPENDS ON IF THEY---

25 THE COURT: WAIT. YOU'VE GOT TO LET HIM FINISH THE

1 QUESTION.

2 THE WITNESS: I THOUGHT YOU WERE FINISHED. I'M SORRY.

3 BY MR. HASTIE:

4 Q. YOU NORMALLY DON'T DO LINE-UPS -- YOU DON'T WAIT UNTIL  
5 SOMEONE CONFESSES TO DO A LINE-UP, AND YOU TELL ME, BECAUSE I  
6 HAVEN'T BEEN THROUGH TRAINING -- I WOULD THINK YOU'D DO A  
7 LINE-UP WHEN YOU'RE TRYING TO IDENTIFY WHETHER SOMEONE  
8 COMMITTED A CRIME OR NOT.

9 A. AS SENIOR DETECTIVE CULICK TESTIFIED TO EARLIER, THERE  
10 WAS NO NEED. SHE FELT NO NEED. SHE FELT SHE HAD ENOUGH TO  
11 IDENTIFY HIM, AND AFTER HE CONFESSED, HE INCRIMINATED  
12 HISSELF.

13 Q. SO CERTAINLY AFTER A CONFESSION, THERE IS NEED FOR A  
14 LINE-UP. RIGHT?

15 A. NO. NO, SIR.

16 MR. HASTIE: THANK YOU.

17 THE COURT: ALL RIGHT. YOU CAN STEP DOWN. THANK YOU  
18 VERY MUCH. OKAY. MR. SPRATLIN?

19 MR. SPRATLIN: YOUR HONOR, THE STATE WOULD NEXT CALL  
20 DETECTIVE TOD SIMS TO THE STAND.

21 THE COURT: IS EVERYBODY ON THE JURY OKAY? IF YOU NEED  
22 TO TAKE A BREAK, JUST RAISE YOUR HAND.

23 TOD A. SIMS, AFTER BEING DULY SWORN, TESTIFIED AS  
24 FOLLOWS:

25 THE CLERK: HAVE A SEAT UP HERE, PLEASE, SIR. STATE

1 YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

2 THE WITNESS: IT'S TOD ALLEN SIMS, S-I-M-S.

3 MR. SPRATLIN: BEG THE COURT'S INDULGENCE FOR ONE  
4 SECOND.

5 COURT REPORTER: HOW DO YOU SPELL YOUR FIRST NAME?

6 THE WITNESS: T-O-D.

7 DIRECT EXAMINATION

8 BY MR. SPRATLIN:

9 Q. MR. SIMS, WHERE ARE YOU EMPLOYED?

10 A. I'M EMPLOYED WITH THE CITY OF SUMTER POLICE DEPARTMENT.

11 Q. AND WHAT IS YOUR JOB THERE?

12 A. I'M A SENIOR DETECTIVE IN THE INVESTIGATIVE SERVICE  
13 DIVISION.

14 Q. OKAY. AND HOW LONG HAVE YOU BEEN IN THAT JOB?

15 A. AT THE INVESTIGATION I'VE BEEN A DETECTIVE FOR 12 YEARS.

16 Q. TWELVE YEARS? AND WHAT ARE THE DUTIES OF A DETECTIVE AT  
17 THE SUMTER POLICE DEPARTMENT?

18 A. WELL, WITH MY JOB I'M OVER WHAT WE CALL THE PROPERTY  
19 CRIMES DIVISION. I OVERSEE ALL THE BURGLARIES, ALL THE  
20 THEFTS, B&E AUTOS. I HAVE TWO OTHER DETECTIVES WORKING UP  
21 UNDER ME. I GET ALSO ASSIGNED REPORTS AND HAVE TO  
22 INVESTIGATE MY TYPE OF CRIMES THAT I DEAL WITH.

23 Q. OKAY. AND WERE YOU WORKING ON THE DAY OF JUNE 7, 2007?

24 A. YES, SIR, I WAS.

25 Q. OKAY. AND WHAT HAPPENED THAT DAY?

1 A. WELL, WE RESPONDED TO AN ARMED ROBBERY CALL AT 25 DUGAN  
2 STREET, AND WE WERE THERE TO ASSIST DETECTIVE -- SENIOR  
3 DETECTIVE CULICK IN ANY NEEDS THAT SHE NEEDED.

4 Q. OKAY. SO YOU WERE ASSISTING DETECTIVE CULICK AT THIS  
5 POINT?

6 A. THAT'S CORRECT.

7 Q. OKAY. AT SOME POINT DID THAT INVESTIGATION CENTER ON A  
8 SUSPECT?

9 A. YES, SIR. AS I SPOKE EARLIER, MYSELF AND DETECTIVE  
10 RICHBURG WENT OUT AND ACTUALLY CIRCULATED A -- LOCATED A  
11 SUSPECT. THEN WE WERE CALLED BACK TO THE SCENE, AND THEN WE  
12 FOLLOWED UP WITH DETECTIVE -- SENIOR DETECTIVE CULICK IN  
13 GOING OUT TO LOOK AND TO APPREHEND THE SUSPECT IN THE ARMED  
14 ROBBERY.

15 Q. OKAY. AND WHERE DID Y'ALL GO TO APPREHEND THE SUSPECT?

16 A. WE WENT TO NUMBER 107 SALEM STREET, APARTMENT NUMBER 2.

17 Q. OKAY. AND WHEN YOU WENT THERE, WERE YOU ABLE TO  
18 APPREHEND THE SUSPECT IN QUESTION?

19 A. THAT'S CORRECT.

20 Q. OKAY. AND WHO WAS THAT SUSPECT?

21 A. THAT'S MR. ANDRE MASSEY.

22 Q. AND DO YOU SEE THE MAN YOU KNOW AS ANDRE MASSEY HERE IN  
23 THE COURTROOM TODAY?

24 A. YES, SIR, I DO.

25 Q. IF YOU WOULD, PLEASE POINT HIM OUT AND IDENTIFY AN

1 ARTICLE OF CLOTHING HE'S WEARING.

2 A. HE'S THE BLACK MALE SITTING AT THE TABLE RIGHT OVER  
3 THERE WEARING A WHITE SHIRT, KHAKI PANTS, AND A MULTICOLORED  
4 TIE.

5 Q. THANK YOU. PLEASE LET THE RECORD REFLECT THE WITNESS  
6 HAS IDENTIFIED THE DEFENDANT AS BEING THE PERSON HE KNOWS AS  
7 ANDRE MASSEY. NOW, DETECTIVE SIMS, WE'VE ALREADY HEARD  
8 TESTIMONY THAT DETECTIVE CULICK AND DETECTIVE RICHBURG TOOK  
9 THE DEFENDANT BACK TO THE LAW ENFORCEMENT CENTER. WHAT DID  
10 YOU DO?

11 A. UPON ARRIVAL?

12 Q. UPON ARRIVAL, YES.

13 A. UPON ARRIVAL, I WENT TO THE FRONT DOOR ALONG WITH TWO  
14 OTHER OFFICERS. I THEN KNOCKED ON THE DOOR. AS THE DOOR  
15 OPENED, A BLACK MALE CAME TO THE DOOR WHICH I IDENTIFIED AS  
16 MR. ANDRE MASSEY. AT THAT TIME I PLACED HIM IN HANDCUFFS AND  
17 PLACED HIM UNDER CUSTODY.

18 Q. OKAY. AND NOW WHAT HAPPENED NEXT?

19 A. AT THAT TIME THERE WAS TWO OTHER SUBJECTS INSIDE THE  
20 HOUSE THAT HAD EXITED THE HOUSE AS WELL. THEY WERE PLACED IN  
21 CUFFS AND DETAINED FOR OUR SAFETY.

22 Q. OKAY. AND WHAT HAPPENED AS FAR AS THE RESIDENCE GOES?

23 A. AS FAR AS THE RESIDENCE GOES, OFFICER LYONS AND LYNES,  
24 SPELLING TWO DIFFERENT LAST NAMES, ENTERED THE RESIDENCE TO  
25 DO WHAT WE CALL A PROTECTIVE SWEEP.

1 Q. OKAY. AND WHAT DO YOU MEAN BY PROTECTIVE SWEEP?

2 A. THEY GO INTO THE RESIDENCE TO SEE IF ANYBODY IS INSIDE  
3 THE RESIDENCE THAT MIGHT HARM US AND NOT JUST EVEN US, EVEN  
4 THE SUBJECTS WE'VE GOT IN HANDCUFFS.

5 Q. NOW, IS THE PURPOSE OF A PROTECTIVE SWEEP TO OBTAIN  
6 EVIDENCE?

7 A. NO.

8 Q. WHAT IS IT---

9 A. NO, SIR.

10 Q. WHAT IS IT?

11 A. IT'S TO SEE IF ANY OTHER PERSONS ARE INSIDE THE  
12 RESIDENCE THAT WOULD HARM US OR ANYONE ELSE.

13 Q. OKAY. AND DURING THIS PROTECTIVE SWEEP, WAS ANY SORT OF  
14 EVIDENCE GAINED?

15 A. NO, SIR.

16 Q. OKAY. WHAT DID YOU DO NEXT IN THE PROCESS?

17 A. AFTER THE SUBJECTS WERE THEN DETAINED AND SENIOR  
18 DETECTIVE CULICK AND DETECTIVE RICHBURG LEFT THE APARTMENT  
19 WITH THE SUSPECT, I THEN WENT AND OBTAINED A SEARCH WARRANT  
20 TO THE APARTMENT.

21 Q. OKAY. AND JUST REAL BRIEFLY, NOT TO GET TOO TECHNICAL,  
22 BUT HOW DOES ONE OBTAIN A SEARCH WARRANT?

23 A. FIRST OF ALL, YOU HAVE TO GIVE A BRIEF DESCRIPTION OF  
24 THE RESIDENCE. THEN I GO TO THE LAW ENFORCEMENT CENTER, SIT  
25 DOWN AT MY COMPUTER, TYPE UP THAT SEARCH WARRANT, GIVE A

1 DESCRIPTION OF THE PREMISES TO BE SOUGHT AND ALSO A  
2 DESCRIPTION OF THE ITEMS THAT WE WERE GOING TO BE LOOKING  
3 FOR.

4 Q. OKAY. AND WHO DO YOU GO TO TO GET THE SEARCH WARRANT?

5 A. FIRST OF ALL, I GO TO MY OFFICE, BUT TO GET IT SWORN IN,  
6 I HAVE TO GO BEFORE A MAGISTRATE JUDGE.

7 Q. WHICH JUDGE DID YOU GO TO?

8 A. I WENT TO JUDGE TINDAL.

9 Q. OKAY. AND WAS THIS -- WHAT TIME OF NIGHT WAS THIS?

10 A. IT WAS AROUND -- AROUND -- A LITTLE AFTER 1:00 IN THE  
11 MORNING.

12 Q. ALL RIGHT. SO ONCE YOU GOT THE SEARCH WARRANT -- I'M  
13 SORRY. WAS A SEARCH WARRANT ISSUED IN THIS CASE?

14 A. THAT'S CORRECT; IT WAS.

15 Q. ONCE YOU GOT THE SEARCH WARRANT, WHAT DID YOU DO THEN?

16 A. I CAME BACK TO THE RESIDENCE WHERE OFFICERS WERE  
17 STANDING BY OUTSIDE OF THE RESIDENCE, AND THEN I EXECUTED A  
18 SEARCH WARRANT.

19 Q. OKAY. AND WHEN YOU SAY EXECUTED A SEARCH WARRANT, WHAT  
20 EXACTLY DO YOU MEAN?

21 A. THAT MEANS BY A DOCUMENT I CAN ACTUALLY ENTER THAT  
22 RESIDENCE.

23 Q. OKAY. AND DID YOU ENTER THAT RESIDENCE?

24 A. THAT'S CORRECT.

25 MR. SPRATLIN: ALL RIGHT. I'M GOING TO NEED TO MARK



1 SOME PHOTOGRAPHS.

2 THE COURT: MR. HASTIE, YOUR OBJECTION WILL CONTINUE---

3 MR. HASTIE: YES, IT WILL.

4 THE COURT: ---IN THIS LINE OF QUESTIONING?

5 MR. HASTIE: YES.

6 MR. SPRATLIN: MR. HASTIE, DO YOU WANT TO COME UP?

7 (STATE'S EXHIBITS 28 THROUGH 41 WERE MARKED FOR  
8 IDENTIFICATION ONLY.)

9 BY MR. SPRATLIN:

10 Q. NOW, DETECTIVE SIMS, LET ME GO AHEAD AND -- WE'LL SHOW  
11 YOU THE PICTURES IN A MINUTE. BUT WHEN YOU ENTERED THE  
12 RESIDENCE, WHAT'S THE FIRST THING YOU NOTICED?

13 A. THE FIRST THING I NOTICED?

14 Q. UH-HUH.

15 A. IS THAT THE -- IT WAS UNOCCUPIED. NO ONE WAS IN THERE.

16 Q. OKAY. AND WHEN YOU BEGAN SEARCHING THROUGH THE  
17 RESIDENCE, WHAT, IF ANYTHING, DID YOU FIND OF INTEREST TO  
18 THIS CASE?

19 A. THE FIRST THING I NOTICED OF INTEREST WAS A -- WHAT WE  
20 CALL A DOO RAG LAYING ON THE COUCH IN THE LIVING ROOM AREA.

21 Q. OKAY. LET ME GO AHEAD AND SHOW YOU... PLEASE LET THE  
22 RECORD REFLECT I'M SHOWING THE WITNESS WHAT HAS BEEN MARKED  
23 STATE'S EXHIBIT NUMBER 28 FOR IDENTIFICATION PURPOSES. COULD  
24 YOU PLEASE DESCRIBE TO THE COURT AND THE JURY WHAT THAT IS A  
25 PHOTOGRAPH OF?

1 A. THIS IS A PHOTOGRAPH THAT WAS TAKEN OF THE EXTERIOR OF  
2 THE APARTMENT. YOU NOTICE THERE'S A STORM DOOR, NUMBER 2 ON  
3 THE SIDE OF THE DOOR, INDICATING APARTMENT NUMBER 2.

4 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF HOW THAT  
5 APARTMENT APPEARED TO YOU---

6 A. YES, SIR.

7 Q. ---ON JUNE 8, 2007?

8 A. YES, SIR, IT IS.

9 MR. SPRATLIN: AT THIS TIME I WOULD TENDER THAT INTO  
10 EVIDENCE, YOUR HONOR, AS STATE'S EXHIBIT NUMBER 28.

11 THE COURT: ANY OBJECTION OTHER THAN THE EARLIER  
12 OBJECTION, MR. HASTIE?

13 MR. HASTIE: NONE. AND NONE ON ANY OF THEM, YOUR HONOR.

14 THE COURT: ALL RIGHT. SO ALL OF THOSE YOU OBJECT TO  
15 BASED ON THE SAME PARTICULARS YOU SET FORTH EARLIER, AND  
16 THAT'S 28 THROUGH WHAT?

17 MR. SPRATLIN: 28 THROUGH 41, YOUR HONOR.

18 THE COURT: AND THESE PHOTOS WERE PREVIOUSLY PROVIDED TO  
19 THE DEFENDANT?

20 MR. SPRATLIN: YES, YOUR HONOR. THEY WERE PROVIDED IN  
21 DISCOVERY.

22 THE COURT: ALL RIGHT. PROVIDED THE PROPER FOUNDATION  
23 IS LAID ABOUT THEM BEING AN ACCURATE DEPICTION OF WHAT HE  
24 SAW, MR. HASTIE'S OBJECTIONS ARE OVERRULED.  
25 BY MR. SPRATLIN:

1 Q. DETECTIVE SIMS, LET ME GET YOU TO LOOK THROUGH THOSE  
2 PHOTOGRAPHS. I WANT TO GIVE YOU A MINUTE TO LOOK THROUGH  
3 THEM, AND THEN I'M JUST GOING TO ASK YOU A QUESTION ABOUT  
4 THEM.

5 A. (THE WITNESS LOOKS THROUGH THE PHOTOGRAPHS.) YES, SIR.

6 Q. DETECTIVE SIMS, ARE ALL THOSE PHOTOGRAPHS A FAIR AND  
7 ACCURATE REPRESENTATION OF THE RESIDENCE AT 107 NORTH SALEM  
8 STREET, APARTMENT NUMBER 2, AS YOU REMEMBER IT FROM THAT  
9 NIGHT?

10 A. YES, SIR, THEY ARE.

11 MR. SPRATLIN: AT THIS TIME, YOUR HONOR, I WOULD TENDER  
12 ALL OF THOSE PHOTOGRAPHS INTO EVIDENCE AS STATE'S EXHIBITS.  
13 I BELIEVE IT IS STATE'S EXHIBIT NUMBER 28 THROUGH 41.

14 THE COURT: ALL RIGHT. THOSE ARE IN OVER THE  
15 DEFENDANT'S OBJECTION.

16 MR. SPRATLIN: THANK YOU.

17 (STATE'S EXHIBITS 28 THROUGH 41 WERE RECEIVED IN  
18 EVIDENCE.)

19 BY MR. SPRATLIN:

20 Q. NOW, DETECTIVE SIMS, YOU SAID EARLIER BEFORE I SHOWED  
21 YOU THE PHOTOGRAPHS THAT THE FIRST THING OF INTEREST YOU  
22 FOUND WHEN ENTERING THE HOUSE WAS A DOO RAG.

23 A. THAT'S CORRECT, SIR.

24 Q. OKAY. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 36. WHAT  
25 IS THAT A PHOTOGRAPH OF?

1 A. IT'S A PHOTOGRAPH OF A DOO RAG SITTING BESIDE A REMOTE  
2 CONTROL.

3 Q. OKAY. NOW, REAL QUICKLY, LET ME GO BACK A MINUTE. HOW  
4 WERE THE PHOTOGRAPHS TAKEN? WHAT WAS THE STANDARD DURING THE  
5 SEARCH WARRANT FOR HOW THE PHOTOGRAPHS WERE TAKEN?

6 A. WELL, THE STANDARD ANY TIME WE DO A SEARCH WARRANT IS TO  
7 GO IN, TO PHOTOGRAPH EVERYTHING AS IT IS BEFORE WE DO ANY  
8 TYPE OF SEARCHING.

9 Q. AND SO WOULD THAT PHOTOGRAPH BE THE WAY THAT THE DOO RAG  
10 WAS UPON Y'ALL'S ENTRY INTO THE RESIDENCE?

11 A. YES, SIR, IT WAS.

12 MR. SPRATLIN: OKAY. CAN I MARK THIS FOR IDENTIFICATION  
13 PURPOSES?

14 (STATE'S EXHIBIT 42 WAS MARKED FOR IDENTIFICATION ONLY.)

15 MR. SPRATLIN: YOUR HONOR, PERMISSION TO APPROACH THE  
16 WITNESS?

17 THE COURT: OKAY.

18 BY MR. SPRATLIN:

19 Q. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
20 WHAT HAS BEEN MARKED FOR IDENTIFICATION PURPOSES AS STATE'S  
21 EXHIBIT NUMBER 42. DETECTIVE SIMS, COULD YOU PLEASE IDENTIFY  
22 THE ITEM THAT IS IN YOUR HANDS CURRENTLY?

23 A. THIS RIGHT HERE IS A KNIT-TYPE CAP, WHAT THEY CONSIDER  
24 AS A DOO RAG.

25 Q. OKAY. DOES IT APPEAR TO BE SUBSTANTIALLY SIMILAR OR THE

1 SAME DOO RAG AS WAS LOCATED AT THE RESIDENCE AT 107 NORTH  
2 SALEM STREET, APARTMENT 2?

3 A. YES, SIR, IT IS.

4 MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME I WOULD  
5 TENDER STATE'S EXHIBIT NUMBER 42 INTO EVIDENCE.

6 THE COURT: ANY ADDITIONAL OBJECTIONS OTHER THAN THE  
7 ONES VOICED EARLIER?

8 MR. HASTIE: NONE, YOUR HONOR.

9 THE COURT: THAT'S IN OVER THE DEFENDANT'S OBJECTION.  
10 AND THAT'S 42?

11 MR. SPRATLIN: YES, SIR.

12 (STATE'S EXHIBIT 42 WAS RECEIVED IN EVIDENCE.)

13 BY MR. SPRATLIN:

14 Q. NOW, DETECTIVE SIMS, AFTER LOCATING THE DOO RAG THAT  
15 GAVE YOU -- THAT WAS THE FIRST ITEM OF INTEREST. WHAT'S THE  
16 NEXT THING YOU FOUND IN THE RESIDENCE THAT WAS OF INTEREST TO  
17 YOU?

18 A. THE NEXT THING WE FOUND INSIDE THE RESIDENCE WAS THE  
19 BLACK PANTS - I CONSIDER THEM LIKE SWEAT-TYPE PANTS - INSIDE  
20 A BEDROOM ON THE FLOOR.

21 Q. OKAY. LET ME SHOW YOU WHAT HAS BEEN ALREADY MARKED AND  
22 ENTERED INTO EVIDENCE AS STATE'S EXHIBIT 32, 33, AND 37. IF  
23 YOU WOULD, PLEASE POINT OUT TO THE JURY AS BEST YOU CAN WHERE  
24 THOSE BLACK PANTS WERE LOCATED IN THAT PHOTOGRAPH, IF YOU SEE  
25 THOSE BLACK PANTS.

1 A. OKAY. THIS IS THE PICTURE OF THE BEDROOM; RIGHT HERE IS  
2 THE BED. IF YOU LOOK AT THE BOTTOM END OF THE PHOTOGRAPH,  
3 THERE'S A PAIR OF BLACK PANTS RIGHT THERE WITH A WHITE STRIPE  
4 ON THEM. THIS IS A DOWNWARD PICTURE OF THE PANTS, SAME BED,  
5 THE PANTS LAYING THERE ON THE FLOOR. THIS IS A---

6 THE COURT: IF YOU SAY "THIS," MAKE SURE YOU REFER TO A  
7 NUMBER.

8 THE WITNESS: OKAY. YES, SIR. I'M SORRY. THIS IS  
9 EXHIBIT NUMBER 33, A FURTHER-AWAY PICTURE OF THE PANTS ON THE  
10 FLOOR RIGHT UP UNDER THE BED. THIS LAST PICTURE RIGHT HERE,  
11 EXHIBIT NUMBER 37, IS A CLOSE-UP PICTURE OF THE PANTS ON THE  
12 FLOOR RIGHT UP UNDER THE BED.

13 BY MR. SPRATLIN:

14 Q. THANK YOU, DETECTIVE SIMS. LET ME SHOW YOU WHAT HAS  
15 BEEN ALREADY MARKED AS STATE'S EXHIBIT NUMBER 6. LET ME HAND  
16 THESE OVER TO YOU. IF YOU WOULD, PLEASE TELL THE COURT AND  
17 THE RECORD WHAT ITEM YOU'RE CURRENTLY HOLDING.

18 A. I AM HOLDING STATE'S EXHIBIT NUMBER 6 WHICH IS THE BLACK  
19 PANTS WITH THE WHITE STRIPE THAT WE FOUND ON THE FLOOR IN THE  
20 APARTMENT BY THE BED.

21 MR. SPRATLIN: OKAY. AT THIS TIME, YOUR HONOR, I WOULD  
22 TENDER STATE'S EXHIBIT NUMBER 6 FOR I.D. PURPOSES INTO  
23 EVIDENCE AS STATE'S EXHIBIT NUMBER 6.

24 THE COURT: ANY OBJECTION OTHER THAN THE ONES VOICED  
25 EARLIER?

1 MR. HASTIE: NONE, YOUR HONOR.

2 THE COURT: ALL RIGHT. THOSE ARE ---THAT EXHIBIT IS  
3 ENTERED.

4 MR. SPRATLIN: THANK YOU.

5 (STATE'S EXHIBIT 6 WAS RECEIVED IN EVIDENCE.)

6 BY MR. SPRATLIN:

7 Q. THANK YOU, DETECTIVE SIMS. NOW, DETECTIVE SIMS, WHY  
8 WERE THESE PANTS OF INTEREST IN THIS CASE?

9 A. THESE WERE THE PANTS THAT WERE DESCRIBED FROM THE VICTIM  
10 INVOLVED IN THE ARMED ROBBERY, AND THE DESCRIPTION WAS GIVEN  
11 TO ME.

12 Q. OKAY. AND WHEN YOU FOUND THE PANTS, WHAT ELSE DID YOU  
13 FIND?

14 A. A MORE CONDENSED SEARCH WAS DONE. THAT'S WHEN WE  
15 LOCATED A -- LIKE I SAID, A PEARL-HANDLED TWO-SHOT DERRINGER.

16 Q. OKAY. LET ME -- DETECTIVE SIMS, LET ME SHOW YOU WHAT'S  
17 BEEN ALREADY MARKED AND ENTERED INTO EVIDENCE AS STATE'S  
18 EXHIBITS NUMBER 34, 35, 39, AND 40. ON THOSE PHOTOGRAPHS, DO  
19 YOU SEE THE LOCATION WHERE YOU LOCATED THE GUN IN QUESTION  
20 HERE?

21 A. YES, SIR, I DO.

22 Q. IF YOU WOULD, PLEASE, TO THE BEST OF YOUR ABILITY,  
23 IDENTIFYING WHICH EXHIBIT YOU'RE USING, POINT OUT TO THE JURY  
24 WHERE IN THOSE PHOTOGRAPHS THE GUN WAS FOUND.

25 A. OKAY. THIS FIRST ONE RIGHT HERE IS STATE'S EXHIBIT

1 NUMBER 34. THIS IS A PICTURE OF THE BED. THIS IS A PAIR OF  
2 SHORTS AND A BLUE MULTICOLORED SHIRT RIGHT THERE THAT WAS  
3 LAYING ON TOP OF THE BED, AND JUST UP UNDER THAT SHIRT IS  
4 WHERE THE DERRINGER WAS FOUND.

5 Q. OKAY. IF YOU WOULD, MOVE ALONG TO THE NEXT PICTURE.

6 A. THE NEXT PICTURE IS STATE'S EXHIBIT NUMBER 35. THIS IS  
7 ANOTHER PICTURE FROM ANOTHER ANGLE OF THE BED, AND YOU NOTICE  
8 THE BLACK PANTS AND THE SHIRT THERE A LITTLE BIT MORE CLOSER  
9 UP, AND THIS IS WHERE -- RIGHT UP UNDER THAT SHIRT IS WHERE  
10 THE DERRINGER WAS FOUND.

11 Q. OKAY.

12 A. THE NEXT ONE IS STATE'S EXHIBIT NUMBER 39. THIS IS A  
13 PICTURE OF THE BED, THE DARK-COLORED SHORTS. THE SHIRT HAS  
14 BEEN REMOVED, AND THERE LAID UP UNDER THE SHIRT WAS THE WHITE  
15 OR PEARL-HANDLED TWO-SHOT DERRINGER THAT WAS UP UNDER THE  
16 SHIRT. THE LAST PHOTO HERE IS STATE EXHIBIT NUMBER 40, AND  
17 THIS IS ACTUALLY A CLOSE-UP PICTURE OF THE TWO-SHOT DERRINGER  
18 THAT WAS FOUND HIDDEN.

19 Q. OKAY. THANK YOU, DETECTIVE SIMS. LET ME SHOW YOU  
20 WHAT'S BEEN MARKED FOR IDENTIFICATION PURPOSES AT THIS TIME  
21 ONLY AS STATE'S EXHIBIT NUMBER 4. JUST FOR THE RECORD,  
22 THIS -- THERE WERE SEVERAL CABLE TIES ADDED TO THIS WEAPON TO  
23 INSURE THAT IT WOULD NOT BE USED AS A FIREARM AND COULD NOT  
24 BE USED AS A FIREARM AT THIS TIME. LET ME PRESENT THIS  
25 EXHIBIT TO YOU. YOUR HONOR, MAY I HAVE PERMISSION TO---



1 THE COURT: YES, SIR.

2 MR. SPRATLIN: ---GIVE THIS TO THE OFFICER?

3 THE COURT: YES, SIR. PLEASE HOLD IT BY THE BARREL AND  
4 KEEP IT POINTED DOWN, PLEASE, SIR.

5 THE WITNESS: YES, SIR.

6 BY MR. SPRATLIN:

7 Q. DETECTIVE SIMS, IF YOU WOULD BRIEFLY LOOK OVER STATE'S  
8 EXHIBIT 4 FOR IDENTIFICATION PURPOSES. DOES THAT APPEAR TO  
9 BE THE SAME GUN OR A SUBSTANTIALLY SIMILAR GUN TO THE ONE YOU  
10 LOCATED IN THE DEFENDANT'S RESIDENCE?

11 A. YES, SIR, IT IS.

12 Q. OKAY. THANK YOU. NOW, WHO ACTUALLY TOOK POSSESSION OF  
13 THAT GUN FROM THE RESIDENCE?

14 A. THAT WOULD BE LIEUTENANT KEN NESBITT.

15 Q. OKAY. WAS THERE ANY OTHER EVIDENCE FOUND DURING THE  
16 SEARCH OF THE RESIDENCE?

17 A. PICTURES WERE TAKEN AND ALSO WE TOOK PHOTOS OF BILLS  
18 WITH THE DEFENDANT'S NAME ON IT, HIS ADDRESS, PICTURES OF HIS  
19 WALLET CONSISTING OF HIS DRIVER'S LICENSE AS WELL WITH HIS  
20 ADDRESS ON IT.

21 Q. LET ME SHOW YOU STATE'S EXHIBITS NUMBER 41 AND 38. IF  
22 YOU WOULD, PLEASE IDENTIFY TO THE JURY AND THE COURTROOM WHAT  
23 THOSE ARE PHOTOGRAPHS OF.

24 A. STATE EXHIBIT NUMBER 38 IS A PICTURE OF MR. ANDRE  
25 MASSEY'S DRIVER'S LICENSE THAT WAS FOUND IN HIS WALLET THAT

1 WAS FOUND ON A DRESSER IN THE ROOM. THIS---

2 Q. I'M SORRY. I'M SORRY. REAL BRIEFLY, WOULD THAT BE THE  
3 SAME ROOM THAT THE GUN WAS FOUND?

4 A. THAT'S CORRECT.

5 Q. OKAY.

6 A. STATE'S EXHIBIT NUMBER 34 IS A PHOTO OF A STATE  
7 IDENTIFICATION CARD BELONGING TO MR. ANDRE MASSEY THAT WAS  
8 FOUND IN THE RESIDENCE AS WELL.

9 Q. OKAY.

10 THE COURT: WHAT NUMBER WAS THAT?

11 THE WITNESS: NUMBER 41, SIR.

12 BY MR. SPRATLIN:

13 Q. THANK YOU, DETECTIVE SIMS. I'LL JUST GO AHEAD AND PUT  
14 ALL THESE BACK TOGETHER. I'LL PUBLISH THOSE TO THE JURY IN A  
15 MINUTE. DETECTIVE SIMS, WHEN YOU WENT INTO THE RESIDENCE,  
16 WAS ANYONE ELSE TO SEARCH THE RESIDENCE? WAS ANYONE ELSE IN  
17 THE RESIDENCE?

18 A. AS FAR AS LAW ENFORCEMENT OR PERSONS?

19 Q. ANYBODY.

20 A. AS FAR AS LAW ENFORCEMENT, THE ONES THAT ENTERED THE  
21 RESIDENCE TO SEARCH WAS MYSELF, LIEUTENANT KEN NESBITT, AND  
22 ALSO DETECTIVE BRIAN CHRISTMAS.

23 Q. OKAY. NOW, DID YOU EACH HAVE A DIFFERENT ROLE DURING  
24 THE EXECUTION OF THE SEARCH WARRANT?

25 A. YES, SIR, WE DID. AS A MATTER OF FACT, AT THAT TIME WE

1 BROUGHT THE FEMALE BACK INSIDE AND LET HER SIT INSIDE  
2 COMFORTABLY INSIDE OF HER RESIDENCE WHILE DETECTIVE CHRISTMAS  
3 STOOD WATCH OVER HER FOR OUR PROTECTION WHILE WE CONTINUED  
4 DOING THE SEARCH. MY JOB WAS DOING THE LOOKING AND THE  
5 SEARCHING. ONCE WE FOUND THE ITEM THAT NEEDED TO BE  
6 PHOTOGRAPHED AND DOCUMENTED, LIEUTENANT KEN NESBITT WOULD  
7 TAKE THE PHOTOS AS WE WOULD LOCATE ITEMS.

8 Q. OKAY. AND WERE YOU PRESENT DURING THE PROTECTIVE SWEEP  
9 THAT'S BEEN REFERRED TO EARLIER?

10 A. I WAS OUTSIDE; YES, SIR.

11 Q. OKAY. AND, AGAIN, HOW LONG WOULD YOU SAY THAT TOOK?

12 A. A MINUTE, MAYBE A MINUTE AND A HALF, SIR.

13 Q. OKAY. AND WAS KEN NESBITT -- WAS HE ASKED TO ASSIST IN  
14 THIS CASE, LIEUTENANT NESBITT, BECAUSE OF HIS EXPERTISE IN  
15 PROCESSING CRIME SCENES?

16 A. THAT'S CORRECT. HE'S THE -- HE WAS THE -- I CONSIDER  
17 HIM THE FORENSIC GURU. HE'S BEEN DOING IT FOR A LONG TIME.  
18 HE DID THE FORENSICS AT THE CRIME SCENE, AND WE ASKED HIM TO  
19 ASSIST US WHEN THE SEARCH WARRANT WAS EXECUTED.

20 Q. OKAY. AND MR. -- DETECTIVE SIMS, ALL THE EVENTS YOU'VE  
21 DESCRIBED HERE TODAY, DID THEY OCCUR WITHIN THE BOUNDARIES OF  
22 SUMTER COUNTY?

23 A. THAT'S CORRECT, SIR.

24 MR. SPRATLIN: THANK YOU, DETECTIVE SIMS. THAT'S ALL  
25 THE QUESTIONS I HAVE AT THIS TIME.

1 THE COURT: MR. HASTIE?

2 MR. HASTIE: THANK YOU, YOUR HONOR.

3 CROSS-EXAMINATION

4 BY MR. HASTIE:

5 Q. GOOD AFTERNOON, DETECTIVE SIMS.

6 A. GOOD AFTERNOON, MR. HASTIE.

7 Q. NOW, WHEN YOU ARRIVED AT MR. MASSEY'S HOME, WHO ACTUALLY  
8 ANSWERED THE DOOR?

9 A. WHEN I APPROACHED THE DOOR AND KNOCKED ON THE DOOR, THE  
10 ONE THAT OPENED THE DOOR WAS MR. ANDRE MASSEY.

11 Q. MR. MASSEY DID OPEN THE DOOR?

12 A. THAT'S CORRECT, SIR.

13 Q. ALL RIGHT. DID YOU INFORM HIM WHAT YOU WERE THERE FOR?

14 A. NO, SIR, I DID NOT. ONCE HE CAME TO THE DOOR, I KNEW  
15 THAT HE WAS WANTED FOR AN ARMED ROBBERY. I THEN PLACED HIM  
16 -- BROUGHT HIM OUTSIDE AND PLACED HIM IN HANDCUFFS AND  
17 DETAINED HIM RIGHT THERE.

18 Q. DID YOU ASK HIM HIS NAME?

19 A. NO. BASED ON THE DESCRIPTION THAT WE HAD ALREADY  
20 RECEIVED, THE TATTOO -- WHEN I PULLED HIS ARM OUT, THE TATTOO  
21 WAS SHINING RIGHT THERE, SO I KNEW WHO IT WAS.

22 Q. SO ANY AFRICAN AMERICAN THAT HAPPENED TO HAVE A TATTOO  
23 ON HIS ARM THAT NIGHT YOU WOULD HAVE---

24 A. WELL, WE KNEW HE WAS -- WE KNEW HE WAS---

25 THE COURT: LET HIM FINISH THE QUESTION.

1 THE WITNESS: I APOLOGIZE.

2 BY MR. HASTIE:

3 Q. IF YOU WOULD HAVE THOUGHT THAT THAT WAS MR. ANDRE  
4 MASSEY, YOU WOULD HAVE ARRESTED HIM IMMEDIATELY.

5 A. I DIDN'T ARREST HIM IMMEDIATELY, SIR. I SAID I DETAINED  
6 HIM.

7 Q. DETAINED HIM.

8 A. THAT'S CORRECT, SIR.

9 Q. BUT DETENTION DOES INVOLVE PUTTING HANDCUFFS ON HIM.

10 A. YES, SIR, NOT JUST EVEN HANDCUFFS. EVEN IF I PHYSICALLY  
11 HOLD YOU, IT'S DETAINING YOU.

12 Q. BUT THIS PARTICULAR NIGHT---

13 A. WAS HANDCUFFS.

14 Q. ---HE WAS HANDCUFFED.

15 A. THAT'S CORRECT, SIR.

16 Q. YOU JUST SAW THIS TATTOO---

17 A. THAT'S CORRECT.

18 Q. ---AND ASSUMED THAT WAS MR. MASSEY.

19 A. I ASSUMED HE KNEW WHO WAS COMING TO THE DOOR. WE WERE  
20 THERE TO ARREST ANYONE WHO WAS IN THE RESIDENCE, AND THAT WAS  
21 MR. MASSEY THAT ANSWERED THE DOOR.

22 Q. NOW, YOU DIDN'T GO TO THE ADDRESS TO ARREST WHOEVER WAS  
23 IN THE RESIDENCE. IT COULD HAVE BEEN -- THERE WERE CERTAIN  
24 PEOPLE---

25 A. THERE WERE ACTUALLY THREE IN THE RESIDENCE.

1 Q. YOU WENT THERE TO ARREST MR.---

2 A. MR. MASSEY.

3 Q. ---MASSEY.

4 A. THAT'S CORRECT. HE WAS THE ONLY ONE THAT WAS ARRESTED.

5 Q. OKAY. YOU DIDN'T HAVE A SEARCH WARRANT AT THIS TIME.

6 A. NO, SIR, NOT AT THAT TIME.

7 Q. OKAY. THIS IS THE PROTECTIVE SWEEP. OKAY. NOW, THIS

8 PROTECTIVE SWEEP, LYONS AND LYNES PARTICIPATED IN THE

9 PROTECTIVE SWEEP.

10 A. THAT'S CORRECT, SIR.

11 Q. IT LASTED ABOUT A MINUTE AND A HALF.

12 A. YES, SIR, IF THAT.

13 Q. AND THEN A PURPOSE IS TO -- FOR THE PROTECTION OF THE

14 POLICE OFFICERS.

15 A. NOT JUST THE POLICE OFFICERS. ANYBODY ELSE THAT MIGHT

16 BE EVEN OUTSIDE.

17 Q. OKAY. THEN YOU TALKED ABOUT PICTURES WERE TAKEN. I

18 GUESS THAT'S AFTER YOU ALL GOT THE ARREST WARRANT, NOT DURING

19 THE PROTECTIVE SWEEP.

20 A. NO, NOT DURING THE PROTECTIVE SWEEP. AFTER THE SEARCH

21 WARRANT.

22 Q. SO YOU GOT THIS SEARCH WARRANT. THEN YOU WENT IN, YOU

23 AND CHRISTMAS AND NESBITT.

24 A. THAT'S CORRECT.

25 Q. LIEUTENANT NESBITT?

1 A. THE PICTURES ARE EVEN TAKEN BEFORE WE WENT IN. AS THE  
2 FIRST PHOTO INDICATED, WE TAKE A PICTURE BEFORE WE GO IN, AND  
3 AS WE GO IN, WE TAKE PICTURES OF EVERYTHING, HOW EVERYTHING  
4 IS.

5 Q. DID YOU TAKE PICTURES AFTER YOU OBTAINED THE SEARCH  
6 WARRANT?

7 A. THAT'S CORRECT.

8 Q. SO AFTER YOU GOT THE SEARCH WARRANT, THE FIRST THING YOU  
9 DID WAS, "LET'S TAKE PICTURES."

10 A. THAT'S CORRECT.

11 Q. IN FACT, THEN YOU AND CHRISTMAS STARTED -- YOU STARTED A  
12 ROOM-TO-ROOM SEARCH OF THIS APARTMENT.

13 A. PRETTY MUCH. IT STARTED THAT WAY. WE BROUGHT THE  
14 FEMALE BACK IN, AND DETECTIVE CHRISTMAS STOOD WITH HER.

15 Q. THAT'S RIGHT. SO YOU PRETTY MUCH DID THE---

16 A. MYSELF AND LIEUTENANT KEN NESBITT.

17 Q. NESBITT. OKAY. YOU SAW THIS DOO RAG---

18 A. YES.

19 Q. ---ON THE BED.

20 A. NO, SIR. THE DOO RAG WAS FOUND ON THE COUCH.

21 Q. ON THE COUCH. ON THE COUCH. OKAY. NOW, WHAT TIME --  
22 APPROXIMATELY WHAT TIME ARE WE SPEAKING OF ABOUT NOW?

23 A. THIS IS 1:30-ISH BY NOW BECAUSE I'VE ALREADY WENT AND  
24 OBTAINED THE SEARCH WARRANT AND GOT IT SIGNED. IT WAS SIGNED  
25 A LITTLE AFTER 1, MAYBE A FEW MINUTES AFTER 1, AND THEN WE

1 WENT AND SERVED -- STARTED SEARCHING.

2 Q. OKAY. YOU HEARD THE TESTIMONY OF DETECTIVE RICHBURG,  
3 AND HE TALKED ABOUT LOOKING FOR A DOO RAG IN THE DUMPSTER.  
4 BUT IF YOU ALREADY HAD A DOO RAG FROM HIS HOME, DID YOU TELL  
5 HIM THAT YOU ALREADY HAD A DOO RAG AT THE SITE?

6 A. THEY WERE ADVISED OF WHAT WE FOUND. THAT'S STILL NOT TO  
7 SAY THEY HAVE TO FOLLOW THROUGH WITH WHAT HIS STATEMENT WAS,  
8 SIR.

9 Q. OKAY. THANK YOU. DID YOU ASK MR. MASSEY FOR PERMISSION  
10 AT ANY TIME TO SEARCH HIS HOME?

11 A. NO, SIR.

12 Q. YOU DID NOT ASK HIM.

13 A. I DID NOT, SIR, NO.

14 Q. DO YOU HAVE KNOWLEDGE OF ANYONE ASKING MR. MASSEY TO  
15 SEARCH HIS HOME?

16 A. TO MY KNOWLEDGE, YES, SIR, THERE WAS AT ONE TIME. YES.

17 Q. SO SOME POLICE OFFICER ASKED MR. MASSEY COULD THEY  
18 SEARCH HIS HOME.

19 A. THAT'S CORRECT, SIR.

20 Q. AND DO YOU HAVE KNOWLEDGE OF WHAT WAS MR. MASSEY'S  
21 RESPONSE?

22 A. NO.

23 Q. HE TOLD HIM NOT TO SEARCH HIS HOME.

24 A. THAT'S CORRECT, SIR. THAT'S WHY A SEARCH WARRANT WAS  
25 OBTAINED.



1 Q. BUT WE DID SEND SOMEONE IN HIS APARTMENT TO DO A  
2 PROTECTIVE SWEEP.

3 A. THAT WAS BEFORE HE WAS ASKED. THAT WAS FOR PROTECTION  
4 OF OFFICERS AND THE SUSPECT.

5 Q. THE PROTECTIVE SWEEP WAS PERFORMED BEFORE HE WAS ASKED?

6 A. YES, SIR. AS SOON AS WE BROUGHT THE OCCUPANTS OUT OF  
7 THE RESIDENCE, THE TWO OFFICERS WENT IN TO DO A PROTECTIVE  
8 SEARCH TO MAKE SURE NO ONE ELSE WAS IN THE RESIDENCE BASED ON  
9 WHY WE WERE THERE, BASED ON AN ARMED ROBBERY, A WEAPON,  
10 POSSIBLY COULD STILL BE INSIDE THE RESIDENCE, DIDN'T KNOW IF  
11 ANYBODY ELSE WAS IN THERE. I MEAN, I'LL BE HONEST WITH YOU.  
12 I WANT TO GO HOME TO MY FAMILY. SO, THEREFORE, WE WENT AND  
13 MADE SURE THAT YOUR NOBODY WAS INSIDE.

14 Q. DID ANYONE TELL MR. MASSEY AFTER HE SAID, "DO NOT SEARCH  
15 MY HOME," THAT, "WE'RE NOT REALLY SEARCHING YOUR HOME. WE'RE  
16 JUST GOING IN TO DO A PROTECTIVE SWEEP"?

17 A. THAT WASN'T EVEN ASKED THEN. IT WAS AUTOMATICALLY IN  
18 CUFFS. WE WENT TO CHECK TO MAKE SURE NO ONE ELSE WAS INSIDE  
19 THE RESIDENCE. THEN WHEN THEY CAME OUT, THEN IT WAS ASKED  
20 FOR A CONSENT TO SEARCH. WE WENT THERE TO SEARCH FOR  
21 EVIDENCE. WHEN THE TEAM WENT IN, THEY WERE THERE TO SEARCH  
22 FOR BODIES.

23 Q. OKAY. OKAY. LET'S GO TO THE PICTURES. NOW, ALL THESE  
24 PICTURES WE'VE SEEN HERE, THAT YOU'VE SEEN HERE TODAY, THEY  
25 WERE TAKEN BY LIEUTENANT NESBITT?

1 A. SOME OF THEM. SOME OF THEM WERE TAKEN BY SENIOR  
2 DETECTIVE CULICK AT THE OFFICE. NOW, AS FAR AS THE SCENE AT  
3 THE RESIDENCE, IT WAS DONE BY LIEUTENANT KEN NESBITT.

4 Q. OKAY. AND YOU SAY HE IS KNOWN TO YOU AS THE FORENSIC  
5 GURU?

6 A. THAT'S CORRECT, SIR.

7 Q. DOES HE HAVE AN OFFICIAL TITLE?

8 A. HE IS -- RIGHT KNOW HE'S A TRAINING OFFICER, BUT AT THAT  
9 TIME HE WAS IN INVESTIGATIONS.

10 Q. OKAY.

11 A. NOW HE'S NOW OVER TRAINING.

12 Q. NOW, WHEN PICTURES ARE TAKEN AND HE GOES IN AND TAKES  
13 PICTURES---

14 A. UH-HUH.

15 Q. WHEN PICTURES ARE TAKEN, IF DRUGS ARE FOUND IN THAT  
16 APARTMENT, I ASSUME YOU ALL WOULD TAKE CONTROL OF THOSE  
17 DRUGS?

18 A. THAT'S CORRECT, SIR.

19 Q. THAT'S CORRECT? IF THERE ARE ANY TYPE OF PILLS THAT ARE  
20 PROBABLY ILLEGAL, YOU ALL WOULD TAKE PICTURES---

21 A. YES, SIR. MOST OF THE TIME, YES, SIR, WE DO.

22 Q. WHAT ABOUT DURING THE PROTECTIVE SWEEP? IF THEY WOULD  
23 JUST RUSH IN, THEY'RE NOT LOOKING FOR DRUGS OR MARIJUANA OR  
24 ANYTHING LIKE THAT.

25 A. NO, SIR, JUST LOOKING FOR PEOPLE.

1 Q. BUT IF THEY EVEN SAW THAT GUN ON THE BED, THEY WOULDN'T  
2 DO ANYTHING?

3 A. THEY WOULDN'T TOUCH IT.

4 Q. THEY WOULDN'T TOUCH IT.

5 A. COULD NOT TOUCH IT, SIR.

6 Q. IF THEY SAW MARIJUANA ON THE DRESSER, THEY WOULDN'T  
7 TOUCH IT.

8 A. NO, SIR.

9 Q. THEIR JOB IS JUST TO MAKE SURE EVERYTHING IS SAFE.

10 A. THAT'S CORRECT, SIR.

11 Q. BUT YOU DO HAVE KNOWLEDGE THAT MASSEY SAID DO NOT -- "I  
12 DO NOT GIVE YOU PERMISSION TO SEARCH MY APARTMENT."

13 A. NOT TO THAT EXTENT. HE SAID -- WHEN HE WAS ASKED IF  
14 THEY COULD GO AND DO A CONSENT TO SEARCH, HE SAID, "NO."

15 Q. HE DID SAY NO. OKAY. DID ANYONE ASK HIM, TO YOUR  
16 KNOWLEDGE, WHOSE APARTMENT IS -- WAS THIS EVEN HIS APARTMENT?

17 A. NO, SIR. WE KNEW IT WAS HIS APARTMENT, ACCORDING TO HIS  
18 D.L., DRIVER'S LICENSE.

19 Q. HIS DRIVER'S LICENSE. DO YOU HAVE KNOWLEDGE ABOUT  
20 THE -- WHETHER OR NOT THE HANDGUN WAS FINGERPRINTED?

21 A. NOT TO MY KNOWLEDGE. YOU'D HAVE TO ASK THE QUESTION TO  
22 LIEUTENANT KEN NESBITT.

23 MR. HASTIE: OKAY. THANK YOU. THANK YOU. NO FURTHER  
24 QUESTIONS, YOUR HONOR.

25 THE COURT: MR. SPRATLIN?

1 MR. SPRATLIN: JUST REAL BRIEFLY.

2 REDIRECT EXAMINATION

3 BY MR. SPRATLIN:

4 Q. MR. HASTIE ASKED ABOUT DRUGS IN THE RESIDENCE. WERE ANY  
5 DRUGS FOUND IN THE RESIDENCE?

6 A. NO, SIR.

7 Q. OKAY. AND HE ALSO ASKED ABOUT THE OFFICERS DOING THE  
8 PROTECTIVE SWEEP.

9 A. YES, SIR.

10 Q. AND THAT THE DEFENDANT WAS NOT ASKED CONSENT TO DO A  
11 PROTECTIVE SWEEP.

12 A. NO.

13 Q. DO YOU EVER ASK -- I MEAN, THE PURPOSE OF A PROTECTIVE  
14 SWEEP -- DO YOU EVER ASK THE PEOPLE WHOSE HOUSE IT IS FOR THE  
15 RIGHT TO DO A PROTECTIVE SWEEP?

16 A. NO, SIR.

17 Q. AND WHY IS THAT?

18 A. THE REASON BEING IS THE PROTECT SWEEP IS NOT TO LOOK FOR  
19 EVIDENCE. IT'S TO ACTUALLY LOOK FOR ANY PERSONS THAT ARE  
20 INSIDE THAT RESIDENCE THAT CAN HARM AN OFFICER OR A PERSON  
21 THAT WE MIGHT HAVE DETAINED.

22 Q. AND OFFICERS ARE TRAINED TO -- WHAT ARE OFFICERS TRAINED  
23 TO DO DURING THE PROTECTIVE SWEEP?

24 A. AND I HAVE BEEN ON THE FORM -- IN MY YEARS OF LAW  
25 ENFORCEMENT: GOING IN, DO QUICK LOOKS IN BATHROOMS, BEHIND

1 SHOWER CURTAINS, CLOSETS AND SO FORTH, AND THEN IF WE DON'T  
2 FIND NOBODY, WE EXIT OUT OF THE RESIDENCE.

3 Q. OKAY. AND NOW MR. HASTIE TALKED ABOUT THE GUN AND WHY  
4 THE PROTECTIVE SWEEP DID NOT UNCOVER THE GUN. WAS THE GUN IN  
5 EXPLAIN VIEW?

6 A. NO, SIR, THE GUN WAS NOT IN PLAIN VIEW.

7 Q. WHERE AGAIN WAS THE GUN?

8 A. THE GUN WAS ACTUALLY ON THE BED LAYING ON A PAIR OF  
9 SHORTS UP UNDER A SHIRT IN THE BEDROOM.

10 Q. OKAY. AND MR. HASTIE ASKED ABOUT THE DEFENDANT'S  
11 ADDRESS. LET ME SHOW YOU WHAT'S BEEN MARKED OR ENTERED INTO  
12 EVIDENCE AS STATE'S EXHIBIT NUMBER 38. WHAT IS THAT A  
13 PHOTOGRAPH OF AGAIN?

14 A. THIS IS A PHOTOGRAPH OF HIS SOUTH CAROLINA DRIVER'S  
15 LICENSE.

16 Q. AND WHAT ADDRESS IS LISTED ON THAT SOUTH CAROLINA  
17 DRIVER'S LICENSE?

18 A. 107 NORTH SALEM, APARTMENT NUMBER 2.

19 Q. AND WAS THAT THE APARTMENT YOU WERE SEARCHING THAT  
20 NIGHT?

21 A. THAT'S CORRECT, SIR.

22 MR. SPRATLIN: THANK YOU.

23 THE COURT: ANYTHING ELSE?

24 MR. HASTIE: YES, SIR.

25 THE COURT: ALL RIGHT. YOU CAN GO AHEAD.

RECROSS EXAMINATION

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BY MR. HASTIE:

Q. I WOULD JUST LIKE TO TAKE A LOOK AT THAT DRIVER'S  
LICENSE YOU JUST SPOKE OF. WHAT'S THE WEIGHT THIS DRIVER'S  
LICENSE SAYS OF MR. MASSEY?

A. RIGHT THERE IT SAYS 172 SAYS, SIR.

Q. WHAT DOES IT SAY ABOUT HIS HEIGHT?

A. 5'7".

Q. 5'7". YOU HEARD THE TESTIMONY EARLIER THAT WHEN HE WAS  
IN THE STORE HE ASKED FOR A SIZE 44.

A. YES, SIR.

Q. NOW, ON THIS PROTECTIVE SWEEP -- SO YOU'RE SAYING IF  
SOMEONE CALLED YOU, IF I LIVED IN YOUR AREA, AND TOLD YOU  
THAT SOMEONE NAMED CALVIN HASTIE HAD COMMITTED AN OFFENSE,  
YOU COULD COME TO MY HOUSE, AND IF I'M THE FIRST ONE TO  
ANSWER THE DOOR AND I FIT THAT DESCRIPTION, YOU COULD PUT ME  
INTO CUSTODY.

A. REPHRASE YOUR QUESTION. YOU SAID IF SOMEONE HAD CALLED  
ME AND TOLD ME THAT YOU HAD COMMITTED AN OFFENSE?

Q. THOUGHT THAT I HAD COMMITTED AN OFFENSE.

A. WE WOULDN'T HAVE REACTED ON THAT. WE HAD PROBABLE CAUSE  
TO KNOW THAT THE DEFENDANT HAD COMMITTED THE OFFENSE. BY  
THAT TIME HE HAS NOW BECOME A SUSPECT AND WOULD HAVE BEEN  
APPREHENDED UPON SIGHT.

Q. AND YOU REALLY WEREN'T EVEN SURE THAT THAT WAS ANDRE

1 MASSEY THAT YOU HANDCUFFED THAT NIGHT.

2 A. BASED ON THE DESCRIPTION THAT WAS GIVEN TO ME UPON  
3 SENIOR DETECTIVE CULICK, THE FULL DESCRIPTION - THE TATTOO,  
4 THE WIFE BEATER, WHITE TEE SHIRT, WHAT HE HAD ON, AND WHEN HE  
5 CAME TO THE DOOR, THAT'S WHAT I SAW AND THAT'S WHEN I  
6 HANDCUFFED HIM.

7 Q. WAS THERE A LIGHT ON THE -- ON HIS---

8 A. ON THE PORCH.

9 Q. THERE WAS A LIGHT ON?

10 A. LIGHT ON THE FRONT PORCH.

11 Q. THERE WAS A LIGHT ON IN THE HOUSE WHEN YOU CAME TO THE  
12 DOOR?

13 A. FROM MY KNOWLEDGE, YES, SIR, IT WAS.

14 MR. HASTIE: NO FURTHER QUESTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT. YOU CAN STEP DOWN. ALL RIGHT.  
16 BREAK FOR THE DAY, MR. SPRATLIN AND MR. HASTIE?

17 MR. SPRATLIN: YOUR HONOR, THE STATE DOES HAVE ONE MORE  
18 LAW ENFORCEMENT OFFICER. WE CAN ALWAYS HANDLE THAT IN THE  
19 MORNING.

20 THE COURT: WE'LL DO THAT THE MORNING. ALL RIGHT.  
21 LADIES AND GENTLEMEN, WE'RE GOING TO BREAK FOR THE DAY. YOU  
22 MAY NOT DISCUSS THE CASE. PLEASE REMEMBER MY EARLIER  
23 INSTRUCTIONS THAT YOU'RE NOT TO OBTAIN ANY INFORMATION  
24 THROUGH ANY OTHER SOURCE AT ALL OTHER THAN WHAT YOU SEE AND  
25 HEAR IN THIS COURTROOM. I'LL SEE YOU TOMORROW MORNING AT

1 9:30.

2 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE  
3 DAY AT 5:09 P.M.)

4 THE COURT: MR. SPRATLIN, COULD YOU GET THOSE PHOTOS,  
5 PLEASE, AND HAND THEM TO THE COURT REPORTER?

6 MR. SPRATLIN: YES, SIR.

7 THE COURT: ALL RIGHT. HOW MANY MORE WITNESSES WILL THE  
8 STATE HAVE?

9 MR. SPRATLIN: YOUR HONOR, THE STATE ONLY INTENDS ON  
10 CALLING MAYBE ONE, MAYBE TWO WITNESSES AS TO THE CHAIN-OF-  
11 CUSTODY ISSUE.

12 THE COURT: ALL RIGHT. MR. HASTIE, MR. SPRATLIN SAID HE  
13 MAY HAVE ONE OR -- HE WILL HAVE ONE AND MAYBE TWO MORE  
14 WITNESSES. WILL YOU -- WILL YOU DISCUSS WITH YOUR CLIENT THE  
15 FACT THAT TOMORROW MORNING I WILL BE GOING OVER WITH HIM IN  
16 DETAIL HIS RIGHTS UNDER THE FIFTH AMENDMENT AND WHETHER OR  
17 NOT HE WILL OR WILL NOT TESTIFY. IF YOU WOULD PREFER, I CAN  
18 DO THAT PRELIMINARILY NOW SO YOU CAN DISCUSS THAT IN DETAIL.  
19 WOULD YOU LIKE FOR ME TO TALK TO HIM ABOUT THAT NOW?

20 MR. HASTIE: YES, SIR.

21 THE COURT: I'LL DO IT IN FULL AT THE CLOSE OF THE  
22 STATE'S CASE.

23 MR. SPRATLIN: YOUR HONOR, THERE MAY BE ONE ISSUE WITH  
24 THAT. IN CHAMBERS WE DISCUSSED IMPEACHABLE OFFENSES. AND  
25 THERE IS SOMETHING THAT I WOULD LIKE TO -- I JUST WANTED TO



1 CLEAR UP WITH THE COURT. WE COULD DO IT IN CHAMBERS IF THAT  
2 WOULD BE PREFERABLE.

3 THE COURT: ALL RIGHT. RIGHT NOW?

4 MR. SPRATLIN: IT MAY BE BEST, YOUR HONOR.

5 THE COURT: OKAY. ALL RIGHT. THEN WE'LL TAKE SOME TIME  
6 TO DO THAT TOMORROW MORNING, AND WE'LL -- IF THE LAWYERS  
7 COULD BE BACK HERE TOMORROW MORNING AT 9---

8 MR. HASTIE: YES, SIR.

9 THE COURT: ---AND PLEASE MAKE SURE IF YOU HAVE ANYTHING  
10 THAT YOU NEED TO PUT ON THE RECORD BEFORE 9:30 THAT YOU LET  
11 ME KNOW AT 9:00.

12 MR. SPRATLIN: YES, YOUR HONOR.

13 MR. HASTIE: YES, SIR.

14 THE COURT: OKAY? ALL RIGHT. THANK Y'ALL.

15 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:11 P.M.  
16 AND RESUMED THE FOLLOWING DAY, AUGUST 5, 2009, AS FOLLOWS.  
17 STATE'S EXHIBITS 43 THROUGH 48 WERE MARKED FOR IDENTIFICATION  
18 ONLY.)

19 THE COURT: HAVE A SEAT. THANKS. MR. WILDER AND MR.  
20 HASTIE, THERE'S A MOTION?

21 MR. WILDER: YES, YOUR HONOR. IF IT PLEASE THE COURT,  
22 ON BEHALF OF THE DEFENDANT AND WITH MR. HASTIE'S PERMISSION  
23 AND WITH THE COURT'S PERMISSION, AT THIS POINT ON BEHALF OF  
24 THE DEFENDANT I'D LIKE TO MAKE A MOTION FOR A MISTRIAL. YOUR  
25 HONOR, THE MISTRIAL MOTION IS BASED ON THE SITUATION THAT WE

1 HAVE NOW THAT OVER THE MOTION TO SUPPRESS THE -- THE ARREST,  
2 THE PROTECTIVE SWEEP, THE SEARCH WARRANT, AND THE ALLEGED  
3 STATEMENTS BEING GIVEN BY THE DEFENDANT, IN PARTICULAR THE  
4 SECOND STATEMENT WHEN CONFRONTED WITH THE RESULTS OF THE  
5 SEARCH WARRANT, THE COURT HAS ALLOWED OVER MR. HASTIE'S  
6 OBJECTION EVIDENCE TO COME IN THAT WAS TAKEN FROM THE  
7 DEFENDANT, BOTH BY WAY OF HIS ARREST AND THEN SUBSEQUENT  
8 INTERROGATION AND THE SEARCH AND SEIZURE RESULT.

9 YOUR HONOR, THE GROUNDS FOR THIS MOTION WOULD BE THE  
10 VIOLATION OF THE FOURTH AMENDMENT RIGHTS TO REMAIN FREE FROM  
11 UNREASONABLE SEARCH AND SEIZURE GUARANTEED BY THE UNITED  
12 STATES CONSTITUTION AND BILL OF RIGHTS AND ALSO ANALOGOUS  
13 STATE CONSTITUTION RIGHTS TO REMAIN FREE FROM UNREASONABLE  
14 SEARCH AND SEIZURE AND DUE PROCESS, YOUR HONOR. THE GROUNDS  
15 FURTHER FOR THE MOTION WOULD BE IN SUPPORT OF THAT, YOUR  
16 HONOR, THE COURT'S EXHIBIT NUMBER 8, THE AFFIDAVIT---

17 THE COURT: I'VE GOT IT AS NUMBER 7.

18 MR. WILDER: WELL, YOUR HONOR, I'LL DEFER TO THE COURT'S  
19 DISCRETION---

20 THE COURT: STICKER? OKAY. LET ME SEE -- LET ME SEE  
21 THE FRONT OF IT.

22 MR. WILDER: YES, SIR.

23 THE COURT: OKAY. I MUST HAVE WRITTEN IT DOWN WRONG.  
24 I'VE GOT IT WRITTEN DOWN AS NUMBER 7. WHAT DO YOU HAVE THE  
25 SEARCH WARRANT DOWN AS? EIGHT?

1 (PAUSE IN PROCEEDINGS.)

2 MR. WILDER: YOUR HONOR, BASED ON EXHIBIT NUMBER 8,  
3 COURT'S EXHIBIT NUMBER 8, THE AFFIDAVIT ATTACHED THERETO HAS  
4 NOTHING IN REFERENCE TO AN AFFIDAVIT UNDER THE SECTION  
5 "REASON FOR AFFIANT'S BELIEF THAT PROPERTY SOUGHT IS ON  
6 SUBJECT PREMISES." THIS WAS THE INFORMATION RECEIVED BY THE  
7 MAGISTRATE ON JUNE 8, 2007, PRESENTED BY SENIOR DETECTIVE TOD  
8 SIMS. THE THIRD PARAGRAPH STATES, "STATE PROBATION AND  
9 PAROLE WAS GIVEN THE INFORMATION GATHERED FROM THE WITNESSES  
10 AND GAVE LAW ENFORCEMENT A LOCATION OF ANDRE MASSEY'S  
11 RESIDENCE WHICH IS 107 NORTH SALEM STREET, APARTMENT NUMBER  
12 2. LAW ENFORCEMENT LOCATED MASSEY AT HIS RESIDENCE AND TOOK  
13 HIM INTO CUSTODY. AT THE TIME OF THE ARREST, MASSEY WAS  
14 WEARING A WHITE TANK TOP TEE SHIRT AND DID HAVE A TATTOO  
15 DESCRIBED ON HIS LEFT ARM AND, THEREFORE, THE OFFICER  
16 BELIEVES THAT THE ITEMS" -- AND, YOUR HONOR, I'M PARAPHRASING  
17 NOW.

18 HOWEVER, YOUR HONOR, THE OPERATIVE INFORMATION RECEIVED  
19 BY THE MAGISTRATE AT THE TIME WE ASSERT WAS IN VIOLATION OF  
20 CODE SECTION 24-21-290 WHICH PROVIDES THAT INFORMATION  
21 RECEIVED BY PROBATION AGENTS IS PRIVILEGED, AND AS THE COURT  
22 POINTED OUT EARLIER ON THE RECORD, THAT STATE VERSUS HOOK HAS  
23 CONSIDERED THIS SECTION, AND THERE ARE NO EXCEPTIONS TO THIS.  
24 BUT THE POINT BEING, YOUR HONOR, THAT THE SEARCH WARRANT ON  
25 ITS FACE IS INVALID AND THAT, THEREFORE, WE SUBMIT THAT ANY

1 INFORMATION RECEIVED BY THE MAGISTRATE AT THAT TIME IN  
2 CONTRADICTION TO THAT STATUTE OR CONTRAVENTION OF THAT  
3 STATUTE WOULD HAVE BEEN IMPROPERLY RECEIVED BY THE MAGISTRATE  
4 AT THAT TIME. IT WAS EX PARTE PROCEEDINGS, NOBODY THERE TO  
5 REPRESENT THE DEFENDANT. THE DEFENDANT HAD CLEARLY, BY THE  
6 TESTIMONY, NOT GIVEN CONSENT TO ANY SEARCH.

7 FIRST OF ALL, YOUR HONOR, THE SEARCH INCIDENT TO ARREST  
8 WE WOULD STATE WAS IMPROPERLY CONDUCTED BECAUSE THE AREA THAT  
9 THE DEFENDANT WAS ARRESTED IN, BY THE UNCONTROVERTED  
10 TESTIMONY, WAS OUTSIDE THE RESIDENCE. HE CAME TO THE DOOR;  
11 HE CAME OUT. THEY ESCORTED HIM OUT. THEY PUT HIM IN  
12 HANDCUFFS; THEY PUT HIM UNDER ARREST. THEN THEY GO INTO THE  
13 APARTMENT---

14 THE COURT: WELL, THAT'S NOT PART OF THE MISTRIAL  
15 MOTION.

16 MR. WILDER: YES, SIR, IT IS.

17 THE COURT: THE PROTECTIVE SWEEP?

18 MR. WILDER: YES, YOUR HONOR.

19 THE COURT: YOU'RE SAYING THAT'S NOT LEGITIMATE?

20 MR. WILDER: YES, YOUR HONOR. WE ARGUE THAT THAT'S NOT  
21 SEARCH INCIDENT TO ARREST. THAT'S---

22 THE COURT: THEY DIDN'T SEARCH ANYTHING EXCEPT FOR  
23 PEOPLE.

24 MR. WILDER: THEY SAY THEY WENT IN.

25 THE COURT: AND THERE ARE CASES THAT CLEARLY SAY A

1 PROTECTIVE SWEEP IS PROPER, BUT YOU'RE SAYING THAT IT'S NOT  
2 IN THIS CASE?

3 MR. WILDER: I'M SAYING THAT A PROTECTIVE SWEEP OF THE  
4 AREA INCIDENT TO ARREST IS PROPER, BUT THAT'S OUTSIDE THE  
5 RESIDENCE.

6 THE COURT: SO THEY CAN -- THE ONLY THING THEY CAN DO IS  
7 LOOK ON THE STEPS AND UNDERNEATH THE STEPS AND AROUND IN THE  
8 BUSHES.

9 MR. WILDER: WELL, YOUR HONOR, I'VE BEEN IN CASES BEFORE  
10 WHERE THEY ARREST INSIDE THE HOUSE. THEY GET TO SEARCH  
11 AROUND IN THE ROOM WHERE THEY MADE THE ARREST. THAT'S -- THE  
12 QUESTION IS SUBJECTIVELY: WHAT IS THE AREA INCIDENT TO  
13 ARREST?

14 THE COURT: ALL RIGHT. FROM A COMMON-SENSE STANDPOINT,  
15 YOU'RE TELLING ME THAT THEY DO A PROTECTIVE SWEEP OF THE  
16 IMMEDIATE AREA ON THE OUTSIDE, THAT THEY JUST HAVE TO ASSUME  
17 THAT ANY BAD GUYS IN THERE ARE GOING TO SAY, "OKAY. WELL,  
18 UNDER THE CASE LAW WE'RE NOT GOING TO SHOOT THESE PEOPLE  
19 BECAUSE THEY'RE ONLY DOING A PROTECTIVE SWEEP OF THE OUTSIDE,  
20 AND IT REALLY WOULDN'T BE FAIR TO SHOOT THEM BECAUSE THEY  
21 CAN'T COME IN HERE."

22 MR. WILDER: MY ARGUMENT IS THAT, YOUR HONOR, IN THE  
23 FACTS OF THIS CASE, THEY MADE THE ARREST OUTSIDE AND,  
24 THEREFORE, THEY SHOULDN'T BE PERMITTED TO SEARCH INSIDE---

25 THE COURT: THAT QUESTION ON THAT BASIS IS DEFINITELY

1 DENIED.

2 MR. WILDER: YOUR HONOR, WE WOULD THEN FURTHER INDICATE  
3 THAT THE -- ON ITS FACE OUR ARGUMENT IS THE SEARCH WARRANT IS  
4 INVALID, THAT, THEREFORE, THE SEARCH INCIDENT TO THE SEARCH  
5 WARRANT IS INVALID, YOUR HONOR, AND THAT IF THAT'S INVALID  
6 AND OVER THE OBJECTION OF THE DEFENDANT AND OVER THE  
7 OBJECTION OF MR. HASTIE, THIS EVIDENCE WAS ADMITTED INTO --  
8 BEFORE THE JURY DURING THE TRIAL OF THE CASE THAT -- YOUR  
9 HONOR, THAT, THEREFORE, THE JURY HAS HEARD INFORMATION,  
10 EVIDENCE, OVER OUR OBJECTION THAT WE BELIEVE WAS GATHERED IN  
11 VIOLATION OF THE DEFENDANT'S FOURTH AMENDMENT RIGHTS AND  
12 THAT, THEREFORE, A MISTRIAL SHOULD BE GRANTED. YOUR HONOR,  
13 THIS IS COMPOUNDED, WE BELIEVE IN THIS CASE, BECAUSE WHEN THE  
14 DEFENDANT WAS IN CUSTODY, HE WAS CONFRONTED BY THE FRUITS, WE  
15 BELIEVE, OF THE UNLAWFUL SEARCH.

16 THE COURT: AND THAT MAY BE CONTESTED.

17 MR. WILDER: AND THAT ALLEGEDLY WAS THE GROUNDS ON WHICH  
18 THEY TESTIFIED THAT HE CHANGED HIS STATEMENT FROM  
19 EXCULPATORY, NOT I-DIDN'T-DO-IT KIND OF STATEMENT, TO  
20 INCULPATORY -- I-DID-DO-IT STATEMENT AND THAT THE SEARCH  
21 WARRANT, THEREFORE, BEING INVALID LED TO A SITUATION WHERE  
22 THE DEFENDANT GAVE A STATEMENT THAT WAS AGAINST HIS PENAL  
23 INTERESTS AND, THEREFORE, THE STATEMENT ALSO SHOULD BE  
24 SUPPRESSED, BUT HAVING NOT BEEN AND NOW BEFORE THE JURY, WE  
25 BELIEVE THAT A MISTRIAL WOULD BE AN APPROPRIATE REMEDY.

1       YOUR HONOR, I WOULD ALSO LIKE TO HAND UP TO THE COURT A  
2       RESIDENTIAL RENTAL AGREEMENT WHICH WAS PROVIDED AT SOME POINT  
3       TO THE DEFENDANTS---

4       **THE COURT:**   THAT'S NOT IN EVIDENCE, SO HOW CAN YOU MAKE  
5       THAT A BASIS FOR---

6       **MR. WILDER:**   IS IT IN EVIDENCE?

7       **THE COURT:**   NO.

8       **MR. WILDER:**   HOWEVER, YOUR HONOR, I WOULD LIKE FOR IT TO  
9       BE A COURT'S EXHIBIT BECAUSE IT INDICATES THAT MR. MASSEY HAS  
10      A CONSTITUTIONALLY-PROTECTED RIGHT TO BE AT 107 NORTH SALEM  
11      SECOND -- APARTMENT NUMBER 2.

12      **THE COURT:**   THAT'S NOT IN THE RECORD.

13      **MR. WILDER:**   WELL, I WOULD LIKE TO MAKE IT.

14      **THE COURT:**   BUT THERE'S ALREADY TESTIMONY THAT IT WAS  
15      HIS APARTMENT.

16      **MR. WILDER:**   RIGHT.

17      **THE COURT:**   SO...

18      **MR. WILDER:**   AND THERE IS A DRIVER'S LICENSE IN EVIDENCE  
19      THAT ESTABLISHES THAT ALSO IN FRONT OF THE JURY.   HOWEVER,  
20      YOUR HONOR, IN AN ABUNDANCE OF CAUTION, I WOULD LIKE THE  
21      COURT TO RECEIVE THIS EXHIBIT BECAUSE IT INDICATES---

22      **THE COURT:**   OVER THE STATE'S OBJECTION.   JUST PUT --  
23      JUST PUT A STICKER ON IT, AND IT'S OVER THE STATE'S OBJECTION  
24      BECAUSE THERE'S NO FOUNDATION LAID FOR IT AND IT'S A HEARSAY  
25      DOCUMENT.

1       **MR. SPRATLIN:** YES, YOUR HONOR.

2       (COURT'S EXHIBIT 9 WAS MARKED FOR IDENTIFICATION ONLY.)

3       **MR. WILDER:** YOUR HONOR, THEN OVER THEIR OBJECTION I'D  
4 HAND THIS UP TO THE COURT. IT'S JUST TO INDICATE, YOUR  
5 HONOR, THAT THERE WAS A LANDLORD/TENANT AGREEMENT IN EFFECT  
6 WHICH GAVE MR. MASSEY THE RIGHT TO BE THE TENANT THERE,  
7 LAWFULLY IN POSSESSION OF THE PREMISES. THAT WAS HIS HOME.  
8 IT'S ESTABLISHED BY THE DRIVER'S LICENSE THE STATE PUT UP,  
9 AND THIS WAS INFORMATION PROVIDED TO THE DEFENDANT BY THE  
10 STATE AS PART OF DISCOVERY.

11       **THE COURT:** ALL RIGHT.

12       **MR. WILDER:** YOUR HONOR, AND THOUGH -- SO FOR ALL THOSE  
13 REASONS, YOUR HONOR, WE BELIEVE THAT IT HAS BEEN ESTABLISHED  
14 THAT THE DEFENDANT HAD -- HAS STANDING TO RAISE A FOURTH  
15 AMENDMENT ISSUE OF BEING FREE FROM UNREASONABLE SEARCH AND  
16 SEIZURE IN HIS OWN HOME. THIS IS NOT EVEN LIKE ON THE STREET  
17 OR IN THE CAR OR SOMEPLACE. THIS IS -- THIS IS HIS OWN HOME.  
18 THEREFORE, A SEARCH OF HIS HOME, YOUR HONOR, SHOULD BE, WE  
19 BELIEVE, SUBJECT TO THE HIGHEST CONSTITUTIONAL LEVEL OF  
20 PRIVILEGE THAT THERE IS AGAINST UNREASONABLE SEARCH AND  
21 SEIZURE. AND SO FOR ALL THOSE REASONS, YOUR HONOR, WE  
22 BELIEVE THAT A MISTRIAL WOULD NOW BE APPROPRIATE, THAT THE  
23 JURY HAVING HEARD THIS OVER OUR MOTION TO SUPPRESS AND NOW  
24 OVER MR. HASTIE'S OBJECTION AND CONTINUING OBJECTION TO THIS  
25 EVIDENCE COMING IN THAT THERE IS -- THERE'S SUFFICIENT



1 GROUND TO WARRANT THAT MY CLIENT, MR. MASSEY, CANNOT GET A  
2 FAIR -- SUBSTANTIALLY FAIR TRIAL WITH THE JURY HAVING HEARD  
3 ALL OF THIS TAINTED EVIDENCE. THANK YOU.

4 THE COURT: ALL RIGHT. YOUR MOTION IS DENIED UNLESS,  
5 MR. SPRATLIN, YOU AGREE. DO YOU AGREE?

6 MR. SPRATLIN: NO, YOUR HONOR, I DO NOT AGREE WITH THE  
7 DEFENDANT.

8 THE COURT: ALL RIGHT. THE MOTION IS DENIED. IN MY  
9 VIEW -- AND I STILL CAN'T WRAP MY ARMS AROUND THE WHERE OR  
10 WHY OF THE STATUTE, AND I'M SURE THAT THE DEPARTMENT OF  
11 PROBATION, PAROLE, AND PARDON SERVICES AND THE LAW  
12 ENFORCEMENT ENTITIES EMPHATICALLY DISAGREE WITH MY REFUSAL TO  
13 LET MR. SUMTER PROVIDE A LINK IN THE CHAIN, SO TO SPEAK, FOR  
14 HOW MR. MASSEY WAS LOCATED ADDRESS-WISE. THE STATUTE SAYS  
15 AND THE HOOK CASE SAYS THERE'S NO EXCEPTION. IT SAYS THAT  
16 INFORMATION OR DATA OBTAINED BY A PROBATION AGENT IN THE  
17 COURSE OF HIS OFFICIAL DUTY IS NOT RECEIVABLE INTO EVIDENCE.  
18 THAT MEANS IT DOESN'T COME IN, NO MATTER WHAT, EVEN IF  
19 THERE'S A DOOR OPENING OR IMPEACHMENT ANGLE. IT ALSO SAYS IT  
20 MAY NOT BE DISCLOSED TO ANYONE OTHER THAN THE JUDGE AT THE  
21 PROBATION HEARING.

22 TO ME THAT DOES NOT IMPLICATE THE FOURTH AMENDMENT  
23 INSOFAR AS A FRUIT-OF-THE-POISONOUS-TREE ANALOGY IS  
24 CONCERNED. IT SIMPLY SAYS IT'S NOT RECEIVABLE INTO EVIDENCE  
25 AND IT MAY NOT BE DISCLOSED. I DON'T KNOW WHAT THE HEREAFTER

1 IS, IF THE AGENT DOES DISCLOSE IT IN TECHNICAL VIOLATION OF  
2 THAT STATUTE. I DON'T KNOW BECAUSE THE STATUTE DOESN'T  
3 PROVIDE A REMEDY.

4 IT'S THE DEFENDANT'S POSITION THAT THE ONLY LOGICAL  
5 ANSWER TO THAT QUESTION IS THAT ANY FRUIT OBTAINED BY GIVING  
6 THAT INFORMATION NECESSARILY HAS TO BE SUPPRESSED. I  
7 DISAGREE WITH THAT, BUT YOUR ARGUMENT IS MADE CLEAR FOR THE  
8 RECORD. SO, IN MY VIEW, THE APPELLATE COURT WOULD TAKE ONE  
9 OF THREE POSITIONS, ONE OF WHICH IS THAT, WELL, THEY WOULD  
10 HAVE FOUND HIM ANYWHERE BECAUSE THE TESTIMONY WAS CLEAR THAT  
11 THEY HAD HIS ADDRESS FROM D.M.V. AND THE SEX OFFENDER  
12 REGISTRY INFORMATION WHICH IS NOT PRIVILEGED; AT LEAST I'VE  
13 NOT BEEN SHOWN ANYTHING THAT SAYS IT WAS. THAT LATTER PART  
14 WAS KEPT OUT FOR PREJUDICIAL REASONS IN FRONT OF THE JURY.

15 THE SECOND THING THE APPELLATE COURT COULD DO IS EXACTLY  
16 WHAT YOU SAY, THAT EVERYTHING IS -- THE FRUIT OF IT HAS GOT  
17 TO BE SUPPRESSED. THE THIRD THING IS THE APPROACH THAT I  
18 JUST MENTIONED IS THAT IT -- WHILE IT MAY BE IN TECHNICAL  
19 VIOLATION OF THE STATUTE, THERE ARE NO FOURTH AMENDMENT  
20 IMPLICATIONS. SO YOUR MOTION IS DENIED.

21 YOU CAN CONTINUE TO OBJECT, IF YOU'D LIKE, WHEN THE  
22 ISSUE IS BROUGHT, BUT I THINK IT'S -- THAT WILL BE -- THAT  
23 WILL BE UP TO YOU. NOW, BEFORE I FORGET, ON THE TWO  
24 STATEMENTS, IF YOU WOULD REDACT ALL BUT THE LAST FOUR DIGITS  
25 OF THE SOCIAL SECURITY NUMBER.

1       **MR. SPRATLIN:** YES, YOUR HONOR. I CAN ACTUALLY DO THAT  
2 RIGHT NOW.

3       **THE COURT:** ALL RIGHT. JUST MAKE SURE WE DO THAT BEFORE  
4 THE STATEMENT GOES INTO THE JURY ROOM. ALL RIGHT. ANYTHING  
5 ELSE BEFORE WE BRING THE JURY IN?

6       **MR. HASTIE:** NOTHING FROM DEFENSE, YOUR HONOR.

7       **THE COURT:** ANYTHING ELSE, MR. SPRATLIN?

8       **MR. SPRATLIN:** NOTHING, YOUR HONOR.

9       **THE COURT:** ALL RIGHT. YOU CAN BRING IN THE JURY.

10       (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:46  
11 A.M.)

12       **THE COURT:** THANK YOU, LADIES AND GENTLEMEN. WE'RE  
13 READY TO CONTINUE NOW WITH THE PRESENTATION OF EVIDENCE. MR.  
14 SPRATLIN, YOU CAN CALL YOUR NEXT WITNESS.

15       **MR. SPRATLIN:** THANK YOU, YOUR HONOR. THE STATE NEXT  
16 CALLS LIEUTENANT KEN NESBITT TO THE STAND.

17       KENNETH L. NESBITT, SR., AFTER BEING DULY SWORN,  
18 TESTIFIED AS FOLLOWS:

19       **THE CLERK:** HAVE A SEAT UP THERE, PLEASE, SIR. STATE  
20 YOUR FULL NAME AND SPELL YOUR LAST NAME, PLEASE.

21       **THE WITNESS:** KENNETH LEE NESBITT, SR. LAST NAME IS  
22 SPELLED N-E-S-B-I-T-T.

23                               DIRECT EXAMINATION

24 BY MR. SPRATLIN:

25 Q. OKAY. MR. NESBITT, WHERE ARE YOU EMPLOYED?

1 A. I'M EMPLOYED BY THE SUMTER POLICE DEPARTMENT.

2 Q. AND WHAT'S YOUR TITLE THERE?

3 A. CURRENTLY THE TRAINING OFFICER.

4 Q. AND WHAT'S YOUR RANK?

5 A. LIEUTENANT.

6 Q. OKAY. NOW, LIEUTENANT NESBITT, WERE YOU -- WHAT ALL DO  
7 YOU DO FOR THE SUMTER POLICE DEPARTMENT IN YOUR CAPACITY?

8 A. MY PRIMARY DUTIES AT THIS TIME ARE THE TRAINING OFFICER.  
9 HOWEVER, FOR THE LAST 14 YEARS I HAVE EITHER BEEN THE --  
10 YEARS AGO I WAS ACTUALLY THE FULL-TIME FORENSICS OFFICER  
11 WHICH MEANT I DID FINGERPRINTS. I PROCESSED THE  
12 FINGERPRINTS, EXAMINED FINGERPRINTS TO TRY TO DETERMINE WHO  
13 THEY BELONG TO, PHOTOGRAPHED CRIME SCENES AND SUCH AS THAT,  
14 LIKE YOU SEE ON T.V. ON THE C.S.I. SHOWS, SIMILAR TO THAT.  
15 THAT WAS MY FULL-TIME DUTIES BACK FROM '95 TO '98. BUT SINCE  
16 '98, I'VE HAD AT LEAST PART-TIME DUTIES AS A FORENSICS  
17 OFFICER, THE BACK-UP OFFICER WHEN THE FULL-TIME OFFICER  
18 WASN'T AVAILABLE.

19 Q. OKAY. IS PART OF THE DUTIES OF A FORENSIC OFFICER --  
20 EXCUSE ME. IS PART OF THE DUTIES AS A FORENSICS OFFICER TO  
21 TRY TO OBTAIN FINGERPRINTS FROM EVIDENCE?

22 A. YES, IT IS.

23 Q. ALL RIGHT. AND WHAT TRAINING HAVE YOU HAD IN OBTAINING  
24 FINGERPRINTS FROM EVIDENCE?

25 A. I'VE HAD NUMEROUS CLASSES TAUGHT BY THE SOUTH CAROLINA

1 CRIMINAL JUSTICE ACADEMY AS WELL AS THE STATE LAW ENFORCEMENT  
2 DIVISION AND THE FEDERAL BUREAU OF INVESTIGATION. I'VE GOT A  
3 LIST OF THEM HERE. I'LL BE GLAD TO...

4 Q. IF YOU WOULD, PLEASE, JUST TELL THE JURY WHAT TRAINING  
5 YOU'VE HAD.

6 A. OKAY. MY CRIME SCENE OR FORENSICS TRAINING ACTUALLY  
7 STARTED BACK IN 1983 DURING MY BASIC LAW ENFORCEMENT TRAINING  
8 AT THE POLICE ACADEMY. EVERYONE GETS A MINIMAL AMOUNT OF  
9 FINGERPRINT TRAINING DURING THAT TIME.

10 I ALSO RECEIVED IN 1987 BASIC FINGERPRINT TRAINING, A  
11 SEPARATE CLASS AT THE CRIMINAL JUSTICE ACADEMY. IN 1996 I  
12 ATTENDED LATENT FINGERPRINT IDENTIFICATION TRAINING AT THE  
13 POLICE ACADEMY AGAIN WHICH WAS TAUGHT BY A FEDERAL BUREAU OF  
14 INVESTIGATIVE -- OF INVESTIGATIONS FINGERPRINT EXPERT. IN  
15 1999 I ATTENDED A FORENSIC SCIENCE TRAINING PROGRAM AT THE  
16 STATE LAW ENFORCEMENT DIVISION WHICH MEANT THAT I ACTUALLY  
17 WORKED IN THE LAB WITH THEM AND WENT ON CRIME SCENES WITH THE  
18 STATE LAW ENFORCEMENT CRIME SCENE PEOPLE FOR THREE WEEKS, AND  
19 I ALSO WORKED IN THE LAB WITH THEM. DURING THAT TIME I  
20 SUCCESSFULLY COMPLETED PROFICIENCY TESTING IN LATENT PRINT  
21 EXAMINATION ALSO.

22 IN 1999 I ATTENDED THE F.B.I.'S ADMINISTRATIVE ADVANCED  
23 LATENT FINGERPRINT SCHOOL IN QUANTICO, VIRGINIA. IN 2005 I  
24 ATTENDED THE ADVANCED PALM PRINT IDENTIFICATION TRAINING AT  
25 THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY TAUGHT BY RON

1 SMITH AND ASSOCIATES. IN 2005 I SUCCESSFULLY COMPLETED  
2 COMPETENCY TRAINING IN THE AUTOMATED FINGERPRINT  
3 IDENTIFICATION SYSTEM BETTER KNOWN AS A.F.I.S. IT'S A  
4 COMPUTER SYSTEM THAT SEARCHES FINGERPRINTS. THAT WAS AT THE  
5 STATE LAW ENFORCEMENT DIVISION.

6 IN 2006 I ATTENDED A FORENSIC RIDGEOLOGY COURSE IN  
7 COLUMBIA, SOUTH CAROLINA, AGAIN BY RON SMITH AND ASSOCIATES,  
8 AND THAT DEALS WITH FINGERPRINT IDENTIFICATION, SPECIFICALLY  
9 WITH FINGERPRINT IDENTIFICATION. FROM 1997 TO 2005, WHILE  
10 WORKING AS THE FORENSICS OFFICER AT THE SUMTER POLICE  
11 DEPARTMENT, I MADE APPROXIMATELY -- ACTUALLY IT WAS EXACTLY  
12 70 LATENT FINGERPRINT EXAMINATIONS ON MY OWN IN OUR  
13 DEPARTMENT, AND I SENT THOSE FINGERPRINTS, ALONG WITH MY  
14 RESULTS, TO S.L.E.D. TO HAVE THEM VERIFY MY RESULTS SORT OF  
15 AS A TRAINING PROGRAM, AND ALL OF MY IDENTIFICATIONS THERE  
16 WERE AGREED UPON BY THE S.L.E.D. EXAMINERS. AND FROM 2005 TO  
17 2007 I MADE LATENT PRINT IDENTIFICATIONS ON APPROXIMATELY 200  
18 CASES AT OUR DEPARTMENT, AND ALL OF MY FINDINGS WERE VERIFIED  
19 BY ANOTHER QUALIFIED LATENT PRINT EXAMINER. IN SEPTEMBER OF  
20 '07 I WAS QUALIFIED AS AN EXPERT IN LATENT PRINT  
21 IDENTIFICATION BY JUDGE COTHRAN HERE IN THE SUMTER COUNTY  
22 COURTHOUSE ON A CRIMINAL CASE.

23 Q. SO YOU HAVE BEEN QUALIFIED AS AN EXPERT IN FORENSIC  
24 FINGERPRINTING---

25 A. YES, SIR.

1 Q. ---IN COURT. YOUR HONOR, AT THIS TIME I WOULD TENDER  
2 LIEUTENANT NESBITT AS AN EXPERT IN THE AREA OF FORENSIC  
3 FINGERPRINTING?

4 THE COURT: ANY QUESTIONS AT THIS TIME, MR. HASTIE?

5 MR. HASTIE: NONE, YOUR HONOR.

6 THE COURT: ANY OBJECTION?

7 MR. HASTIE: NO OBJECTION.

8 THE COURT: AND THE PARTICULAR FIELD AGAIN, MR.  
9 SPRATLIN?

10 MR. SPRATLIN: FORENSIC FINGERPRINTING, YOUR HONOR.

11 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, LET ME  
12 HAVE YOUR ATTENTION FOR JUST A MOMENT. NORMALLY A WITNESS  
13 WHO TESTIFIES IN A CASE CANNOT OFFER ANY OPINIONS, AND MOST  
14 OF THE TIME WITNESSES CAN TESTIFY TO WHAT THEY ACTUALLY  
15 OBSERVE. THERE IS AN EXCEPTION UNDER OUR RULES OF EVIDENCE  
16 FOR EXPERT WITNESSES AND ESSENTIALLY -- AND I'LL TELL YOU  
17 ABOUT THIS IN MORE DETAIL LATER. SOMEONE WHO IS QUALIFIED BY  
18 REASON OF EDUCATION, TRAINING, OR EXPERIENCE MAY OFFER  
19 OPINIONS IN HIS OR HER PARTICULAR FIELD OF EXPERTISE. THAT  
20 DOES NOT MEAN YOU HAVE TO ACCEPT THE TESTIMONY OF THE PERSON  
21 WHO'S QUALIFIED AS AN EXPERT SIMPLY BECAUSE THE TESTIMONY  
22 COMES FROM AN EXPERT. YOU WEIGH THE EVIDENCE THE SAME AS YOU  
23 WOULD ANY OTHER WITNESS, AND YOU'RE NOT NECESSARILY BOUND BY  
24 THE OPINION. THIS WITNESS IS QUALIFIED AS AN EXPERT IN THE  
25 FIELD OF FORENSIC FINGERPRINTING. ALL RIGHT.

1 BY MR. SPRATLIN:

2 Q. NOW, LIEUTENANT NESBITT, WHAT WAS YOUR ROLE IN THE CASE  
3 WE'RE HERE TODAY TALKING ABOUT?

4 A. I ACTUALLY WAS CALLED TO THE SCENE OF THE ROBBERY TO  
5 PROCESS -- WHAT WE GENERALLY CALL PROCESS THE SCENE. IT  
6 MEANS LOOK FOR ANY FINGERPRINTS THAT MAY BE THERE, TAKE  
7 PHOTOGRAPHS, AND COLLECT ANY EVIDENCE AT THE SCENE, AND I  
8 ALSO WAS CALLED TO THE RESIDENCE WHEN A SEARCH WARRANT WAS  
9 SERVED TO GO TO THE RESIDENCE AND PHOTOGRAPH---

10 MR. HASTIE: OBJECTION, YOUR HONOR. EXCUSE ME. I WOULD  
11 LIKE TO RENEW OUR MOTION CONCERNING THE SEARCH WARRANT.

12 THE COURT: ALL RIGHT. YOUR OBJECTION IS OVERRULED, AND  
13 THAT CAN CONTINUE THROUGHOUT THE QUESTIONING OF THIS WITNESS.  
14 ALL RIGHT.

15 BY MR. SPRATLIN:

16 Q. NOW, LIEUTENANT NESBITT, PLEASE, IF YOU WOULD, TAKE THE  
17 JURY BRIEFLY THROUGH HOW YOU SECURED AND PROCESSED THE SCENE  
18 OF THE CRIME.

19 A. I ASSISTED OTHER DETECTIVES DURING THIS SEARCH WARRANT  
20 WHICH MEANS THAT THEY ACTUALLY OBTAINED THE SEARCH WARRANT,  
21 BROUGHT IT TO THE SCENE, WENT INTO THE RESIDENCE, AND I  
22 ACCOMPANIED THEM INTO THE RESIDENCE AND WHERE IT WAS MY JOB  
23 TO TAKE PHOTOGRAPHS OF ANYTHING OF INTEREST TO US IN THE  
24 RESIDENCE AS WELL AS TO COLLECT THE EVIDENCE, IF THERE WAS  
25 ANY EVIDENCE RECOVERED. IT WAS MY JOB TO COLLECT IT AND TAKE



1 IT INTO THE POLICE DEPARTMENT AND DO ANY FURTHER PROCESSING  
2 THAT WE MAY HAVE NEEDED TO DO ON THAT EVIDENCE AND THEN TURN  
3 IT OVER TO OUR EVIDENCE CUSTODIAN TO STORE UNTIL COURT LATER.

4 Q. GOING BACK FOR A SECOND, LIEUTENANT NESBITT, TO THE  
5 ACTUAL SCENE OF THE ROBBERY: WHAT DID YOU DO THERE?

6 A. I WENT TO THE ROBBERY SCENE AND ACTUALLY WHAT WE CALL  
7 PROCESSED AGAIN WHICH MEANS BASICALLY THAT I TOOK FINGERPRINT  
8 POWDER AND DUSTED SOME ITEMS AT THE STORE THAT I WAS TOLD THE  
9 SUSPECT MAY HAVE TOUCHED WHEN HE WAS IN THERE, AND I ALSO  
10 TOOK SOME PHOTOGRAPHS OF THE BUSINESS.

11 Q. AND WERE YOU ABLE TO OBTAIN ANY PRINTS AS A RESULT OF  
12 THIS?

13 A. NO, I WAS NOT.

14 Q. OKAY. AND LET ME GO AHEAD AND SHOW YOU WHAT'S BEEN  
15 MARKED AND ENTERED INTO EVIDENCE AS STATE'S EXHIBITS NUMBER 7  
16 THROUGH 24. ARE THESE THE PHOTOGRAPHS THAT YOU TOOK AT THE  
17 STORE THAT DAY?

18 THE COURT: WHAT NUMBERS ARE THOSE?

19 MR. SPRATLIN: 7 THROUGH 24, YOUR HONOR.

20 THE WITNESS: SOME OF THESE WERE THE ONES I TOOK, BUT  
21 THERE WAS SOME HERE THAT I DIDN'T TAKE.

22 BY MR. SPRATLIN:

23 Q. OKAY.

24 A. THOSE I DIDN'T TAKE.

25 Q. I'M SORRY. THESE WERE ACTUALLY EXHIBITS 24, 21, 22, AND

1 23 WHICH I BELIEVE THAT DETECTIVE CULICK ALREADY TESTIFIED  
2 THAT SHE TOOK. I APOLOGIZE FOR THAT. BUT ALL THE  
3 PHOTOGRAPHS OF THE STORE, ARE THOSE THE ONES THAT YOU TOOK?

4 A. YES, SIR.

5 Q. OKAY. NOW, YOU SAID YOU WEREN'T ABLE TO GET ANY PRINTS  
6 FROM THE STORE THAT WERE USABLE; CORRECT?

7 A. THAT'S CORRECT.

8 Q. OKAY. WHAT WAS YOUR NEXT ROLE IN THE INVESTIGATION OF  
9 THIS CASE?

10 A. ACTUALLY I DIDN'T TAKE PART IN THE INVESTIGATION UNTIL  
11 THE SEARCH WARRANT WAS OBTAINED ONCE I LEFT THE STORE AND I  
12 WAS CALLED TO MEET WITH THE DETECTIVES AT THE RESIDENCE AND  
13 GO IN AND DOCUMENT THE SCENE AND COLLECT EVIDENCE THERE.

14 Q. OKAY. GOING BACK FOR ONE SECOND -- I HATE TO KEEP  
15 JUMPING AROUND, BUT BACK TO THE SCENE OF THE ROBBERY: IF A  
16 TOWEL OR SOME OTHER KIND OF CLOTH ITEM WAS USED TO WIPE DOWN  
17 THE AREAS WHERE SOMEONE TOUCHED, WOULD THAT AFFECT YOUR  
18 ABILITY TO BE ABLE TO GET PRINTS?

19 A. ABSOLUTELY IT WOULD. A FINGERPRINT IS LEFT WHEN RESIDUE  
20 FROM SOMEONE'S HAND OR FINGERTIPS OR ANY PART OF THE  
21 UNDERSIDE OF THE HAND OR FINGERS TOUCHES A SURFACE, AND THE  
22 RESIDUE IS TRANSFERRED FROM THE SURFACE ON TO -- FROM THE  
23 HAND ON TO THAT SURFACE AND REMAINS THERE WHEN THEY MOVE  
24 THEIR HAND. JUST LIKE IF YOU WOULD TO TAKE AN INK STAMPER  
25 AND STAMP IT IN AN INK PAD AND STAMP ON A PIECE OF PAPER, IT

1 JUST TRANSFERS RESIDUE FROM ONE SURFACE TO ANOTHER. AND IF  
2 -- SO NATURALLY IF YOU THINK ABOUT, SAY, A GLASS SURFACE OR A  
3 PLASTIC SURFACE, IF YOU PUT YOUR HAND DOWN ON IT, IT WILL  
4 LEAVE RESIDUE. THEN YOU WIPE IT OFF. IT'S JUST LIKE WIPING  
5 DUST OFF A COUNTER WITH A RAG. IT WOULD ERASE THE PRINT.

6 Q. OKAY. THANK YOU. NOW, GETTING BACK TO THE SEARCH  
7 WARRANT, YOU SAID THAT YOU ACTUALLY TOOK POSSESSION OF  
8 SEVERAL ITEMS?

9 A. YES, I DID.

10 Q. OKAY. DO YOU REMEMBER WHAT ALL ITEMS YOU TOOK  
11 POSSESSION OF?

12 A. YES, SIR. THERE WAS A DERRINGER WHICH IS A SMALL  
13 HANDGUN---

14 THE COURT: YES, SIR?

15 MR. HASTIE: YOUR HONOR, OUT OF AN ABUNDANCE OF CAUTION  
16 I JUST WANT TO MAKE SURE THAT IT'S CLEAR TO THE COURT FOR THE  
17 RECORD THAT MY OBJECTION IS BASED ON THE SEARCH WARRANT IS A  
18 VIOLATION OF MY DEFENDANT'S FOURTH AMENDMENT RIGHT.

19 THE COURT: YOUR OBJECTION IS OVERRULED, AND THAT WILL  
20 CONTINUE AS I SAID A MINUTE AGO. THAT'S FINE.

21 MR. HASTIE: YES, SIR.

22 BY MR. SPRATLIN:

23 Q. I'M SORRY, LIEUTENANT NESBITT. PLEASE CONTINUE.

24 A. I RECOVERED OR SEIZED A BLACK HANDGUN THAT'S COMMONLY  
25 DESCRIBED AS A DERRINGER. IT HAS TWO BARRELS. THE BARREL IS

1 THE PART OF THE GUN THAT THE BULLET EXITS WHEN IT'S FIRED.  
2 ONE BARREL IS ON TOP OF THE OTHER. IT'S A VERY DISTINCT-  
3 LOOKING WEAPON. VERY UNUSUAL, OVER MY YEARS IN LAW  
4 ENFORCEMENT, TO SEE A WEAPON LIKE THAT, TO COME IN CONTACT  
5 WITH IT. I SEIZED THAT AS WELL AS A PAIR OF BLACK PANTS THAT  
6 I WOULD DESCRIBE AS LIKE JOGGING PANTS OR ATHLETIC WORKOUT-  
7 TYPE LONG PANTS. BLACK PANTS WITH A WHITE-AND-GRAY STRIPE  
8 DOWN THE LENGTH OF THE PANT, THE LEGS.

9 THE GUN ACTUALLY HAD TWO BULLETS IN IT, TWO UNFIRED .22  
10 CALIBER BULLETS, AND ALSO A BLACK -- WHAT I COMMONLY REFER TO  
11 AS A DOO RAG. IT'S A SORT OF SILKY-TYPE BLACK CLOTH THAT HAD  
12 A KNOT TIED IN IT. IT'S WHAT THE PEOPLE WEAR OVER THEIR  
13 HEAD. THAT WAS THE OTHER ITEM THAT I RECOVERED.

14 MR. SPRATLIN: YOUR HONOR, PERMISSION TO RETRIEVE THE  
15 FIREARM?

16 THE COURT: YES, SIR. JUST MAKE SURE YOU HOLD IT BY THE  
17 BARREL AND KEEP IT POINTED DOWN.

18 MR. SPRATLIN: YES, YOUR HONOR. YOUR HONOR, PERMISSION  
19 TO APPROACH THE WITNESS?

20 THE COURT: YES, SIR. AND, MR. NESBITT, DO THE SAME.  
21 LADIES AND GENTLEMEN, THERE'S A -- THERE'S A GUARD IN THE  
22 BARREL OF THE WEAPON NOW THAT, AS I TOLD YOU THE OTHER DAY,  
23 MAKES IT INOPERABLE AT THIS POINT. YOU CAN -- YOU CAN HAND  
24 IT TO HIM.

25 MR. SPRATLIN: THANK YOU, YOUR HONOR. PLEASE LET THE

1 RECORD REFLECT I'M HANDING THE WITNESS WHAT HAS ALREADY BEEN  
2 MARKED STATE'S EXHIBIT NUMBER -- I BELIEVE IT IS 4.

3 THE COURT: FOR I.D.?

4 MR. SPRATLIN: FOR I.D. PURPOSES SO FAR, YOUR HONOR.  
5 BY MR. SPRATLIN:

6 Q. LIEUTENANT NESBITT, DO YOU RECOGNIZE THE ITEM I JUST  
7 HANDED YOU?

8 A. I JUST NEED TO CHECK THE PAPERWORK THAT HAS THE NUMBER  
9 ON IT---

10 Q. IS THAT---

11 A. ---FOR IDENTIFICATION. IT DOES LOOK LIKE THE HANDGUN  
12 THAT I RECOVERED, BUT I WOULD NEED TO LOOK AT THAT---

13 Q. OKAY. WHAT IS THAT---

14 A. ---TO MAKE SURE.

15 Q. WHAT WOULD YOU NEED TO LOOK AT TO REFRESH YOUR  
16 RECOLLECTION?

17 A. THE CHAIN OF CUSTODY OR THE SEARCH WARRANT RETURN. IT  
18 MAY BE LISTED ON THERE. IT HAS THE NUMBER, THE SERIAL  
19 NUMBER, ON THE WEAPON. OR ACTUALLY IT MAY BE ON ONE OF THESE  
20 PICTURES, TOO; I JUST REMEMBERED.

21 Q. SO YOU DID TAKE PHOTOGRAPHS OF THE GUN THAT YOU SEIZED?

22 A. I DID.

23 Q. ALL RIGHT. LET ME---

24 A. IT WOULD BE IN SOME PHOTOGRAPHS THAT HAVEN'T BEEN SHOWN  
25 TO ME YET.

1 Q. WELL, LET ME -- LET ME GO OVER THIS REAL QUICK FIRST  
2 THEN. PLEASE LET THE RECORD REFLECT I'M SHOWING THE WITNESS  
3 WHAT HAS BEEN MARKED STATE'S EXHIBIT NUMBER 43 FOR  
4 IDENTIFICATION PURPOSES AT THIS TIME.

5 A. THERE IS ACTUALLY ANOTHER PICTURE THAT -- FROM THE TOP  
6 THAT'S GOT -- THAT SHOWS THE NUMBER I'M WANTING TO DOUBLE-  
7 CHECK.

8 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S  
9 EXHIBIT NUMBER 44 FOR IDENTIFICATION PURPOSES.

10 A. THAT NUMBER IS NOT VISIBLE ACTUALLY ON THE PICTURE  
11 EITHER. I'M SORRY. BUT IT IS NOTED ON THE CHAIN OF CUSTODY.

12 Q. OKAY.

13 A. YOU CAN'T SEE IT ON THERE.

14 Q. AND WE HAVE SOMEONE GOING TO RETRIEVE THE CHAIN OF  
15 CUSTODY AS WE SPEAK. LET ME GO AHEAD AND SHOW YOU THESE  
16 EXHIBITS. IT'S GOING TO BE STATE'S EXHIBIT NUMBER 44,  
17 STATE'S EXHIBIT NUMBER 43, STATE'S EXHIBIT NUMBER 45, 46, 47,  
18 AND 48. THEY'RE MARKED RIGHT NOW AS IDENTIFICATION EXHIBITS.  
19 LET ME HAND THOSE OVER TO YOU. DO YOU---

20 MR. HASTIE: YOUR HONOR---

21 MR. SPRATLIN: ---RECOGNIZE THOSE PHOTOGRAPHS?

22 THE COURT: YES, SIR?

23 THE WITNESS: YES, SIR.

24 THE COURT: WAIT JUST A MOMENT.

25 MR. HASTIE: I HAVE NOT SEEN THOSE EXHIBITS. I OBJECT

1 TO THEM.

2 MR. SPRATLIN: I JUST SHOWED THEM TO YOU.

3 MR. HASTIE: LET ME TAKE A LOOK AT THEM.

4 THE COURT: PLEASE HAND THEM TO HIM.

5 MR. HASTIE: YOUR HONOR, MAY WE APPROACH?

6 THE COURT: YES, SIR.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

8 THE COURT: LADIES AND GENTLEMEN, IF YOU WOULD PLEASE  
9 STEP TO YOUR JURY ROOM. WE'LL HAVE YOU BACK MOMENTARILY.  
10 LET ME TELL YOU THIS: OF COURSE, YOU MAY NOT DISCUSS THE  
11 CASE. IF THERE'S ANYTHING YOU WANT, SOFT DRINK - I THINK  
12 THAT'S ABOUT ALL WE'VE GOT, NO ORANGE JUICE OR ANYTHING -  
13 THAT YOU DON'T HAVE IN YOUR JURY ROOM, LET YOUR FOREMAN KNOW.  
14 HE'LL LET THE BAILIFF OUTSIDE THE DOOR KNOW. PLEASE DO NOT  
15 DISCUSS THE CASE.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT  
17 10:04 A.M.)

18 THE COURT: ALL RIGHT. FIRST. IS THAT DOOR SHUT?  
19 FIRST, MR. HASTIE, NOTE THE NUMBERS OF THE EXHIBITS THAT YOU  
20 OBJECT TO.

21 MR. HASTIE: YES, SIR. STARTING WITH NUMBER 44, YOUR  
22 HONOR.

23 THE COURT: AND?

24 MR. HASTIE: NUMBER 43 AND NUMBER 45.

25 THE COURT: 43, 44, AND 45 ARE ALL FOR I.D. AT THIS

1 POINT, AND YOUR OBJECTION IS WHAT?

2 MR. HASTIE: MY OBJECTION IS THAT THESE PICTURES ARE  
3 ENLARGED SO TO THE POINT, YOUR HONOR, THAT THEY'RE LARGER  
4 THAN WHAT THE WEAPON REALLY IS, ESPECIALLY THIS ONE -- THIS  
5 FIRST ONE HERE, NUMBER 44, AND IT MAY UNDULY PREJUDICE THE  
6 JURY.

7 THE COURT: ALL RIGHT. HAND ME THE WEAPON AND THE  
8 PICTURES.

9 (MR. HASTIE HANDS THE PHOTOGRAPHS TO THE COURT, AND THE  
10 WITNESS HANDS THE WEAPON TO THE COURT.)

11 THE COURT: ALL RIGHT. THE OBJECTION -- THE OBJECTION  
12 IS OVERRULED. THE GUN ITSELF WILL CLEARLY INDICATE THAT THE  
13 PHOTOS ARE BLOW-UPS. I DON'T THINK 403 IS IMPLICATED.  
14 SPECIFICALLY 403 SAYS THAT EVEN THOUGH IT'S RELEVANT,  
15 EVIDENCE IS NOT ADMISSIBLE IF THE PROBATIVE VALUE IS  
16 SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE.  
17 MR. SPRATLIN, TO CURE ANY ISSUE, HAVE THE WITNESS TELL THE  
18 JURY THAT THESE ARE OBVIOUSLY ENLARGEMENTS.

19 MR. SPRATLIN: YES, YOUR HONOR. I'LL HAVE THAT TOLD TO  
20 THE JURY.

21 THE COURT: AND IF YOU WOULD, USE THE WORD ENLARGEMENT  
22 SO THE DEFENDANT WON'T BE PREJUDICED BY THE TERM BLOW-UP, IF  
23 THAT WOULD BE OBJECTIONABLE TO THE DEFENDANT. SO JUST CALL  
24 IT ENLARGEMENTS, AND I THINK IN THE SCHEME OF THINGS THAT  
25 WILL BE OBVIOUS ANYWAY.



1           **MR. SPRATLIN:** YES, YOUR HONOR.

2           **THE COURT:** SO YOUR OBJECTION, MR. HASTIE, IS NOTED AND  
3 IT'S OVERRULED. OKAY? ALL RIGHT.

4           **MR. HASTIE:** YOUR HONOR, BEFORE WE BRING THEM BACK IN,  
5 THE DEFENDANT HAS TO GO TO THE REST ROOM. WOULD THIS BE A  
6 GOOD TIME TO DO THAT?

7           **THE COURT:** YES, SIR. GO AHEAD. AND LET'S JUST MAKE IT  
8 QUICK.

9           **MR. HASTIE:** YES, SIR.

10          **THE COURT:** LESS THAN FIVE MINUTES. I'M NOT GOING TO  
11 LEAVE THE COURTROOM.

12          (PAUSE IN PROCEEDINGS.)

13          **MR. HASTIE:** THANK YOU, YOUR HONOR.

14          **THE COURT:** ALL RIGHT. READY FOR THE JURY, MR. HASTIE?

15          **MR. HASTIE:** YES, SIR.

16          **THE COURT:** MR. SPRATLIN?

17          **MR. SPRATLIN:** YES, SIR.

18          **THE COURT:** ALL RIGHT. YOU CAN BRING THEM IN IF THEY'RE  
19 READY. IF THEY'RE NOT, WE'LL WAIT ON THEM.

20          (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
21 10:10 A.M.)

22          **THE COURT:** ALL RIGHT. MR. SPRATLIN, YOU CAN CONTINUE.

23          **MR. SPRATLIN:** THANK YOU, YOUR HONOR.

24 BY MR. SPRATLIN:

25 Q. LIEUTENANT NESBITT, WE LEFT OFF TRYING TO DETERMINE IF

1 THAT WAS, IN FACT, THE SAME GUN THAT YOU RECOVERED FROM THE  
2 RESIDENCE OF MR. MASSEY. IS THERE ANYTHING THAT WOULD  
3 DEFINITELY TELL YOU WHETHER THAT'S THE SAME GUN?

4 A. MY CHAIN OF CUSTODY WOULD BE A DOCUMENT THAT WOULD  
5 HAVE---

6 Q. OKAY.

7 A. ---SOME IDENTIFYING INFORMATION ON IT THAT WOULD HELP ME  
8 SAY FOR SURE.

9 Q. OKAY. LET ME SHOW YOU...

10 A. (THE WITNESS LOOKS AT A DOCUMENT.) OKAY, SIR. THAT IS  
11 THE SAME WEAPON. I CAN TELL BY THE SERIAL NUMBER THAT I PUT  
12 DOWN ON MY PAPER AND ALSO THAT NUMBER STAMPED ON THIS WEAPON.

13 MR. SPRATLIN: LET ME GO AHEAD AND MOVE THIS INTO  
14 EVIDENCE. MAY I HAVE THIS MARKED AS A STATE'S EXHIBIT?

15 (STATE'S EXHIBIT 49 WAS MARKED FOR IDENTIFICATION ONLY.)  
16 BY MR. SPRATLIN:

17 Q. LIEUTENANT NESBITT, LET ME GO AHEAD AND SHOW YOU WHAT'S  
18 BEEN MARKED RIGHT NOW FOR IDENTIFICATION PURPOSES AS STATE'S  
19 EXHIBIT NUMBER 49. WHAT IS THAT DOCUMENT?

20 A. THIS IS A SUMTER POLICE DEPARTMENT CHAIN OF CUSTODY.  
21 IT'S THE PAPERWORK THAT ANY TIME EVIDENCE IS RECOVERED AND  
22 TURNED IN TO THE EVIDENCE ROOM OR GIVEN TO THE EVIDENCE  
23 CUSTODIAN TO KEEP TO HOLD FOR COURT OR DISPOSITION, THIS IS  
24 THE OFFICIAL DOCUMENT WHERE WE IDENTIFY THAT PROPERTY AND  
25 TURN IT IN WITH THE EVIDENCE.

1 Q. OKAY. AND NOW HOW -- WHEN IS THAT DOCUMENT PREPARED?

2 A. THIS IS PREPARED WHEN THE ITEMS ARE TURNED IN TO THE  
3 EVIDENCE ROOM, AT THAT TIME OR PRIOR TO THAT TIME.

4 Q. OKAY.

5 A. THIS IS ACTUALLY THE DOCUMENT THAT I FILLED OUT AFTER I  
6 RECOVERED THE ITEMS THAT I TESTIFIED TO A LITTLE WHILE AGO.  
7 THE FOUR ITEMS -- THERE WERE THREE ITEMS, PLUS THE BULLETS  
8 WOULD HAVE BEEN THE FOURTH ITEM, AND THIS IS THE CHAIN THAT I  
9 USED TO IDENTIFY THOSE ITEMS AND TURN IT IN WITH THE PROPERTY  
10 TO THE EVIDENCE ROOM.

11 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER  
12 STATE'S EXHIBIT NUMBER 49 INTO EVIDENCE.

13 THE COURT: ANY OBJECTION, MR. HASTIE?

14 MR. HASTIE: NO OBJECTION, YOUR HONOR.

15 THE COURT: ALL RIGHT. 49 IS IN EVIDENCE.

16 (STATE'S EXHIBIT 49 WAS RECEIVED IN EVIDENCE.)

17 BY MR. SPRATLIN:

18 Q. AND NOW -- I'M GOING TO LEAVE THAT UP THERE WITH YOU.  
19 NOW, COMPARING THE INFORMATION ON THE EVIDENCE CHAIN WITH THE  
20 GUN, ARE YOU ABLE TO SAY FOR CERTAIN THAT THAT IS, IN FACT,  
21 THE SAME GUN?

22 A. YES, I AM. IT'S GOT THE SERIAL NUMBER 1269 STAMPED ON  
23 IT AS WELL AS SOME OTHER INFORMATION, BUT THAT'S THE  
24 INFORMATION THAT I USED TO BE SURE IT'S THE SAME WEAPON.

25 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER

1 THE PISTOL, STATE'S EXHIBIT NUMBER 4 FOR IDENTIFICATION  
2 PURPOSES, INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 4.

3 THE COURT: SUBJECT TO YOUR PRIOR OBJECTION, ANY OTHER  
4 OBJECTIONS, MR. HASTIE?

5 MR. HASTIE: NONE, YOUR HONOR.

6 THE COURT: ALL RIGHT. THAT'S IN. NUMBER 4 IS IN  
7 EVIDENCE OVER THE DEFENDANT'S OBJECTION.

8 (STATE'S EXHIBIT 4 WAS RECEIVED IN EVIDENCE. STATE'S  
9 EXHIBIT 50 WAS MARKED FOR IDENTIFICATION ONLY.)

10 BY MR. SPRATLIN:

11 Q. LIEUTENANT NESBITT, LET ME SHOW YOU WHAT'S BEEN MARKED  
12 FOR IDENTIFICATION PURPOSES AS STATE'S EXHIBIT NUMBER 50.  
13 CAN YOU IDENTIFY WHAT I JUST HANDED YOU? AND IF YOU NEED TO  
14 OPEN UP THE PACKAGE, GO RIGHT AHEAD.

15 A. OKAY. THE OUTSIDE OF THE ENVELOPE I CAN TELL IS MY  
16 WRITING, MY HANDWRITING, DATED JUNE 13TH OF '07, AND IT'S  
17 DESCRIBED AS TWO .22 CALIBER BULLETS, AND IT HAS THE SAME  
18 CASE NUMBER ON IT AS THIS CHAIN OF CUSTODY THAT I FILLED OUT  
19 WHICH GOES WITH THE CASE WE'RE DISCUSSING HERE. IT'S GOT MY  
20 INITIALS.

21 Q. HAS THAT BEEN OPENED BEFORE TODAY, TO YOUR KNOWLEDGE?

22 A. NOT TO MY KNOWLEDGE. IT'S ACTUALLY TAPED UP NOW WITH  
23 CLEAR TAPE.

24 Q. OKAY.

25 A. OKAY. THERE ARE TWO .22 CALIBER BULLETS UNFIRED THAT

1 APPEAR TO BE THE SAME BULLETS THAT I TOOK OUT OF THE GUN WHEN  
2 I SEIZED IT.

3 MR. SPRATLIN: YOUR HONOR, AT THIS TIME I WOULD TENDER  
4 STATE'S EXHIBIT NUMBER 50 INTO EVIDENCE.

5 THE COURT: THOSE ARE IN THAT EXHIBIT AS WELL?

6 MR. SPRATLIN: STATE'S EXHIBIT NUMBER 50, YOUR HONOR.

7 THE COURT: ALL RIGHT. ANY OBJECTION OTHER THAN THE  
8 PREVIOUS ONES?

9 MR. HASTIE: NONE, YOUR HONOR.

10 THE COURT: ALL RIGHT. NUMBER 50 IS IN. THERE ARE TWO  
11 IN QUANTITY?

12 THE WITNESS: YES, SIR.

13 (STATE'S EXHIBIT 50 WAS RECEIVED IN EVIDENCE.)

14 BY MR. SPRATLIN:

15 Q. NOW, LIEUTENANT NESBITT, LET ME GO AHEAD AND SHOW YOU  
16 STATE'S EXHIBIT NUMBER 48 -- 43, 44, 45, 46, 47, AND 48.  
17 RIGHT NOW THEY'RE JUST MARKED FOR IDENTIFICATION PURPOSES.  
18 IF YOU WOULD, LOOK THROUGH THOSE PHOTOGRAPHS AND IF YOU COULD  
19 TELL ME WHETHER THEY'RE A FAIR AND ACCURATE RECOLLECTION OF  
20 WHAT YOU PHOTOGRAPHED THAT DAY.

21 A. YES, THEY ARE.

22 MR. HASTIE: OBJECTION, YOUR HONOR.

23 THE WITNESS: WITH ONE---

24 THE COURT: THE OBJECTION IS OVER -- THE -- MR.  
25 SPRATLIN, YOU CAN CLARIFY.

1 BY MR. SPRATLIN:

2 Q. HAVE THOSE -- ARE THOSE PHOTOGRAPHS SLIGHTLY LARGER THAN  
3 THE ACTUAL ITEMS WERE?

4 A. THEY WERE. I WAS ABOUT TO CORRECT THAT. ONE OF THE  
5 PHOTOGRAPHS OF THE GUN IS ACTUALLY AN ENLARGED PHOTOGRAPH OF  
6 THE GUN.

7 Q. OKAY.

8 A. IT'S MUCH LARGER, AS YOU CAN TELL FROM LOOKING AT THIS,  
9 THAN THE REAL GUN.

10 THE COURT: YOUR OBJECTION IS NOTED. ALL RIGHT.

11 MR. HASTIE: THANK YOU, YOUR HONOR.

12 THE COURT: YOU CAN PROCEED.

13 BY MR. SPRATLIN:

14 Q. LIEUTENANT NESBITT, WHEN YOU FOUND THAT GUN, WAS IT  
15 LOADED?

16 A. YES, IT WAS.

17 MR. SPRATLIN: OKAY. YOUR HONOR, AT THIS TIME I WOULD  
18 TENDER INTO EVIDENCE STATE'S EXHIBITS NUMBER -- I BELIEVE  
19 IT'S 44, 45, 46, 47, AND 48 -- 43 THROUGH 48.

20 THE COURT: ALL RIGHT. THOSE ARE IN, AND THE OBJECTION  
21 IS NOTED.

22 (STATE'S EXHIBITS 43 THROUGH 48 WERE RECEIVED IN  
23 EVIDENCE.)

24 BY MR. SPRATLIN:

25 Q. LIEUTENANT NESBITT, IF YOU WOULD, ON STATE'S EXHIBIT

1 NUMBER 45, PLEASE HOLD THAT UP FOR THE JURY AS BEST YOU CAN  
2 AND TELL THEM WHAT THAT IS A PHOTOGRAPH OF.

3 A. THIS IS A PHOTOGRAPH OF THE DERRINGER WITH THE BULLETS  
4 IN IT BEFORE THEY HAD BEEN REMOVED. AS YOU CAN TELL, THIS  
5 GUN IS IN A POSITION THAT WE CALL THE ACTION HAS BEEN OPENED  
6 ON IT WHICH JUST MEANS THAT THE BARREL HAS BEEN SWIVELLED  
7 DOWNWARDS WHICH IS THE ONLY WAY YOU CAN LOAD OR UNLOAD THIS  
8 GUN. SO IT COULD NOT BE FIRED FROM THIS POSITION, AND THAT'S  
9 THE SAME POSITION IT'S IN HERE -- ONCE I OPENED THE ACTION IS  
10 THE TERM WE NORMALLY USE. YOU CAN SEE THE BULLETS STILL IN  
11 THE CHAMBER OF THE GUN, THE UNFIRED BULLETS.

12 Q. LET ME GET YOU TO SHOW YOU THE JURY AND DISCUSS BRIEFLY  
13 WHAT'S IN PHOTOGRAPH -- STATE'S EXHIBIT NUMBER 43.

14 A. THIS IS A PHOTOGRAPH OF THE SAME DERRINGER WITH THE  
15 ACTION CLOSED. IN OTHER WORDS, THIS IS IN THE POSITION THAT  
16 IT WOULD BE IN IF YOU WERE TO FIRE THE WEAPON. AND ALSO I  
17 WANTED TO EXPLAIN TO YOU THERE IS A RULER IN THE PHOTOGRAPH  
18 WHICH I PUT IN THERE SO THAT YOU WOULDN'T BE ABLE TO LOOK AT  
19 IT AND THINK THAT THIS WAS A LIFE-SIZE PICTURE. SO THE RULER  
20 ACTUALLY GIVES YOU A CORRECT IDEA OF WHAT SIZE THE GUN  
21 ACTUALLY IS. THE SCALE -- WE USE IT AS A SCALE.

22 Q. NOW STATE'S EXHIBIT NUMBER 46.

23 A. THIS PHOTOGRAPH HAS PART OF THE DERRINGER IN IT IN THE  
24 ACTION-OPEN POSITION AND ALSO THE TWO BULLETS AFTER THEY'VE  
25 BEEN REMOVED, THE TWO UNFIRED BULLETS.

1 Q. OKAY. AND STATE'S EXHIBIT NUMBER 44?

2 A. THIS IS AGAIN AN ENLARGED PICTURE OF THE TOP OF THE  
3 BARREL WHICH HAS THE WORDS "DOUBLE DEUCE U.S.A." IT'S THE  
4 BRAND NAME OF THIS GUN. HOWEVER, THE SERIAL NUMBER THAT I  
5 READ TO YOU IS ON THE BOTTOM OF THE BARREL. THAT'S WHY IT'S  
6 NOT VISIBLE HERE. IT'S ON THE UNDERSIDE OF THAT BARREL.

7 Q. AND THEN JUST FOR SIMPLIFICATION, STATE'S EXHIBIT 48?

8 A. THIS WOULD BE THE DOO RAG, AS WE CALL IT, THE SILKY-TYPE  
9 SCARF, HEAD SCARF, THAT WAS RECOVERED FROM THE RESIDENCE ON  
10 SALEM.

11 Q. OKAY. AND STATE'S EXHIBIT NUMBER 47.

12 A. THIS WOULD BE A PHOTOGRAPH THAT I TOOK OF THE PANTS  
13 AFTER I GOT THEM BACK TO THE POLICE DEPARTMENT IN OUR LAB, IN  
14 OUR FINGERPRINT LAB, THE BLACK PANTS WITH THE GRAY-AND-WHITE  
15 STRIPE DOWN THE SIDE RECOVERED FROM SALEM.

16 Q. OKAY. NOW, LIEUTENANT NESBITT, WHEN YOU TOOK THE  
17 FIREARM INTO YOUR CUSTODY, WHAT, IF ANY TESTS DID YOU PERFORM  
18 ON THE FIREARM?

19 A. ONCE I TOOK THE HANDGUN TO THE POLICE DEPARTMENT AND  
20 PHOTOGRAPHED IT, WHAT WE NORMALLY CALL PROCESSING IT FOR  
21 FINGERPRINTS -- WHICH BASICALLY MEANS THAT I USE FINGERPRINT  
22 POWDER TO -- AND WIPE IT ON THE SURFACE OF THE GUN TO TRY TO  
23 DETERMINE IF THERE WERE ANY FINGERPRINTS FOR IDENTIFICATION  
24 ON THE WEAPON. I ALSO FINGERPRINTED THE BULLETS ONCE I  
25 REMOVED THEM FROM THE GUN.



1 Q. WERE YOU ABLE TO LOCATE ANY FINGERPRINTS?

2 A. NO, SIR. THERE WERE NO FINGERPRINTS OF IDENTIFICATION  
3 VALUE FOUND ON THE GUN OR THE BULLETS. WHAT THAT MEANS IS  
4 THAT, AS I MENTIONED EARLIER, ANY TIME YOU HAVE A RESIDUE ON  
5 YOUR HAND AND YOU TOUCH A SURFACE, YOU MAY -- IF YOU EXAMINE  
6 IT FOR FINGERPRINTS BY PUTTING POWDER ON IT, YOU MAY SEE SOME  
7 RESIDUE FROM THAT TRANSFER FROM YOUR HAND. QUITE OFTEN, IT'S  
8 NOT ACTUALLY IN A FORM THAT WOULD REALLY BE OF ANY VALUE FOR  
9 IDENTIFICATION. IN OTHER WORDS, IT DOESN'T REALLY LOOK LIKE  
10 A FINGERPRINT, BUT IT IS A SMUDGE OR A SMEAR OR SOME TYPE OF  
11 RESIDUE THAT WAS PUT THERE BY A HAND OR A FINGER. AND SO IF  
12 THERE'S NOTHING BUT A SMUDGE THERE, IF THERE'S NOTHING THAT  
13 WOULD HAVE HAD ANY VALUE FOR IDENTIFICATION THAT WOULDN'T  
14 HELP YOU IN DETERMINING WHO LEFT IT THERE, THEN NORMALLY WE  
15 DON'T PUT THOSE INTO EVIDENCE, IF WE CAN TELL THAT. IF THERE  
16 ARE ANY PARTIAL PRINTS LIFTED THAT MAY OR MAY NOT BE OF VALUE  
17 ONCE YOU STUDY THEM UNDER AN ENLARGED -- WITH AN ENLARGED  
18 PHOTO OR WITH A MICROSCOPE - I'M SORRY, NOT A MICROSCOPE BUT  
19 A MAGNIFYING GLASS - THEN WE WOULD KEEP THOSE PRINTS, TURN  
20 THEM IN TO EVIDENCE, AND HAVE THEM EXAMINED BY AT LEAST TWO  
21 FINGERPRINT EXAMINERS TO DETERMINE IF THEY COULD BE  
22 IDENTIFIED. IN THIS CASE THERE WERE NO RIDGE DETAILS OR NO  
23 FINGERPRINTS OF IDENTIFICATION VALUE RECOVERED ON EITHER THE  
24 GUN OR THE BULLET WHICH IS NOT UNUSUAL.

25 Q. SO THERE WERE NO FINGERPRINTS FOUND FROM ANYONE---

1 A. THAT'S CORRECT.

2 Q. ---ON THAT GUN.

3 A. THAT'S CORRECT.

4 Q. OKAY. AND THERE WERE NO FINGERPRINTS FOUND FROM ANYONE  
5 ON THOSE BULLETS.

6 A. THAT'S CORRECT.

7 Q. OKAY. IS IT UNUSUAL TO NOT FIND FINGERPRINTS?

8 A. IT'S NOT. IT'S BEEN MY EXPERIENCE DOING FINGERPRINTS,  
9 AS I SAID EARLIER, FOR 14 YEARS: QUITE OFTEN YOU DON'T FIND  
10 FINGERPRINTS. IT'S NOT LIKE YOU SEE ON T.V. THEY WOULD HAVE  
11 TO BELIEVE, A LOT OF THESE POLICE SHOWS, THAT EVERY TIME  
12 SOMEBODY TOUCHES SOMETHING YOU HAVE TO FIND FINGERPRINTS OR  
13 IT MEANS IT'S BEEN WIPE DOWN. WELL, THAT'S NOT TRUE,  
14 ALTHOUGH WHEN THEY WIPE IT DOWN, IT PROBABLY WILL GET RID OF  
15 THE FINGERPRINTS. IT'S ALSO VERY LIKELY THAT SOMEBODY HAS  
16 TOUCHED AN ITEM AND YOU STILL WON'T FIND THEIR FINGERPRINTS,  
17 AND THERE'S VARIOUS REASONS. THERE'S NO ONE SCIENTIFIC  
18 REASON WHY YOU DON'T FIND FINGERPRINTS SOMETIMES, BUT FROM  
19 PRACTICAL EXPERIENCE, I KNOW FOR A FACT YOU JUST DON'T ALWAYS  
20 FIND PRINTS ON ANY TYPE SURFACE EVEN THOUGH IT'S BEEN  
21 HANDLED.

22 Q. AND WOULD THE CONDITION OF THE GUN MAKE A DIFFERENCE IN  
23 YOUR ABILITY TO FIND ANY PRINTS?

24 A. IT COULD. IF THE SURFACE IS NOT VERY SMOOTH, THAT COULD  
25 HAVE AN EFFECT ON IT. IF THE SURFACE HAS BEEN HANDLED AN

1 AWFUL LOT, SUCH AS A TELEPHONE RECEIVER OR A DOORKNOB, A LOT  
2 OF TIMES YOU WON'T FIND IDENTIFIABLE PRINTS BECAUSE THERE'S A  
3 BUILD-UP OF RESIDUE ON THERE IF IT'S NOT CLEANED REGULARLY.  
4 AND SO WHEN YOU TOUCH IT, IT'S NOT REALLY CONDUCTIVE -- IT'S  
5 NOT A GOOD SURFACE FOR THE RESIDUE TO STICK FROM YOUR HAND ON  
6 TO BECAUSE MAYBE THERE'S A BUILD-UP OF SOME TYPE OF RESIDUE  
7 ALREADY ON THERE. SO THERE ARE ACTUALLY NUMEROUS REASONS  
8 THAT COULD BE RESPONSIBLE, BUT THE FACT IS YOU JUST DON'T  
9 FIND FINGERPRINTS ALL THE TIME, EVEN THOUGH SOMEBODY HAS  
10 TOUCHED SOMETHING, WHETHER OR NOT THEY'VE WIPED IT OFF.

11 Q. SO, FOR INSTANCE, IF SOMEONE WERE TO TOUCH A GUN AND  
12 THEN SHOVE IT IN THEIR POCKET, WOULD THAT AFFECT YOUR ABILITY  
13 TO GET PRINTS?

14 A. IT COULD. ONE OF THE REASONS YOU MIGHT NOT FIND PRINTS  
15 IF THEY WERE THERE BEFORE IS IF SOMETHING RUBS AGAINST IT.  
16 IF THEY PUT IT IN THEIR POCKET, THAT MAY SERVE JUST AS THOUGH  
17 THEY WERE WIPING IT OFF AND IT WOULD BE THE SAME RESULTS.  
18 ANY TIME THE SURFACE THAT A PRINT MAY BE ON BRUSHES OR RUBS  
19 UP AGAINST SOMETHING, IT'S GOING TO REDUCE THE CHANCE OF  
20 FINDING ANY FINGERPRINT AT ALL OR AT LEAST ANYTHING OF ANY  
21 VALUE. I HAVE TOUCHED THAT GUN MYSELF AND I DIDN'T FIND ANY  
22 -- YOU KNOW, I DIDN'T FIND ANYTHING THAT COULD PROVE THAT I  
23 TOUCHED IT. I KNOW I TOUCHED IT SEVERAL TIMES BEFORE IT WAS  
24 ACTUALLY...

25 MR. SPRATLIN: BEG THE COURT'S INDULGENCE FOR ONE

1 SECOND. THAT'S ALL THE QUESTIONS I HAVE RIGHT NOW, YOUR  
2 HONOR.

3 THE COURT: MR. HASTIE?

4 MR. HASTIE: THANK YOU, YOUR HONOR.

5 CROSS-EXAMINATION

6 BY MR. HASTIE:

7 Q. GOOD MORNING, LIEUTENANT NESBITT.

8 A. GOOD MORNING, SIR.

9 Q. YOU SAID YOU HAVE 14 YEARS WITH THE SUMTER COUNTY POLICE  
10 DEPARTMENT?

11 A. NO, SIR, 14 YEARS DOING FORENSICS.

12 Q. FORENSICS?

13 A. I'VE BEEN WITH THE DEPARTMENT FOR 25 YEARS ACTUALLY.

14 Q. OKAY. NOW, IN THIS PARTICULAR SITUATION YOU ARRIVED AT  
15 THE LOCATION, 107 SALEM STREET, WITH THE GROUP THAT DID HAVE  
16 A SEARCH WARRANT. IS THAT CORRECT?

17 A. I DON'T BELIEVE I ARRIVED THERE WITH THEM. I THINK I  
18 MAY HAVE COME UP AFTER THEY GOT THERE, TO BE HONEST WITH YOU.  
19 I KNOW I WAS NOT INVOLVED IN THE -- OR AT THE RESIDENCE AT  
20 THE TIME OF THE ARREST. I CAME UP AFTERWARDS TO GO IN AND DO  
21 THE SEARCH.

22 Q. OKAY. YOU'RE PRETTY SURE THEY DID HAVE A SEARCH WARRANT  
23 AT THAT TIME.

24 A. I JUST KNOW THEY HAD ONE WHEN I WENT INTO THE HOUSE.

25 Q. THAT'S WHAT I MEANT.

1 A. YES, SIR. YES, SIR.

2 Q. SO, NOW, WHAT IS YOUR RESPONSIBILITY? ONCE YOU GET TO  
3 THE HOUSE, WHAT IS YOUR RESPONSIBILITY?

4 A. MY RESPONSIBILITY IS TO ASSIST IN THE -- ACTUALLY THE  
5 SEARCHING OF THE HOUSE, TO PHOTOGRAPH IT AND TO COLLECT  
6 EVIDENCE AND TO TAKE THAT EVIDENCE INTO THE POLICE DEPARTMENT  
7 AND EITHER FURTHER PROCESS IT, IF NECESSARY, OR PACKAGE IT  
8 AND TURN IT IN TO THE EVIDENCE ROOM TO BE HELD FOR COURT OR  
9 FOR THE DISPOSITION.

10 Q. OKAY. YOU TOOK A LOT OF PICTURES AT THIS LOCATION. IS  
11 THAT CORRECT?

12 A. YES, SIR, QUITE A NUMBER.

13 Q. DO YOU HAVE ANY IDEA HOW MANY? ARE WE TALKING HUNDREDS  
14 OF PICTURES? THOUSANDS OF PICTURES?

15 A. IT WOULD -- IT WOULD NOT HAVE BEEN HUNDREDS, BUT I DON'T  
16 KNOW THE EXACT NUMBER.

17 Q. OKAY. OKAY. SO WHEN YOU ARRIVED AT THE HOUSE, ISN'T IT  
18 YOUR -- ISN'T THE PROCEDURE THAT YOU TAKE PICTURES FIRST  
19 BEFORE ANYBODY STARTS MOVING ANYTHING AROUND? IS THAT THE  
20 PROPER PROCEDURE?

21 A. IF NOTHING HAS BEEN MOVED WHEN I GET THERE, THEN I DON'T  
22 MOVE ANYTHING, UNLESS IT'S AN EMERGENCY-TYPE SITUATION, UNTIL  
23 IT'S BEEN PHOTOGRAPHED.

24 Q. BUT THAT IS THE PROCEDURE. THEY SHOULD BE IN PLACE.  
25 YOU TAKE THE PICTURES FIRST. THEN THEY PROCEED WITH THE

1 SEARCH.

2 A. USUALLY, UNLESS THERE'S A GOOD REASON NOT TO DO IT IN  
3 THAT ORDER. YES, SIR.

4 Q. OKAY. DID YOU FIND THE GUN IN QUESTION?

5 A. I DID.

6 Q. YOU DID FIND IT? WHERE WAS THE GUN LOCATED?

7 A. THE GUN WAS ON THE BED UNDERNEATH A SHIRT ON TOP OF A  
8 PAIR OF DARK SHORTS BUT UNDER A SHIRT SO THAT I DID NOT SEE  
9 IT IN MY FIRST PHOTOGRAPH OF THE BED. I HAD TO MOVE THE  
10 SHIRT TO SEE THE GUN.

11 Q. OKAY. AND WHEN YOU FOUND THE GUN, WHAT DID YOU DO? DID  
12 YOU PICK IT UP?

13 A. I PHOTOGRAPHED IT FIRST IN PLACE WHERE I FOUND IT WHICH  
14 IS MY NORMAL PROCEDURE, AND THEN I COLLECTED THE GUN.

15 Q. OKAY. HOW DO YOU COLLECT THE GUN? THERE'S A LOT OF US  
16 THAT WATCH TELEVISION. I SEE THEM WITH RUBBER GLOVES AND  
17 PLASTIC BAGS.

18 A. RIGHT. I WILL PICK IT UP AND USUALLY I'LL HAVE GLOVES  
19 ON. I PICK IT UP, BUT WHETHER I'VE GOT ON GLOVES OR NOT,  
20 THOUGH, I WILL PICK UP THE GUN USUALLY BY AN AREA THAT'S  
21 LEAST LIKELY TO RENDER FINGERPRINTS. IN OTHER WORDS, IF  
22 THERE'S AN AREA THAT'S NOT REALLY SMOOTH, IF THERE'S A  
23 CHECKERED AREA OR AN UNEVEN SURFACE, THERE'S A LESSER CHANCE  
24 OF FINDING A PRINT THERE, SO I WILL TOUCH IT THERE. THE  
25 REASON I SAY THAT IS: EVEN WITH GLOVES ON, YOU CAN ACTUALLY

1 LEAVE A FINGERPRINT ON AN ITEM. SO THAT'S SOMETHING ELSE  
2 THAT T.V. IS MISLEADING ABOUT. SO JUST BECAUSE YOU WEAR  
3 GLOVES DOESN'T MEAN YOU WON'T LEAVE A FINGERPRINT ON AN ITEM  
4 NECESSARILY.

5 Q. DID YOU HAVE GLOVES ON THIS DAY?

6 A. I DON'T REMEMBER FOR SURE, BUT I PROBABLY DID BECAUSE  
7 IT'S MY GENERAL PRACTICE TO DO SO.

8 Q. OKAY. CAN YOU DEMONSTRATE TO THE JURY HOW YOU PICKED UP  
9 THIS PARTICULAR GUN SAFELY?

10 A. I CAN'T SAY FOR SURE; NO, SIR. BUT I CAN TELL YOU HOW  
11 NORMALLY I WOULD, AND SO THIS IS THE GREATEST LIKELIHOOD THAT  
12 I WOULD HAVE PICKED IT UP BY JUST HOLDING THE EDGE OF THE  
13 GRIP. THE GRIP IS NOT A REAL SMOOTH SURFACE AND WOULD NOT BE  
14 AS LIKELY TO YIELD AN IDENTIFIABLE FINGERPRINT AS THE SMOOTH  
15 PART OF IT. SO USUALLY I WOULD PICK IT UP BY AN AREA SUCH AS  
16 THAT. SO THAT'S MOST LIKELY HOW I PICKED IT UP, BUT I CAN'T  
17 SAY 100 PERCENT.

18 Q. I WOULD THINK IF SOMEONE WAS HOLDING A GUN THAT THEIR  
19 PALM PRINT WOULD BE ON THE HANDLE THAT YOU JUST PICKED UP.

20 A. WELL, IT'S JUST LIKE I JUST SAID: THAT WOULD BE LESS  
21 LIKELY TO YIELD AN IDENTIFIABLE PRINT ON THIS AREA THAN THE  
22 SMOOTH AREA. I'M NOT SAYING IT'S IMPOSSIBLE; I'M JUST SAYING  
23 IT'S LESS LIKELY.

24 Q. LESS LIKELY.

25 A. YES, SIR.

1 Q. THANK YOU. YOU TALKED ABOUT -- SO THERE WERE NO  
2 FINGERPRINTS OF VALUE, I THINK YOU SAID.

3 A. THAT'S CORRECT.

4 Q. NO FINGERPRINTS OF VALUE. SO THERE WERE SOME  
5 FINGERPRINTS ON THE GUN:

6 A. NO, SIR, I'M NOT SAYING THAT. WHAT I'M SAYING IS:  
7 BECAUSE THERE WERE NO FINGERPRINTS TURNED IN TO THE EVIDENCE  
8 ROOM, THEN I KNOW THAT I DIDN'T SEE ANYTHING THAT WAS --  
9 COULD BE CONSIDERED OF ANY VALUE TO TRY TO DETERMINE WHO IT  
10 BELONGED TO. SO THAT MEANS THERE COULD HAVE BEEN SOME  
11 SMUDGES OR SMEARS, LIKE I TALKED ABOUT EARLIER, IN OTHER  
12 WORDS, SOME RESIDUE THAT PROBABLY WAS TRANSFERRED FROM A HAND  
13 OR A FINGER BUT NOTHING WITH ANY RIDGE DETAIL THAT COULD BE  
14 LOOKED AT AND COMPARED TO DETERMINE WHO IT BELONGED TO.  
15 THAT'S WHAT I MEAN WHEN I SAY NONE OF ANY VALUE.

16 Q. OKAY. YOU MENTIONED A SERIAL NUMBER EARLIER THAT WAS ON  
17 THE GUN.

18 A. YES, SIR.

19 Q. THAT'S ON YOUR PAPERWORK THERE.

20 A. THAT'S CORRECT.

21 Q. DID YOU RUN THE SERIAL NUMBER OR CHECK ON THE SERIAL  
22 NUMBER TO SEE WHO THE GUN BELONGED TO?

23 A. NO, SIR, I DIDN'T. THAT WOULD NOT NORMALLY BE MY JOB TO  
24 DO ONCE I COLLECT IT. THAT WOULDN'T BE SOMETHING I WOULD DO.  
25 NORMALLY SOMEONE ELSE IN THE INVESTIGATION PROCESS WOULD DO



1 THAT.

2 Q. DO YOU KNOW WHETHER OR NOT ANYONE RAN THE SERIAL NUMBER  
3 ON THIS PARTICULAR GUN TO SEE WHO IT BELONGED TO?

4 A. I DON'T KNOW, SIR.

5 Q. NOW, AT THE HOUSE YOU TOOK MANY PICTURES. I DID SEE A  
6 PICTURE OF MISS PRINCE, THE BLACK LADY THAT WAS IN THE HOUSE.  
7 DID YOU TAKE A PICTURE OF HER?

8 A. I REALLY DON'T RECALL. I'LL BE GLAD TO LOOK BACK  
9 THROUGH THEM AND SEE IF THERE WAS -- IF SHE WAS IN ONE OF THE  
10 PICTURES, BUT I DON'T RECALL.

11 Q. DO YOU HAVE THE PICTURES THERE THAT YOU CAN GO BACK AND  
12 TAKE A LOOK?

13 A. I'VE GOT SOME OF THEM HERE. ACTUALLY THESE ARE ALL JUST  
14 FROM THE STORE. I WOULD NEED TO SEE THE PHOTOGRAPHS FROM THE  
15 APARTMENT.

16 Q. BUT NORMALLY IF SOMEONE WAS IN THE HOUSE YOU WOULD TAKE  
17 A PICTURE OF THAT PERSON.

18 A. NOT NECESSARILY, NO, SIR, UNLESS THERE WAS SOME REASON  
19 THAT IT WAS IMPORTANT FOR ME TO TAKE THEIR PICTURE. I WOULD  
20 NOT NECESSARILY DO SO.

21 MR. HASTIE: COURT'S INDULGENCE, YOUR HONOR.

22 THE COURT: YES, SIR.

23 MR. HASTIE: YOUR HONOR, MAY I APPROACH?

24 THE COURT: WHAT NUMBER?

25 MR. HASTIE: THERE IS NO NUMBER ON THIS ONE.

1           **THE COURT:** I'M SORRY. ALL RIGHT. GO AHEAD.

2           BY MR. HASTIE:

3           Q. DID YOU TAKE THIS PARTICULAR PICTURE?

4           A. YES, SIR.

5           Q. YOU DID TAKE THIS PARTICULAR PICTURE?

6           A. I WOULD HAVE TAKEN IT. ALL THESE PICTURES FROM THE  
7 RESIDENCE I WOULD HAVE BEEN THE ONE TO TAKE THEM, YES, SIR.

8           Q. WHO IS THIS A PICTURE OF?

9           A. THIS IS -- ACTUALLY IT'S WHAT WE CALL A DISTANT PHOTO.  
10 THAT WAS NOT A PICTURE INTENDED TO SHOW THIS LADY FOR ANY  
11 PARTICULAR REASON. SHE JUST HAPPENED TO BE IN THE AREA THAT  
12 I WAS PHOTOGRAPHING MY OVERALL PICTURE. THAT WOULD BE AN  
13 OVERALL PICTURE OF THAT AREA OF THAT -- OF THE DEN, THE FIRST  
14 ROOM YOU WALKED INTO.

15          Q. SO NOW -- BUT YOU DO KNOW THAT THIS LADY WAS AT THE  
16 HOUSE OBVIOUSLY WHEN YOU STARTED TAKING PICTURES.

17          **MR. SPRATLIN:** YOUR HONOR, I'M GOING TO OBJECT TO THE  
18 DEFENDANT USING -- THE DEFENSE ATTORNEY USING PHOTOGRAPHS  
19 WHICH ARE NOT INTO EVIDENCE AT THIS POINT. IF HE WISHES TO  
20 QUESTION THE WITNESS ON IT---

21          **THE COURT:** WELL, IT CAN BE MARKED FOR I.D. AND NOT COME  
22 IN, BUT YOUR OBJECTION IS OVERRULED.

23          **MR. SPRATLIN:** YES, YOUR HONOR.

24          **THE COURT:** HE CAN HANDLE THE CROSS IN THAT FASHION, SO  
25 THAT'S OVERRULED. AND WOULD YOU REPEAT THE QUESTION, PLEASE,

1 MR. HASTIE? IS IT A CUSTOM TO TAKE PHOTOGRAPHS? THAT WAS  
2 THE PREMISE OF IT.

3 MR. HASTIE: THAT'S RIGHT.

4 BY MR. HASTIE:

5 Q. IS IT YOUR CUSTOM TO TAKE PHOTOGRAPHS OF EVERYONE THAT'S  
6 AT A SCENE OR IN THE APARTMENT WHEN YOU ARRIVE AS A FORENSIC  
7 EXPERT?

8 A. AS I SAID A MOMENT AGO, NOT NECESSARILY. IF THERE'S NOT  
9 A PARTICULAR REASON THAT THE INVESTIGATORS WORKING THIS CASE  
10 FEEL LIKE IT'S IMPORTANT FOR ME TO PHOTOGRAPH THAT PERSON, I  
11 MAY NOT PHOTOGRAPH THEM. AND IN THE PICTURE YOU SHOWED ME,  
12 AS I SAID, THAT WAS NOT TAKEN BECAUSE SHE WAS IN THERE. IF  
13 SHE WASN'T IN THERE, I WOULD HAVE HAD THE SAME PICTURE WITH  
14 THE CHAIR EMPTY. SHE JUST HAPPENED TO BE SITTING IN THE AREA  
15 THAT I NEEDED TO DOCUMENT WITH THE PHOTOGRAPH.

16 Q. DO YOU HAVE KNOWLEDGE THAT SHE WAS ONE OF THE THREE  
17 PEOPLE THAT WERE APPREHENDED THAT NIGHT?

18 A. I DON'T. THE ONLY KNOWLEDGE I HAVE ABOUT HER BASICALLY  
19 IS WHEN I WENT INSIDE TO DO MY PART IN THE SEARCH, SHE WAS IN  
20 THE HOUSE.

21 Q. OKAY.

22 A. OTHER THAN THAT, I REALLY DON'T KNOW, SIR.

23 Q. NOW, IN YOUR PICTURE-TAKING, DID YOU TAKE ANY PICTURES  
24 OF ANYTHING OUTSIDE THE HOUSE? I SEE THERE'S SEVERAL  
25 PICTURES OF THE FRONT OF THE HOUSE.

1 A. YES, SIR. I WOULD HAVE TAKEN -- AND THAT'S NORMAL, TOO,  
2 IS BEFORE I GO IN I'LL USUALLY TAKE SOME PICTURES OF THE  
3 ENTRANCE OF THE RESIDENCE, TOO.

4 Q. OKAY. DID YOU TAKE ANY PICTURES OF MR. MASSEY, THE  
5 OWNER OF THE HOUSE?

6 A. NO, SIR, I DIDN'T TAKE ANY PICTURES OF ANYBODY OTHER  
7 THAN THE LADY THAT WAS IN THAT PICTURE THAT HAPPENED TO BE IN  
8 THE RESIDENCE WHEN I WAS IN THERE.

9 Q. OKAY. WERE YOU -- ARE YOU AWARE -- WERE YOU AWARE THAT  
10 THERE WERE THREE PEOPLE AT THE HOUSE AT THE TIME OF THE  
11 SEARCH WARRANT BEING SERVED AND YOU ENTERING THE PREMISES?

12 A. NO, SIR. I HAD NO PERSONAL KNOWLEDGE OF THAT, ONLY WHAT  
13 I'VE HEARD IN THE COURTROOM ACTUALLY ABOUT THAT.

14 Q. SO JUST IN MY FINAL QUESTIONS -- SO, IN REVIEW, YOU DID  
15 NOT RUN THE SERIAL NUMBER AT ALL ON THIS PARTICULAR GUN.

16 A. THAT'S CORRECT. THAT WOULD NOT HAVE BEEN SOMETHING I  
17 WOULD NORMALLY DO. SOMEONE ELSE WOULD DO THAT.

18 Q. SO WE HAVE NO IDEA -- YOU HAVE NO IDEA WHO THIS GUN  
19 BELONGED TO.

20 A. I DON'T PERSONALLY; NO, SIR.

21 Q. AND AS FAR AS FINGERPRINTS ON THE GUN, THERE CERTAINLY  
22 WEREN'T ANY FINGERPRINTS OF MR. MASSEY ON THE GUN.

23 A. NONE THAT I COULD FIND OF ANYONE'S, NO, SIR. THAT'S  
24 CORRECT.

25 MR. HASTIE: THANK YOU. NO FURTHER QUESTIONS.

1           **THE COURT:** REDIRECT?

2           **MR. SPRATLIN:** BEG THE COURT'S INDULGENCE. NO REDIRECT,  
3           YOUR HONOR.

4           **THE COURT:** THANK YOU, SIR. YOU CAN STEP DOWN.

5           **THE WITNESS:** THANK YOU.

6           **THE COURT:** ALL RIGHT. IF YOU COULD RETURN THE...

7           **BAILIFF:** I'LL GET IT.

8           **THE COURT:** MR. SPRATLIN, YOU CAN CALL YOUR NEXT  
9           WITNESS.

10          **MR. SPRATLIN:** YOUR HONOR, AT THIS TIME THE STATE WOULD  
11          REST.

12          **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, THE STATE  
13          HAS RESTED ITS CASE WHICH MEANS THE STATE HAS PRESENTED ALL  
14          THE EVIDENCE THAT IT'S GOING TO PRESENT IN ITS CASE IN CHIEF.  
15          THE RULES THAT WE HAVE REQUIRE ME TO TAKE A RECESS AT THIS  
16          POINT. I'LL HAVE YOU BACK OUT SHORTLY. PLEASE DO NOT  
17          DISCUSS CASE. YOU'VE NOT HEARD EVERYTHING THAT THERE IS TO  
18          HEAR IN THE FORM OF HOW THE CASE IS PRESENTED UNDER OUR  
19          RULES. SO IF YOU WOULD PLEASE GO TO YOUR JURY ROOM. I'LL  
20          HAVE YOU BACK OUT MOMENTARILY.

21          (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT  
22          10:37 A.M.)

23          **THE COURT:** ALL RIGHT. MR. HASTIE, MR. WILDER, ANY  
24          MOTIONS AT THIS TIME?

25          **MR. HASTIE:** YES, YOUR HONOR. AT THIS TIME I WOULD LIKE

1 TO MAKE A MOTION FOR A DIRECTED VERDICT ON BEHALF OF THE  
2 DEFENDANT BECAUSE I FEEL THAT THE STATE HAS NOT PROVED ALL  
3 THE ELEMENTS OF THE CHARGES AGAINST MY PARTICULAR CLIENT. AS  
4 FAR AS IDENTIFICATION IS CONCERNED, YOUR HONOR, EVEN TWO OF  
5 THEIR OWN WITNESSES SAID THAT THEY WEREN'T SURE THAT MY  
6 CLIENT WAS THE ONE THAT WAS IN THE STORE THAT DAY. YOU KNOW  
7 MY CONCERN IS ABOUT ANY INFORMATION RECEIVED PURSUANT TO THE  
8 ARREST WARRANT.

9 THE COURT: SEARCH WARRANT?

10 MR. HASTIE: THE SEARCH WARRANT. I'M SORRY. THAT THAT  
11 WAS OBTAINED BY INFORMATION OF MR. SUMTER AND WE'VE TALKED  
12 ABOUT THAT IN THE PAST. YOU'VE DENIED IT IN THE PAST, BUT I  
13 STILL THINK THAT'S GROUNDS FOR A DIRECTED VERDICT IN THIS  
14 PARTICULAR SITUATION. I THINK IT VIOLATES MY CLIENT'S RIGHT  
15 TO REMAIN FREE UNDER THE FOURTH AMENDMENT. I THINK IT  
16 VIOLATES HIS FOURTH AMENDMENT RIGHTS OF PROPER SEARCH AND  
17 SEIZURE. SO AT THIS TIME I WOULD LIKE TO MOVE THAT WE BE  
18 GRANTED A DIRECTED VERDICT.

19 THE COURT: ALL RIGHT. HOW ABOUT THE IN-COURT  
20 IDENTIFICATION MADE BY MR. HUFF OF THE DEFENDANT? SAME  
21 MOTION?

22 MR. HASTIE: SAME MOTION, YOUR HONOR.

23 THE COURT: AND THE -- YOU MENTIONED THE EVIDENCE SEIZED  
24 FROM WHAT YOU CALLED THE IMPROPER SEARCH.

25 MR. HASTIE: YES, SIR.

1           **THE COURT:** THE IN-COURT IDENTIFICATION. HOW ABOUT THE  
2 MOTION, EXCUSE ME, THE LIFE-WITHOUT-PAROLE NOTICE? TO THE  
3 EXTENT THAT IS SOMETHING YOU WOULD MOVE FOR A DIRECTED  
4 VERDICT ON, YOU REPEAT THAT AS WELL?

5           **MR. HASTIE:** YES, SIR, I DO, YOUR HONOR.

6           **THE COURT:** AND THE STATE -- STATEMENT GIVEN BY THE  
7 DEFENDANT IN THE JACKSON VERSUS DENNO HEARING, YOU OBJECTED  
8 SAYING THAT WAS NOT THE PRODUCT OF HIS FREE AND UNCONSTRAINED  
9 WILL AND SO FORTH?

10          **MR. HASTIE:** YES, SIR, I DO.

11          **THE COURT:** ALL RIGHT. ALL RIGHT. ALL THOSE MOTIONS  
12 ARE DENIED. I THINK THIS IS A JURY ISSUE. IT WILL BE UP TO  
13 THE JURY TO DETERMINE WHETHER OR NOT THE STATE HAS PROVEN ALL  
14 THE ELEMENTS OF THE CRIME BEYOND A REASONABLE DOUBT. MY  
15 EARLIER RULINGS ON THE IDENTIFICATION, THE SEARCH WARRANT,  
16 AND THE LIFE WITHOUT PAROLE NOTICE STILL STAND, AND IT'S ALSO  
17 A JURY ISSUE AS TO WHETHER OR NOT THE WITNESS'S, EXCUSE ME,  
18 THE DEFENDANT'S STATEMENT WAS GIVEN VOLUNTARILY AND SO FORTH,  
19 AND THE JURY WILL BE CHARGED APPROPRIATELY ON THAT. ALL  
20 RIGHT. ANYTHING ELSE, MR. HASTIE, ON -- AS FAR AS DIRECTED  
21 VERDICT MOTIONS ARE CONCERNED?

22          **MR. HASTIE:** NONE, YOUR HONOR. I WOULD LIKE TO RENEW  
23 THE MOTION MADE EARLIER FOR A MISTRIAL ON THE SAME GROUNDS.

24          **THE COURT:** ALL RIGHT. THAT MOTION IS DENIED. ALL  
25 RIGHT. COME ON UP, PLEASE, MR. MASSEY. COME ON AROUND AND

1 BE SWORN. YOU DON'T -- YOU'RE NOT GOING TO BE SITTING DOWN.  
2 YOU'LL STAND UP RIGHT THERE WITH YOUR LAWYER, BUT I JUST  
3 WANTED YOU TO BE SWORN.

4 ANDRE M. MASSEY, AFTER BEING DULY SWORN, TESTIFIED  
5 AS FOLLOWS IN CAMERA:

6 EXAMINATION BY THE COURT

7 Q. ALL RIGHT. ALL RIGHT. YOUR NAME IS ANDRE MASSEY?

8 A. YES, SIR.

9 Q. ALL RIGHT. MAKE SURE YOU SPEAK UP LOUDLY FOR ME JUST  
10 LIKE YOU'RE DOING NOW. WE'VE NOW REACHED THE STAGE OF THE  
11 TRIAL WHERE YOU CAN, IF YOU CHOOSE, PRESENT YOUR DEFENSE, AND  
12 AT THIS STAGE I WANT TO DISCUSS WITH YOU AND EXPLAIN TO YOU  
13 CERTAIN PROTECTIONS THAT YOU HAVE UNDER THE FIFTH AMENDMENT  
14 TO THE UNITED STATES CONSTITUTION, AND THAT AMENDMENT STATES  
15 IN PERTINENT PART THAT NO PERSON SHALL BE COMPELLED IN ANY  
16 CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THAT MEANS  
17 THAT YOU CANNOT BE REQUIRED TO TESTIFY IN THIS CASE. YOU  
18 HAVE THE RIGHT TO TESTIFY IN YOUR OWN BEHALF, BUT NO ONE CAN  
19 FORCE YOU TO DO THAT. FOR EXAMPLE, YOUR LAWYER CANNOT FORCE  
20 YOU TO TAKE THE WITNESS STAND. MR. SPRATLIN, THE PROSECUTOR,  
21 CAN'T CALL YOU TO THE WITNESS STAND. I COULD NOT FORCE YOU  
22 TO TAKE THE STAND EITHER. THE RIGHT THAT YOU HAVE UNDER THE  
23 FIFTH AMENDMENT IS A PERSONAL RIGHT, AND NO ONE CAN GIVE THAT  
24 RIGHT UP EXCEPT FOR YOU.

25 IF YOU DECIDE TO TESTIFY, YOU'LL BE SUBJECT TO THE SAME



1 RULES THAT GOVERN THE DIRECT EXAMINATION AND THE CROSS-  
2 EXAMINATION OF ANY WITNESSES WITH A COUPLE OF EXCEPTIONS, AND  
3 YOU MAY BE EXAMINED AND CROSS-EXAMINED ON ANY RELEVANT ISSUE  
4 IN THIS CASE. IF YOU HAVE ANY CONVICTIONS INVOLVING CRIMES  
5 OF DISHONESTY OR FALSE STATEMENT, THOSE CONVICTIONS CAN BE  
6 INTRODUCED TO IMPACT YOUR CREDIBILITY WHICH MEANS  
7 BELIEVABILITY.

8 IF YOU HAVE CONVICTIONS FOR CRIMES THAT WERE PUNISHABLE  
9 BY IMPRISONMENT FOR MORE THAN ONE YEAR AND YOUR CIVIL RIGHTS  
10 HAVE NOT BEEN RESTORED BY -- IF YOU HAVE BEEN CONVICTED OF A  
11 CRIME THAT CALLS FOR IMPRISONMENT FOR GREATER THAN ONE YEAR  
12 AND IF I DETERMINE THAT THE PROBATIVE VALUE OF ADMITTING THAT  
13 EVIDENCE OUTWEIGHS THE PREJUDICIAL EFFECT, THE SOLICITOR MAY  
14 BE ABLE TO INTRODUCE THAT PARTICULAR RECORD TO ATTACK YOUR  
15 CREDIBILITY AS WELL.

16 NOW, IF YOU DECIDE TO TESTIFY, THAT DECISION ON YOUR  
17 PART HAS TO BE MADE FREELY AND VOLUNTARILY AND INTELLIGENTLY  
18 WITH FULL KNOWLEDGE OF YOUR RIGHTS UNDER THE FIFTH AMENDMENT.  
19 IF YOU DECIDE NOT TO TESTIFY, I WILL EMPHASIZE TO THE JURY  
20 THAT THEY MAY NOT DISCUSS THAT. THEY MAY NOT TALK ABOUT IT.  
21 THEY CAN'T THINK ABOUT IT, AND THE FACT THAT YOU DID NOT  
22 TESTIFY CANNOT ENTER INTO THEIR DECISIONS IN THIS CASE IN ANY  
23 MANNER WHATSOEVER.

24 NOW, YOU CAN TALK TO YOUR LAWYER, IF YOU HAVEN'T DONE SO  
25 TO THE EXTENT YOU THINK IS NECESSARY, ABOUT WHETHER OR NOT

1 YOU'LL TESTIFY. YOU CAN DISCUSS THIS WITH ANY OTHER -- ANY  
2 FAMILY MEMBERS THAT YOU MAY HAVE OR FRIENDS THAT ARE PRESENT,  
3 BUT THE FINAL DECISION IS GOING TO BE LEFT UP TO YOU. DO YOU  
4 UNDERSTAND THAT?

5 A. YES, SIR.

6 Q. ALL RIGHT. DO YOU UNDERSTAND EVERYTHING THAT I HAVE  
7 EXPLAINED TO YOU ABOUT YOUR FIFTH AMENDMENT RIGHTS?

8 A. YES, SIR.

9 Q. DO YOU HAVE ANY QUESTIONS ABOUT WHAT I'VE EXPLAINED TO  
10 YOU?

11 A. NO, SIR.

12 Q. HAVE YOU DISCUSSED WITH YOUR LAWYER WHETHER OR NOT YOU  
13 WILL OR WILL NOT TESTIFY?

14 A. YES, SIR, I HAVE, BUT I WOULD LIKE TO TALK TO HIM IF  
15 IT'S ALL RIGHT.

16 THE COURT: ALL RIGHT. MR. -- MR. HERRING AND MR.  
17 SCOTT, IF Y'ALL COULD MAKE A ROOM AVAILABLE WITH JUST MR.  
18 HASTIE AND THE DEFENDANT AND ANYONE ELSE WHO WANTS TO DISCUSS  
19 IT WITH HIM. MR. HASTIE, HOW MUCH TIME DO YOU THINK Y'ALL  
20 WILL NEED?

21 MR. HASTIE: FOR THIS DISCUSSION?

22 THE COURT: YES, SIR.

23 MR. HASTIE: I WOULD SAY 15 MINUTES MAYBE.

24 THE COURT: ALL RIGHT. IF YOU WOULD, IT'S 20 MINUTES --  
25 BASED ON THAT, IT'S 20 MINUTES ON THE WALL CLOCK. I'LL JUST

1 LOOK TO HEAR BACK FROM YOU COMING INTO THE COURTROOM WITHIN  
2 THE NEXT 15 MINUTES. ALL RIGHT. MR. -- MR. MASSEY, ANYBODY  
3 ELSE YOU WANT TO JOIN IN THAT DISCUSSION WITH YOU?

4 MR. HASTIE: CERTAINLY MR. WILDER.

5 THE COURT: ALL RIGHT. THAT'S FINE. OKAY. IF YOU'D  
6 MAKE THAT AVAILABLE FOR THEM, PLEASE---

7 BAILIFF: YES, SIR.

8 THE COURT: ---SERGEANT AND I DON'T KNOW WHERE YOU MIGHT  
9 GO, PERHAPS SOME SMALL ROOM HERE FOR HIM, AND THERE WILL BE  
10 SOMEBODY POSTED OUTSIDE. OKAY? WE'LL BE IN RECESS FOR  
11 APPROXIMATELY 15 MINUTES.

12 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

13 BY THE COURT:

14 Q. ALL RIGHT. MR. MASSEY, WOULD YOU PLEASE STAND JUST FOR  
15 A MOMENT? HAVE YOU HAD ADEQUATE OPPORTUNITY TO DISCUSS THE  
16 ISSUE OF WHETHER YOU WILL OR WILL NOT TESTIFY WITH YOUR  
17 LAWYER AND -- WITH YOUR LAWYERS?

18 A. YES, SIR, I HAVE.

19 Q. AND HAVE YOU MADE THAT DECISION?

20 A. YES, SIR, I DID.

21 Q. WHAT'S YOUR DECISION?

22 A. I'M NOT GOING TO TESTIFY.

23 Q. ALL RIGHT. HAVE YOU MADE THAT DECISION FREELY AND  
24 VOLUNTARILY AND WITH FULL KNOWLEDGE OF YOUR RIGHTS UNDER THE  
25 FIFTH AMENDMENT?

1 A. YES, I HAVE, SIR.

2 Q. ALL RIGHT. AND SO YOU WILL NOT TESTIFY. IS THAT WHAT  
3 YOU SAID?

4 A. YES, SIR, THAT IS WHAT I SAID.

5 THE COURT: THANK YOU, SIR. HAVE A SEAT. ALL RIGHT.  
6 ARE WE READY TO PROCEED THEN TO DISCUSSING THE JURY CHARGE?

7 MR. SPRATLIN: YOUR HONOR, I DON'T BELIEVE THE STATE, I  
8 MEAN THE DEFENSE, HAS RESTED.

9 THE COURT: OH, WILL YOU BE CALLING ANY WITNESSES?

10 MR. HASTIE: I WOULD NOT, YOUR HONOR.

11 THE COURT: OKAY.

12 MR. HASTIE: I WILL NOT CALL ANY WITNESSES.

13 THE COURT: ALL RIGHT. ANY CHARGES THAT EITHER SIDE  
14 WISHES TO HAND UP TO ME?

15 MR. SPRATLIN: YOUR HONOR, THE STATE HAS NO SPECIFIC  
16 CHARGES. WE WOULD JUST ASK THAT YOU CHARGE THEM THE CRIME OF  
17 ARMED ROBBERY, THE CHARGE THAT ARMED ROBBERY IS A CRIME OF  
18 VIOLENCE UNDER THE STATUTE AS FAR AS COUNT 2, THE POSSESSION  
19 OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. WE'D  
20 ALSO ASK FOR THE GENERAL CHARGES ON -- I'M SORRY, YOUR HONOR.  
21 THE -- THE WORD I'M LOOKING FOR ESCAPES ME, BUT IT'S THE  
22 CHARACTERISTICS OF THE TRUTHFULNESS OF THE WITNESSES. THE  
23 CREDIBILITY OF WITNESSES, THAT'S THE WORD I'M LOOKING FOR.

24 THE COURT: THAT'S ALL PART OF MY GENERAL CHARGE.

25 MR. SPRATLIN: YES, YOUR HONOR.

1           **THE COURT:** ANYTHING SPECIFIC? WELL, LET ME TELL YOU  
2 WHAT I DO HAVE, AND THEN WE'LL FILL IN THE GAPS. SOME OF THE  
3 VERY, VERY, VERY STANDARD CHARGES I'M NOT GOING TO  
4 SPECIFICALLY REFERENCE, BUT I'LL CHARGE THE JURY ON THEIR  
5 ROLE AS FACT FINDERS, DIRECT AND CIRCUMSTANTIAL EVIDENCE,  
6 CREDIBILITY OF THE WITNESSES, THE PRESUMPTION OF INNOCENCE,  
7 THE BURDEN OF PROOF BEYOND A REASONABLE DOUBT, THE FACT THAT  
8 THE DEFENDANT DIDN'T TESTIFY IS NOT TO BE CONSIDERED AT ALL,  
9 IDENTIFICATION, STATEMENT GIVEN BY THE DEFENDANT, ARMED  
10 ROBBERY WHICH IS 16-11-330, POSSESSION OF A WEAPON DURING THE  
11 COMMISSION OF A VIOLENT CRIME, AND ARMED ROBBERY IS A VIOLENT  
12 CRIME AND CRIMINAL INTENT.

13           **MR. SPRATLIN:** YOUR HONOR, THE ARMED ROBBERY, THE  
14 STATUTE ITSELF FAILS TO DEFINE THE ROBBERY, THE CRIME OF  
15 ROBBERY. WILL YOUR INSTRUCTION DEFINE THE CRIME OF ROBBERY?

16           **THE COURT:** I WILL TELL THE JURY THIS: THAT THE  
17 DEFENDANT IS CHARGED WITH ARMED ROBBERY. THE STATE MUST  
18 FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK  
19 PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF ANOTHER  
20 PERSON. PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS  
21 WITHIN THE PERSON'S REACH, INSPECTION, OR OBSERVATION OR  
22 CONTROL. THE STATE MUST ALSO PROVE BEYOND A REASONABLE DOUBT  
23 THAT THE DEFENDANT CARRIED THE PROPERTY AWAY, INTENDING TO  
24 PERMANENTLY DEPRIVE THE OWNER OF THE PROPERTY AND TO KEEP THE  
25 PROPERTY FOR THE DEFENDANT'S OWN USE.

1 THE SLIGHTEST REMOVAL OF THE PROPERTY, EVEN FOR AN  
2 INSTANT, IS SUFFICIENT TO SHOW TAKING AND CARRYING AWAY OF  
3 THE PROPERTY, AND THE TAKING AND CARRYING AWAY MUST HAVE BEEN  
4 DONE WITH VIOLENCE OR BY PUTTING THE OWNER OF THE PROPERTY IN  
5 FEAR OF VIOLENCE. FINALLY, THE STATE MUST PROVE BEYOND A  
6 REASONABLE DOUBT THE DEFENDANT WAS ARMED WITH A DEADLY WEAPON  
7 WHICH IS ANY ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS  
8 LIKELY TO CAUSE DEATH OR GREAT BODILY HARM. THE FOLLOWING  
9 ARE EXAMPLES WHICH MAY BE USED -- WHICH MAY BE DEADLY  
10 WEAPONS: PISTOL, SHOTGUN, RIFLE DAGGER, KNIFE, SLINGSHOT,  
11 METAL KNUCKLES, GASOLINE, RAZOR, FIREBOMB, MOLOTOV COCKTAIL,  
12 LIGHTER FLUID. A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS  
13 NOT OPERATING. THAT'S WHAT I'LL CHARGE.

14 MR. SPRATLIN: THANK YOU, YOUR HONOR.

15 THE COURT: ALL RIGHT. DO YOU HAVE ANYTHING ELSE, MR.  
16 HASTIE?

17 MR. HASTIE: YES, I DO, YOUR HONOR. YOUR HONOR, I WOULD  
18 LIKE TO HAND UP A -- YOU GAVE US YOUR IDENTITY CHARGE, BUT I  
19 HAVE ANOTHER ONE THAT I WOULD LIKE YOU TO AT LEAST CONSIDER  
20 TODAY, AND IN ADDITION, I WOULD LIKE TO ASK FOR A COMMON LAW  
21 ROBBERY CHARGE.

22 THE COURT: ALL RIGHT. THAT'S DENIED. WHAT'S YOUR  
23 BASIS FOR THAT, COMMON LAW ROBBERY? IS THERE ANY EVIDENCE  
24 THAT THE ROBBERY WAS - IF THIS DEFENDANT COMMITTED IT - WAS  
25 COMMITTED WITH ANYTHING OTHER THAN BRANDISHING A FIREARM?

1       **MR. HASTIE:** I DON'T THINK THE STATE HAS PROVEN ITS CASE  
2 THAT THIS DEFENDANT WAS THE PERSON THAT WAS EVEN---

3       **THE COURT:** BUT WHOEVER DID IT.

4       **MR. HASTIE:** OKAY.

5       **THE COURT:** IS THERE ANY EVIDENCE THAT IT WAS DONE  
6 WITHOUT A WEAPON?

7       **MR. HASTIE:** NO, SIR.

8       **THE COURT:** OKAY. SO THAT REQUEST IS DENIED. AND THE  
9 VERDICT FORM WILL BE NOT GUILTY OR GUILTY AS TO ARMED ROBBERY  
10 AND GUILTY OR NOT GUILTY AS TO POSSESSION OF A WEAPON DURING  
11 THE COMMISSION OF A VIOLENT CRIME.

12       **MR. HASTIE:** YOUR HONOR, I WOULD LIKE TO MAKE THIS A  
13 COURT EXHIBIT AS WELL, THIS IDENTIFICATION CHARGE THAT I  
14 HANDED UP.

15       **THE COURT:** YES, SIR. THAT'S FINE.

16       (COURT'S EXHIBIT 10 WAS MARKED FOR IDENTIFICATION ONLY.)

17       **THE COURT:** ALL RIGHT. I THINK THAT THE -- WHAT'S  
18 THE -- WHAT'S THE BASIS FOR A CHARGE OF THE LAST PARAGRAPH ON  
19 THE FIRST PAGE OF YOUR PROPOSED CHARGE? THE IDENTIFICATION  
20 OF THE DEFENDANT BY THE WITNESS HUFF WAS A RESULT OF AN  
21 IN-COURT IDENTIFICATION - WHY SHOULD I CHARGE THAT? WOULDN'T  
22 THAT BE A COMMENT BY ME ON THE FACTS AND SOMETHING YOU COULD  
23 ARGUE?

24       **MR. HASTIE:** YES, IT COULD, BUT I JUST THOUGHT IT WAS  
25 IMPORTANT THAT IT BE ADDED IN THE CHARGE.

1       **THE COURT:** I'M NOT GOING TO CHARGE THAT PARAGRAPH.  
2       EVEN IF I WERE TO CHARGE YOUR -- YOUR REQUEST HERE -- LET'S  
3       SEE. I'M NOT GOING TO CHARGE THE FIRST PARAGRAPH ON THE TOP  
4       OF THE SECOND PAGE EITHER NOR THE SECOND PARAGRAPH ON THE  
5       SECOND PAGE WHICH BEGINS WITH "THIS INFORMATION." IS THERE  
6       ANY FACTUAL BASIS IN THE RECORD FOR ME TO CHARGE THE ONE  
7       SENTENCE THAT'S UNDER THE HEADING OF "CONSISTENCY OF  
8       IDENTIFICATION"?

9       **MR. SPRATLIN:** THE STATE WOULD PRESENT THERE'S NOT, YOUR  
10      HONOR. THERE'S NO---

11      **THE COURT:** I'M ASKING MR. HASTIE. MR. HASTIE, IS THERE  
12      ANYTHING IN THE RECORD? IS THERE ANY EVIDENCE THAT THE  
13      WITNESS AT ANY TIME EITHER FAILED TO IDENTIFY THE DEFENDANT  
14      OR MADE AN IDENTIFICATION THAT WAS INCONSISTENT WITH THE  
15      IDENTIFICATION TESTIFIED TO AT TRIAL?

16      **MR. HASTIE:** WE DID HAVE ONE OF THEIR WITNESSES, YOUR  
17      HONOR, THAT FAILED TO IDENTIFY MY CLIENT - MRS. BRUNSON.

18      **THE COURT:** ALL RIGHT. DOES THE STATE HAVE ANY  
19      OBJECTION TO THE DEFENDANT'S REQUEST TO CHARGE ON  
20      IDENTIFICATION OTHER THAN WHAT I'VE JUST COVERED?

21      **MR. SPRATLIN:** YOUR HONOR, ARE YOU GOING TO CHARGE THE  
22      CONSISTENCY OF IDENTIFICATION PROVISION THAT YOU WERE JUST  
23      ASKING MR. HASTIE ABOUT?

24      **THE COURT:** I'LL CHARGE THAT SENTENCE. I'M NOT GOING TO  
25      SAY THE WITNESS. I'LL SAY ANY WITNESS.



1       **MR. SPRATLIN:** YOUR HONOR, THE STATE WOULD SIMPLY --  
2       SIMPLY BELIEVE THAT YOUR PATTERNED INSTRUCTION ON  
3       IDENTIFICATION THAT YOU PROVIDED MYSELF AND MR. HASTIE WITH  
4       EARLIER YESTERDAY WOULD BE SUFFICIENT TO COVER---

5       **THE COURT:** WELL, IT'S SUBSTANTIALLY THE SAME. I'M JUST  
6       GIVING HIM THE BENEFIT OF THE DOUBT BY CHARGING SOMETHING  
7       THAT SAYS THE SAME THING IN DIFFERENT WORDS. IT'S THE SAME  
8       THING. SO, GENTLEMEN, I'M SURE YOU WON'T BE DEVOTING LONG  
9       TIMES DURING YOUR CLOSING ARGUMENTS READING THIS CHARGE NOR  
10      DO I THINK THAT THE JURY IS GOING TO WANT YOU TO DO THAT.  
11      THAT'S ENTIRELY UP TO YOU. YOU CAN TELL THE JURY THAT I'M  
12      GOING TO GIVE THEM A CHARGE ON THE IMPORTANCE OR THE BURDEN  
13      OF THE STATE IN PROVING THAT THE DEFENDANT IS THE ONE WHO  
14      COMMITTED THE CRIME BEYOND A REASONABLE DOUBT.

15      I'M NOT GOING TO CHARGE THE SECOND -- THE LAST SENTENCE  
16      ON THE FIRST PAGE BECAUSE THAT'S A COMMENT BY ME ON THE  
17      FACTS. YOU CAN ARGUE THAT. YOU CAN ALSO ARGUE THE FIRST  
18      PARAGRAPH ON THE SECOND PAGE. YOU CAN ARGUE VERY EASILY,  
19      EVEN IF I DIDN'T CHARGE IT, THE ONE SENTENCE UNDER THE  
20      HEADING "CONSISTENCY OF IDENTIFICATION." I WILL CHARGE IT,  
21      BUT, YES, MR. SPRATLIN, I WILL CHARGE HIS REQUEST.

22      **MR. SPRATLIN:** YES, YOUR HONOR.

23      **THE COURT:** IN ITS ESSENCE I WILL CHARGE IT.

24      **MR. SPRATLIN:** THAT'S ACCEPTABLE TO THE STATE.

25      **THE COURT:** OKAY. ALL RIGHT. ANY OTHER CHARGES?

1       **MR. HASTIE:** NONE, YOUR HONOR.

2       **THE COURT:** HOW LONG -- HOW LONG WILL YOU NEED TO ARGUE,  
3       MR. SPRATLIN? YOU'LL GO FIRST, AND THE DEFENDANT WILL GO  
4       LAST.

5       **MR. SPRATLIN:** YES, YOUR HONOR. I'D ESTIMATE PROBABLY  
6       ABOUT 20 MINUTES.

7       **THE COURT:** MR. HASTIE? AND I'M NOT GOING TO HOLD YOU  
8       TO IT. I JUST KIND OF WANT TO KNOW SO I CAN---

9       **MR. HASTIE:** YES, SIR. I WAS---

10       **THE COURT:** ---GET ALL MY COMMENTS IN ORDER BY THE TIME  
11       BOTH OF YOU FINISH.

12       **MR. HASTIE:** I WAS THINKING 30 MINUTES, YOUR HONOR.

13       **THE COURT:** ALL RIGHT. OKAY. READY FOR THE JURY?

14       **MR. HASTIE:** YES, SIR. WE ARE, YOUR HONOR.

15       **MR. SPRATLIN:** YES, YOUR HONOR.

16       **THE COURT:** YOU CAN BRING THE JURY IN. I'LL ALLOW YOU  
17       TO -- I'LL ALLOW -- I'LL ASK WHETHER OR NOT THE DEFENDANT  
18       CHOOSES TO PRODUCE ANY EVIDENCE, AND YOU CAN STATE NOT AND  
19       THEN WE'LL MOVE FORWARD.

20       **MR. HASTIE:** YES, SIR.

21       **THE COURT:** ALL MOTIONS ARE MARKED AS HEARD WHICH  
22       THEY'VE ALREADY BEEN HEARD.

23       (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
24       11:21 A.M.)

25       **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, WE ARE

1 READY TO MOVE FORWARD. THE STATE HAS RESTED. MR. HASTIE,  
2 WILL THE DEFENSE BE CALLING ANY WITNESSES?

3 MR. HASTIE: WE WILL NOT, YOUR HONOR.

4 THE COURT: ALL RIGHT. ALL RIGHT. LADIES AND  
5 GENTLEMEN, WE WENT AHEAD AND DURING THAT BREAK ALSO  
6 DISCUSSED, AS THE LAW REQUIRES ME TO DO, THE LAW THAT I WILL  
7 BE CHARGING TO YOU AFTER THE ARGUMENTS ARE CONCLUDED. THE  
8 NEXT PHASE OF THE TRIAL WILL BE THE CLOSING ARGUMENTS OF THE  
9 ATTORNEYS. THIS IS THE ATTORNEYS' OPPORTUNITY TO ARGUE TO  
10 YOU THE CONCLUSIONS THAT YOU SHOULD REACH IN THIS CASE.

11 I WILL REMIND YOU THAT THE LAWYERS ARE NOT WITNESSES.  
12 SO IF A LAWYER TELLS YOU SOMETHING DURING THE COURSE OF HIS  
13 ARGUMENT THAT DOES NOT CORRESPOND WITH YOUR COLLECTIVE MEMORY  
14 OF WHAT THE EVIDENCE ACTUALLY WAS, YOU, OF COURSE, GO WITH  
15 WHAT YOUR MEMORY WAS. I WILL URGE YOU TO DO THIS AND I'LL BE  
16 KEEPING VERY CLOSE ATTENTION ON THIS: YOU MUST PAY  
17 ATTENTION. DON'T LET YOUR LIDS GET HEAVY. SO MAKE SURE YOU  
18 CONTINUE TO PAY VERY CLOSE ATTENTION BECAUSE THIS PART OF THE  
19 TRIAL IS JUST AS INTEGRAL AS ANY OTHER PART OF THE TRIAL.

20 AFTER THAT, AFTER THE ARGUMENTS ARE CONCLUDED, WE MAY OR  
21 MAY NOT -- I MAY LET YOU DECIDE WHETHER OR NOT WE TAKE A  
22 BRIEF RECESS BEFORE I GIVE YOU THE CHARGE ON THE LAW. SO  
23 PLEASE CONTINUE TO PAY VERY CLOSE ATTENTION, AND IF AT ANY  
24 TIME YOU HAVE THE URGE TO LET YOUR LIDS GET HEAVY, JUST STOP  
25 US BECAUSE THIS IS EXTREMELY IMPORTANT TO THE MATTERS AT

1 HAND.

2 THE PROCESS INVOLVED WITH THE CLOSING ARGUMENTS AND THE  
3 CHARGE WILL TAKE - AND THIS IS AN ESTIMATE ON MY PART -  
4 ROUGHLY AN HOUR TO AN HOUR AND 15 MINUTES. SO MORE THAN  
5 LIKELY YOU'LL HAVE THIS CASE TO DELIBERATE DURING THE LUNCH  
6 HOUR, AND LUNCH WILL BE BROUGHT IN FOR YOU. SO CONTINUE TO  
7 PAY VERY CLOSE ATTENTION, AND THE METHOD - EXCUSE ME - THE  
8 ORDER OF ARGUMENT WILL BE THE STATE PROCEEDING FIRST, AND  
9 THEN THE DEFENDANT WILL PRESENT THE SECOND AND THE LAST  
10 ARGUMENT. ALL RIGHT. MR. SPRATLIN?

11 MR. SPRATLIN: THANK YOU, YOUR HONOR. LADIES AND  
12 GENTLEMEN OF THE JURY, THE FIRST THING I WANT TO DO IS THANK  
13 YOU FOR YOUR TIME AND ATTENTION IN THIS CASE. I KNOW THIS  
14 CASE HAS TAKEN UP THREE DAYS OF YOUR LIFE, AND I APPRECIATE  
15 YOUR PAYING ATTENTION AND FOCUSING ON THIS CASE AND ALL OF  
16 YOU HAVE. I'VE BEEN LOOKING AT YOU AS THE WITNESSES HAVE  
17 TESTIFIED. WHEN THEY'RE TALKING, EVERYONE IS PAYING  
18 ATTENTION, AND I APPRECIATE THAT BECAUSE THIS IS A VERY  
19 IMPORTANT CASE. ARMED ROBBERY IS ONE OF THE MOST SERIOUS  
20 CASES WE HAVE IN THESE KIND OF COURTS, LADIES AND GENTLEMEN.

21 AND THIS IS THE PART OF THE CASE CALLED CLOSING ARGUMENT  
22 WHERE I GET TO TELL YOU WHY THE DEFENDANT IS GUILTY. AND BY  
23 THE EVIDENCE YOU'VE BEEN PRESENTED TODAY FROM THAT WITNESS  
24 STAND, YOU SHOULD ALREADY KNOW MOST OF WHAT I'M SAYING. YOU  
25 SHOULD KNOW BY NOW THAT THE DEFENDANT IS GUILTY.

1           NOW, THE REASON WE HAVE TO PRESENT SO MUCH EVIDENCE  
2   TODAY, THE REASON WE HAD TO ENTER IN I BELIEVE UP TO 70  
3   SOMETHING EXHIBITS, I BELIEVE, OR MAYBE IT'S IN THE HIGH  
4   FORTIES, BUT WE -- THE REASON WE HAD TO DO THAT IS BECAUSE  
5   THE STATE HAS THE BURDEN OF PROOF. WHAT THAT MEANS IS THAT  
6   IN A CRIMINAL CASE THE DEFENDANT HAS NO BURDEN. RATHER, THE  
7   DEFENDANT COMES IN PRESUMED INNOCENT. WE'VE ALL HEARD BEFORE  
8   ON TELEVISION SHOWS OR THE LIKE: THE PRESUMPTION OF  
9   INNOCENCE. YOU COME INTO THIS COURT PRESUMED INNOCENT, AND  
10  WE HAVE TO PRESENT ENOUGH EVIDENCE TO OVERCOME THAT  
11  PRESUMPTION. AND NOT ONLY DO WE HAVE TO PRESENT ENOUGH  
12  EVIDENCE TO MAKE IT MORE LIKELY THAN NOT THAT HE DID IT, WE  
13  HAVE TO PRESENT ENOUGH EVIDENCE TO MAKE IT BEYOND A  
14  REASONABLE DOUBT.

15           NOW, WE'VE ALL HEARD THAT. WE HEAR IT ON "LAW AND  
16  ORDER" PROBABLY EVERY WEEK. WE HEAR IT ON -- IN THE MOVIES.  
17  WHAT IS BEYOND A REASONABLE DOUBT? WELL, LET ME FIRST TELL  
18  YOU: IT'S NOT BEYOND ALL DOUBT. ALL DOUBT -- THERE ARE VERY  
19  FEW THINGS YOU CAN KNOW FOR CERTAIN IN THIS WORLD, VERY FEW  
20  THINGS, AND THE DEFENDANT'S GUILT IS NOT ONE OF THEM. YOU,  
21  THOUGH, HAVE TO BE CONVINCED BEYOND A REASONABLE DOUBT, AND  
22  WHAT A REASONABLE DOUBT IS IT'S A DOUBT THAT YOU CAN ASSIGN A  
23  REASON TO.

24           IF, SAY, FOR INSTANCE, YOU FELT THAT THERE WAS SOMETHING  
25  WRONG HERE AND YOU COULD SAY, "OKAY, WELL, I DON'T THINK HE'S

1 GUILTY BECAUSE OF THIS," THAT WOULD BE A DOUBT WHICH YOU  
2 COULD ASSIGN A REASON TO. BUT, LADIES AND GENTLEMEN, WE  
3 DON'T HAVE THAT HERE. THAT'S NOT WHAT WE HAVE, AND ALSO,  
4 LADIES AND GENTLEMEN, ANOTHER DEFINITION AND ANOTHER WAY OF  
5 DEFINING REASONABLE DOUBT THAT ACTUALLY GIVES YOU A DUTY:  
6 IT'S A FAIR AND IMPARTIAL JUROR ACTIVELY SEEKING THE TRUTH.  
7 AND IN THAT -- IF YOU'RE DOING THAT WITH THIS CASE, IF YOU  
8 ARE A FAIR AND IMPARTIAL JUROR, AS YOU ALL SWORE TO BE, AND  
9 YOU SWORE TO TAKE THE EVIDENCE AS IT'S PRESENTED AND YOU  
10 SWORE TO FIND THE TRUTH OUT OF THAT EVIDENCE -- WHEN YOU DO  
11 THAT, WHAT IS THAT TRUTH? THAT TRUTH IS THAT THE DEFENDANT  
12 DID IT. THE DEFENDANT IS GUILTY.

13 NOW, I'M GOING TO TALK TO YOU A LITTLE BIT ABOUT, BEFORE  
14 WE GET INTO THE FACTS OF THE CASE -- I'M NOT GOING TO TAKE AS  
15 MUCH TIME AS I DID IN THE OPENING GOING OVER THE FACTS OF THE  
16 CASE BECAUSE YOU'VE ALREADY HEARD THEM. THE OPENING WAS TO  
17 GIVE YOU KIND OF A PREVIEW. THIS IS A CHANCE TO WRAP  
18 EVERYTHING UP.

19 I WANT TO FIRST DISCUSS WITH YOU WHAT ACTUALLY ARMED  
20 ROBBERY IS AND, LADIES AND GENTLEMEN, TODAY WE HAD A CASE  
21 THAT IS THE PROTOTYPICAL ARMED ROBBERY CASE. THERE IS A MAN  
22 GOING INTO A STORE AT CLOSING TIME WITH A GUN, PUTS IT IN THE  
23 STORE CLERK'S FACE, TAKES MONEY FROM THE STORE CLERK, TAKES  
24 MONEY FROM THE CASH REGISTER, WIPES DOWN THE COUNTER AND  
25 LEAVES. IF YOU WERE ASKED BEFORE THIS TRIAL TO THINK UP --

1 IF YOU WERE TOLD THE WORDS ARMED ROBBERY, WHAT WAS THE FIRST  
2 THING YOU WOULD THINK OF? IT WOULD BE A SCENARIO VERY  
3 SIMILAR TO THIS, AND THE LAW ON ARMED ROBBERY IS NO DIFFERENT  
4 THAN THAT.

5 AS THE JUDGE WILL TELL YOU IN A LITTLE BIT, THE ARMED  
6 ROBBERY IS THE TAKING OF THE PROPERTY FROM THE PERSON OF A --  
7 FROM ANOTHER PERSON OR FROM THEIR IMMEDIATE PRESENCE, AND THE  
8 JUDGE IS GOING TO DEFINE FOR YOU WHAT IMMEDIATE PRESENCE  
9 MEANS. BUT SUFFICE IT TO SAY, TAKING IT FROM THE CASH  
10 REGISTER WHILE MAN IS STANDING RIGHT THERE WOULD BE  
11 SUFFICIENT, AND HE HAS TO TAKE THAT PROPERTY WITH THE INTENT  
12 TO DEPRIVE THE PERSON OF THAT PROPERTY.

13 NOW, LET ME TALK TO YOU ABOUT INTENT. INTENT IS KIND OF  
14 AN ANALOGOUS THING. WHEN I FIRST STARTED THIS JOB, I HAD  
15 TROUBLE UNDERSTANDING: HOW DO YOU PROVE INTENT? HOW DO YOU  
16 TELL WHAT'S IN SOMEONE'S MIND? UNFORTUNATELY, MEDICAL  
17 SCIENCE HAS NOT EVOLVED TO THE POINT WHERE YOU CAN TAKE A CAT  
18 SCAN OF MR. MASSEY'S MIND, PUT IT UP IN EVIDENCE AND SAY,  
19 "THERE IT IS; THAT'S INTENT." RATHER, YOU HAVE TO INFER  
20 INTENT. YOU HAVE TO LOOK AT HIS ACTIONS, THE CIRCUMSTANCES  
21 SURROUNDING THE CRIME, AND DETERMINE WHETHER OR NOT HE  
22 INTENDED TO DO WHAT HE DID.

23 LADIES AND GENTLEMEN, IN THIS CASE I DON'T SEE HOW YOU  
24 COULD FIND ANY OTHER OUTCOME BUT THAT HE DID INTEND TO DO IT.  
25 HE TOOK THE PROPERTY. HE HAD A GUN IN MR. HUFF'S FACE. HE

1 GRABBED THE MONEY OUT OF MR. HUFF'S WALLET. HE GRABBED THE  
2 MONEY OUT OF THE CASH REGISTER. HE WIPED THE COUNTER DOWN SO  
3 NO ONE WOULD BE ABLE TO TELL WHO IT WAS EXCEPT THAT HIS FACE  
4 WAS UNCOVERED, AND HE RAN OUT OF THE STORE WITH THE MONEY.

5 NOW, IN HIS STATEMENT HE TALKS ABOUT HOW HE WOULD LIKE  
6 TO GO BACK AND GIVE THE MONEY BACK TO HIM, AND HE MENTIONS  
7 THAT IN HIS STATEMENT WHICH YOU'RE GOING TO HAVE BACK THERE,  
8 AND YOU'RE GOING TO BE ABLE TO READ IT IN TOTAL. HE TALKS  
9 ABOUT HOW HE WANTED TO GIVE THE MONEY BACK, BUT HE DIDN'T.  
10 HE DIDN'T WALK BACK INTO THE STORE, TAIL TUCKED BETWEEN HIS  
11 LEGS AND SAY, "HERE'S YOUR MONEY BACK. I'M SORRY FOR WHAT I  
12 DID." EVEN IF HE DID, HE STILL HAD ALREADY COMMITTED THE  
13 CRIME OF ARMED ROBBERY BECAUSE, AS THE JUDGE IS GOING TO TELL  
14 YOU, THE SLIGHTEST REMOVAL IS SUFFICIENT FOR THE CRIME OF  
15 ARMED ROBBERY, BUT HE DIDN'T DO THAT. RATHER, HE WENT HOME.  
16 HE TELLS YOU THE STORY. HE TELLS YOU IN HIS STATEMENT THAT  
17 HE WENT OUT AND BOUGHT A BEER. AFTER ROBBING MR. HUFF, HE  
18 WENT HOME AND BOUGHT A BEER. AFTER PUTTING A GUN IN THAT  
19 MAN'S FACE, HE WENT HOME AND BOUGHT A BEER. IF THAT DOESN'T  
20 MAKE YOU ANGRY, I DON'T KNOW WHAT DOES. IT MAKES ME ANGRY  
21 AND I'M SORRY, BUT IT DOES.

22 NOW, THE LAST ELEMENT OF ARMED ROBBERY IS THAT THE  
23 REMOVAL OF THE PROPERTY HAS TO BE DONE WITH FORCE OR  
24 INTIMIDATION AND THAT THE DEFENDANT HAS TO BE ARMED. YOU  
25 HEARD FROM MR. HUFF. YOU HEARD FROM HIM THAT THE ONLY REASON



1 HE DID IT, THE ONLY REASON HE GAVE HIM THE MONEY, THE ONLY  
2 REASON HE LET HIM REACH IN HIS POCKET, THE ONLY REASON HE  
3 OPENED THE CASH REGISTER AND LET HIM REACH IN THERE IS  
4 BECAUSE THIS MAN HAD A GUN IN HIS FACE. THIS MAN HAD A GUN  
5 IN HIS FACE TELLING HIM, "I DON'T WANT TO SHOOT YOU," BUT YOU  
6 HEARD FROM MR. HUFF THAT HE WAS SURE THAT THE COLD LOOK IN  
7 THAT MAN'S FACE TOLD HIM THAT HE WOULD SHOOT HIM, THAT HE  
8 WOULD, IF NEED BE, SHOOT HIM, AND SO HE COMPLIED WITH THE  
9 DEFENDANT'S DIRECTIONS.

10 HE OPENED THE CASH REGISTER. HE LET THE DEFENDANT REACH  
11 IN HIS POCKET AND TAKE OUT HIS WALLET AND REMOVE THE MONEY.  
12 HE GAVE THE DEFENDANT A TOWEL. HE DID ALL THAT, LADIES AND  
13 GENTLEMEN, BECAUSE HE WAS AFRAID IF HE DIDN'T, THAT MAN RIGHT  
14 THERE WOULD SHOOT HIM WITH THE GUN THAT HE WAS HOLDING.  
15 WE'RE GOING TO TALK MORE ABOUT THE GUN IN A LITTLE BIT.

16 NOW, GIVEN WHAT I JUST TOLD YOU ABOUT ARMED ROBBERY AND  
17 WHAT THE ELEMENTS OF ARMED ROBBERY ARE, WHAT HAPPENED THAT  
18 DAY IS ARMED ROBBERY, BUT THAT'S ONLY STEP ONE IN THE  
19 PROCESS. WE STILL HAVE TO GO TO STEP TWO. THE STATE HAS TO  
20 PROVE BEYOND A REASONABLE DOUBT THAT THAT IS THE MAN WHO DID  
21 IT. NOW, LET'S -- LET'S TALK ABOUT SOME OF THE FACTS HERE,  
22 AND THIS IS WHERE THE FACTS OF THE CASE AND THE EVIDENCE -  
23 ALL 49 OR 50 EXHIBITS THAT WERE ENTERED - THAT'S WHERE THESE  
24 COME IN BECAUSE THE ARMED ROBBERY, THE BASIS OF WHAT HAPPENED  
25 IN THE STORE, YOU HEARD FROM MR. HUFF. UNFORTUNATELY, HE WAS

1 THE ONLY OTHER PERSON IN THE STORE BESIDES THE MAN THAT  
2 ROBBED HIM.

3 NOW, AS TO PROVING THAT THIS IS THE MAN THAT ROBBED HIM,  
4 LET'S TALK ABOUT WHAT WE HAVE HERE. YOU HEARD FROM MR. HUFF,  
5 AND AS THE JUDGE IS GOING TO TELL YOU, THE CREDIBILITY OF THE  
6 WITNESSES IS FOR YOU TO DECIDE. NOW, EARLIER I BELIEVE  
7 DURING THE OPENING WHEN YOU WERE RECEIVING YOUR INITIAL  
8 CHARGE HE TOLD YOU THAT YOU WOULD USE YOUR COMMON SENSE IN  
9 THIS MATTER, THAT YOU WOULD LISTEN TO THE PEOPLE TESTIFY AND  
10 YOU COULD BELIEVE OR DISBELIEVE WHATEVER THEY TOLD YOU.

11 WELL, THE FIRST WITNESS YOU HEARD FROM IS MR. HUFF.  
12 WHAT KIND OF MAN DID YOU THINK MR. HUFF WAS FROM HEARING HIM  
13 TESTIFY? DID IT SEEM TO YOU THAT HE WAS BEING EVASIVE WITH  
14 YOU? DID IT SEEM TO YOU THAT HE WAS DUCKING AND DODGING THE  
15 QUESTIONS THAT WERE BEING ASKED? DID IT SEEM TO YOU THAT HE  
16 WAS TRYING TO MISLEAD YOU? DID IT SEEM TO YOU THAT HE WAS  
17 TRYING TO LIE TO YOU? I SUBMIT TO YOU, LADIES AND GENTLEMEN,  
18 THAT MAN TRIED HIS BEST TO ANSWER EVERY QUESTION THAT WAS  
19 ASKED OF HIM, EVERY QUESTION THAT WAS ASKED OF HIM BY ME AND  
20 EVERY QUESTION THAT WAS ASKED OF HIM BY MR. HASTIE. HE DID  
21 HIS BEST TO ANSWER IT, AND HE DID A VERY GOOD JOB IN DOING  
22 IT. HE TOLD YOU STRAIGHTFORWARD WHAT HAPPENED THAT DAY. HE  
23 TOLD YOU THAT HE REMEMBERED THE MAN.

24 NOW, HE TOLD YOU THAT HE DIDN'T REMEMBER WHAT OTHER  
25 PEOPLE WERE WEARING THAT DAY, BUT NOBODY ELSE ROBBED HIM THAT

1 DAY. HE TOLD YOU ABOUT THAT IMAGE BEING STUCK IN HIS HEAD.  
2 HE TOLD YOU ABOUT HAVING A DREAM ABOUT IT THE NIGHT BEFORE.  
3 THERE'S PROBABLY NOT A DAY THAT'S GONE BY SINCE THIS INCIDENT  
4 HAPPENED THAT THAT MAN HAS NOT THOUGHT ABOUT WHAT THIS  
5 DEFENDANT DID TO HIM. SO, YES, HE'S GOING TO REMEMBER WHAT  
6 HE WAS WEARING. HE'S GOING TO REMEMBER WHAT HE LOOKED LIKE,  
7 AND HE TOLD YOU WHAT HE WAS WEARING. HE TOLD YOU WHAT HE  
8 LOOKED LIKE, AND HE, FROM THAT WITNESS STAND, POINTED AT THAT  
9 MAN AND SAID, "THAT IS THE MAN THAT ROBBED ME."

10 AND AS FAR AS HE TOLD YOU ABOUT WHAT HE WAS WEARING, HE  
11 TOLD YOU HE WAS WEARING BLACK PANTS WITH A WHITE STRIPE DOWN  
12 THEM. HE TOLD YOU HE WAS WEARING A WHITE TANK TOP. HE TOLD  
13 YOU HE HAD A TATTOO ON HIS LEFT ARM. HE TOLD YOU THAT HE HAD  
14 AN EARRING IN HIS EAR.

15 HE ALSO DESCRIBED THE GUN. HE DESCRIBED A SMALL LITTLE  
16 DERRINGER WITH BARRELS ONE ON TOP OF THE OTHER. NOW, IF  
17 YOU'RE A GUN ENTHUSIAST, YOU'VE PROBABLY SEEN A LOT OF GUNS  
18 LIKE THIS, BUT IF YOU HAVEN'T BEEN AROUND MANY GUNS SUCH AS  
19 MYSELF OR I'M SURE SOME OF YOU, THIS IS THE FIRST TIME I'VE  
20 EVER SEEN A GUN LIKE THIS. IT'S NOT -- AND YOU HEARD FROM  
21 LIEUTENANT NESBITT WHEN HE WAS TESTIFYING TO YOU ABOUT THESE  
22 GUNS THAT THIS IS NOT A COMMON GUN. THIS IS NOT ONE THAT YOU  
23 COME INTO CONTACT WITH OFTEN. THE FACT THAT THE DEFENDANT --  
24 THE FACT THAT MR. HUFF WAS ABLE TO DESCRIBE THIS GUN IN SUCH  
25 DETAIL AND THE FACT THAT THIS GUN WAS LATER FOUND, AS THE

1 EVIDENCE HAS SHOWN YOU, ON THE DEFENDANT'S BED, THAT'S PRETTY  
2 CONVINCING EVIDENCE.

3 NOW, IF YOU HAVE ANY DOUBTS -- I'M GOING TO TALK MORE  
4 ABOUT THE STUFF THAT WAS FOUND IN THE HOUSE IN A LITTLE BIT,  
5 BUT IF YOU HAVE ANY DOUBTS ABOUT MR. HUFF'S CREDIBILITY,  
6 THINK ABOUT WHAT HE TOLD THE MAN THAT HAD JUST ROBBED HIM.  
7 DID HE TELL HIM, "YOU'RE GOING TO PAY FOR THIS"? NO. HE  
8 TOLD HIM, "I'M GOING TO PRAY FOR YOU," AND, IN FACT, THAT WAS  
9 ONE OF THE THINGS DETECTIVE CULICK WAS TESTIFYING THAT SHE  
10 USED TO CONFRONT THE DEFENDANT WHEN HE GAVE THAT SELF-SERVING  
11 STATEMENT TRYING TO BLAME MR. HUFF FOR EVERYTHING, TRYING TO  
12 SAY, OH, WELL, MR. HUFF -- OR I BELIEVE HE REFERRED TO HIM AS  
13 THE OLD MAN. THE OLD MAN WAS TRYING TO SET ME UP. I'M THE  
14 FALL GUY. I DON'T EVEN KNOW WHAT TO SAY ABOUT THAT, LADIES  
15 AND GENTLEMEN; I HOPE YOU DO.

16 NOW, SO WE'VE GOTTEN TO THE POINT WHERE MR. HUFF -- HE  
17 DIDN'T KNOW THE DEFENDANT'S NAME, BUT HE KNEW A DESCRIPTION  
18 OF HIM, KNEW WHAT HE WAS WEARING, KNEW WHAT KIND OF GUN HE  
19 HAD, KNEW WHAT KIND OF HEAD THING HE WAS WEARING, KNEW WHAT  
20 KIND OF PANTS HE HAD ON, AND HE ALSO KNEW HE HAD AN EARRING  
21 AND HE ALSO KNEW HE HAD BEEN IN THE STORE EARLIER. HE'D SEEN  
22 HIM IN THE NEIGHBORHOOD IN AND OUT NUMEROUS TIMES. HE'D SEEN  
23 HIM GOING NEXT DOOR TALKING WITH THE WOMAN THAT WORKED NEXT  
24 DOOR.

25 THIS IS WHERE THE EXCELLENT POLICE WORK THAT YOU'VE

1 WITNESSED HERE TODAY COMES IN AND YESTERDAY, MOSTLY  
2 YESTERDAY, WITH THE INVESTIGATIVE PROCESS. TODAY WE JUST  
3 DEALT MORE WITH THE FORENSICS STUFF, BUT WITH THE  
4 INVESTIGATIVE PROCESS IT'S AN EXAMPLE OF EXCELLENT POLICE  
5 WORK. YOU TAKE ONE THING AND YOU SEE IF THAT LEADS YOU TO  
6 ANOTHER THING, AND YOU SEE IF THAT LEADS YOU TO ANOTHER  
7 THING, ANOTHER THING, ANOTHER THING, AND THEN YOU'VE GOT A  
8 SUSPECT. AND THEN YOU'VE GOT A CONFESSION, AND THEN YOU'VE  
9 GOT EVIDENCE, AND THEN YOU'VE GOT GUILT BEYOND A REASONABLE  
10 DOUBT.

11 LET'S TALK ABOUT THAT EXCELLENT POLICE WORK. YOU HEARD  
12 WHEN MR. HUFF TOLD DETECTIVE CULICK THAT THE PERSON THAT  
13 ROBBED HIM HAD BEEN IN THE STORE EARLIER THAT DAY AND THAT  
14 HE'D ACTUALLY SEEN HIM TALKING TO THE WOMAN THAT WORKS NEXT  
15 DOOR. WELL, DETECTIVE CULICK WAS ABLE TO TRACK DOWN WHO THAT  
16 WAS, AND IT WAS LATRELL BILLIE.

17 NOW, I ALSO WANT TO ADDRESS WITH YOU MS. CAROL BRUNSON  
18 REAL FAST. YOU HEARD FROM HER THAT WHILE SHE COULDN'T  
19 IDENTIFY THE DEFENDANT -- SHE COULDN'T BE SURE BECAUSE TWO  
20 YEARS -- SHE WASN'T THE ONE THAT WAS ROBBED, AND AFTER TWO  
21 YEARS SHE JUST COULDN'T BE SURE. SHE SAID IT KIND OF LOOKED  
22 LIKE HIM, BUT SHE COULDN'T BE SURE.

23 BUT WHEN YOU LOOK AT ALL THE OTHER EVIDENCE THAT SHOWS  
24 OR LEADS TO THIS DEFENDANT, DOES THAT MAKE A DIFFERENCE THAT  
25 THE WOMAN WHO HAPPENED TO JUST BE IN THE STORE AND HAPPENED

1 TO COME OUT AND GO BACK IN THAT SHE COULDN'T TWO YEARS LATER  
2 SAY IT WAS THIS MAN? DOES THAT REALLY MAKE A DIFFERENCE? I  
3 SUBMIT TO YOU IT DOESN'T BECAUSE THE MAN THAT HE ROBBED WAS  
4 SURE AND MS. LATRELL BILLIE IS SURE. MS. LATRELL BILLIE  
5 ACTUALLY KNEW THE DEFENDANT. SHE TOLD AND CONFIRMED MR.  
6 HUFF'S STORY ABOUT HOW SHE HAD GONE IN THE STORE EARLIER THAT  
7 DAY. I THINK SHE SAID SHE HAD GONE IN TO TALK TO THE OWNER  
8 OF THE STORE ABOUT A WATERMELON, BUT APPARENTLY WATERMELONS  
9 WERE SOLD OUT IN FRONT OF THE STORE.

10 SHE HAD BEEN -- WHEN SHE WENT IN THE STORE, SHE HAD RUN  
11 INTO MR. ANDRE MASSEY WHO SHE HAD EXPECTED TO SEE AT HER  
12 OFFICE EARLIER THAT DAY BECAUSE I THINK HE WAS COMING TO DO  
13 SOME WORK ON HER CAR OR SOMETHING ON SATURDAY, AND SHE LEFT  
14 WITH HIM, WENT TO HER CAR. SHE GOT IN HER CAR AND WENT TO  
15 PICK HER KIDS UP AT DAY CARE, AND MR. MASSEY WENT ON ABOUT  
16 HIS WAY.

17 NOW, IN HIS STATEMENT, THE FIRST STATEMENT HE GAVE  
18 DETECTIVE CULICK, HE TOLD THEM THAT -- HE TOLD DETECTIVE  
19 CULICK AND DETECTIVE RICHBURG THAT HE HAD GONE WITH MS.  
20 LATRELL BILLIE. WELL, YOU HEARD FROM HER THAT HE WASN'T --  
21 HE DIDN'T GO WITH HER, AND THAT AGAIN WAS ONE OF THE  
22 INCONSISTENCIES THAT HE WAS CONFRONTED WITH AFTER HE GAVE  
23 THAT FIRST SELF-SERVING STATEMENT.

24 NOW, FROM MS. BILLIE THE POLICE WERE ABLE TO IDENTIFY A  
25 SUSPECT, AND LET ME GO BACK ONE MORE SECOND ABOUT MS.

1 BRUNSON. I WANT TO TALK TO YOU ABOUT WHAT SHE DID ADD TO THE  
2 INVESTIGATION. WHILE SHE COULDN'T POSITIVELY IDENTIFY THE  
3 DEFENDANT AND SHE WAS THE ONLY WITNESS TODAY WHO COULDN'T AND  
4 SHE WAS THE WITNESS WHO WAS PROBABLY LEAST INVOLVED IN THIS  
5 CASE, SHE DID CONFIRM A LOT OF WHAT MR. HUFF SAID. AND SINCE  
6 THE DEFENDANT GAVE A FIRST STATEMENT SAYING THAT MR. HUFF SET  
7 HIM UP, WE FELT WE NEEDED TO SHOW YOU THAT THERE WAS NO WAY  
8 THAT COULD BE TRUE, AND MS. BRUNSON CONFIRMED THAT THERE WAS  
9 A MAN IN THE STORE DRESSED SIMILARLY TO THE MAN THAT MR. HUFF  
10 DESCRIBED, ACTING IN A SUSPICIOUS MANNER. THAT CONFIRMS AND  
11 ADDS FURTHER CREDIBILITY TO MR. HUFF.

12 NOW, THE POLICE HAVE A SUSPECT. THEY GET HIS ADDRESS,  
13 GO TO HIS HOUSE. THEY FEEL THEY HAVE PROBABLE CAUSE TO BRING  
14 HIM IN FOR QUESTIONING. WHAT DO THEY DO? ARMED WITH A  
15 DESCRIPTION OF HIM, A DESCRIPTION OF THE TATTOO -- WHICH MR.  
16 HUFF HAD TOLD THE POLICE WAS A CIRCLE WITH POINTS COMING OUT.  
17 ARMED WITH THAT DESCRIPTION, THEY WENT TO HIS RESIDENCE,  
18 PLACED HIM UNDER ARREST, TOOK HIM IN FOR QUESTIONING.

19 NOW, MR. HASTIE TALKED A LOT ABOUT THE PROTECTIVE SWEEP,  
20 AND I WANT TO MAKE SURE NONE OF YOU ARE CONFUSED ON THAT.  
21 THAT HAPPENED LONG BEFORE THE SEARCH OF THE RESIDENCE  
22 HAPPENED. THE PROTECTIVE SWEEP, THE EVIDENCE HAS SHOWN YOU,  
23 WAS DONE BY THE OFFICERS FOR THEIR SAFETY SO THAT SOMEONE  
24 ELSE DIDN'T PICK UP THIS GUN IF IT WAS STILL IN THE RESIDENCE  
25 AND COME OUT AND INJURE EITHER ONE OF THEM, THE DEFENDANT,

1 HIS GIRLFRIEND WHO WAS AT THE RESIDENCE OR THE OTHER  
2 GENTLEMAN WHO WAS AT THE RESIDENCE. THAT WAS THE PURPOSE OF  
3 THE PROTECTIVE SWEEP, AND YOU HEARD THAT NO EVIDENCE WAS  
4 OBTAINED FROM THAT PROTECTIVE SWEEP. RATHER, THE OFFICERS --  
5 THE OFFICERS SECURED THE RESIDENCE. DETECTIVE TOD SIMS THEN  
6 WENT AND GOT A SEARCH WARRANT FOR THE RESIDENCE, AND THEY  
7 WENT BACK AND THEY PERFORMED A VALID AND LAWFUL SEARCH ON THE  
8 RESIDENCE.

9 ABOUT THE TIME THAT THIS IS GOING ON, DETECTIVE CULICK  
10 AND DETECTIVE RICHBURG ARE TALKING WITH THE DEFENDANT.  
11 AGAIN, LET ME REFERENCE YOU TO HIS FIRST STATEMENT BECAUSE  
12 THERE ARE TWO STATEMENTS. IN HIS FIRST STATEMENT HE  
13 ESSENTIALLY TRIED TO SAY THAT HE DIDN'T DO ANYTHING. HE  
14 DOESN'T KNOW ANYTHING ABOUT A ROBBERY. RATHER, HE HEARD THE  
15 OLD DUDE, AS HE REFERS TO HIM, TALKING TO A GENTLEMAN BY THE  
16 NAMED OF T-DOG OR TYRONE OR TY - I THINK HE USES ALL THREE  
17 NAMES IN THERE - AND THAT THEY WERE TALKING ABOUT IT, AND HE  
18 BASICALLY COMES DOWN TO THE POINT WHERE HE'S TRYING TO SAY  
19 THAT THE OLD MAN SET HIM UP.

20 NOW, OBVIOUSLY DETECTIVE CULICK KNEW IF THAT WAS, IN  
21 FACT, THE CASE, WHY WOULD A GUN SO SIMILAR TO THE ONE  
22 DESCRIBED BY THE VICTIM IN THIS CASE BE FOUND ON HIS BED?  
23 WHY WOULD PANTS SO SIMILAR TO THE ONE DESCRIBED BY THE VICTIM  
24 IN THIS CASE BE FOUND LAYING IN A HEAP NEXT TO HIS BED? AND  
25 THERE ARE PHOTOGRAPHS OF THAT. THERE ARE PHOTOGRAPHS OF



1 WHERE THE PANTS WERE FOUND. THEY WEREN'T BURIED UNDER STUFF.  
2 THEY DIDN'T LOOK LIKE THEY HAD NOT BEEN WORN IN DAYS.  
3 RATHER, THEY WERE SITTING OUT ON TOP, ON TOP OF EVERYTHING  
4 LIKE THEY HAD JUST BEEN TAKEN OFF.

5 MAYBE HE KNEW THE POLICE WERE COMING; WE DON'T KNOW.  
6 BUT HE CHANGED PANTS, LADIES AND GENTLEMEN, BECAUSE, AS YOU  
7 CAN SEE FROM THE PICTURES WHEN DETECTIVE CULICK TOOK HIM TO  
8 THE POLICE STATION, HE'S WEARING JEANS, BUT I SUBMIT TO YOU  
9 THAT I WANT YOU TO LOOK AT WHERE THOSE PANTS WERE FOUND IN  
10 THE PHOTOGRAPHS. THEY WEREN'T UNDER ANYTHING, AND THAT HOUSE  
11 WAS A MESS. IT'S NOT LIKE EVERYTHING WAS NEAT AND PLACED  
12 WHERE IT WAS SUPPOSED TO BE OR IF EVERYTHING EVEN HAD A  
13 PLACE, BUT THEY WERE SITTING OUT LIKE THEY HAD RECENTLY BEEN  
14 WORN ON TOP OF EVERYTHING.

15 AND, LADIES AND GENTLEMEN, THE ISSUE OF THE DOO RAG...  
16 NOW, THE DEFENDANT IN HIS STATEMENT, THE STATEMENT WHERE HE  
17 ACTUALLY TOLD THE TRUTH AND CAME CLEAN TO DETECTIVE CULICK,  
18 SAID THAT HE THREW THIS IN THE TRASH CAN. I DON'T KNOW IF  
19 THIS IS THE SAME DOO RAG; I DON'T. I SUBMIT TO YOU THAT DOES  
20 NOT REALLY MATTER, THAT IT'S NOT UNUSUAL FOR SOMEONE TO HAVE  
21 MORE THAN ONE HAT OF THE SAME KIND.

22 I DON'T KNOW IF YOU PEOPLE -- IF ANY OF YOU ARE FOOTBALL  
23 FANS, BUT I'M SURE YOU HAVE THE SAME HAT OF YOUR FAVORITE  
24 TEAM. BUT -- BUT THE POLICE WEREN'T ABLE TO LOCATE THE DOO  
25 RAG THAT THE DEFENDANT SAID HE THREW IN THE TRASH. I DON'T

1 KNOW WHY HE WOULD MISLEAD THE OFFICERS ON THAT. I DON'T HAVE  
2 AN EXPLANATION FOR THAT. MAYBE HE DIDN'T. MAYBE HE DID  
3 THROW IT IN THE HAT (SIC), AND MAYBE THAT'S A DIFFERENT HAT.  
4 WE DON'T KNOW, BUT IT'S NOT -- THAT'S NOT -- AND WE DON'T  
5 KNOW THAT MAKES A DIFFERENCE IN THIS CASE.

6 AND THE LAST PIECE OF EVIDENCE, LADIES AND GENTLEMEN, I  
7 WANT TO TALK TO YOU ABOUT IS, IN FACT, THE DEFENDANT'S  
8 STATEMENT. NOW, THE JUDGE IS GOING TO TELL YOU IN A LITTLE  
9 BIT THAT YOU HAVE TO FIND THAT THE DEFENDANT'S STATEMENT IS  
10 FREE AND VOLUNTARY. WHAT THAT MEANS IS THAT HE WAS NOT  
11 BASICALLY FORCED TO PROVIDE A STATEMENT. I SUBMIT TO YOU BY  
12 THE VERY FACT THAT HE PROVIDED TWO STATEMENTS THAT HE WAS NOT  
13 FORCED. THIS FIRST STATEMENT: IF THE OFFICERS WERE IN ANY  
14 WAY FORCING HIM TO WRITE A STATEMENT, WHY WOULD THEY HAVE HIM  
15 WRITE THE FIRST STATEMENT SAYING, "OH, WELL, I DIDN'T DO IT,  
16 BUT I THINK HE'S SETTING ME UP BECAUSE HE WANTED TO ROB THE  
17 STORE AND TAKE MONEY FROM HIS BOSS," OR SOMETHING TO THAT  
18 EFFECT? AND ALSO, LADIES AND GENTLEMEN, WHY WOULD THEY DO  
19 THAT? WHY? DOESN'T IT MAKE MORE SENSE -- ISN'T IT MORE  
20 REASONABLE THAT WHAT DETECTIVE CULICK TOLD YOU IS THE TRUTH,  
21 THAT THEY ASKED THE DEFENDANT IF HE WANTED TO GIVE A  
22 STATEMENT? HE GAVE THEM A STATEMENT. THEY SAID, "ALL  
23 RIGHT," LOOKED THROUGH THE STATEMENT. SAW THE  
24 INCONSISTENCIES FROM THE OTHER EVIDENCE THEY HAD, CONFRONTED  
25 HIM WITH THOSE INCONSISTENCIES, AND THEN YOU HEARD FROM

1 DETECTIVE CULICK THAT HE STARTED CRYING AND HE DID GIVE  
2 ANOTHER STATEMENT.

3 NOW, I DON'T KNOW WHETHER THOSE WERE TEARS BECAUSE HE  
4 WAS REMORSEFUL FOR WHAT HE DID OR WHETHER THOSE WERE TEARS  
5 BECAUSE HE KNEW HE WAS CAUGHT. I DON'T KNOW. BUT IT DOESN'T  
6 MAKE A DIFFERENCE, LADIES AND GENTLEMEN. HE CAN FEEL AS  
7 SORRY AS HE WANTS FOR WHAT HE DID. HE STILL PUT A GUN IN  
8 THAT MAN'S FACE THAT DAY, AND DON'T FORGET THAT.

9 THIS STATEMENT IS GOING TO BE BACK THERE WITH YOU, THE  
10 REAL STATEMENT, THE ONE THAT ACTUALLY MAKES SENSE, THE ONE  
11 THAT'S ACTUALLY REASONABLE, THE ONE THAT FITS WITH THE  
12 EVIDENCE, THE PHYSICAL EVIDENCE AND THE TESTIMONIAL TESTIMONY  
13 FROM MR. HUFF AND MS. BILLIE THAT WE HAVE. YOU'RE GOING TO  
14 GET TO LOOK OVER THAT STATEMENT IN DEPTH.

15 NOW, DETECTIVE CULICK WHEN SHE WAS QUESTIONING THE  
16 DEFENDANT ALSO, AS THEY DO IN EVERY CASE, WENT THROUGH HIS  
17 POCKETS AND TOOK OUT ALL THE CONTENTS OF HIS POCKETS. HE HAD  
18 A LOT OF MONEY IN HIS POCKET. NOW, IN HIS FIRST STATEMENT HE  
19 TOLD YOU HE CASHED TWO PEOPLES' PAYCHECKS, BUT IN THE SECOND  
20 STATEMENT HE ADMITTED THAT THIS IS THE MONEY FROM THE ROBBERY  
21 AND, IN FACT, THIS MONEY WAS RETURNED TO THE VICTIM IN THIS  
22 CASE. THAT'S WHY IT'S NOT IN EVIDENCE. THAT'S WHY YOU'RE  
23 NOT GOING TO HAVE IT TO GO BACK TO THE JURY ROOM WITH YOU.

24 BUT HE ADMITTED THAT HE TOOK THIS MONEY FROM MR. HUFF  
25 AND FROM THE STORE, THE CASH REGISTER IN THE STORE, AND THAT

1 THIS WAS ALL OF IT MINUS ABOUT, I THINK HE SAID, EIGHT  
2 DOLLARS THAT HE SPENT ON BEER. AND, LADIES AND GENTLEMEN,  
3 AGAIN I SUBMIT TO YOU THAT DETECTIVE CULICK TOOK PHOTOGRAPHS  
4 OF THE TATTOO ON HIS ARM, PHOTOGRAPHS OF THE EARRING IN HIS  
5 EAR, PHOTOGRAPHS OF THE SHIRT ON HIS BACK. AND, LADIES AND  
6 GENTLEMEN, ALL OF THAT TENDS TO SHOW THAT THE DEFENDANT IS,  
7 IN FACT, THE MAN WHO COMMITTED THE ROBBERY ON THAT DATE.

8 NOW, YOU MAY BELIEVE THAT THE IDENTIFICATION ALONE WOULD  
9 NOT BE ENOUGH TO CONVICT HIM. YOU MAY BELIEVE THAT THE GUN  
10 AND THE PANTS BEING FOUND IN HIS HOUSE ALONE WOULD NOT BE  
11 ENOUGH TO CONVICT HIM. YOU MAY EVEN BELIEVE THAT HIS  
12 CONFESSION WOULD NOT BE ENOUGH TO CONVICT HIM. I SUBMIT TO  
13 YOU IT WOULD, BUT IF YOU BELIEVE THAT, SO BE IT. BUT IN THIS  
14 CASE WE DON'T JUST HAVE ONE OF THE THOSE THINGS. WE HAVE ALL  
15 THOSE THINGS, AND ALL THOSE THINGS TOGETHER SHOW THIS IS THE  
16 MAN THAT WENT INTO THE TOTAL LIVING STORE BACK ON JUNE 7TH,  
17 2007, LOCATED ON DUGAN STREET HERE IN SUMTER COUNTY, SOUTH  
18 CAROLINA, PUT A GUN IN THAT MAN'S FACE, TOOK THE MONEY OUT OF  
19 THAT MAN'S WALLET, MADE THAT MAN WALK AROUND THE COUNTER,  
20 OPEN THE CASH REGISTER, AND TOOK THE MONEY OUT OF THE CASH  
21 REGISTER AND THEN MADE -- AND THEN WIPED DOWN THE COUNTER AS  
22 BEST HE COULD.

23 AND, LADIES AND GENTLEMEN, YOU ALSO HAVE PHOTOGRAPHS OF  
24 THE STORE IN EVIDENCE AS FAR AS THE IDENTIFICATION OF MR.  
25 HUFF GOES. IT'S A WELL-LIT STORE. IT'S A FAIRLY SMALL

1 STORE. IF SOMEONE WAS IN THERE AS LONG AS THE DEFENDANT WAS,  
2 MR. HUFF WOULD HAVE BEEN AROUND HIM FOR AWHILE. THE STORE  
3 WAS NOT AN EXTREMELY LARGE STORE. IT WAS WELL LIT. AS MR.  
4 HUFF TOLD YOU, HE WAS NOT COVERING HIS FACE AT ALL. HE HAD A  
5 DOO RAG ON HIS HEAD, BUT IT WASN'T COVERING HIS FACE.

6 LADIES AND GENTLEMEN, MY PART OF THE CASE IS OVER. IT'S  
7 YOUR JOB NOW, AND I'M ASKING YOU TO DO THE RIGHT THING. FIND  
8 THE DEFENDANT GUILTY OF ARMED ROBBERY.

9 NOW, JUST IN PASSING, I WANT TO TALK TO YOU ABOUT COUNT  
10 2. COUNT 2 -- AS THE JUDGE TOLD YOU WHEN YOU WERE FIRST  
11 CALLED FOR THIS CASE, HE'S CHARGED WITH ARMED ROBBERY AND  
12 HE'S ALSO CHARGED WITH POSSESSION OF A FIREARM DURING THE  
13 COMMISSION OF A VIOLENT CRIME. NOW, ARMED ROBBERY IS A  
14 VIOLENT CRIME. YOU'RE GOING TO BE CHARGED ON THAT. SO WHAT  
15 YOU HAVE TO DECIDE IS: DID THE DEFENDANT COMMIT THE CRIME OF  
16 ARMED ROBBERY? AND FOR ALL THE REASONS I'VE ENUMERATED TO  
17 YOU BEFORE, HE DID. THE ONLY ISSUE FOR YOU IS TO DECIDE IS:  
18 WAS HE ARMED WITH A FIREARM WHILE HE WAS DOING IT? YOU'VE  
19 GOT THIS, YOU'VE GOT THE BULLETS, AND YOU'VE GOT PHOTOS OF  
20 THE BULLETS IN THE GUN LIKE THE DETECTIVE FOUND IT.

21 COUNT 2, LADIES AND GENTLEMEN, YOU HAVE NO CHOICE BUT TO  
22 RETURN A VERDICT OF GUILTY ON IT AS WELL. SO, AS I SAID, MY  
23 PART IS OVER. IT'S UP TO YOU NOW TO DO THE RIGHT THING.  
24 THANK YOU.

25 THE COURT: THANK YOU, MR. SPRATLIN. ALL RIGHT. MR.

1 HASTIE?

2 MR. HASTIE: THANK YOU, YOUR HONOR. GOOD MORNING,  
3 LADIES AND GENTLEMEN. I, TOO, WANT TO THANK YOU FOR YOUR  
4 TIME. I STARTED YESTERDAY BY TALKING ABOUT HOW IMPORTANT  
5 YOUR JOB IS, AND WE'RE AT THAT POINT WHERE, AS I SAID  
6 YESTERDAY, THE DECISION DOESN'T REST WITH THE JUDGE. IT  
7 DOESN'T REST WITH THE LAWYER HERE NOR MYSELF. THE FINAL  
8 DECISION IN THIS CASE RESTS WITH YOU.

9 I SPOKE WITH YOU YESTERDAY ABOUT THE BURDEN. THE BURDEN  
10 OF PROOF IN THIS INCIDENT IS NOT WITH THE DEFENDANT, NOT WITH  
11 HIS LAWYER. IT'S WITH THE STATE. AND THE CONSTITUTION OF  
12 THIS UNITED STATES PLACES THE BURDEN REAL HIGH. I MEAN, THEY  
13 DIDN'T PUT THE BURDEN DOWN HERE WHERE IS IT MORE LIKELY THAN  
14 NOT THAT HE MIGHT HAVE DONE THIS. NO. THE BURDEN IS BEYOND  
15 A REASONABLE DOUBT -- IS THE BURDEN THAT YOU MUST DECIDE  
16 TODAY. DID THE STATE PROVE TO YOU BEYOND A REASONABLE DOUBT  
17 THAT THIS MAN COMMITTED THIS OFFENSE? AND I SUBMIT TO YOU  
18 THEY CERTAINLY HAVE NOT MET THAT BURDEN.

19 NOW, MR. MARTIN (SIC) STARTED OFF TALKING ABOUT HE FELT  
20 THAT MR. MASSEY WAS GUILTY, BUT THANK GOD TODAY HE CAN'T MAKE  
21 THAT DECISION. ONLY YOU CAN. HE MENTIONED EARLIER TODAY  
22 ABOUT TELEVISION, AND TELEVISION TALKS ABOUT THE PRESUMPTION  
23 OF INNOCENCE. NO, IT'S NOT TELEVISION. THE CONSTITUTION  
24 TALKS ABOUT WE'RE ALL INNOCENT. WE'RE ALL PRESUMED INNOCENT  
25 UNTIL PROVEN GUILTY. I MENTIONED YESTERDAY THAT OUR

1 PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS THAT  
2 WE ALL WEAR, AND THE STATE CAN'T JUST PULL AT IT AND PLUG AT  
3 IT SAYING, "MAYBE YOU DID. YOU LOOK LIKE YOU DID. SOMEONE  
4 TOLD ME YOU DID." THEY MUST PROVE IT BEYOND A REASONABLE  
5 DOUBT, AND I SUBMIT TO YOU TODAY THAT THEY HAVEN'T.

6 I STARTED OFF TELLING YOU YESTERDAY ABOUT TWO SIDES TO A  
7 STORY, AND WE MENTIONED ABOUT TWO SIDES TO A PANCAKE.  
8 SOMEONE MENTIONED THAT YOU'VE HEARD ONE SIDE OF THE STORY  
9 HERE THUS FAR, AND LET'S TAKE A LOOK AT THE OTHER SIDE OF  
10 THIS PARTICULAR STORY. LET'S GO BACK TO THE FIRST WITNESS  
11 THEY PUT UP: MR. HUFF. NOW, MR. HUFF CERTAINLY APPEARS TO  
12 BE AN HONORABLE MAN; THAT'S NOT IN DOUBT. MR. HUFF GOT ON  
13 THE STAND AND TOLD YOU THAT SOMEONE CAME IN THE STORE EARLIER  
14 THAT DAY. THEN HE SAID SOMEONE CAME BACK THAT -- NEAR THE  
15 END OF CLOSING TIME, AND THAT'S WHEN A ROBBER CAME BACK NEAR  
16 CLOSING TIME. HE MENTIONED TO YOU THAT A GOOD FRIEND OF HIS  
17 WAS IN THE STORE WITH HER THREE CHILDREN AT THE TIME: MRS.  
18 CAROL BRUNSON. AND HE KNOWS HER VERY WELL BECAUSE HE SAID HE  
19 HAD CONVERSATIONS WITH HER, AND I THINK THEY GO TO CHURCH  
20 TOGETHER. SO HE REALLY KNOWS MS. CAROL BRUNSON.

21 HE ALSO TESTIFIED JUST YESTERDAY THAT HE DREAMT ABOUT  
22 THIS CASE THE NIGHT BEFORE, AND HE REMEMBERED THIS CASE AS  
23 CLEAR AS DAY. AND THEN HE PROCEEDED TO -- WHEN HE WAS ASKED  
24 WHO WAS THE PERSON THAT ROBBED YOU TWO YEARS AGO - NOT TWO  
25 MONTHS AGO, TWO YEARS AGO - HE POINTED TO THE GENTLEMAN

1 SITTING BY ME. WHEN I ASKED HIM, "WELL, SINCE YOU DREAMT  
2 ABOUT THIS LAST NIGHT AND YOU COULD SEE CLEARLY THAT ENTIRE  
3 DAY JUST LAST NIGHT, WHAT DID YOUR GOOD FRIEND HAVE ON?" HE  
4 COULDN'T REMEMBER. HE SAID, "YOU KNOW, MR. HASTIE, THAT WAS  
5 A LONG TIME AGO. THAT WAS TWO YEARS AGO WHEN THIS HAPPENED,"  
6 BUT HE COULD REMEMBER THAT MASSEY WAS THE ONE THAT WALKED  
7 INTO THE STORE. I SUBMIT TO YOU THAT SOMEONE DID WALK IN  
8 THAT STORE ON THAT AFTERNOON AND SOMEONE DID ROB THAT STORE,  
9 BUT I SUBMIT TO YOU IT CERTAINLY WAS NOT MY CLIENT.

10 NOW, LET'S TALK ABOUT THE NEXT WITNESS THAT THEY PUT UP,  
11 MS. BILLIE, BECAUSE SHE'S KEY TO THIS CASE BECAUSE IT'S FROM  
12 MS. BILLIE THEY GOT THE IDENTIFICATION OF MASSEY, AND MS.  
13 BILLIE SAID THAT SHE TALKED TO MR. MASSEY THAT DAY. THEY  
14 WERE IN THE STORE EARLIER THAT DAY AND, YES, HE WAS WEARING A  
15 WHITE TOP, DARK PANTS, AND HE DID HAVE AN EARRING, BUT DO YOU  
16 KNOW HOW MANY PEOPLE IN THIS TOWN HAVE ON WHITE TOPS AND  
17 EARRINGS AND HAVE TATTOOS ON THEIR ARM? AND THEN THE  
18 QUESTION WAS ASKED, "MS. BILLIE, DID MR. MASSEY AT ANY TIME  
19 MENTION TO YOU ANYTHING ABOUT A ROBBERY?" "NO, SIR, HE  
20 DEFINITELY DID NOT." MS. BRUNSON -- WE ASKED MS. BRUNSON --  
21 NOW, MS. BRUNSON SUPPOSEDLY WAS IN THAT STORE TWO YEARS AGO,  
22 AND SHE SAID, "YOU KNOW, THINGS LOOKED A LITTLE SUSPICIOUS TO  
23 ME. YOU KNOW, I JUST HAD THIS FEELING. I KNOW I CAME THERE  
24 TO BUY SOME WATERMELONS, BUT SOMETHING WASN'T RIGHT."

25 SO WE SAID, "OKAY, MS. BRUNSON. CAN YOU IDENTIFY MR.



1 MASSEY AS BEING THE MAN IN THE STORE THAT CAUSED YOUR  
2 SUSPICION ON THAT DAY?" AND SHE SAT RIGHT THERE, THEIR  
3 WITNESS -- SHE SAT RIGHT THERE AND SAID, "NO, I CAN'T, NOT  
4 FOR SURE." AND YOU KNOW WHY SHE'S NOT FOR SURE? BECAUSE IN  
5 THE POLICE REPORT THEY SAID THE GUY THAT ENTERED A STORE WAS  
6 5'10". THEY SAID THE GUY THAT ENTERED THAT STORE WEIGHED 172  
7 POUNDS. THEY SAID THE GUY THAT ENTERED THAT STORE THAT  
8 ROBBED THE STORE WORE A JACKET -- ASKED FOR A SIZE 44.

9 YOU SAW HIS DRIVER'S LICENSE YESTERDAY, AND I HAD THE  
10 DETECTIVE TO TELL ME: WHAT DOES HIS DRIVER'S LICENSE SAY?  
11 HOW TALL IS MASSEY? HE SAID MASSEY ON HIS DRIVER'S LICENSE  
12 TWO YEARS AGO NOW SAID HE WAS 5'7" WHEN THE DETECTIVE'S  
13 REPORT SAYS MR. HUFF SAID, "THE MAN THAT ROBBED ME WAS AT  
14 LEAST 5'10"." HOW MUCH DID -- WHAT'S THE WEIGHT OF MR.  
15 MASSEY ON HIS DRIVER'S LICENSE? 172 POUNDS. THE DESCRIPTION  
16 IN THE REPORT FROM THE DETECTIVES WAS THE MAN THAT ROBBED MR.  
17 HUFF'S STORE WHERE HE WORKED -- HE ASKED FOR THIS 44 SIZE.  
18 HE WAS A MUSCULAR-BUILT MAN.

19 NOW, WE CAN LOOK AT THIS FELLOW HERE AND, NO OFFENSE,  
20 BUT HE'S CERTAINLY NOT A MUSCULAR-BUILT GUY, AND IT SAID THE  
21 GUY THAT ROBBED THE STORE ASKED FOR A - MR. HUFF NOW - A SIZE  
22 44. I ASKED MY CLIENT JUST, FOR PURPOSES FOR THE COURT---

23 MR. SPRATLIN: OBJECTION, YOUR HONOR. HE'S GOING TO GO  
24 INTO FACTS THAT ARE NOT IN EVIDENCE.

25 THE COURT: WHAT WAS YOUR STATEMENT, MR. HASTIE? I'M

1 SORRY. YOU TURNED AWAY.

2 MR. HASTIE: YES, SIR. I SAID I WAS GOING TO ASK MY  
3 CLIENT WHAT SIZE DOES HE WEAR.

4 THE COURT: NO, YOU CAN'T. YOU CAN'T DO THAT.

5 MR. HASTIE: OKAY. WELL, LOOK AT MY CLIENT. HE  
6 DEFINITELY DOES NOT WEAR A SIZE 44. HE DEFINITELY DOES NOT  
7 WEAR A SIZE 44. YOU CAN SEE THAT YOURSELF. I WEAR A SIZE  
8 46. MY CLIENT DEFINITELY DOES NOT WEAR A SIZE 44.

9 LET'S TAKE A LOOK AT THE -- MR. MARTIN (SIC) ALSO TALKED  
10 ABOUT THE EXCELLENT POLICE WORK, SO LET'S TALK ABOUT THE  
11 EXCELLENT POLICE WORK. NOW, THE ONLY REASON THEY WENT TO MR.  
12 MASSEY'S HOME: MS. BILLIE SAID, "I WAS IN THE STORE  
13 EARLIER," NOT AT THE TIME OF THE ROBBERY, BUT EARLIER THAT  
14 DAY WITH MR. MASSEY. DO YOU KNOW HIM? YES, I KNOW HIM, YOU  
15 KNOW. DO YOU KNOW WHERE HE LIVES? YES, I KNOW WHERE HE  
16 LIVES. HIS FATHER LIVES RIGHT THERE ACROSS THE STREET.

17 SO THEY USED MS. BILLIE'S INFORMATION. THAT'S THE ONLY  
18 INFORMATION THEY HAD ABOUT MR. MASSEY. THEY USED MS.  
19 BILLIE'S INFORMATION AND CONCLUDED THAT HE MUST HAVE BEEN THE  
20 GUY BECAUSE HE HAD ON A WHITE SHIRT. HE HAD AN EARRING. HE  
21 HAD A TATTOO ON. HE MUST HAVE BEEN THE GUY THAT ROBBED THE  
22 STORE.

23 SO THEY CHARGE OVER TO MR. MASSEY'S HOME AND WITHOUT A  
24 SEARCH WARRANT CHARGED OVER TO HIS HOME, KNOCKS ON HIS DOOR.  
25 HE COMES OUT. YOU HEARD THE DETECTIVE YESTERDAY SAY, "DID

1 YOU ASK HIM ANY QUESTIONS?" "OH, NO, NO, NO. WE HAD AN  
2 ARREST WARRANT, CAN'T ASK ANY QUESTIONS." WHAT DID YOU DO?  
3 WE APPREHENDED HIM. WE TOOK HIM INTO CUSTODY. HE WASN'T  
4 UNDER ARREST, BUT WE TOOK HIM INTO CUSTODY. SO YOU KNOCK ON  
5 A MAN'S DOOR, AND BECAUSE YOU HAD A STATEMENT FROM MS. BILLIE  
6 THAT HE HAD BEEN IN THE STORE THAT AFTERNOON SOMETIME, NOT AT  
7 THE TIME OF THE ROBBERY BUT JUST THAT AFTERNOON SOMETIME AND  
8 HE GOES TO HIS HOUSE AND YOU KNOCK ON HIS DOOR AND HE COMES  
9 OUT AND YOU ARREST HIM... BUT THERE WERE OTHER PEOPLE IN  
10 THAT HOUSE.

11 PLEASE REMEMBER - IT'S VERY IMPORTANT NOW - THERE WERE  
12 OTHER PEOPLE IN THAT HOUSE, AND ONE PERSON THAT WAS IN THAT  
13 HOUSE -- AND YOU HEARD FROM MS. PRINCE, THE GIRLFRIEND.

14 MR. SPRATLIN: OBJECTION, YOUR HONOR. MS. PRINCE NEVER  
15 TESTIFIED.

16 MR. HASTIE: YES, SHE DID.

17 THE COURT: MR. SPRATLIN?

18 MR. SPRATLIN: YOUR HONOR, MS. PRINCE, DIONETTA PRINCE  
19 NEVER TESTIFIED.

20 THE COURT: ALL RIGHT.

21 MR. HASTIE: SHE DID.

22 THE COURT: CONFINE YOUR ARGUMENTS TO THE RECORD.

23 MR. HASTIE: THANK YOU, YOUR HONOR. THERE WERE THREE  
24 PEOPLE IN THAT HOUSE. THERE WAS ANDRE MASSEY. THERE WAS TWO  
25 OTHER PEOPLE. WE HAVE TESTIMONY TO THAT. THERE WERE TWO

1 OTHER PEOPLE IN THAT HOUSE. THEY TOOK MR. -- THEY TOOK MR.  
2 MASSEY DOWN TO THE POLICE STATION, BUT THEY KEPT THE TWO  
3 OTHER PEOPLE THERE AT THE HOUSE. THOSE TWO PEOPLE -- THERE  
4 WAS ANOTHER GENTLEMAN NAMED JERMAINE ROBINSON. YOU DID NOT  
5 SEE JERMAINE ROBINSON DURING THE TESTIMONY. JERMAINE  
6 ROBINSON GAVE THEM A STATEMENT.

7 MR. SPRATLIN: OBJECTION, YOUR HONOR. AGAIN, HE'S GOING  
8 INTO FACTS THAT ARE NOT IN EVIDENCE.

9 THE COURT: MR. HASTIE?

10 MR. HASTIE: YES, SIR. JERMAINE ROBINSON WAS  
11 APPREHENDED AT THE HOUSE; SO WAS MS. PRINCE APPREHENDED AT  
12 THE HOUSE. WELL, YOU DID NOT SEE JERMAINE ROBINSON, AND  
13 THERE'S A GOOD REASON YOU DID NOT SEE MR. JERMAINE ROBINSON.

14 MR. SPRATLIN: OBJECTION, YOUR HONOR. I'M GOING TO  
15 OBJECT TO THAT BECAUSE THERE'S BEEN NOTHING TO ESTABLISH WHY  
16 THE POLICE -- WHY JERMAINE ROBINSON WAS NOT HERE IN COURT  
17 TODAY.

18 THE COURT: WELL, I HAVEN'T HEARD HIS REMARK YET, SO I  
19 CAN'T RULE.

20 MR. SPRATLIN: YES, YOUR HONOR.

21 THE COURT: MR. HASTIE, YOU CAN -- YOU CAN -- YOU CAN  
22 CONTINUE.

23 MR. HASTIE: THANK YOU, YOUR HONOR. MY POINT IS THAT  
24 THERE WERE THREE PEOPLE. THERE WAS ANOTHER YOUNG MAN AT THAT  
25 HOUSE THAT THE POLICE DID NOT TAKE TIME TO CONSIDER FOR THIS

1 INCIDENT, AND THEN THIS THOROUGH - WHAT WAS HIS LANGUAGE -  
2 THIS EXCELLENT POLICE WORK HE REFERRED TO COULD HAVE SOLVED  
3 THIS PROBLEM, COULD HAVE SOLVED THIS PROBLEM. HOW COULD IT  
4 HAVE SOLVED THIS PROBLEM? A LINE-UP. IF THEY HAD DONE A  
5 LINE-UP THE DAY THEY ARRESTED MASSEY, ON THAT SAME NIGHT, OR  
6 THE NEXT DAY - I KNOW IT WAS LATE AT NIGHT - OR THE NEXT DAY  
7 -- IF THEY HAD DONE A LINE-UP OF JERMAINE ROBINSON WHO WAS IN  
8 THAT HOUSE WHO COULD HAVE HAD THE TIME -- DON'T KNOW -- WE  
9 DON'T KNOW. YOU DON'T KNOW AND I DON'T KNOW BECAUSE WE  
10 DIDN'T HEAR ANY TESTIMONY FROM HIM, BUT JERMAINE ROBINSON WAS  
11 IN THAT HOUSE WHO COULD HAVE HAD TIME WHEN THEY ARRESTED  
12 MASSEY TO HIDE THE GUN.

13 WE DON'T KNOW THAT BECAUSE NONE OF THAT WAS PRODUCED IN  
14 THIS TRIAL FOR THE LAST THREE DAYS. BUT THIS PROBLEM COULD  
15 HAVE BEEN SOLVED IF THE EXCELLENT POLICE WORK -- IF THEY HAD  
16 SAID, "LET'S DO A LINE-UP. WE'VE GOT HIS PICTURE NOW, MR.  
17 HUFF." GO BACK TO MR. HUFF THE NEXT DAY AND SAY, "HERE IS A  
18 PICTURE OF THE GUY WE ARRESTED LAST NIGHT. LOOK AT THIS  
19 PICTURE, MR. HUFF. DOES THIS LOOK LIKE THE GUY THAT PUT A  
20 GUN IN YOUR FACE?" NO, THEY DIDN'T DO THAT THOUGH. THEY  
21 WERE SO SURE THAT THEY HAD THE RIGHT GUY UNTIL THEY JUST  
22 JUMPED TO JUSTICE, AND THEN THEY BRING MR. HUFF IN THE COURT.

23 THEY DIDN'T GO BACK TO HIM A MONTH LATER AND SAY, "I  
24 WANT TO TALK TO YOU ABOUT IT. I WANT TO SHOW YOU SOME  
25 PICTURES." THEY DIDN'T GO BACK TO HIM SIX MONTHS LATER AND

1 SAY, "I WANT TO TALK TO YOU AND SHOW YOU SOME PICTURES." NOT  
2 EVEN A YEAR LATER. THEY BRING HIM IN THE COURTROOM TWO YEARS  
3 LATER AND SAY, "DO YOU SEE THE GUY, MR. HUFF, THAT PUT THIS  
4 GUN IN YOUR FACE SITTING IN THE COURTROOM BY HIS LAWYER NOW?  
5 DO YOU SEE THE GUY?" OF COURSE HE SAYS, "WELL, YEAH, THAT'S  
6 HIM RIGHT OVER THERE." TWO YEARS LATER. DRIVER'S LICENSE  
7 COULD HAVE SOLVED THIS MATTER, BUT THEY CHOSE NOT TO DO A  
8 LINE-UP. IN ANY SITUATION LIKE THIS, A LINE-UP WOULD HAVE  
9 BEEN SO EASY TO PERFORM.

10 WE DON'T KNOW WHETHER JERMAINE ROBINSON HAD TATTOOS; WE  
11 JUST DON'T KNOW THAT. WE DON'T KNOW WHETHER JERMAINE  
12 ROBINSON HAD EARRINGS. WE DON'T KNOW WHETHER HE WAS A  
13 MUSCULAR-BUILT FELLOW, BUT GUESS WHAT? HE COULD HAVE BEEN.  
14 HE COULD HAVE BEEN, BUT WE DON'T KNOW THAT.

15 NOW, LET'S TALK ABOUT THE FORENSIC GURU'S TESTIMONY, MR.  
16 NESBITT. THE FINGERPRINTS. THE FINGERPRINTS AND THE GUN.  
17 WELL, THE FINGERPRINTS COULDN'T PROVE EITHER. WE DIDN'T DO A  
18 LINE-UP. WE'VE GOT A GUN. THE FINGERPRINTS COULDN'T PROVE  
19 THAT MR. MASSEY HELD THAT GUN. BUT THE NEXT THING IS: WELL,  
20 DID YOU RUN THE SERIAL NUMBER OF THE GUN, THE EXCELLENT  
21 POLICE FORCE? DID YOU RUN THE SERIAL NUMBER JUST TO SEE BY  
22 CHANCE WHO OWNED THE LITTLE DERRINGER HERE? SUPPOSE IT WAS  
23 JERMAINE ROBINSON. WE DON'T KNOW THOUGH. WE DON'T KNOW  
24 TODAY BECAUSE IT WAS NOT DONE.

25 ANOTHER THING THAT REALLY CAUSED ME CONCERN AND I'M NOT

1 GOING TO SAY IT LIKE THE ASSISTANT SOLICITOR HERE, BUT I'M  
2 ANGRY, BUT WHAT REALLY CAUSED ME CONCERN IN THIS CASE IS THIS  
3 BUSINESS OF A PROTECTIVE SEARCH. THE FOURTH AMENDMENT, NOT  
4 THE TENTH AMENDMENT, BUT THE FOURTH AMENDMENT OF THE UNITED  
5 STATES FORBIDS SEARCHING YOUR HOME, YOUR BODY, YOUR PREMISES  
6 WITHOUT PROBABLE CAUSE. SO THE POLICE WENT TO THIS MAN'S  
7 HOME, ASKED PERMISSION TO SEARCH HIS HOME, AND WHAT DID HE  
8 SAY? DID HE SAY, "COME ON. COME IN. I'M GLAD TO HAVE YOU  
9 GUYS COME IN"? HE SAID, "NO, DO NOT SEARCH MY HOME." WHAT  
10 DID THEY DO? THEY HANDCUFFED HIM. HE'S OUTSIDE. WE'RE  
11 GOING TO GO IN YOUR HOME ANYWAY---

12 MR. SPRATLIN: YOUR HONOR, I'M GOING TO OBJECT AGAIN.  
13 THE DEFENSE COUNSEL IS MISCHARACTERIZING THE EVIDENCE AS IT  
14 WAS PRESENTED ON THE WITNESS STAND.

15 THE COURT: THE JURY -- ON THAT OBJECTION THAT'S  
16 OVERRULED. THE JURY CAN APPLY ITS MEMORY TO THE EVIDENCE.

17 MR. SPRATLIN: YES, YOUR HONOR.

18 MR. HASTIE: THE MAN SAID, "DON'T SEARCH MY HOME." THEY  
19 HAD NO SEARCH WARRANT, BUT THEY SAID: OKAY. WE'VE GOT  
20 SOMETHING THAT WE CALL PROTECTIVE SEARCH, AND WE CAN STILL GO  
21 INTO YOUR HOME AFTER YOU DENIED THEM PERMISSION TO GO IN YOUR  
22 HOME. AND THEY SAID, "WELL, WE'RE REALLY NOT SEARCHING YOUR  
23 HOME." IT'S CALLED A PROTECTIVE SWEEP MAYBE? I'M SORRY.  
24 SWEEP, NOT SEARCH. LET ME CORRECT THAT. IT'S A PROTECTIVE  
25 SWEEP. THEY STILL WENT INTO HIS HOME, AND I ASKED HIM,

1 "WELL, HOW LONG DID YOU GUYS GO INTO HIS HOME?" "ONE MINUTE,  
2 MR. HASTIE." SOMEONE ELSE SAID, WELL, MAYBE A MINUTE AND 30  
3 SECONDS THIS PROTECTIVE SWEEP OF HIS HOME...

4 LADIES AND GENTLEMEN, I SUBMIT TO YOU THAT THE LAW SAYS  
5 YOU MUST HAVE A WARRANT TO GO INTO SOMEONE'S HOME. YOU MUST  
6 HAVE A WARRANT TO SEARCH SOMEONE'S HOME. THIS BUSINESS ABOUT  
7 A PROTECTIVE SWEEP---

8 MR. SPRATLIN: YOUR HONOR, I'M GOING TO OBJECT TO THAT  
9 AS A MISCHARACTERIZATION OF THE LAW.

10 THE COURT: SUSTAINED.

11 MR. HASTIE: YOU MUST HAVE A SEARCH WARRANT TO GO INTO  
12 ANYONE'S HOME.

13 MR. SPRATLIN: YOUR HONOR, AGAIN I---

14 THE COURT: OBJECTION IS SUSTAINED.

15 MR. HASTIE: THE POLICE DEPARTMENT, THEY DID NOT HAVE A  
16 SEARCH WARRANT THIS PARTICULAR NIGHT ON MR. MASSEY. SO,  
17 LADIES AND GENTLEMEN, I JUST REMIND YOU - AND THE JUDGE WILL  
18 CHARGE YOU ABOUT THESE THINGS - BUT YOUR BURDEN IS TO  
19 DETERMINE WHETHER OR NOT YOU SAT HERE THE LAST TWO AND A HALF  
20 DAYS AND THAT YOU ARE NOW CONVINCED BY THE EVIDENCE PRESENTED  
21 BY THE STATE THAT MY CLIENT IS GUILTY IN YOUR MIND BEYOND A  
22 REASONABLE DOUBT.

23 DON'T FORGET ABOUT MR. HUFF'S DESCRIPTION OF THE REAL  
24 GUY THAT ROBBED HIM: 5'10", SIZE 44, MUSCULAR-BUILT. DON'T  
25 FORGET ABOUT MS. BRUNSON SAYING: I DON'T KNOW ABOUT THIS



1 GUY. I CAN'T RECALL. I CAN'T SAY. THEIR WITNESS: I CAN'T  
2 SAY THAT IT WAS ANDRE MASSEY. DON'T FORGET ABOUT MS. BILLIE  
3 WHO SAID: ALL I'M SAYING IS I SAW HIM THAT AFTERNOON, AND I  
4 COULD TELL YOU ALL WHAT HE WAS WEARING THAT AFTERNOON, BUT  
5 I'M NOT SAYING ANYTHING ABOUT HIS INVOLVEMENT NOR DID HE TELL  
6 ME ANYTHING ABOUT HIS INVOLVEMENT IN THE ARMED ROBBERY.

7 DON'T FORGET ABOUT THE FORENSIC GURU AND HOW THEY COULD  
8 HAVE SOLVED THIS JUST BY A LINE-UP OR JUST BY I.D.'G THAT GUN  
9 BECAUSE IF THE GUN BELONGED TO ANDRE MASSEY, WE WOULDN'T BE  
10 HERE TODAY, BUT WE DON'T KNOW AND YOU DON'T KNOW. NONE OF US  
11 KNOWS. I SUBMIT TO YOU TODAY, LADIES AND GENTLEMEN, BY THE  
12 EVIDENCE THAT YOU HAVE HEARD OR THE LACK OF EVIDENCE THAT YOU  
13 HAVE NOT HEARD TODAY THAT MR. MASSEY CERTAINLY IS NOT GUILTY  
14 OF THE OFFENSES CHARGED. THANK YOU FOR YOUR TIME.

15 THE COURT: THANK YOU, MR. HASTIE. ALL RIGHT. LADIES  
16 AND GENTLEMEN, WE'LL TAKE A BRIEF RECESS AND IT WILL BE  
17 BRIEF, FIVE MINUTES, AND THEN I'LL HAVE YOU COME BACK OUT AND  
18 I'LL GIVE YOU THE CHARGE ON THE LAW. SO WHEN YOU COME BACK  
19 OUT, BE PREPARED TO LISTEN TO ME FOR 20 MINUTES OR SO, AND  
20 JUST FOR YOUR INFORMATION LUNCH HAS BEEN ORDERED FOR YOU.  
21 YOU MAY NOT DISCUSS THE CASE.

22 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT  
23 12:12 P.M.)

24 THE COURT: ALL RIGHT. WE'LL TAKE A FEW MINUTES.

25 MR. SPRATLIN: YOUR HONOR, I ACTUALLY HAVE AN ISSUE I'D

1 LIKE TO ADDRESS WITH THE COURT REAL QUICKLY. DURING MR.  
2 HASTIE'S CLOSING ARGUMENT, HE SEVERAL TIMES REFERENCED  
3 VIOLATIONS OF THE FOURTH AMENDMENT. I WOULD ASK THAT YOU  
4 CHARGE THE JURY THAT THE MATTER OF WHETHER EVIDENCE IS  
5 ADMITTED INTO A CASE IS A MATTER OF LAW FOR YOU TO DECIDE.

6 THE COURT: I'M GOING TO TELL THE JURY THEY CAN CONSIDER  
7 ALL THE EVIDENCE THAT'S BEEN INTRODUCED. YOU BROUGHT UP THE  
8 EXCELLENT POLICE WORK, THE PROTECTIVE SWEEP AND SO FORTH,  
9 DURING THE TRIAL. A PROTECTIVE SWEEP IS PERMISSIBLE. IT'S  
10 NOT A SEARCH. CASE LAW CLEARLY SAYS A PROTECTIVE SWEEP IS  
11 ADMISSIBLE. I WAS QUESTIONING WHY THAT WAS EVEN AN ISSUE  
12 DURING THE TRIAL, BUT IT CAME UP. YOU INTRODUCED IT. NOBODY  
13 OBJECTED TO IT.

14 IN MY MIND THE ONLY TIME IT SHOULD COME UP WAS DURING  
15 THE PROFFER, BUT YOU BROUGHT IT UP DURING YOUR CASE IN CHIEF,  
16 AND I DON'T FAULT YOU FOR THAT BECAUSE YOU DO WANT TO GET THE  
17 JURY TO HAVE A CLEAR PICTURE. PROBABLE CAUSE IS NOT ANYTHING  
18 THAT'S CHARGED TO THE JURY.

19 MR. SPRATLIN: YES, YOUR HONOR.

20 THE COURT: THAT'S AN ISSUE FOR ME. I DETERMINE WHAT  
21 COMES INTO EVIDENCE, AND THE EVIDENCE CAME IN. NOW, MR.  
22 HASTIE IN MOST RESPECTS WAS RESPONDING TO YOUR ARGUMENT  
23 PERTAINING TO EXCELLENT POLICE WORK. FOR EXAMPLE, THE --  
24 WHETHER OR NOT A LINE-UP WAS NECESSARY. IT WAS DETECTIVE  
25 CULICK'S QUITE REASONABLE TESTIMONY, IN MY VIEW, THAT SAYS,

1 WELL, YOU DON'T NEED A LINE-UP IF YOU'VE GOT A CONFESSION.  
2 HOWEVER, MR. HASTIE EFFECTIVELY COUNTERED THAT BY SAYING:  
3 BEYOND A REASONABLE DOUBT IS YOUR BURDEN, SO WHY NOT HAVE A  
4 LINE-UP ANYWAY? SO THAT'S NOT YOUR POINT, I'M SURE, BUT HE  
5 IS CORRECT THAT THE JURY'S NOT TO MAKE ANY DETERMINATIONS IN  
6 THIS CASE ON WHETHER OR NOT THERE WAS A FOURTH AMENDMENT  
7 VIOLATION. THAT'S A QUESTION OF LAW.

8 BY THE SAME TOKEN, THE JURY IS NOT SUPPOSED TO MAKE ITS  
9 DETERMINATION BASED ON WHETHER OR NOT YOU'RE ANGRY OR THEY  
10 SHOULD BE ANGRY.

11 MR. SPRATLIN: YES, YOUR HONOR.

12 THE COURT: I WILL CHARGE THE JURY THEY'RE NOT TO BASE  
13 ANY DETERMINATIONS IN THIS CASE ON ANGER, PASSION, OR ANY  
14 OTHER IMPROPER MOTIVE OTHER THAN WHAT'S IN THE EVIDENCE.

15 MR. SPRATLIN: YES, SIR.

16 THE COURT: SO I DID OVERRULE YOUR OBJECTION WHEN YOU  
17 SAID HIS FOURTH AMENDMENT ARGUMENT WAS NOT SUPPORTED BY THE  
18 RECORD. I SUSTAINED IT WHEN YOU SAID THAT THAT ISSUE WAS NOT  
19 A JURY ISSUE.

20 MR. SPRATLIN: YES, YOUR HONOR.

21 THE COURT: SO I'M GOING TO INSTRUCT THE JURY THAT THEY  
22 BASE THEIR DETERMINATIONS ON THE EVIDENCE, ON THE REASONABLE  
23 DOUBT CHARGE, PERHAPS THE LACK OF EVIDENCE, AND THE LAW IN  
24 THIS CASE.

25 MR. SPRATLIN: YES, YOUR HONOR.

1 THE COURT: OKAY. ANY -- ANY RESPONSE?

2 MR. HASTIE: NONE, YOUR HONOR.

3 THE COURT: OKAY. ALL RIGHT. WE'LL TAKE JUST A COUPLE  
4 OF MINUTES.

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6 THE COURT: OKAY. ONE THING THAT I'LL BE ASKING YOU  
7 WHEN THE JURY DOES GO OUT AFTER THE CHARGE, OF COURSE, IS  
8 WHETHER OR NOT THERE'S ANY -- ARE THERE ANY EXCEPTIONS OR  
9 ADDITIONS? AND THE SECOND THING WOULD BE TO MAKE SURE THAT  
10 ALL THE EVIDENCE THAT'S BEEN INTRODUCED IS IN IN ORDER. I  
11 THINK EVERYTHING -- THE ONLY THING I HAD OPEN THAT I HAD NOT  
12 CHECKED OFF AS BEING IN WAS THE GUN, AND THAT'S IN NOW.

13 MR. SPRATLIN: YOUR HONOR---

14 THE COURT: I WILL TELL THE JURY THAT THE GUN WILL BE  
15 ALWAYS LEFT IN THE FORM THAT IT IS NOW, AND THE BULLETS AND  
16 THE GUN WILL NOT BE IN THE JURY ROOM AT THE SAME TIME.

17 MR. SPRATLIN: THANK YOU, YOUR HONOR. THERE'S ALSO --  
18 IT WAS MARKED FOR STATE'S EXHIBIT PURPOSES I.D. NUMBER 3. IT  
19 WAS THE UNREDACTED STATEMENT OF THE DEFENDANT. RATHER THAN  
20 TRY TO SUBSTITUTE THE FULLY-REDACTED ONE IN FOR EXHIBIT 3, WE  
21 JUST DID IT AS A NEW EXHIBIT. I THINK THAT WAS NUMBER 20?

22 COURT REPORTER: I THINK SO.

23 MR. SPRATLIN: AND THAT WAS ENTERED INTO EVIDENCE AS A  
24 STATEMENT OF THE DEFENDANT, BUT FOR IDENTIFICATION PURPOSES  
25 NUMBER 3 WAS NOT ENTERED AND IT HAS BEEN KEPT---

1           **THE COURT:** 20 IS THE SAME THING?

2           **MR. SPRATLIN:** YES. IT'S JUST THE MORE REDACTED  
3 VERSION, WHICH YOUR HONOR DID BRING UP ONE POINT I WANTED TO  
4 ADDRESS WITH THE COURT. WILL THE COURT BE PROVIDING AN  
5 INSTRUCTION ON THE REDACTED STATEMENT?

6           **THE COURT:** THEY CAN CONSIDER WHAT'S IN EVIDENCE.

7           **MR. SPRATLIN:** JUST...

8           **THE COURT:** I CAN CHARGE THE JURY THEY'RE NOT TO DRAW  
9 ANY CONCLUSIONS, INFERENCES OR INFORMATION AT ALL FROM  
10 ANYTHING THAT IS NOT -- OR THAT IS BLOCKED OUT.

11           **MR. SPRATLIN:** THAT'S ALL WE WOULD ASK, YOUR HONOR.

12           **THE COURT:** ALL RIGHT. ANY OBJECTION TO THAT, MR.  
13 HASTIE?

14           **MR. HASTIE:** NO, YOUR HONOR.

15           (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN THE  
16 COURT AND THE COURT REPORTER REGARDING A PIECE OF EVIDENCE.)

17           **MR. SPRATLIN:** YOUR HONOR, WE WERE GOING TO ADDRESS THAT  
18 BEFORE THE EVIDENCE WENT OUT. WE NEED TO BLACKEN THAT OUT,  
19 AND ALSO THE STATE'S EXHIBIT NUMBER 2, I BELIEVE, WHICH IS --  
20 OR 3 -- OR IT'S THE FIRST STATEMENT THAT HE GAVE. I BELIEVE  
21 IT'S NUMBER EITHER -- I BELIEVE IT'S NUMBER 2. THAT  
22 STATEMENT, YOUR HONOR, IS THE ORIGINAL ONE. WOULD YOU LIKE  
23 US TO MARK OUT THAT ONE OR WOULD WE BE ALLOWED TO MAKE A COPY  
24 OF IT AND THEN MARK OUT ON THAT?

25           **THE COURT:** MARK OUT THE SOCIAL SECURITY NUMBER?

1 MR. SPRATLIN: YES.

2 THE COURT: WHATEVER -- WHATEVER ACCOMPLISHES IT, AS  
3 LONG AS LONG AS THE SAME DOCUMENT GOES IN ABSENT THE FIRST  
4 FIVE DIGITS OF THE SOCIAL SECURITY NUMBER.

5 MR. SPRATLIN: WE JUST WANTED TO MAKE SURE THAT IT WOULD  
6 BE ACCEPTABLE TO MAKE A COPY TO PRESENT TO THE JURY.

7 THE COURT: ANY OBJECTION, MR. HASTIE?

8 MR. HASTIE: NONE, YOUR HONOR.

9 THE COURT: ALL RIGHT. THAT'S FINE. OKAY. ARE YOU  
10 READY, MR. SPRATLIN?

11 MR. SPRATLIN: YES, YOUR HONOR.

12 THE COURT: MR. HASTIE?

13 MR. HASTIE: YES, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT  
16 12:27 P.M.)

17 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, LET ME  
18 HAVE YOUR ATTENTION FOR THE NEXT FEW MINUTES. I'M GOING TO  
19 BE GIVING YOU WHAT IS CALLED THE CHARGE ON THE LAW. IT'S  
20 EXTREMELY IMPORTANT THAT YOU LISTEN VERY CAREFULLY TO THIS  
21 CHARGE. EVEN THOUGH THIS MAY BE YOUR FIRST EXPOSURE TO MANY  
22 OF THE TERMS AND THE LEGAL PRINCIPLES, I WILL EXPLAIN  
23 EVERYTHING TO YOU THOROUGHLY, AND YOU ARE TO TAKE THIS CHARGE  
24 AND APPLY IT TO THE EVIDENCE AND REACH A VERDICT THAT SPEAKS  
25 THE TRUTH BECAUSE, AFTER ALL, THAT IS PART OF YOUR OATH. YOU

( 1 HAVE SWORN AN OATH TO TRY THIS CASE AND RENDER A VERDICT  
2 ACCORDING TO THE EVIDENCE AND THE LAW, SO HELP YOU GOD, AND  
3 THE LAW IS PART OF THIS PROCESS.

4 AS I TOLD YOU AT THE BEGINNING OF THIS CASE, YOU HAVE  
5 TO, YOU MUST, ACCEPT THE LAW AS I GIVE IT TO YOU. IF I  
6 CHARGE A PRINCIPAL OF LAW THAT YOU THINK IS WRONG OR IF YOU  
7 THINK, WELL, THAT OUGHT NOT BE THE LAW OR THE LAW OUGHT TO BE  
8 CHANGED, THEN YOU STILL MUST ACCEPT THE LAW AS I GIVE IT TO  
9 YOU BECAUSE THAT IS PART OF YOUR OATH. IF I MAKE A MISTAKE  
10 IN CHARGING THE LAW TO YOU, THERE'S ANOTHER TIME AND ANOTHER  
11 PLACE FOR THAT ERROR TO BE CORRECTED. SO FOR TODAY YOU HAVE  
12 TO ACCEPT THE LAW AS I GIVE IT TO YOU.

( 13 I'LL BE USING TERMS, AND THESE ARE JUST EXAMPLES:  
14 PRESUMPTION OF INNOCENCE, REASONABLE DOUBT. I'LL DEFINE  
15 ARMED ROBBERY. I'LL DEFINE POSSESSION OF A WEAPON DURING THE  
16 COMMISSION OF A VIOLENT CRIME. I'LL TALK TO YOU ABOUT  
17 CREDIBILITY OF WITNESSES. I'LL TALK TO YOU ABOUT  
18 IDENTIFICATION TESTIMONY. I'LL BE DISCUSSING NUMEROUS LEGAL  
19 PRINCIPLES WITH YOU. NECESSARILY, I WILL HAVE TO REPEAT  
20 THOSE FROM TIME TO TIME BECAUSE THEY ALL WEAVE TOGETHER, AND  
21 YOU WELL KNOW THAT IF THINGS WEAVE TOGETHER, THEN THEY NEED  
22 TO BE REFERENCED MORE THAN ONCE. I DON'T DO THAT FOR ANY  
23 REASON OTHER THAN TO EXPLAIN THINGS THOROUGHLY TO YOU.

( 24 ALSO, IF YOU HAVE ANY DIFFICULTY IN UNDERSTANDING A  
25 PRINCIPAL OF LAW, AS I WILL TELL YOU AT THE END OF THE

1 CHARGE, IF THE FOREMAN PASSES A NOTE TO A BAILIFF, I CAN GIVE  
2 YOU THE CHARGE AGAIN. SO WHAT I WANT YOU TO DO RIGHT NOW IS  
3 LISTEN CAREFULLY, AND I WANT YOU TO REALIZE THAT AT THE END  
4 OF THE CHARGE ALL OF THIS SHOULD MAKE SENSE TO YOU, AND WHEN  
5 YOU APPLY THE LAW TO THE FACTS AND THE EVIDENCE IN THIS CASE,  
6 YOU'LL BE ABLE TO REACH A TRUE VERDICT.

7 AND I WILL REMIND YOU AND I'LL TELL YOU THIS AT THE END  
8 OF THE CASE: THE DEFENDANT EXPECTS AND IS ENTITLED TO A FAIR  
9 AND IMPARTIAL TRIAL AT YOUR HANDS. THAT INCLUDES A VERDICT  
10 THAT SPEAKS THE TRUTH. THE STATE OF SOUTH CAROLINA EXPECTS  
11 AND IS ENTITLED TO A FAIR AND IMPARTIAL TRIAL AT YOUR HANDS  
12 AND A VERDICT THAT SPEAKS THE TRUTH. SO THAT NECESSARILY  
13 REQUIRES YOU TO PAY VERY CLOSE ATTENTION TO THE CHARGE ON THE  
14 LAW AS I GIVE IT TO YOU.

15 ALL RIGHT. YOU'RE NOT TO BASE ANY VERDICT IN THIS CASE  
16 ON ANYTHING OTHER THAN THE EVIDENCE OR THE LACK OF EVIDENCE  
17 IN THIS CASE AND THE LAW AS I CHARGE IT TO YOU. YOU CANNOT  
18 BASE YOUR VERDICT ON ANY MOTIVE OR ANYTHING OTHER THAN THE  
19 EVIDENCE AND THE LAW. YOU CAN'T BASE IT ON ANY ANGER,  
20 PASSION, OR ANY OTHER MOTIVE OTHER THAN WHAT IS THE EVIDENCE  
21 AND THE LAW.

22 NOW, THE DEFENDANT HAS BEEN CHARGED IN THIS INDICTMENT  
23 WITH ARMED ROBBERY AND WITH POSSESSION OF A FIREARM DURING  
24 THE COMMISSION OF A VIOLENT CRIME. AND I WILL REPEAT THAT  
25 THE FACT THAT A PERSON IS ARRESTED, CHARGED, OR INDICTED FOR



1 ANY CRIME IS NOT EVIDENCE OF ANYTHING. AS I WILL TELL YOU IN  
2 MORE DETAIL, THE STATE HAS THE BURDEN OF PROVING THE  
3 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT. SO THIS  
4 INDICTMENT IS NOT EVIDENCE OF ANYTHING. IT'S SIMPLY THE  
5 FORMAL DOCUMENT BY WHICH THIS CASE IS BROUGHT INTO THIS  
6 COURT.

7 DURING THIS TRIAL, IT'S OBVIOUS TO YOU BY THIS TIME THAT  
8 YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL  
9 JUDGE, IT'S MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF  
10 THIS CASE, AND I HAVE THE DUTY TO RULE ON THE ADMISSIBILITY  
11 OF EVIDENCE OFFERED DURING THE TRIAL. I ALSO HAVE THE DUTY  
12 TO RULE ON CERTAIN OBJECTIONS AND OTHER THINGS THAT ARISE  
13 DURING THE TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT  
14 EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY THAT I  
15 ORDERED STRICKEN FROM THE RECORD IN THIS CASE DURING THE  
16 TRIAL, THEN YOU MUST DISREGARD THAT TESTIMONY. YOU'RE TO  
17 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED, ANY  
18 EXHIBITS WHICH HAVE BEEN INTRODUCED, AND ANY STIPULATIONS OR  
19 AGREEMENTS OF THE ATTORNEYS THAT HAVE BEEN MADE KNOWN TO YOU.

20 NOW, I'LL TELL YOU, LADIES AND GENTLEMEN, WITH REGARD TO  
21 THE EVIDENCE, IT TAKES VARIOUS FORMS. YOU KNOW THAT BY NOW.  
22 TESTIMONY AND EXHIBITS AND STIPULATIONS OF THE ATTORNEYS.  
23 WHILE I'M THINKING ABOUT IT, THE EXHIBIT THAT'S BEEN  
24 DESCRIBED AS A FIREARM, THAT'S IN EVIDENCE, AND YOU ARE NOT  
25 PERMITTED TO -- TO ASSEMBLE THE WEAPON OR DO ANYTHING TO IT

1 OTHER THAN ACTUALLY PICK IT UP. THE BULLETS THAT HAVE BEEN  
2 INTRODUCED INTO EVIDENCE WILL NOT BE IN THE JURY ROOM AT THE  
3 SAME TIME AS THE WEAPON, AND IF YOU WANT TO SEE THE BULLETS,  
4 THE WEAPON COMES OUT. SO THEY WON'T BE IN THERE AT THE SAME  
5 TIME. THAT'S SIMPLY FOR YOUR SAFETY. SO PLEASE MAKE SURE  
6 YOU UNDERSTAND THAT THE WEAPON IS NOT TO BE ALTERED IN ANY  
7 WAY BY YOU NOR IS ANY IDENTIFYING OR PROTECTIVE MECHANISM TO  
8 BE REMOVED FROM THAT.

9 NOW, LADIES AND GENTLEMEN, I HAVE THE ADDITIONAL DUTY TO  
10 CHARGE YOU THE LAW. I RULE ON THE LAW AS THE CASE GOES ON,  
11 AND I CHARGE YOU THE LAW AT THIS POINT, AND AS THE SOLE JUDGE  
12 OF THE LAW I REMIND YOU: IT'S YOUR DUTY TO ACCEPT AND APPLY  
13 THE LAW AS I GIVE IT TO YOU.

14 NOW, YOUR ROLE IS THE FINDERS OF THE FACTS. PURELY AND  
15 SIMPLY, YOU KNOW THAT BY NOW. I TOLD YOU THAT AT THE  
16 BEGINNING OF THIS CASE. A TRIAL JUDGE CANNOT COMMENT ON OR  
17 INTIMATE OR STATE ANY OPINION THAT THE TRIAL JUDGE MAY HAVE  
18 ABOUT THE FACTS OF THIS CASE, SO -- AND THAT'S BECAUSE YOU'RE  
19 THE ONLY ONES WHO COUNT AS FAR AS THE FACTS ARE CONCERNED.  
20 YOU'RE NOT TO INFER FROM ANYTHING THAT I HAVE SAID OR DONE  
21 DURING THE COURSE OF THIS TRIAL IN RULING ON EVIDENCE OR  
22 ANYTHING ELSE THAT MAY HAVE OCCURRED -- YOU'RE NOT TO INFER  
23 ANYTHING THAT I HAVE ANY OPINION ABOUT THE FACTS BECAUSE I  
24 TRULY DO NOT. THAT'S A MATTER SOLELY FOR YOU TO DETERMINE,  
25 AND IT'S YOUR DUTY DETERMINE THE EFFECT, WEIGHT, AND VALUE