

VOLUME TEN

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Dorchester County
James E. Lockemy, Circuit Court Judge

S.C. Supreme Court

MARION BOWMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213468

APPENDIX

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 :
 COUNTY OF DORCHESTER) CASE NO. 01-GS-18-0348, 0349

ORIGINAL

STATE OF SOUTH CAROLINA,) VOLUME XXI Pages 4051 - 4354
)
 Plaintiff,) TRANSCRIPT OF RECORD
)
 -versus-) JURY TRIAL
)
 MARION BOWMAN, JR.,) May 19, 2002
)
 Defendant.) St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein

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1 (May 19, 2002.)

2 THE COURT: Thank you everyone, and please
3 be seated.

4 All right. Anything from the State
5 before we begin?

6 MR. BAILEY: Nothing from the State, Your
7 Honor.

8 THE COURT: All right. Anything from the
9 defense?

10 MS. HARDEE-THOMAS: No, ma'am.

11 MR. CUMMINGS: Nothing from the defense,
12 ma'am.

13 THE COURT: All right. Let us have our
14 jury.

15 (Whereupon, the jury returns to the courtroom at
16 10:12 a.m.)

17 THE COURT: Good morning, ladies and
18 gentlemen. I am so curious to know how that
19 restaurant was last night, was it pretty good?
20 It was good? Great. Some liked it, some
21 didn't. It's a culinary journey around
22 Dorchester County. Some of the stops will be
23 better than others.

24 Very well, ladies and gentlemen, at
25 this time we will continue with the State's

State vs. Bowman - Volume XXI

1 case.

2 Mr. Bailey.

3 MR. BAILEY: Thank you, Your Honor. State

4 calls Hiram Johnson.

5 (Hiram Johnson, called as a witness, having
6 first been duly sworn, is examined and testifies
7 as follows:)

8 DIRECT EXAMINATION

9 BY MR. BAILEY:

10 Q. Hiram, please tell the jury how old you are.

11 A. He was --

12 Q. How old are you?

13 A. How old is he?

14 Q. How old are you?

15 A. Twenty-one.

16 Q. Twenty-one. Where do you live?

17 A. Branchville.

18 Q. Okay. You lived there all your life?

19 A. Yes, sir.

20 Q. All right. Do you know the defendant in this
21 case, Marion Bowman, Jr.?

22 A. Yes, sir.

23 Q. Okay. Can you point him out, please, just for
24 the record?

25 A. (Indicating.)

Hiram Johnson - Direct Exam

1 Q. He's seated in the shirt with no coat beside the
2 gentleman on the end; is that correct?

3 A. In the middle right here.

4 Q. All right. And how long have you known Marion
5 Bowman?

6 A. All my life.

7 Q. Okay. Do you know James Taiwan Gadson?

8 A. Yes, sir.

9 Q. And how long have you known him?

10 A. All my life.

11 Q. Did you know Kandee Martin?

12 A. Yes, sir.

13 Q. And were you back in February 2001 familiar with
14 the kind of car she drove?

15 A. Yes, sir.

16 Q. Okay. Let me show you State's 4, and ask if
17 besides the color of that car does that look like
18 Kandee Martin's car?

19 A. Yes, sir.

20 Q. Okay, Hiram. What I want to do is call your
21 attention to Friday, early afternoon, February 16th,
22 2001, ask where you were that day.

23 A. In the apartments at Hank Koger's house.

24 Q. All right. And were you with anybody in
25 particular?

Hiram Johnson - Direct Exam

1 A. Yes, sir.

2 Q. Who were you with?

3 A. Marion, Taiwan, Hank.

4 Q. Okay. And what were you all doing over at Hank
5 Koger's?

6 A. Hanging around.

7 Q. Okay. And you were hanging around with Marion
8 and these other guys, right?

9 A. Yes, sir.

10 Q. Okay. And would you state whether or not you
11 recall how Marion was dressed that day?

12 A. Black pants, black boots, and a dark colored
13 shirt.

14 Q. Okay. And do you recall anything else about
15 what Marion had on, or had on him? Do you recall
16 anything else about him?

17 A. A sweater cap.

18 Q. Okay. Is there anything else you remember about
19 his appearance?

20 A. A brown paper bag.

21 Q. Okay. Did you see what was in the paper bag?

22 A. A gun.

23 Q. Okay. And can you describe the gun?

24 A. A black .380.

25 Q. All right. Now, when y'all were at Hank Koger's

Hiram Johnson - Direct Exam

1 house, is there a barrel out there?

2 A. Yes, sir.

3 Q. To burn trash?

4 A. Yes, sir.

5 Q. Okay. And I would ask whether or not you had
6 any discussion out there with Marion Bowman when
7 y'all were hanging around that barrel?

8 A. Yes, sir.

9 Q. Okay. What, if anything, did you hear him
10 saying?

11 A. Him and Gadson got into an argument about who
12 moved the gun.

13 Q. Okay. Now, I don't want you to say anything
14 that Gadson might have said, but anything that you
15 recall Marion Bowman saying about the gun.

16 A. "Who moved my gun?"

17 Q. Okay. Who was he talking to when he said that?

18 A. Gadson.

19 Q. Okay. And how long did that argument occur in
20 your presence?

21 A. A couple of seconds.

22 Q. All right. And did you participate at all in
23 the discussion?

24 A. I told him I moved it.

25 Q. Told who you moved it?

Hiram Johnson - Direct Exam

1 A. Mr. Bowman.

2 Q. Okay. And when you say you told Mr. Bowman you
3 moved it, what did you move?

4 A. The gun.

5 Q. Okay. And where was the gun when you obtained
6 it, when you moved it?

7 A. I took it out the barrel and took it to Katrina
8 West house.

9 Q. Okay. When you say Katrina West's house, did
10 she live in the villas?

11 A. In the apartment.

12 Q. In the apartment, okay. Now, after you advised
13 Marion Bowman that his gun was at Katrina West's
14 apartment, what did you do, if anything?

15 A. I told him where it was and he went and got it.

16 Q. Okay. And you say he went and got it. Did you
17 see the gun again after he went off?

18 A. He was coming across the street putting it in
19 his pants.

20 Q. Okay. All right. And after that what did you
21 do?

22 A. I went home.

23 Q. Okay.

24 A. Took a nap and got my hair braided.

25 Q. Okay. After you took a nap and got your hair

Hiram Johnson - Direct Exam

1 braided, would you state whether or not you saw
2 Marion Bowman later on that night?

3 A. Yes, sir.

4 Q. Okay. Where did you see him?

5 A. In the apartments.

6 Q. Okay. Do you recall whose apartment it was?

7 A. Meeka.

8 Q. Okay. And is her apartment in the villas?

9 A. Yes, sir.

10 Q. Okay. And when you saw Marion Bowman at the
11 apartments later on that evening, did you all do
12 anything, say anything? What was going on?

13 A. Well, I left Meeka house and went to Katrina
14 West house.

15 Q. Okay. All right. And what did Marion Bowman
16 do?

17 A. He came to Katrina West house, asked me did I
18 want to go downtown.

19 Q. Okay. And when he asked you to go downtown, did
20 you answer him?

21 A. Yes.

22 Q. Okay. What did you say?

23 A. "Come on."

24 Q. Okay. And did you go downtown?

25 A. Yes, sir.

Hiram Johnson - Direct Exam

1 Q. Okay. Who went downtown?

2 A. Me and Marion.

3 Q. Okay. And how did y'all get downtown from the
4 villa apartments?

5 A. Yolanda's car.

6 Q. Okay. And that's Yolanda Bowman's car?

7 A. Yes, sir.

8 Q. Okay. This is State's 8. Is that the car y'all
9 went in?

10 A. Yes, sir.

11 Q. Where did you and Marion Bowman, Jr. go in
12 Yolanda's car?

13 A. Excuse me?

14 Q. Where did y'all go?

15 A. To the EZ Shop.

16 Q. Okay. When you got to the EZ Shop, what did
17 y'all do there?

18 A. He asked James Gadson, Sr. to purchase four
19 pairs of gloves.

20 Q. Okay. When you say "he," who asked James
21 Gadson, Sr. to buy gloves?

22 A. Marion.

23 Q. Did he do that, did James Gadson, Sr. buy some
24 gloves?

25 A. Yes, sir.

Hiram Johnson - Direct Exam

1 Q. Okay. And after he bought the gloves, did you
2 see what James Gadson, Sr. did with them?

3 A. Gave them to Marion.

4 Q. Okay. Who paid for the gloves?

5 A. Marion.

6 Q. Okay. Show you a bag marked State's Number 45,
7 ask you to take a look in that.

8 A. (The witness complies.) Yes, sir.

9 Q. Okay. Does that appear to be the brown -- a
10 pair of brown gloves?

11 A. Yes, sir.

12 Q. Are these like the gloves that James Gadson, Sr.
13 bought and gave to Marion Bowman, Jr.?

14 A. Yes, sir.

15 Q. After Marion bought those four pairs of brown
16 cotton gloves at the Horizon EZ Store, what did y'all
17 do then?

18 A. Went back to the apartments.

19 Q. Okay. And what occurred next?

20 A. Yolanda came out of the apartments and then he
21 said, "Do you want to go to the club?"

22 Q. Who said, "Do you want to go to the club?"

23 A. Marion.

24 Q. Who was he talking to?

25 A. Me.

Hiram Johnson - Direct Exam

- 1 Q. Okay. What did you tell him?
- 2 A. Yeah.
- 3 Q. Okay. Did you end up going to the club?
- 4 A. Yes, sir.
- 5 Q. What's the name of the club y'all went to?
- 6 A. Allen Murray.
- 7 Q. And who went with you to the Allen Murray Club?
- 8 A. Me, Taiwan, Darian, and Marion.
- 9 Q. Okay. Taiwan is Taiwan Gadson?
- 10 A. Yes, sir.
- 11 Q. And Darian is Darian Williams?
- 12 A. Yes, sir.
- 13 Q. Okay. Where is the Allen Murray Club located?
- 14 A. Between St. George and Bowman.
- 15 Q. Okay. How did y'all get from Branchville to
- 16 Allen Murray Club in Bowman?
- 17 A. In the Escort.
- 18 Q. Okay. And when you say "In the Escort," do you
- 19 know whose car it was?
- 20 A. Kandee's.
- 21 Q. Okay. And when y'all got in the car, would you
- 22 state whether or not there was any discussion between
- 23 you and Marion Bowman, Jr. about what he was doing
- 24 with Kandee's car?
- 25 A. Yes.

Hiram Johnson - Direct Exam

1 Q. Okay. What, if anything, did he say, did Marion
2 Bowman say about the car?

3 A. He stole it.

4 Q. Now, the gloves that you testified that James
5 Gadson, Sr. had purchased at the Horizon EZ Store
6 given to Marion Bowman, what happened with those
7 gloves?

8 A. He made us put them on.

9 Q. When you say "he"...?

10 A. Marion.

11 Q. Okay. You say Marion Bowman made you put them
12 on?

13 A. Yes, sir.

14 Q. Who put the brown gloves on?

15 A. We all put them on.

16 Q. All four of you?

17 A. Yes, sir.

18 Q. Okay. Who was driving Kandee Martin's car from
19 Branchville to Bowman?

20 A. Marion Bowman.

21 Q. Did y'all make any stops between Branchville and
22 Bowman?

23 A. Yes, sir.

24 Q. Okay. And you say Marion Bowman, Jr. was
25 driving Kandee's car. Where did he stop?

Hiram Johnson - Direct Exam

1 A. On a dirt road.

2 Q. Okay. And what, if anything, occurred when he
3 stopped Kandee Martin's car on the dirt road?

4 A. Put a car seat in a trunk.

5 Q. Okay. Who did?

6 A. Marion.

7 Q. Okay. Where was the car seat before he put it
8 in the trunk?

9 A. The back seat.

10 Q. Okay. What kind of car seat was it?

11 A. A baby car seat.

12 Q. Okay. Now, when y'all got to Allan Murray Club,
13 what did you do?

14 A. Sit in the car in the parking lot.

15 Q. Okay. When you say, "sit in the car," which car
16 are you talking about?

17 A. Kandee's.

18 Q. Okay. And what did Marion Bowman, Jr. do when
19 y'all got there?

20 A. Walk around the parking lot.

21 Q. Okay. And how about the other two guys, Darian
22 Williams and Taiwan Gadson?

23 A. Standing around the car.

24 Q. Okay. And how long do you think y'all kind of
25 hung around in the parking lot at the Allen Bowman

Hiram Johnson - Direct Exam

1 Club -- or the Allen Murray Club?

2 A. About an hour.

3 Q. Okay. And what were y'all doing? Do you recall
4 anything that Marion Bowman was doing in the parking
5 lot?

6 A. Walking around trying to sell the car.

7 Q. Walking around trying to sell what car?

8 A. The Escort, Kandee's car.

9 Q. Okay. Do you know about what time it was when
10 y'all left Allen Murray Club?

11 A. About one o'clock.

12 Q. Okay. Do you wear a watch?

13 A. No, sir.

14 Q. Okay. Did you wear a watch back then?

15 A. No, sir.

16 Q. Are you guessing at the times?

17 A. Yes, sir.

18 Q. Okay. And when you left the club, how did you
19 leave?

20 A. In Kandee's car.

21 Q. Okay. And who was in the car with you?

22 A. Marion, Taiwan, Darian, and me.

23 Q. Okay. Who was driving the car?

24 A. Marion.

25 Q. Okay. And do you recall whether or not Marion

Hiram Johnson - Direct Exam

1 Bowman, Jr. said anything on the way back from the
2 Allen Murray Club?

3 A. That he had killed Kandee.

4 Q. Okay. What were his words the best you can
5 recall.

6 A. "I killed Kandee, heh, heh, heh."

7 Q. Okay. And on the way back did you make any
8 observations of Marion Bowman, Jr.?

9 A. Excuse me?

10 Q. Did you make any observations of him as he was
11 sitting in the car? Did you see him?

12 A. Did I see him?

13 Q. Yeah.

14 A. Yes, sir.

15 Q. Did you notice anything about him?

16 A. Yes, sir.

17 Q. What did you see?

18 A. He had the gun sitting on his lap.

19 Q. Okay. And did you see anything else in regard
20 to the gun?

21 A. No, sir.

22 Q. Okay. Now, the gloves that you wore -- let me
23 backup a second. Did you get dropped off in
24 Branchville?

25 A. Yes, sir.

Hiram Johnson - Direct Exam

1 Q. Where?

2 A. Up the street from my house.

3 Q. Okay. And the gloves that you had been wearing
4 in the car, did you still have them when you got out
5 of the car?

6 A. Yes, sir.

7 Q. What did you do with them?

8 A. I gave them to the officer.

9 Q. Okay. I'm going to hand you this back again,
10 State's 45, ask you to look at that bag, ask if these
11 are the gloves that you gave to the officer?

12 A. Yes, sir.

13 MR. BAILEY: Your Honor, I'm not sure if
14 these are identified at this point, if not I
15 would move into evidence.

16 THE COURT: All right, sir.

17 MR. BAILEY: Your Honor, I would move to
18 introduce 45 into evidence at this time.

19 THE COURT: Any objection?

20 MR. CUMMINGS: Just beg the Court's
21 indulgence.

22 THE COURT: Certainly.

23 MR. CUMMINGS: Walter, if I can just have
24 that for just one moment.

25 (Pause in proceedings.)

Hiram Johnson - Direct Exam

1 MR. CUMMINGS: Without any legal
2 objections, Your Honor.

3 THE COURT: Very well. State's Exhibit 45
4 into evidence without objection.

5 MR. BAILEY: Thank you, Your Honor.
6 (Entered into evidence was State's Exhibit 45,
7 brown cotton gloves.)

8 Q. Please answer any questions Mr. Cummings might
9 have for you.

10 THE COURT: Cross-examination.

11 MR. CUMMINGS: Thank you, Judge, Mr.
12 Bailey.

13 CROSS-EXAMINATION

14 BY MR. CUMMINGS:

15 Q. I'm going to stand back here where Mr. Bailey
16 was standing, ask you to speak up real loud, okay?
17 All right. A few moments ago when you came up to the
18 stand there and you raised your hand on the Bible I
19 got to notice a big scar on the back of your head.
20 Do you have a large scar on the back of your head,
21 sir?

22 A. Yes, sir.

23 Q. And is that from being shot in the back of the
24 head?

25 A. By a police officer, sir.

Hiram Johnson - Cross-Exam

1 Q. And have you suffered any brain injury as a
2 result of that, sir?

3 A. Yes, sir.

4 Q. Do you have problems with your recall, sir, or
5 your memory?

6 A. Sometime.

7 Q. I want to go over now the events of the 16th
8 because I'm going to ask you a lot of questions about
9 that now. And the first thing I would like to say is
10 obviously this morning how many times have you met
11 with the police about your testimony today?

12 A. Excuse me?

13 Q. How many times have you met with the police
14 officers about your testimony today?

15 A. Once.

16 Q. Only once, all right.

17 A. Right.

18 Q. Who was that?

19 A. I think his name was Alvin.

20 Q. Mr. Coker, the gentleman right there?

21 A. Yes, sir.

22 Q. All right. When was that, sir?

23 A. Around the next day.

24 Q. Okay. And that was all that you remember?

25 A. Yes, sir.

Hiram Johnson - Cross-Exam

1 Q. Okay. And how many times have you met with
2 anybody in the solicitor's office before coming into
3 court today?

4 A. Once.

5 Q. Who was the gentleman or lady that you met with
6 there?

7 A. Mr. Bailey.

8 Q. The guy right here?

9 A. Yes, sir.

10 Q. When was that, sir?

11 A. Around a month ago.

12 Q. All right, sir. Did anybody give you anything
13 to read over or ask you about what was going to be
14 asked about you today?

15 A. Excuse me?

16 Q. Did anybody give you anything to read over or
17 give you a list of questions or anything that
18 somebody was going to ask you about today?

19 A. Gave me a subpoena.

20 Q. A subpoena, okay. But nobody gave you any other
21 things to read over about your testimony today?

22 A. No, sir.

23 Q. Okay. And the reason I asked that is because
24 you've met with Mr. Coker more than one occasion;
25 isn't that true?

Hiram Johnson - Cross-Exam

1 A. I met with him once.

2 Q. All right.

3 A. But my father, when they came my father wouldn't
4 let me talk to him.

5 Q. Let's start by going back a little bit. You
6 actually gave a statement to Mr. Coker and met
7 Mr. Coker on the 22nd of February of last year,
8 right, sir?

9 A. Yes, sir.

10 Q. Okay. And you sat with him and went over with
11 him, stayed with him for quite a period of time,
12 right?

13 A. No, sir.

14 Q. You did not?

15 A. No, sir. I wrote my statement and I went back
16 to work.

17 Q. Okay. How long would you say that you met with
18 Mr. Coker then?

19 A. Around 30 minutes.

20 Q. All right, thirty minutes. And you told him all
21 this in 30 minutes, right?

22 A. Yes, sir.

23 Q. Okay. When you first met anybody and talked or
24 anything, did you tell Mr. Coker that that car was
25 taken by Marion Bowman?

Hiram Johnson - Cross-Exam

1 A. Excuse me?

2 Q. When did you first tell Mr. Coker that Marion
3 took this lady's car?

4 MR. BAILEY: Your Honor, if he's going to
5 cross-examine him on the statement I would ask
6 he be given a copy of it to refresh his memory.

7 MR. CUMMINGS: Ask him a couple questions,
8 first. I've not actually gotten into --

9 A. Did I tell him what?

10 Q. Did you tell him that Mr. Bowman had taken this
11 young lady's car?

12 MR. BAILEY: Your Honor, again,
13 objection --

14 A. I told him I went to the club --

15 THE COURT: Just a second. When I speak,
16 Mr. Johnson, you need to hold off, just need to
17 stop, because the reason is that there's an
18 objection so until we respond, okay? Thank you.

19 All right. Now, you want him to --
20 all right.

21 MR. BAILEY: Yes, ma'am. I have a
22 particular issue here about --

23 THE COURT: Ladies and gentlemen, I'm going
24 to ask you to please step to your jury room. Do
25 not discuss this matter and do not allow anyone

Hiram Johnson - Cross-Exam

1 to discuss it with you.

2 (Whereupon, the jury retires to the jury room at
3 10:36 a.m.)

4 THE COURT: All right. Yes, sir, Mr.
5 Bailey, you're concerned that he's being asked
6 about a statement and not being shown the
7 statement?

8 MR. BAILEY: Yes, ma'am. I realize the
9 rule doesn't strictly require that, but I think
10 in the context when he's asking for specific
11 recollections, specific things that were in that
12 statement that he's pretty much at a
13 disadvantage. And Mr. Cummings has it in front
14 of him and the witness does not.

15 MR. CUMMINGS: Judge, my main criteria is
16 I've learned, I just examined when this
17 gentleman walked up there that he has a brain
18 injury and therefore, Judge, recall and memory
19 go to this gentleman's credibility. I've asked
20 him one question so far out of the statement,
21 just one. I haven't asked him in particular
22 anything, did you not say in your statement on
23 line 3, page 2, that would need him maybe to
24 verify that, Judge, just like we would in a
25 deposition or show it up there and ask him if

Hiram Johnson - Cross-Exam

1 he's done something inconsistent.

2 Your Honor, it goes right to the heart
3 of the matter of cross-examination as to the
4 credibility of this man and his independent
5 recall, not the fact that he's asked to refresh
6 his memory with that, ma'am.

7 THE COURT: Hold on one second for me.

8 MR. CUMMINGS: I'm sorry, Judge.

9 THE COURT: The applicable rule is Rule
10 613.

11 MR. BAILEY: Your Honor, I'll withdraw the
12 objection.

13 THE COURT: Okay.

14 MR. BAILEY: I refreshed my memory on the
15 rule here.

16 THE COURT: Yes, sir. Yes, sir. Thank
17 you. Let's have the jury back.

18 (Whereupon, the jury returns to the courtroom at
19 10:38 a.m.)

20 BY MR. CUMMINGS:

21 Q. Mr. Johnson, you've heard Her Honor. And my
22 question again is did you tell this gentleman that
23 Marion took this lady's car?

24 A. I told him I went to the club in the car.

25 Q. Did you tell him that Marion took the car,

Hiram Johnson - Cross-Exam

1 Mr. Johnson? Please answer my question.

2 A. Yes, sir.

3 Q. You did. Mr. Johnson, when you gave any
4 information to this officer you were in the presence
5 of your home?

6 A. My job.

7 Q. At your job. Where do you work at, sir?

8 A. I don't work anymore.

9 Q. Well, where were you working at back then?

10 A. Car wash. Simpson's Car Wash.

11 Q. I just want to go back a little bit now. When
12 you -- when did you first see Marion that morning?

13 A. I didn't see him until we had got to Hank Koger
14 house.

15 Q. Okay. And who's at Hank Koger's house?

16 A. A lot of men standing around the yard.

17 Q. Okay. Everybody drinking?

18 A. Some.

19 Q. Were you drinking?

20 A. No, sir.

21 Q. Not at all?

22 A. I don't drink.

23 Q. Okay. How about Mr. Gadson, drinking gin?

24 A. Yes, sir.

25 Q. Okay. And then you take a paper bag, right?

Hiram Johnson - Cross-Exam

1 A. Uh-huh (affirmative response).

2 Q. You take it, you just move it away?

3 A. Yes, sir.

4 Q. Why did you take it?

5 A. Because he had the brown paper bag and he threw
6 it in the barrel and everybody was standing in the
7 yard and I see no need for that.

8 Q. Okay. And then you saw this man leave and then
9 come back later that afternoon?

10 A. I left before him.

11 Q. You left before him. So you don't know what
12 else happened?

13 A. No, sir.

14 Q. Okay. And then later that night all you folks
15 go to the club?

16 A. Yes, sir.

17 Q. And then on April 5th you meet with Mr. Coker
18 again; isn't that true?

19 A. Mr. Coker? Who is Mr. Coker?

20 Q. Who is Mr. Coker? The guy right there. You met
21 with him on April 5th, didn't you?

22 A. Mr. Alvin?

23 Q. Yes, Mr. Alvin.

24 A. No, sir.

25 Q. Okay. And it wasn't until April 5th that you

Hiram Johnson - Cross-Exam

1 told this man that he stole the car; isn't that true?

2 A. April the 5th.

3 Q. April the 5th of 2001; isn't that true,

4 Mr. Johnson? I can't give you the answer. You've
5 got to look at me and look at those nice folks over
6 there.

7 A. I don't have to look at them.

8 Q. Okay. It wasn't until then, was it?

9 A. Yes, sir.

10 Q. I'm just going to ask you politely now. Kandee,
11 Miss Martin and Mr. Bowman were friends, weren't
12 they?

13 A. Yes, sir.

14 Q. They all went to school together?

15 A. Yes, sir.

16 Q. Friends with you?

17 A. Yes, sir.

18 Q. And you'd see Marion around Miss Martin a lot,
19 wouldn't you?

20 A. Yes, sir.

21 Q. And you'd see Miss Martin around, seeing the
22 other fellows at the apartments and other places,
23 too, wouldn't you?

24 A. Yes, sir.

25 Q. So it was not uncommon for Marion to be around

Hiram Johnson - Cross-Exam

1 her and with her; isn't that true?

2 A. No, sir.

3 Q. I mean, they were friends, right?

4 A. Yes, sir.

5 Q. And Kandee often would come by with her car and
6 Marion and her would ride around and go places,
7 wouldn't they?

8 A. No, sir.

9 Q. No? That's your testimony today that that did
10 not happen?

11 A. Kandee would not come around every day.

12 Q. Not every day, excuse me, but once in a while
13 she would come over in the car, her and J. R. would
14 drive off and J. R. would go with her places?

15 A. I would not be with Marion every day.

16 Q. I understand that, Mr. Johnson, but when you
17 would be around him wasn't that a common thing to see
18 those two friends, two nice people be around each
19 other?

20 A. Yes, sir.

21 Q. Okay. Now, let me ask you a question. This
22 just somehow escapes me, but I want to ask you this:
23 You're getting in a car and you're handed a pair of
24 gloves --

25 Q. Okay. And then you go over to Allen Murray's

Hiram Johnson - Cross-Exam

1 Club, right?

2 A. Yes, sir.

3 Q. What were you wearing gloves going to Allen
4 Murray's Club for?

5 A. Because he said the car was stolen and to put
6 them on.

7 Q. He said the car was stolen and to put them on.
8 When you got to the club did you leave the gloves on
9 when you went in the club around the other fellows?

10 A. I did not go in the club.

11 Q. All right. Out in the parking lot did you leave
12 the gloves on?

13 A. No, sir.

14 Q. Did you take them off, put them in your back
15 pocket?

16 A. Yes, sir.

17 Q. Okay. And that's all you did out there, right?

18 A. Yes, sir.

19 Q. And then you ride back into town and then you
20 get out of the car at Katrina's place?

21 A. Yes, sir.

22 Q. Okay. I think you told Mr. Bailey it was about
23 what time in the morning?

24 A. Around 1:30, two o'clock.

25 Q. About 1:30, two o'clock. You also said that the

Hiram Johnson - Cross-Exam

1 car stopped on Highway 210; is that correct?

2 A. Yes, sir.

3 Q. Is that a paved road?

4 A. 210?

5 Q. Yeah.

6 A. Yes, sir.

7 Q. Okay. It's not a dirt road, right, it's a paved
8 road?

9 A. You can take the dirt road to 210, to get on
10 210.

11 Q. You stopped on 210?

12 A. Yes, sir.

13 Q. And then when you leave it's about two o'clock
14 in the morning, you have your hair either done or
15 undone, I'm not certain, sir, but that's the extent
16 of your knowledge, right?

17 A. Excuse me?

18 Q. You got dropped off at 2:10 in the morning,
19 that's the end of it, you stayed there and got your
20 hair done?

21 A. I said around 1:30, two o'clock.

22 Q. 1:30, two o'clock?

23 MR. CUMMINGS: Beg the Court's indulgence.

24 THE COURT: All right.

25 (Mr. Cummings and Ms. Hardee-Thomas conferring

Hiram Johnson - Cross-Exam

1 with Mr. Bowman.)

2 Q. Mr. Johnson, have you today recalled this
3 conversation, this testimony, from your independent
4 memory? That's all the questions I'm going to ask
5 you, is that from your memory?

6 A. Yes, sir.

7 MR. CUMMINGS: Thank you. That's all the
8 questions we have, Judge.

9 THE COURT: Any redirect?

10 MR. BAILEY: No redirect, Your Honor.

11 THE COURT: Is this witness free to leave?

12 MR. BAILEY: As far as the State is
13 concerned.

14 MR. CUMMINGS: As far as defense also.

15 THE COURT: Very well. You are free to go.
16 (Whereupon, the witness steps down from the
17 witness stand.)

18 THE COURT: Call your next witness, please,
19 sir.

20 MR. BAILEY: Travis Felder.

21 (Travis D. Felder, called as a witness, having
22 first been duly sworn, is examined and testifies
23 as follows:)

24

25

Travis D. Felder - Direct Exam

DIRECT EXAMINATION

1

2 BY MR. BAILEY:

3 Q. You're Travis Felder?

4 A. Yes, sir.

5 Q. Okay. Travis, tell the jury, please, how old
6 you are.

7 A. I'm 21.

8 Q. Where do you live?

9 A. Branchville.

10 Q. You lived in Branchville all your life?

11 A. Yes, sir.

12 Q. Okay. Did you go to high school there?

13 A. Yes, sir.

14 Q. Okay. What's your educational background, did
15 you go to school after high school?

16 A. Yes, sir.

17 Q. Okay. Where did you go to school?

18 A. I went to Nashville Auto Diesel College,
19 Nashville, Tennessee.

20 Q. Nashville, what?

21 A. Auto Diesel College.

22 Q. Okay. You worked as a diesel mechanic?

23 A. Yes.

24 Q. Where are you working now?

25 A. Cox's Wood Preserving in Orangeburg.

Travis D. Felder - Direct Exam

1 Q. What do you do there?

2 A. I'm a laborer.

3 Q. Okay. Now, you have some charges pending
4 against you in connection with this case; is that
5 correct?

6 A. Yes, I do.

7 Q. Okay. And are you charged with accessory after
8 the fact and arson in this case?

9 A. Yes. Yes, sir.

10 Q. Okay. And do you have a lawyer representing
11 you, Charles Williams?

12 A. Yes, sir.

13 Q. He's from Orangeburg. And through your lawyer
14 have you entered into a plea negotiation with the
15 State?

16 A. Yes, sir.

17 Q. Okay. And as a result of that plea negotiation
18 are you going to be entering a guilty plea to
19 accessory after the fact to arson third degree?

20 A. Yes, sir.

21 Q. And the other charges would be dropped; is that
22 correct?

23 A. Yes, sir.

24 Q. And in exchange for that agreement are you to
25 testify truthfully in this or any other trial that

Travis D. Felder - Direct Exam

1 you're called upon to testify in?

2 A. Yes, sir.

3 Q. All right. And, Travis, are you prepared now to
4 testify truthfully?

5 A. Yes, sir.

6 Q. Do you know Marion Bowman, Jr.?

7 A. Yes, sir.

8 Q. Okay. Would you point him out, please?

9 A. (Indicating.)

10 Q. Describe him.

11 A. He has on a white shirt over there, sitting
12 between the white fellow, black lady.

13 Q. Okay. How long have you known Marion Bowman,
14 Jr.?

15 A. Since school, elementary school.

16 Q. Okay. How about James Taiwan Gadson, do you
17 know him?

18 A. Yes, I do.

19 Q. How long have you known him?

20 A. Since elementary school.

21 Q. Okay. How about Hiram Johnson?

22 A. Since elementary school.

23 Q. Okay. Darian Williams?

24 A. Since elementary school.

25 Q. Okay. Did you know Kandee Martin?

Travis D. Felder - Direct Exam

1 A. Yes, sir. Since elementary school.

2 Q. Okay. I want to call your attention to Friday,
3 February 16th, 2001 and ask what you did that Friday.

4 A. I went to work in Charleston at Thermo King.

5 Q. Okay.

6 A. And I came home. I got home around about 6:30.

7 Q. When you got home around 6:30, what did you do?

8 A. I came home, I washed up, I took a nap.

9 Q. Okay. And do you know about what time it was
10 when you woke up from your nap?

11 A. It was about 8:30.

12 Q. Okay. After you woke up, what did you do?

13 A. I, you know, left out of the house, got dressed
14 and left out of the house and went to a friend of
15 mine's house named Fred.

16 Q. Okay. Did you have anything to drink?

17 A. When I got to his -- when I got to Fred's house
18 I drank.

19 Q. Okay. What were you drinking?

20 A. Beer.

21 Q. Okay. And I would ask whether or not that night
22 did you see Marion Bowman, Jr.?

23 A. Yes, I do.

24 Q. Where did you see him, first see him?

25 A. He first came to Fred's house, he asked me

Travis D. Felder - Direct Exam

1 whether I was going to the club. I told him I didn't
2 know. He say if I do, come to the projects.

3 Q. All right. So you said you didn't know whether
4 you wanted to go to the club or not?

5 A. Yeah.

6 Q. Then what did he say to you?

7 A. He said if I did, come to the projects.

8 Q. Okay. All right. And what did you do after
9 that?

10 A. Excuse me?

11 Q. What did you do after you had that brief
12 conversation with Marion Bowman, Jr.?

13 A. I went back in the house. And then I seen a
14 friend of mine, Tyrone Smith, he came out of the
15 house and we went to club Get It Get It over there in
16 Bamberg.

17 Q. So you went to a club called Get It Get It in
18 Bamberg; is that right?

19 A. Yes, sir.

20 Q. What was going on when y'all got to that club?

21 A. It wasn't too much. It wasn't too much of a
22 crowd out there so we came back to Branchville.

23 Q. All right. When you came back to Branchville,
24 where did you go?

25 A. I went to Fred house. We split the beer up and

Travis D. Felder - Direct Exam

1 then I came back, I went to the projects.

2 Q. Okay. And when you got to the projects, who was
3 out there?

4 A. I seen Valorna Smith.

5 Q. Okay. Did you see anybody else there?

6 A. No, sir.

7 Q. Did you decide to go somewhere with Ms. Smith?

8 A. Yes. I decide to go to the club, so I picked --

9 Q. When you say the club --

10 A. I mean Allen Murray's Club.

11 Q. Okay.

12 A. And we went to the store because I had to get a
13 bag of ice to put in my cooler for my beer. And I
14 went to the store and somehow the seating, you know,
15 got switched, Yolanda Bowman sister -- I mean,

16 Yolanda Bowman drove her car also, she had some girls
17 with her, so Valorna Smith got out of the car with me
18 and Carolyn Brown got in the car with me.

19 Q. So when you went to the Allen Murray Club
20 Carolyn Brown went with you?

21 A. Yes, sir.

22 Q. Do you know about what time it was when you got
23 to Allen Murray Club?

24 A. Around 12:00.

25 Q. Okay. 12:00 midnight?

Travis D. Felder - Direct Exam

1 A. Yes.

2 Q. Okay. When you got to the club did you park
3 your car?

4 A. Yes, I did.

5 Q. Did you see anybody that you knew out in the
6 parking lot at the Allen Murray Club?

7 A. Yes, sir. I seen Marion Bowman, Hiram Johnson,
8 Darian Williams, and James Gadson.

9 Q. Okay. And did you have any contact with them
10 out in the parking lot?

11 A. No. I spoke when we were in the club.

12 Q. Okay. When you went into the club do you recall
13 any of those four guys coming in the club while you
14 were there?

15 A. Darian Williams came in the club, also James
16 Gadson.

17 Q. Okay. And what about Hiram Johnson and Marion
18 Bowman?

19 A. No, sir. They didn't come in the club.

20 Q. Okay. How long do you figure you stayed inside
21 Allen Murray Club?

22 A. Oh, about two hours, two hours and a half,
23 something like that.

24 Q. Okay. Now, at the end of that period of time
25 did you decide to go home?

Travis D. Felder - Direct Exam

1 A. Yes.

2 Q. Okay. And how did you get home?

3 A. I drove.

4 Q. Okay. You drove your car?

5 A. Yes, sir.

6 Q. Okay. Who went with you?

7 A. Carolyn Brown and Valorna Smith.

8 Q. Okay. And where did you go when you left the
9 club?

10 A. I went -- I went back to Branchville, I went to
11 the store, got some chips.

12 Q. What store did you go to?

13 A. EZ Horizon.

14 Q. Okay.

15 A. We went back to Apartment Number [] in the
16 projects.

17 Q. Okay. Whose apartment is Apartment [] in the
18 projects?

19 A. Valorna Smith.

20 Q. Who went to that apartment?

21 A. Me, Carolyn Brown, and Valorna Smith.

22 Q. All right. What did y'all do when you got to
23 Valorna Smith's apartment?

24 A. We sat around and watched a couple movies.

25 Valorna was opening my braids at the time.

Travis D. Felder - Direct Exam

1 Q. Okay. And did anybody else show up at the
2 apartment?

3 A. Yes.

4 Q. Who showed up?

5 A. Mr. Bowman came.

6 Q. Okay. And go ahead tell the jury what occurred
7 when Marion Bowman arrived at the apartments.

8 A. All right. There was a knock at the door, let
9 Mr. Bowman in, he open the door, they said come in,
10 he came in. He said, "Trav, come here, let me holler
11 at you quick like."

12 Q. He said, "Trav, come here, let me holler at you
13 quick like"?

14 A. Yes, sir.

15 Q. About what time are we talking about by then?

16 A. Around 3:00, somewhere in there.

17 Q. Around 3:00 a.m.?

18 A. Yes.

19 Q. Okay. When he said that to you, what did you
20 do?

21 A. I got up, went outside and closed the door. He
22 said --

23 Q. When you say "he" you got to give the name.

24 A. Mr. Bowman. Mr. Bowman. I talked to

25 Mr. Bowman. He said, "Come here, I need to park this

Travis D. Felder - Direct Exam

1 car."

2 Q. He said, "Come here, I need to park this car"?

3 A. Yeah.

4 Q. Okay. Do you remember how Marion Bowman, Jr.
5 was dressed that night, early that morning?

6 A. Black jeans.

7 Q. Okay.

8 A. Black shirt.

9 Q. Okay. And after he said he needed you to follow
10 him so he could go park a car, what did you do?

11 A. I said, "Okay." And I followed him.

12 Q. Okay. And you followed him in your car?

13 A. Yes.

14 Q. Okay. And can you describe the car he got in?

15 A. He got in a Ford Escort.

16 Q. Bear with me a second, please. Show you State's
17 Number 4. And besides the color of this car, does
18 that appear to be a car like he was in?

19 A. Yes, sir.

20 Q. Now, was this Ford Escort parked in a position
21 where you could see it from inside of the apartment
22 that y'all had been in?

23 A. No, sir.

24 Q. Okay. And did you follow the car?

25 A. Yes, sir.

Travis D. Felder - Direct Exam

1 Q. Who was driving the car?

2 A. Mr. Bowman was driving the car.

3 Q. All right. And did you leave the town of
4 Branchville?

5 A. Yes.

6 Q. Okay. Tell the jury where he went, where you
7 followed him.

8 A. We went out down McAlhany Road, then went out to
9 Nursery Road.

10 Q. Okay. And what happened when you got out to
11 Nursery Road?

12 A. He pulled up, he pulled in a little ways, he
13 pulled over to the right side of the road.

14 Q. Okay. Hold on just a second now, I want to show
15 you something. This is State's Number 71.

16 MR. BAILEY: Can you give me the laser
17 pointer?

18 Q. Okay. Travis, what I want you to do, can you
19 come on around here a minute? First of all, just
20 take a look at that and see if you're familiar with
21 that.

22 A. Yes, sir.

23 Q. You've been shown a picture like that, smaller
24 size, but you've seen that before?

25 A. Yes, sir.

Travis D. Felder - Direct Exam

1 THE COURT: You need to keep your voice up
2 because you don't have the microphone.

3 Q. Okay. I got a laser pointer here, just punch
4 that little red button. I'm going to ask you a
5 couple questions.

6 A. All right.

7 Q. If you need to point out something in there you
8 can punch that thing and point to them. And try to
9 stand out to the side where you don't block any of
10 the jurors here, okay?

11 A. All right.

12 Q. Okay. Can you -- when you followed Marion
13 Bowman, Jr. out to the location you've described, is
14 that shown on this little drawing here?

15 A. Yes, sir.

16 Q. Okay. Show the jury which way you approached
17 that area.

18 A. I came in from down here, pulled in, stopped
19 right along in here.

20 Q. Okay. And you've got this light pointed to
21 right here where it's got like an opening here?

22 A. Yes.

23 Q. Right there, okay. Tell you what let's do, I'm
24 going to get you to come up here and draw an X
25 roughly where he stopped the car.

Travis D. Felder - Direct Exam

1 A. (The witness complies.)

2 Q. All right. You can go ahead and have a seat for
3 right now.

4 A. (The witness complies.)

5 Q. Now, when Marion Bowman stopped that car at the
6 place indicated by the X on that map, what did you
7 do?

8 A. I pulled in behind him, he turned off his
9 lights. I still had my park lights on.

10 Q. You had your parking lights on, okay, is that
11 correct?

12 A. Yes, sir.

13 Q. Okay. What happened after he stopped that car
14 and you stopped your car and put your parking lights
15 on?

16 A. He went over into the woods. He was gone maybe
17 about a minute, two minutes. He pulled Kandee
18 Martin's body out by her feet, she was facedown on
19 the ground.

20 Q. When you say "he," I want you for the record --

21 A. Mr. Bowman.

22 Q. Mr. Bowman pulled Kandee Martin's body out of
23 the woods?

24 A. Yes.

25 Q. Okay. And how did he have her body, how was he

Travis D. Felder - Direct Exam

1 pulling the body?

2 A. By her feet.

3 Q. Okay. And with the parking lights on were you
4 able to see what he was doing?

5 A. I seen -- I seen him dragging a body. I didn't
6 realize who it was.

7 Q. Okay. And where did he drag the body to?

8 A. To the trunk of the car.

9 Q. The trunk of which car?

10 A. Of Kandee Martin's car.

11 Q. Okay. What did he do when he dragged the body
12 to the trunk of the car?

13 A. He open the trunk and he turned her over.

14 Q. Okay. Now, when he opened the trunk, were you
15 able to see any better there?

16 A. Yes.

17 Q. Why is that?

18 A. The trunk light came on and I know it was Kandee
19 Martin.

20 Q. How did you know that?

21 A. Because I knew it was her because the trunk
22 light came on, you know. We went to school together.

23 Q. You recognized her?

24 A. I recognized her face, yes.

25 Q. Okay. What happened then after you opened the

Travis D. Felder - Direct Exam

1 trunk?

2 A. He opened the trunk and he looked at me, he
3 said, "You didn't think I'd do it" --

4 Q. Okay. Slow down a second now. When you say "he
5 said," you're talking about Marion Bowman?

6 A. Mr. Bowman said.

7 Q. Okay. The best you can remember, real slow,
8 what did he say?

9 A. "You didn't think I did it, did you?"

10 Q. "You didn't think I did it, did you?"

11 A. Yes.

12 Q. Okay. And did you respond to that?

13 A. Yes, sir.

14 Q. What did you say?

15 A. I said, "Did what?" And he said, "I killed
16 Kandee Martin."

17 Q. Did you respond to that?

18 A. No. I was in shock then.

19 Q. Okay. Now, were you -- did you ever get out of
20 your car?

21 A. I opened the door.

22 Q. Did you get out?

23 A. No.

24 Q. Okay. And when you opened the door, did your
25 interior light come on?

Travis D. Felder - Direct Exam

1 A. No.

2 Q. Okay. And after that, what occurred?

3 A. He put the body in the trunk and told me to go
4 down the road and turn around. He pulled over to the
5 left side to a little wooded area, it was a field,
6 whatever. I went down the road, I came back --

7 Q. Show me. Let me hold this thing up. And I --
8 come on around here again.

9 A. (The witness complies.)

10 Q. Okay. Where did you turn around, Travis?

11 A. Right -- Kandee Martin -- he pulled in right
12 here.

13 Q. Okay.

14 A. I came up the road some more.

15 THE COURT: Mr. Felder, you got somebody
16 behind you. One of our jurors cannot see, you
17 need to begin again. There you go.

18 Q. Travis, talk out real loud now because you're
19 further away.

20 A. All right. He left from here, Mr. Bowman left
21 from here, he told me to go up and turn my car
22 around.

23 Q. Okay.

24 A. He pulled in this area right here.

25 Q. All right. What did you do?

Travis D. Felder - Direct Exam

1 A. I went further up the road and turn around.

2 Q. And where did you park?

3 A. I came back. As I turned around I came back and
4 parked in the middle of the road.

5 Q. Okay.

6 A. He was already up in here.

7 Q. All right. You can go ahead and have a seat
8 now.

9 A. (The witness complies.)

10 Q. Okay. After he went up in that little field as
11 you've described, you stop your car in the road,
12 what's the next thing you saw?

13 A. I seen him get out the car, he lit something,
14 threw it in the car, the car was on fire.

15 Q. Okay. What happened then?

16 A. He got in the car, we went --

17 Q. Got in what car?

18 A. He got in my car.

19 Q. Okay. You're still behind the wheel of your
20 car?

21 A. Yes, sir.

22 Q. Okay. What happened after you got in the car?

23 A. I said, "Black," I was referring to Mr. Bowman,
24 I said, "Man, I don't want nothing to do with this."

25 He said, "Travis, I ain't get you

Travis D. Felder - Direct Exam

1 involved with it, don't worry about it, everything is
2 taken care of."

3 Q. Where did you go?

4 A. I took him to his house.

5 Q. Okay. How long do you think it took you from
6 the time Marion Bowman, Jr. came to the apartment
7 until the time you dropped him off?

8 A. Maybe 30, 40 minutes, somewhere in there.

9 Q. Okay. I want to call your attention now to
10 several weeks before this happened and ask whether or
11 not you recall going to Orangeburg with Marion
12 Bowman?

13 A. Yes, sir. I did.

14 Q. Did somebody else go with you?

15 A. James Gadson.

16 Q. Okay. And where did you all go?

17 A. We went to my girlfriend's house first and he
18 told me he needed to go.

19 Q. Who?

20 A. Mr. Bowman told me he needed to go to Coleman
21 Street.

22 Q. To Coleman Street?

23 A. Yes, in Orangeburg. We went out to Coleman
24 Street and he purchased a .380.

25 Q. You were with him when he made the purchase?

Travis D. Felder - Direct Exam

1 A. Yes.

2 Q. I show you State's 42, ask if this appears to be
3 a gun like the one he purchased?

4 A. Yes, sir.

5 Q. And obviously you don't know the serial number
6 so you can't say that is the gun, right?

7 A. No, sir.

8 Q. February 16th did you see a gun like that?

9 A. Yes.

10 Q. Where?

11 A. When we got out to Nursery Road before he --
12 before he put the body in the car, he had it tucked
13 in his waist like.

14 Q. When you say "he," you're referring to Marion
15 Bowman?

16 A. Mr. Bowman.

17 Q. Okay. Travis, please answer any questions Mr.
18 Cummings may have for you.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. CUMMINGS:

22 Q. Mr. Felder, I'm going to say good morning to
23 you, sir. And I have some questions with you now
24 like you did for Mr. Bailey.

25 A. Yes, sir.

Travis D. Felder - Cross-Exam

1 Q. And I'm sure you were advised that I'd be asking
2 you a lot of questions, right?

3 A. Yes, sir.

4 Q. Let's go right back to the very beginning here.
5 On 2-16 you get off work, right?

6 A. Yes, sir.

7 Q. Okay. And then you drive all the way -- you see
8 Marion and then you drive all the way down to
9 Bamberg, is that right, sir, you go down to the
10 Bamberg club?

11 A. Yeah, I went to Bamberg.

12 Q. Okay. How long did it take you to drive to
13 Bamberg?

14 A. Not that long, it was maybe 15, ten minutes.

15 Q. Ten or 15 minutes to Bamberg from Orangeburg?

16 A. No, it wasn't in Bamberg.

17 Q. Okay. Where's the Bamberg club located at?

18 A. It's on Highway 78 going towards Bamberg.

19 Q. You're there for a while. Did you have anything
20 to drink at the club?

21 A. No, sir.

22 Q. Who were you with in the car down to the Bamberg
23 club?

24 A. Tyrone Smith.

25 Q. I'm sorry, who?

Travis D. Felder - Cross-Exam

1 A. Tyrone Smith.

2 Q. Okay. And then you come back to Branchville,
3 correct, sir?

4 A. Yes, sir.

5 Q. All right. And then you next see the fellows at
6 the Allen Murray Club; is that your testimony?

7 A. Yes, sir.

8 Q. And that was about what time, sir, again, about
9 12:00?

10 A. Yes, sir.

11 Q. You're sure of that?

12 A. Around 12:00.

13 Q. Around 12:00, okay. And you see Mr. Bowman
14 there at twelve o'clock?

15 A. Yes, sir.

16 Q. And then you stay for a while and you leave, if
17 I'm not mistaken, with some friends and you go back.
18 And, again, sir, having your hair up or down, you
19 were having your hair done down or something, or
20 taking the braids out?

21 A. Yeah, taking my braids out.

22 Q. Okay. Carolyn Smith was there?

23 A. Yes, sir.

24 Q. Valorna Smith was there?

25 A. Yes, sir.

Travis D. Felder - Cross-Exam

1 Q. Okay. And so then the next time you see Marion
2 Bowman it's about three o'clock in the morning,
3 right?

4 A. Yes, sir.

5 Q. And you're positive about that?

6 A. It's around that time.

7 Q. Okay. Three o'clock in the morning. And then
8 you go with him from your testimony to Nursery Road,
9 just follow him out in the car, right?

10 A. Yes, sir.

11 Q. Okay. Had you ever seen Mr. Bowman -- and,
12 again, I know you've been friends with Miss Martin
13 and you've grown up with her in the Branchville area
14 also, right?

15 A. Yes, sir.

16 Q. Okay. You know that Mr. Bowman and Miss Martin
17 were friends?

18 A. Yes, sir.

19 Q. And they were social friends; is that correct?

20 A. Yes, sir.

21 Q. And you'd see them together a lot, wouldn't you?

22 A. No, sir.

23 Q. Not a lot?

24 A. No, sir.

25 Q. Okay. Would you see her drive around with

Travis D. Felder - Cross-Exam

1 Marion?

2 A. No, sir.

3 Q. Never at all?

4 A. (Shaking head.)

5 Q. Okay.

6 THE COURT: You need to respond orally,
7 please.

8 A. No, sir.

9 Q. Okay. And then it's your testimony what you
10 told these folks that you come back after this
11 horrific issue and you go back to the apartment and
12 you do what?

13 A. Drunk a beer.

14 Q. Drunk a beer.

15 A. I went to sleep.

16 Q. And went to sleep?

17 A. Yes, sir.

18 Q. Okay. Now, you've been to college, you went to
19 at least a diesel school, correct?

20 A. Yes, sir.

21 Q. Having some advanced training, some advanced
22 education?

23 A. Yes, sir.

24 Q. All right. This horrific incident bothered you
25 so much you have a beer, go to bed, go to sleep,

Travis D. Felder - Cross-Exam

1 that's your testimony to these folks this morning?

2 A. Yes, sir.

3 Q. And then being the good civic citizen that you
4 were, okay, and the fact that a friend had just
5 passed away and died, according to your testimony,
6 that I'm sure you picked up the phone and called the
7 police and said, I need to tell you everything like
8 I'm telling these good folks today?

9 A. No, sir. I didn't.

10 Q. No, sir, you didn't. As a matter of fact, when
11 you were arrested you have never --

12 MR. BAILEY: Objection. Your Honor, may we
13 approach?

14 THE COURT: You may.

15 (Whereupon, a bench conference was held
16 off the record in the presence of the
17 jury but out of the hearing of the jury.)

18 Q. It was so important to you, Mr. Felder, that
19 when you got arrested you told the police all these
20 horrible things back in February of 2001, didn't you?

21 A. No, sir. I was scared.

22 Q. When did you enter into the plea bargain
23 agreement with the solicitor's office concerning you
24 getting the charge that you've pled to now?

25 MR. BAILEY: Objection, Your Honor, he's

Travis D. Felder - Cross-Exam

1 not pled.

2 Q. Excuse me. When did you enter the plea bargain
3 agreement?

4 A. Around last week sometime.

5 Q. Last week. Knowing right now when this case was
6 coming up for trial, right?

7 A. Yes, sir.

8 Q. And you're pleading to what offense again?

9 A. Arson after the fact.

10 Q. Accessory after the fact of arson?

11 A. Yes.

12 Q. Have you been told a possible sentence?

13 A. No, sir.

14 Q. Since February of today, where have you been?

15 Where have you been? Out in the community where have
16 you been?

17 A. February up to today?

18 Q. February of 2001 until today, where have you
19 been?

20 A. I've been locked up for three months in
21 Orangeburg County and I got out around last part of
22 May. And I've been looking for a job. I recently
23 got a job in December with Cox's Wood.

24 Q. Do you personally know what the maximum sentence
25 is for the plea bargain that you got?

Travis D. Felder - Cross-Exam

1 A. No, sir.

2 MR. CUMMINGS: I beg the Court's
3 indulgence, Your Honor.

4 THE COURT: Yes, sir.

5 (Mr. Cummings and Ms. Hardee-Thomas conferring
6 with Mr. Bowman.)

7 Q. Mr. Felder, it wasn't until last week, and I
8 want to go back over it again, how many times have
9 you met with anybody representing the State to go
10 over your testimony today?

11 A. Excuse me?

12 Q. How many times have you met with anybody to go
13 over your testimony today --

14 A. Once.

15 Q. -- with the State? One time. And you were
16 shown that picture?

17 A. Yes.

18 Q. Okay. And not to scale drawing, okay. And as
19 far as your testimony today, it's required for that
20 plea bargain, isn't it?

21 A. Yes.

22 Q. Thank you.

23 MR. CUMMINGS: That's all the questions we
24 have, Judge.

25 THE COURT: Very well. Any redirect?

Travis D. Felder - Redirect Exam

REDIRECT EXAMINATION

1

2 BY MR. BAILEY:

3 Q. Travis, we met in your lawyer's office a couple
4 weeks ago, right?

5 A. Yes.

6 Q. And this morning we also talked; is that
7 correct?

8 A. Yes.

9 Q. So you've actually talked to me two times?

10 A. Yes, sir.

11 Q. Just to correct that. All right. And as far as
12 your plea agreement to testify, that's to testify in
13 what manner?

14 A. To tell the truth.

15 MR. CUMMINGS: Judge, it's bolstering.

16 MR. BAILEY: Sure, it is, Your Honor,
17 because he's been trying to discredit this
18 witness throughout the entire cross-examination,
19 I think he's attacked his credibility to the
20 extent that I could.

21 THE COURT: I understand. Sustained.

22 MR. BAILEY: Your Honor, that's all I have.
23 Thank you.

24

25

Travis D. Felder - Recross-Exam

RECROSS-EXAMINATION

1
2 BY MR. CUMMINGS:

3 Q. You've never put anything in writing about this
4 at all?

5 MR. BAILEY: Your Honor, objection. That's
6 not in response to anything I said in redirect.

7 THE COURT: Sustained.

8 MR. CUMMINGS: He met with the solicitor.
9 I didn't hear it, Judge, I apologize.

10 THE COURT: That's all right. I'll allow
11 it. You can ask the question, I'll allow it.

12 Q. You never put one thing in writing about it, did
13 you?

14 A. Excuse me?

15 Q. You never put anything down in writing, a
16 statement or anything about this at all, did you,
17 sir?

18 A. I don't understand your question.

19 Q. Did you write any words on a piece of paper
20 about what you just testified to today for anybody?

21 A. Did I write it?

22 Q. Yes.

23 A. No, sir.

24 Q. Did any police officer write it?

25 A. No.

Travis D. Felder - Recross-Exam

1 MR. CUMMINGS: Thank you, Judge.

2 THE COURT: Very well. Is this witness
3 free to leave, counsel?

4 MR. BAILEY: Yes, ma'am.

5 MR. CUMMINGS: Yes, ma'am.

6 THE COURT: Very well. You are free to go.
7 (Whereupon, the witness steps down from the
8 witness stand.)

9 THE COURT: If you would call your next
10 witness.

11 MR. BAILEY: Valorna Smith.

12 (Valorna Smith, called as a witness, having
13 first been duly sworn, is examined and testifies
14 as follows:)

15 DIRECT EXAMINATION

16 BY MR. BAILEY:

17 Q. All right. Like the judge said, talk up loud
18 where I can hear you, that way these jurors over here
19 can hear you, all right? You're Valorna Smith?

20 A. Yes.

21 Q. Where do you live now?

22 A. [REDACTED], Apartment [REDACTED].

23 Q. Is that in Branchville Villas?

24 A. Yes.

25 Q. Did you live there in February 2001?

Valorna Smith - Direct Exam

1 A. Yes.

2 Q. Okay. Do you know the defendant in this case,
3 Marion Bowman, Jr.?

4 A. Yes.

5 Q. Can you point him out, please, for the jury?

6 A. (Indicating.)

7 Q. He's the young man there, shirt, no coat?

8 A. Yes.

9 Q. Okay. How long have you known him?

10 A. All my life. We went to school together.

11 Q. Okay. And how about Travis Felder, do you know
12 him?

13 A. Yes.

14 Q. How long have you known him?

15 A. All of my life. We went to school together.

16 Q. Okay. I want to call your attention to Friday
17 evening, February 16th, 2001, ask you if you remember
18 what you did that night?

19 A: Went to Allen Murray Club.

20 Q. Who did you go with?

21 A. Yolanda Bowman.

22 Q. Yolanda Bowman?

23 A. Yes.

24 Q. Whose car did you all go in?

25 A. Yolanda's.

Valorna Smith - Direct Exam

1 Q. What kind of car did she have back then?

2 A. I think it's a Volkswagen.

3 Q. Okay. And just the two of you all went?

4 A. No.

5 Q. Who else went with you?

6 A. Callie Hallbeck, Lavette Brown, Sameeka, and me,
7 and Yolanda.

8 Q. Okay. Now, when you got to the Allen Murray
9 Club in Bowman, did you see anybody you knew out in
10 the parking lot?

11 A. Yes.

12 Q. Who did you see?

13 A. Marion Bowman.

14 Q. Okay. Anybody else?

15 A. Uh-huh (affirmative response).

16 Q. Who else?

17 A. Hiram Johnson.

18 Q. Okay.

19 A. James Gadson.

20 Q. All right.

21 A. And Darian Williams.

22 Q. Darian Williams?

23 A. Uh-huh (affirmative response).

24 THE COURT: You need to answer audibly.

25 THE WITNESS: Oh, okay.

Valorna Smith - Direct Exam

1 Q. So you saw those guys out in the parking lot; is
2 that correct?

3 A. Yes.

4 Q. Okay. When you got to the club, what did you
5 do?

6 A. What did I do?

7 Q. Yes, ma'am. Did you go inside?

8 A. Yes.

9 Q. Okay. And did you stay inside the whole time,
10 or were you in and out?

11 A. I stepped out for a minute before I left.

12 Q. Okay. When you stepped out for a minute did you
13 see anybody you knew out there?

14 A. Marion Bowman.

15 Q. Okay. And how close did you get to him?

16 A. About maybe me and her distance.

17 Q. Okay. And you're talking about Ms. Keil, the
18 court reporter, the tan dress on there?

19 A. Yes.

20 Q. Okay. Did you notice anything about Marion
21 Bowman when you got that close to him?

22 A. I did see a pistol in his right pocket.

23 Q. Okay. Do you know about what time you left the
24 club?

25 A. Something to 3:00.

Valorna Smith - Direct Exam

- 1 Q. Okay. So getting close to 3:00 a.m.?
- 2 A. Yes.
- 3 Q. Okay. Who did you leave with?
- 4 A. Travis Felder and Carolyn Brown.
- 5 Q. All right. And whose car were you all in?
- 6 A. Travis's.
- 7 Q. Okay. Where did you y'all go when you left?
- 8 A. We went to Horizon in Branchville.
- 9 Q. Okay. Horizon is a convenience store in
- 10 Branchville?
- 11 A. Gas station.
- 12 Q. What did y'all do there?
- 13 A. He went out, he got a bag of chips and some dip.
- 14 Q. You're talking about Travis?
- 15 A. Yes.
- 16 Q. Okay. After he bought the chips and dip, what
- 17 did y'all do?
- 18 A. Went to my apartment.
- 19 Q. All right. When you say "we," all three of you
- 20 went there?
- 21 A. Yes.
- 22 Q. What did you all do when you went to your
- 23 apartment?
- 24 A. We watched TV and I start taking out his braids.
- 25 Q. Start taking out Travis's braids?

Valorna Smith - Direct Exam

1 A. Travis's braids.

2 Q. All right. Now, did anybody else arrive at your
3 apartment early that morning?

4 A. Yes.

5 Q. Who?

6 A. Marion Bowman.

7 Q. Okay. And tell us what you recall of that.

8 A. We got a knock at the door, I got up and we look
9 out the window and we didn't see no cars.

10 Q. Okay.

11 A. We say, "Who?" He said, "J. R." We sat down
12 and somebody unlocked the door. We sat down --

13 Q. You're trailing off a little bit now, I can
14 barely hear you now.

15 A. Unlocked the door and sat down, said, "Come in."
16 He stuck his head in.

17 Q. Who stuck his head in?

18 A. Marion.

19 Q. Okay.

20 A. He never did come all the way in, he stuck his
21 head in. And said, "Trav, come here, come here,
22 man." He got up and went.

23 Q. Who got up and went?

24 A. Trav.

25 Q. Okay. And Travis did leave the apartment?

Valorna Smith - Direct Exam

1 A. And came back.

2 Q. All right. Please answer any questions Mr.

3 Cummings might have for you.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. CUMMINGS:

7 Q. Good morning, ma'am.

8 A. Good morning.

9 Q. When you went to the club, okay, can you just
10 tell these ladies and gentlemen of the jury what kind
11 of -- what we're talking about here at this club?
12 Tell us what kind of building is it, what kind of
13 area is it?

14 A. Well, it's in the little country part of Bowman.

15 Q. Yes, ma'am.

16 A. And the building is, I mean --

17 Q. Cinder block, wood?

18 A. I'm not sure.

19 Q. All right. Do you want to tell us about the
20 lighting conditions around there? Not very lit up,
21 is it?

22 A. Not much.

23 THE COURT: Keep your voice up, please.

24 A. Not much.

25 Q. No, not much. And then you're from there to

Valorna Smith - Cross-Exam

1 here, right?

2 A. Yes. Yes.

3 Q. Okay. That's about, maybe, ten, 15 feet; is
4 that about fair, ma'am?

5 A. Yes.

6 Q. Okay. And how long were you in Mr. Bowman's
7 presence?

8 A. Oh, not that long.

9 Q. Not that long, okay. Did you see anybody
10 wearing anything on their hands, like gloves or
11 anything?

12 A. Oh, no.

13 Q. Did you see any gloves hanging in anybody's
14 pockets or anything?

15 A. No.

16 Q. Did you happen to see anything out of the
17 ordinary there when you were talking with Mr. Bowman,
18 Mr. Johnson --

19 A. I wasn't talking to none of them.

20 Q. But did anything happen, anybody running around
21 or anything, or anybody --

22 A. No.

23 Q. Just everybody fine, right?

24 A. Yes.

25 Q. Okay. And everything was -- just as you told

Valorna Smith - Cross-Exam

1 these folks a few moments ago, everything was nice
2 and calm, spent a few seconds with them, went back in
3 the club?

4 A. I was out there, yes.

5 Q. Okay. And then you go back inside and you don't
6 know what else happens until about three o'clock in
7 the morning. And you're sure of that?

8 A. When I left, when I left out the club, was
9 getting in the car to go home and that was it. I
10 didn't see him anymore.

11 Q. Okay. And at three o'clock in the morning
12 Mr. Bowman comes to the door?

13 A. After 3:00, yes.

14 Q. You're sure of that? After 3:00, excuse me.

15 A. Yes.

16 Q. About what time would you say, ma'am? I don't
17 want to put any words in your mouth, what time after
18 3:00?

19 A. It's after 3:30, I know that.

20 Q. After 3:30?

21 A. Yeah.

22 Q. Okay. And then Travis and he are gone. And I
23 want you to tell these folks how long were they gone?

24 A. Travis was gone about ten, 15 minutes and he
25 came back. And when he came back he came back by

Valorna Smith - Cross-Exam

1 hisself.

2 Q. Yes, ma'am. And what did Mr. Felder do with you
3 after he came back, please?

4 A. Finished watching TV.

5 Q. Just sat there and watched TV?

6 A. And I finished taking his braids out.

7 Q. Yes, ma'am. Did you guys have any alcoholic
8 beverages, anything at all?

9 A. I don't drink.

10 Q. Yes, ma'am.

11 A. But him and Callie, Callie Brown, them two had a
12 few beers.

13 Q. A couple beers, right?

14 A. Yes.

15 Q. So everything was fine?

16 A. Yes.

17 Q. Had you seen Mr. Gadson at all?

18 A. Not since, no.

19 Q. Not since the club?

20 A. Unh-unh (negative response).

21 Q. And you didn't see Mr. Gadson earlier that
22 night?

23 A. No. I just seen him in the club and that was
24 it.

25 Q. Did you notice anything in particular about

Valorna Smith - Cross-Exam

1 Mr. Gadson, did he have any brown gloves on or
2 anything?

3 A. No.

4 Q. Did he have anything hanging out of his pockets?

5 A. No.

6 MR. CUMMINGS: Beg the Court's indulgence,
7 Your Honor.

8 THE COURT: Yes, sir.

9 (Mr. Cummings and Ms. Hardee-Thomas conferring
10 with Mr. Bowman.)

11 MR. CUMMINGS: Thank you. That's all the
12 questions we have of this lady, Judge.

13 THE COURT: Thank you.

14 Any redirect?

15 MR. BAILEY: No, ma'am.

16 THE COURT: Is this witness free to leave?

17 MR. BAILEY: Yes, ma'am.

18 THE COURT: Any objection?

19 MR. CUMMINGS: No, ma'am.

20 (Whereupon, the witness steps down from the
21 witness stand.)

22 THE COURT: Ladies and gentlemen, we are
23 going to take our morning break. I'm going to
24 ask you to step to the jury room. Obviously if
25 they need to smoke, certainly let them do that.

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1 Be mindful not to discuss this matter or allow
2 anyone to discuss it with you. Take about a
3 15-minute break and they'll be with you in a
4 little while.

5 (Whereupon, the jury retires to the jury room at
6 11:26 a.m.)

7 THE COURT: All right. We will take our
8 break.

9 MR. CUMMINGS: Thank you.

10 (Recess, from 11:26 a.m. to 11:45 a.m.)

11 THE COURT: All right. Anything before we
12 bring the jury out?

13 MR. BAILEY: Nothing from the State, Your
14 Honor.

15 MR. CUMMINGS: Nothing else from the
16 defense, Judge.

17 THE COURT: Thank you. Please bring our
18 jury out.

19 (Whereupon, the jury returns to the courtroom at
20 11:45 a.m.)

21 THE COURT: All right, ladies and
22 gentlemen, we'll now continue with the State's
23 case.

24 Mr. Bailey.

25 MR. BAILEY: Thank you, Your Honor. State

Terrence A. Van Doran - Direct Exam

1 calls Terry Van Doran.

2 (Terrence A. Van Doran, called as a witness,
3 having first been duly sworn, is examined and
4 testifies as follows:)

5 DIRECT EXAMINATION

6 BY MR. BAILEY:

7 Q. Your name, please?

8 A. Terrence Arnold Van Doran.

9 Q. All right, sir. Where are you employed?

10 A. Dorchester County Sheriff's Office, sir.

11 Q. In what capacity?

12 A. I'm a detective sergeant.

13 Q. All right, sir. Were you a detective sergeant
14 back in February 2001 with the Dorchester County
15 Sheriff's Office?

16 A. Yes, sir.

17 Q. And I would ask whether or not in the course of
18 your duties on February 17th, 2001, whether or not
19 you went to the scene of a burned car?

20 A. I did, sir.

21 Q. And body being discovered on Nursery Road in
22 Dorchester County?

23 A. Yes, sir.

24 Q. All right, sir. And I would ask whether or not
25 after going to the scene of where the burned car was,

Terrence A. Van Doran - Direct Exam

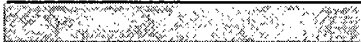
1 whether or not you went to an address in the city
2 of -- town of Branchville?

3 A. We did, sir.

4 Q. All right, sir. When you say "we," you're
5 referring to you and other law enforcement officers?

6 A. Yes, sir.

7 Q. All right, sir. I'm going to hand you a
8 photograph marked State's 26, and ask if you can
9 identify this picture?

10 A. Yes, sir. It's a residence at 
11 in Branchville.

12 Q. All right, sir.

13 MR. BAILEY: Your Honor, I would offer
14 this.

15 THE COURT: Be sure counsel sees it.

16 MR. CUMMINGS: Without objection, Your
17 Honor.

18 THE COURT: Very well. State's Exhibit 26
19 in evidence without objection.

20 (Entered into evidence was State's Exhibit 26,
21 photograph.)

22 Q. That's a mobile home, is that correct, Mr. Van
23 Doran?

24 A. Yes, sir.

25 Q. You can see it in the monitor over there, I

Terrence A. Van Doran - Direct Exam

1 believe, where you're sitting.

2 A. Yes, sir. It is.

3 Q. When you got to that address in Branchville with
4 the other police officers, would you state whether or
5 not you went inside?

6 A. We did, sir.

7 Q. Okay. Who was the first person y'all
8 encountered when you went to the door of the
9 residence?

10 A. The first person was Ms. Dorothy Bowman.

11 Q. Okay. And would you state whether or not you
12 requested permission to enter that residence?

13 A. We did, sir.

14 Q. Okay. What was your purpose in going to that
15 residence of Dorothy Mae Bowman?

16 A. To see if we could locate and arrest the
17 defendant, Marion Bowman.

18 Q. All right. And when you went inside of the
19 mobile home, would you please tell the jury what
20 observations you made.

21 A. As you go in the residence the first -- as you
22 go through the door you're in the kitchen area, to
23 the right is a living room, and to the left as you go
24 down the hallway there was a bedroom on the left.

25 And that's as far as I got in the residence.

Terrence A. Van Doran - Direct Exam

1 Q. Okay. And would you state whether or not you
2 observed the defendant in this case, Marion Bowman,
3 Jr., inside of that mobile home?

4 A. I did, sir.

5 Q. All right, sir. Where did you observe him?

6 A. He was hiding behind the bed in the first
7 bedroom to the left as you go down the hallway.

8 Q. Okay. How was he dressed?

9 A. He was in his underwear, sir.

10 Q. Would you state whether or not he was arrested
11 at that point?

12 A. Yes, sir. He was.

13 Q. All right, sir. When someone is arrested, is it
14 routine practice to give them Miranda rights?

15 A. Yes, sir.. It is.

16 Q. Did you do that in this case?

17 A. I did, sir.

18 Q. And how did you do that?

19 A. I did it from a Miranda card that I carry in my
20 wallet.

21 Q. All right, sir. Do you have that with you now?

22 A. I do, sir.

23 Q. Okay. If you would just go ahead. Is that the
24 same card you had before --

25 A. Yes, sir.

Terrence A. Van Doran - Direct Exam

1 Q. -- that you read to him? Go ahead, just for the
2 record read what you read to him on February 17th,
3 2001.

4 A. Starts off "You have the right to remain silent,
5 anything you say can and will be used against you in
6 a court of law. You have a right to talk to a
7 lawyer, have him or her present with you while you're
8 being questioned. If you cannot afford to hire a
9 lawyer, one will be appointed to represent you before
10 any questioning if you wish. You can decide at any
11 time to exercise these rights and not answer any
12 questions or make any statements."

13 Then I asked him do you understand
14 each of these rights as I have explained them to you.

15 Q. All right. What was his response, if any?

16 A. He said he understood, sir.

17 Q. Okay. I may have asked this before, but can you
18 point him out in the courtroom, please?

19 A. Yes, sir. He's sitting at the defense table in
20 the white shirt.

21 Q. That's Marion Bowman, Jr., the person you placed
22 under arrest February 17 at this location?

23 A. Yes, sir.

24 Q. All right, sir. Now, after finding Mr. Bowman
25 behind the bed in his underwear, was there any

Terrence A. Van Doran - Direct Exam

1 conversation that you had with him that you heard him
2 say in your presence?

3 A. Yes, sir. Because he was in his underwear I
4 asked him if he wanted his pants so he could wear
5 them when he left the residence. And he said he did.

6 Q. Okay. And did you obtain some pants?

7 A. Yes, sir. I did.

8 Q. Where from?

9 A. They were in the living room area.

10 Q. Okay. And let me show you a photograph here.
11 First of all, it's been marked State's 17 for
12 identification, I would ask you to look at that, see
13 if these appear to be the pants that you obtained?

14 A. Yes, sir.

15 MR. BAILEY: For the record this is State's
16 38 for identification at this point. And I
17 would offer these into evidence at this time.

18 THE COURT: Any objection?

19 MR. CUMMINGS: No, Judge, no objection.

20 THE COURT: Very well. State's Exhibit in
21 evidence without objection, it is State's Number
22 38.

23 (Entered into evidence was State's Exhibit 38,
24 black Levi's jeans.)

25 Q. I'm going to show you State's 25 for

Terrence A. Van Doran - Direct Exam

1 identification, and ask if this is a photograph of
2 those pants taken at the residence of Mrs. Bowman?

3 A. Yes, sir.

4 Q. Okay. And does this accurately depict the pants
5 as you observed them on February 27th (sic), 2001?

6 A. Yes, sir.

7 Q. Okay.

8 MR. BAILEY: Would offer this, Your Honor.

9 THE COURT: Any objection?

10 MR. CUMMINGS: No legal objection, Judge,
11 to State's 25, photo of the pants.

12 THE COURT: State's 25 in evidence without
13 objection, it is a photograph.

14 (Entered into evidence was State's Exhibit 25,
15 photograph.)

16 Q. After obtaining those pants what, if anything,
17 did you do with them?

18 A. I checked the pants to make sure that there was
19 no weapons or anything in the pants that he shouldn't
20 have before I gave them to him.

21 Q. All right. And what, if anything, did you find
22 when you checked the pockets of those pants?

23 A. I found a -- I found money, a tube of Chapstick,
24 and a lady's wristwatch with a brown band.

25 Q. All right, sir. I would hand you what's been

Terrence A. Van Doran - Direct Exam

1 marked for identification as State's 39, ask if you
2 can identify that?

3 A. Yes, sir.

4 Q. What is that, sir?

5 A. That's the watch that was removed from his pants
6 pocket, sir.

7 MR. BAILEY: Your Honor, I would offer
8 State's 39 into evidence.

9 THE COURT: Any objection?

10 MR. CUMMINGS: Judge, yes, ma'am. I would
11 ask it be marked for ID right now, because there
12 may be some explanation about some other things.

13 THE COURT: Very well.

14 MR. CUMMINGS: Thank you, Judge.

15 THE COURT: You're withdrawing the offer
16 right now; is that right?

17 MR. BAILEY: Just for identification,
18 that's fine at this point.

19 THE COURT: Identification, very well.

20 BY MR. BAILEY:

21 Q. Mr. Van Doran, I would show you State's 24 for
22 identification, ask you if that's a photograph of the
23 watch you just observed?

24 A. Yes, sir. It is.

25 Q. All right, sir. When -- after arresting Marion

Terrence A. Van Doran - Direct Exam

1 Bowman, Jr. was he taken out of the trailer in some
2 other attire besides those black pants?

3 A. Yes, sir.

4 Q. All right, sir. Y'all retained those in the
5 trailer?

6 A. We did, sir.

7 Q. All right, sir. And where was Marion Bowman
8 taken after he was arrested?

9 A. To the Branchville Police Department, sir.

10 Q. All right, sir. Mr. Van Doran, please answer
11 any questions that Mr. Cummings may have for you,
12 sir.

13 THE COURT: Cross-Examination.

14 CROSS-EXAMINATION

15 BY MR. CUMMINGS:

16 Q. Mr. Van Doran, good morning, sir.

17 A. Good morning, sir.

18 Q. All right. I'm going to go back and start and
19 try to go through it as quickly as I can with you.
20 What time did you get called out?

21 A. It was about 4:00 a.m. in the morning, sir.

22 Q. You arrived on Nursery Road about what time,
23 approximately, sir?

24 A. 4:45, 4:50, roughly.

25 Q. I want you if you -- in your words, sir, now how

Terrence A. Van Doran - Cross-Exam

1 many law enforcement vehicles were on the road when
2 you got there at 4:45 in the morning, approximately?

3 A. All I can say would be several, sir.

4 Q. Okay. When you pulled up were there yellow
5 tapes blocking off both ends of Nursery Road?

6 A. I only know about the one end that I approached
7 from, sir.

8 Q. You approached from which end?

9 A. It would be the southeast end.

10 Q. Okay. It's your testimony that road was blocked
11 off at that time?

12 A. As best I remember, yes, sir.

13 Q. Okay. And how many people were walking up and
14 down the roadway as best you recall, sir?

15 A. I would say I saw approximately four or five
16 people where I walked.

17 Q. Okay. It was still dark at this time, correct,
18 sir?

19 A. Yes, sir. I never got up to the actual area
20 where they were working.

21 Q. Okay. Which is where on -- and I'm going to --
22 just keep right there in your seat, okay? And I'm
23 going to stand behind you a little bit.

24 MR. CUMMINGS: If I may approach the
25 witness, Your Honor.

Terrence A. Van Doran - Cross-Exam

1 THE COURT: You certainly may.

2 Q. Just a moment here, then I'll bring you down,
3 show the jury. Maybe if you hold it there with your
4 left hand. That's Nursery Road, right, going this
5 way?

6 A. Yes, sir.

7 Q. And you'll have to point it that way also,
8 Mr. Van Doran, if you can, please. Just hold it.
9 And you were heading -- you came in which way, off
10 Independent School Road?

11 A. Yes, sir.

12 Q. All right. So you made a left?

13 A. I did.

14 Q. Where did you park your vehicle, your cruiser?

15 A. No, sir. I made a right coming in.

16 Q. All right. So you made a right coming in the
17 other way, all right. Where did you park your
18 cruiser, approximately?

19 A. Can you point out where the burnt vehicle is on
20 this for me, sir?

21 Q. You have not done this and you have not looked
22 at this?

23 A. I have not, sir.

24 Q. If I would tell you that it's not drawn to
25 scale, a SLED agent stated this was the vehicle right

Terrence A. Van Doran - Cross-Exam

1 here.

2 A. Yes, sir.

3 Q. All right. So if you'll take that as a given,
4 that's the vehicle right there.

5 A. I would have been parked over in this area.

6 Q. Way over down that way?

7 A. Yes, sir.

8 Q. Okay. So the tape was over here?

9 A. Yes, sir.

10 Q. Okay. And you went up to approximately where,
11 sir?

12 A. I probably got about to where this picture
13 actually starts on this chart.

14 Q. Okay. Let me have that back from you just a
15 moment.

16 A. (The witness complies.)

17 Q. And then what's the very first thing you do?

18 A. I spoke with a couple of the other investigators
19 that was there, including Detective Coker. And
20 Detective Coker went up to the actual scene area.

21 Q. Yes, sir.

22 A. And then came back and he and I went to
23 Branchville.

24 Q. Okay. Now, when you arrested Mr. Bowman, is it
25 your testimony that he asked you for his trousers, or

Terrence A. Van Doran - Cross-Exam

1 did you ask him did he want something to put on?

2 A. I think I said something to the effect you
3 want -- do you want your pants to leave the house in?

4 Q. Okay. And what we're seeing up on the screen
5 right now, that's exactly where the trousers were?

6 A. As best I remember, yes, sir.

7 Q. Front couch?

8 A. They were in the living room.

9 Q. Okay. Or in the living room, excuse me.

10 A. Yes, sir.

11 Q. All right. And that's how you found them?

12 A. Pretty much, yes, sir.

13 Q. And you went through the pockets?

14 A. I did, sir.

15 Q. Okay. And then you took those items and
16 Mr. Bowman was given something else to wear, correct?

17 A. Yes, sir.

18 Q. Okay. And then he was taken to Branchville
19 Police Department?

20 A. Yes, sir.

21 Q. Okay.

22 MR. CUMMINGS: Beg the Court's indulgence,
23 Your Honor.

24 THE COURT: All right.

25 (Pause in proceedings.)

Terrence A. Van Doran - Cross-Exam

1 Q. Let me go back up a little bit more, I
2 apologize. I just went one step too quick, I
3 apologize to you, sir.

4 When you got there and you placed him
5 under arrest, okay, you were there within his
6 presence, I mean real close to him, right?

7 A. Yes, sir.

8 Q. You read him his Miranda warnings?

9 A. Yes, sir.

10 Q. Okay. Did you notice any odors of flammable
11 material on his person?

12 A. No, sir.

13 Q. Did you look around in the house and see how the
14 house was heated, sir?

15 A. I did not.

16 Q. You did not?

17 A. No, sir.

18 Q. Was somebody there with a camera? Because
19 somebody had to take a picture of that, right?

20 A. Sergeant Coker.

21 Q. So you weren't in charge of taking pictures?

22 A. No, sir.

23 Q. You didn't see any kerosene heaters there to
24 heat that trailer?

25 A. I did not, sir.

Terrence A. Van Doran - Cross-Exam

1 Q. You were walking around because --

2 A. The only places I went was in the kitchen area,
3 the first bedroom to the left, and the immediate part
4 of the living room.

5 Q. Okay. And when you arrested Mr. Bowman, had you
6 received any information that there was a shooting of
7 a human being?

8 A. Yes, sir.

9 Q. All right. Did anybody secure Mr. Bowman's
10 hands for any testing, like trace metal, or any
11 nitrate testing to see if a gun had been fired in his
12 hands?

13 A. No, sir.

14 Q. Would you agree with me that's pretty important?

15 A. If I suspect that someone's fired a gun, yes,
16 sir, then I would do that.

17 Q. Okay. You're there looking for somebody who --
18 you found out that there's -- you're there to
19 investigate a crime, right?

20 A. We were there to make an arrest of Mr. Bowman,
21 yes, sir.

22 Q. Okay.

23 MR. CUMMINGS: Beg the Court's indulgence.

24 THE COURT: Very well.

25 (Mr. Cummings and Ms. Hardee-Thomas conferring

Terrence A. Van Doran - Cross-Exam

1 with Mr. Bowman.)

2 MR. CUMMINGS: Judge, I have no further
3 questions, but subject to recall if necessary
4 and I don't know how to put it any other way
5 right now.

6 THE COURT: Any redirect?

7 MR. BAILEY: No redirect, Your Honor.

8 THE COURT: Very well. Subject to being
9 recalled, you're free to go.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness steps down from the
12 witness stand.)

13 MR. BAILEY: Call Jimmy Nettles.

14 (James A. Nettles, called as a witness, having
15 first been duly sworn, is examined and testifies
16 as follows:)

17 DIRECT EXAMINATION

18 BY MR. BAILEY:

19 Q. Mr. Nettles, where are you employed?

20 A. The Dorchester County Sheriff's Office.

21 Q. What is your rank and job description at the
22 sheriff's office?

23 A. I am a detective lieutenant, I am in charge of
24 all the investigators in the county.

25 Q. All right. I want to call your attention to

James A. Nettles - Direct Exam

1 February 17th, 2001 and ask whether or not in the
2 course of your duties with the sheriff's department
3 you went to Branchville?

4 A. Yes, sir. I did.

5 Q. All right, sir. And this is State's 26 in
6 evidence. And can you see it from where you're
7 sitting?

8 A. Barely.

9 Q. All right. Get up and walk around here if you
10 need to.

11 A. (The witness complies.)

12 Q. All right, sir. Do you recognize that?

13 A. Yes, sir. I do.

14 Q. All right, sir. Did you go to that location in
15 Branchville with other law enforcement officers on
16 February 17th, 2001?

17 A. Yes, sir. I did.

18 Q. All right, sir. And without saying, repeating
19 anything that she told you, did you have a
20 conversation with Dorothy Bowman?

21 A. Yes, sir. I did.

22 Q. Okay. And it was your understanding that was
23 Marion Bowman, Jr.'s wife?

24 A. Yes, sir. It was.

25 Q. All right, sir. And did you inquire as to

James A. Nettles - Direct Exam

1 whether or not she was the lawful resident and
2 occupant of that location at that address?

3 A. Yes, sir. I most certainly did.

4 Q. Okay. And I'm going to hand you a document
5 marked State's 27 for identification and ask you if
6 you can recognize that?

7 A. Yes, sir. I do. This is a Dorchester County
8 Sheriff's Office Consent to Search form.

9 Q. All right, sir. And do you recognize your
10 signature on that?

11 A. Yes, sir. I do.

12 Q. Okay.

13 MR. BAILEY: Your Honor, I would offer this
14 into evidence at this time.

15 MR. CUMMINGS: Judge, I have no legal
16 objection to that document.

17 THE COURT: Very well.

18 MR. BAILEY: State's 27, Your Honor.

19 THE COURT: Thank you. State's Exhibit 27
20 into evidence without objection.

21 (Entered into evidence was State's Exhibit 27,
22 Consent to Search form.)

23 Q. Does that have a date on it?

24 A. Yes, sir. It does.

25 Q. What is that date?

James A. Nettles - Direct Exam

1 A. February 17th of 2001.

2 Q. You referred to that as the consent to search
3 form; is that correct?

4 A. Yes, sir.

5 Q. All right, sir. Does that list certain items
6 that were recovered during the search of the premise
7 that's shown up on the screen?

8 A. Yes, sir.

9 Q. Would you state whether or not those items
10 include a pair of black Levi's and a lady's watch?

11 A. Yes, sir. It does.

12 Q. Okay. And did you witness Dorothy Bowman, the
13 occupant of that resident, sign the consent to search
14 form?

15 A. Yes, sir. I did.

16 Q. You signed that underneath it; is that correct,
17 sir?

18 A. Yes, sir.

19 Q. And were those items subsequently removed from
20 that residence?

21 A. Yes, sir.

22 Q. The watch and the pants among other items?

23 A. Yes, sir.

24 Q. Please answer any questions, if any, Mr.
25 Cummings may have for you.

James A. Nettles - Cross-Exam

1 THE COURT: Yes, sir. Cross-Examination.

2 CROSS-EXAMINATION

3 BY MR. CUMMINGS:

4 Q. What time did you get called out that morning on
5 the early morning hours of the 17th?

6 A. I believe it was between 3:00 a.m. and 4:00 a.m.

7 Q. All right, sir. And you got to Nursery Road
8 about what time?

9 A. I'm not exactly sure what time it was. I
10 believe the sun was starting to come up.

11 Q. All right, sir. So just around daylight break,
12 around that time. When you got there how many law
13 information personnel, emergency personnel were out
14 there approximately?

15 A. The fire department was out there, I would
16 venture to guess five firemen, Lieutenant Smalls from
17 our office was there along with a couple of other
18 deputy sheriffs.

19 Q. All right, sir. And at that time when you got
20 there, I know you carry the capacity as a lieutenant,
21 a supervisor, was the road blocked off, taped off,
22 anything along that line?

23 A. No, sir. I don't believe the road was.

24 Q. Okay. And when you got there how long after
25 that did you leave to go to the trailer on Church

James A. Nettles - Cross-Exam

1 Street in Branchville?

2 A. It was the latter part of the morning. We had
3 went to -- met at the Branchville Police Department
4 and we went to that at a later time, that residence
5 at a later time.

6 Q. When you got there now, you physically observed
7 Mr. Bowman being placed into custody?

8 A. No, sir. He was in custody when I arrived. I
9 didn't go there with the first team.

10 Q. With the first crew, okay. And when you got
11 there he clearly -- he was in custody?

12 A. Yes, sir.

13 Q. Okay. And when you got there who actually got
14 the Consent to Search form to Ms. Bowman to get
15 permission to search the residence?

16 A. I -- I spoke with Ms. Bowman.

17 Q. You did it by yourself? I mean, you sat her
18 down and talked to her?

19 A. Yes, sir. Well, it was actually outside the
20 residence.

21 Q. Outside. Like on the front porch, or in the
22 yard?

23 A. Yes, in the yard.

24 Q. Did you do that before or after? Did she
25 verbally give you permission to search or then sign?

James A. Nettles - Cross-Exam

1 Did she sign first and then you gentleman went in and
2 searched the trailer?

3 A. She had verbally verbalized to us in the
4 beginning it was okay. I got the consent form from
5 Detective Sergeant Coker.

6 Q. Yes, sir. All right. And the reason I'm asking
7 you that is what comes first the chicken or the egg,
8 right?

9 A. Right.

10 Q. I mean, you verbally ask, someone goes and gets
11 a piece of paper later on?

12 A. Right.

13 Q. Then when you went in there, you gentlemen, law
14 enforcement, or any ladies that may have been present
15 with you, sir, you had control of that property with
16 the consent of Mrs. Bowman, Mr. Bowman's wife?

17 A. Yes, sir.

18 Q. I'm going to ask you some questions. Lieutenant
19 Nettles, you saw the picture of the pants probably in
20 your -- it's been marked State's Exhibit 25 for
21 evidence. The pants were on the couch; were they
22 not? If you need to see it up closer I'll bring it
23 to you, I promise.

24 A. Yes, sir.

25 Q. Okay.

James A. Nettles - Cross-Exam

1 A. Yes, sir.

2 Q. Okay. And that's exactly how they were, at
3 least from your recollection, memory, that's exactly
4 how you remember them being photographed?

5 A. Yes, sir.

6 Q. Okay. And I'm just going to ask you some basic
7 questions now. Did you search that couch, sir?

8 A. No, sir. I did not.

9 Q. Okay. Did you direct any subordinates, or for
10 lack of better words, any deputies or sergeants under
11 you, sir, to search the area around where the pants
12 were or the couch?

13 A. No, sir. I did not. What I did was direct the
14 deputies to search individual rooms, not specific
15 places in the room.

16 Q. Okay. Do you remember who you directed to
17 search the living room area, or the front room where
18 the couch is? I don't want to misquote.

19 A. No, sir. Well, I believe Sergeant Van Doran did
20 most of the searching. Sergeant Coker was
21 photographing, collecting the evidence.

22 Q. Okay.

23 A. If I remember correctly.

24 Q. Is it important that somebody act as a
25 scrivener; in other words, somebody writes down.

James A. Nettles - Cross-Exam

1 everything that's found, location, and so it's
2 properly what we call bagged and tagged?

3 A. Yes, sir.

4 Q. Okay. And you would make sure that would be
5 done; is that true, Lieutenant?

6 A. Yes, sir.

7 Q. Okay. And there's no question that you good
8 gentlemen had control of that area for as long as you
9 wanted?

10 A. As long as the signer allowed.

11 Q. Right. And you were there for approximately how
12 long of your personal knowledge, sir?

13 A. I can't recall. I'd have to look at the form.
14 The form had the times on it.

15 Q. Well, if I -- more than an hour, less than five?
16 If you want to check your form I'll ask Her Honor's
17 permission to let you go down and retrieve it.

18 A. If I could look at the form I'd be better able
19 to.

20 THE COURT: Very well.

21 MR. CUMMINGS: Please, Judge?

22 THE COURT: Yes.

23 A. The search began at 10:23 and ended at
24 10:50 a.m.

25 Q. So 10:23 to 10:50 only?

James A. Nettles - Cross-Exam

1 A. Yes, sir.

2 Q. How many minutes is that?

3 A. That is 33 minutes, approximately.

4 Q. And that's the extent of the time that you
5 searched the trailer?

6 A. Yes, sir.

7 MR. CUMMINGS: Beg the Court's indulgence.

8 THE COURT: All right.

9 (Mr. Cummings and Ms. Hardee-Thomas conferring
10 with Mr. Bowman.)

11 MR. CUMMINGS: Judge, that's all the
12 questions we have of this gentleman. Thank you.

13 THE COURT: Any redirect?

14 MR. BAILEY: No redirect, Your Honor.

15 THE COURT: All right. You are free to go.
16 (Whereupon, the witness steps down from the
17 witness stand.)

18 THE COURT: Is this witness subject to
19 being recalled?

20 MR. BAILEY: No, ma'am.

21 THE COURT: Very well. You are free to go,
22 then.

23 THE WITNESS: Thank you.

24 THE COURT: Call your next witness, please.

25 MR. BAILEY: Recall Alvin Coker.

Alvin Coker - Direct Exam

1 THE COURT: Yes, sir. Come back around,
2 please.

3 (Alvin Coker, called as a witness, having
4 previously been sworn, is examined and testifies
5 as follows.)

6 DIRECT EXAMINATION

7 BY MR. BAILEY:

8 Q. Mr. Coker, you testified previously you're a
9 detective sergeant with the sheriff's office, you're
10 the case officer of this case; is that correct, sir?

11 A. That's correct.

12 Q. Calling your attention to February 17th, 2001, I
13 would ask whether or not during the course of your
14 duties did you go to Dorothy Mae Bowman's trailer
15 home in the city of Branchville?

16 A. I did.

17 Q. Who else was with you when you went out there?

18 A. Lieutenant Nettles.

19 Q. Okay. Was this after Mr. Bowman had been
20 arrested?

21 A. That is correct.

22 Q. Would you state whether or not certain items of
23 evidence were removed from that house after Dorothy
24 Mae Bowman signed a consent form?

25 A. Yes, sir.

Alvin Coker - Direct Exam

1 Q. All right, sir. And some photographs have been
2 identified earlier and two of these are in evidence,
3 State's 26, 25, one may have been marked for
4 identification, 24. Did you take these pictures?

5 A. Yes, sir. I did.

6 Q. All right. Some items were removed; is that
7 correct?

8 A. Yes, sir.

9 Q. And specifically the lady's watch and the black
10 Levi's, did you remove those from the premise?

11 A. I did.

12 Q. All right, sir. And I want to call your
13 attention to that same date, February 17th, 2001, and
14 ask whether or not you turned those black Levi's and
15 the lady's watch over to Eddie Porter?

16 A. Yes, sir. I did. Once we --

17 Q. Is there a chain of custody form that you
18 signed?

19 A. Yes, sir.

20 Q. I'm going to show you State's 30 and 31. First
21 of all State's 30, can you identify that, sir?

22 A. State's 30 is an evidence report sheet that we
23 commonly fill out with the Dorchester County
24 Sheriff's Office anytime we gather evidence or take
25 items into evidence, whereon I listed each item that

Alvin Coker - Direct Exam

1 I secured. Later when I got back to the Branchville
2 Police Department I signed it and turned these items
3 over to Agent Eddie Porter with State Law Enforcement
4 Division at the Branchville Police Department.

5 Q. All right, sir.

6 MR. BAILEY: Your Honor, I would offer this
7 into evidence.

8 MR. CUMMINGS: If I can just take a quick
9 look at it, Judge, I apologize.

10 THE COURT: Great.

11 MR. CUMMINGS: Without legal objection,
12 Your Honor.

13 THE COURT: Very well.

14 MR. BAILEY: State's 30.

15 THE COURT: State's 30 is in evidence.

16 (Entered into evidence was State's Exhibit 30,
17 evidence report sheet.)

18 Q. Hand you State's 31. What is that, sir?

19 A. State's 31 is the chain of custody form used by
20 South Carolina Law Enforcement Division. After I
21 completed my form, Agent Porter signed it. Agent
22 Porter in turn completed this form, listed those same
23 items to show his chain of custody and I signed it as
24 coming from me over to him. And he signed it and we
25 dated it 2-17-01 14:41, which would have been the

Alvin Coker - Direct Exam

1 time.

2 MR. BAILEY: Would offer this, Your Honor.

3 THE COURT: Any objection?

4 MR. BAILEY: State's 31.

5 MR. CUMMINGS: No, Judge, without any legal
6 objection.

7 THE COURT: Very well. State's 31 in
8 evidence without objection, it is a document.

9 (Entered into evidence was State's Exhibit 31,
10 chain of custody document.)

11 Q. I want to hand you State's 38, it's been
12 identified as being a pair of black Levi's, and
13 State's 39 for identification only at this point, a
14 lady's watch, ask you to examine those and state
15 whether or not those are two of the items you turned
16 over to Agent Eddie Porter pursuant to the chain of
17 custody documents you referred to?

18 A. Yes, sir. They are.

19 Q. All right, sir. Sergeant Coker, were you
20 present when a search was made of Ms. Bowman's home?

21 A. I was.

22 Q. Did you participate in the search?

23 A. I did.

24 Q. And observe other law enforcement officers
25 searching the home?

Alvin Coker - Direct Exam

1 A. Yes, sir.

2 Q. All right, sir. Could you tell the jury,
3 please, how you all went about searching the interior
4 of that home, what items in the home you searched
5 for, any potential evidence in this case?

6 A. Well, due to the fact that Mr. Bowman's pants
7 had been found there on the sofa, it appeared that he
8 may have even slept on the sofa, I primarily
9 concentrated my efforts in this living room area
10 along with Detective Van Doran. I believe the sofa
11 even had like a little slip cover or spread or
12 something thrown over it.

13 Q. Let me interrupt you for a second. I want to
14 direct your attention to the photograph of the pants
15 which was State's 25, and ask whether or not that's
16 the sofa you're talking about?

17 A. Yes, sir. And it had like a bedspread or
18 something thrown over it as a covering.

19 Q. Okay.

20 MR. BAILEY: Can you put that up on the
21 screen here?

22 Q. All right, sir. Go ahead and continue, please,
23 how you all conducted the search.

24 A. We removed everything off of the sofa. There
25 was also a matching chair there in the residence, it

Alvin Coker - Direct Exam

1 matched the sofa. And the sofa is actually a sofa
2 bed that had the mattress. We went as far as moving
3 the table and actually taking the mattress, lifting
4 it up, searching down inside any of the cavities that
5 we could find that would normally be there on a sofa.
6 We did the same thing with the chair, we took the
7 cushions out, checked the interior of the cushions
8 inside the slip covers the best we could.

9 Q. All right. Did you all have a metal detector
10 with you on that occasion?

11 A. No, we did not.

12 Q. At that point in time did you find anything of
13 evidentiary value inside of that piece of furniture?

14 A. Not at that time, no, sir.

15 Q. All right, sir. Mr. Coker, please answer any
16 questions that Mr. Cummings might have for you.

17 THE COURT: Yes, sir. Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. CUMMINGS:

20 Q. Good morning. Mr. Coker, what time did you get
21 called out that day?

22 A. I received a call around 4:15 a.m. that morning.

23 Q. Did you go out to Nursery Road?

24 A. I did.

25 Q. Okay. When you got there how many law

Alvin Coker - Cross-Exam

1 enforcement people were there, how many emergency
2 personnel? Give us some approximate number, sir.

3 A. There were a number of fire personnel there,
4 Officer Kicklighter and one of our other officers was
5 there. I believe one other detective may have even
6 been there at that time. I know Lieutenant Asbell
7 was there. He beat me there, actually.

8 Q. All right, sir. Did you drive your cruiser up
9 there onto nursery Road?

10 A. Yes, sir. I parked down the road from where the
11 scene was.

12 Q. Then there came a time when you went to the
13 Branchville area?

14 A. Yes, sir.

15 Q. And as a result of going to Branchville were you
16 physically present when Mr. Bowman was placed into
17 custody?

18 A. No, I was not.

19 Q. All right. They called you sometime thereafter?

20 A. That's correct.

21 Q. Do you remember approximately what time you got
22 there?

23 A. I think they were just walking him out the door,
24 leaving with him when I got there.

25 Q. And when he was leaving that's when members of

Alvin Coker - Cross-Exam

1 law enforcement went inside and conducted a search?

2 A. Right after I arrived, Lieutenant Nettles was
3 riding with me, he talked with Sergeant Van Doran and
4 then talked, I think, with Ms. Bowman, Dorothy
5 Bowman, the wife of Mr. Marion Bowman. I got a
6 consent to search form then for the residence, gave
7 it to Lieutenant Nettles and he went and spoke to
8 Ms. Bowman and got that signed while I was loading
9 film in my camera.

10 Q. Okay. And the first thing you do is, normal
11 course of training, is to photograph first before
12 anything's touched, right?

13 A. Yes, sir. If at all possible.

14 Q. But you had learned that the trousers had been
15 moved or checked and then placed back down; isn't
16 that true?

17 A. That's correct.

18 Q. Okay. So they weren't really in the original
19 form or condition, but you photographed them as they
20 lay when you got there?

21 A. That's correct. They were in the same general
22 area according to Sergeant Van Doran. He placed them
23 back as close to the same area as he could on the
24 sofa.

25 Q. Now, was it your main responsibility, sir, to

Alvin Coker - Cross-Exam

1 search that couch, whatever that -- where the pants
2 lie now?

3 A. Actually, Sergeant Van Doran and myself searched
4 that couch and then swapped and each searched --
5 there was a matching chair there we both searched.

6 Q. You looked under it?

7 A. Actually got down on my stomach, looked under it
8 with my flashlight, pulled it out from the wall,
9 checked behind it, checked down in the creases of the
10 sofa, pulled it out, opened the mattress part up,
11 checked in the mattress the best we could to try to
12 locate anything there that might be of evidence.

13 Q. Okay. And you located nothing, correct?

14 A. No, sir. Not at that time.

15 Q. Nothing was in that couch at that time. And
16 that was on 2-17-01, correct, sir?

17 A. We did not find anything there, no, sir.

18 Q. All right. Didn't find anything?

19 A. Correct.

20 Q. Checked the other chair, same thing, didn't find
21 anything?

22 A. Correct.

23 Q. Did you, as you're walking around -- I know
24 you've been in law enforcement a number of years,
25 when you're walking around this home did you notice

Alvin Coker - Cross-Exam

1 how this home -- did you notice how the home was
2 heated?

3 A. I really did not. I think it's got a regular
4 gas furnace if my memory serves me right.

5 Q. You didn't see any kerosene heaters in there for
6 heating?

7 A. Not that I can recall.

8 Q. And then after that consent form is signed by
9 Ms. Bowman you good gentlemen leave the property?

10 A. Correct.

11 Q. And then you go and do other things?

12 A. That's correct.

13 Q. Okay.

14 MR. CUMMINGS: Beg the Court's indulgence,
15 Your Honor.

16 THE COURT: Yes, sir.

17 (Mr. Cummings and Ms. Hardee-Thomas conferring
18 with Mr. Bowman.)

19 MR. CUMMINGS: Judge, that's all the
20 questions we would have at this time of this
21 gentleman, subject to recall.

22 THE COURT: Very well. If you'll come
23 down.

24 (Whereupon, the witness steps down from the
25 witness stand.)

State vs. Bowman - Volume XXI

1 THE COURT: Ladies and gentlemen, I think
2 we've reached a good time for our lunch break.
3 Lunch has been delivered so it will be a good
4 time for us to break for lunch. We ought to be
5 able to continue since lunch is here about 1:30,
6 about 1:30 or very shortly, maybe 1:35, but
7 certainly close to 1:30.

8 Be mindful during the luncheon break
9 not to discuss this matter or allow anyone to
10 discuss it with you. Have a pleasant lunch.
11 (Whereupon, the jury retires to the jury room at
12 12:24 p.m.)

13 THE COURT: Anything before we take our
14 lunch break?

15 MR. BAILEY: Nothing from the State, Your
16 Honor.

17 MR. CUMMINGS: Nothing else from the
18 defense, Your Honor, other than -- may we
19 approach for just one moment?

20 THE COURT: Sure.

21 MR. CUMMINGS: And this is housekeeping.
22 (Whereupon, a bench conference was held off the
23 record.)

24 THE COURT: We will take our lunch break
25 now.

State vs. Bowman - Volume XXI

1 (Lunch recess taken from 12:26 p.m. to
2 1:45 p.m.)

3 THE COURT: All right. Anything before we
4 bring our jury out?

5 MR. BAILEY: Nothing from the State, Your
6 Honor.

7 MR. CUMMINGS: Nothing else from the
8 defense, Judge.

9 THE COURT: Very well.
10 (Whereupon, the jury returns to the courtroom at
11 1:45 p.m.)

12 THE COURT: Thank you, gentlemen.
13 All right. You may proceed, Ms.
14 Graham. Thank you.

15 (Dorothy M. Bowman, called as a witness, having
16 first been duly sworn, is examined and testifies
17 as follows:)

18 DIRECT EXAMINATION

19 BY MR. BAILEY:

20 Q. Ms. Bowman, what I would like you to do, please,
21 is to talk up loud enough where I can hear you, that
22 way these jurors on this end can hear you, okay? Can
23 you do that for us? Tell us again what your full
24 name is.

25 A. Dorothy Mae Bowman.

Dorothy M. Bowman - Direct Exam

1 Q. Where do you live now?

2 A. [REDACTED].

3 Q. Okay. Are you married?

4 A. Yes, sir.

5 Q. Who is your husband?

6 A. Marion Bowman, Jr.

7 Q. Okay.

8 THE COURT: You're going to have to keep
9 your voice up a little bit more, please, ma'am.

10 Q. Marion Bowman, Jr. is the defendant in this case
11 seated over here in the white shirt; is that correct?

12 A. Yes, sir.

13 Q. All right. Now, I want you to tell the jury
14 whether or not you're presently charged with
15 accessory after the fact of murder?

16 A. Yes, sir.

17 Q. Okay. And are you aware that you could go to
18 prison for that offense?

19 A. Yes, sir.

20 Q. And are you represented by a lawyer?

21 A. Yes, sir.

22 Q. And who is your lawyer?

23 A. John Loy.

24 Q. And is that Mr. Loy sitting over here against
25 this other wall here?

Dorothy M. Bowman - Direct Exam

1 A. Yes, sir.

2 Q. Okay. And through your lawyer's efforts do you
3 have a plea agreement with the State of South
4 Carolina?

5 A. Yes, sir.

6 Q. Okay. And does that agreement provide that you
7 would get a probationary sentence if you testify
8 truthfully in this case?

9 A. Yes, sir.

10 Q. And are you prepared to do that?

11 A. Yes, sir.

12 Q. Let me call your attention to February 17th,
13 2001 and ask where you lived back then?

14 A. [REDACTED].

15 Q. Hold on one second, please.

16 THE COURT: Ms. Bowman, are you able to
17 testify?

18 Could you call another witness and
19 call her back, Mr. Bailey?

20 MR. BAILEY: Yes, ma'am.

21 THE COURT: All right. Ms. Bowman, you
22 step down, give you a minute to compose
23 yourself.

24 MR. BAILEY: Your Honor, indulge me for a
25 second if I may speak to Mr. Loy.

Dorothy M. Bowman - Direct Exam

1 THE COURT: You may.

2 (Whereupon, a bench conference was held
3 off the record in the presence of the
4 jury but out of the hearing of the jury.)

5 MR. BAILEY: Your Honor, inasmuch as she
6 has been sworn can I get the Court's permission
7 to have Mr. Loy talk to her, try to get her to
8 settle down?

9 THE COURT: Sure.

10 (Whereupon, the witness steps down from the
11 witness stand.)

12 THE COURT: Mr. Loy, I'll not have that
13 outburst like that again, she needs to
14 understand that.

15 MR. LOY: I will emphasize that, Your
16 Honor.

17 THE COURT: Yes, sir.

18 MR. BAILEY: Ms. Martin.

19 (Cordellia D. Martin, called as a witness,
20 having first been duly sworn, is examined and
21 testifies as follows:)

22 DIRECT EXAMINATION

23 BY MR. BAILEY:

24 Q. Ms. Martin, please tell the Court and the jury
25 where you live.

Cordellia D. Martin - Direct Exam

1 A. I live at [REDACTED], Orangeburg, South
2 Carolina.

3 Q. All right, ma'am. And are you married?

4 A. Yes, sir.

5 Q. Who is your husband?

6 A. Wayne Martin.

7 Q. All right. Was Kandee Martin your daughter?

8 A. Yes, sir.

9 Q. Ms. Martin, I'm going to hand you what's been
10 marked State's 39 for identification which has been
11 identified as a lady's watch taken from a pair of
12 black Levi's at Dorothy Mae Bowman's house, ask if
13 you would look at that, please.

14 A. Yes, sir.

15 Q. Can you identify that?

16 A. Yes, sir.

17 Q. What is that?

18 A. That's my daughter's watch.

19 Q. Okay. Your daughter Kandee's watch?

20 A. Yes, sir. My daughter, Kandee Martin.

21 MR. BAILEY: Your Honor, I would offer the
22 watch into evidence at this time.

23 THE COURT: Any objection?

24 MR. CUMMINGS: Judge, no objection. But I
25 did want to state on the record that -- and it

Cordellia D. Martin - Direct Exam

1 may be better if I just ask Ms. Martin a
2 question. No objection to the watch coming in.

3 THE COURT: All right. Very well.

4 (Entered into evidence was State's Exhibit 39,
5 watch.)

6 Q. I'm going to show you State's 28 for
7 identification and ask if you recognize that?

8 A. Yes, sir.

9 Q. Talk up, Ms. Martin, please, loud enough where
10 the jury can hear you.

11 A. Yes, sir.

12 Q. What is that?

13 A. This is the receipt where I purchased the watch
14 for Kandee Martin, my daughter.

15 Q. What is the date on that receipt?

16 A. January 22nd, 2001.

17 Q. You bought that watch?

18 A. Yes, sir.

19 MR. BAILEY: Would offer this, Your Honor.

20 MR. CUMMINGS: Without objection, Judge.

21 THE COURT: Very well. Into evidence
22 without objection.

23 (Entered into evidence was State's Exhibit 28,
24 Wal-Mart sales receipt.)

25 Q. Hand you what's been marked State's 40 for

Cordellia D. Martin - Direct Exam

1 identification which is a shoe, ask if you can
2 identify that?

3 A. Yes, sir.

4 Q. What is that, Ms. Martin?

5 A. It's a shoe that belonged to my daughter, Kandee
6 Martin.

7 Q. Okay. Ms. Martin, that's all I have. Thank you
8 very much.

9 MR. CUMMINGS: Just one polite question,
10 Ms. Martin.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. CUMMINGS:

14 Q. Ms. Martin, you bought her the watch, but you
15 didn't buy it with any of the fingerprint powder on
16 it or anything like that, right?

17 A. No, sir.

18 MR. CUMMINGS: That's all the questions I
19 have of this nice lady and I thank you, Judge.

20 THE COURT: All right.

21 MR. BAILEY: No redirect, Your Honor.

22 THE COURT: All right. Yes, ma'am. You
23 may come down. Take your water with you if you
24 would like.

25 (Whereupon, the witness steps down from the

Kendra Bowman - Direct Exam

1 witness stand.)

2 THE COURT: All right, Mr. Bailey. If you
3 would please call your next witness.

4 MR. BAILEY: Yes, ma'am. Kendra Bowman.

5 (Kendra Bowman, called as a witness, having
6 first been duly sworn, is examined and testifies
7 as follows:)

8 DIRECT EXAMINATION

9 BY MR. BAILEY:

10 Q. Ms. Bowman, where do you live?

11 A. [REDACTED], Branchville, South Carolina.

12 Q. Are you related to the defendant in this case,
13 Marion Bowman, Jr.?

14 A. Yes, sir.

15 Q. Okay. For the record, is that Marion Bowman
16 seated in the shirt with no coat beside this
17 gentleman on the end over here?

18 A. Yes, sir.

19 Q. That's your brother?

20 A. Yes, sir.

21 Q. Okay. And are you charged with accessory after
22 the fact of murder in this case?

23 A. Yes, sir.

24 Q. Do you have a lawyer representing you?

25 A. Yes, sir.

Kendra Bowman - Direct Exam

1 Q. And who is that lawyer?

2 A. Mr. Jim Abrams.

3 Q. Okay. Is Mr. Abrams here in court today?

4 A. Yes, sir.

5 Q. All right. And through Mr. Abrams have you
6 entered into a plea negotiation with the State of
7 South Carolina?

8 A. Yes, sir.

9 Q. And does that plea agreement provide that you'll
10 receive a probationary sentence if you testify
11 truthfully in this case?

12 A. Yes, sir.

13 Q. And are you prepared to testify truthfully?

14 A. Yes, sir.

15 Q. Do you know your brother's wife, Dorothy Mae
16 Bowman?

17 A. Yes, sir.

18 Q. Okay. And I want to ask whether or not you
19 recall seeing Dorothy Mae Bowman shortly after your
20 brother's arrest?

21 A. Yes, sir.

22 Q. Okay. And would you please tell the jury how
23 you happened to talk to Mrs. Bowman and what
24 occurred?

25 A. Yes, sir. She came to my house and I was in the

Kendra Bowman - Direct Exam

1 bathroom. And she asked where I was and my
2 grandparents told her that I was in the bathroom.

3 MR. CUMMINGS: Judge, I'm going to object
4 to any hearsay, please.

5 Q. Without getting into anything that anybody told
6 you --

7 THE COURT: Sustained.

8 Q. -- did you have a conversation with Dorothy Mae
9 Bowman?

10 A. Yes, sir.

11 Q. All right. And did she have anything with her
12 when she went to the house where you were?

13 A. Yes, sir.

14 Q. What did she have?

15 A. A gun.

16 Q. Okay. And can you describe the gun?

17 A. No, sir.

18 Q. Just a gun, right?

19 A. Just a gun.

20 Q. Okay. Was it a pistol or a rifle?

21 A. I can't tell.

22 Q. You can't tell the difference between a pistol
23 or a rifle?

24 MR. CUMMINGS: Judge, objection. If Your
25 Honor please, it's been asked and answered.

Kendra Bowman - Direct Exam

1 THE COURT: I'll allow it.

2 Q. Can you tell the difference between a pistol and
3 a rifle, Ms. Bowman?

4 A. Yes, I can.

5 Q. Okay. Was the gun that she had a pistol or a
6 rifle?

7 A. All I knew it was a short gun.

8 Q. I'm sorry?

9 A. All I knew it was a short gun.

10 Q. It was a shotgun?

11 A. Short gun.

12 Q. Short gun. Is that what you're saying?

13 A. Yes, sir.

14 Q. Okay. And what happened to that short gun?

15 A. We went to the store.

16 Q. When you say "we," you got to give names.

17 A. Me, Kendra Bowman, Dorothy Bowman.

18 Q. Who is Kendra Bowman?

19 A. Myself.

20 Q. Okay.

21 A. And Dorothy Mae Bowman.

22 Q. All right. Y'all went where now?

23 A. To the store.

24 Q. Okay. Did you take the gun with you?

25 A. Yes, sir.

Kendra Bowman - Direct Exam

- 1 Q. What store did you go to?
- 2 A. The old EZ Shop behind the car wash.
- 3 Q. All right. And did you see anybody at the EZ
- 4 store by the car wash?
- 5 A. Yes.
- 6 Q. Okay. And who did you see?
- 7 A. Marion Bowman, Sr., my father.
- 8 Q. Okay. And did you -- without repeating anything
- 9 that he might or might not have said, did you have a
- 10 conversation with your father?
- 11 A. No.
- 12 Q. Okay.
- 13 A. We just gave him the gun.
- 14 Q. I'm sorry?
- 15 A. No. He just got the gun.
- 16 Q. You got the gun?
- 17 A. He got the gun.
- 18 Q. He got the gun from who?
- 19 A. Dorothy.
- 20 Q. All right. And were you present when Dorothy
- 21 gave your father the gun?
- 22 A. Yes, sir.
- 23 Q. Okay. And was the gun just loose, or how was it
- 24 presented to him?
- 25 A. All I know it was in the pocketbook and she

Kendra Bowman - Direct Exam

1 opened it.

2 Q. It was in her pocketbook, is that what you -- if
3 I'm getting ahead of you now I apologize, but the gun
4 was in a pocketbook, is that what you're saying?

5 A. Yes, sir.

6 Q. Whose pocketbook was it?

7 A. Dorothy Mae Bowman.

8 Q. Okay. And tell the Court what Dorothy Mae
9 Bowman did in your presence with that pocketbook.

10 A. Reach across me, open it, and my father got it.

11 Q. Your father did what?

12 A. He took it from her.

13 Q. All right. And did you see what your father did
14 with the gun when he took it from Dorothy Mae Bowman?

15 A. Yes.

16 Q. What did he do with it?

17 A. Took it out of -- put it on the middle piece in
18 the car --

19 Q. I can barely hear, Ms. Bowman.

20 MR. CUMMINGS: I can't understand.

21 THE COURT: You've got to keep your voice
22 up, ma'am. Would you like some water? Would
23 you like a little cup of water? Let's give her
24 a cup of water. Give her just a moment.

25 (Pause in proceedings.)

Kendra Bowman - Direct Exam

1 THE COURT: It might help you a little bit
2 if you can move a little bit closer to the
3 microphone, Ms. Bowman, and you won't have to
4 struggle so. Lean just a little closer. There
5 you go.

6 All right. Now, what was the
7 question, Mr. Bailey?

8 MR. BAILEY: I believe I was asking her
9 what happened to the gun once her father took
10 possession of it.

11 THE COURT: All right. You may answer
12 that.

13 A. He took the gun.

14 Q. When you say "he," you're talking about your
15 father, Marion Bowman, Sr.?

16 A. Yes, sir.

17 Q. Okay. What did he do?

18 A. He put the gun on the console, the armrest, or
19 whatever you call it.

20 Q. Okay. Of what vehicle?

21 A. His truck.

22 Q. Okay. Now, did you see your father the next
23 day?

24 A. Yes.

25 Q. Where did you see him?

Kendra Bowman - Direct Exam

- 1 A. When I came home from work he came to the house.
- 2 Q. Came to whose house?
- 3 A. My house.
- 4 Q. Okay. Who else was at your house?
- 5 A. My mom and my kid, my child.
- 6 Q. Okay. And you have a sister, Yolanda Bowman; do
- 7 you not?
- 8 A. Yes.
- 9 Q. Was she there?
- 10 A. Yes.
- 11 Q. Okay. And did you have -- without saying
- 12 anything your father might have said, when he showed
- 13 up at that house where you and your sister Yolanda
- 14 were, did you have a conversation with him?
- 15 A. Yes.
- 16 Q. Okay. And after that conversation what did you
- 17 and your sister do?
- 18 A. Followed him.
- 19 Q. Followed who?
- 20 A. Marion Bowman, Sr.
- 21 Q. Okay. And what was he driving?
- 22 A. His truck.
- 23 Q. And what were you driving?
- 24 A. '92 Mercury Topaz.
- 25 Q. Okay. Who went with you in the '92 Mercury

Kendra Bowman - Direct Exam

1 Topaz?

2 A. Myself and Yolanda Bowman.

3 Q. Okay. You and your sister were in the car and
4 you followed your father in his truck; is that
5 correct?

6 A. Yes, sir.

7 Q. Where did you follow him to?

8 A. Zion AME Church.

9 Q. Where is the Zion AME Church?

10 A. 210 Bowman Road.

11 Q. What happened when your father got to the Zion
12 Church on Bowman Road?

13 A. We pulled into the graveyard and he told me and
14 my sister --

15 Q. Don't say what he told you. What did you see
16 him do?

17 A. Went in the woods.

18 Q. All right. And when he went in the woods what
19 did you and your sister do?

20 A. Stand by the car.

21 Q. Okay. And did you see your father come out of
22 the woods?

23 A. Yes, sir.

24 Q. Okay. And when he came out of the woods, did he
25 have something with him?

Kendra Bowman - Direct Exam

1 A. Yes, sir.

2 Q. What did he have?

3 A. A gun.

4 Q. Okay. And describe -- when you say he had the
5 gun, what did you see in his hand?

6 A. The gun in a newspaper.

7 Q. The gun what?

8 A. The gun in a newspaper.

9 Q. The gun in a newspaper. And what did he do with
10 it?

11 A. Asked me to open up my trunk.

12 Q. Okay. And did you open your trunk?

13 A. Yes.

14 Q. Okay. Then what happened?

15 A. I had a short hand towel and --

16 THE COURT: What did you say? You're going
17 to have to speak up a little bit.

18 A. I had a short hand towel.

19 Q. A short hand towel. When you say "short hand
20 towel," how big are you talking about?

21 A. About this wide (indicating).

22 Q. Okay. And you're indicating about maybe a
23 little over a foot?

24 A. Yes, sir.

25 Q. All right. And what did you do with that towel?

Kendra Bowman - Direct Exam

- 1 A. He put the gun in it.
- 2 Q. You say "he," you mean your daddy?
- 3 A. Yes, sir.
- 4 Q. Okay. And after your daddy put the gun in the
- 5 towel, what happened?
- 6 A. We did what he told us to do.
- 7 Q. When you say -- what did you do?
- 8 A. I drove the car.
- 9 Q. You drove the car. And where was the gun when
- 10 you drove off in the car?
- 11 A. In my trunk.
- 12 Q. Okay. Who was with you in the car?
- 13 A. Myself and Yolanda Bowman.
- 14 Q. And where did you and Yolanda go with the pistol
- 15 in the car?
- 16 A. Edisto River.
- 17 Q. Okay. What part of the Edisto River?
- 18 A. Edisto River, the long one, on the Cope Road.
- 19 Q. Where the Cope Road crosses Edisto River?
- 20 A. Yes.
- 21 Q. All right. When y'all got to the bridge where
- 22 the Cope Road crosses the Edisto River, what did you
- 23 all do, if anything?
- 24 A. Dropped the gun.
- 25 Q. Okay. Did you stop the car first?

Kendra Bowman - Direct Exam

1 A. Yes.

2 Q. Okay. What happened after you stopped the car?

3 A. We dropped the gun in the river.

4 Q. Okay. Dropped the gun off the bridge?

5 A. Yes.

6 Q. Okay. Which one of y'all dropped the gun, you
7 or Yolanda?

8 A. My sister.

9 Q. Your sister dropped the gun in the river?

10 A. (Nodding.)

11 Q. Okay. Do you know whether or not when you
12 dropped the gun the clip was in the gun?

13 A. I don't remember. All I know is we drop the
14 gun.

15 Q. Okay. All right. Ms. Bowman, please answer any
16 questions that Mr. Cummings might have for you.

17 THE COURT: Cross-examination.

18 MR. CUMMINGS: Thank you, Judge, Solicitor.

19 CROSS-EXAMINATION

20 BY MR. CUMMINGS:

21 Q. Kendra, I know this is uncomfortable for you,
22 okay? You love your brother very much?

23 A. Yes, sir.

24 Q. Marion was arrested back in February,
25 February 17th of 2001, that's correct?

Kendra Bowman - Cross-Exam

1 A. I guess. I wasn't there.

2 Q. Was your brother arrested in February of last
3 year?

4 A. Yes.

5 Q. Okay. And none of this came about until May of
6 this year, May of --

7 MR. BAILEY: Objection, Your Honor. When
8 he's saying none of this came about I'm not sure
9 what he's saying.

10 THE COURT: Sustained.

11 Q. In May of 2001 that's the first time Dorothy
12 came to you about a gun; is that correct?

13 A. I don't remember.

14 Q. You don't remember the dates, or the times, or
15 anything, huh?

16 A. No, sir.

17 Q. When this happens, the gun is -- did you see it?

18 A. No, sir.

19 Q. You didn't see it?

20 A. All I seen was when she opened it. I couldn't
21 tell you what the gun look like.

22 MR. CUMMINGS: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 (Mr. Cummings and Ms. Hardee-Thomas conferring
25 with Mr. Bowman.)

Kendra Bowman - Cross-Exam

1 Q. Let me take you back a little bit and try to go
2 on a little bit. Marion lived in a trailer with his
3 wife. I'm going to be slow here for a moment and I
4 apologize if you can't see that. All right. He
5 lived in a trailer with his wife on Church Street?

6 A. Yes.

7 Q. Okay. And I mean that respectfully. Your
8 brother lived in a trailer with his wife, right?

9 A. Yes.

10 Q. Okay. How many children do they have?

11 A. Now?

12 Q. Yes, ma'am.

13 A. They have -- well, he got two stepchildren and a
14 daughter.

15 Q. Okay. How old is the daughter?

16 A. Seven months.

17 Q. At the trailer, how many times would you go to
18 the trailer or go over to their house?

19 A. I wouldn't hardly go because I was working.

20 Q. Because you would be working all the time?

21 A. Yes.

22 Q. You don't know how they lived or what they did,
23 right?

24 A. No.

25 Q. And you don't know anything about what type of

Kendra Bowman - Cross-Exam

1 furniture was in there or anything else; is that what
2 you're saying?

3 A. No.

4 Q. But you know that sometime Dorothy calls upon
5 you and asks you to be with her on a certain day?
6 That's all, just asking a simple question, just asked
7 you to be with her on a certain day, right?

8 A. She asked me to be with her.

9 Q. That's all. Come see her, come say hi to her.
10 And when you're not used to being there a lot, when
11 you're not used to being there, Kendra, right,
12 because you don't know the furniture or anything
13 else; is that correct?

14 A. I don't go in the house.

15 Q. That's what I'm saying. You don't go in the
16 house, but on this particular day you get some way of
17 contact to be over there to meet with your
18 sister-in-law?

19 A. What particular day?

20 Q. You don't know when, or where, or how, what
21 happened, right?

22 A. I don't go to her house.

23 Q. Okay.

24 MR. CUMMINGS: Beg the Court's indulgence.

25 THE COURT: All right.

Kendra Bowman - Cross-Exam

1 (Mr. Cummings and Ms. Hardee-Thomas conferring
2 with Mr. Bowman.)

3 MR. CUMMINGS: That's all the questions we
4 have of this lady at this time, Judge, subject
5 to recall, please.

6 THE COURT: All right. Very well. Any
7 redirect?

8 MR. BAILEY: No, ma'am.

9 THE COURT: You may step down.
10 (Whereupon, the witness steps down from the
11 witness stand.)

12 THE COURT: You may be recalled.

13 MR. BAILEY: Yolanda Bowman.

14 (Yolanda Bowman, called as a witness, having
15 first been duly sworn, is examined and testifies
16 as follows:)

17 DIRECT EXAMINATION

18 BY MR. BAILEY:

19 Q. Ms. Bowman, you testified earlier in the trial
20 that you're Marion Bowman's sister; is that correct?

21 A. Yes, sir.

22 Q. Kendra Bowman is your sister?

23 A. Yes, sir.

24 Q. Okay. And I want to call your attention to
25 shortly after your brother's arrest and I'm going to

Yolanda Bowman - Direct Exam

1 ask whether or not you saw your sister, Kendra?

2 A. Yes.

3 Q. Okay. And on that same date did you also see
4 your father, Marion Bowman, Sr.?

5 A. Yes.

6 Q. Okay. And where did you three get together?

7 A. At the Zion Cemetery.

8 Q. And before you got to Zion Cemetery, where were
9 you?

10 A. To my mother's house.

11 Q. Okay. So you and Kendra and your father were at
12 your mother's house?

13 A. Uh-huh (affirmative response).

14 Q. All right.

15 THE COURT: Is that a yes?

16 A. Yes, sir.

17 Q. And did y'all leave?

18 A. Yes.

19 Q. Okay. When your father left, what was he
20 driving?

21 A. An F-150 truck.

22 Q. Okay. And when you left, what kind of vehicle
23 were you in?

24 A. A Mercury Topaz.

25 Q. Whose car was that?

Yolanda Bowman - Direct Exam

1 A. Kendra's.

2 Q. Who else was in the car with you?

3 A. I was.

4 Q. Okay. And who was driving?

5 A. Kendra.

6 Q. All right. And where did y'all go, you and your
7 father and your sister?

8 A. To Zion Cemetery.

9 Q. Where is that located?

10 A. Right off of Highway 210.

11 Q. Okay. What happened when y'all got to the Zion
12 AME Cemetery?

13 A. My father went between two trees and got -- came
14 out, wrapped the gun up in a towel and gave it to us,
15 put it in the trunk.

16 Q. Okay. Slow down a little bit now. Your father
17 went between some trees and came back out, right?

18 A. Yes, sir.

19 Q. Was he carrying something?

20 A. Yes, sir.

21 Q. What was he carrying?

22 A. A gun.

23 Q. A gun?

24 A. Yeah. It was wrapped up in a towel.

25 Q. Okay. All right. What did he do with this gun

Yolanda Bowman - Direct Exam

1 wrapped up in a towel?

2 A. Put it in the trunk of Kendra's car.

3 Q. Okay. And after he did that, what, if anything,
4 did you and your sister, Kendra, do?

5 A. He told us to take it to --

6 MR. CUMMINGS: Objection, Your Honor, to
7 any comments from anybody else, please.

8 THE COURT: You're talking about hearsay?

9 MR. CUMMINGS: Yes.

10 THE COURT: Don't testify to what somebody
11 else told you.

12 A. Took it to Edisto River.

13 Q. Who took it to the Edisto River?

14 A. Me and Kendra.

15 Q. What part of the Edisto River did you go to?

16 A. What do you mean what part?

17 Q. You drove to the river, right?

18 A. Yes.

19 Q. Was there a bridge across the river?

20 A. Yes.

21 Q. Okay. What bridge was that?

22 A. I think it was the second bridge, I'm not sure.

23 Q. Okay. What's the road that you drove down to
24 get to the Edisto River?

25 A. The Cope Road.

Yolanda Bowman - Direct Exam

1 Q. The Cope Road, okay. So where the Cope Road
2 crosses the Edisto River is where you went?

3 A. Yes.

4 Q. What did you do when you --

5 A. Turn the car around. I was on the side, on the
6 right side, got out, took the gun out of the trunk.

7 Q. Who took the gun out of the trunk?

8 A. I did.

9 Q. Okay. When you took the gun out of the trunk
10 was it still wrapped up in the towel?

11 A. Yes, sir.

12 Q. Okay. And after you took the gun out of the
13 trunk, what did you do?

14 A. Dropped it down in the river.

15 Q. Okay. Did you drop the towel, too?

16 A. No, sir.

17 Q. Okay. Did you take the gun out of the towel?

18 A. I held the towel and just dropped the gun out of
19 it.

20 Q. Okay. Dropped it off the bridge?

21 A. Yes, sir.

22 Q. Into the river?

23 A. Yes, sir

24 Q. Calling your attention to May 26, 2001. Did you
25 give this information to the Dorchester County

Yolanda Bowman - Direct Exam

1 sheriff's deputies?

2 A. Yes.

3 Q. Okay. And after you gave them that information,
4 did you take them somewhere?

5 A. Yes.

6 Q. Where did you take them?

7 A. First I took them to the Zion Church.

8 Q. Okay. Where did you take them after that?

9 A. To the Cope Road to the river.

10 Q. Okay. And you showed them where you threw the
11 gun off the bridge?

12 A. Yes.

13 Q. Okay. Ms. Bowman, please answer any questions
14 Mr. Cummings may have for you.

15 THE COURT: Cross-examination.

16 MR. CUMMINGS: Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MR. CUMMINGS:

19 Q. Ms. Bowman, you don't know other than what you
20 testified to a few moments ago where this weapon came
21 from, do you?

22 A. Excuse me?

23 Q. You don't know where it came from, do you? It
24 was handed to you by your father?

25 A. Yes.

Yolanda Bowman - Cross-Exam

1 Q. Okay. And he came out of the woods with
2 something wrapped in a towel?

3 A. Yes.

4 Q. Okay. Could you see at that time it was --
5 whether it was or not a gun?

6 A. No, sir. I couldn't see at that time.

7 Q. That's true, because if something's wrapped up
8 you couldn't see through it, right?

9 A. Right. Yes, sir.

10 Q. You don't know where it got from or how, you
11 just know your daddy and you --

12 A. Gave it to me.

13 Q. Gave it to you. You went down there and dropped
14 it off in the river?

15 A. Yes.

16 MR. CUMMINGS: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 Q. Let me go back a little bit, I apologize. Did
19 you happen to go to your brother's home with his wife
20 where they lived in a trailer on Church Street, did
21 you visit there?

22 A. When?

23 Q. At any time.

24 A. I have.

25 Q. Okay. Prior to February, the month of

Yolanda Bowman - Cross-Exam

1 February 2001, would you visit or frequent their
2 home?

3 A. Yes.

4 Q. In other words, go visit. And you and Dorothy
5 are friends?

6 A. It's my sister-in-law.

7 Q. That's what I'm saying, friends. How many
8 children does J. R., Mr. Marion Bowman, have?

9 A. Do they have together?

10 Q. Yes, ma'am.

11 A. They have -- only have one, but she has two
12 other kids.

13 Q. Okay. And they live in a trailer?

14 A. Yes.

15 Q. Okay. Did you ever have the occasion to go
16 inside the trailer?

17 A. Yes.

18 Q. Okay. How was the home heated? Was it heated
19 by kerosene heaters?

20 A. Kerosene. And I think they had an electric
21 heater, too, I don't remember.

22 Q. Yeah, okay. And this was February; was it not,
23 February 2001?

24 A. When this happened, yes.

25 Q. Yes, ma'am.

Yolanda Bowman - Redirect Exam

1 MR. CUMMINGS: Thank you. That's all the
2 questions we have of this lady, Judge.

3 REDIRECT EXAMINATION

4 BY MR. BAILEY:

5 Q. Ms. Bowman, Mr. Cummings asked you if you could
6 tell it was a gun when you got it from your father
7 and you said no; is that right?

8 A. I know it was a gun when we got back to the car.

9 Q. Okay. Thank you.

10 MR. BAILEY: That's a all I have.

11 THE COURT: Any recross?

12 MR. CUMMINGS: No, ma'am.

13 THE COURT: Is this witness free to leave?

14 MR. BAILEY: Yes, ma'am.

15 THE COURT: All right. You are free to go.

16 MR. CUMMINGS: We would ask subject to
17 recall, please.

18 THE COURT: All right. You are subject to
19 being recalled.

20 (Whereupon, the witness steps down from the
21 witness stand.)

22 MR. BAILEY: Can I check on Dorothy Mae
23 Bowman's status?

24 THE COURT: Yes.

25 MR. BAILEY: I can go with somebody else if

Yolanda Bowman - Redirect Exam

1 she's not ready yet, but maybe if we could go
2 check.

3 THE COURT: Yes, sir.

4 (Pause in proceedings.)

5 THE COURT: Just come on around, ma'am.

6 (Dorothy M. Bowman, called as a witness, having
7 previously been duly sworn, is examined and
8 testifies as follows:)

9 THE COURT: All right, Mr. Bailey.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. BAILEY:

12 Q. Ms. Bowman, what I want to do since we got a
13 little break here, I want to back up a little bit.
14 You're Marion Bowman's wife; is that correct?

15 A. Yes, sir.

16 Q. We had a picture up here of a trailer, let's see
17 if I can find that. From where you're sitting can
18 you see the trailer up there on the TV?

19 A. Yes, sir.

20 Q. Is that where you lived in February 2001?

21 A. Yes, sir.

22 Q. And who else lived there?

23 A. My kids.

24 Q. Okay. And did your husband, Marion Bowman, live
25 with you at that address?

Dorothy M. Bowman - Continued Direct Exam

1 A. No.

2 Q. Okay. Call your attention to the night of
3 February 16th, it would be the early morning of
4 February the 17th, did you spend that night at your
5 house?

6 A. No, sir.

7 Q. Hum?

8 A. No.

9 Q. You did not?

10 A. Oh, I'm sorry.

11 Q. Okay. Just take your time, Ms. Bowman.

12 A. Yes, sir.

13 Q. Okay. All right. And that morning of
14 February 17th which would have been Saturday morning,
15 did you see your husband, Marion Bowman?

16 A. Yeah, he came in.

17 Q. Okay. And do you recall about what time it was
18 when he came in?

19 A. Just before daylight.

20 Q. Okay. So just before daylight Saturday morning,
21 February 17th, he came to your house; is that
22 correct?

23 A. Yes, sir.

24 Q. Okay. And were you awake or asleep when he got
25 there?

Dorothy M. Bowman - Continued Direct Exam

1 A. Asleep.

2 Q. Okay. And when he came in there did you wake
3 up?

4 A. Yes, sir.

5 Q. Okay. And you're not sure what time it was, but
6 it was early in the morning, right?

7 A. Yes, sir.

8 Q. Okay. And do you recall what your husband was
9 wearing when he got to your house?

10 A. Yes, sir.

11 Q. What was he wearing?

12 A. A pair of black pants and a gray shirt.

13 Q. Okay. And what did he do when he got to your
14 house?

15 A. Fell on a chair and went to sleep.

16 Q. Okay. Now, later on did you go to sleep?

17 A. Yes, sir. I went back to sleep.

18 Q. Did you go back to sleep? Okay. And later on
19 did you wake up at your house?

20 A. Yes, sir. He woke me up.

21 Q. Okay, he woke you up. And what did you all do
22 that day, anything significant?

23 A. Nothing.

24 Q. Okay. And would you state whether or not later
25 on that day somebody came to your house, some police?

Dorothy M. Bowman - Continued Direct Exam

1 A. Yes, sir.

2 Q. Okay. All right. And when the police came to
3 your house, how did you know somebody was outside
4 your house?

5 A. Because they knock on the door.

6 Q. All right. And when they knocked on the door,
7 where was your husband, Marion Bowman?

8 A. He went somewhere down that hall.

9 Q. Okay. Went somewhere down the hall, okay. And
10 did you have any conversation with him between the
11 time the police knocked on the door and he went down
12 the hall?

13 A. No, sir.

14 Q. Okay. What did you do when you heard the knock
15 on the door?

16 A. I answered.

17 Q. Okay. And did you recognize any of the police
18 officers that were there?

19 A. Just Boone Walters.

20 Q. Boone Walters is the chief of police in
21 Branchville?

22 A. Yes, sir.

23 Q. And were there other deputies, law enforcement
24 people there with him?

25 A. Yes, sir.

Dorothy M. Bowman - Continued Direct Exam

1 Q. And did you say anything to them when they came
2 to the door about your husband?

3 A. No, sir.

4 Q. Did you let them in the house?

5 A. Yes, sir.

6 Q. Okay. And why did you let them in?

7 A. I ain't got nothing to hide from them people.

8 Q. Okay. So they came to your house. And did you
9 know why they came to your house?

10 A. No, sir.

11 Q. Okay. You let them in?

12 A. Yes, sir.

13 Q. Okay. And you did that voluntarily?

14 A. Yes, sir.

15 Q. Okay. Now, you know where your husband was when
16 the police officers came into your house?

17 A. Somewhere down that hall.

18 Q. Okay. And were you there when the police
19 officers contacted your husband inside of the house?

20 A. Yes, sir.

21 Q. Okay. All right. And go ahead, tell us what
22 you recall when the police officers saw your husband
23 inside of your house.

24 A. Okay. When they come in, they came in, they
25 went down the hall, they searched my house.

Dorothy M. Bowman - Continued Direct Exam

- 1 Q. Okay.
- 2 A. And they found him.
- 3 Q. Okay. Where was he when they found him?
- 4 A. They said on the side of the bed.
- 5 Q. I'm sorry?
- 6 A. On the side of the bed.
- 7 Q. On the side of the bed, okay. And how was he
- 8 dressed?
- 9 A. In his boxer shorts.
- 10 Q. Okay. And you'd stated that earlier when he
- 11 came home early that morning he had on some black
- 12 Levi's; is that correct?
- 13 A. Yes.
- 14 Q. Okay. This is State's 38. Take a look at that,
- 15 see if you -- you can open it up if you want.
- 16 A. (The witness complies.) How do you open it,
- 17 anywhere?
- 18 Q. If you need to open it up, we'll get a knife and
- 19 open it up.
- 20 A. Are you sure?
- 21 Q. Yeah. Do you recognize those pants?
- 22 A. Yes, sir. I remember that belt.
- 23 Q. Are those your husband's pants?
- 24 A. Yes, sir.
- 25 Q. Are those the ones he wore home that morning?

Dorothy M. Bowman - Continued Direct Exam

1 A. Yes, sir. They stink, too.

2 Q. Now, when the police got there, did you see them
3 do anything with those pants?

4 A. No, sir.

5 Q. Hum?

6 A. No.

7 Q. Okay. Let me show you a piece of paper that's
8 marked State's 27, and I'm going to ask whether or
9 not your name is on that piece of paper?

10 A. Yes, sir.

11 Q. Okay. Point it out for me.

12 A. Right there. Right there.

13 Q. All right. This is a Consent to Search form?

14 A. Yes, sir.

15 Q. And do you remember talking to Lieutenant
16 Nettles from the sheriff's office?

17 A. Yes, sir.

18 Q. And did he ask your permission to search the
19 house?

20 A. Yes, sir.

21 Q. Did you give him that permission, signed this
22 form?

23 A. Yes, sir.

24 Q. And this form indicates that they took these
25 pants out and a lady's watch; is that right?

Dorothy M. Bowman - Continued Direct Exam

1 A. Yes, sir.

2 Q. Did you see the watch?

3 A. No, sir.

4 Q. I want to call your attention to somewhere in
5 the time frame of February 18th to the 20th and ask
6 whether or not you found something in your house?

7 A. Yes, sir. A gun.

8 Q. Okay. What did you find?

9 A. A gun.

10 Q. Okay. And do you remember what the gun looked
11 like?

12 A. No. All I know it was black. I don't know too
13 much about no guns.

14 Q. All right. Where did you find it?

15 A. In the chair.

16 Q. Okay. I'm going to show you State's 25 and ask
17 you to look at that. Is that the chair you found the
18 gun in?

19 A. Yes, sir.

20 Q. Okay. Now, before you found the gun deputies
21 had looked for the gun, they looked through that
22 chair?

23 A. Yes, sir.

24 Q. And looked through some other furniture?

25 A. Yes, sir.

Dorothy M. Bowman - Continued Direct Exam

1 Q. Okay. And didn't find it, right?

2 A. No, sir.

3 Q. Tell the jury where you found that gun.

4 A. In the chair it's like a cuff.

5 Q. You need to take your time now, okay? Tell them
6 because they're not familiar with your furniture.

7 A. Oh, I'm sorry. It's like the chair is like it
8 can be let out into a bed.

9 Q. All right. It's like a sleeper sofa?

10 A. Yes.

11 Q. All right.

12 A. And it's just like a sleeve and I found it in
13 that little cuff.

14 Q. In a cuff?

15 A. Yes.

16 Q. I don't really follow what you mean by that.
17 Can you explain that a little better?

18 A. I just found it in the chair, like in this --
19 like the material part I found it.

20 Q. Okay. When you say "the material part," what
21 are you talking about?

22 A. I can't explain it, but that's where I found it.

23 Q. Okay. Excuse me a second.

24 (Pause in proceedings.)

25 Q. Okay. Can you see this picture from where

Dorothy M. Bowman - Continued Direct Exam

1 you're sitting?

2 A. No.

3 Q. Okay. I'll tell you what let's do, can you come
4 around the side here? There's another TV. What I
5 want you to do, Ms. Bowman, since these ladies over
6 here got to see, if you would stand to the side and
7 if you can point out whereabouts in that piece of
8 furniture you found that gun.

9 A. Here.

10 Q. You're pointing over here?

11 A. Yes, sir.

12 Q. Okay. Maybe that will help kind of explain what
13 you had to do to find that gun, exactly where it was.

14 A. Okay.

15 Q. Can you explain that to us?

16 A. It was on this side.

17 THE COURT: Keep your voice up, please.

18 A. Okay. I'm sorry. It was on this side, but if
19 you was to lift this cover up it's like a little
20 cuff.

21 Q. What do you mean by a cuff, I don't really --

22 A. How can I say it? It's hard for me to explain.

23 Q. Okay.

24 A. And that's where I found it, it was just there.

25 Q. Can you think of another word besides saying a

Dorothy M. Bowman - Continued Direct Exam

1 cuff? Because I think of a cuff as being like on
2 your pants like that. What do you mean?

3 A. A sleeve like, sleeve like this here.

4 Q. A sleeve?

5 A. Uh-huh (affirmative response).

6 Q. Okay.

7 A. That's better.

8 Q. It's a sleeve in the fabric covering the thing,
9 or in the cushion, or what?

10 A. In the fabric.

11 Q. Okay. All right. You can go ahead and have a
12 seat.

13 A. (The witness complies.)

14 Q. I know you're not a gun expert, but can you
15 describe the gun that you found?

16 A. I can't describe it. All I know it's black.

17 Q. Okay. A black gun, okay. And do you know what
18 a magazine is, or a clip?

19 A. I'm not familiar with no guns, no.

20 Q. Okay. This was -- was it a pistol?

21 A. I don't know.

22 Q. Okay. Do you know the difference between a
23 rifle and a pistol?

24 A. No. I don't deal with guns.

25 Q. Was it a long gun like this, or a little gun

Dorothy M. Bowman - Continued Direct Exam

1 like this?

2 A. I'd say it was something like that.

3 Q. Okay. All right. Handgun?

4 A. Something like that.

5 Q. Okay. All right. After you found this gun in
6 that chair, Ms. Bowman, I want you to tell the jury
7 what you did with it.

8 A. Well, after I found it I picked it up and I put
9 it in my black pocketbook and I walk up to Kendra's
10 grandma house.

11 Q. Where?

12 A. Kendra's grandma house.

13 Q. All right.

14 A. I knocked on the door.

15 Q. You did this the same day you found it?

16 A. Uh-huh (affirmative response).

17 Q. Okay. All right.

18 A. I knocked on the door and I asked grandma where
19 was Kendra. She said somewhere back there. When I
20 saw Kendra she was in the bathroom, no clothes on.

21 Q. I don't want you to say anything Kendra told
22 you, but when you saw Kendra in the bathroom did you
23 talk to her?

24 A. Yes, sir.

25 Q. What did you tell her?

Dorothy M. Bowman - Continued Direct Exam

1 A. I tell Kendra I found this gun.

2 Q. And did you want that gun in your house?

3 A. No.

4 Q. What did you tell Kendra about the gun?

5 A. I can't remember what I said after that.

6 Q. All right. Well, what -- did you go somewhere
7 else after that?

8 A. I can't remember. I might have did, but I just
9 don't remember.

10 Q. What did you do with the gun?

11 A. I put it in my pocketbook.

12 Q. Okay. I understand that. You put it in your
13 pocketbook and you went over to the house where
14 Kendra was at, right?

15 A. Yes, sir.

16 Q. Okay. When you got to the house where Kendra
17 was at, what did you do with the gun?

18 A. It was still in the pocketbook.

19 Q. Okay. I'm with you. What did you do with the
20 gun and the pocketbook?

21 A. Well, it was like a little hamper, we laid the
22 pocketbook on top of the hamper.

23 Q. You laid the pocketbook on top of the what?

24 A. The hamper, the waste basket, the laundry
25 basket.

Dorothy M. Bowman - Continued Direct Exam

1 Q. Okay. All right. So you laid the purse with
2 the gun in it on the side of a hamper?

3 A. On top of it.

4 Q. On top of it, okay, all right.

5 A. Yes.

6 Q. And then what did you do?

7 A. I can't remember what happened after that.

8 Q. Okay. Did you -- at some point did you leave
9 that house?

10 A. Yes.

11 Q. And when you left the house did you bring the
12 gun with you?

13 A. I don't know. I don't remember about taking no
14 gun nowhere with me.

15 Q. Well, Ms. Bowman, I'm simply trying to ask you
16 when you got to that house where Kendra was, you had
17 the gun in a pocketbook, right?

18 A. Yes, sir.

19 Q. Okay. What did you do with the gun once you got
20 there?

21 A. The gun was inside the pocketbook, I placed it
22 on top of the hamper.

23 Q. After that what did you do? Did you leave, or
24 stay, or what?

25 A. I believe I left.

Dorothy M. Bowman - Continued Direct Exam

1 Q. Okay. You left. When you left did you take the
2 gun with you?

3 A. No.

4 Q. Okay. So you left the gun at the house where
5 Kendra was, right?

6 A. Yes.

7 Q. Okay. Now, the chair that gun was in that you
8 got the gun out of, what happened to that chair?

9 A. I gave it back to my sister.

10 Q. Okay. And what's your sister's name?

11 A. Sally Bookhart.

12 Q. Okay. Ms. Bowman, answer any questions Mr.
13 Cummings might have for you.

14 A. Sure.

15 THE COURT: Cross-examination.

16 MR. CUMMINGS: Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MR. CUMMINGS:

19 Q. Ms. Bowman?

20 A. Yes.

21 Q. I know this is uncomfortable for you, ma'am, I'm
22 just asking you please to answer some of my questions
23 back.

24 A. Yes.

25 Q. Let's go back up a little bit. You and

Dorothy M. Bowman - Cross-Exam

1 Mr. Bowman were married when?

2 A. December the 6th, 1999.

3 Q. And how many babies do you have together?

4 A. Well, he only have one.

5 Q. And how many other children do you have, or his
6 stepchildren, ma'am?

7 A. Two.

8 Q. What are their ages, please?

9 A. Eleven and nine and seven months.

10 Q. And how long had you been residing in the
11 trailer that you saw a picture of?

12 A. For about maybe three, four months.

13 Q. Three or four months, okay. Was that trailer
14 very secure?

15 A. No.

16 Q. Could you lock the doors?

17 A. I could only lock the front door, but not the
18 back.

19 Q. At all?

20 A. At all.

21 Q. Okay. On 2-17 when the police came to your home
22 you let them in, and that's correct, right?

23 A. Right.

24 Q. Okay. You let them in. Your spouse, your
25 husband, is arrested and he's removed from the

Dorothy M. Bowman - Cross-Exam

1 property; is he not?

2 A. Yes.

3 Q. Okay. He was taken to the Branchville Police
4 Department; is that correct?

5 A. Yes.

6 Q. Okay. And how many police officers would you
7 say were in your home that morning, ma'am?

8 A. I can't remember.

9 Q. Well, one?

10 A. No.

11 Q. More than one?

12 A. Yes.

13 Q. More than five?

14 A. No.

15 Q. So between one and five?

16 A. Yes.

17 Q. Okay. And when they were in there -- now, how
18 many bedrooms is this trailer?

19 A. Two.

20 Q. Two bedrooms. When you walk in the front door
21 is that where the chair and the couch was that you
22 were showed a picture of on the TV?

23 A. Yes.

24 Q. Okay. And while you were there did the police
25 search that couch?

Dorothy M. Bowman - Cross-Exam

1 A. While I was there, yes.

2 Q. Yes, ma'am, okay. You let them search and look
3 everywhere they wanted to look, right?

4 A. Yes. Because I was outside, yes.

5 Q. So you were outside?

6 A. Uh-huh (affirmative response).

7 Q. They asked you to step out while they did their
8 work?

9 A. Yes.

10 Q. Okay. And then how long after Marion had been
11 taken away to the police department did you go back
12 in? How long was it before you went back in your
13 home?

14 A. Not that long.

15 Q. Okay. And when you went back home after that,
16 how long was it before you went up to the police
17 station to see your husband?

18 A. About a couple of hours, something like that.

19 Q. Okay. How many times that day did you go up to
20 Branchville to see your spouse?

21 A. As I remember one.

22 Q. One time that day?

23 A. Yes.

24 Q. Okay. Did you take the children with you?

25 A. No.

Dorothy M. Bowman - Cross-Exam

1 Q. Who watched the children?

2 A. My mother.

3 Q. Okay. Where does Mamma live?

4 A. [REDACTED], Branchville.

5 Q. I'm not trying to get you angry at me, ma'am,

6 I'm just trying to ask some questions, please.

7 So did you walk the children over to

8 Mom's house, leave the children there with her?

9 A. Yes.

10 Q. Then you went over there, left the trailer
11 alone, then you went up to see your spouse, your
12 husband?

13 A. Yes.

14 Q. Okay. When you get back to the house later that
15 day on the 17th, did you go through and look around
16 the house at all?

17 A. I sure did.

18 Q. Okay. And when you looked around the house, how
19 did it come to be that you checked the couch and were
20 looking for anything, ma'am?

21 A. They told me --

22 MR. BAILEY: Objection, Your Honor. She
23 hasn't said she looked in the couch.

24 Q. Okay. How did it come to be you found the gun
25 in the chair, couch?

Dorothy M. Bowman - Cross-Exam

1 A. It was told to me.

2 Q. It was told to you by who?

3 A. Hiram Johnson.

4 Q. Hiram Johnson. Your spouse is in police
5 custody, right?

6 A. Yes.

7 Q. So you told the police that Hiram told you where
8 the gun was?

9 A. Yes.

10 Q. You did?

11 A. Yes.

12 Q. Which police officer did you tell that to?

13 A. I don't remember. I'm not familiar with
14 Dorchester.

15 Q. Well, let me let you look around the courtroom a
16 little bit. There's a handsome guy sitting at the
17 table here, Mr. Coker, did you tell him?

18 A. I might have, I don't know.

19 Q. Well, it's kind of important, ma'am. I'm going
20 to ask you to try to remember now, please. It's kind
21 of really important now to find out who you told that
22 somebody else told you where this weapon might be.

23 A. I can't remember.

24 Q. Ms. Bowman, would you not want to remember that
25 somebody tells you there's a gun in your home with

Dorothy M. Bowman - Cross-Exam

1 your children?

2 A. No. If somebody tell me I be glad to say who
3 tell me, I just don't know which officer I told it
4 to.

5 Q. You've seen lots of policemen up to the
6 courthouse. I know you've been upset today. You've
7 seen lots of policemen since you've been up to the
8 courthouse; is that correct, ma'am?

9 A. Yes.

10 Q. They're all in the back, they're all in the
11 courtroom here, they work for Her Honor in the
12 courtroom here as far as the SLED agents and the
13 other people in here. I know you're getting very
14 angry at me right now, but it's important, ma'am, you
15 answer my questions, please.

16 THE COURT: Ask her a question.

17 Q. Did you see the officer you told up here that
18 somebody told you where the gun was, did you see that
19 officer up here at all?

20 A. No.

21 Q. Okay. Not Chief Boone Walters?

22 A. No.

23 Q. Not Mr. Van Doran?

24 A. Not that I remember, no.

25 Q. So as a result of that you find the gun and then

Dorothy M. Bowman - Cross-Exam

1 you take it over to Kendra's grandmamma's house; is
2 that correct?

3 A. Yes.

4 Q. Okay. And then did you leave the weapon there
5 at Kendra's grandmamma's house?

6 A. Yes.

7 Q. Okay. And this was done when, early February?

8 A. Yes.

9 Q. Okay. And you don't tell the police anything
10 about this until May or June; is that correct, ma'am?

11 A. June the 6th to be exact, yes.

12 Q. June the 6th, okay. Well, how did it come to be
13 that you then tell --

14 A. Wait to the end to tell it, I don't know.

15 Q. I'm sorry, you don't know again?

16 A. I don't know.

17 Q. Did you go to the police station and walk up and
18 there and say --

19 A. No.

20 Q. Policemen come to your door?

21 A. No.

22 Q. Okay. Then how was this reported to the police,
23 ma'am?

24 A. When they came to lock me up for that two weeks,
25 that's how.

Dorothy M. Bowman - Cross-Exam

1 Q. They locked you up for what?

2 A. For two weeks, that's how I told it.

3 Q. I know, but for what crime, ma'am, please?

4 A. For accessory after the fact of murder.

5 Q. And that's when you told them about the gun; is
6 that right?

7 A. Yep.

8 Q. Okay. Let's go back a little bit. In February,
9 February is kind of a cold month, wintertime, ma'am,
10 please?

11 THE COURT: You need to be responsive,
12 please, Ms. Bowman.

13 A. Yes, something like that.

14 Q. You heat your home with kerosene heaters?

15 A. Yes.

16 Q. How many, ma'am?

17 A. During that time I had about two or three.

18 Q. Pretty fair sized ones?

19 A. Yes.

20 Q. Mrs. Bowman, I know you're not happy today.

21 A. I'm very not happy today, you're right.

22 Q. You've entered into a plea bargain agreement.

23 A. Yes.

24 Q. You don't know whose gun that was, do you?

25 A. I sure don't. And I don't know how it got

Dorothy M. Bowman - Cross-Exam

1 there, either.

2 Q. Now, did you have some trouble at your house,
3 report it to the police that you had a break-in?

4 A. Yes. Somebody trash my house, put blood,
5 whatever that stuff was all over my floor. I still
6 didn't find out who did it, yes.

7 Q. Who did you report that to?

8 A. Walters. Boone Walters, yes.

9 Q. Chief Boone?

10 A. Yes.

11 Q. That, again, was when Mr. Bowman was not around
12 you?

13 A. Right. He was in jail.

14 Q. He wasn't around you?

15 A. No, he wasn't around.

16 Q. He wasn't around all day the 17th or the 18th of
17 February, was he?

18 A. No.

19 Q. You also had an opportunity to revisit your
20 spouse sometime over that weekend also, which means
21 you left your house alone the 17th or 18th?

22 A. Yes. Yes.

23 Q. Okay.

24 MR. CUMMINGS: Beg the Court's indulgence,
25 Your Honor.

Dorothy M. Bowman - Cross-Exam

1 THE COURT: Yes, sir.

2 (Mr. Cummings and Ms. Hardee-Thomas conferring
3 with Mr. Bowman.)

4 Q. Ms. Bowman, I'm going to ask you briefly, where
5 were you exactly when you learned where the gun was
6 in your home?

7 A. Where I was?

8 Q. Yes, ma'am.

9 A. When someone told me?

10 Q. Yes, ma'am.

11 A. On my -- well, on grandma porch, J. R. grandma.

12 Q. On whose porch?

13 A. On grandma porch, J. R. grandma.

14 THE COURT: I can't understand that. Say
15 that again.

16 A. On grandma porch.

17 Q. That means Kendra's?

18 A. Yes.

19 Q. Is Hiram family to you?

20 A. Only by marriage.

21 Q. All right. What side of the family? If you'll
22 give us a side of the family by marriage, who he's
23 married to. Who is he exactly married to?

24 A. I married J. R., that's his cousin.

25 Q. Okay. No question you saw Hiram around your

Dorothy M. Bowman - Cross-Exam

1 home that weekend?

2 A. No.

3 Q. You didn't see him at all, huh?

4 A. No.

5 MR. CUMMINGS: Beg the Court's indulgence
6 again.

7 (Mr. Cummings and Ms. Hardee-Thomas conferring
8 with Mr. Bowman.)

9 Q. This picture of kerosene heaters that were in
10 your home?

11 A. Yes.

12 Q. No question about that?

13 A. Yes.

14 Q. Okay. I just want to make sure.

15 MR. BAILEY: No objection, Your Honor.

16 THE COURT: Very well. Defendant's
17 Exhibits 3 and 4 in evidence without objection.
18 (Entered into evidence was Defendant's Exhibit
19 3, photograph.)

20 (Entered into evidence was Defendant's Exhibit
21 4, photograph.)

22 MR. CUMMINGS: Your Honor, may I publish
23 these to the jury, please?

24 THE COURT: Yes, sir.

25 MR. CUMMINGS: Then there's a matter, if I

Dorothy M. Bowman - Cross-Exam

1 may.

2 THE COURT: You may. Ladies and gentlemen,
3 I would tell you the photographs, the exhibits
4 which Mr. Cummings has just handed to you for
5 the purpose of having you see them, at this
6 point please be mindful that you have those
7 photographs in the jury room during your
8 deliberations. I simply share that with you now
9 because I would not want you to allow the
10 viewing of those photographs at this time to
11 allow you to miss any of the testimony as it
12 comes from the witness stand.

13 MR. CUMMINGS: Thank you, Judge.

14 THE COURT: Thank you.

15 Any redirect?

16 MR. BAILEY: I didn't know he was finished.

17 MR. CUMMINGS: If I just may take a moment.

18 THE COURT: Oh, indeed.

19 (Pause in proceedings.)

20 Q. Just a couple more questions, ma'am. Did the
21 police come back and search your home any more times?

22 A. Yes.

23 Q. Please tell us when they next came back and
24 searched your home.

25 A. They next came back I was at my house, they

Dorothy M. Bowman - Cross-Exam

1 knock on the door, I let them in. And I think
2 Barbara Walters was with Big Larry. They went to
3 search my house again and I let them search my house.

4 Q. Okay. Do you remember when that was, ma'am,
5 just the same weekend or thereafter?

6 A. I can't remember.

7 Q. Okay. You know at least it was searched twice?

8 A. Yes.

9 Q. And thereafter you've moved from that trailer;
10 have you not?

11 A. Huh?

12 Q. Did you move from the trailer?

13 A. Yes.

14 Q. After you were broken in?

15 A. Yes. I wouldn't stay there.

16 Q. And then that couch, you said you gave it back
17 to Ms. Sally Bookhart?

18 A. Yes.

19 Q. Did you give it to Ms. Sally Bookhart when you
20 moved?

21 A. Yes.

22 Q. When did you move out of --

23 A. March 1st.

24 Q. March 1st, thank you. That is the final
25 question.

Dorothy M. Bowman - Cross-Exam

1 MR. CUMMINGS: Thank you, Judge.

2 THE COURT: All right. Is there any
3 redirect?

4 MR. BAILEY: Give me a second, please.

5 THE COURT: Sure.

6 (Pause in proceedings.)

7 MR. BAILEY: Your Honor, I have no
8 redirect.

9 THE COURT: Very well. Is this witness
10 free to leave?

11 MR. CUMMINGS: Subject to recall, Your
12 Honor, please.

13 THE COURT: All right. Then you are
14 subject to being recalled, Ms. Bowman, you are
15 not released from your subpoena and you may
16 leave at this time.

17 (Whereupon, the witness steps down from the
18 witness stand.)

19 THE COURT: If you would call your next
20 witness, please.

21 MR. BAILEY: Mark Sheetz.

22 (Mark Sheetz, called as a witness, having first
23 been duly sworn, is examined and testifies as
24 follows:)
25

Mark Sheetz - Direct Exam

DIRECT EXAMINATION

1

2 BY MR. BAILEY:

3 Q. You're Mark Sheetz?

4 A. Yes, sir.

5 Q. All right, sir. And I would ask whether or not
6 you're affiliated with the Caanan Fire Department?

7 A. Yes, sir.

8 Q. Where is that located?

9 A. In Caanan.

10 Q. All right, sir. What do you do for the --
11 that's a volunteer fire department?12 A. Yes, sir. I'm a volunteer certified interior
13 structural firefighter.

14 Q. Does that fire department have a dive team?

15 A. It does.

16 Q. Are you a member of that dive team?

17 A. Yes, sir. I am.

18 Q. All right, sir. Call your attention to
19 May 28th, 2001, and ask whether or not the Caanan
20 Fire Department Dive Team was called upon to assist
21 in searching for a pistol in the Edisto River?

22 A. Yes, sir. We were.

23 Q. Okay. I would ask whether or not that search
24 was conducted near the old Cope Road bridge over the
25 river?

Mark Sheetz - Direct Exam

1 A. That's correct.

2 Q. All right, sir. I want to call your attention
3 to about 11:40 a.m. that day which would have been
4 May 28th, 2001, ask whether or not you were in the
5 river?

6 A. Yes, sir. I was.

7 Q. And did you find anything?

8 A. Yes, sir. I did.

9 Q. All right, sir. Tell the jury what you found.

10 A. I found a pistol.

11 Q. All right, sir. And in relation to the bridge
12 piling about how far away was it?

13 A. Probably about 25 or 30 feet from the edge of
14 the bridge.

15 Q. All right, sir. When you found this pistol,
16 what did you do with it?

17 A. Dug it up from the bottom and placed it in a
18 cooler under the water.

19 Q. All right. And when you did that, did you give
20 the cooler to somebody else on the dive team?

21 A. Yes, I did.

22 Q. Who was that, sir?

23 A. Misty Salley.

24 Q. All right, sir. And I would ask whether or not
25 after finding that gun and passing that on to

Mark Sheetz - Direct Exam

1 Ms. Salley you signed a chain of custody document?

2 I'll hand you State's 29 and ask if your signature
3 appears on there?

4 A. Yes, sir.

5 MR. BAILEY: Your Honor, since there's some
6 more signatures there I just leave this for
7 identification only at this time, State's 29.

8 THE COURT: All right, sir.

9 Q. Please answer any questions that the defense may
10 have for you, sir.

11 A. Okay.

12 THE COURT: Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. CUMMINGS:

15 Q. You got a request from law enforcement?

16 A. Yes, sir.

17 Q. Okay. Do you remember was it the Dorchester
18 County Sheriff's Department?

19 A. Dorchester County, yes.

20 Q. All right, sir. And did they take your unit out
21 to the area up on Cope Road, I think it is?

22 A. Yes, sir.

23 Q. At that point at the request of law enforcement
24 you and other members of your fire department, sir,
25 went and put on the dive gear, go in the water and do

Mark Sheetz - Cross-Exam

1 your thing, right?

2 A. Yes, sir.

3 Q. That's it, that's all you knew about it? You
4 don't know how it got there or whatever, you just
5 know that you found an object and brought it up and
6 presented it to Ms. Salley?

7 A. That's correct.

8 MR. CUMMINGS: That's all the questions I
9 have of this gentleman. Thank you very much and
10 he may be excused from us, Judge.

11 THE COURT: All right. Any redirect?

12 MR. BAILEY: No, ma'am.

13 THE COURT: Is this witness free to leave?

14 MR. BAILEY: Yes, ma'am. Thank you, sir.

15 THE COURT: Very well. You are free to go.

16 (Whereupon, the witness steps down from the
17 witness stand.)

18 MR. BAILEY: Ms. Salley.

19 (Catherine M. Salley, called as a witness,
20 having first been duly sworn, is examined and
21 testifies as follows:)

22 DIRECT EXAMINATION

23 BY MR. BAILEY:

24 Q. Ms. Salley, are you a member of the Caanan Fire
25 Department Dive Team?

Catherine M. Salley - Direct Exam

1 A. I am.

2 Q. Call your attention to May 28th, 2001, ask you
3 whether or not you and other members of that dive
4 team were called upon to search for a pistol in the
5 Edisto River near the old Cope Road bridge across the
6 Edisto River?

7 A. Yes, sir.

8 Q. At approximately 11:40 a.m. were you in the
9 water?

10 A. Yes, sir.

11 Q. All right. Tell the jury, please, what occurred
12 about that time.

13 A. One of the dive team members -- we had several
14 people looking, one of the dive team members
15 indicated that he had found a weapon. And at that
16 point I received a cooler and put it underneath the
17 water and he placed the weapon inside of it and we
18 hoisted it back up.

19 Q. Was that Mark Sheetz that did that?

20 A. Yes, sir. It was.

21 Q. Okay. So Mr. Sheetz passed the pistol to you,
22 you put it in the cooler; is that correct?

23 A. Yes, sir.

24 Q. All right. And after you put it in the cooler,
25 what happened then to it?

Catherine M. Salley - Direct Exam

1 A. We attached a string to it and lifted it up to
2 the officer on the bridge.

3 Q. Okay. And I would ask whether or not since you
4 were in possession of this pistol that you all found
5 in the river, whether or not you were asked to sign a
6 chain of custody form from Mark Sheetz and then from
7 you to Mr. Alvin Coker?

8 A. Yes, sir.

9 MR. BAILEY: And for the record this is
10 State's Number 29 for identification only at
11 this time.

12 THE COURT: Thank you.

13 Q. Ms. Salley, that's all I have. Please answer
14 any questions Mr. Cummings might have.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. CUMMINGS:

18 Q. Again, ma'am, you were requested by law
19 enforcement to go out there and assist them trying to
20 recover an object out of the water?

21 A. Yes, sir.

22 Q. Okay. You don't know how it got there, you
23 don't know what happened, you just had a diver find
24 something, passed it to you and you were part of the
25 chain?

Catherine M. Salley - Cross-Exam

1 A. Right.

2 MR. CUMMINGS: That's all the questions we
3 have of this nice lady and thank her, Judge.

4 THE COURT: Very well.

5 MR. BAILEY: No redirect, Your Honor.

6 THE COURT: Very well. Is this witness
7 free to leave?

8 MR. BAILEY: Yes, ma'am.

9 MR. CUMMINGS: Yes, ma'am.

10 THE COURT: Very well, you are free to go.

11 (Whereupon, the witness steps down from the
12 witness stand.)

13 THE COURT: Please call your next witness.

14 MR. BAILEY: Recall Alvin Coker.

15 THE COURT: Yes, sir.

16 (Alvin Coker, called as a witness, having
17 previously been sworn, is examined and testifies
18 as follows.)

19 DIRECT EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Coker, calling your attention to May the
22 28th, 2001, I would ask whether or not in the course
23 of your duties as case officer were you at the old
24 Cope Road bridge across the Edisto River?

25 A. I was.

Alvin Coker - Direct Exam

1 Q. All right, sir.. What was going on at that
2 location?

3 A. We had interviewed, ourself and another officer
4 had actually interviewed Kendra and Yolanda Bowman
5 who had both given us information.

6 Q. Don't say anything, don't repeat anything they
7 said, but as a result of interview with the Bowman
8 sisters, what did you do?

9 A. I contacted my chain of command to get a dive
10 team together to go down and actually search the
11 river. We did not have a dive team available from
12 Dorchester County; therefore, I requested one through
13 Orangeburg County and the Caanan Volunteer Fire
14 Department Dive Team responded.

15 Q. All right, sir. And did you go out there while
16 they were in the water?

17 A. Yes, sir. I did.

18 Q. All right, sir. About 11:40 p.m. where were
19 you?

20 A. I was on top of the bridge.

21 Q. Okay. And what occurred in your presence as you
22 were on top of the bridge?

23 A. One of the divers, Mr. Mark Sheetz, indicated
24 that he had located a handgun under the water down
25 beside a log that was about midstream in the river,

Alvin Coker - Direct Exam

1 approximately 25 feet from the bridge piling.

2 Q. All right, sir. And what did you do to try to
3 retrieve that gun out of the river?

4 A. I had a small Igloo cooler in the back of my
5 truck, I tied a rope to it, lowered it down to the
6 water. Ms. Salley then took that cooler and walked
7 it over to where Mr. Sheetz was, held the cooler
8 under the water. Between the two of them they worked
9 that gun into the cooler to keep it in the water.

10 Q. What's the idea of keeping the gun in the water?

11 A. To preserve it, to keep any rust.

12 Q. All right, sir. Okay. What happened after
13 Mr. Sheetz, Ms. Salley got the gun in the cooler?

14 A. Ms. Salley then walked it back over to the edge
15 of the bridge piling and I hoisted the cooler up to
16 the top of the bridge, took control of it at that
17 point. Then I walked it back to my truck which was
18 parked there at the end of the bridge. I took a
19 gallon sized Ziploc bag, put on latex gloves, put
20 that plastic bag down inside the cooler and worked
21 the gun into that plastic bag along with the water
22 from the cooler and zip locked it closed again just
23 to prevent the water from sloshing out of the cooler
24 in transport.

25 Q. All right, sir. I'm going to show you a

Alvin Coker - Direct Exam

1 document here that's State's Number 29 for
2 identification, and ask if you've seen this before?

3 A. Yes, sir. This is, again, a Dorchester County
4 Sheriff's Office evidence report sheet, indicates my
5 case number, my name, the date which was 5-28-01.
6 Had the suspect's name, Mr. Marion Bowman, Jr., then
7 I give a description of the weapon that was
8 recovered, which was one High Point ACP .380 pistol
9 bearing serial number P703855, it was a model CF,
10 black and silver in color.

11 Q. All right, sir. And I'm going to hand you
12 what's been marked State's 42 and ask if you would
13 look at that and see if you can find a serial number
14 on that?

15 A. Yes, sir. I can. It's right underneath the
16 barrel.

17 Q. All right, sir. Would you compare the serial
18 number on that pistol to the serial number on the
19 chain of custody form?

20 A. It's one in the same.

21 Q. All right, sir. Based on that identical serial
22 number, is that the gun that Ms. Salley gave to you
23 out of the river?

24 A. It is.

25 Q. All right, sir. And referring again to the

Alvin Coker - Direct Exam

1 chain of custody form, what did you do with that
2 pistol?

3 A. I took the pistol once we cleared the river, I
4 transported it back to our office in Summerville
5 where I met with one of our crime scene and evidence
6 technicians, Ms. Allyson Penn at the time, now
7 Allyson Greer, I turned it over to her.

8 Q. All right, sir. Please answer any questions Mr.
9 Cummings will have for you.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BY MR. CUMMINGS:

13 Q. I didn't mean to really pick on you a little
14 while ago about pointing to you right off the bat.
15 Have you, Detective Coker, spoke to Mrs. Bowman about
16 how this gun was found?

17 A. I did at the time we arrested her, yes, sir.

18 Q. Okay. Let's go back a little bit. How did you
19 learn where to go?

20 A. In an interview with Mr. Bowman's two sisters,
21 Kendra and Yolanda.

22 Q. Well, how did it come to be that you would just
23 happen to go back over and go talk to the sisters?

24 A. Right after this incident, this case got
25 started, we were into the investigation, shortly

Alvin Coker - Cross-Exam

1 after we had arrested Mr. Bowman we had two other
2 homicides both involving small children which ended
3 up in extensive searches.

4 Q. You mean like the Britt case?

5 A. Yes, sir. One of them.

6 Q. That's a boy that drown in the pond?

7 A. Correct. I got pulled off of this case for a
8 brief time until those investigations were given to
9 someone else, I had to assist in those. And it took
10 me a while before I ever got back to actually
11 interview either one of these sisters.

12 Q. Okay. Did you learn, or is this the first time
13 today that you learned of how Ms. Bowman found out
14 the weapon was there?

15 A. Without referring to my notes I don't remember.
16 I would have to refer to them.

17 Q. Well, you've been involved in the chain with the
18 gun, you've been involved as a senior case officer,
19 you don't remember about how information came about
20 to be -- to locate this particular weapon so far?

21 A. I don't recall her telling me that anyone else
22 told her where they were.

23 Q. Okay. Now, you interviewed Hiram Johnson, sir?

24 A. Yes, sir. I have.

25 Q. You took a statement from him; did you not?

Alvin Coker - Cross-Exam

1 A. I did.

2 Q. You took two statements from him; did you not?

3 A. I believe you're correct.

4 Q. At any time during the two statements did that
5 gentleman offer the statements to you?

6 A. No, sir. He did not.

7 Q. Had you learned or had gathered through your
8 investigation, sir, that Mrs. Bowman's house was
9 entered into?

10 A. It was well into the investigation and after the
11 arrest of Mr. Bowman, sometime after it as a matter
12 of fact, that I had learned that someone had gone in
13 at some point in time.

14 Q. All right, sir.

15 MR. CUMMINGS: Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes.

18 MR. CUMMINGS: Judge, that's all the
19 questions we have of this gentleman right now.

20 THE COURT: Any redirect?

21 MR. BAILEY: Yes, ma'am.

22 REDIRECT EXAMINATION

23 BY MR. BAILEY:

24 Q. Mr. Coker, as far as any investigation of
25 someone going into Ms. Bowman's trailer, that trailer

Alvin Coker - Redirect Exam

1 is located in Orangeburg County; is that correct,
2 sir?

3 A. That's correct. In the town of Branchville.

4 Q. Did you investigate any complaint of anybody
5 entering her trailer?

6 A. No, sir. I did not.

7 Q. Do you have any knowledge of that situation at
8 all?

9 A. No, sir. I do not.

10 Q. All right, sir. That's all I have.

11 RECROSS-EXAMINATION

12 BY MR. CUMMINGS:

13 Q. You worked very closely with the sheriff of
14 Orangeburg County and other people in part of this
15 case; did you not, sir?

16 A. Yes, sir.

17 Q. As a law enforcement officer if you learn about
18 something else going on somewhere else you got to
19 share information all the time, right?

20 A. At times. Depends on when we communicate with
21 each other.

22 Q. Burglary is a pretty big issue, right, or home
23 entering?

24 A. Yes, sir.

25 Q. Okay. I'm not trying to ask you a trick

Alvin Coker - Recross-Exam

1 question, I mean --

2 A. I understand.

3 Q. When you learned about it did you ask, or did
4 you ever give that information to Branchville,
5 Mr. Boone Walters, to follow that up with him as the
6 chief there?

7 A. May have talked with Mr. Walters at some point
8 well after the fact, but I never received any type of
9 paperwork from him on it.

10 Q. Thank you very much, sir.

11 THE COURT: All right. You can come on
12 back down.

13 (Whereupon, the witness steps down from the
14 witness stand.)

15 THE COURT: I'll tell you what, let's take
16 our afternoon break. Ladies and gentlemen,
17 we're going to take our afternoon break now.
18 I'm going to ask you to please step to your jury
19 room, remembering not to discuss this matter or
20 allow anyone to discuss it with you. Let's take
21 about a -- I don't know, let's take about a
22 20-minute break.

23 (Whereupon, the jury retires to the jury room at
24 3:06 p.m.)

25 THE COURT: All right. We'll take our

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1 break as well.

2 MR. CUMMINGS: Thank you.

3 (Recess, from 3:06 p.m. to 3:32 p.m.)

4 THE COURT: Let us have our jury, please.

5 (Whereupon, the jury returns to the courtroom at
6 3:32 p.m.)

7 THE COURT: All right. Mr. Bailey, call
8 your next witness, please.

9 MR. BAILEY: Thank you, Your Honor.

10 Allyson Greer.

11 (Allyson Greer, called as a witness, having
12 first been duly sworn, is examined and testifies
13 as follows:)

14 DIRECT EXAMINATION

15 BY MR. BAILEY:

16 Q. Ms. Greer, back in February 2001 your last name
17 was Penn; is that correct?

18 A. Yes, sir.

19 Q. You signed some documents Allyson Penn?

20 A. Yes, sir.

21 Q. Tell the jury how you're employed.

22 A. I am employed with the Dorchester County
23 Sheriff's Office.

24 Q. Okay. What do you do for the sheriff's office?

25 A. I am a crime scene investigator, evidence

Allyson Greer - Direct Exam

1 custodian, and latent print examiner.

2 Q. Okay. Calling your attention to May 28th, 2001,
3 I would ask whether or not you had occasion to see
4 Detective Alvin Coker?

5 A. Yes, sir. I did.

6 Q. Okay. I'm going to hand you what's been marked
7 as State's 29, ask if that's a chain of custody form
8 and if your name appears there?

9 A. Yes, sir.

10 Q. Okay. And on that date, would you state whether
11 or not Alvin Coker turned over a High Point .380
12 pistol to you?

13 A. Yes, sir. He did.

14 Q. Looking at the serial number on that chain of
15 custody form and comparing that to State's 42, I
16 would ask if this is the pistol that he gave you?

17 A. Yes, sir. It is.

18 Q. All right. And when that pistol was turned over
19 to you, how was it packaged, or what was it in?

20 A. It was placed in a small Igloo cooler with water
21 inside.

22 Q. All right. And did you retain that in your
23 custody until May the 30th?

24 A. Yes, sir. I did.

25 Q. Okay. In a secure location?

Allyson Greer - Direct Exam

1 A. Yes, sir.

2 Q. And I would ask whether or not on May 30th
3 whether you carried that to the forensic lab at SLED
4 in Columbia?

5 A. Yes, sir. I did.

6 Q. And I would hand you a document marked State's
7 Number 32 for identification, ask if you can identify
8 that?

9 A. Yes, sir. I can.

10 Q. All right. Is that the chain of custody form
11 where you carried that pistol to SLED?

12 A. Yes, sir.

13 Q. Would you state whether or not you turned that
14 pistol over to David Collins of SLED?

15 A. Yes, sir. I did.

16 Q. Your signature appears on there?

17 A. Yes, sir.

18 Q. Thank you.

19 A. On both pages.

20 MR. BAILEY: Would offer this, Your Honor.

21 MR. CUMMINGS: May it please the Court, I
22 would just like to talk to the solicitor for a
23 moment.

24 THE COURT: Yes, indeed.

25 (Pause in proceedings.)

Allyson Greer - Direct Exam

1 MR. CUMMINGS: Judge, I have no legal
2 objection to that document.

3 THE COURT: Very well. State's Exhibit in
4 evidence without objection.

5 (Entered into evidence was State's Exhibit 32,
6 chain of custody document.)

7 MR. BAILEY: Thank you, Your Honor.

8 Q. Ms. Greer, please answer any questions Mr.
9 Cummings may have for you.

10 THE COURT: Yes, sir. Cross-examination.

11 CROSS-EXAMINATION

12 BY MR. CUMMINGS:

13 Q. Good afternoon, Ms. Penn, and now Ms. Greer.

14 A. Hi.

15 Q. Just so the ladies and gentlemen of the jury
16 know, you and I have a professional working
17 relationship with each other even outside the
18 courtroom in other facilities; is that correct?

19 A. Yes.

20 Q. So it seems like if we talk vocally to each
21 other we know each other well?

22 A. Yes, sir.

23 Q. As a result of that now I want to take your
24 attention back to February 17th, early morning hours.
25 Did you get called out?

Allyson Greer - Cross-Exam

1 A. Yes, sir. I did.

2 Q. Okay. I want to start back there. When you get
3 called out, approximately what time did you respond
4 to Nursery Road?

5 A. I'm assuming it was around between 3:00 and
6 4:00. I think I got there around 4:00 that morning.

7 Q. 3:00 or 4:00, okay.

8 A. Yes, sir.

9 Q. When you got there that day, would you please
10 just briefly -- what was the first thing you did?

11 A. Well, first when I got there I signed out to
12 dispatch that I was 23, which means I'm on scene.

13 Q. Right.

14 A. The fire department was already there.

15 Q. Yes, ma'am.

16 A. I got out, spoke with them of what they had.

17 Q. Okay.

18 A. Observed that there was a vehicle that was burnt
19 over in a field to my right.

20 Q. Yes, ma'am.

21 A. And from there I waited for my supervisor to get
22 there.

23 Q. Okay.

24 A. Lieutenant Asbell.

25 Q. Lieutenant Asbell?

Allyson Greer - Cross-Exam

1 A. Yes, sir.

2 Q. All right, ma'am. Now, were you able to drive
3 your cruiser or your police vehicle onto Nursery Road
4 without any interference?

5 A. Yes, sir.

6 Q. Okay. Now, obviously you're a crime scene
7 technician, okay, and you get there. Was Lieutenant
8 Asbell there yet?

9 A. No, sir. We had to wait about ten to 15 minutes
10 for him to arrive.

11 Q. And did you photograph the scene when you got
12 there?

13 A. No, sir.

14 Q. Was it still dark or daylight?

15 A. It was dark and it was raining.

16 Q. And it was starting to rain at that point?

17 A. Yes, sir.

18 Q. And when you -- how long did you have to wait
19 until about daylight arrives?

20 A. Oh, gosh, I guess around that time it started
21 getting daylight around 6:00, 6:30.

22 Q. Once daylight came about, did you take
23 photographs of the road, the roadway, anything along
24 that line?

25 A. No, sir.

Allyson Greer - Cross-Exam

1 Q. Okay. What exactly did you do out there that
2 morning, ma'am?

3 A. Basically I did nothing. I did assist
4 Lieutenant Asbell once he got to the scene.

5 Q. Yes, ma'am.

6 A. We did walk to the vehicle, look at the vehicle,
7 walk around the area of the vehicle, observed the
8 trunk of the vehicle.

9 Q. Yes, ma'am.

10 A. And made a decision to call in the SLED arson at
11 that point in time.

12 Q. You backed out?

13 A. And we backed out, yes, sir.

14 Q. In other words, on a professional courtesy you
15 turned it over to them?

16 A. Yes, sir.

17 Q. All you were there for at that point was to lend
18 any assistance you had to do?

19 A. Yes, sir.

20 Q. And then what were you called upon to do
21 thereafter that day?

22 A. Basically I was in my office where evidence was
23 turned in to me where it was secured for later
24 testing or to be transported to SLED. And then on
25 May the 27th I was notified by Detective Coker that

Allyson Greer - Cross-Exam

1 we had possibly located a location of the gun.

2 Q. Okay.

3 A. So I did respond out to that location. Nothing
4 was recovered that particular day, I did not return
5 the next day, but the gun was retrieved and turned
6 over to me by Detective Coker.

7 Q. Okay. Now I'm really going to back up, but
8 obviously, you know, you've read, you've prepared
9 yourself for court today, obviously, ma'am, I want to
10 take you back on that morning on the 17th. Were you
11 ever requested to go anywhere and take any
12 photographs of the trailer that Ms. Bowman resided
13 in?

14 A. No, sir.

15 Q. Okay. Were you ever asked to go over and do
16 anything with the hands of Mr. Bowman?

17 A. No, sir.

18 Q. Didn't do any nitrate tests?

19 A. No, sir.

20 Q. Never requested?

21 A. No, sir.

22 Q. Never requested to do a trace metal test?

23 A. No, sir. At that point in time SLED crime scene
24 was involved and it was my understanding they were
25 handling the complete investigation from there.

Allyson Greer - Cross-Exam

1 Q. Did you have that gear available to you in your
2 unit or Lieutenant Asbell's unit?

3 A. Yes, sir.

4 Q. You know the importance of that, don't you?

5 A. Yes, sir.

6 Q. Okay. And of your personal knowledge from any
7 of your bosses, you know, and I don't mean just
8 Lieutenant Asbell, ma'am, anybody else of a senior or
9 what we call field rank out there, did anybody ask
10 you to do anything else using your talents, your
11 education, your experience?

12 A. No, sir.

13 MR. CUMMINGS: Beg the Court's indulgence.

14 THE COURT: All right.

15 (Pause in proceedings.)

16 Q. Did there come a time, ma'am, where you were
17 given objects or items that belonged to Miss Martin
18 that were retrieved from another location, another
19 person named Charles Fralix?

20 A. I can't be sure without looking at
21 documentation, without looking at chain of custodies,
22 which would have been given along with the items if
23 they were given to me.

24 Q. You don't have a specific recollection about
25 that?

Allyson Greer - Cross-Exam

1 A. Not specifically, I'm sorry.

2 Q. Thank you. That's all the questions I have.

3 THE COURT: Very well. Redirect?

4 MR. BAILEY: No redirect.

5 MR. CUMMINGS: Free to leave without any
6 objection, Judge.

7 THE COURT: Very well. You're free to go.

8 (Whereupon, the witness steps down from the
9 witness stand.)

10 MR. BAILEY: Sally Bookhart.

11 (Sally M. Bookhart, called as a witness, having
12 first been duly sworn, is examined and testifies
13 as follows:)

14 DIRECT EXAMINATION

15 BY MR. BAILEY:

16 Q. Where do you live?

17 A. Where I used to before I moved?

18 Q. Starting off with right now.

19 A. Okay. Right now I stay at [REDACTED],
20 Apartment [REDACTED].

21 Q. Where is that, what town?

22 A. Branchville, South Carolina.

23 Q. You're Dorothy Mae Bowman's sister; is that
24 correct?

25 A. Yes, sir.

Sally M. Bookhart - Direct Exam

1 Q. And Marion Bowman, Jr. would be your
2 brother-in-law?

3 A. Yes, sir.

4 Q. Okay. I want to draw your attention to
5 somewhere around December 1999 and ask whether or not
6 you loaned some furniture to your sister, Dorothy Mae
7 Bowman?

8 A. Yes, sir.

9 Q. What did you lend her?

10 A. If I am correct it was a love seat and a long
11 sofa.

12 Q. Okay. And when you lent her that furniture, was
13 she living in Branchville?

14 A. Yes, sir.

15 Q. Okay. I'm going to show you a picture of
16 State's 26, I'm going to put it up on the screen here
17 and see if you can see it. Can you see -- is that
18 where your sister lived at the time you lent her that
19 furniture?

20 A. Yes, sir.

21 Q. Okay. And it was two pieces of furniture?

22 A. Yes, sir.

23 Q. Was it upholstered furniture with cushions built
24 into it?

25 A. Yes, sir. One of them were, one of them wasn't.

Sally M. Bookhart - Direct Exam

1 Q. Okay. Hold on a second, I want to get another
2 picture here for you. Let me hand you this, this is
3 State's 25. Can you recognize that? Not talking
4 about the pants, but what the pants are on top of?

5 A. To be honest?

6 Q. I want you to be honest.

7 MR. CUMMINGS: Be honest.

8 A. I mean, if the cover was off of it I could tell
9 you, yes, that's exactly mine, but....

10 Q. There's a cover on it?

11 A. Uh-huh (affirmative response).

12 Q. Go ahead, Ms. Bookhart, please. I know it's
13 kind of hard to describe furniture, but can you
14 describe those two pieces of furniture to the jury
15 best you can as far as what color they were, how big
16 they were? Just taking them one at a time.

17 A. Well, with the short chair, that's a love seat,
18 that's a two seat, it's a loud brown maybe with blue,
19 with different colors in it. And that one would have
20 the cushion that was built in it, you couldn't take
21 that one out.

22 Q. Built in cushion?

23 A. With the sofa. That's the long one, that's the
24 pull-out bed, which actually that consists of the two
25 sofas -- I mean, the two cushions can be pulled out.

Sally M. Bookhart - Direct Exam

1 Q. Okay. And did you become aware that somewhere
2 around late February that Marion Bowman, Jr. had been
3 arrested?

4 A. Yes, sir.

5 Q. Okay. And shortly after that, don't say
6 anything that anybody said, but did you have a
7 conversation with your sister, Dorothy Bowman?

8 A. Yes, sir.

9 Q. Okay. And, again, without saying anything, did
10 you help her move?

11 A. Yes, I did.

12 Q. Okay. And how did you -- what assistance did
13 you offer her to move?

14 A. I rent a U-Haul.

15 Q. Okay. Did y'all move furniture out of that
16 trailer that's shown in that picture?

17 A. Yes, we did.

18 Q. Okay. Tell the jury, please, what happened to
19 those two piece of furniture that you previously
20 loaned to your sister that you just described.

21 A. Well, basically she had got it after whatever
22 incident happened, she asked me to move her, which I
23 did. And I nicely took that, I lended them back to
24 my house, which that was Locket Street.

25 Q. Okay. So you took that furniture back; is that

Sally M. Bookhart - Direct Exam

1 right?

2 A. Yes, sir.

3 Q. Okay. And I want to call your attention to
4 June 6th, 2001, ask whether or not you were home that
5 day?

6 A. Yes, I were.

7 Q. Okay. And did somebody come to your house?

8 A. Yes, they did.

9 Q. Okay. Was it some police officers?

10 A. Matter of fact, yes, there were two detectives.

11 Q. Okay. And do you recognize any of them here in
12 court? How about this young man with the glasses
13 over here? If you're not sure --

14 A. I'm not sure, but I do recall one guy, he was
15 short with gray hair and that's all, that's the only
16 one I recall.

17 Q. Okay. When they came to your house, did you let
18 them in?

19 A. Yes, I did, with no problems.

20 Q. What did they do while they were in your house?

21 A. When they came in they stated who they were and
22 they also read me a statement from my sister which
23 they had took at the jail. And they were standing in
24 front of the sofa which they claim they found
25 whatever they found, and they was talking to me and

Sally M. Bookhart - Direct Exam

1 telling me that my sister give them a statement, who
2 I were, where I stayed at and what they could find in
3 that chair that was in my house.

4 Q. Okay. Did they search the chairs?

5 A. Yes, they did.

6 Q. These were the chairs that you had gotten back
7 from your sister; is that correct?

8 A. Yes, sir.

9 Q. Were you inside the house when they were
10 searching?

11 A. Yes. I was standing right behind them, right
12 behind the sofa.

13 Q. Tell the jury what you saw as they were
14 searching through your furniture.

15 A. At first when they were searching, they pull the
16 chair up. I kind of like assist them to move the
17 pillows or cushions or whatever I had on there. They
18 kept searching for five or ten minutes. After a
19 while the guy, he's short with the gray hair, he
20 decided to get on his knees. And whatever he did he
21 went underneath of my sofa, wherever it was at, and
22 he pulled out a case of bullets.

23 Q. Okay.

24 A. He opened it up in front of me, he count how
25 many bullets supposed to be there, how many were

Sally M. Bookhart - Direct Exam

1 missing. Then they went outside to the blue Crown
2 Victoria, if I'm correct, popped the trunk, and
3 that's all I know.

4 Q. Okay. Ms. Bookhart, that's all the questions I
5 have I think. Yes, ma'am. Please answer any
6 questions Mr. Cummings might have for you.

7 CROSS-EXAMINATION

8 BY MR. CUMMINGS:

9 Q. Good afternoon, ma'am.

10 A. Good afternoon to you.

11 Q. Ms. Bookhart, I just wanted to ask you a couple
12 questions. The first one of course may be a little
13 private question, but you have a child by Mr. Taiwan
14 Gadson's uncle; do you not?

15 A. Yes, I do.

16 Q. Okay. I'm just asking you a little background
17 information here, not to attack you.

18 A. Okay. No problem.

19 Q. And you live right around the corner from where
20 these folks lived in that trailer right there; is
21 that correct?

22 A. Yes, I do.

23 Q. All right. And there came a time where you
24 learned your sis wanted to move from that trailer,
25 right?

Sally M. Bookhart - Cross-Exam

1 A. Yes.

2 Q. You learned that there was a break-in at her
3 house?

4 A. No.

5 Q. You never learned that?

6 A. No.

7 Q. It's not something she shared with you at all?

8 A. No.

9 Q. She wanted to move from the trailer just because
10 she wanted to go somewhere else?

11 A. She said for the fact it were the dealing with
12 this case and that people kept bothering her and she
13 decided to --

14 Q. People kept bothering her. What people kept
15 bothering her?

16 A. No. She didn't say what people keep bothering
17 her, she just said people bothering her and she
18 wanted to move. She asked me could I move her. And
19 I said, yes. By being my sister she wanted to move
20 and so I moved her.

21 Q. It's important to let family take care of
22 family?

23 A. That's right. And that's what I did.

24 Eventually if somebody asked you to move and they're
25 your family, I'm quite sure you would move them, too.

Sally M. Bookhart - Cross-Exam

1 Q. So when did your sister move out of the trailer,
2 ma'am?

3 A. Oh, right after, if I'm correct, after her
4 husband had got arrested, maybe about a couple of
5 days to a week, as I recall. Because I know I move
6 her on a Friday because I had got paid and I paid for
7 that U-Haul.

8 Q. Okay. And where did you take -- where did you
9 physically put the furniture when you moved her?

10 A. When I finished getting move her I took
11 everything of hers, put it at my house, which that
12 consisted of two love seats, the sofa, and love seat
13 that I lended them in my house, I took her stove and
14 her refrigerator and placed it behind my house.

15 Q. Outside?

16 A. Yes, I did.

17 Q. Okay. And, again, I'm not trying to ask you any
18 more privately than I have to, but you have people
19 come visit your home, you have other people come
20 over, right?

21 A. Yes, I do.

22 Q. You know a gentleman named Hiram Johnson?

23 A. Yes.

24 Q. Was he allowed to frequent your home, visit your
25 home?

Sally M. Bookhart - Cross-Exam

1 A. No. One time he came when I braid his hair,
2 which I do braid hair. And he came to get his hair
3 braid one day, but as far as frequently coming to my
4 house, no, he do not.

5 Q. Let me ask you a question professionally. How
6 often would he come there to have his hair braided by
7 you, ma'am, particularly February 2001?

8 A. Maybe about two weeks.

9 Q. Okay.

10 A. That's it. That's the last time I see him
11 within two weeks and that was it. He only came to my
12 house two weeks.

13 Q. March of 2001 would he come visit?

14 A. No.

15 Q. Okay. Wouldn't get his hair braided in March?

16 A. No.

17 Q. April?

18 A. No.

19 Q. May?

20 A. No.

21 Q. June?

22 A. No, sir.

23 Q. Okay. Just that one time?

24 A. Yes.

25 Q. Okay. And then you know Taiwan Gadson?

Sally M. Bookhart - Cross-Exam

1 A. Yes, I do.

2 Q. Okay. Is he relation to you by any way, by
3 blood, marriage?

4 A. Only kind of relationship with that is the fact
5 that I got a baby by his uncle. Which I kind of like
6 grow up with Taiwan, he's like a little brother to
7 me, so, yes. That's about the only relationship that
8 we have is a close friendship. Other than that,
9 there's no relationship.

10 Q. And do you know a gentleman named Clarence
11 Bookhart?

12 A. Yes, that's my brother-in-law.

13 Q. And do you know Mr. Sammy Bookhart?

14 A. That's my husband.

15 Q. Is Sammy close friends with Mr. Taiwan Gadson?

16 A. I'm not going to say they're close, but they're
17 friends. They're not that close.

18 Q. How about Mr. Clarence Bookhart?

19 A. Well, I mean, I cannot speak on that behalf
20 because I don't live with them, so I cannot give a
21 definite answer on that part.

22 Q. Okay. Did you know Miss Martin, ma'am?

23 A. Yes. I mean, not really know her.

24 Q. Right.

25 A. But I just knew her by living there and coming

Sally M. Bookhart - Cross-Exam

1 underneath me going to school.

2 Q. All right, ma'am. Did Hiram Johnson know Miss
3 Martin?

4 A. I'm quite sure all them went to school together.
5 Small community, so everybody know everybody.

6 Q. Would you see everybody out in public?

7 A. Yes.

8 Q. Okay. So it would not be unfamiliar to you to
9 see either Mr. Bowman with Miss Martin or Mr. Gadson
10 with Miss Martin?

11 A. No.

12 Q. Or, I mean, it's a small community like you
13 said?

14 A. Yes.

15 Q. Okay. Now, on June 6 when these two police
16 officers come to your door, did they say anything in
17 particular to you about why they happened to just
18 come to your door on June 6?

19 A. Yes, they did.

20 MR. BAILEY: He's getting into some
21 hearsay, Your Honor, I'm going to object to
22 that. The officers will be testifying after
23 her.

24 THE COURT: Just watch eliciting hearsay,
25 please, sir.

Sally M. Bookhart - Cross-Exam

1 Q. When the officers came to the door did they
2 announce their authority and presence?

3 A. Yes, they did.

4 Q. Okay. And they asked you because of their
5 authority and presence to do a certain thing. Did
6 you let that happen?

7 A. Yes, I did.

8 Q. Okay. And exactly where did the officers go to
9 search?

10 A. Well, they came to my front living room, which
11 the love seat was like longways like this. One of
12 the officers got down on his hands and knees, went up
13 into my sofa and pulled out a case of bullets,
14 because I was in my room at that time on the phone.

15 Q. Well, if you were in the room on the phone --

16 A. I was standing right in front of my door. My
17 door is right here, the love seat's right -- I mean,
18 my sofa is right there, I can look dead at him, but I
19 was on the phone. And at that time while they were
20 doing the procedure I told them, the person I was on
21 the phone, I said, let me call you back because I
22 have some people here.

23 Q. Slow down. This girl has got to type down
24 everything you've got to say.

25 A. Oh, I'm sorry.

Sally M. Bookhart - Cross-Exam

1 Q. Did these gentlemen ask you to give a written
2 statement?

3 A. No, they did not, because the fact that were my
4 sister had give them a statement when she got locked
5 up and had stated exactly where the bullet case was
6 located, and that whatever she gave them that's when
7 they came to them stating that's what she gave. I
8 told them since they had authority and they are
9 detectives, sure, I don't mind. Because matter of
10 fact, the chief of Branchville came with them, so I
11 have no questions of not letting them come in because
12 I didn't have anything to hide. If I did then I
13 wouldn't have let them in, but since I didn't know
14 anything I let them in.

15 Q. Okay.

16 MR. CUMMINGS: Beg the Court's indulgence,
17 Your Honor.

18 (Pause in proceedings.)

19 Q. Now, you are sure we got the chief of
20 Branchville there, some short detective there, we got
21 somebody else there, right?

22 A. Yes, because the chief of police had showed them
23 exactly where I stayed at. And after he showed them
24 where I stayed at he left. So exactly left two
25 detectives there, plus myself, plus -- and I was on

Sally M. Bookhart - Cross-Exam

1 the phone when they came up and they was in there
2 doing what they were doing. I nicely hung up the
3 phone, continued to talk to them, which I did at that
4 time. When they left I went to my mother.

5 MR. CUMMINGS: That is all the questions I
6 have of this lady. Thank you.

7 THE COURT: All right. Any redirect?

8 MR. BAILEY: No redirect.

9 THE COURT: Is this witness free to leave?

10 MR. BAILEY: Yes, ma'am. Thank you.

11 THE COURT: All right. Any objection? You
12 are free to go, ma'am.

13 MR. CUMMINGS: Judge, of course, we just
14 ask the lady be subject to recall.

15 THE COURT: Yes, ma'am. You are not free
16 to go. You're subject to being recalled.

17 THE WITNESS: No problem.

18 (Whereupon, the witness steps down from the
19 witness stand.)

20 MR. BAILEY: James Helms.

21 (James Helms, called as a witness, having
22 previously been sworn, was examined and
23 testifies as follows.)
24
25

James Helms - Direct Exam

DIRECT EXAMINATION

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BY MR. BAILEY:

Q. Mr. Helms, did you continue to work on this case -- you testified earlier about your initial work in the case and evidence you collected from the burned car, did you continue to assist Dorchester County after that?

A. That is correct, sir.

Q. All right, sir. I want to call your attention to June 6, 2001, ask whether or not you had occasion to go to the home of Sally Bookhart?

A. That is correct, sir.

Q. All right, sir. And did you go there with somebody else?

A. Went there with a Detective Alvin Coker from the sheriff's department of Dorchester County.

Q. All right, sir. What was your purpose in going to Ms. Bookhart's house?

A. To request a consent to search to look for possible items of evidence that may have been located in the home of Ms. Bookhart.

Q. All right. And when you arrived at the Bookhart house, could you state whether or not Ms. Bookhart let you all in?

A. That's correct. We explained the situation and

James Helms - Direct Exam

1 she --

2 Q. Did you conduct a search of some furniture in
3 that house?

4 A. Yes, sir, we did, of the sofa.

5 Q. All right, sir. And inasmuch detail as you can
6 recall, Mr. Helms, can you describe the sofa that you
7 searched?

8 A. The sofa was -- again, to give you a color, et
9 cetera, I could not, but it was a basic standard
10 sofa. What stands out to me was the, I would say,
11 design of the sofa. The information we had
12 received --

13 Q. Don't get into any hearsay, but just describe if
14 you would, sir.

15 A. All right, sir. It's your standard, typical
16 sofa that had a fold at the bottom of the sofa. When
17 I say a fold, when the sofa is made the fabric, the
18 way it was designed for the fabric to go on the sofa
19 is -- reminds me of a bed. When you make the bed up,
20 your bed sheet, you tug underneath the mattress and
21 it creates a fold there on the side of the mattress.
22 And most people tuck the corner in, it creates a
23 little pocket in there. And what I recall is
24 particularly that fold. And there was some padding
25 along the fold that was at the lower part, front

James Helms - Direct Exam

1 lower part of the sofa that --

2 Q. Was this like a sleeper sofa or just a regular
3 couch, do you recall?

4 A. I just don't recall to be honest with you, sir.

5 Q. Okay.

6 A. I mean, it was a sofa.

7 Q. All right. And what portion of that sofa did
8 you begin to search?

9 A. We began to search the front. If you were
10 standing looking directly at the sofa and were to sit
11 down on the sofa, the area basically from your knees
12 down to the floor, in the sense the fascia board, if
13 you would for a sofa, the front, lower part of the
14 sofa where the fabric was tucked up underneath and
15 nailed to a board on the backside to hold the fabric
16 in place for the board, it was somewhat padded. And
17 apparently the manufacturer had maybe some small
18 amount of padding or cushioning in the sofa.

19 And we began -- first observation it
20 appeared there was no holes, everything was secure
21 with the fabric. Basically began -- began searching
22 it by feel, by pushing down on the sofa, looking for
23 anything that did not feel right, any kind of hard
24 objects, or holes, or any voids or something,
25 something that was not consistent with the basic

James Helms - Direct Exam

1 construction of the sofa.

2 Upon searching and pushing on the sofa
3 an object was felt within the sofa, again, on that
4 front, front lower section of the sofa. Following it
5 down the front section, and I want to say front left
6 where that fold was again, had been cut to where you
7 could reach your hand inside the sofa material
8 between the fabric and that board that the fabric was
9 adhered to.

10 And my recollection I couldn't -- I --
11 it was a small area that my hand or arm could not
12 reach all the way up into. I think between working
13 the object back down and Detective Coker reaching in
14 there we were able to retrieve a -- the object which
15 turned out to be a box of ammunition, .380 caliber
16 handgun ammunition.

17 Q. All right, sir. Let me hand you what's been
18 marked for identification as State's 36 and ask if
19 you can identify this?

20 A. Yes, sir. It appears to be the box of
21 ammunition that was located from the sofa.

22 Q. All right, sir. And the bullets are out of that
23 box now; is that correct?

24 A. Yes, sir.

25 Q. And when you found it, was that the condition it

James Helms - Direct Exam

1 was in?

2 A. The bullets were inside the box when we located
3 it.

4 Q. All right. And when you left Ms. Bookhart's
5 residence, did you take that with you?

6 A. Yes, sir. We did. Or I believe I did, yes,
7 sir.

8 Q. All right. Thank you, sir.

9 MR. BAILEY: I leave this for
10 identification only at this time.

11 THE COURT: Very well.

12 Q. Please answer any questions that Mr. Cummings
13 may have for you, please.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. CUMMINGS:

17 Q. Good to see you again, sir.

18 A. Yes, sir.

19 Q. If I may get this straight we'll go real
20 quickly. Somehow you get information June of 2001 to
21 want to go back over to Ms. Bookhart's house; is that
22 correct?

23 A. That's correct.

24 Q. All right. You go over to Ms. Bookhart's house.
25 Did you find out what line of consanguinity, who

James Helms - Cross-Exam

1 she's related to at all before you went over there?

2 A. My understanding, I'm going to try to keep
3 straight, was that she was the sister of the
4 defendant if I'm not -- not mistaken. I have it in
5 my notes, so I couldn't recall it from the top of my
6 head.

7 Q. I understand that a lot of time has gone by, you
8 worked from February to June. You can't tell these
9 good ladies and gentlemen there how that box of
10 ammunition got placed in that couch; isn't that true?

11 A. That would be correct. I do not have firsthand
12 knowledge of how it would have gotten in that couch.

13 Q. And you can't say when it was placed there;
14 isn't that true, sir?

15 A. That's correct, sir.

16 Q. You can't say by whom or who placed that ammo in
17 there?

18 A. That would be correct, sir.

19 Q. Now, when you did that, you're at the residence
20 of Ms. Bookhart, did she tell you she had a baby by
21 the uncle of Mr. Gadson, did you ever here her talk
22 about that?

23 A. May have. I don't recall if that was mentioned
24 or not.

25 Q. Okay. Did you gentlemen check to see from

James Helms - Cross-Exam

1 February 17th when Mr. Bowman was arrested until
2 June 6th what people might have been sitting on the
3 couch just so you could come in today and tell these
4 folks who might have been there to testify today?

5 A. I think it would be virtually impossible to know
6 who sat on that couch during a four-month period.

7 Q. Did you learn the location of that couch,
8 whether it was at any time left where other people
9 could get to it, sir? Again, I'm asking you
10 something that is a --

11 A. Again, it was my understanding it was never put
12 in a storage area or secure area where no one could
13 have sat on it. I understand it was a normal sofa
14 that was used for normal sitting.

15 Q. Did you ask the people who moved the couch from
16 that trailer into Ms. Bookhart's, did you ever ask
17 who that was?

18 A. Who physically moved it?

19 Q. Yes, sir.

20 A. Not that I recall.

21 Q. Okay. And, again, you gentlemen were groping
22 around in there. And just did you have a particular
23 idea and notion to go there and find that box of
24 ammo? In other words, did you have a specific reason
25 why you went there?

James Helms - Cross-Exam

1 A. Yes, sir.

2 Q. Okay.

3 MR. CUMMINGS: Beg the Court's indulgence.

4 THE COURT: All right, sir.

5 (Mr. Cummings and Ms. Hardee-Thomas conferring
6 with Mr. Bowman.)

7 Q. You weren't involved at all on the 17th
8 searching that trailer; were you, sir?

9 A. No, sir. Back in February, no, sir.

10 Q. I'm sorry, I didn't make myself clear. On
11 February 17th, 2001, sir, you never went to the
12 Bowman trailer and searched anywhere there, searched
13 the furniture, searched anywhere else?

14 A. No, sir.

15 MR. CUMMINGS: That's all the questions I
16 have I have of this gentlemen right now subject
17 to recall, Judge.

18 MR. BAILEY: No redirect, Your Honor.

19 THE COURT: All right. Subject to recall.
20 (Whereupon, the witness steps down from the
21 witness stand.)

22 MR. BAILEY: State would recall Eddie
23 Porter.

24 (Edward Porter, called as a witness, having
25 previously been sworn, is examined and testifies

Edward Porter - Direct Exam

1 as follows.)

2 DIRECT EXAMINATION

3 BY MR. BAILEY:

4 Q. Mr. Porter, you previously testified that you
5 were the latent prints and crime scene unit at SLED;
6 is that correct, sir?

7 A. That's correct.

8 Q. All right, sir. Would you tell the jury what a
9 gunshot residue kit is?

10 A. It is basically performed on a subject that --
11 to see if that person fired a weapon or not.

12 Q. All right, sir. And as part of your duties,
13 latent prints and crime scene, do you have these
14 gunshot residue kits with you when you generally are
15 out on the scene?

16 A. That's correct.

17 Q. All right, sir. And you've been trained in
18 taking gunshot residue kits to turn it over to the
19 trace department at SLED?

20 A. That's correct.

21 Q. All right, sir. And are you aware of the
22 protocol that SLED has for any time lapse involved in
23 when you would try to obtain gunshot residue for
24 somebody's hands?

25 A. Yes, I am.

Edward Porter - Direct Exam

1 Q. All right, sir. What is that protocol?

2 A. That after six hours they will not accept the
3 test itself.

4 Q. All right, sir. All right. Let me kind of back
5 up a little bit since it's been a while since you
6 testified originally, but you testified, and you put
7 up a drawing that you'd made which is State's Number
8 71. Let's get that out here again. And if you could
9 step around, if you would, please, Mr. Porter. Get
10 the pointer.

11 THE WITNESS: May I step down?

12 THE COURT: You certainly may. Indeed you
13 may.

14 Q. I don't think I need to keep you up here too
15 long, but up at the top there you've listed several
16 items that you thought might be of evidentiary value;
17 is that correct, sir?

18 A. That's correct.

19 Q. You testified previously that you collected
20 those items; is that correct also?

21 A. That's correct, sir.

22 Q. All right. You can go ahead and have a seat.

23 A. (The witness complies.)

24 Q. Now, when you carry evidence to the SLED
25 forensic laboratory, is there a case number assigned

Edward Porter - Direct Exam

1 to each, each particular case that you work?

2 A. Yes, there is.

3 Q. Each individual item would have a separate
4 number also?

5 A. That's correct.

6 Q. All right, sir. And would you state whether or
7 not the -- this case was assigned two numbers, the
8 evidence from the autopsy and evidence from the crime
9 scene, to your knowledge?

10 A. My understanding there was.

11 Q. All right, sir. Now, you had previously
12 described what you testified appeared to be blood on
13 the road; is that correct?

14 A. That's correct.

15 Q. And that there was hair?

16 A. That's correct.

17 Q. Okay. And you also testified about some straw
18 and branches that appeared to have blood; is that
19 correct, sir?

20 A. That's correct.

21 Q. Did you collect these items?

22 A. I collected a sample of each, yes, sir.

23 Q. All right, sir.

24 MR. BAILEY: One second, please, Your
25 Honor.

Edward Porter - Direct Exam

1 THE COURT: All right.

2 (Pause in proceedings.)

3 Q. Let me hand you an envelope marked State's
4 Number 47 for identification at this time and ask if
5 you can identify that?

6 A. Yes.

7 Q. And, please, feel free to refer to your file if
8 you need to. And I would ask whether or not that has
9 the separate item numbers on the outside of the
10 heat-sealed envelope. You can open that if you like,
11 I think we've got a gentleman here with a knife.

12 A. (The witness complies.)

13 Q. While he is doing that, Mr. Porter, I'm going to
14 hand you what's been marked as State's 33 for
15 identification. Before we get into that, what is
16 State's 33 for identification, sir?

17 A. That's a SLED forensic service request form.

18 Q. All right.

19 A. Filled out by myself.

20 Q. And the second page lists what? Does that list
21 the items that you took to SLED?

22 A. Yes, it does.

23 Q. And you assigned an item number for each one of
24 those?

25 A. Yes, I did.

Edward Porter - Direct Exam

1 Q. That form also contains the SLED lab number for
2 that case?

3 A. Yes, it does, along with my name and signature.

4 Q. All right, sir. Referring to that, if you need
5 to, I'll redirect you to that envelope, see if you
6 can identify the contents.

7 A. Yes, I can.

8 Q. All right, sir. What is in that envelope?

9 A. It is several samples of pine straw, branches
10 located at the scene.

11 Q. All right, sir. And referring you again to the
12 sketch here, State's Number 71, were all of these
13 samples depicted on this drawing that you've made,
14 Number 71?

15 A. Yes, they are.

16 Q. And how do you go about collecting those type
17 samples, what do you physically do to collect a
18 sample?

19 A. On the branches we were able to cut them out,
20 cut a sample of that out and place it into this
21 envelope and seal it with my initials and date on it
22 as far as sealing it. And then the pine straw was
23 picked up with tweezers and placed in an envelope
24 also.

25 Q. All right, sir.

Edward Porter - Direct Exam

1 A. Sealed with my initials on it also.

2 Q. Those envelopes in your hand have your initials
3 on them?

4 A. Has the SLED lab number, the date it was
5 collected, time it was collected, the case number and
6 my signature.

7 Q. All right, sir.

8 A. Also on the outside of the bag has where I
9 sealed the bag and also put my name and date on there
10 also.

11 Q. All right, sir. And you also testified that you
12 found one fired bullet and six spent .380 shell
13 casings; is that correct?

14 A. That's correct.

15 Q. You previously explained to the jury where you
16 found those different items?

17 A. Yes, sir.

18 Q. I'm going to hand you what's been marked State's
19 Number 44 for identification, and ask if you can
20 identify those?

21 A. Yes, I can.

22 Q. Okay. And let me go ahead to get you to open
23 those.

24 MR. BAILEY: Your Honor, I think since
25 somebody else will be testifying about these

Edward Porter - Direct Exam

1 individually I would like to go ahead and number
2 those as A, B, C, D.

3 THE COURT: Very well.

4 Q. Does that contain the one fired bullet and six
5 shell casings?

6 A. Yes, it does.

7 Q. In separate containers?

8 A. Yes, it does.

9 Q. Your initials are on there?

10 A. My initials are on it. Then also on the side of
11 the case there's some evidence tape with my initials
12 and the date that I sealed them up also.

13 Q. All right, sir.

14 MR. BAILEY: I'll get those marked
15 separately.

16 (Marked for identification were State's Exhibits
17 44-A, B, C, D, E, F, G, fired bullet and six
18 shell casings.)

19 Q. I'll get you to put these back in the envelope
20 for right now, if you would, please.

21 A. (The witness complies.)

22 Q. Call your attention to February 17th, and would
23 ask whether or not you got a pair of black Levi's
24 with a belt on it and a watch from Alvin Coker?

25 A. Yes, I did.

Edward Porter - Direct Exam

1 Q. Hand you State's 30 and 31 which are chain of
2 custody forms, ask whether or not your initials are
3 on them? Excuse me, whether or not your name is on
4 there where you accepted possession of those?

5 A. State's Exhibit 30 is an evidence report sheet
6 of Dorchester County from Detective Coker giving
7 those articles to me. And State's Exhibit 31 is a
8 SLED chain of custody also with my signature and
9 Detective Coker's also.

10 Q. Okay. I'll hand you State's 38 and 39 and ask
11 if those appear to be the Levi's and the lady's watch
12 that you got from Mr. Coker on that date?

13 A. Yes, they are.

14 Q. All right, sir. I would ask whether or not you
15 retained all the items that you previously described;
16 the swabs, the straw, the branches, the bullet, the
17 spent shell casings, the Levi's, and the watch in
18 your care, custody, and control on February the 20th,
19 2001?

20 A. Yes, I did.

21 Q. All right, sir. And on that date did you carry
22 them to the SLED forensic lab?

23 A. They were actually taken to the SLED forensic
24 lab that day of the 17th.

25 Q. All right, sir. Okay. And that chain of

Edward Porter - Direct Exam

1 custody form that you have in your hand that you've
2 described before, does that list all these items in
3 addition to several other items, that's State's 33?

4 A. Yes, it does.

5 Q. All right, sir. And would you tell the jury
6 what the DNA box is?

7 A. The DNA box is a controlled evidence locker, per
8 se, in the evidence log-in area that only the people
9 in DNA have access to. And any articles or items
10 that we collect and there's a DNA request on it we
11 place it in that box.

12 Q. All right, sir. And would you state whether or
13 not you put SLED item numbers 10, 11, 15, 16, and 28,
14 being the straw, the branches, and apparent blood
15 swabs in the DNA box?

16 A. Ten, 11, 15, and 16, yes, sir.

17 Q. And 28, which I think was an envelope containing
18 pine straw?

19 A. Yes, sir. And also 28.

20 Q. Now, with regard to the bullet and the shell
21 casings, what is fire lock?

22 A. Fire lock is another secured area within the
23 firearms department that only the agents and firearms
24 have access to.

25 Q. Did you deposit the bullet and the shell casings

Edward Porter - Direct Exam

1 in the fire lock?

2 A. Yes, I did.

3 Q. All right. And that was logged in by Dana

4 Fowler of SLED?

5 A. Yes, it was.

6 Q. All right. Please answer any questions that Mr.

7 Cummings may have for you.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. CUMMINGS:

11 Q. Pleasure seeing you again, sir. I want to let
12 you just get comfortable, settle up there with
13 everything. The very first thing I would ask you is
14 this, you -- again, going back to crime scene
15 investigation, you understand how important it is to
16 make sure as the solicitor is asking you today, that
17 there's no contamination, there's no crossing of
18 evidence, that you specifically log it, watch the
19 time factor, date, time, place, right?

20 A. Correct.

21 Q. That's your job, I mean. And you freely shared
22 that with these good ladies and gentlemen, right?

23 A. That's correct.

24 Q. Okay. So I want to take you back out there a
25 little bit the very first thing. This is in

Edward Porter - Cross-Exam

1 February?

2 A. That's correct.

3 Q. February 17th, okay. And when you collected the
4 branch or cut the branch off there, was the red
5 fluid, did it appear to be dry or wet, sir?

6 A. It was dry.

7 Q. Dry. And it had rained earlier that day, I
8 think you testified for these good folks earlier?

9 A. I did not testify to that.

10 Q. You did not testify to that. Did you see the
11 ground yet?

12 A. Not that I recall.

13 Q. Okay. Would that have made an impact to you if
14 the ground had been wet or part of your evidentiary
15 process, sir?

16 A. No, it would not.

17 Q. All right. Branch was dry, no question about
18 that?

19 A. Yes, sir.

20 Q. Okay. You collected it, bagged it, tagged it,
21 brought it with you up to SLED, correct?

22 A. A sample of it.

23 Q. Sample of it, okay. And then you went back out
24 there and collected up everything off the roadway as
25 you testified?

Edward Porter - Cross-Exam

1 A. That's correct.

2 Q. Okay. Now, my first question I would like to
3 ask you after you've done all that is tell me the
4 name of the first officer who ever asked you to
5 perform any nitrate test on any defendant on the 17th
6 of February.

7 A. I never came in contact with any of the
8 defendants in this case.

9 Q. As a matter of fact, that question about nitrate
10 test didn't come up until Mr. Solicitor asked you a
11 few moments ago; is that true?

12 A. That's correct.

13 Q. Okay. Did anybody mention to you about a
14 nitrate test prior to coming into this courtroom
15 today?

16 A. No.

17 Q. Okay. And the reason -- you've heard of trace
18 metal testing; have you not?

19 A. I'm not a trace expert, no, sir.

20 Q. Okay. You've never done one, you never
21 requested one in all the years you've been doing
22 crime scene investigation?

23 A. Unless it's under a different name.

24 Q. How about somebody holding a weapon in their
25 hand showing that metal has been placed in their

Edward Porter - Cross-Exam

1 hand, one of their hands to hold the gun. Have you
2 ever done that test?

3 A. Yes, sir.

4 Q. What do you call it?

5 A. We call it a gunshot residue kit.

6 Q. Okay, gunshot residue kit. How about atomic
7 absorption kit, you ever done one of those?

8 A. Yes.

9 Q. Okay. You ever done the paraffin test? That's
10 old and outdated, about my age.

11 A. Not that I know of.

12 Q. Okay. But I mean you're aware of it, right?

13 A. No.

14 Q. Okay. You never read the books on it, never did
15 that?

16 A. Not on that part.

17 Q. Okay. I'm dating myself. Did anybody ever ask
18 you to do any of those tests on either Mr. Gadson,
19 Mr. Felder, or Mr. Bowman?

20 A. No, they did not.

21 Q. Okay. Now, you were called in to lend your
22 expertise with your training, your experience,
23 correct, sir?

24 A. That's correct.

25 Q. All right. And then so you did all the

Edward Porter - Cross-Exam

1 evidence. Did you ever at that time go around to the
2 individual officers, like Mr. Asbell or any of the
3 supervisors there and said, okay, fellows, what
4 testing do you want me to subject this evidence I've
5 collected today for independent testing, like,
6 example, DNA, the blood, or the little snip of the
7 branch there, sir, would go over to the DNA section
8 of SLED, correct?

9 A. That's correct.

10 Q. Now, would you ask for that testing or would the
11 officers at the agency that you were assisting ask
12 for that?

13 A. We collect the probative evidence and we also
14 get with that agency and advise them what we had and
15 what tests that they deem necessary, and also what we
16 as being forensic agents deem necessary.

17 Q. Yes, sir. Okay.

18 A. So it's a combined effort.

19 Q. Combined effort. Nobody asked you to do the
20 tests I talked about earlier when I first started
21 cross-examining you?

22 A. At that time as far as I was aware there was no
23 suspects, therefore there was none to do.

24 Q. Okay. All right. Then you are -- you collect
25 all this stuff, you send the shell casings that you

Edward Porter - Cross-Exam

1 find, you gather them up, you take them with you and
2 then you ask for the shell casings to be sent where,
3 sir?

4 A. I held onto them originally.

5 Q. Okay.

6 A. And I processed them and then they went to the
7 firearms department.

8 Q. All right. Did you test them for fingerprints?
9 I know they're small caliber shells, but did you test
10 them at all for any latent ridge detail at all?

11 A. Yes, I did.

12 Q. All right. You dusted them all, had them
13 dusted, super glued, whatever procedure you used?

14 A. That's correct.

15 Q. Would you tell these ladies and gentlemen what
16 procedure you used?

17 A. Cyanoacrylate and black graphite powder.

18 Q. Okay. And no ridge detail was usable; is that
19 correct?

20 A. From my experience there was not based upon
21 several different factors.

22 Q. All right, sir. And you did that test when?

23 A. If I can refer to my notes.

24 Q. Yes, sir. Please.

25 A. On March 6.

Edward Porter - Cross-Exam

1 Q. March 6. That was when you had the evidence
2 there with you, you had that day to do that evidence,
3 March 6?

4 A. Yes.

5 Q. Okay. Did you notice any cloth imprints on
6 the -- what I call the cylinder, the shell casing,
7 sir, any cloth imprints?

8 A. I have to refer back to my notes again.

9 Q. Yes, sir, please.

10 A. No, I did not.

11 Q. If somebody were wearing gloves to load
12 ammunition, I'm going to hold up here State's bag
13 Number 45, this is a brown cloth glove.

14 MR. CUMMINGS: May I approach the witness,
15 Your Honor, for a moment?

16 THE COURT: You may.

17 Q. This is like a cotton cloth glove, sir. Is it
18 possible to check to see if somebody had loaded
19 ammunition into a magazine or into a cylindrical
20 revolver, wearing gloves to see if there's a cloth
21 impression?

22 A. It's possible, but not likely.

23 Q. It's kind of hard to get that, though, right?

24 A. Once -- not being a firearms expert; however,
25 once the bullet is put through the heat of a gun with

Edward Porter - Cross-Exam

1 fingerprints being very fragile in itself being 99.5
2 percent to 99.9 percent moisture, you are not going
3 to leave a print on a fired cartridge casing.

4 Q. How about on the box of ammo that you dusted for
5 prints, did you see any cloth imprints on that or any
6 ridge details on the prints -- on the box, sir?

7 Excuse me.

8 A. No, I did not.

9 Q. All right. Were you able back in March to
10 determine any evidentiary value of the cartridge
11 shells you examined? And you said there was six of
12 them out there, right?

13 A. That's correct.

14 Q. And then I'm going to ask you back on
15 November 5th of 2001 did you, at the request of
16 Lieutenant Earl Asbell, do a supplemental report?

17 MR. CUMMINGS: If I may, Judge, if I may
18 approach the witness it may speed it up.

19 THE COURT: You may.

20 Q. This is a copy provided me from the solicitor,
21 sir. If that refreshes your memory, please tell me.

22 A. Yes, it does.

23 Q. As you're looking at that now is the date up
24 there correct, November?

25 A. Yes, sir.

Edward Porter - Cross-Exam

1 Q. 2001. And what were you requested to do from
2 items 53, 54 through 70, sir?

3 A. Processed items for latent prints.

4 Q. Okay. In November of 2001?

5 A. That's correct.

6 Q. All right. Now, who, Lieutenant Earl Asbell
7 asked you to do that in November?

8 A. Actually in October. On October 2nd, 2001
9 Special Agent James Helms with our division did.

10 Q. All right. The other agent asked you to do some
11 testing?

12 A. Yes, sir.

13 Q. Okay. What exactly did you test in October that
14 you did the report of in November, sir?

15 A. The inside and outside of a Winchester .380 auto
16 95 grain full-metal jacket cartridge box, styrofoam
17 holder, along with 17 Winchester .380 auto
18 cartridges.

19 Q. Okay. The box of ammunition you found in June
20 according to your notes, right, that he had logged
21 the evidence in and he would have held that evidence
22 since June?

23 A. I am not aware of that.

24 Q. You're not aware of that at all?

25 A. No.

Edward Porter - Cross-Exam

1 Q. Okay.

2 A. I just know I got it in October.

3 Q. October. What were your scientific results,
4 sir?

5 A. No value for identification.

6 Q. Let me do that. I'm sorry, sir, let me touch
7 that.

8 A. I was asked to process items that were located
9 at the scene on February 17th in the roadway for
10 physical evidence.

11 Q. All right, sir. And going down your list here,
12 one size 9 shoe. No tests were done on that, sir?

13 A. No, it was not.

14 Q. Okay. At least from your department, what you
15 did, right? You do latent prints, you do crime scene
16 investigation. What else do you do, sir?

17 A. Tire-wear, shoe-wear, footwear, crime scene
18 reconstruction, blood spatter interpretation.

19 Q. Did you see any items of blood on the shoes,
20 sir, any blood spatter?

21 A. No. No, I did not.

22 Q. You also processed a Huddle House styrofoam cup
23 and lid for possible latent fingerprints, sir?

24 A. Yes, I did.

25 Q. And none were identified?

Edward Porter - Cross-Exam

1 A. No.

2 Q. And then you have a projectile. Was this a
3 spent projectile, sir?

4 A. That was the bullet itself as item 3 which was
5 located at the scene.

6 Q. That's the one out in the roadway, sir?

7 A. Yes, it was.

8 Q. Okay. And I'm just going to ask you this now
9 because you photographed it, then when you collected
10 it, you collected it. If you would just tell these
11 folks what portion of the roadway was that projectile
12 picked up at, sir? If you need to look at your
13 sketch or the solicitor's big sketch, please do so.

14 A. Approximately the very center on Nursery Road.

15 Q. Center?

16 A. Center of the roadway on Nursery Road.

17 Q. Not near where the red spatter appeared to be on
18 the roadway, sir?

19 A. Close proximity of it, yes, sir.

20 Q. Close, but not there?

21 A. Correct.

22 Q. Okay. You tested a black cigarette lighter for
23 ridge detail, fingerprints, if I'm not mistaken?

24 A. That's correct.

25 Q. Okay. Nothing?

Edward Porter - Cross-Exam

1 A. No ridge detail developed.

2 Q. Okay. Nothing as far as a cloth impression?

3 A. No, sir.

4 Q. You have an item 13, one .380 auto cartridge
5 testing. Specifically you were asked, you said
6 contained insufficient ridge detail for
7 identification?

8 A. That's correct.

9 Q. It showed some human hand touched it at least
10 sometime?

11 A. That's correct.

12 MR. CUMMINGS: Beg the Court's indulgence,
13 Your Honor.

14 THE COURT: Yes, sir.

15 Q. When you were out there taking photographs did
16 you see any -- what appears to be a shoe impression
17 out there, sir?

18 A. No, I did not.

19 Q. Anywhere around the vehicle or anywhere out in
20 the pine straw or anywhere you would photograph?

21 A. I did not have anything to do with the vehicle
22 aspect of the crime scene.

23 Q. At all?

24 A. None whatsoever.

25 Q. You weren't asked to photograph anything around

Edward Porter - Cross-Exam

1 that?

2 A. No, I was not.

3 Q. Not asked to do any plaster casting of anything,
4 or determine anything from any shoe impressions on
5 the ground or something that would have left the
6 imprint of a shoe, sneaker, or boot?

7 A. I was specifically requested to work the
8 secondary scene in which contained the cartridge
9 casings and everything else. And with that being a
10 gravel area and the shoulder being hard and a lot of
11 pine straw, there was nothing there.

12 Q. You didn't see anything there?

13 A. There was nothing there.

14 Q. Right where you were, right?

15 A. That's correct.

16 MR. CUMMINGS: That's all questions we have
17 of this gentleman. Thank you very much.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Porter, I'm holding this cup in my hand. If
22 I handed that to you and you did fingerprint tests on
23 it, would you necessarily find my prints on here?

24 A. No, I would not.

25 Q. Why not?

Edward Porter - Redirect Exam

1 A. There's several different factors with being
2 with that cup, with it being moist and perspiration
3 on the side of it, it would be very unlikely that you
4 would find an actual print. Fingerprints are very
5 fragile by nature and in this particular case with
6 items being in outdoor weather, weather conditions is
7 a major factor in not locating any usable
8 fingerprints.

9 Q. Okay. And the fact that you don't get prints
10 off this cup doesn't mean I'm not holding it, does
11 it?

12 A. It's not like the TV and movies. Fingerprints
13 are random by nature, very fragile.

14 Q. All right. Now, if you're doing a crime scene
15 and you've got that gunshot residue kit in your trunk
16 and a local sheriff's deputy or police officer asks
17 you to do a gunshot residue kit on someone who is
18 suspected of firing a gun more than six hours prior
19 to the time that request is made, would you do it?

20 A. If it's requested it would be done; however, it
21 would not be submitted.

22 Q. It would not be submitted to...?

23 A. It would not be submitted to the trace lab as a
24 viable test.

25 Q. Why is that, sir?

Edward Porter - Redirect Exam

1 A. Due to the chemical breakdown after six hours
2 which has been determined to have been broken down
3 from testing that our trace lab has performed, and
4 they will not do any kind of test on it.

5 Q. Thank you, sir. That's all I have.

6 RECROSS-EXAMINATION

7 BY MR. CUMMINGS:

8 Q. If it wasn't important to look for the prints,
9 why did the people ask you to look for them in the
10 casings and the other items of evidence and you,
11 yourself, as a professional independent officer to
12 testify in this courtroom today, do those tests?

13 A. It's standard protocol that we do that.

14 Q. That's right. And then it may not be as a
15 reliable, proof positive issue for Her Honor to rule
16 on in a courtroom for the nitrate test or the atomic
17 absorption test or the firearm test that you recall
18 today, but it could have been done if it was
19 requested by anybody, couldn't it?

20 A. If they had located the subject -- a living
21 subject within six hours.

22 Q. Or even after six hours you'd do it, it just
23 would be up to somebody else to determine the
24 evidentiary value of it. You would not be willing to
25 testify in this courtroom scientifically to say that

Edward Porter - Recross-Exam

1 somebody had held a weapon or fired one after six
2 hours; isn't that true?

3 A. No, I would not.

4 Q. Right. And the reason -- when did SLED change
5 the protocol?

6 A. In February 2000, 2001 they sent out a
7 memorandum that states they will not test any GSR
8 after six hours.

9 Q. In February 2001?

10 A. 2000 or 2001.

11 Q. I'm not going to pin you down.

12 A. I can look.

13 Q. That's fine. Thank you very much. Those are
14 all the questions.

15 THE COURT: All right. Is this witness
16 free to leave?

17 MR. BAILEY: Yes, ma'am.

18 THE COURT: He's free to leave. You are
19 free to go.

20 (Whereupon, the witness steps down from the
21 witness stand.)

22 THE COURT: If you would call your next
23 witness.

24 MR. BAILEY: Alex Layton.

25 (Grady A. Layton, called as a witness, having

Grady A. Layton - Direct Exam

1 first been duly sworn, is examined and testifies
2 as follows:)

3 DIRECT EXAMINATION

4 BY MR. BAILEY:

5 Q. Mr. Layton, where are you employed?

6 A. South Carolina Law Enforcement Division.

7 Q. All right, sir. What is your educational
8 background?

9 A. I received a BS degree in chemistry from Clemson
10 University in August of '71.

11 Q. All right, sir. And how long have you worked at
12 State Law Enforcement Division?

13 A. Since August of '71.

14 Q. All right, sir. Since you got your degree in
15 chemistry?

16 A. Yes, sir.

17 Q. All right, sir. What do you do at this time at
18 the SLED forensic lab?

19 A. Lieutenant in charge of the arson laboratory.

20 Q. All right, sir. And how long have you held that
21 position?

22 A. Since September of 1990.

23 Q. All right, sir. And just in general layman's
24 terms, what do you all do at the arson lab?

25 A. In the laboratory we receive evidence from

Grady A. Layton - Direct Exam

1 various police agencies, fire service, FBI, anyone
2 who has had a fire or suspected arson brings in
3 evidence to the laboratory to be tested for
4 accelerants. And that's what I do, I test the
5 evidence that's brought in from the crime scenes.

6 Q. What is an accelerant?

7 A. An accelerant is any liquid that is used to make
8 the fire burn more rapidly and spread faster.

9 Q. All right, sir. And what training have you had
10 in the field of arson and chemistry, as opposed to
11 just general chemistry?

12 A. In 1991 I attended the arson accelerant
13 detection course put on by the Bureau of Alcohol,
14 Tobacco, and Firearms in Bolder, Colorado. And that
15 was a one-week course. That summer of 1991 I
16 attended the laboratory examination of arson matters
17 put on by the FBI in Quantico, Virginia, and that was
18 a one-week course. And then in 1994 I attended
19 advanced arson accelerant detection put on by the
20 Midwestern Association of Forensic Scientists in
21 Cincinnati, Ohio.

22 I've also attended the laboratory,
23 laboratory -- excuse me, American Society of Crime
24 Laboratory Directors Laboratory Accreditation Board.
25 I'm a member of that ASCLAD lab board, which means

Grady A. Layton - Direct Exam

1 I'm a certified laboratory inspector for inspecting
2 forensic laboratories for their quality assurance and
3 quality control.

4 Q. All right, sir. Have you been qualified as an
5 expert in arson and accelerant detection in the past?

6 A. Yes, sir. I have. I have testified 50 times in
7 that area in local, state, federal, and one time in
8 Georgia.

9 Q. All right, sir. You testified in the past in
10 this courtroom as an expert?

11 A. Yes, sir. December the 4th of last year.

12 MR. BAILEY: Your Honor, I would tender
13 Mr. Layton as an expert in the field of arson
14 detection.

15 THE COURT: Any voir dire?

16 MR. CUMMINGS: No voir dire, no objection
17 of this gentleman, Judge.

18 THE COURT: So qualified. Mr. Bailey, you
19 may continue.

20 Q. How do you go about determining whether or
21 not -- if we can use layman's terms here, whether or
22 not a particular item submitted to you contains an
23 accelerant?

24 A. Okay. Once the items are received into the
25 laboratory they're given a laboratory file number and

Grady A. Layton - Direct Exam

1 each item is given a unique item number for
2 identification. And I take the sample. And the
3 samples are usually in quart, metal, paint-type cans,
4 sealed cans, or either bags, or sometimes mason jars.
5 And what I do is determine if there's any volatile
6 components present.

7 I take a small activated charcoal
8 strip, and it's about -- oh, about three-eighths or a
9 half inch square. And I take that with a little
10 copper wire and hang it in the head space, the space
11 between the fire debris and the top of the container.

12 I take that and put it in the can,
13 bag, or jar and seal it, place it in an oven around
14 65 degrees centigrade for 16 hours. What that does,
15 if there's any volatile compound in the fire debris
16 itself they will be vaporized, go from a liquid to a
17 gas, and then absorbed by the charcoal strip.
18 Charcoal has the unique ability of absorbing
19 compounds.

20 I'll take that sample out of the oven
21 and place the little activated charcoal strip in a
22 vial, a glass vial, wash it with a solvent that
23 removes everything that's been absorbed onto that
24 charcoal strip. It removes it and puts it in the
25 liquid form, because I have to have it in the liquid

Grady A. Layton - Direct Exam

1 form in order to inject it into a gas chromatograph.

2 The next step is to place that same
3 liquid that I've just washed off the activated
4 charcoal strip into a gas chromatograph. That is
5 done with an automatic liquid sampler. And that's
6 just very similar to a syringe like you would get a
7 shot at a doctor's office except it's very much
8 smaller volumes, it's in micrometers instead of
9 milliliters, which is one millionth of a liter. And
10 I inject one millionth of a liter into the gas
11 chromatograph which gives me a pattern of compounds
12 that come out if there's any volatile compounds
13 present or any compounds present at all.

14 Q. All right, sir. I'm sorry, I didn't mean to
15 interrupt you.

16 A. Okay. That's where I get then to what I do
17 after I do that. Would you like me to go further?

18 Q. Yes, sir.

19 A. Once I get a pattern out, then I take that
20 pattern and try and see if I can match it back to
21 standards that were run on that same instrument under
22 the exact same conditions. And if I can match the
23 pattern back, then I will call the compound. For
24 instance, I would call it kerosene, gasoline,
25 whatever the compound matches, compounds match back

Grady A. Layton - Direct Exam

1 to.

2 And if I can't identify it, then I'll
3 take it further to another instrument which is a gas
4 chromatograph. And that merely separates mixtures
5 into their pure components. Gas chromatograph mass
6 spectrometer. The mass spectrometer then fragments
7 each molecule. And each molecule will fragment the
8 same way or fragmentation pattern similar to a
9 fingerprint. And then I can match that back using a
10 computer match to our library standards which is
11 about 98,000 compounds. And I identify it and I
12 write a report and send it out.

13 Q. All right, sir. I'm going to hand you what's
14 been marked State's 38 which bears SLED lab number
15 012017 and it's item 17 and it's been testified as
16 being a pair of black Levi's, ask you to examine
17 that.

18 A. Yes, sir. I recognize this.

19 Q. All right, sir. And would you state whether or
20 not you received those from Eddie Porter on
21 February 20th, 2001?

22 A. Just one second. Yes, sir. I did. I received
23 them at my laboratory on February the 20th, 2001.

24 Q. All right, sir. And did you test them for the
25 presence of a petroleum accelerant?

Grady A. Layton - Direct Exam

1 A. Yes, I did.

2 Q. Would you state whether or not you detected
3 petroleum accelerant in those jeans?

4 A. Okay. One second. I found the presence of a
5 heavy petroleum product on these jeans.

6 Q. All right, sir. Calling your attention to
7 March 6, 2001, I'm going to ask whether you received
8 certain items from the arson evidence room that had
9 been brought to SLED on February 21st, 2001 by James
10 Helms?

11 A. Yes, sir. I received several items from James
12 Helms on the 21st of February of last year.

13 MR. BAILEY: Bear with me one second,
14 please.

15 (Pause in proceedings.)

16 Q. I'm going to hand you five bags. And I think it
17 might be easier to refer to them by exhibit number
18 and the SLED laboratory.

19 A. All right.

20 Q. And I want to call your attention, first of all
21 if you can look in the bag and SLED item 29 which has
22 been testified as being a burned pocketbook removed
23 from the -- from the trunk of the victim's car.

24 A. This is the SLED item referred to by the
25 laboratory file number L012017, State's Exhibit

Grady A. Layton - Direct Exam

1 Number 50. And this was the item I tested in the
2 laboratory. And bag 29, bag 29 I found a medium
3 petroleum product in this particular item.

4 Q. All right, sir. What about SLED item 31 which
5 has been testified as being a partially burned shirt
6 of the victim?

7 A. All right. This is SLED item bag number 31 and
8 it's also State's Exhibit Number 51, I believe. I
9 found gasoline in this particular item here, item
10 number 31 from my report.

11 Q. All right, sir. And what about item 32 which
12 has been testified as being some books in the trunk
13 of the automobile?

14 A. Item 32?

15 Q. Yes, sir.

16 A. Yes. This is item 32, State's Exhibit Number
17 52. And in this particular item I found gasoline.

18 Q. All right, sir. What about SLED item 33 which
19 has been testified as being a belt and an earring?

20 A. This is bag 33, State's item 53, and that was a
21 partial belt. Item number 33 was gasoline found.

22 Q. And what about item 36?

23 A. Yes. This is item number 36, State's Exhibit
24 Number 54, and gasoline found also in this item.

25 Q. All right, sir. Please answer any questions Mr.

Grady A. Layton - Direct Exam

1 Cummings might have for you.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. CUMMINGS:

5 Q. Good afternoon, sir.

6 A. Hi.

7 Q. I'm going to go right to the very beginning.

8 We'll start with that first item that's right up on
9 your bench there, State's item 38, sir, the black
10 Levi's you tested. You did these tests sometime
11 probably -- I see your report's dated August 30th, so
12 you did your tests on those pants when, sir?

13 A. The testing on the pants was done -- one second.

14 Q. Yes, sir.

15 A. On, let's see, March the 1st of 2001.

16 Q. All right, sir. And is it fair to say, sir,
17 that you found heavy petroleum product found, not a
18 gasoline accelerant, but a heavy petroleum product
19 found?

20 A. Yes, sir. That's correct.

21 Q. You are an independent expert with SLED and you
22 come into a courtroom and you testify only to your
23 scientific findings?

24 A. Just to what I find.

25 Q. Yes, sir. And some examples of heavy petroleum

Grady A. Layton - Cross-Exam

1 products as you've stated in your report are if I
2 may, sir, charcoal starter, some lamp oils, some
3 paint thinners, kerosene?

4 A. Yes, sir.

5 Q. Fuel oils, insect sprays, torch fuels, and
6 diesel fuel?

7 A. Yes, sir.

8 Q. All right, sir. Now, you were also requested to
9 test the coat of Mr. Bowman; were you not, sir? I
10 think that is according to your statement there, sir,
11 item 19 for you?

12 A. Yes, sir.

13 Q. All right. And your results were no flammable
14 or combustible liquid was detected?

15 A. That's correct.

16 Q. You were also asked to check numerous things.
17 And I'm just going to go down through a few of them
18 again with you, sir, please.

19 A. Yes, sir.

20 Q. You were asked to check one pair of Air Jordan
21 black tennis shoes size eight and a half from James
22 Taiwan Gadson. And you found heavy petroleum product
23 found?

24 A. Yes, sir.

25 Q. Okay. Then also because of the construction of

Grady A. Layton - Cross-Exam

1 footwear, their detection in submitting footwear
2 samples might have little evidentiary value?

3 A. That's correct.

4 Q. It's kind of like they're made by either rubber
5 or petroleum based product, if I'm correct, sir?

6 A. No. What it is it is actually the adhesive
7 that's used to bond the footwear together before it's
8 stitched. And most of the substance will disappear,
9 but when a heat -- when I heat these items in the
10 oven, then they're re-vaporized and come out and
11 they're detected in footwear even when they haven't
12 been around any -- contaminated by any other external
13 source.

14 Q. Okay. Because of the nature of the way they're
15 made?

16 A. Yes, sir. That's correct.

17 Q. Thank you, sir. And then that same thing,
18 again, going back now, look at your report, sir, the
19 burned cloth from Miss Martin, sir, you said there
20 was no flammable or combustible liquid detected.

21 A. Do you have an item number?

22 Q. Item 30 for you, sir, I apologize.

23 A. Yes, sir. That's correct. Item 30 I did not
24 detect any ignitable, any flammable, or combustible
25 liquid.

Grady A. Layton - Cross-Exam

1 Q. And then there was a bag with a partially burned
2 shirt of Miss Martin, sir, item number 31?

3 A. Item number 31.

4 Q. Yes, sir.

5 A. My item number 31.

6 Q. It says K pack bag?

7 A. K pack bag, right. It was gasoline.

8 Q. No question about that, sir?

9 A. No, sir. There's no question it's gasoline.

10 Q. And then the book in the trunk gas was found?

11 A. Gasoline, correct, yes, sir.

12 Q. Okay. And if you're looking at item 18, I know
13 I'm jumping around on you, I don't mean to mislead
14 you, sir.

15 A. That's fine.

16 Q. Item 18, a pair of black Adidas boots size 12
17 for Mr. Bowman, and there was heavy petroleum product
18 found?

19 A. Yes, sir.

20 Q. Okay. On your list of sheets, sir, the top of
21 your column of Mr. Felder, Gadson, and Bowman, were
22 any items of evidence submitted on behalf of
23 Mr. Felder, such as clothing, boots, or anything else
24 for your specific professional examination, sir?

25 A. Were any listed from him?

Grady A. Layton - Cross-Exam

1 Q. Yes, sir.

2 A. No, sir. I do not see any that were listed for
3 him.

4 Q. So in other words, either a police agency, or
5 somebody didn't send any clothing in on Mr. Felder to
6 you for examination?

7 A. Not to me, no, sir.

8 Q. Okay. Just as a recap, sir, here, gasoline was
9 found on multiple items from the victim and the trunk
10 of this vehicle for your professional examination,
11 sir?

12 A. Yes, sir. That's correct.

13 Q. All right. And, again, no gas was found on the
14 coat of Mr. Bowman?

15 A. No, sir.

16 Q. No gas was found on the pants of Mr. Bowman?

17 A. No, sir.

18 Q. And, again, heavy petroleum products are not
19 gasoline, they are distinctive, sir?

20 A. Yes, sir. There's a difference.

21 Q. And, again, anything as far as the shoe either
22 from Mr. Gadson or Mr. Bowman clearly are of very
23 little evidentiary value. And in particular in this
24 case where you were asked to examine for gasoline,
25 it's almost impossible for you to do that test?

Grady A. Layton - Cross-Exam

1 A. Could you restate that?

2 Q. The shoes.

3 A. Yes, sir.

4 Q. Either Mr. Bowman's shoes or Mr. Gadson's shoes,
5 were you able to look for gasoline on those items?

6 A. I looked for it, yes, sir, and I did not find
7 it.

8 Q. None found?

9 A. I did not find it, no, sir.

10 Q. But then, again, it's your testimony, and I
11 don't want to put words in your mouth, sir, because
12 you are a professional telling these folks what you
13 found and that there is no -- very little evidentiary
14 value of any of the shoes because of -- because
15 they're made with the adhesive which is probably a
16 petroleum based product, right?

17 A. Yes, sir. If I had found gasoline on that I
18 would report out gasoline and that would be different
19 than a heavy petroleum product.

20 Q. Absolutely, sir. And that was important in what
21 you were looking for here at the request of either
22 Mr. Helms or of Dorchester County; was it not, sir?

23 A. They requested me to look for any accelerants
24 and that's what I was looking for.

25 Q. But you only found gasoline on the items that

Grady A. Layton - Cross-Exam

1 you've testified to already to these ladies and
2 gentlemen, and I would go back over that?

3 A. Yes, sir. That's correct.

4 MR. CUMMINGS: Beg the Court's indulgence,
5 Your Honor.

6 THE COURT: Yes.

7 (Mr. Cummings and Ms. Hardee-Thomas conferring
8 with Mr. Bowman.)

9 MR. CUMMINGS: Thank you. That's all the
10 questions we have of this gentleman, ma'am.

11 THE COURT: Any redirect?

12 MR. BAILEY: No redirect, Your Honor.

13 THE COURT: All right. Is he free to
14 leave?

15 MR. BAILEY: Yes, ma'am.

16 MR. CUMMINGS: No objection to this
17 gentleman leaving, ma'am.

18 THE COURT: Very well.

19 (Whereupon, the witness steps down from the
20 witness stand.)

21 THE COURT: All right. Next witness,
22 please, sir.

23 MR. BAILEY: David Collins.

24 THE COURT: While he's coming let's
25 everybody do this, stand up. How good does that

Grady A. Layton - Cross-Exam

1 feel? We're having stretch time.

2 (David J. Collins, called as a witness, having
3 first been duly sworn, is examined and testifies
4 as follows:)

5 DIRECT EXAMINATION

6 BY MR. BAILEY:

7 Q. Mr. Collins, what is your educational
8 background, sir?

9 A. I received a bachelor's degree from the Citadel
10 in 1984.

11 Q. All right. Where are you employed now?

12 A. I'm employed with the South Carolina State Law
13 Enforcement Division, commonly known as SLED.

14 Q. How long have you worked for SLED?

15 A. I've been at SLED for just over 12 years.

16 Q. What do you do at the present time at SLED?

17 A. Currently I'm employed in the forensic services
18 laboratory as a firearms and tool marks examiner.

19 Q. How long have you worked in firearms and tool
20 mark examination?

21 A. Since I became employed at SLED over 12 years
22 ago.

23 Q. The entire 12 years?

24 A. Yes, sir.

25 Q. What training have you had in firearms

David J. Collins - Direct Exam

1 identification, or firearm and tool mark

2 identification?

3 A. After I became employed at SLED I entered an
4 on-the-job training program in firearms and tool
5 marks analysis. This is essentially an
6 apprenticeship and is the only way firearms examiners
7 can be trained, there are no college courses that can
8 teach you this. This course lasts for approximately
9 two to three years. After I successfully completed
10 that course I was certified by SLED as a firearms and
11 tool marks examiner.

12 Following that certification I began
13 case work on my own and joined our professional
14 association, which is the Association of Firearms and
15 Tool Marks Examiners or AFTE. Through that
16 association I received a continuing education and
17 training in my field in the form of seminars which I
18 attend as often as possible, and in the form of other
19 training opportunities that come through that
20 organization such as armor schools or firearms repair
21 schools. And I have successfully completed those
22 provided by Glock, SIG, Colt, and Beretta firearms
23 manufacturers.

24 Q. All right. Mr. Collins, have you testified in
25 the past as an expert in the field of firearms?

David J. Collins - Direct Exam

1 A. Yes. I testified in the circuit courts of South
2 Carolina in excess of 200 times in the area of
3 firearms examination. I've also testified in the
4 state courts of Georgia and North Carolina and in the
5 federal court system.

6 MR. BAILEY: Your Honor, I would tender
7 Mr. Collins an expert in the field of firearms.

8 MR. CUMMINGS: I have no questions or voir
9 dire of this gentleman and I have no questions
10 of this gentleman being an expert in the field
11 of forensic firearms examination. Thank you,
12 sir.

13 THE COURT: So qualified.

14 MR. BAILEY: Thank you, Your Honor.

15 Q. Mr. Collins, calling your attention to May the
16 30th, 2001, I would ask whether or not in the course
17 of your duties at SLED did you receive a .380 caliber
18 High Point pistol from Allyson Penn of the Dorchester
19 County Sheriff's Office?

20 A. If I could refer to my notes for a moment.

21 Q. Yes, sir.

22 A. Yes, I did. I received a High Point model CF
23 .380 auto caliber pistol from Allyson Penn on that
24 day.

25 Q. I hand you States 42 for identification and ask

David J. Collins - Direct Exam

1 whether or not that is the pistol that you received
2 from Ms. Penn?

3 A. Yes. This is the pistol that I received from
4 Ms. Penn, it bears my markings I placed on it so that
5 I can identify it later in court. It also bears the
6 same make, model, and serial number as I recorded.

7 Q. All right, sir. I'm going to hand you an
8 envelope which has been marked State's 44 that
9 contains seven containers and ask if you would take a
10 look at that. And each one of those containers has a
11 separate exhibit number and also a SLED lab number.

12 A. The first thing I note when looking at this
13 container is that on the outside of this plastic
14 package is the -- our lab number for this case and
15 item numbers and my initials where I marked this
16 particular package in the laboratory. This container
17 also bears my markings, my initials, the item number
18 and the lab number.

19 There's a piece of tape on this
20 particular item of evidence that I did not place
21 there. In order for me to examine the item for my
22 markings I would have to remove that tape and I would
23 ask if that's appropriate.

24 MR. CUMMINGS: I have no objection to let
25 the gentleman do that, ma'am.

David J. Collins - Direct Exam

1 THE COURT: Okay.

2 MR. CUMMINGS: Thank you, Mr. Bailey.

3 A. Yes. I've examined each of these items. These
4 containers contain in total six fired .380 auto
5 caliber cartridge casings and one fired bullet.

6 Q. All right. Ordinarily, sir, is there a way that
7 you normally would determine whether or not a
8 particular fired shell casing was fired by a
9 particular weapon?

10 A. Yes, there is.

11 Q. And how would you ordinarily do that?

12 A. Ordinarily when we receive any evidence in the
13 laboratory the first thing that we would do is take
14 notes as to its condition. Following that we would
15 test fire a suspect firearm in order to obtain test
16 standards that we can use to compare with fired
17 evidence that is submitted.

18 For instance, if we have fired
19 cartridge casings and bullets we want to determine if
20 they were fired by a suspect firearm, we will test
21 fire that firearm to obtain test bullets and
22 cartridge casings that we know were fired by that
23 gun. What we do then is compare them
24 microscopically, the tests verses the evidence under
25 a comparison microscope.

David J. Collins - Direct Exam

1 What we are looking for are
2 microscopic marks left on those items by the firearm
3 during the firing process. When the firearm was
4 manufactured various machining processes are used
5 that leave behind microscopic defects on areas such
6 as the inside of the barrel, the breech face of the
7 firearm which is the fore-faced portion of the slide
8 at the back of the barrel, the firing pin, the
9 extractor, the ejector. Any of the metal portions of
10 the firearm that come into contact with the cartridge
11 or a bullet during the firing process can leave
12 behind markings on that particular item. Those
13 markings are unique to each individual firearm.

14 The defects that are left by the
15 machining process are as unique to that firearm as a
16 fingerprint is to a person, and likewise the markings
17 that that firearm will leave on a fired bullet or
18 cartridge case are also unique to that particular
19 firearm. If we look at these items under a
20 comparison microscope and find areas where these
21 markings left by the firing process match, we can
22 determine that that particular item had been fired by
23 that particular gun.

24 Q. All right, sir. And when you test fired this
25 particular gun, this particular .380 semiautomatic

David J. Collins - Direct Exam

1 pistol, what occurred?

2 A. When I first received this firearm it was in
3 water. In order for me to even be able to test fire
4 this firearm I had to clean it, which involved a
5 certain amount of field stripping or partial
6 disassembly of the firearm, and then it had to be
7 placed back in working condition and test fired.

8 Before actually firing the gun in the
9 bullet recovery tank to determine if it functioned
10 properly we typically do something known as dry
11 firing. You'll cock it one time, you will pull the
12 trigger, make sure you've reassembled it properly and
13 that it will function.

14 When I did this in the laboratory
15 before actually test firing the gun the firing pin on
16 this particular firearm broke. This is not uncommon
17 for some types of firearms to break a firing pin
18 during a dry firing process as it typically subjects
19 the firing pin to more stress than what it is
20 typically encountering during the normal firing
21 process.

22 Q. All right, sir. So you were not able to use the
23 firing pin to make any identification, is that
24 correct, because it broke?

25 A. That is correct. In order for me to test fire

David J. Collins - Direct Exam

1 the firearm from that point I had to take a firing
2 pin from a laboratory reference collection to place
3 in this firearm to test fire it. As a result of that
4 I was able to successfully test fire the gun and
5 obtain test standards, but also as a result of the
6 fact that I was using a firing pin from another gun I
7 was unable to use any firing pin marks for any
8 identification purposes.

9 Q. What marks did you use that were caused by the
10 weapon imprinting on the shell casings?

11 A. The area of the firearm that I used for my
12 identification purposes were markings left by the
13 breech face of the firearm.

14 Q. Okay. And, again, just to make sure we're
15 clear, what is the breech face and how does that
16 impact the shell casing?

17 A. The breech face is the area, again, at the back
18 of the barrel. If you were to look at the base of a
19 cartridge case there is a primer in the base of the
20 cartridge case, that is flat up against what is known
21 as the breech face of the firearm. There is a hole
22 in the breech face through which the firing pin will
23 pass to strike the primer and the breech face is that
24 area around that hole against which the cartridge
25 case is supported.

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1 When the cartridge is fired pressure
2 is generated in the chamber of the firearm that
3 forces the cartridge case and the primer back against
4 that breech face. And any defects in that breech
5 face will possibly be transferred to the primer of
6 the cartridge case and those defects are what we're
7 looking at to make our identification with that
8 particular firearm.

9 Q. All right, sir. And did you test fire the gun
10 to get breech face comparisons on sample bullets that
11 you knew were fired by that particular gun?

12 A. Yes, I did.

13 Q. And did you compare those fired bullets that you
14 knew were fired by that particular .380 High Point
15 gun with the six shell casings that were sent to you
16 for examination?

17 A. Yes. I compared the fired cartridge casings
18 that I fired in this firearm, known as tests, with
19 the six submitted fired cartridge cases that were
20 submitted to me, and I compared fired bullets with
21 the fired bullet that was submitted.

22 Q. All right, sir. And with respect to the shell
23 casings, what determinations or findings did you make
24 in test firings?

25 A. Of the six fired cartridge cases that were

David J. Collins - Direct Exam

1 submitted I was able to determine that five of them
2 had been fired by this firearm to the exclusion of
3 all other firearms. My --

4 Q. Would that be even another .380 High Point gun
5 manufactured at the same plant, the same time?

6 A. No, sir. It would be this particular firearm
7 and this particular firearm only.

8 Q. All right, sir. That's five out of the six were
9 definitely fired by that pistol?

10 A. That is correct.

11 Q. All right, sir. What about the sixth one?

12 A. The sixth one my comparisons were inconclusive
13 versus this particular firearm. And while I have no
14 reason to exclude this firearm, all that means is
15 that the markings that were left on the fired
16 cartridge case were not as clearly or as nicely
17 defined as a result of some other variable. It could
18 have been the fact the firearm had been emersed in
19 water for some period of time, it could be any number
20 of things. The cartridge cases when they are fired
21 in a firearm do not always mark exactly the same to
22 the same extent or with the same amount of clarity.

23 Q. All right, sir. And as far as the condition of
24 these particular shell casings, if you need to
25 examine them to answer my question, were they bent

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1 or -- in any way?

2 A. I do recall that some of them, the mouth portion
3 of the cartridge case had been bent or dented
4 slightly. The term that we sometimes use is slightly
5 crushed.

6 Q. All right, sir. And did that interfere with
7 your ability to determine the breech face markings on
8 them in any way?

9 A. Not at all, because that portion, the case mouth
10 portion of the cartridge case is on the opposite end
11 of the cartridge to that which I am examining
12 microscopically.

13 Q. All right, sir. Now, with respect to a fired
14 bullet, how do you determine whether or not that
15 bullet may have been fired by a particular gun?

16 A. When we're looking at fired bullets,
17 specifically in the case of a pistol such as this,
18 we're looking at areas, again, marked by the firearm
19 as a result of the firing process. Firearms such as
20 this are manufactured with spiralling grooves called
21 rifling in the barrel. The rifling serves to cause
22 the bullet to spin when it leaves the barrel and that
23 spinning tends to stabilize the bullet in flight.

24 What we are looking at in our
25 examinations are areas where these grooves mark the

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1 surface of the bullet. Or actually we're looking for
2 microscopic defects in those grooves that have been
3 transferred to the surface of the bullet. It's in
4 the same principle as the cartridge case. We're
5 going to be looking at a test-fired bullet versus an
6 evidence bullet side by side under a comparison
7 microscope and turning both and looking for areas
8 where those markings match.

9 Q. All right, sir. And with respect to SLED item
10 number 3, the fired bullet, did you compare that with
11 bullets that you had personally fired from that
12 pistol?

13 A. I did.

14 Q. And what were the results of that comparison?

15 A. Again, my results of that comparison were
16 inconclusive. While this fired bullet displayed
17 rifling characteristics that were similar to those
18 found on test bullets that I fired in this gun, I did
19 not find enough clearly defined individual
20 characteristics to be able to compare it positively
21 with that gun. I can't say that it was not fired by
22 that gun. As a matter of fact, I can say that it was
23 fired by either this gun or another gun with similar
24 rifling.

25 Q. All right, sir. With respect to the caliber and

David J. Collins - Direct Exam

1 the brand and the style of that -- of the shell
2 casings, can you characterize those?

3 A. All of these submitted fired cartridge cases
4 were Winchester brand .380 auto caliber cartridge
5 cases.

6 Q. All right. With respect to the bullet, as far
7 as the components of the bullet based on your
8 expertise could you tell anything about the caliber,
9 the brand, the style of the bullet?

10 A. My examination of the bullet, aside from my
11 comparisons of it with the tests from the submitted
12 firearm, reveal that it is consistent also with being
13 a .380 auto caliber bullet, and it's also consistent
14 with bullets manufactured by Winchester.

15 Q. All right, sir.

16 MR. BAILEY: Bear with me one second,
17 please.

18 THE COURT: All right.

19 Q. I'm going to show you State's 36. And I believe
20 you've probably not seen this before; is that
21 correct?

22 A. No, I have not examined this.

23 Q. All right, sir. If you would go ahead and open
24 that up, I'm going to ask you to take a look at that.

25 A. (The witness complies.) This box is a

David J. Collins - Direct Exam

1 Winchester brand ammunition box, it's labeled as
2 what's containing .380 auto caliber ammunition. It
3 is labeled specifically as containing .380 auto
4 ammunition that has been loaded with a 95-grain full
5 metal jacket bullet. And that is what these
6 particular unfired cartridges that are packaged with
7 this are consistent with based on their head stamp
8 and bullet design.

9 Q. All right, sir. And how do those particular
10 unfired bullets in that that you just referred to
11 compare with the spent shell casings that you
12 previously described?

13 A. They are consistent with the fired cartridge
14 cases that I examined previously, they are the same
15 caliber, they are the same brand. And as far as
16 whether or not these particular cartridges were
17 loaded with the same type of bullet I cannot
18 determine that because there are no bullets present
19 in them now, but they are definitely the same caliber
20 and the same brand.

21 Q. All right, sir. Please answer any questions
22 Mr. Cummings might have for you.

23 CROSS-EXAMINATION

24 BY MR. CUMMINGS:

25 Q. Mr. Collins, good afternoon, sir. I'll let you

David J. Collins - Cross-Exam

1 put that down so you don't get all that graphite
2 powder all over you.

3 First thing I would like to say is
4 really good afternoon this afternoon. And you come
5 in also into this room as an independent witness for
6 the Court; is that correct, sir?

7 A. That's correct.

8 Q. All right. And you were requested to do certain
9 examinations as requested by either SLED agents or
10 agents of another local or county agency, correct,
11 sir?

12 A. That is correct.

13 Q. All right. And in all the years you've been
14 doing this, the 12 years, you come in here and you
15 just testify to what you have been given and that's
16 all you know?

17 A. That is correct.

18 Q. All right. And I want to start with that basic
19 premise, because how many test shots did you do, sir,
20 into the barrel or whatever to get your breech face
21 markings, sir?

22 A. I conducted a total of 15 test fires.

23 Q. All right, sir. And out of those 15 test fires,
24 how many did you arrive at with the same shell face
25 breech markings?

David J. Collins - Cross-Exam

1 A. As far as inter-comparison of the actual test
2 fires, we don't keep a record of how many of those
3 test fires matched each other if that's what you're
4 asking.

5 Q. You did not keep that?

6 A. No, sir. That is not a part of our procedure.

7 Q. Okay. Now, those shell casings in no way, you
8 can't determine today in what particular order they
9 were fired or by what particular individual ever
10 fired any shell casing out of a vehicle -- out of a
11 firearm; isn't that true, sir?

12 A. No, sir. I do not know who fired these shell
13 casings.

14 Q. Okay. And then, again, this weapon, and I don't
15 want you to hold that up, but if you'll just hold up
16 your hand, which side is the ejector port on, sir? I
17 know it's in a safe condition because I know you've
18 examined it, I know that you're a professional
19 gentleman, but which side is the ejector port?

20 A. The ejector port on this side of the firearm is
21 on the right side of the firearm.

22 Q. And there's no question about that?

23 A. No question.

24 Q. Okay. I'll let you put that down for a moment.

25 A. (The witness complies.)

David J. Collins - Cross-Exam

1 Q. And then when you were asked to conduct these
2 tests, you were given bent shell casings?

3 A. Some of them were dented, yes.

4 Q. Okay. Normally when you receive shell casings
5 you don't usually get that when you do your
6 examination; isn't that true?

7 A. It's not uncommon for us to receive cartridge
8 casings that have sustained some type of damage, and
9 that type of denting is not uncommon.

10 Q. It's not?

11 A. No, sir.

12 Q. Did it look like it was run over by a car,
13 kicked, walked on?

14 A. It's possible that type of damage could result
15 from being run over by a car or stepped on or some
16 other type of crushing type of action.

17 Q. Then the projectile that was found here, sir,
18 for lack of better words the lead composite, right?

19 A. We called it a fired bullet.

20 Q. Fired bullet, okay. That can't be matched to
21 any particular weapon; is that true?

22 A. My comparisons of that item with this particular
23 firearm were inconclusive. I can't state for a fact
24 that it can't be matched because that would indicate
25 that the markings that were on it were unsuitable for

David J. Collins - Cross-Exam

1 identification. It's just that in this case with the
2 test fires that I had available to me I was unable to
3 positively compare it to this firearm.

4 Q. Okay. So that bullet could have been fired from
5 any weapon bearing the same general rifling
6 characteristics as this so-called suspect weapon?

7 A. That is correct.

8 Q. And, again, can it be proven, sir, to your
9 satisfaction that that bullet was manufactured by
10 Winchester?

11 A. Yes. Based on my experience and my observations
12 and the design of that bullet it is consistent with
13 bullets manufactured by Winchester. Around the base
14 of the bullet where the jacket is essentially formed
15 or crimped over into the lead portion of the core,
16 there is sort of scalloped appearance to that bullet,
17 that border. And that border type of design is
18 consistent with what we see in Winchester brand
19 ammunition.

20 Q. When they make bullets, the projectile and then
21 the shell casing's in there, they make runs of that
22 stuff, don't they, I mean like thousands at a time?

23 A. Correct.

24 Q. You've been to the Winchester factory or at
25 least some firearm manufacturers through all your

David J. Collins - Cross-Exam

1 years of study; have you not, Mr. Collins?

2 A. I've never actually been to a firearm ammunition
3 manufacturing facility, but I'm familiar with the
4 processes involved.

5 Q. Okay, sir. And, again, the bullet that you
6 examined, can it be proven that it's a particular
7 caliber as you examined it in your lab, sir?

8 A. Based on its weight, design, and diameter it is
9 most consistent with bullets found in .380 automatic
10 caliber ammunition. Whether or not it could have
11 been fired from another type of ammunition or another
12 caliber, it is possible that that type of bullet
13 could be hand loaded into another brand of ammunition
14 or another caliber of ammunition and fired. I have
15 no means of determining exactly what caliber it
16 originated from due to that fact.

17 Q. All right. And you were not requested to weigh
18 that, were you?

19 A. I did weigh it as a portion of my examination.
20 We weigh all the fired projectile evidence that comes
21 into the laboratory.

22 Q. Okay. All right. And then if this weapon had
23 been handled by different people, there's no way you
24 know that?

25 A. I have no means of determining who handled these

David J. Collins - Cross-Exam

1 firearms.

2 Q. And then, again, I wanted to go back and say
3 with that, did you have a magazine in that item when
4 it was submitted to you?

5 A. No, I did not, sir.

6 Q. All right. So you had to go find a magazine
7 that compared with that?

8 A. That is correct.

9 Q. Okay. And did you ever do any other comparisons
10 on any other weapons, on any other High Point .9
11 millimeter -- excuse me, High Point .380? I
12 apologize, sir.

13 A. If I can refer to my notes just a moment to
14 confirm. No, sir. I have no record of any other
15 firearms being submitted for comparison purposes.

16 Q. All right, sir. And with the examination of
17 that pistol, the serial number on that one that you
18 examined, and if you would please just read that
19 slowly into the record for us, please.

20 A. P703855.

21 Q. All right. You never were asked to examine
22 anything of P732433?

23 A. Not on this particular -- not in reference to
24 this particular lab number.

25 Q. I could not hear you, sir. I'm sorry.

David J. Collins - Cross-Exam

1 A. Not in this particular lab number, not in this
2 particular case. I do not know if there was another
3 case perhaps that has maybe a cross-reference to
4 that, I do not have the case file with me today.

5 Q. All right, sir.

6 A. But as pertaining to this particular case, no, I
7 do not.

8 Q. And, again, I know you've been qualified as an
9 expert, so I'm going to ask if you'll bear with me
10 for just a moment. Could I have that easel for a
11 moment, Mr. Retired Agent? Mr. Collins, you've got a
12 deep voice like I do, sir, would you mind if Her
13 Honor gives me permission to have you come off the
14 stand for a moment? And if you need to at least hold
15 onto the firearm for a moment I would be grateful.
16 And I know you'll keep it in a satisfactory manner.

17 A. (The witness complies.)

18 Q. Okay. If you look up here for me, sir, if
19 you'll take this, please. Item number 3. And,
20 again, we cannot block this young lady's view. I'm
21 sorry, sir. Item number 3 is a bullet. Item number
22 3 is right here in the center of the road, all right,
23 sir? A .380 caliber Winchester cartridge casing
24 number 4. Is that up there as being number 4, sir?
25 Am I correct?

David J. Collins - Cross-Exam

1 A. That appears to be.

2 Q. If I'm blocking anybody, please let me know.

3 Another one, item 5, item 6.

4 A. Yes, sir.

5 Q. Item 7. Seven, way up here, okay? Eight in the
6 roadway, sir?

7 A. Yes, sir.

8 Q. I think item number 11. And, again, Mr. Bailey,
9 right in the center of the roadway?

10 A. Yes, sir.

11 Q. Okay. If somebody was facing the stop sign, if
12 you'll take this to be a stop sign here, sir. Again,
13 being the gentleman you are, if somebody were holding
14 that weapon in a right hand which side would the
15 rounds eject on?

16 A. If the firearm were held vertically in the
17 normal firing fashion, the proper fashion, the
18 cartridge cases would eject to the right of the
19 firearm.

20 Q. Okay. If they held it in their left hand which
21 side would it still come out of the weapon?

22 A. Still going to come out of the weapon to the
23 right.

24 Q. Okay. If someone was facing the opposite way,
25 sir, in going down, instead of facing towards what is

David J. Collins - Cross-Exam

1 marked there Independent School Road shooting the
2 other way, which side would the weapons come out
3 going that way?

4 A. They would be ejecting again to the right of the
5 firearm, which would be the opposite direction if
6 you're facing the opposite way.

7 Q. Okay. And that would happen every time based on
8 the manufacture of that weapon and the ejector port
9 being on the right side of that weapon?

10 A. The cartridge casings so long as the firearm is
11 functioning properly will eject to the right of the
12 firearm.

13 Q. If it wasn't functioning properly, what would
14 happen?

15 A. If it wasn't functioning they probably wouldn't
16 eject at all, or they may just may fall to the ground
17 underneath the firearm. It's difficult to say
18 depending on the nature of the malfunction.

19 Q. All right. If you'll please have a seat again.

20 A. (The witness complies.)

21 Q. All right. Were there any other tests conducted
22 of that firearm from your professional investigation,
23 sir?

24 A. One, again, if I could refer to my notes for a
25 moment.

David J. Collins - Cross-Exam

1 Q. Yes, sir. Please.

2 A. As a part of our testing process we will again
3 take notes as to the firearm, we test fire the
4 firearm. And as a part of that we're determining
5 whether or not the safety is functioning, whether or
6 not the firearm functions properly with our various
7 things that we make note of during the testing
8 process of the firearms, such as trigger pull and
9 other characteristics. And those were all done in
10 this case.

11 Beyond the standard procedure and the
12 extraordinary procedure that's done here because of
13 the breakage of the firing pin, no further analysis
14 was done on this firearm.

15 MR. CUMMINGS: Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes, sir.

18 (Mr. Cummings and Ms. Hardee-Thomas conferring
19 with Mr. Bowman.)

20 MR. CUMMINGS: Your Honor, that's all the
21 questions we have of this professional
22 gentleman, we thank him.

23 REDIRECT EXAMINATION

24 BY MR. BAILEY:

25 Q. Mr. Collins, I don't want to point this at

David J. Collins. - Redirect Exam

1 anybody, but if I was to fire this gun in this
2 manner, where would the spent shell casing go?

3 A. Typically pretty much up.

4 Q. Up?

5 A. Because the ejection port on the firearm is on
6 the side. If you're holding the gun sideways the
7 ejection port is going to tend to want to eject them
8 up. As to whether or not it will eject them up to
9 the left or right I would not know unless I did some
10 specific testing of that ejection pattern.

11 Q. All right, sir. You did not do that, did you?

12 A. No, sir. We did not.

13 Q. As far as the weight of a .380 shell casing, the
14 one that you're talking about here, what are we
15 talking about in terms of how heavy these things are?

16 A. We don't actually weigh the shell casings
17 themselves. We typically only weigh projectile
18 evidence such as bullets or little fragments, but the
19 cartridge cases themselves compared to the bullet are
20 comparatively very light.

21 Q. All right, sir. And if you fired them from a --
22 if they're ejected from a normal height, like a
23 person say five-nine to six-two or something, and
24 they fall and hit an object like pavement, are they
25 of the characteristic where they would bounce?

David J. Collins - Redirect Exam

1 A. Yes, that is correct. Sometimes we are asked as
2 a part of our analysis to examine the ejection
3 pattern of firearms. One of the things that we look
4 at during that testing process is the nature of the
5 substance on which the cartridge cases fell. If it
6 is a hard, smooth surface, or even a hard slightly
7 irregular surface like pavement, cartridge casings
8 tend to bounce and travel some distance from where
9 they initially strike the ground. In that case it is
10 difficult to actually place a shooter based on the
11 location of the cartridge cases on the ground.

12 Q. All right, sir. If you find a spent shell
13 casing on the pavement, is there any way to correlate
14 that from where the person had fired the shell casing
15 was standing to your knowledge?

16 A. Not with any degree of reliability.

17 Q. All right, sir. If you're shooting on pavement
18 the shell casing ejects onto the pavement and a car
19 comes by, could that move the shell casing?

20 A. Very easily.

21 Q. Thank you. That's all I have.

22 RECROSS-EXAMINATION

23 BY MR. CUMMINGS:

24 Q. It's almost like somebody could take the shell
25 casing, or a couple of them, kind of throw them out

David J. Collins - Recross-Exam

1 on the ground, you wouldn't know that either from
2 what you just told us?

3 A. I would have no means of determining how those
4 cartridge cases got there.

5 Q. And of course you were not asked by anybody to
6 go back out to Nursery Road here in Dorchester County
7 and do any firing out there on the roadway in a
8 protective way, like with crimped cartridges or blank
9 cartridges to show which way anything went, right?

10 A. No. I was not requested to go to the crime
11 scene at all.

12 MR. CUMMINGS: That's all we have.

13 THE COURT: All right. Is this witness
14 free to leave?

15 MR. BAILEY: Yes, ma'am.

16 MR. CUMMINGS: Yes, ma'am.

17 THE COURT: All right. You are free to go.

18 (Whereupon, the witness steps down from the
19 witness stand.)

20 THE COURT: All right. If you all would
21 just come and see me just a second.

22 (Whereupon, a bench conference was held
23 off the record in the presence of the
24 jury but out of the hearing of the jury.)

25 (Carol Goodier, called as a witness, having

Carol Goodier - Direct Exam

1 first been duly sworn, is examined and testifies
2 as follows:)

3 DIRECT EXAMINATION

4 BY MR. BAILEY:

5 Q. Ms. Goodier, what is your profession?

6 A. I'm a registered nurse.

7 Q. All right. Ma'am, where do you work now?

8 A. At the Dorchester County Detention Center.

9 Q. All right. And I want to call your attention to
10 February 22nd, 2001 and ask whether or not you were
11 working at the detention center then?

12 A. Yes, I was.

13 Q. All right, ma'am. And to the best of your
14 knowledge was the defendant in this case -- do you
15 know Marion Bowman, Jr.?

16 A. Yes.

17 Q. And on that date, February 22nd, 2001, did you
18 have occasion to draw blood from him?

19 A. Yes, I did.

20 Q. All right. And did you draw that blood into a
21 sealed tube?

22 A. Yes.

23 Q. Okay. And once you do that is the tube labeled?

24 A. Yes, it is.

25 Q. You label that yourself?

Carol Goodier - Direct Exam

1 A. Yes, I do.

2 Q. And after you label that, draw the blood into a
3 tube and label it, what do you do with it?

4 A. I initial it and then I turn it over to the
5 policeman that's there at the time.

6 Q. Okay. Does it go into an envelope?

7 A. Yes, it's all sealed.

8 Q. All right. And do you recall whether or not
9 when you drew blood from Mr. Bowman was Lieutenant
10 Earl Asbell present?

11 A. Yes.

12 Q. After drawing that blood and placing that label
13 on the tube and putting that in the envelope, did you
14 turn that over to Mr. Asbell?

15 A. Yes.

16 Q. Okay. And I'm going to hand you a bag, and
17 you've got a man behind you with a knife so he can
18 open this up for us. Ms. Goodier, if you'll look in
19 the bag, see if you can identify anything there,
20 please.

21 A. Oh, yes.

22 Q. All right. What is that, ma'am?

23 A. These are the bags that are used to put the
24 blood in to be transported.

25 Q. All right. And does your name appear on those

Carol Goodier - Direct Exam

1 bags?

2 A. Yes, it does.

3 Q. Okay. Are those the bags that you put

4 Mr. Bowman's blood in, the blood tube in?

5 A. Yes.

6 Q. All right. And the label from the tube is

7 there?

8 A. Yes.

9 Q. Okay.

10 MR. BAILEY: Your Honor, I would offer this
11 into evidence. Let's just mark it for
12 identification at this time.

13 MR. CUMMINGS: Thank you, Judge.

14 THE COURT: All right. Very well.

15 MR. BAILEY: State's 34. That's all I
16 have, please answer any questions defense has.

17 CROSS-EXAMINATION

18 BY MR. CUMMINGS:

19 Q. Good evening now.

20 A. Good evening.

21 Q. You did this on the 22nd right across the
22 street?

23 A. Yes. In the medical department at the detention
24 center.

25 Q. No question, you did do it to that gentleman

Carol Goodier - Cross-Exam

1 right there, Mr. Bowman?

2 A. Yes.

3 Q. Were you requested to do it on any other
4 citizens that day?

5 A. Not that I recall.

6 Q. Not Mr. Gadson?

7 A. Not that I recall.

8 Q. Not Mr. Felder?

9 A. Not that I recall.

10 Q. Thank you very much, ma'am.

11 MR. CUMMINGS: That's all the questions I
12 have of this nice lady, Judge.

13 THE COURT: Any redirect?

14 MR. BAILEY: No redirect. May she be
15 excused?

16 (Whereupon, the witness steps down from the
17 witness stand.)

18 THE COURT: Call your next witness.

19 MR. BAILEY: Earl Asbell.

20 (Earl V. Asbell, called as a witness, having
21 first been duly sworn, is examined and testifies
22 as follows:)

23 DIRECT EXAMINATION

24 BY MR. BAILEY:

25 Q. Mr. Asbell, you're employed at the Dorchester

Earl V. Asbell - Direct Exam

1 County Sheriff's Office?

2 A. Yes, sir.

3 Q. What capacity?

4 A. Lieutenant over crime scene.

5 Q. Okay. I want to call your attention to

6 February 22nd, 2001 and ask whether or not you were

7 present at the Dorchester County Detention Center

8 when Ms. Goodier drew some blood from Marion Bowman,

9 Jr.?

10 A. Yes, I was.

11 Q. Can you identify Mr. Bowman?

12 A. Yes, I could.

13 Q. Point him out, please.

14 A. The gentleman sitting in the white shirt next to

15 Mr. Cummings and Ms. Hardee-Thomas.

16 Q. Did you witness Ms. Goodier drawing blood and

17 affix a label to the blood tube?

18 A. Yes, sir. I was in the room the whole time.

19 Q. Did she then put it in an envelope and seal the

20 envelope?

21 A. Correct.

22 Q. Did she give that to you?

23 A. Yes, sir. She did.

24 Q. What did you do with it at that point?

25 A. I took it back to the office and placed it in

Earl V. Asbell - Direct Exam

1 the refrigerator, and the next day I transported it
2 to SLED.

3 Q. All right. Is that a secured refrigerator?

4 A. Yes, sir. It is.

5 Q. When you carried it to SLED the next day was it
6 still sealed up in the same manner as when you put it
7 in the refrigerator briefly?

8 A. Yes, sir. It was.

9 Q. Let me hand you State's 34 and ask you to open
10 that bag, determine whether or not that bag
11 contained the blood that observed that Ms. Goodier
12 drew from the defendant?

13 A. Yes, sir. This is the suspect kit. Let me
14 check one thing. I think I made a mistake on that,
15 on the date. I'm sorry, I took the blood to SLED
16 that afternoon on this case.

17 Q. The same day it was drawn?

18 A. Yes. It was drawn that morning and I delivered
19 it at SLED at 1:08 p.m.

20 Q. All right. When you took it up to SLED did you
21 put it in the DNA box?

22 A. Yes, sir.

23 Q. Show you what's been marked State's Number 35,
24 ask whether or not that's a chain of custody form
25 indicating that you carried it to SLED the day it was

Earl V. Asbell - Direct Exam

1 drawn from Mr. Bowman?

2 A. Yes, sir. It is.

3 MR. BAILEY: Your Honor, both 34 and 35
4 into evidence at this time.

5 THE COURT: Very well. Any objection?

6 MR. CUMMINGS: No objection, Judge.

7 THE COURT: Very well.

8 (Entered into evidence was State's Exhibit 34,
9 suspect kit of defendant.)

10 (Entered into evidence was State's Exhibit 35,
11 chain of custody document.)

12 CROSS-EXAMINATION

13 BY MR. CUMMINGS:

14 Q. You were physically present there, you watched
15 the collection by Ms. Goodier?

16 A. Yes, sir. I was.

17 Q. Now, from your notes drove that to SLED?

18 A. Yes, sir.

19 Q. Did you take samples from the other gentlemen
20 that day at the detention center?

21 A. Yes, sir.

22 Q. Meaning Mr. Gadson, Mr. Felder?

23 A. I took suspect kits up on Marion Bowman, Jr.,
24 Travis Felder, James Taiwan Gadson, along with major
25 case prints on all three suspects.

Earl V. Asbell - Cross-Exam

1 Q. Thank you, sir.

2 MR. CUMMINGS: Beg the Court's indulgence.

3 THE COURT: Very well.

4 (Mr. Cummings and Ms. Hardee-Thomas conferring
5 with Mr. Bowman.)

6 MR. CUMMINGS: Judge, that's all the
7 questions we have of this gentleman right now,
8 subject to recall, please.

9 MR. BAILEY: No redirect.

10 THE COURT: Subject to being recalled,
11 you're free to go at this time.

12 (Whereupon, the witness steps down from the
13 witness stand.)

14 MR. BAILEY: Bethany Crooks.

15 (Bethany B. Crooks, called as a witness, having
16 first been duly sworn, is examined and testifies
17 as follows:)

18 DIRECT EXAMINATION

19 BY MR. BAILEY:

20 Q. Ms. Crooks, where are you employed?

21 A. With the South Carolina Law Information
22 Division.

23 Q. What do you do at SLED?

24 A. I am currently a special agent with the forensic
25 art department.

Bethany B. Crooks - Direct Exam

1 Q. All right. And in February 2001 were you
2 employed at SLED?

3 A. Yes, sir. I was as a forensic technician in the
4 DNA serology department.

5 Q. I want to call your attention to February 26th,
6 2001. And if you need to refer to any paperwork to
7 refresh your memory that you're familiar with, please
8 do that, but I'm going to ask whether or not as part
9 of your duties with SLED you removed certain items of
10 evidence from the DNA box and took them to the DNA
11 freezer?

12 A. I did.

13 Q. Okay. And would you state whether or not those
14 items included SLED items 10, 11, 15, 16, and 28?

15 A. They did.

16 Q. Okay. I'm going to hand you what's been marked
17 State's 47, ask if this envelope appears to contain
18 the envelopes that contain those items?

19 A. Yes, they do.

20 Q. Okay. At that same time did you take what's
21 marked SLED item 40 which is State's 34 -- excuse me
22 one second. SLED item 40, State's 34, I'll hand you
23 that and ask if you removed that item at the same
24 time?

25 A. Yes, sir. I did.

Bethany B. Crooks - Direct Exam

1 Q. Okay. And what was the purpose in removing
2 these items from the DNA box and the DNA freezer?

3 A. I moved them up from the locked DNA box in
4 log-in where they had been dropped off and moved them
5 upstairs in order to determine whether or not they
6 should be assigned to an analyst.

7 Q. Okay. When you removed those items from the DNA
8 box, how were they packaged?

9 A. They were packaged in the sealed envelopes.

10 Q. Okay. And did you open any of the envelopes?

11 A. No, sir. I did not.

12 Q. Okay. And they were still sealed when you
13 placed them in the DNA freezer?

14 A. Yes, they were.

15 Q. I want to call your attention to March 2nd, 2001
16 and state whether or not you removed those items from
17 the DNA freezer and placed them in the DNA
18 refrigerator?

19 A. Yes, sir. I did.

20 Q. Okay. And what was the reason for that move?

21 A. At that time they had been assigned to Agent
22 Matthew Fitts, and I moved them to his box in the DNA
23 refrigerator.

24 Q. All right. And did you open those containers on
25 that occasion?

Bethany B. Crooks - Direct Exam

1 A. No, sir. I did not.

2 Q. Okay. Ms. Crooks, that is all that I have.

3 Please answer any questions Mr. Cummings may have for
4 you.

5 CROSS-EXAMINATION

6 BY MR. CUMMINGS:

7 Q. You're employed there, you go to the DNA lockbox
8 for lack of better words?

9 A. Yes, sir.

10 Q. It's a secured facility that somebody drops
11 something in; is that correct, ma'am?

12 A. Yes, sir.

13 Q. It's your responsibility to take it out of that
14 box and either place it in the freezer if testing's
15 going to be done later on?

16 A. Yes, sir.

17 Q. To maintain the integrity of the samples,
18 maintain the integrity of whatever items are in there
19 so they can be possibly tested?

20 A. That is correct.

21 Q. And not contaminated?

22 A. Yes, sir.

23 Q. All right. And then thereafter they're assigned
24 to a particular agent as Mr. Fitts. Who else is up
25 there in the lab doing DNA work?

Bethany B. Crooks - Cross-Exam

1 A. We have approximately 14 analysts.

2 Q. Okay. So you're certain that it went to

3 Mr. Fitts?

4 A. Yes, sir.

5 Q. Okay.

6 MR. CUMMINGS: That's all the questions I
7 have of this nice lady, Judge.

8 THE COURT: Very well. Any redirect?

9 MR. BAILEY: No redirect, Your Honor.

10 THE COURT: Is this witness free to leave?

11 MR. CUMMINGS: Yes, ma'am.

12 THE COURT: Very well. You are free to go.
13 Thank you.

14 (Whereupon, the witness steps down from the
15 witness stand.)

16 THE COURT: Does that conclude the
17 witnesses we talked about?

18 MR. BAILEY: Yes, ma'am.

19 THE COURT: Ladies and gentlemen, that will
20 conclude the work that we will do today. In
21 just a moment I'm going to be releasing you back
22 to your folks, your detail. I was going to say
23 your SLED buddies, but I'll say your detail. I
24 certainly understand you have a fine dinner
25 planned and I think you will enjoy that. Have a

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1 very pleasant evening and I look forward to
2 seeing all of you in the morning at nine
3 o'clock, nine bells. Have a pleasant evening.

4 Remember -- what is that TV show where
5 the lawyer says say it with me now to the jury?
6 Remember not to discuss this matter or allow
7 anyone to discuss it with you. Have a good
8 evening, thank you.

9 (Whereupon, the jury is excused at 5:48 p.m.)

10 THE COURT: Anything before we break for
11 this evening?

12 MR. BAILEY: Yes, ma'am. Your Honor, at
13 some point after we started the trial Mr.
14 Cummings, and I apologize, I can't recall which
15 witness Mr. Cummings was talking to, but he
16 elicited that Mrs. Bowman's trailer, apparently
17 someone had broken in there and spread some
18 substance in the trailer and that there was some
19 similar substance in a graveyard or something.

20 And I didn't -- at the time that
21 testimony came out, I had no idea what they were
22 talking about. And we checked the Branchville
23 police, if there had been an incident report,
24 and we did get a copy of the incident report as
25 reported by Ms. Dorothy Mae Bowman on February

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1 the 23rd, 2001.

2 When I questioned Ms. Bowman about the
3 date that she discovered the pistol and turned
4 that over to her sister-in-law, she said that
5 was between the 18th and the 20th, which would
6 have, of course, predated this apparent
7 break-in. I would like to call Boone Walters
8 who is the chief of police in Branchville who
9 took the incident report to establish that the
10 break-in occurred after she found the gun.
11 Because Mr. Cummings' questions have attempted
12 to leave the impression that whoever broke in
13 planted the gun there, but obviously if the gun
14 was gone by the time the break-in took place
15 that couldn't have happened. I do not have
16 Mr. Walters on my witness list because I didn't
17 anticipate this until after we got into it.

18 I would like the Court's permission to
19 call him even though he's not on the witness
20 list. The alternative would be to call
21 Ms. Bowman back, but she's in such an emotional
22 state I'm not sure I would get as accurate
23 information out of her as I would out of the
24 chief. So I would just make that request to the
25 Court, if I can locate him and get him here

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1 tomorrow to call him.

2 THE COURT: Yes, sir.

3 MR. CUMMINGS: Judge, I'm not going to
4 stand up here and waste the Court's time. I
5 know we have the witness list for a reason, so
6 the jurors would identify. If they feel they
7 need something in rebuttal, that might be proper
8 rebuttal.

9 The other issue I have, Judge, Boone
10 testified in here in the Jackson vs. Denno
11 hearing, it's not like he's a surprise to the
12 State or the defense and, of course, part of the
13 issues that came up -- a lot of things have been
14 coming up in this trial. But, again, if Your
15 Honor rules that Mr. Bailey's allowed to do that
16 as part of his witness list I'm not trying to
17 make a big fight out of it because normally
18 emergencies do happen.

19 I'm sure, professional courtesy, Mr.
20 Bailey would allow me to do that in the interest
21 of justice to my client, and if not then the
22 Court would at least protect any client at least
23 in the interest of justice. But the main issue
24 we have here is, and I mean this with the
25 highest respect, Judge, who remembers what, and

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1 where, and when. Dates, times, places are very
2 crucial and important here and as Your Honor has
3 well seen over the last three and a half days of
4 trial here, anything can be said by these people
5 about anything anymore. And I mean it
6 respectfully, Judge.

7 So I mean my position is I'll leave
8 that to Her Honor's preference. And I know we
9 would have the rule for a reason and I know we
10 have the list for a reason.

11 THE COURT: Let me ask you this question:
12 Do you feel that you have at least had access to
13 an incident report?

14 MR. CUMMINGS: Well, that is an interesting
15 topic. When we send people to go find things
16 there's no paperwork. When Mr. Bailey was kind
17 enough to share that with us this afternoon, an
18 incident report, I need to have some time to
19 find out and get our investigators again to go
20 back and find out when they spoke with people
21 over there, find out lack of information about
22 things.

23 Ms. Thomas tried to call and just
24 seemed -- again, I'm not trying to point fingers
25 or anything, Mr. Walters wanted to get back to

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1 his town that day and get out of here. So I
2 mean it's Mr. Bailey's preference, his logic.

3 I know that if the wife got up there
4 we would get the correct date when she called
5 the complaint in because other than that it's
6 hearsay, the police report's hearsay.

7 MR. BAILEY: Your Honor, of course I could
8 bring that in as rebuttal, but I don't know at
9 this point whether or not the defense would even
10 put up a case. If they don't put up a case,
11 then I can't introduce it. I would point out
12 that Mr. Cummings obviously knew about this
13 alleged incident before I did because I didn't
14 know about it at the time the trial started. I
15 would have put Mr. Walters on the list, so
16 that's --

17 MR. CUMMINGS: Clearly wasn't from talking
18 to the wife because everybody has been involved
19 and had been with the attorneys. And we weren't
20 allowed until a few weeks before we started the
21 trial to speak to Ms. Bowman with her counsel at
22 the solicitor's office, so it was just out here
23 doing the old shoe leather work.

24 THE COURT: I understand. I understand.
25 Here's what I'm going to allow. I will allow

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1 you to call Chief Walters, but I certainly want
2 counsel to have an opportunity to talk to him so
3 I think it's probably necessary that you make
4 him available. And I know they've got an awful
5 lot going on, but it's an incident that
6 obviously that you all know about and have known
7 about. If he has an incident report, you know,
8 I want you to have an opportunity to review that
9 incident report.

10 If he has any other documents that
11 have been requested, just share with him that he
12 needs to bring those because if that becomes an
13 issue I'll not countenance not giving the
14 defense documents that they've requested for at
15 all. I'm satisfied the solicitor's office has
16 repeatedly --

17 MR. BAILEY: I believe I gave Mr. Cummings
18 my --

19 THE COURT: Repeatedly that's occurred.
20 When I say that I want you to understand that I
21 understand that the solicitor's office has --
22 whatever you have, you have passed it along.
23 Even when things have come in during the midst
24 even after hearings, that you've been very
25 careful to pass those items along and I'm very

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1 well aware of that. But if there is an incident
2 report I certainly want them to have an
3 opportunity to see it, review it, and talk to
4 him, and then if you need to renew your motion I
5 certainly want you to have an opportunity to do
6 that.

7 It's very difficult I think -- I hear
8 what you're saying, but I wanted to just offer
9 you the opportunity to renew your motion again
10 after you've spoken with him. Because it seems
11 to me that it is a circumstance that you knew
12 and for whatever reason the State did not, were
13 not as aware of that. It certainly didn't come
14 out in the Jackson vs. Denno. But shoe leather,
15 you all have used several pairs of shoe leather,
16 obviously.

17 MR. CUMMINGS: Yes, ma'am.

18 THE COURT: And I've seen it before. So I
19 think that the proper resolution is to ask him
20 to come on early. He may have to sit, but I
21 want you all to have an opportunity.

22 MR. BAILEY: In all fairness, I don't know
23 whether he's available or not. He could be in
24 Arizona or somewhere.

25 MR. CUMMINGS: I don't think he would leave

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1 his town. I'm just being polite.

2 THE COURT: Sure. If there's a problem
3 we'll discuss that. Whenever you choose to call
4 him I just want the defense to have an
5 opportunity to talk to them. I understand
6 you're doing that preliminarily and you're not
7 real sure where he is. I understand that.

8 Anything further?

9 MR. BAILEY: Not from the State.

10 MR. CUMMINGS: Not from the defense.

11 THE COURT: See everybody at about 8:30.

12 Thank you very much and have a pleasant evening.

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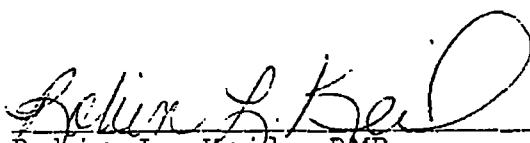
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 7th day of September 2003.


Robin L. Keil, BMR
Resident Court Reporter
First Judicial Circuit

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
: COUNTY OF DORCHESTER) CASE NO. 01-GS-18-0348, 0349

ORIGINAL

STATE OF SOUTH CAROLINA,) VOLUME XXII Pages 4355 - 4586
:)
Plaintiff,) TRANSCRIPT OF RECORD
:)
-versus-) JURY TRIAL
:)
MARION BOWMAN, JR.,) May 20, 2002
:)
Defendant.) St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein

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C-034	Summerville Journal Scene Article	4547	
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1 (May 20, 2002.)

2 THE COURT: Anything from the State before
3 we bring the jury out?

4 MR. BAILEY: Nothing from the State, Your
5 Honor.

6 THE COURT: Anything from the defense?

7 MR. CUMMINGS: Yes, there is. I'll let
8 Ms. Thomas speak.

9 MS. HARDEE-THOMAS: The solicitor was nice
10 enough to make the chief available.

11 THE COURT: Yes.

12 MS. HARDEE-THOMAS: I want to be able to go
13 back and talk to him along with some other
14 witnesses that are waiting in the back with my
15 client's permission, I want to put that on the
16 record.

17 THE COURT: Certainly. Feel free to come
18 and go as you need to, Ms. Hardee-Thomas.

19 MS. HARDEE-THOMAS: Thank you, Your Honor.

20 THE COURT: Very well. Let's have our
21 jury.

22 (Whereupon, the jury returns to the courtroom at
23 9:04 a.m.)

24 THE COURT: Good morning, ladies and
25 gentlemen. And at this time we will continue

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1 the State's case.

2 Mr. Lafond.

3 MR. LAFOND: Yes, Your Honor. State would
4 call Dorothy Mae Bowman to the stand, recall
5 her.

6 (Dorothy M. Bowman, called as a witness, having
7 previously been duly sworn, is examined and
8 testifies as follows:)

9 THE COURT: Very well.

10 DIRECT EXAMINATION

11 BY MR. LAFOND:

12 Q. Good morning, Ms. Bowman.

13 A. Good morning.

14 Q. Do you recall testifying that you found the gun
15 and gave the gun to Yolanda Bowman between
16 February 18th and February 20th?

17 A. Not Yolanda, but Kendra.

18 Q. To Kendra, I'm sorry.

19 A. Yes, sir.

20 Q. Do you recall that?

21 A. Yes, sir.

22 Q. Okay. And after you gave the gun to Kendra, can
23 you state whether or not you went to stay with your
24 mother?

25 A. Yes, sir.

Dorothy M. Bowman - Direct Exam

1 Q. And approximately how long did you stay with
2 your mom?

3 A. For about a week.

4 Q. Okay. And when you returned home to your house,
5 did you notice anything different about it?

6 A. Yes, sir.

7 Q. What was that?

8 A. Something red was all over my floor, all in my
9 bedrooms, all on my curtains.

10 Q. Okay. And when you say something red...?

11 A. Looked like blood, paint, something.

12 Q. Okay. And this happened after you gave the gun
13 to Kendra; is that correct?

14 A. Yes, sir. Yes, sir.

15 Q. Okay.

16 MR. LAFOND: No further questions, Your
17 Honor.

18 Q. Please answer any questions defense may have.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. CUMMINGS:

22 Q. I think I asked you yesterday, Ms. Bowman, that
23 you were up at the police station several times the
24 day of the 17th of February, left the house alone,
25 correct?

Dorothy M. Bowman - Cross-Exam

1 A. Yes.

2 Q. You couldn't lock the back door of your trailer?

3 A. No.

4 Q. Couldn't be secured?

5 A. No.

6 Q. And then the 18th, again, you had -- you said
7 the sheriff, Big Larry, was out at your house
8 searching again on the 18th?

9 A. Yes.

10 Q. No question about that?

11 A. No.

12 Q. He's the sheriff of Orangeburg County, right?

13 A. Yes.

14 Q. Okay. Again, you couldn't secure your trailer
15 on the 18th, either?

16 A. No. The back door could never been locked.

17 Q. All right. And then because of all the issues
18 that were going on because the police were at your
19 home you went to stay with your mamma?

20 A. Yes.

21 Q. Trailer was all alone?

22 A. Yes.

23 Q. And then you come back and it looks like there's
24 a red substance sprinkled around your house?

25 A. Inside the house, yes.

Dorothy M. Bowman - Cross-Exam

1 Q. Inside the trailer, ma'am. I'm not trying to
2 say anything else other than your words right now.

3 A. Okay.

4 Q. J. R. wasn't around, was he?

5 A. No, he was in jail.

6 Q. And then when you called the police, when did
7 you call the police?

8 A. Right after I noticed it was on my floor.

9 Q. Okay. What date was that, do you remember?

10 A. The same thing. I can't remember what date.

11 Q. Okay. But you had left that trailer alone at
12 least from the 17th, 18th until whenever you called
13 the police to report that, right?

14 A. Yes.

15 Q. Okay. Did you ever get a copy of that report?

16 A. Yes.

17 Q. Okay. What did that report say? What was the
18 type of incidence it said at the top; do you
19 remember?

20 A. No.

21 Q. Don't remember at all?

22 A. No.

23 Q. Did the police come in again and take all their
24 kits and equipment and go in and take samples of the
25 stuff that was on your floor?

Dorothy M. Bowman - Cross-Exam

1 A. Boone came in and he took a sample, he was all
2 by himself.

3 Q. All by himself?

4 A. Yes.

5 Q. You were satisfied with that?

6 A. Yes.

7 Q. Did you ever see the results of that sample?

8 A. No.

9 Q. Did you ever ask?

10 A. No. All I asked for was the statement, that was
11 it.

12 Q. Okay. And when they were looking around in
13 there again, taking the samples, or Mr. Walters
14 around taking the sample, did he go near the couch,
15 check the furniture and do anything?

16 A. Not that I know of, no. The only place he was
17 in the kitchen, maybe down the hall.

18 MR. CUMMINGS: Beg the Court's indulgence,
19 Your Honor.

20 THE COURT: All right.

21 Q. Did you know for sure that at least two times in
22 your presence the police searched that entire house,
23 searched that furniture at least twice, right?

24 A. Yes.

25 Q. Seventeenth and 18th?

Dorothy M. Bowman - Cross-Exam

1 A. Yes.

2 Q. Okay. You know Hiram Johnson?

3 A. Yes.

4 Q. Hiram got a problem in the head?

5 A. I guess.

6 Q. Don't guess now, I'm asking you.

7 A. Yes.

8 Q. Did he get shot by the police?

9 A. Yes.

10 Q. Thank you.

11 MR. CUMMINGS: That's all the questions I
12 have, Judge.

13 THE COURT: Redirect?

14 REDIRECT EXAMINATION

15 BY MR. LAFOND:

16 Q. Did Hiram Johnson come to your house between the
17 time Marion was arrested and the time you went to
18 your mother's?

19 A. No.

20 MR. LAFOND: No further questions.

21 THE COURT: Recross.

22 RECROSS-EXAMINATION

23 BY MR. CUMMINGS:

24 Q. Okay. How would you know that if you weren't
25 there?

Dorothy M. Bowman - Recross-Exam

1 A. That's true, too. I'm saying all the time I was
2 there he ain't never came.

3 Q. That's fair. Thank you, ma'am.

4 THE COURT: All right. Is this witness
5 free to leave subject to being recalled?

6 MR. LAFOND: Yes.

7 MR. CUMMINGS: Thank you, ma'am.

8 THE COURT: Yes, ma'am. Subject to being
9 recalled, but you can leave at this time. Thank
10 you.

11 THE WITNESS: You're welcome.

12 (Whereupon, the witness steps down from the
13 witness stand.)

14 MR. BAILEY: State calls Matt Fitts.

15 (Matthew G. Fitts, called as a witness, having
16 first been duly sworn, is examined and testifies
17 as follows:)

18 DIRECT EXAMINATION

19 BY MR. BAILEY:

20 Q. Please tell the jury what your educational
21 background is, sir.

22 A. I received my BS and Ph.D. degrees in
23 microbiology from Clemson University. After that I
24 spent three years at St. Jude Children's Research
25 Hospital in the laboratory of immunology, and then

Matthew G. Fitts - Direct Exam

1 the next five years at the National Institutes of
2 Health in the laboratory of molecular immunogenetics,
3 and then in January of '95 I joined SLED's forensic
4 DNA serology department.

5 Q. All right, sir. Did you work with SLED DNA and
6 serology since 1995 consistently?

7 A. That's correct.

8 Q. All right, sir. And at the present time what is
9 your position with SLED?

10 A. I'm a forensic DNA analyst with SLED.

11 Q. Okay. And have you testified in the past as an
12 expert witness in the field of DNA analysis?

13 A. Yes, I have.

14 Q. On approximately how many occasions?

15 A. Approximately 15 times.

16 Q. All right, sir.

17 MR. BAILEY: Your Honor, I would tender Dr.
18 Fitts as an expert in the field of DNA analysis.

19 MR. CUMMINGS: Judge, I have no voir dire
20 questions of this gentlemen and I have no
21 objection to him testifying as an expert as to
22 that.

23 THE COURT: All right. He's so qualified
24 then, Mr. Bailey. You may proceed.

25 Q. I want to call your attention to SLED case

Matthew G. Fitts - Direct Exam

1 numbers L0123 -- 2633 and L012017, and ask whether or
2 not you obtained certain types of evidence for the
3 purpose of DNA analysis?

4 A. Yes, I did.

5 Q. All right, sir. I'm going to refer to some SLED
6 item numbers and then I'll refer for the record to
7 exhibit numbers, but 40.1, did you obtain a blood
8 sample drawn from the defendant, Marion Bowman, Jr.?

9 A. Yes, that's correct.

10 Q. All right, sir. And SLED item 1, a blood sample
11 from the victim, Kandee Martin, from the autopsy?

12 A. That's correct.

13 Q. And SLED item 7 which would be vaginal swabbing
14 from Kandee Martin from the autopsy?

15 A. Correct.

16 Q. And did you obtain SLED item 10 which was
17 labeled blood and hair?

18 A. Yes, I did.

19 Q. And SLED item number 11, a swab taken from a
20 road?

21 A. Yes.

22 Q. All right, sir. And SLED item number 15, some
23 branches that apparently contained blood?

24 A. Yes.

25 Q. And SLED item number 16, some pine straw that

Matthew G. Fitts - Direct Exam

1 apparently contained blood?

2 A. Yes.

3 Q. And SLED item 28, some additional pine straw
4 that appeared to contain blood?

5 A. Yes, I did.

6 Q. All right, sir. And I'm going to hand you some
7 items here, this is State's Number 48, and ask
8 whether or not this is the vaginal swab that you
9 referred to?

10 A. Yes, it is.

11 Q. SLED item 49 which is the blood from the
12 victim's autopsy?

13 A. This is SLED item number 1.

14 Q. Yes, sir. State's exhibit number on there is
15 what, sir?

16 A. Yes. That's State's Exhibit Number 49 and, yes,
17 that is the blood sample.

18 Q. All right. All right. I'll hand you State's 34
19 and ask if that is the suspect kit containing the
20 blood of Marion Bowman?

21 A. Yes, it is.

22 Q. SLED item 47 which would be -- excuse me,
23 State's 47 which would be SLED items 10, 11, 15, 16,
24 28 as you've described, some material from the crime
25 scene?

Matthew G. Fitts - Direct Exam

1 A. Yes, it is.

2 Q. All right, sir. And do all those heat-sealed
3 bags contain your initials or other identifying
4 marks?

5 A. Yes, they do.

6 Q. And when you received these items in the course
7 of your duties at the SLED DNA lab, were they in
8 sealed containers?

9 A. Yes. They were in these pouches sealed.

10 Q. And, Dr. Fitts, would you, please, in as simple
11 a term, in as simple layman terms as possible, tell
12 the jury what DNA is?

13 A. DNA is a component found in all your cells
14 except for mature red blood cells, half of which that
15 you inherited from your mother, half from your
16 father. And it's basically a code that your cell
17 reads which dictates your development into a human
18 being.

19 Q. All right, sir. Is the DNA in each cell of a
20 particular human being identical; in other words,
21 would the DNA in my skin be the same as the DNA in my
22 liver or my fingernails?

23 A. Yes, it would.

24 Q. All right, sir. With the exception of identical
25 twins, does each person have a unique DNA profile?

Matthew G. Fitts - Direct Exam

1 A. Yes, they do.

2 Q. What type of DNA analysis did SLED do at this
3 time?

4 A. We perform a procedure referred to as PCR, DNA
5 typing for forensic human identity purposes.

6 Q. All right, sir. And briefly what are the steps
7 that you would go through if you have had an
8 evidentiary sample of blood or semen or something
9 that would contain DNA, with the PCR process how do
10 you go about analyzing that?

11 A. First step of course is purifying, extracting
12 and purifying the DNA, the next step is to perform
13 the PCR procedure, and then the third step is the
14 separation and detection for the particular DNA
15 profile you've generated.

16 Q. All right, sir. And when does the DNA -- what's
17 referred to as a DNA match occur?

18 A. Well, we look at a variety of genetic sites and
19 a match occurs when two samples' profile generate the
20 identical genotype from these genetic sites that
21 we've looked at.

22 Q. All right, sir. And does SLED use proficiency
23 tests in order to make sure the analysis done on some
24 evidence is done correctly?

25 A. Yes. All DNA analysts participate in --

Matthew G. Fitts - Direct Exam

1 proficiency testing.

2 Q. Okay. Is DNA used outside of the law
3 enforcement forensic field by science?

4 A. Yes, it is, actually. It was developed outside
5 of the law enforcement field.

6 Q. Could you give some examples of when a person in
7 the science field would use DNA in a non-legal
8 context, non-legal testing?

9 A. It's used in medicine now to look at genetic
10 predispositions to diseases, it's used in paternity
11 testing, it's used for -- you know, by the Army for
12 human identity testing of remains. It's a quite
13 extensive use of DNA testing.

14 Q. All right, sir. And did you perform PCR DNA
15 analysis on all the items that we've discussed
16 previously that you've identified and that are
17 sitting in front of you?

18 A. Yes, I did.

19 Q. All right, sir. And before we get into the
20 specific findings, Dr. Fitts, is there a way to
21 determine whether or not semen is present in a sample
22 that would be sent to you, such as a vaginal swab?

23 A. Yes. We run a serological test for the presence
24 of a particular protein that's produced by the
25 prostate, so it's very specific for semen and we run

Matthew G. Fitts - Direct Exam

1 a serological test for that.

2 Q. With respect to the vaginal swab that you've
3 described and identified, was a test like that run to
4 determine the presence of semen?

5 A. Yes, it was.

6 Q. And did you conduct that test?

7 A. Yes, I did.

8 Q. What was the result of that test?

9 A. That it was positive for the presence of semen.

10 Q. All right, sir. Now, with respect to a vaginal
11 swab taken obviously from a female, does that contain
12 a mixture of vaginal secretions and semen?

13 A. Yes, it will.

14 Q. Okay. And in this particular case, this
15 particular sample from the autopsy of Kandee Martin,
16 was there a mixture there?

17 A. Yes, there was.

18 Q. Her vaginal secretions, plus some semen; is that
19 correct, sir?

20 A. Correct.

21 Q. Is there a way to separate the male fraction or
22 portion of the sample from the female portion of the
23 sample?

24 A. We attempt to do that, that's referred to as a
25 differential extraction. It's more attempting to

Matthew G. Fitts - Direct Exam

1 enrich for sperm cells to detect the male fraction as
2 opposed to the female fraction which would be the
3 vaginal epithelial cells.

4 Q. And are you always able to completely separate
5 them?

6 A. No. It's just more an enrichment.

7 Q. All right, sir. With respect to the other items
8 of evidence that you discussed aside from the vaginal
9 swab, is there a test to determine whether or not
10 these samples contain human blood?

11 A. Yes. We run a serology test to detect human
12 hemoglobin which is present in the red blood cells.

13 Q. All right, sir. Would you state whether or not
14 that test was conducted on all the other samples?

15 A. Yes, it was.

16 Q. What were the results of those tests?

17 A. That human blood was identified.

18 Q. All right, sir. And did you -- do you normally
19 prepare a chart in order to show your findings when
20 you analyze DNA?

21 A. Yes, I do.

22 Q. Okay. And did you do that in this case?

23 A. Yes, I did.

24 Q. All right, sir. I'm going to show you a portion
25 of a couple of charts that you did, and set this up

Matthew G. Fitts - Direct Exam

1 here.

2 MR. BAILEY: For the record this is State's
3 73-A for identification only at this time.

4 Q. Dr. Fitts, what I'm going to ask you to do, if
5 you could stand. And please feel free to rearrange
6 this however you want, but the idea is to get you to
7 explain what's on here without blocking any of the
8 jurors from viewing this. There's a laser pointer in
9 case you need that.

10 A. Okay.

11 Q. And I'll give you a minute or two to examine
12 that.. And it appears --

13 THE COURT: I'm afraid you're going to
14 block jurors. It's going to be difficult to
15 position yourself, that's why you've got the
16 laser pointer, and hopefully you can see the
17 chart from a little distance. Be mindful to
18 keep your voice up because you don't have the
19 microphone.

20 THE WITNESS: Okay.

21 Q. Okay. Dr. Fitts, I'll give you a minute or two
22 to compare that chart with the chart you prepared.
23 And that's an enlargement of a portion of that chart;
24 is that correct, sir?

25 A. Yes, it is.

Matthew G. Fitts - Direct Exam

1 Q. All right, sir. And does it appear that in
2 reproducing the enlargement of that chart part of the
3 middle of it got blurred?

4 A. Yes, it did.

5 Q. All right, sir. And the numbers down at the
6 bottom, item numbers 10, 11, 15, 16, and 28, I wonder
7 if you would just take a minute and go ahead and
8 label those in accordance with the labels that were
9 on the separate envelopes that would identify what
10 was in those envelopes. And also if you could take a
11 minute, please, to make these numbers here more
12 legible that have become smeared in the enlargement
13 process, could you do that for us?

14 A. Yeah. Do you have a marker?

15 Q. Yeah. See if this works. You might want to go
16 ahead have a seat up there, it might be easier than
17 standing up, however you want to do it.

18 A. I'm sorry, you want me to mark on this?

19 Q. Yes, sir. Yes, sir. As I said, you can either
20 do it standing there or place it on a table, whatever
21 is easier for you.

22 A. Oh, okay. This will be fine.

23 Q. Okay.

24 THE COURT: Maybe hold the chart for him
25 because it looks like it's going to -- there you

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1 go.

2 (Pause in proceedings.)

3 A. Can I just put one line through this right here?

4 Q. Sure. However you want to do it, Doctor. All
5 right, fine. Let me ask you a couple questions,
6 Doctor. All right. Now, referring to the chart up
7 at the top left-hand corner where it says, I think,
8 table 1.

9 A. Right there?

10 Q. Yes, sir. It says Profiler Plus. What's
11 Profiler Plus?

12 A. Profiler Plus is just the name of the kit,
13 that's the manufacturer of the kit that we buy this
14 from. It's what they decided to call this kit when
15 we perform these DNA profiles, it's called Profiler
16 Plus.

17 Q. All right, sir. And the numbers from -- numbers
18 and letters from left to right across that top line,
19 if you can explain to the jury what those mean.

20 A. These are each genetic site that we attempt to
21 genotype, these are the names. It's basically the
22 location, the chromosomal location or the name of the
23 gene that we were -- that we are testing on the DNA.
24 The final one being amelogenin, which is a sex
25 determining site where you can detect either the X or

Matthew G. Fitts - Direct Exam

1 the Y chromosome.

2 Q. All right, sir. Now, in the column that's, I
3 think, the second one down, it says, "Kandee Martin
4 blood."

5 A. Yes.

6 Q. Okay. That's the known blood of Kandee Martin?

7 A. Correct.

8 Q. All right, sir. Could you go ahead? And that
9 line is from left to right, tell the jury what that
10 shows with respect to the sample, the DNA analysis of
11 her blood.

12 A. These numbers are referred to as the allele
13 designations for that particular site. And, again,
14 as I mentioned earlier, she inherited one of these
15 from her father, one from her mother, so in this
16 particular -- this first site which would be referred
17 to as D3 she types as a 15, 16, the next site is VWA
18 she typed as a 16, 19, and just go down the line
19 reading the chart. And that's her -- collectively
20 that's referred to as her genotype for all of these
21 loci.

22 Q. All right. That would be a portion of her DNA
23 profile?

24 A. Correct.

25 Q. All right, sir. Would you compare the DNA

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1 profile from Kandee Martin's blood, known blood to
2 the autopsy as you've explained it, to the SLED item
3 10 which is hair and blood? It's down there.

4 A. Yes. And the way you just -- once you've gotten
5 these results you look at this table. At this site
6 it's a 15, 16, it's a 15, 16 here, a 14, 18 -- I'm
7 sorry, a 16, 19 and a 16, 19, a -- is that a 23?
8 Yeah, 23, 25; 23, 25; 10, 15; 10, 15; 28, 29; 28, 29,
9 and you go down and she matches at all loci tested.

10 Q. All right, sir. And what about the one right
11 below that, that would be 11, how does that compare
12 with the known DNA profile of Kandee Martin?

13 A. It matches as well at all sites.

14 Q. And the one below that which would be the
15 branches containing blood?

16 A. Yes. It also matches at all sites tested.

17 Q. And below that number 16, the pine straw
18 containing blood?

19 A. Yes. It matches at all sites as well.

20 Q. All right, sir. And finally the bottom one, 28,
21 which is also pine straw containing blood, does that
22 match also?

23 A. Yes.

24 Q. All right, sir. I want to direct your attention
25 now to the top line, 40.1, SLED number 40.1. And

Matthew G. Fitts - Direct Exam

1 that is the known blood sample from Marion Bowman; is
2 that correct, sir?

3 A. Correct.

4 Q. Can you run across that from left to right,
5 explain that to the jury?

6 A. It's the same. This is his collective genotype
7 at these genetic sites, and he got half of it from
8 his mother and half of it from his father. And each
9 site these are the allele designations, a 15, 16; a
10 14, 18; 20, 23. And spots where you see only a
11 single number his mother and father both had an 11,
12 so he's an 11, 11; and a 12, 12, so we just put it
13 once. And then an 8, 9 in the final one. And the XY
14 is the male.

15 Q. All right, sir. If you look at the very first
16 one, the number on the top line which I believe is
17 DS -- excuse me, D3S1358?

18 A. Correct.

19 Q. If you look at Kandee Martin's DNA profile on
20 that particular loci and Marion Bowman's, is that the
21 same?

22 A. Yes. They both type the same at that loci.

23 Q. Okay. What about the next one, are they the
24 same or different?

25 A. No, they're different. He's a 14,18, she's a

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1 16, 19.

2 Q. The one after that, same or different?

3 A. It's different. He's a 20, 23, she's a 23, 25.

4 They share one allele, but she has a 25 and he has a
5 20.

6 Q. All right. And all the rest of them as we go on
7 down the chart from left to right you compared Kandee
8 Martin's DNA profile and Marion Bowman's, are they
9 all different?

10 A. They're different. They do share some alleles,
11 like a 12 and a 12, but the genotype itself is
12 different.

13 Q. All right. I want to call your attention now to
14 the lines SLED items 7.0, specifically the female
15 portion of the vaginal swab. Can you point that out
16 to the jury?

17 A. It's this one right here. At FF stands for
18 female fraction of the vaginal swab.

19 Q. All right. So if you compare the female
20 fraction from the vaginal swabs with the DNA profile
21 from Kandee Martin's known blood from the autopsy,
22 what do you find?

23 A. That they match at all loci.

24 Q. Calling your attention to the male fraction, the
25 male portion that was extracted from the seminal

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1 fluid or semen from the vaginal profile, were you
2 able to completely separate the male and female
3 portions there?

4 A. No, I was not.

5 Q. Okay. And is there a line showing the male
6 fraction?

7 A. Well, what you're seeing is, you're going to see
8 it's a partial profile where you start to detect a
9 mixture.

10 Q. Okay.

11 A. And all of those sites are documented in each of
12 the -- each site that's tested.

13 Q. All right. And on that line when you have the
14 mixture of the male and female portions, which is
15 stronger --

16 A. In this case --

17 Q. -- as far as reading comes out?

18 A. In this case the female profile that matched
19 Kandee was stronger.

20 Q. Okay. And on that line with the vaginal swabs
21 where there's only one reading, some of those -- some
22 of those have one reading and some have two; is that
23 correct?

24 A. That's correct.

25 Q. What is the difference there? If you have one

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1 reading like on that first one, what does that mean?

2 A. On this is that actually you're only detecting
3 one individual in this. When you inherit these,
4 these are referred to biolelics (phonetic), you'll
5 only have two numbers per person. So if you're
6 having more than two that's when you know you're
7 starting to detect an additional profile. But in
8 certain sites we were only detecting only one
9 individual.

10 Q. Okay. And in those situations where you only
11 detect one individual on the vaginal swab, how does
12 that compare with Kandee Martin's DNA profile?

13 A. It matches Kandee's profile at all those sites.

14 Q. Okay. And on the ones where you were able to
15 separate it out and get a male and female fraction,
16 how does the second number compare to the DNA profile
17 of Marion Bowman?

18 A. At each site that we were detecting an
19 additional profile, it matched Marion Bowman's
20 profile.

21 Q. Okay, sir. Can you point that out with each one
22 of them where you were able to pick up a male and
23 female fragment?

24 A. Okay. The additional profile, this was the 14,
25 18, Marion's a 14, 18 at this site. The major

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1 profile was the 16, 19 which also -- which matched
2 Kandee at -- this is at D8, a 12, 14 was detected and
3 that matches Marion Bowman as a 12, 14. And D21
4 Kandee is a 28, 29 and Marion Bowman is a 29, 31.2.
5 So you only detected these three because they both
6 overlapped on the 29. So there was a 28, 29 and then
7 the 31.2, so they matched. And, again, here the 9,
8 12 which matches Kandee and then the 11 that was
9 matching Marion Bowman.

10 Q. All right, sir. At my request did you prepare a
11 second chart to show the analysis of some further DNA
12 testing you did on a portion of the sample that you
13 mentioned?

14 A. Yes, I did.

15 Q. Was that done with a different kit?

16 A. Yes, it was.

17 Q. I'll show you what's been marked as State's 73-B
18 for identification, ask if that's an enlargement of
19 the chart that you did?

20 A. Yes, it is.

21 Q. All right, sir. I'm going to put this up here.
22 And that's labeled table 2; is that correct, sir?

23 A. Correct.

24 Q. All right. And the upper left-hand corner, what
25 does that say?

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1 A. This is the name of this particular kit which is
2 called Cofiler.

3 Q. Okay. And that's a separate kit, but the same
4 principle; is that correct, sir?

5 A. Correct. It's just a set of different genetic
6 sites, except for as an internal control they use
7 this site. And this site are the same as tested in
8 the Profiler Plus kit, this D3 and D7 are actually
9 repeated as basically an internal control.

10 Q. All right, sir. And the other one, two, three,
11 four, five, six, those were --

12 A. Actually --

13 Q. Five additional sites are different portions of
14 the DNA molecule; would that be correct?

15 A. It's these other four sites.

16 Q. Four sites?

17 A. Because this is, again, the amelogenin, the sex
18 determining marker.

19 Q. Okay. And those are different portions of the
20 DNA molecule?

21 A. That's correct.

22 Q. All right, sir. And on that particular chart
23 would you state whether or not the DNA profile for
24 the known blood of Kandee Martin on that first line
25 is different than the known blood from Marion Bowman

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1 on the second line, other than, of course, that first
2 one that you've already discussed from the other
3 chart?

4 A. That's correct, yes, it is.

5 Q. Okay. Each one of those lines are profiled
6 different?

7 A. Yes, it is. Except they, again, can share a
8 single allele as they do here, but the genotype at
9 that loci is different.

10 Q. All right. Directing your attention to the
11 bottom line, I think 7, that's the vaginal swab with
12 the mixture of vaginal secretions and seminal fluid?

13 A. Correct.

14 Q. All right. Would you go down that again? And
15 some of these numbers you were able to separate it
16 and some you were not; is that correct?

17 A. That's correct.

18 Q. The ones where you have the single number there,
19 were those the ones you were not able to separate?

20 A. It wasn't detected.

21 Q. All right.

22 A. At these sites an additional male profile was
23 not detected.

24 Q. Okay. So that was the female profile; is that
25 correct?

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- 1 A. That's correct.
- 2 Q. Where you are one number only?
- 3 A. That's correct.
- 4 Q. How does that female profile compare with the
5 profile from Kandee Martin's blood?
- 6 A. It matches Kandee Martin's profile.
- 7 Q. Okay. And the -- I think there are four of them
8 there, if I'm correct, in which you were able to
9 separate the male portion from the female portion?
- 10 A. That's correct.
- 11 Q. All right, sir. And how does the male portion
12 of those samples compare with the known blood of
13 Marion Bowman?
- 14 A. They match it at these sites. As here's a 9, 12
15 and he's a 9, 12; here's a 7, he's a 7. Here's where
16 they share the 11, but they don't share the 9 and the
17 9 showed up and the 11. He's an 11 here and the
18 extra 11 type there.
- 19 Q. Doctor, with respect to the male portion of the
20 DNA profile extracted from the vaginal swab, in
21 comparing that with the DNA profile of known DNA
22 profile for Marion Bowman from the blood, would you
23 state whether or not you calculated the probability
24 of a randomly selected individual unrelated to Marion
25 Bowman, Jr. having the same DNA profile from the

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1 vaginal swab as the DNA in the blood?

2 A. Yes, I did.

3 Q. All right, sir. And what were the results of
4 that calculation?

5 A. The odds are, the probability is 1 in 5,300.

6 Q. All right, sir. Please answer any questions Mr.
7 Cummings might have for you.

8 MR. BAILEY: Your Honor, I would move these
9 into evidence at this point.

10 THE COURT: Any objection?

11 MR. CUMMINGS: Judge, at this point, no,
12 ma'am.

13 THE COURT: Very well.

14 MR. CUMMINGS: No legal objection.

15 THE COURT: State's Exhibits -- what are
16 the numbers again?

17 MR. CUMMINGS: Judge, looks like, if I may,
18 73-A and 73-B; is that correct, Mr. Bailey?

19 MR. BAILEY: That's correct.

20 THE COURT: 73-A and B in evidence without
21 objection, they are charts.

22 MR. CUMMINGS: Thank you, Judge.

23 (Entered into evidence were State's Exhibits
24 73-A and B, DNA charts.)

25

Matthew G. Fitts - Cross-Exam

1

2

CROSS-EXAMINATION

3

BY MR. CUMMINGS:

4

Q. I'm Norbert Cummings, sir, I'm just going to ask you a few questions this morning.

5

6

A. Okay.

7

Q. You've been employed by SLED for how many years, sir?

8

9

A. A little over seven years now.

10

Q. All right, sir. Have you ever done any DNA work requested outside the lab other than law enforcement purposes?

11

12

A. Yes, I have.

13

Q. Who did you work for on that, sir?

14

A. I've done some paternity testing for individuals that have requested me, I've also done some DNA work in a patent dispute at a consulting capacity.

15

16

Q. Yes, sir. Predominant career has been towards State Law Enforcement Division; is that correct?

17

18

A. That's correct.

19

Q. All right. And I want to go back just a little bit, please, if I may now. And, again, this is going to sound like it's mundane or maybe something you've already testified about, but I know you'll grant me the professionalism that you've shown this morning to

20

21

22

23

24

25

Matthew G. Fitts - Cross-Exam

1 the ladies and gentlemen of the jury.

2 And that is you come into this room as
3 an expert to testify to what you have, what your
4 results are and nothing else, is that correct, sir,
5 you just testify to the facts as you find them?

6 A. That's correct.

7 Q. All right. And the fact here is -- and, again,
8 I'm going to start right with the very last thing you
9 did here for Mr. Bailey, what exactly to the human or
10 to the layperson out here does it mean when you say 1
11 in 5,300, what does that mean?

12 A. We use a database to calculate the frequency,
13 the expected frequency of you finding this profile in
14 the population as a whole. So it's basically giving
15 you the odds that if I tested 5,300 people I would
16 find that genotype only once.

17 Q. Okay.

18 A. That's basically what it's saying on average. I
19 could do that, you know, test 5,300 people, but on
20 average every 5,300 people they would potentially
21 share that, those allele and that genotype.

22 Q. Yes, sir. And going back a little bit now. Is
23 the basic unit of a DNA the base pair?

24 A. That's correct.

25 Q. Okay. And what does that mean for these good

Matthew G. Fitts - Cross-Exam

1 folks?

2 A. A DNA molecule is like a very long chain and the
3 chain would be -- basically let's say it's composed
4 of beads, it would be 3 billion beads long. And
5 these bases that he refers to would be the equivalent
6 of saying there's four different bases in DNA, so if
7 you had four different colors of beads that chain of
8 3 billion beads would just alternate in terms of the
9 colors of those beads and the bases are represented
10 by those beads.

11 Q. All right, sir. And what percent of total DNA
12 was analyzed in this case?

13 A. I couldn't even -- I mean, we looked at a total
14 of 13 different genetic sites which would probably
15 represent an extremely small fraction of the total
16 DNA.

17 Q. Less than 1 percent, would that be fair to say,
18 sir?

19 A. Yes. But these are sites, these are sites --
20 the reason these are used for identity purposes,
21 these are sites that science has shown vary from
22 individual to individual very well and that some
23 sites are extremely conserved, other sites vary
24 tremendously. So these sites have been shown to vary
25 tremendously from one individual to another.

Matthew G. Fitts - Cross-Exam

1 Q. And, again, normally like you were talking about
2 twins earlier, I think you said identical twins,
3 right, sir?

4 A. That's correct.

5 Q. I don't want to mix words from you, sir, but
6 identical twins you actually analyze about
7 100 percent of that; is that correct?

8 A. I'm sorry?

9 Q. How do you determine when you have identical
10 twins, what do you do with them?

11 A. You would -- you would run these similar tests.
12 And identical twins match at every site, they have
13 the identical DNA. And I do not believe, even though
14 it's stated pretty commonly and pretty well accepted
15 in the scientific community that identical twins have
16 the same DNA, it's because they split from the same
17 fertilized egg, one sperm and one egg split to
18 produce identical twins. So they came from the
19 identical DNA.

20 It's not that their DNA -- all
21 3 billion bases was looked at on one twin, all
22 3 billion bases in another twin and say, oh, it's
23 identical. It's basically determined because they
24 were split from the same fertilized egg, so they had
25 the same -- they started with the identical set of

Matthew G. Fitts - Cross-Exam

1 chromosomes.

2 Q. Yes, sir. And, again, just going back to your
3 lab reports now, and you may need to read this, sir.
4 Your lab report presents a match probability between
5 samples of 10, 11; 15, 16, and 28. And is it true to
6 say, sir, that's approximately one in a trillion
7 after you looked at those?

8 A. That's correct.

9 Q. All right. Now, a trillion is a lot of zeros?

10 A. Yes, it is.

11 Q. Okay. So is it a statistical probability, sir,
12 that it can only be said that only one person on the
13 face of the earth would have this particular DNA
14 pattern after looking at all those?

15 A. That is correct.

16 Q. Okay. In a comparison to match probability with
17 item 7, that's the swab, sir, and that is 1 in 5,300?

18 A. That's correct.

19 Q. Okay. And you've explained that to the ladies
20 and gentlemen of the jury. So there are at least
21 several hundred males in South Carolina alone that
22 would match the DNA sample found in the swab that you
23 were presented to identify here in this courtroom
24 today; is that correct, sir?

25 A. What I will clarify, and in generating this

Matthew G. Fitts - Cross-Exam

1 number of 5,300 there were only three genetic sites
2 used to calculate that number. And if you recall the
3 chart it's the sites where we clearly had where
4 Kande and Marion both differed in two alleles, not
5 the overlapping alleles. And we calculated this
6 number, it's basically a policy that we do in terms
7 of providing a more conservative estimate.

8 So it's only looking at really these
9 three genetic sites which would be VWA, D8, and D16,
10 that's the statistics of somebody matching at only
11 those three sites.

12 Q. Yes, sir. And, again, I'm not challenging
13 exactly your testimony, sir, to these ladies and
14 gentlemen of the jury about things, but go over what
15 happens with the DNA. And this is not just something
16 where you find a drop of blood and get another sample
17 and then it's an instant mystical, magical match of
18 100 percent, right? You got to do a lot of work, you
19 got to break things down on the DNA and all the other
20 things you do?

21 A. Correct.

22 Q. This is a long, intense process. And then
23 there's nothing beyond a scientific issue to you,
24 sir, or scientific doubt that says the person who
25 left any fluid back there actually lives in this

Matthew G. Fitts - Cross-Exam

1 state that you can say to a scientific certainty;
2 isn't that true?

3 A. That's correct.

4 Q. All right. Does that DNA result indicate, and,
5 again, Doctor, this is a professional question, any
6 particular race of a person who left any of the
7 sample behind?

8 A. No, it does not.

9 Q. Okay. And, again, your DNA results cannot say
10 when that bodily fluid was placed inside another
11 person that you did -- when you got the swabs there's
12 nothing in your scientific testing to say when that
13 fluid was left behind?

14 A. That's correct.

15 Q. Okay. And you can't say, Doctor, again,
16 respectfully, sir, to you, that there was not any
17 consensual activity between an adult female and an
18 adult male?

19 A. That's correct.

20 Q. And that forensic DNA testing includes two
21 subspecies of genetics, molecular and the population
22 genetics; is that true, sir?

23 A. Yes, it does.

24 Q. And the molecular genetics is all about
25 collecting samples and analyzing molecules in a

Matthew G. Fitts - Cross-Exam

1 laboratory; is that correct?

2 A. Yes, it is.

3 Q. Further then the population of genetics come
4 into play when a person or person's DNA is consistent
5 with an evidential sample of DNA?

6 A. That's correct.

7 Q. All right. And because less than 1 percent of
8 the total DNA is analyzed a match probability is the
9 best you can do is an educated statement and
10 testimony in court today; is that correct, sir?

11 A. Yes, it is.

12 Q. All right. And these are done with commercially
13 purchased kits?

14 A. Yes.

15 Q. They're sold for paternity testing, and as you
16 stated, sir, identification for other issues today in
17 this country?

18 A. That's correct.

19 Q. All right. And, again, you did the Profiler
20 Plus. When did you do the first chart, I think it's
21 73-A, sir, Profiler Plus?

22 A. I don't have my case jacket with me so I
23 couldn't give you the date. I mean, I do have it in
24 my briefcase.

25 Q. And do you need that, sir, to answer that

Matthew G. Fitts - Cross-Exam

1 question?

2 A. If you want an exact date.

3 Q. If I may, sir.

4 A. This analysis was started on June 11th, 2001.

5 Q. All right, sir. And that is the Profiler kit?

6 A. That's correct.

7 Q. Okay, sir. And then, again, excuse me for being
8 a layperson here, is it the Cofiler (pronunciation)
9 or Cofiler test?

10 A. Cofiler.

11 Q. Cofiler. When were you requested to do that
12 testing, sir?

13 A. I know I did not document the date that I talked
14 to Mr. Bailey and when he requested that I do that,
15 but I can give you the date that I started that
16 analysis.

17 Q. Yes, sir. Please.

18 A. That was October 25th that this was started.

19 Q. Let me get this straight for the ladies and
20 gentlemen of the jury here. You did the profiler
21 test as soon as you were able to get it out of the
22 DNA box assigned to this case and you had done and
23 completed that testing?

24 A. That's correct.

25 Q. And then as a result of that when you came up

Matthew G. Fitts - Cross-Exam

1 with the results of 1 in possibly 5,300, were you
2 then requested again by the State to do a second test
3 with a second different company kit?

4 A. Same company, but the second kit, that's
5 correct.

6 Q. Okay. Mr. Fitts, when you had the conversation
7 with Mr. Bailey were you then asked to do certain
8 testing again to try to lower the numbers, or try to
9 go back and find different results in numbers?

10 A. Yes. The reason to test additional genetic
11 sites, of course, is to build a larger -- is the
12 attempt to build a larger DNA profile which will
13 statistically increase the odds of a match.

14 Q. So it's fair to say you were looking to try to
15 get a better result, like one in one trillion that
16 would sound like in all probability or possibility
17 you couldn't exclude that person?

18 A. That is the purpose of testing additional
19 genetic sites is to get a better profile and that is
20 why we did it.

21 Q. Okay. Now, have you -- in doing your testimony
22 and your professional experience, sir, have you ever
23 learned that DNA has cleared somebody of a case?

24 A. Many times.

25 Q. Yes, sir. As a matter of fact, you keep up with

Matthew G. Fitts - Cross-Exam

1 it I know with SLED, that you go to seminars, you go
2 to district attorney association briefings. You've
3 heard of the Innocence Project?

4 A. Yes.

5 Q. And there's been over 100 people cleared off
6 death row as to DNA; is that correct?

7 A. That's correct.

8 MR. BAILEY: Your Honor, I object. I want
9 to approach the bench, please.

10 THE COURT: Sure.

11 (Whereupon, a bench conference was held
12 off the record in the presence of the
13 jury but out of the hearing of the jury.)

14 THE COURT: Ladies and gentlemen, there is
15 a matter of law which I must take up outside
16 your presence. Please step to your jury room.
17 Do not discuss this matter and do not allow
18 anyone to discuss it with you.

19 (Whereupon, the jury retires to the jury room at
20 9:56 a.m.)

21 THE COURT: All right. Yes, sir, Mr.
22 Bailey.

23 MR. BAILEY: Your Honor, I approached the
24 bench. My objection, Your Honor, is that Mr.
25 Cummings is getting into penalty phase issues in

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1 discussing death row, the death penalty and all
2 that during the guilt phase. I've never seen
3 that happen before in a trial. We try to
4 isolate the penalty phase. Your Honor clearly
5 instructs the jury that the discussion of the
6 penalty is premature and you've instructed them
7 of the presumption of innocence and they're well
8 aware of that. And Mr. Cummings is jumping the
9 gun and getting into penalty phase
10 considerations in front of the jury and I think
11 it's inappropriate and improper and that's the
12 basis for my objection.

13 THE COURT: Thank you.

14 MR. CUMMINGS: When we started with the
15 jury selection last week every person was asked
16 in here, there's a potential death penalty issue
17 in here, you will have to rule on punishment.
18 I've asked the question today in here with the
19 scientific expert presented by the State about
20 whether or not the same DNA that the State is
21 trying to use to identify Mr. Bowman, whether or
22 not the DNA can exclude people. And I've gone
23 into great detail about the exclusions, the 1 in
24 5,300; the State went back and asked for a
25 second test in here.

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1 So obviously, Your Honor, I want to
2 attack the purpose of why they went back and the
3 fact of whether or not this man, and this good,
4 true, professional gentleman has said that
5 there's other possibilities in here. The
6 numbers 1 in 5,300 as compared to normal cases I
7 think Her Honor has been around where they can
8 say like one in a billion, one in a trillion,
9 one in one million.

10 Judge, I asked that particular
11 question of this expert to make sure that that
12 comes out about DNA is a science that the jury
13 can give weight to and that there's pro and
14 there's con.

15 I won't ask any more questions using
16 the D word, but I would like to ask, and I would
17 ask if I would be allowed to proffer if I lose
18 this argument about whether or not people have
19 been cleared of crimes.

20 MR. BAILEY: Your Honor, he already asked
21 him that question and he responded that indeed
22 they had been cleared of crimes. And whether or
23 not the person that's cleared is on death row or
24 doing a life sentence has nothing to do with the
25 science of DNA.

Matthew G. Fitts - Cross-Exam

1 THE COURT: It seems to me that the
2 objection came at the point where you asked
3 about was he familiar with the Innocence
4 Project.

5 MR. CUMMINGS: Yes, ma'am.

6 THE COURT: And the objection is, I gather,
7 what relevance does his -- this expert and the
8 issue involving the Innocence Project have to do
9 with his testimony. Your position is -- hear me
10 through because this is where I am. The
11 Innocence Project as I understand it is
12 utilization of DNA to identify and to match
13 individuals. It happens to be that those
14 matches have exonerated certain individuals as I
15 understand it.

16 So I would ask what relevance that has
17 to the cross-examination if as you are trying to
18 establish that there can be misidentifications.
19 But as I understand it your line of questioning
20 is can there not be misidentifications within
21 the context of utilizing DNA.

22 MR. CUMMINGS: Yes, ma'am. Mr. Bailey
23 objected earlier on my questioning, my line of
24 questioning, but I was going that way for
25 misidentification, but the numbers of the

Matthew G. Fitts - Cross-Exam

1 scientific DNA results in this case, the fact
2 that there have been two tests to try to get a
3 lower number down I guess -- or higher number,
4 excuse me.

5 THE COURT: Let me say this: I think that
6 that's fair cross-examination. I would say that
7 the Innocence Project to compare inconsistencies
8 within the DNA testing is appropriate
9 cross-examination. The fact that there may have
10 been misidentifications in the law, I don't know
11 the relevance of that, of the cross-examination
12 involving the Innocence Project with the
13 cross-examination of what you are proposing to
14 be inconsistencies within the field of DNA
15 itself.

16 MR. BAILEY: Your Honor, if I might, when
17 he asked for the Innocence Project I did not
18 object at that point. The question I objected
19 to from my notes here, after he asked what's the
20 Innocence Project, he says haven't over 100
21 people on death row been cleared. That's when
22 he started talking death row.

23 I mean, I don't know where the person
24 who's convicted, whether or not they're on death
25 row, whether they're serving a life sentence

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1 doesn't have anything to do with the science of
2 the DNA and the failure rate or whatever he's
3 trying to get at, I just object to getting into
4 death row.

5 THE COURT: That's my point as well.

6 MR. BAILEY: Yes, ma'am.

7 THE COURT: Because here's the part of it,
8 Mr. Cummings. I understand your
9 cross-examination and I don't want to -- and I
10 think that's fair cross-examination.

11 MR. CUMMINGS: Yes, ma'am.

12 THE COURT: I guess what I'm asking you is
13 to tell me how talking about DNA correcting, if
14 you will, misidentifications using other means,
15 which is what I understand the Innocence
16 Project, tell me the relevance that that has to
17 this cross-examination.

18 MR. CUMMINGS: Because, Your Honor, they
19 cannot say within scientific certainty that it
20 was less than 1 in 5,300 match with my client.

21 THE COURT: That --

22 MR. CUMMINGS: Yes, ma'am.

23 THE COURT: Tell me what the relationship
24 is between the Innocence Project correcting
25 other misidentifications has to that issue.

Matthew G. Fitts - Cross-Exam

1 MR. CUMMINGS: Your Honor, it only goes to
2 the weight and the cross-examination of this
3 gentleman as to whether or not this DNA
4 testimony that's being offered by the State can
5 exclude my client from being placed there, being
6 either non-consensual or consensual sex with
7 Miss Martin, Judge.

8 THE COURT: You asked all that.

9 MR. CUMMINGS: I asked all that.

10 THE COURT: I would ask you to stay away
11 from the discussion of the -- of the Innocence
12 Project for this reason.

13 MR. CUMMINGS: Yes, ma'am.

14 THE COURT: And for whether or not it's
15 been able to clear people on death row for this
16 reason: Because as I understand that project,
17 that use of DNA in that regard, that DNA has
18 been used to correct mistakes that were non-DNA
19 identifications.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: And relevancy, of course, is
22 evidence having any tendency to make the
23 existence of any fact that is of consequence to
24 the determination of the action more probable or
25 less probable.

Matthew G. Fitts - Cross-Exam

1 MR. CUMMINGS: Yes, ma'am.

2 THE COURT: My concern is that -- is that
3 in your cross-examination of the
4 inconsistencies, internal inconsistencies, if
5 you will of DNA, or the fallacies of DNA, or the
6 weaknesses of DNA identification, I think that
7 the Innocence Project does not address that on
8 cross-examination. I think it does raise the
9 issue of the punishment phase, I'm concerned
10 about that. However, issues that challenge
11 DNA --

12 MR. CUMMINGS: Yes, ma'am.

13 THE COURT: -- I'm not in any way limiting.

14 MR. CUMMINGS: I understand that, Judge,
15 and I thank you for your kindness and your
16 patience on that.

17 THE COURT: If there's anything else that
18 you can tell me that I can connect the dots
19 between the Innocence Project and using it to
20 clear people on death row and this, because it
21 seems to me it bolsters it, tells how great DNA
22 is, it's the greatest thing in the world, it's
23 really the identifier.

24 MR. CUMMINGS: Okay.

25 THE COURT: So I fail to see how that --

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1 unless you can tell me something else.

2 MR. CUMMINGS: Judge, that's all I can
3 think about at the present moment. I would ask
4 at least the record reflect that I offered that
5 question, I asked that question. Your Honor has
6 ruled respectfully and I --

7 THE COURT: Then we'll move on to other
8 things.

9 MR. CUMMINGS: Yes, ma'am.

10 THE COURT: And we'll take like a
11 two-minute comfort break.

12 MR. CUMMINGS: Three-minutes?

13 THE COURT: Three-minute comfort break.

14 (Recess, from 10:04 a.m. to 10:09 a.m.)

15 THE COURT: Counsel, let me just mention to
16 you that we're going to break for lunch about
17 five minutes until 12:00. We have the juror
18 that needs to get their shot, we've made those
19 arrangements. And also we have a juror that
20 needs -- that's made a chiropractor appointment
21 and has got to be to James Island like at 5:50,
22 so we will break right at 12:00 and 5:00 instead
23 of 6:00. I'm sorry we can't go until 6:00, but
24 alas, we have to take care of that.

25 All right. Jury, please.

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1 (Whereupon, the jury returns to the courtroom at
2 10:10 a.m.)

3 THE COURT: You may proceed.

4 MR. CUMMINGS: Thank you, Judge.

5 BY MR. CUMMINGS:

6 Q. Again, you have your folder back in front of
7 you. The very first test that you did, I think the
8 profiler one, you typed the report on August 15th,
9 2001, sir?

10 A. My first report?

11 Q. Yes, sir.

12 A. Yes, that's correct.

13 Q. Okay. When you go through in your results, sir,
14 you've examined every sample that you have obtained.
15 I think it's fair to say, sir, your DNA profile
16 matching item 7 is approximately 1 in 370?

17 A. That's correct. The same two items that we made
18 the comparison with when we only utilized the results
19 from the Profiler Plus kit, the statistical odds were
20 calculated only utilizing Profiler Plus and those
21 odds were 1 in 370.

22 Q. For layman's terms, low number, 1 in 370, not
23 like one in a trillion?

24 A. Certainly a lot smaller than one in a trillion.

25 Q. Again, you weren't asked to do a second testing

Matthew G. Fitts - Cross-Exam

1 until October, sir?

2 A. I don't know exactly when the phone call and
3 request was made, but that's when I started the
4 analysis.

5 Q. Okay. And, again, I just want to just recap
6 briefly, sir. You can't say when any of these fluids
7 had been exchanged between two human beings?

8 A. That's correct.

9 Q. You can't say anything about consensual or
10 non-consensual?

11 A. That's correct.

12 Q. And other than that, sir, you've been asked to
13 handle the samples that you've been provided?

14 A. That's correct.

15 Q. And if I may, sir, the piece of the branch or
16 the sample that you got there, if you were to tell
17 these ladies and gentlemen of the jury the
18 approximate size of the sample that you had to work
19 with, whatever fluid was on that branch, did you see
20 the size of that sample?

21 A. I certainly can't recall it, but I can
22 certainly -- I know I saw it, I was the one that did
23 the testing.

24 Q. That did the testing, yes, sir. Do you remember
25 like if you measured it?

Matthew G. Fitts - Cross-Exam

1 A. No, I don't actually measure it. I mean, I get
2 a sample, I will look at it and I know if I see blood
3 I know how much I will need for DNA analysis and I
4 will collect the amount I need for DNA analysis.

5 Q. You couldn't say if that sample got there
6 because somebody scratched them as they were going
7 by, or if they had fallen on a branch or a bush?

8 A. Right. All I know is human blood was identified
9 and presented a human profile of that blood.

10 Q. Yes, sir. Further, had you ever done in your
11 testing in your samples, looked at all the names
12 going down your chart in 73-A and 73-B, done any
13 testing on a gentleman named Hiram Johnson?

14 A. I'm sorry, who?

15 Q. Hiram Johnson, yes, sir. I'm looking at your
16 reports and I don't see -- you've got Miss Martin,
17 Mr. Bowman, several other names.

18 A. Yes. No, I don't see a Tyrone Johnson.

19 MR. CUMMINGS: Beg the Court's indulgence,
20 Your Honor.

21 THE COURT: All right.

22 Q. I'm sorry, sir, I do have a couple other
23 questions, I apologize. You can get DNA samples from
24 saliva?

25 A. That's correct.

Matthew G. Fitts - Cross-Exam

1 Q. You can get DNA samples from blood?

2 A. Correct.

3 Q. You can get them from cells of a body, skin?

4 A. That's correct.

5 Q. Can you determine DNA from a person if they
6 perspire, if they leave a body sample behind?

7 A. Yes.

8 Q. Okay. If people had their hands in gloves and
9 you're given those items for testing, could you
10 determine whether or not a human being had their
11 hands in the gloves if there's enough samples?

12 A. If there's enough sample there, yes, we could.

13 Q. Okay. Could you -- if the person had sweated or
14 left a fingernail behind, or lack of better terms had
15 maybe bled inside the gloves, could you find samples
16 there if you were requested to do so?

17 A. Yes.

18 Q. Were you requested to test any gloves of any
19 type in this case, sir?

20 A. I don't believe I was.

21 Q. All right. Were you requested to test clothing
22 of Mr. Bowman?

23 A. If clothing came in it would have gone to a
24 different department initially.

25 Q. Okay. But were you requested to do any of that?

Matthew G. Fitts - Cross-Exam

1 A. No.

2 MR. CUMMINGS: That's all the questions we
3 have of this good gentleman. Thank you, Judge.

4 REDIRECT EXAMINATION

5 BY MR. BAILEY:

6 Q. I believe in response to questions of
7 Mr. Cummings you said the amount of DNA loci that you
8 examined would be less than 1 percent of the total
9 DNA of the body; is that correct?

10 A. That's correct.

11 Q. All right, sir. And the more locations you
12 check, would that give you a more accurate profile?

13 A. Yes, it would.

14 Q. All right, sir. So the second test that you
15 did, the Cofiler 2, would that give you a greater
16 profile than just the Profiler Plus?

17 A. Yes, it would.

18 Q. All right, sir. And, again, I would ask whether
19 or not in your opinion there's a match between Marion
20 Bowman's blood and the male fraction of the seminal
21 fluid?

22 A. Yes. There is nothing in these results that
23 would exclude Marion Bowman --

24 Q. Thank you.

25 A. -- as a contributor.

Matthew G. Fitts - Redirect Exam

1 Q. Thank you, sir. The odds of somebody else being
2 a contributor are 1 in 5,300?

3 A. The odds of finding the same profile at those
4 three genetic sites that we used for statistical
5 purposes are 1 in 5,300.

6 Q. I think that is all we have.

7 MR. CUMMINGS: Nothing back on recross.

8 THE COURT: Is this witness free to leave?

9 MR. BAILEY: Yes, ma'am.

10 (Whereupon, the witness steps down from the
11 witness stand.)

12 THE COURT: Call your next witness.

13 MR. BAILEY: Your Honor, I believe I am
14 ready to rest. Prior to doing that I would like
15 to check with Ms. Keil to make sure everything
16 that's been marked for identification that I
17 need to put into evidence goes, if I may take a
18 very brief break to confer with her.

19 THE COURT: You may.

20 Ladies and gentlemen, I'm going to ask
21 you to step to your jury room. Do not discuss
22 this matter, do not allow anyone to discuss it
23 with you. Now is actually a good time to go
24 ahead and take your morning break because we
25 have some smokers that want to walk outside,

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1 which is fine. We will be with you maybe --
2 with you shortly. If we're not with you in ten
3 minutes it will probably be 20. Thank you so
4 much.

5 (Whereupon, the jury retires to the jury room at
6 10:19 a.m.)

7 MR. BAILEY: Your Honor, let me just for
8 the record make a generic proffer of everything
9 that's been marked for identification only to
10 move that into evidence. And Ms. Simmons has
11 been tracking that. And according to her
12 records what has been marked for ID only at this
13 time would be State's Number 29, which was the
14 chain of custody on the gun going up to SLED.

15 THE COURT: Was that the one that -- was
16 that the chain of custody that there was a
17 stipulation and therefore it didn't go in
18 because of the other names?

19 MR. BAILEY: I think that was on a
20 different item, it was not the gun. That was on
21 one of the first items.

22 THE COURT: Let me ask you to do this. Let
23 me tell you because there were some that I
24 recall being marked for ID and there were some
25 agreements. Maybe you and Mr. Cummings and Ms.

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1 Hardee-Thomas could take a quick look at those
2 to be sure.

3 MR. CUMMINGS: That's what we're trying to
4 do now, Judge.

5 THE COURT: That's what you're doing at
6 this moment?

7 MR. CUMMINGS: Right.

8 THE COURT: I'm sorry.

9 MR. BAILEY: And State's 33 was a chain of
10 custody where Mr. Porter carried his items to
11 SLED. According to our records that is not in
12 yet.

13 THE COURT: All right. Stop. Let's go
14 back to 29. The first one that you mentioned
15 was that -- that was exhibit what? What was the
16 first one that you mentioned?

17 MR. BAILEY: Twenty-nine.

18 THE COURT: Twenty-nine was the first one,
19 all right. Exhibit 29 which is a chain of
20 custody on the gun. Any objection?

21 MR. CUMMINGS: The answer to that, Judge,
22 is, yes, Your Honor.

23 THE COURT: Okay.

24 MR. CUMMINGS: And, again, I'll state my
25 objection on the record and move on.

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1 THE COURT: Okay.

2 MR. CUMMINGS: As to the chain of custody
3 of the gun, this weapon had been handled many
4 times by many different people, there was a
5 firearm recovered by the Caanan Fire Department,
6 from the fire department, it was an unguarded,
7 unprotected area, they find a weapon, they pass
8 it up to individuals and it's tested at SLED.

9 My objection would be that nobody can
10 say that this is the weapon that fired any of
11 the fatal projectiles recovered and, therefore,
12 Judge, I would make my objection on the record
13 as to the chain of that weapon.

14 THE COURT: And the objection to the chain
15 of custody has to do with prior to -- it was
16 prior to the time that it was found by the fire
17 department?

18 MR. CUMMINGS: Correct, Judge. There's not
19 a perfect chain established as of this point.
20 Your Honor, it could be a contaminated issue,
21 there is not a chain of evidence of prior to the
22 fire department finding it. From the fire
23 department up to SLED there is no legal
24 objection to that because they've actually
25 recovered an item and then they follow their

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1 protocols to have whatever testing done on it.

2 THE COURT: Let me ask you this question:
3 Isn't that a chain of custody from the fire
4 department to SLED?

5 MR. BAILEY: Yes, ma'am. Of course we're
6 responsible for the chain of custody once it
7 gets into law enforcement hands and it's, again,
8 not a fungible item.

9 Finally, Your Honor, my understanding
10 of the stipulation when we gave that gun up to
11 have their expert look at it was there would be
12 no issue on chain of custody in regard to that
13 gun.

14 MR. CUMMINGS: Not from law enforcement as
15 to -- you noticed I haven't said anything about
16 Mr. Richardson touching it, even making Sam
17 Richardson come to this courtroom to testify and
18 I kept my word on that. There would not be --

19 THE COURT: Let me see if I'm clear,
20 because maybe I'm not clear. Because as I
21 understand the chain of custody, the chain of
22 custody that you're talking is about from the
23 firemen to SLED. From the time it came in to
24 the firemen to the time it went to SLED, that is
25 your chain of custody.

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1 MR. BAILEY: That is my chain.

2 THE COURT: I'm hearing you object the
3 chain of custody before it came to the firemen,
4 right?

5 MR. CUMMINGS: Correct.

6 THE COURT: Okay. It's admitted over the
7 objection of the defense.

8 MR. CUMMINGS: Very well.

9 (Entered into evidence was State's Exhibit 29,
10 chain of custody.)

11 MR. BAILEY: Your Honor, 10 was the photo
12 of the license plate used to identify the
13 victim's automobile and 11 was the license plate
14 itself and I would move to put those in.

15 THE COURT: We are talking about 10 and 11?

16 MR. BAILEY: Yes, ma'am. Photograph and
17 the license plate itself.

18 MR. CUMMINGS: As I recall, humbly, the
19 actual license plate was allowed to be testified
20 about and over the objection of the defense.

21 THE COURT: That was correct. You're
22 correct about that.

23 MR. CUMMINGS: I understand Mr. Bailey
24 moving that in to double check his record,
25 ma'am, but it was in, respectfully, over our

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1 objection.

2 THE COURT: My only concern it was done at
3 the side bar. Let me just announce for the
4 record that the license tag which is the State's
5 Exhibit 11 in evidence over the objection of the
6 defense. And the objection of the defense
7 was --

8 MR. CUMMINGS: Was highly prejudicial,
9 ma'am, more than probative because of the nature
10 of the burning; number two, Judge, it is not any
11 accurate position as testified to by everybody
12 in here that somebody put it on the ground to
13 take a photograph, they put it near a charred
14 area instead of it remaining on the vehicle.
15 Clearly there were multiple ways to identify the
16 vehicle, by VIN number, engine number, whatever
17 on the vehicle. They had the license tags they
18 could read and they could clearly run that for
19 identification. When they showed the license
20 tag in here that day it's our respective
21 position that it was shown, again, Your Honor,
22 to try to inflame the passion of the jury and
23 create a hostile environment for my client based
24 on that burned piece of evidence, ma'am.

25 THE COURT: Very well. All right. With

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1 regards to the photograph, which is State's
2 Exhibit 10, any objection to the photograph?

3 MR. CUMMINGS: Yes, ma'am. Same thing, did
4 not accurately, truthfully depict how the tag
5 would have been, it was clearly moved by
6 someone. And, again, the someone is beyond our
7 control and it did not accurately and truthfully
8 depict the events.

9 THE COURT: Why is it not cumulative?

10 MR. BAILEY: Your Honor, I guess the best
11 evidence would be the tag itself. So if Your
12 Honor's ruled one of them comes in and I had a
13 choice it would be the tag itself.

14 THE COURT: All right. The tag is in, so
15 the photo would be out.

16 MR. BAILEY: Okay. We'll pull that, Your
17 Honor.

18 (State's Exhibit 10, a photograph and a license
19 plate, is now marked for identification only and
20 is pulled from the evidence to go to the jury.)

21 MR. BAILEY: The next, according to our
22 records, is State's 33 which is the chain of
23 custody where Mr. Eddie Porter, the SLED man,
24 carried all of that evidence, the vast majority
25 of evidence up to SLED. And as I recall there

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1 was no objection from the defense to the
2 evidence itself going up or being introduced, so
3 there wouldn't seem to be any objection to the
4 chain.

5 MR. CUMMINGS: Judge, there is no legal
6 objection to the chain from Mr. Porter. We had
7 asked, respectfully, when Mr. Porter was
8 recalled yesterday before we would stipulate to
9 any issues of evidentiary items as to that, that
10 Mr. Porter would lay the proper foundation down.
11 He testified that he did what he did, ma'am,
12 submitted it to other agencies, testing labs as
13 they determined appropriate, so Mr. Bailey is
14 correct, Judge.

15 THE COURT: For now it's appropriate to go
16 in.

17 MR. CUMMINGS: Other than all the other
18 objections we made as to evidentiary issues to
19 maintain those for the record, respectfully, I
20 have no other legal objection or Ms. Thomas,
21 too, what Mr. Porter took, collected, did, other
22 than were raised throughout this trial.

23 THE COURT: Very well. State's Exhibit 33
24 is in evidence over the objection of the
25 defense.

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1 MR. CUMMINGS: Yes, ma'am.

2 (Entered into evidence was State's Exhibit 33,
3 chain of custody.)

4 MR. BAILEY: Your Honor, State's 36 for
5 identification was the box of Winchester .380
6 caliber ammunition that Agent Helms got out of
7 the infamous chair at Ms. Bookhart's house. The
8 relevancy of that, Your Honor, is that David
9 Collins testified that those bullets were
10 consistent in brand, caliber, and style as the
11 shell casings as well as the fired bullet at the
12 scene. They were found at the same location
13 where the law enforcement -- or where Mrs. Dotty
14 Mae Bowman testified that she retrieved the
15 pistol that she in turn gave the sister that
16 ended up in the river that got back to
17 Mr. Collins.

18 And Mr. Collins, as I recall, did
19 testify in regard to that box and described it
20 without objection from the defense.

21 THE COURT: All right. Yes, sir.

22 MR. CUMMINGS: I know I raised objections
23 as to Mr. Collins and how he examined the box
24 and whether or not he could exclude that box or
25 whether he found anything more than it's

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1 consistent. Your Honor, that item that's being
2 offered for evidence today was clearly
3 somewhere, somehow placed inside a couch in
4 another person's home, or somehow sometime after
5 my client clearly had been in custody.

6 Your Honor, that box of ammunition
7 clearly is more prejudicial than probative, it
8 is, Your Honor, evidence that has not been --
9 I'm trying to find the words that escape me
10 right now, and that is that there's been no
11 control factor on that. There are thousands of
12 boxes of Winchester ammunition. I asked the
13 gentleman that yesterday, he admitted that, he
14 admitted that he had never been in the factory.
15 He said those shell casings were consistent with
16 the type found on the roadway and that is all.

17 Not to exclude it beyond any
18 scientific probabilities, that we objected to
19 the box of ammunition coming in, Your Honor,
20 respectfully, and, Judge, I respectfully request
21 the box be excluded as evidence in this case.
22 There's no control on it, no issues -- they
23 searched twice before anything was found. It
24 was found in June of 2001, months after this
25 issue.

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1 MR. BAILEY: Of course Agent Helms'
2 description of how that -- the difficulty he had
3 in locating that item is relevant to why the gun
4 located in the same piece of furniture was not
5 found earlier, as well as the relevancy of the
6 consistency of the bullets and the shell casings
7 that Mr. --

8 THE COURT: I think the other matters --
9 I'm going to admit the bullets or the shells
10 because I find that the concern expressed by Mr.
11 Cummings goes to the weight and not the
12 admissibility. I think that the box of shells
13 is relevant, I think it makes -- it has a
14 tendency to make the existence of a fact which
15 is of consequence to this matter more probable
16 or less probable, I think it's been
17 authenticated. So I think that the concerns of
18 the defense go to the weight of it rather than
19 to the admissibility, and over the objection of
20 the defense I will admit State's Exhibit 36.
21 (Entered into evidence was State's Exhibit 36,
22 ammunition.)

23 MR. BAILEY: Your Honor, the next item
24 marked for identification is a lighter. And I
25 would concede that if Mr. Cummings objects to

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1 that it was not tied up to anything, it was a
2 lighter found at the scene, we can't identify
3 it, I would have no objection to pulling that.

4 THE COURT: All right. Great.

5 MR. BAILEY: According to Ms. Simmons'
6 records the only other item I see, Your Honor,
7 is the lady's shoe that Ms. Martin identified
8 belonging to her daughter and that Agent Porter
9 testified he observed in the wooded area and
10 photograph and identified it, so I would move
11 that that go in.

12 THE COURT: That was State's Exhibit...?

13 MR. BAILEY: Forty.

14 THE COURT: Forty.

15 MR. BAILEY: Of course the relevancy of
16 that is it would show the location, that she was
17 in the woods would corroborate the testimony not
18 only of Travis Felder who saw -- testified he
19 say the body coming out of the wooded area, but
20 as well as Taiwan Gadson saw the body dragged
21 into the wooded area.

22 THE COURT: And the objection on defense
23 would be...?

24 MR. CUMMINGS: The objection from the
25 defense, Your Honor, would be that it will go to

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1 the weight, Your Honor. I stand here, and I'm
2 not trying to waste Your Honor's time or the
3 record's time, and I understand that the Court
4 probably will rule it will go to
5 cross-examination and weight, that the time when
6 the shoe was found, the location where the shoe
7 was found being inconsistent with the
8 evidentiary items that were testified to by the
9 professional people and the laypeople that were
10 present.

11 That further, Judge, that this area
12 was unprotected, Your Honor, and we ask that the
13 possible contamination of that evidence,
14 evidence being moved, we know now from testimony
15 shell casings rolled around or other issues,
16 that we would ask that that shoe be excluded
17 because it was not properly conducted and
18 gathered in law enforcement techniques for
19 evidentiary value, but other than that, Your
20 Honor, it's going to be for your admissibility
21 based on what you found in here.

22 And it's probably my job or
23 Ms. Thomas's job to attack the method, the
24 collection, and it's been identified by
25 Ms. Martin and we understand that.

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1 THE COURT: Thank you very much. State's
2 40 in evidence over the objection of the
3 defense.

4 (Entered into evidence was State's Exhibit 40,
5 shoe.)

6 THE COURT: What else?

7 MR. BAILEY: Let me check with Ms. Keil, if
8 I might, on one other item.

9 Apparently the gun has been marked for
10 identification only. It was testified to by
11 David Collins in great depth, it's been in the
12 hands of the defense with the Court's
13 permission. Mr. Collins testified that that gun
14 did fire the shell casings found at the scene
15 and we would move that to go in.

16 MR. CUMMINGS: May it please the Court,
17 Judge?

18 THE COURT: Yes.

19 MR. CUMMINGS: I'm trying to be as brief as
20 we may.

21 THE COURT: Yes, sir.

22 MR. CUMMINGS: Your Honor, that gun cannot
23 be determined beyond any scientific testing to
24 be the weapon that actually fired the
25 projectiles that struck the body of Miss Martin.

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1 The projectiles found on the scene Mr. Collins,
2 in all respect, could not positively match that
3 projectile with a High Point .380.

4 There has been no testimony directly
5 that says that my client owned that weapon.
6 There's been -- and, Your Honor, respectfully,
7 as to any scientific matches I think the
8 gentleman, Mr. Collins' conclusion was that that
9 weapon left a breech face mark on the shell
10 casings found in the roadway. That gun was not
11 found at the roadway. It was passed through
12 numerous hands, Judge.

13 And, again, I say this as an officer
14 of the Court. I always try to keep my word both
15 to Mr. Bailey and to you, we said there would be
16 no argument so that we could conduct some
17 scientific testing of our own with an expert
18 that it went from SLED or the sheriff's
19 department to Mr. Mauer through Mr. Richardson
20 who was kind enough to drive it up to Virginia
21 for the testing, so I am not attacking the chain
22 on that.

23 But, Your Honor, we had an argument
24 that there was a firearm supposedly taken by
25 Dorothy, Ms. Bowman, passed onto family members.

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1 There's been testimony in here, respectfully,
2 that a firearm was in a towel, so nobody could
3 see what kind or what it was. Somebody, and I
4 think it was Kendra or Yolanda, testified,
5 again, which I'll recap the best I can, Kendra
6 opens up the towel and something falls out.
7 Couldn't describe the color, couldn't describe
8 the make, model, and of course never the serial
9 number of anything that was thrown in the water.

10 Your Honor, respectfully, that the
11 chain has not been established to a certainty in
12 here as to who possessed this weapon, where,
13 when, and how. And, Your Honor, we believe that
14 would be a breach of the chain as to the
15 citizens and identity along that line as to how,
16 when, where, and why. Your Honor, respectfully,
17 I think there was a very important witness in
18 here, I noticed -- and I'm taking Mr. Bailey,
19 the State, has rested basically once we put some
20 objections in.

21 THE COURT: I understand.

22 MR. CUMMINGS: I think, Judge, there's a
23 very important person involved in this chain and
24 that is the father, Mr. Marion Bowman, Sr., who
25 from everything we read in discovery and other

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1 issues had possession of a weapon, particularly
2 from everything we read here perhaps this
3 weapon. And that has not been established here,
4 politely, for whatever reason. Your Honor,
5 we're asking the weapon be excluded from this
6 case.

7 Further, Judge, again, respectfully, I
8 want to put this on the record and I know I may
9 be lengthy in my objection here --

10 THE COURT: Surely.

11 MR. CUMMINGS: -- as to the establishment
12 of the chain as well as the highly prejudicial
13 effect and the relevance, and that is, Judge,
14 this weapon was not found until after my client
15 was incarcerated and not able to be near this
16 weapon. It had been taken and passed through
17 numerous hands.

18 And there has been great strides by
19 the solicitor to show that along the way, Your
20 Honor. And, respectfully, pursuant to our rules
21 of evidence and the chain of custody pursuant to
22 Rule 6, Your Honor, we would ask that the Court
23 looking at the totality of this issue here find
24 that the chain has not been established and that
25 the prejudicial effect that would be caused by

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1 this, Your Honor, along with the scientific
2 facts that has been testified to in here, do not
3 point to that weapon being the weapon that has
4 fired the fatal rounds in this case, ma'am,
5 respectfully. At least from what has been
6 recovered as evidence by the State.

7 THE COURT: As I recall Collins' testimony
8 while he said it couldn't absolutely, without
9 question be identified because of the condition
10 of the materials that he had received. As I
11 recall his testimony he testified most probably.

12 MR. BAILEY: Your Honor, he testified with
13 respect to the bullet and one shell casing that
14 it was consistent, but he couldn't say with
15 100 percent certainty that it was fired by that
16 weapon. Although it could have been, there's
17 nothing to exclude it. But with the other fired
18 shell casings he said it was fired by that
19 weapon to the exclusion of every other weapon
20 was his testimony.

21 THE COURT: Okay.

22 MR. CUMMINGS: I did ask him that if they
23 had been placed on the ground or they had fallen
24 out of the car, he couldn't say. If Your Honor
25 would please reconsider that issue.

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1 THE COURT: I will consider all those
2 things.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: I was trying to get to his
5 testimony. Y'all bear with me just a moment
6 here.

7 All right. With regards to Exhibit
8 Number 42, I'm going to admit it over the
9 State's objection -- excuse me, over the
10 defense's objection. Okay.

11 (Entered into evidence was State's Exhibit 42,
12 pistol.)

13 MR. BAILEY: Thank you, Your Honor.

14 THE COURT: Does that conclude the
15 exhibits?

16 MR. BAILEY: The last one, according to our
17 records, and this has been testified to by
18 numerous people, is State's 71 which is the
19 crime scene sketch of Mr. Porter, I would move
20 that that be put in.

21 MR. CUMMINGS: Judge, respectfully, with a
22 humble objection, it's been not to scale, it's
23 not been identified in here as being truthful
24 and accurate as to the entire location. Your
25 Honor, it was basically used for demonstrative

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1 purposes and I don't believe, Your Honor, it is
2 relevant to this issue. There's been live
3 testimony here and, Your Honor, further that it
4 meets the necessary requirements to come into
5 evidence. It's not to scale, it's not the
6 proper measurements, respectfully, it's not been
7 testified that it's truthful and accurately
8 depicts his blood, what was seen that day. It
9 was recreated afterwards by Mr. Porter,
10 respectfully, Judge, that would be our objection
11 to keep it out based on the legal grounds,
12 ma'am.

13 MR. BAILEY: Your Honor, if I may, it's
14 what it purports to be, a crime scene. It does
15 not purport to be to scale. Although there are
16 measurements on there that were testified to
17 about, I think 802 feet between the burned car
18 and the material that the area that Mr. Porter
19 was looking at, but it's been testified to by
20 three or four witnesses in great depth.

21 THE COURT: I'm going to allow it to be
22 used for demonstrative purposes only and not
23 into evidence. What else?

24 MR. BAILEY: I think that's it, Your Honor,
25 according to our records.

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1 THE COURT: All right. Now, are you
2 prepared to -- what concerned me a little bit
3 with the jury was I wasn't able to tell them
4 that you had finished your case in chief. I was
5 a little bit concerned about that. That's why I
6 wanted the exhibits to be able to be done while
7 you were here so that I could tell them that.

8 MR. BAILEY: Yes, ma'am.

9 THE COURT: What I will do is when they
10 return I will simply tell them that, that you
11 have now rested and this is what this means.
12 However, in that you have rested and you did so
13 in the presence of the jury, I would ask are
14 there any motions?

15 MR. CUMMINGS: Yes, ma'am. If we may,
16 Judge, just politely.

17 THE COURT: Yes.

18 MR. CUMMINGS: Your Honor, the very first
19 motion of course we would have, Your Honor, is a
20 motion for a directed verdict as to the
21 indictment for murder. As Your Honor well knows
22 the elements of murder are the unlawful taking
23 of a human being's life with malice
24 aforethought.

25 Respectfully, Judge, the State has

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1 failed to produce any evidence that would tend
2 to have a reasonable jury find that my client is
3 guilty of the crime of murder, that he is the
4 one who killed Miss Martin. There's been
5 controverted testimony as to the issue of
6 Mr. Bowman, or Mr. Gadson, and from Mr. Felder.
7 There's been other numerous statements, Your
8 Honor, that have been inconsistent throughout
9 this case, but there has been no direct evidence
10 to link Mr. Bowman to the taking of Miss
11 Martin's life, Your Honor, with malice
12 aforethought and I would ask Your Honor to
13 direct a verdict of not guilty against murder at
14 this time, Judge.

15 THE COURT: Mr. Cummings, as you know the
16 Court is not charged with the responsibility to
17 determine the weight, but whether or not there
18 is evidence on each and every element of the
19 crime. And as to the crime of murder I find
20 there is evidence on each and every element of
21 the crime and would respectfully deny your
22 motion for directed verdict on the issue of
23 murder.

24 MR. CUMMINGS: As to the second indictment,
25 arson in the third degree. Your Honor knows the

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1 elements of arson in the third degree is the
2 unlawful burning of property, Your Honor,
3 respectfully, but that there's been no evidence
4 to show that my client has committed the offense
5 of arson in the third degree. There's been no
6 particular pointing of evidence, Your Honor. We
7 have a burned car. There's been no evidence
8 here from anybody, respectfully, Judge, the
9 owner of the vehicle stating that their vehicle
10 was burned and made a complaint about the arson
11 third degree, Your Honor. At least from the
12 State's presentation, Judge.

13 I'm not saying that any human being
14 would not be offended as to that, but as to the
15 evidence here there's been no evidence presented
16 that Mr. Bowman was indeed the burner of the car
17 that a reasonable jury could find guilt beyond a
18 reasonable doubt, Your Honor, respectfully. I
19 know, Your Honor, the standard of the weight of
20 the evidence if there's anything at all to the
21 jury, but in this case, Judge, sitting as the
22 trier of fact at this point that there's been no
23 evidence.

24 We had the forensic SLED people from
25 SLED come down yesterday, Mr. Layton, there's

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1 been no gasoline products found on any of the
2 clothing of my client submitted to SLED, there's
3 been no testimony other than, Your Honor,
4 respectfully, which has been great controversy
5 from Mr. Felder that my client burned the car.
6 He did not see it, he did not see my client pour
7 anything on there. And I was careful to watch
8 that to see anything. There's been no testimony
9 at all that Mr. Bowman set this car on fire,
10 respectfully, Judge.

11 THE COURT: Very well. And, again, I'm
12 charged, of course, with the responsibility to
13 ascertain whether or not there is evidence on
14 each and every element of the offense to be
15 submitted to the jury. I find that there is
16 evidence, there is testimony that Mr. Bowman,
17 himself, struck some match, some fire and then
18 tossed it into the car and the car burst into
19 flames along with the other testimony that has
20 been received and I would, therefore,
21 respectfully, deny your motion.

22 MR. CUMMINGS: The defense would reiterate
23 each and every objection made throughout both in
24 pretrials and during the course of this trial,
25 Your Honor, respectfully. And further, Your

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1 Honor, that each and every motion we have made
2 at the beginning of this case once Her Honor was
3 assigned by the Supreme Court to handle this
4 case, that each and every motion throughout the
5 case that we have raised, respectfully, for the
6 Court's rulings on, Your Honor, be reargued
7 today and reaffirmed to you, ma'am, for your
8 consideration again.

9 THE COURT: So noted. And so re-raised,
10 Mr. Cummings.

11 MR. CUMMINGS: Thank you, Judge.

12 THE COURT: And, of course, the rulings
13 would stand as they have.

14 MR. CUMMINGS: Your Honor, I figure not to
15 waste the jurors' valuable time while they're
16 out, then we would go into the next part of this
17 trial.

18 THE COURT: Yes, sir.

19 MR. CUMMINGS: If my client desires to
20 present any defense, Your Honor, respectfully.

21 THE COURT: Yes, sir. Are you prepared for
22 me to talk to him about his testimony? I was
23 going to do that after you had presented.

24 MR. CUMMINGS: I'll sit down, Judge. I
25 just wanted to work around your pleasure, Judge.

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1 THE COURT: Quite frankly, to be honest
2 with you, Mr. Cummings, my plan was to talk to
3 Mr. Bowman before he made the decision to take
4 the stand. I was going to do that after you
5 presented other -- any other testimony, but I'll
6 do that now if you --

7 MR. CUMMINGS: No, Judge. I just wanted to
8 let Her Honor know around your pleasure, ma'am.
9 I know you would do that. And I wanted to take
10 a little extra caution this morning in asking
11 Her Honor to allow us sufficient time for
12 Mr. Bowman to listen to your instructions from
13 the bench, to understand your instructions from
14 the bench.

15 THE COURT: Okay.

16 MR. CUMMINGS: And then have time to talk
17 to counsel again after you do that, ma'am.
18 That's why I wanted to point out as to when you
19 find best, Judge, for your time for the jury
20 when we would have the time to do that.

21 THE COURT: Why don't I do that now. I'll
22 talk to Mr. Bowman about his right to testify.
23 I'm going to talk to him about his right. This
24 is the time I will propose to talk to him about
25 his right to testify, but certainly before the

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1 time to argue I will certainly talk to him about
2 that as well.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Let me do that. Mr. Bowman, if
5 you please just stand where you are and if you
6 will take the Bible to him. I'm going to ask
7 you, Mr. Bowman, to place your left hand on the
8 Bible and raise your right hand. Thank you.

9 (Marion Bowman, Jr., having first been duly
10 sworn, is examined and testifies as follows:)

11 EXAMINATION

12 BY THE COURT:

13 Q. Mr. Bowman, I have put you under oath now for
14 the limited questions that I'm going to ask you. Do
15 you understand that?

16 A. Yes, ma'am.

17 Q. And just for these questions. Now, your
18 attorneys have discussed with you your right to
19 testify in this case?

20 A. Yes, ma'am.

21 Q. And have they also discussed with you your right
22 not to testify in this case?

23 A. Yes, ma'am.

24 Q. And you understand that you have the right to
25 testify as a witness on your behalf, but that you

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1 do -- but you do not have an obligation to do that.

2 Do you understand that?

3 A. Yes, ma'am.

4 Q. Do you understand that if you did not testify in
5 this case that you would give up your privilege
6 against self-incrimination, that is your privilege
7 against testifying against yourself. Do you
8 understand that?

9 A. Yes, ma'am.

10 Q. Do you understand further that if you did not
11 testify in this case the jury would be instructed
12 specifically that they could not hold that against
13 you, or consider that in any manner in their
14 consideration in deliberation of your guilt or not
15 guilt, innocence in this case. Do you understand
16 that?

17 A. Yes, ma'am.

18 Q. All right. From your discussions with your
19 attorneys, Mr. Bowman, do you fully understand the
20 right that it is yours to testify or not testify in
21 this case?

22 A. Yes, ma'am.

23 Q. All right. Hold on one second for me. What I
24 want to assure myself that you understand most
25 importantly, Mr. Bowman, is your right to make that

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1 decision. You can talk with your attorneys, you can
2 talk with family members, you can talk with whomever
3 you feel is helpful to you to talk about whether or
4 not you choose to testify or choose not to testify,
5 but ultimately and finally that decision is your
6 decision to make. Do you understand that?

7 A. Yes, ma'am.

8 Q. Now, in the event that you chose to testify,
9 have your attorneys been over with you -- and I have
10 no idea what your record is, but under our rules of
11 evidence that if you have been convicted of a crime
12 which has a punishment in excess of a year and this
13 Court determines that the probative value of
14 admitting this evidence outweighs its prejudicial
15 effect, the solicitor will be able to introduce your
16 record to attack your credibility. In addition if
17 you have any convictions involving dishonesty or
18 false statement, likewise, that you may be subject to
19 being cross-examined regarding those offenses.

20 Now, I want you to understand that
21 your decision, whether it be to testify or not to
22 testify, must be freely, voluntarily, and
23 intelligently made with knowledge of the protections
24 given to you by the Fifth Amendment and the
25 consequences of your decision to testify. You

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1 understand that the Fifth Amendment of the
2 Constitution of the United States says in part that
3 no person shall be compelled in any case, in any
4 criminal case to be a witness against himself?
5 That's what the constitution says, but I'll add or
6 herself. And you cannot, of course, be required to
7 testify in this case.

8 What I would say to you, Mr. Bowman,
9 is the decision whether or not to testify is left
10 entirely up to you. You may, again, talk with your
11 attorney, your family, your friends, or anyone else,
12 but the final decision must be left entirely up to
13 you. Do you understand what I have explained to you?

14 A. Yes, ma'am.

15 Q. Do you have any questions about what I have
16 explained to you?

17 A. If I do I'll ask my attorney, ma'am.

18 Q. All right, sir.

19 THE COURT: I would ask Mr. Cummings and
20 Ms. Hardee-Thomas whether or not there are any
21 areas which you would like for me to cover with
22 Mr. Bowman that I have failed to cover with him
23 along these lines?

24 MR. CUMMINGS: Judge, I think that
25 Ms. Thomas and I would like to have the

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1 opportunity to go over Rule 609 again with our
2 client, to go over, Your Honor, certain aspects.
3 And looking at the time, it's about 11:15, I
4 know Her Honor will bring the jury back in,
5 Mr. Solicitor will stand up, the State's rested,
6 you've already heard our end of the State cases,
7 motions, Your Honor, the only ones we're allowed
8 to make by law. At that point, Judge, I would
9 like to have some time to meet with Mr. Bowman
10 and his mom to go over that possibility.

11 THE COURT: Sure.

12 MR. CUMMINGS: I'm trying to work it around
13 where you could find that -- I know one of the
14 jurors has to have a shot or something.

15 THE COURT: In other words, what you're
16 telling me is let's have an early lunch to give
17 you an opportunity to do those things?

18 MR. CUMMINGS: Yes, ma'am. Clearly would
19 show on the record that Mr. Bowman would have
20 the ample opportunity to talk to Ms. Thomas and
21 I again.

22 THE COURT: Sure.

23 MR. CUMMINGS: And his mamma or whoever
24 else he desires of an adult nature, ma'am, and
25 then come back on the record and let Your Honor

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1 know.

2 THE COURT: That will be fine. We will
3 certainly proceed in that fashion and we will do
4 that now.

5 Counsel, if you'll just approach for
6 one moment.

7 (Whereupon, a bench conference was held off the
8 record.)

9 THE COURT: All right. Let us have our
10 jury, please.

11 (Whereupon, the jury returns to the courtroom at
12 11:14 a.m.)

13 THE COURT: All right. Ladies and
14 gentlemen, you have now heard the witnesses and
15 received the evidence which you will from the
16 State in the State's case in chief. Let me tell
17 you how we will be proceeding. There are a
18 couple of matters that I must handle outside
19 your presence. You have to get lunch. I think
20 we got to send somebody for a shot and I'm so
21 sorry, better you than me, though, given how I
22 feel about shots, but in any event I'm also
23 going to send you for your lunch. Now is a good
24 time for us to break for lunch. Let us do the
25 things that we need to do to get prepared, and

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1 then when you return from your lunch then we
2 will begin the defense's case.

3 Ladies and gentlemen, I am going to
4 send you to lunch and ask you to be -- we will
5 reconvene at one o'clock. Now, I know some of
6 you like to walk, some of you like to smoke. I
7 want you to feel free to do that and I know that
8 your wonderful detail will help you do that.
9 Enjoy your lunch. Remember not to discuss this
10 matter or allow anyone to discuss it with you.
11 (Whereupon, the jury is excused at 11:17 a.m.)

12 THE COURT: All right. Anything further at
13 this time?

14 MR. BAILEY: Nothing from the State at this
15 time.

16 MR. CUMMINGS: Nothing else.

17 MS. HARDEE-THOMAS: Nothing else from the
18 defense.

19 THE COURT: Nothing from the defense. Very
20 well. I'm sure you will be able to meet.

21 MR. CUMMINGS: Yes, ma'am. I was going to
22 ask you, again, we've had the pleasure with our
23 court personnel being able to use the room to
24 the right, I know the jury's in the room to the
25 left.

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1 THE COURT: I'm sure that what has been
2 your practice to this time will continue to be
3 your practice.

4 MR. CUMMINGS: Yes, ma'am.

5 THE COURT: Let me ask you this question:
6 Is the chief still here or has he left?

7 MR. BAILEY: As far as I know, Judge, he's
8 still here.

9 THE COURT: Do you all have him subpoenaed?
10 Do you need for me to tell him to remain for
11 you? Because I will if you need him.

12 MR. CUMMINGS: Yes, ma'am. Once Your Honor
13 leaves the bench we'll talk a little bit more
14 openly and make that decision very promptly,
15 Your Honor.

16 MR. BAILEY: He was telling me they had
17 some kind of a fatal wreck in Branchville or
18 around Branchville and he was pretty anxious to
19 get back, he's got a real small force.

20 THE COURT: Sure. This takes priority, if
21 you need him you need him.

22 MR. CUMMINGS: Yes, ma'am.

23 THE COURT: All right. We'll be in recess
24 until one o'clock.

25 MR. CUMMINGS: Thank you, Judge.

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1 THE COURT: Also, counsel, I know, just
2 what you need, more to do. I need to go over
3 with you the charge.

4 MR. CUMMINGS: Yes, ma'am. Jury charge,
5 yes, ma'am.

6 MR. BAILEY: Do that now, Your Honor?

7 THE COURT: I know you all have got a lot
8 going on. Would it be better for you to give
9 you some time to do the things you need to do
10 and meet later?

11 MR. CUMMINGS: If we could.

12 THE COURT: Absolutely. Why don't we make
13 a time at, say, 12:30 for us to get together on
14 the charge.

15 MS. HARDEE-THOMAS: Thank you.

16 THE COURT: Thank you.

17 (Lunch recess taken from 11:19 a.m. to 1:16
18 p.m.)

19 THE COURT: Let the record reflect we had
20 an opportunity to just have an informal charge
21 conference. I'll hear from you at the end of
22 the charge if there's any objections you need to
23 place on the record.

24 Now, I would -- Mr. Bowman, let me
25 just ask you as we were talking before the lunch

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1 break, we were talking about your choice whether
2 or not to testify. After the lunch, and I know
3 that you were going to go back and talk to your
4 lawyers and whomever you chose to talk to, but I
5 would ask you at this time if you have any
6 questions for me regarding the instruction that
7 I gave you before lunch?

8 MR. BOWMAN: No, ma'am.

9 THE COURT: All right, sir. And then I
10 would just ask you do you wish to testify or
11 not?

12 MR. BOWMAN: No, ma'am.

13 THE COURT: All right. Counsel, I would
14 just ask of you whether or not there will be
15 witnesses in the defense?

16 MR. CUMMINGS: Judge, if I just may back up
17 one moment, ma'am.

18 THE COURT: Certainly.

19 MR. CUMMINGS: I would just like to ask
20 Mr. Bowman whether this decision for him not to
21 testify is made freely, voluntarily, and
22 knowingly by him?

23 THE COURT: Yes, certainly.

24 MR. BOWMAN: Yes, it is.

25 MR. CUMMINGS: You've done that after

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1 consulting with your mom, family members?

2 MR. BOWMAN: Yes, sir.

3 MR. CUMMINGS: And you've done that after
4 consulting with both attorneys in this case?

5 MR. BOWMAN: Yes, sir.

6 MR. CUMMINGS: That choice, again, remains
7 your choice, nobody has forced you to make that
8 choice or prohibited you from testifying if you
9 so chose?

10 MR. BOWMAN: No, sir.

11 MR. CUMMINGS: That's all I have, Your
12 Honor.

13 THE COURT: Let me ask you, Mr. Cummings,
14 and you -- well, I'll ask both of you. You are
15 satisfied that Mr. Bowman is making that choice
16 freely and voluntarily?

17 MR. CUMMINGS: Yes, ma'am.

18 MS. HARDEE-THOMAS: Yes, ma'am.

19 THE COURT: Both of you are. Thank you
20 very much.

21 MR. CUMMINGS: Judge, the defense would
22 rest.

23 THE COURT: All right. Very well. What I
24 want to do is to have an opportunity to talk to
25 Mr. Bowman again about his right to make the

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1 concluding argument.

2 MR. CUMMINGS: Yes, ma'am.

3 THE COURT: Now, Mr. Bowman, I will tell
4 you that under the law, and it's under Code
5 Section 16-3-28, the law says that in any
6 criminal trial where the maximum penalty is
7 death, or in a separate proceeding following the
8 trial, and we'll talk about -- we may talk about
9 this again, but let me share with you that this
10 application, or this part of the law applies
11 now, and if needed in the sentencing phase. Of
12 course at this point we don't know, but I just
13 tell you that, but we may need to talk about it
14 again.

15 MR. BOWMAN: Yes, ma'am.

16 THE COURT: But Section 16-3-28 the law
17 says that in any criminal trial where the
18 maximum possibility is death, or in a separate
19 sentencing proceeding following the trial, the
20 defendant and his counsel shall have the right
21 to make the last argument. Have your lawyers
22 discussed that with you, Mr. Bowman?

23 MR. BOWMAN: Yes, ma'am.

24 THE COURT: All right. You understand then
25 that normally the State gets the right to make

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1 the last argument at this phase of the trial,
2 but in this type of trial because the State is
3 seeking the imposition of the death penalty you
4 and your lawyers have the right to make the last
5 argument. Do you understand that?

6 MR. BOWMAN: Yes, ma'am.

7 THE COURT: Of course you understand that
8 if you make the last argument, Mr. Bowman, that
9 obviously like the other people who are making
10 it, you must be bound by the evidence and you
11 could not testify in effect before the jury.
12 You could simply make an argument within the
13 record that is established in the case. Do you
14 understand that?

15 MR. BOWMAN: Yes, ma'am.

16 THE COURT: You would have to argue about
17 the testimony and the inferences from the
18 testimony of course from exhibits which have
19 been entered into evidence. Have you and your
20 lawyers determined whether or not you, yourself,
21 wish to make a last argument in this phase?

22 MR. BOWMAN: Yes, ma'am.

23 THE COURT: All right, sir. Now, are you
24 fully aware of your right to make the last
25 argument?

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1 MR. BOWMAN: Yes, ma'am.

2 THE COURT: All right. Now, in regards to
3 the matter of the last argument, any other
4 questions, Mr. Bailey, that you wish to -- me to
5 put to Mr. Bowman at this time and in this
6 regard?

7 MR. BAILEY: No, ma'am.

8 THE COURT: All right, then, yes, sir,
9 likewise, any further questions?

10 MR. CUMMINGS: Judge, I just wanted to make
11 sure my client understands that if he chooses to
12 stand before these folks and make a closing
13 argument like Mr. Bailey or his representative,
14 or I, or Ms. Thomas do on behalf of Mr. Bowman
15 today, that, again, he will be bound to give a
16 summation based on the evidence as you have
17 allowed in this courtroom and the facts that he
18 can talk to about Her Honor's proposed charges,
19 like presumption of innocence, burden of proof,
20 et cetera, ma'am, to a layperson, and that he
21 would be bound to the confines of a proper
22 closing argument. Even though he is a layperson
23 and the Court may grant some guidance or some
24 leeway that way, but it would be bound as the
25 lawyers would do in the case.

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1 THE COURT: That's correct. You understand
2 that, Mr. Bowman?

3 MR. BOWMAN: Yes, ma'am.

4 THE COURT: All right. So I would just ask
5 have you decided as to whether or not you will
6 make the final argument?

7 MR. BOWMAN: May I have a second, please?

8 THE COURT: Surely.

9 (Mr. Bowman conferring with Mr. Cummings and Ms.
10 Hardee-Thomas.)

11 MR. BOWMAN: I decided not to in this part,
12 ma'am.

13 THE COURT: Yes, sir. And are you making
14 that decision freely and voluntarily?

15 MR. BOWMAN: Yes, ma'am.

16 THE COURT: And with the advice and counsel
17 of your attorneys?

18 MR. BOWMAN: Yes, ma'am.

19 THE COURT: And anyone else you wish to
20 seek or counsel; is that right?

21 MR. BOWMAN: Yes, ma'am.

22 THE COURT: But you know that this decision
23 is your decision?

24 MR. BOWMAN: Yes, ma'am.

25 THE COURT: And this is your decision?

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1 MR. BOWMAN: Yes, ma'am. It is.

2 THE COURT: You specifically do not wish to
3 make the final argument in this phase of the
4 trial?

5 MR. BOWMAN: Yes, ma'am.

6 THE COURT: All right, then. Thank you. I
7 understand.

8 All right, then. Anything further
9 before we bring the jury out?

10 MR. BAILEY: Your Honor, the only thing,
11 just a point of clarification with regard to the
12 crime scene sketch prepared by Mr. Porter.

13 THE COURT: Yes.

14 MR. BAILEY: Your Honor had ruled this
15 would be just for demonstrative purposes only,
16 would not go back into the jury room. And I
17 would intend to use that since what I'm saying
18 is not evidence for demonstrative purposes here.

19 THE COURT: Certainly. It certainly can be
20 shown to the jury in closing argument, just
21 can't go back to the jury room.

22 MR. BAILEY: Just wanted to make sure, Your
23 Honor.

24 THE COURT: Thank you. Thank you, Mr.
25 Bailey.

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1 All right, then. Anything further?

2 MR. CUMMINGS: Nothing else, Judge, from
3 the defense. Judge, just so we don't look,
4 basically say out of sequence here, this SLED
5 agent has been so kind to us about the pedestal,
6 about everything else, Judge, and I don't want
7 it to look like we're taking one side or the
8 other or anything else. If we could keep doing
9 what we have doing here about the pedestal being
10 offered to us or not being offered to us that
11 would be very appreciative if we want to use any
12 demonstrative evidence that's been put into
13 evidence, Judge.

14 And sometimes closing arguments
15 everything usually sits still and doesn't do
16 anything, I am just trying to make sure we keep
17 the same pattern.

18 THE COURT: Are you cool about that?

19 MR. BAILEY: Your Honor, if I could get one
20 piece of evidence so I won't be groping around
21 too much in front of the jury.

22 THE COURT: Sure. You may do that so we
23 won't be running around in front of the jury.

24 Mr. Cummings, are you going to make
25 the closing argument?

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1 MR. CUMMINGS: It appears right now, Judge.

2 THE COURT: Very well. Let us have our
3 jury.

4 (Whereupon, the jury returns to the courtroom at
5 1:21 p.m.)

6 THE COURT: Ladies and gentlemen, I hope
7 that you had a pleasant lunch.

8 At this time, Mr. Cummings.

9 MR. CUMMINGS: May it please Court, Your
10 Honor, the defense rests, ma'am.

11 THE COURT: Very well. Ladies and
12 gentlemen, you have now heard the evidence and
13 received the exhibits which you will in this
14 case. What remains in this trial are the
15 arguments of counsel and then my charge on the
16 law.

17 Now, you'll first hear from the State
18 in the State's closing argument and then you
19 will hear from the defense in the defense's
20 closing argument. Once the closing arguments
21 are concluded, I will give or deliver the charge
22 or the instruction on the law to you. Then
23 there will be a short break, and I'll explain
24 that to you when we reach that point, and then
25 you will receive this case for your

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1 deliberations.

2 Now, ladies and gentlemen, I'm going
3 to ask that you draw close as we listen to the
4 closing arguments of the attorneys.

5 Mr. Bailey.

6 MR. BAILEY: If it please the Court, Mr.
7 Cummings, Ms. Hardee-Thomas.

8 MR. CUMMINGS: Thank you, sir.

9 MR. BAILEY: I want to thank you all for
10 your attention. This has been a long trial. As
11 I said in the beginning any trial's a hardship,
12 and a trial where you're sequestered in a motel
13 room is a greater hardship. We all appreciate
14 your patience.

15 And I realize some of the testimony
16 you've heard has not been the most riveting
17 thing that you've ever heard, the chain of
18 custody, for example, is pretty dry. I
19 appreciate the fact that y'all did pay close
20 attention. And you understand that with
21 evidence once it comes into law enforcement
22 hands we have to account for every person that
23 comes into contact with that evidence, so that's
24 the reason for that.

25 Once the closing discussions by the

Closing Argument by Mr. Bailey

1 lawyers are completed, Judge Goodstein will
2 instruct you on the law and she will instruct
3 you in great detail. She'll tell you everything
4 that you need to know as far as the law is
5 concerned to go back and do your sworn duty in
6 that jury room.

7 Now, I'm going to talk about the facts
8 of the case. I'm going to touch briefly on the
9 law, bearing in mind that Judge Goodstein is
10 going to give you a complete detailed
11 instruction on that. And I'm going to try to be
12 as accurate as I can based on my notes and my
13 recollection.

14 If you remember something different
15 than what I say, please use your own memories,
16 your collective memory. And there is the
17 ability if you need to rehear the testimony from
18 the court reporter if something becomes
19 significant that you think you need to hear
20 about.

21 When you go back and deliberate the
22 Judge will give you instructions that you have a
23 sworn duty to judge this case based on the
24 evidence from that witness stand, to accept the
25 law as she gives it to you and to bring back a

Closing Argument by Mr. Bailey

1 verdict that speaks the truth.

2 Now, what I'm going to do is talk to
3 you about the evidence in this case, the
4 significance of that evidence, the reasonable
5 inferences that you can draw from that evidence.
6 But before I do that, before I get into the
7 facts of this case, I want to talk to you a
8 little bit about the concept of reasonable
9 doubt.

10 And, again, the judge will instruct
11 you on reasonable doubt. She'll tell you I have
12 the burden of proof as prosecutor to prove every
13 essential element of the charges against Marion
14 Bowman, Jr. to your satisfaction beyond a
15 reasonable doubt. And I would, again, say use
16 your common sense throughout this entire trial,
17 including when you consider the concept of
18 reasonable doubt.

19 It is your sworn duty to find the
20 facts in this case based on the credible
21 evidence and these witnesses that get up here
22 and take an oath and tell you stuff. And also
23 you're going to have the exhibits that were
24 identified back in that jury room to assist you
25 as needed.

Closing Argument by Mr. Bailey

1 And that's what you base the facts on,
2 not speculations, not the arguments of the
3 lawyers. What I'm telling you is not evidence,
4 what the defense, if they choose to tell you
5 something, that's not evidence. The only
6 evidence that you make your decision on is the
7 evidence that comes from that witness stand.

8 Again, she'll tell you about
9 reasonable doubt, the definition of it. It's
10 not a fanciful or imaginary doubt, it is proof
11 that would leave you firmly convinced of the
12 defendant's guilt. And if you're not firmly
13 convinced of the defendant's guilt based on what
14 you've heard in court here over the last few
15 days, it would be your duty to acquit this
16 defendant. But, on the other hand, if you are
17 firmly convinced of his guilt on each of these
18 charges, it would equally be your sworn duty to
19 bring back a verdict of guilty.

20 And the burden is beyond a reasonable
21 doubt. It's not beyond all doubt, it's not
22 beyond the shadow of a doubt like you may hear
23 on television, it's beyond a reasonable doubt
24 and not based on speculation. In other words,
25 the facts come from that witness stand. If you

Closing Argument by Mr. Bailey

1 didn't hear it from that witness stand, it
2 didn't happen.

3 Now, considering all of the evidence,
4 we're talking about reasonable doubt as to each
5 essential element of the crime. You may have a
6 reasonable doubt, for example, whether or not
7 Marion Bowman, how he got kerosene on his pants.
8 But if you have a reasonable doubt about that,
9 but you have no reasonable doubt as to his
10 guilt, then you would still find him guilty. In
11 other words, there may be reasonable doubts
12 about things that come up, but unless those
13 reasonable doubts relate to an essential element
14 of an offense you would still find him guilty if
15 you find overall his guilt beyond a reasonable
16 doubt.

17 Now, there are two charges in this
18 case, murder and arson in the third degree. The
19 Judge will instruct you of the crime of murder
20 and the crime of arson in the third degree. Let
21 me take arson in the third degree first. It is
22 against the law in this state, state of South
23 Carolina, for a person to willfully and
24 maliciously set fire to different items that are
25 set out in that statute, one of which is an

Closing Argument by Mr. Bailey

1 automobile.

2 As far as the testimony of arson,
3 you've heard it, you've heard about the fire,
4 the firemen coming up there to put the fire out.
5 And you heard from Agent Helms who is a
6 qualified SLED expert in arson investigation.
7 And he told you about the burn pattern of that
8 car, he gave his uncontradicted, professional
9 opinion the cause of that fire was arson.

10 You heard Alex Layton who was a SLED
11 chemist also qualified as an expert in arson
12 chemistry by this Court. He testified about the
13 fact that various items in that trunk, including
14 the victim's shirt, her belt, purse, books, and
15 other items in that trunk had accelerants on it,
16 gasoline.

17 And you heard from an eyewitness the
18 arson, Travis Felder, who testified by following
19 Marion Bowman, Jr. in the early morning hours of
20 February 17th out to the location of where that
21 body was, stopping here, body coming out of the
22 woods, making that U-turn, stopping right here
23 and observing Marion Bowman throw fire into that
24 car and the car burst into flames. So I would
25 submit to you, ladies and gentlemen, you have

Closing Argument by Mr. Bailey

1 adequate evidence of arson beyond any reasonable
2 doubt.

3 Obviously the more serious charge in
4 this case is murder. Murder, ladies and
5 gentlemen, is the unlawful killing of a human
6 being by another human being with malice
7 aforethought. The judge will instruct you on
8 malice aforethought. There will be no question
9 of malice in this case. No question. Kandee
10 Martin did nothing to deserve having her life
11 ended in the horrible manner that you've heard
12 here over the last few days. Marion Bowman is
13 presumed innocent until such time as the
14 evidence accumulates to the extent that you're
15 satisfied that he is proven guilty beyond a
16 reasonable doubt.

17 Let me go over that evidence with you.
18 And I want to talk to you first about the
19 witnesses you heard from. I told you in the
20 beginning, in my opening statement I said y'all
21 aren't going to like some of these witnesses
22 that are going to be introduced.

23 And I'm sure you, when you heard these
24 witnesses, you realized in the town of
25 Branchville over in Orangeburg County there was

Closing Argument by Mr. Bailey

1 a coverup of what happened here. There were
2 people that knew what happened and either lied
3 or didn't come forward at all, there were people
4 that hid evidence and disposed of evidence. And
5 these people were charged criminally by the
6 State of South Carolina.

7 There were a lot of people charged.
8 And they entered into plea agreements with the
9 State of South Carolina in order to get their
10 truthful cooperation here. And the Judge -- Mr.
11 Cummings or Ms. Hardee-Thomas will get up here
12 and I will anticipate they'll tell you these
13 people had a reason to lie, they had a deal cut.
14 And I will not disagree with that. These people
15 have a plea agreement, their agreement is to
16 testify truthfully, but you should take into
17 consideration that they're facing jail time and
18 some of these people are getting probationary
19 sentences. Some are not, but some are and you
20 should take that into consideration.

21 But I would ask you when you consider
22 these witnesses' testimony to compare what
23 they're saying with other witnesses that have no
24 reason whatsoever to misrepresent the truth to
25 you and to compare their testimony with the

Closing Argument by Mr. Bailey

1 physical evidence, the physical facts that are
2 undisputed and that you'll have in that jury
3 room.

4 If you have a crime committed at choir
5 practice your witnesses are going to be members
6 of the choir. That doesn't happen in real life,
7 didn't happen here. We take our witnesses as we
8 find them, and you've heard them and we looked
9 at the evidence.

10 Motive is not an element of any crime
11 in South Carolina, but motive is relevant when
12 you're looking at what took place in deciding
13 whether or not the burden of proof is met.
14 Marion Bowman, Jr. expressed a motive to kill
15 Kandee Martin.

16 Y'all heard from Joe Fogle. Joe Fogle
17 testified he gave Marion Bowman, Jr. a ride to
18 Frankie Martin's house. And I believe his
19 testimony was that he wanted to go over there
20 and see Kandee Martin. And Joe Fogle testified,
21 he said she had owed him some money.

22 You also heard the testimony of
23 Yolanda Bowman. Yolanda Bowman's one of Marion
24 Bowman, Jr.'s sisters. Yolanda has a plea
25 agreement, she's getting probation in exchange

Closing Argument by Mr. Bailey

1 for a written plea agreement for her truthful
2 testimony. And you will recall her testimony,
3 she's in the car with Katrina West, her cousin,
4 and Marion Bowman, Jr. on February the 16th,
5 2001. They go into the drugstore, they go by
6 Charles Fralix's house, they see Kandee Martin
7 in her car talking to some guys out in the yard.

8 And you recall her testimony when
9 Marion Bowman wanted her to stop, you recall
10 what she said, pull over, that bitch owes me
11 money. And Yolanda Bowman stopped that car
12 there. And, again, Yolanda has charges. And he
13 pulled over and stopped that car. And you'll
14 recall what Yolanda said at that point in time.
15 And what we're getting into now are death
16 threats. The car stopped.

17 You'll recall the testimony that
18 Marion Bowman wanted to talk to Kandee, he tried
19 to get her attention, she held up her finger,
20 like wait a minute. And you recall Yolanda
21 Bowman's testimony what Marion said, "Fuck it,
22 that bitch be dead by dark." Now, again,
23 Yolanda has a plea agreement.

24 At the time this happened Kandee
25 Martin is talking to a guy named Eddie Waters

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1 who testified here. You hadn't heard any
2 testimony Eddie Waters had any charges or any
3 deal or anything else. He's a guy out there
4 talking to a girl in a car. He's subpoenaed, he
5 got up here and testified to his recollection
6 and he said when she held her finger up he heard
7 Marion Bowman say "Fuck waiting a minute, I'm
8 about to kill this bitch."

9 And you recall Katrina West who was
10 also in the car, Katrina West, no evidence of
11 any charges against her, no reason to lie.
12 She's Marion Bowman's first cousin. What is her
13 recollection of what occurred? "Fuck that ride,
14 that bitch be dead dark fall." Still daylight,
15 Friday the 16th, his cousin. The three people
16 there all say basically the same thing, two of
17 them got no motive to say anything at all.
18 One's a bystander, one's his first cousin.

19 You'll recall the testimony of Taiwan
20 Gadson. Taiwan Gadson says he's out there by
21 the projects somewhere, Kandee Martin, Marion
22 Bowman come by, Bowman calls him over to the
23 car, asks him to get in. They get in, they go
24 by and steal some gas at the EZ store, says they
25 didn't pay for it. Kandee Martin's driving,

Closing Argument by Mr. Bailey

1 Marion Bowman is telling her where to go.

2 They end up driving out in this
3 isolated, dark area out in the country on
4 Nursery Road. He says that Marion told her to
5 stop the car, she stopped the car, and they
6 stopped in this location here.

7 And he says that he and Marion Bowman
8 got out of the car, they left Kandee in there,
9 they walked off a distance. And what did Marion
10 Bowman -- what did Taiwan Gadson testify that
11 Marion Bowman said when they walked off a
12 distance? He says Marion said he was going to
13 kill her.

14 You had eyewitness testimony from
15 Taiwan Gadson to this murder. Taiwan Gadson has
16 a plea agreement. He testified that that murder
17 charge is going to be dropped, he'll be pleading
18 to two charges, accessory after the fact of
19 murder, misprision of a felony. He's going to
20 get 20 years. Mr. Cummings is going say Taiwan
21 Gadson is the bad guy here, he's got a reason to
22 lie, he's got a deal.

23 Again, I would ask you to compare what
24 Taiwan Gadson says to the physical facts from
25 these other people. Use your common sense in

Closing Argument by Mr. Bailey

1 deciding whether or not what he's telling you
2 has a ring of truth about it. Taiwan Gadson
3 says that this thing occurred, doesn't wear a
4 watch, but they left the villas around 7:00 or
5 7:30, stopped and got gas, they had to drive out
6 in the country a good ways. So we assume that
7 sometime after 7:30, getting toward about eight
8 o'clock.

9 And what did he tell you after the two
10 of them walked off? Mr. Bowman says "I'm going
11 to kill Kandee." He said Kandee got out of the
12 car, ran over to where they were, grabbed Marion
13 Bowman by the arm, it's dark out there, said,
14 "I'm scared." The three of them are out there
15 in the dark away from the car. And what
16 happens? They see a car coming, they all run in
17 the woods.

18 Recall the testimony of Mr. Judy who
19 testified here. Mr. Judy has been out with his
20 cousin and his wife, two separate cars, had been
21 out to eat supper in Eutawville, I believe. On
22 the way back home his wife's in a hurry to get
23 home because she's got a TV program that starts
24 at eight o'clock, that's how he knows it's
25 around five minutes to 8:00. He drives by, sees

Closing Argument by Mr. Bailey

1 a car, it's dark, a car with nobody in it parked
2 over on the side of the road here, nobody there,
3 lights off, nobody there.

4 He stops momentarily, he identifies it
5 as a Ford Escort. He thinks it's a dark colored
6 car. The car is lighter. It's dark outside.
7 Nobody there. He thinks that's funny the car is
8 partially on the road, partially off the road.
9 He drives on off, he goes home.

10 Doesn't that fit perfectly in with
11 Taiwan Gadson's testimony that when they get out
12 there the car comes, they run into the woods? I
13 submit to you, ladies and gentlemen, Mr. Judy
14 came by and he saw Kandee Martin's car there and
15 those three guys were in the woods just like
16 Taiwan Gadson said.

17 After the car comes by they get out of
18 the woods and Taiwan Gadson says that he's
19 coming out of the woods, he goes one -- walks
20 off by himself. Kandee Martin and Marion Bowman
21 go in another direction and he says he looks
22 over there and he sees the three flashes, hears
23 three gunshots. They're a good ways away, it's
24 dark, he says Kandee comes running toward him
25 and that she got as far as this witness chair

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1 over here, right here to about that front row
2 over there to him, spun around and said, "Black,
3 please don't shoot me, I've got a child to take
4 care of."

5 What happened then? It's dark, a
6 distance away, he says that gun fires two more
7 times. He can't see where she's hit, it's dark.
8 But after that Marion Bowman says, "I shot that
9 bitch in the head. Did you hear her head hit
10 the ground?"

11 This is State's 67 in evidence. Blood
12 in the road in the same general location we're
13 talking about. That blood is swabbed by the
14 SLED man, Mr. Porter, carried to the SLED lab.
15 And you heard the DNA man say that that blood
16 matched Kandee Martin's profile from blood from
17 the autopsy. So that backs up what Taiwan
18 Gadson said, again, about her hitting the road
19 there.

20 Now, you recall Dr. Ross's testimony.
21 Dr. Ross is the pathologist, she did the autopsy
22 on Kandee Martin's body. She said there are two
23 fatal shots. One shot to the back of the head,
24 one shot in the back, said both of those are
25 potentially fatal shots.

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1 I asked Dr. Ross whether or not that
2 shot to the head would have been immediately
3 fatal and she said that she would have been
4 rendered unconscious almost immediately. I
5 asked her about the shot to the back and she
6 said that's a fatal shot, but she could have
7 remained conscious for a period of time, a
8 matter of minutes only before she lost
9 consciousness and died from the loss of blood
10 from that shot.

11 So doesn't that back up Taiwan
12 Gadson's account the first shot would have been
13 to the back? She runs, she runs away from him,
14 she gets from the distance of that chair out to
15 here, he's running behind her, Taiwan Gadson
16 says that she turned, it was dark, he couldn't
17 see where she was shot, but just using your
18 common sense you're turning, you're begging for
19 your life, somebody has a gun, you're going to
20 turn your head. She's hit again in the back of
21 the head. It all fits. What Taiwan Gadson told
22 you fits the physical evidence in this case.

23 In addition to that you have evidence
24 that Marion Bowman admitted to other people that
25 he murdered Kandee Martin. Let me call your

Closing Argument by Mr. Bailey

1 attention to the testimony of Travis Felder
2 again. Travis Felder is at the apartment with
3 these two girls early in the morning, somewhere
4 around 3:00 a.m., eating potato chips. Knock on
5 the door, Marion Bowman comes to the door. And
6 you'll recall the two women with him, Carolyn
7 Brown and Valorna Smith, support Travis Felder's
8 account.

9 Marion Bowman shows up, calls him
10 outside. Felder goes outside. He says, "I want
11 you to follow me while I park this car." And
12 what does Travis Felder tell you? That he gets
13 in his car, he follows Marion Bowman, he's in
14 Kandee Martin's car, drives out to this same
15 location and he stops here and goes back up into
16 the woods, the same wooded area that Taiwan
17 Gadson said that he had seen Bowman drag the
18 body into. He goes back up in there and he
19 starts dragging a body out. And he doesn't know
20 whose body it is. He's in shock. He's sitting
21 in the car, he's amazed.

22 He gets the body up to the trunk of
23 Kandee Martin's car, pops the trunk, the light
24 comes on, he recognizes Kandee Martin's body.
25 And what did he say? What was his testimony

Closing Argument by Mr. Bailey

1 when he saw that? What did he say Marion Bowman
2 told him? He said, "You didn't think I'd do it,
3 did you?"

4 And Travis Felder said, you know,
5 "What are you talking about? What's going on?"
6 And then recall his testimony that in response
7 to that Travis Felder says, "I killed Kandee
8 Martin." Travis has got a deal. Mr. Cummings
9 will tell you that. Valorna Smith, Carolyn
10 Brown, they back him up.

11 Marion came to the house early in the
12 morning hours and the timing when that happened
13 fits in with the man who y'all heard testify,
14 seems like two weeks ago, but I think it was
15 Friday up in the Nursery there, that he's woken
16 up, he doesn't know what time it was, he hears a
17 noise down there, goes out there and the car's
18 in flames burning. The time fits. He calls
19 this thing in. The fire department gets up
20 there around 4:00 a.m., all the times are
21 working out.

22 Now, Ms. Brown and Ms. Valorna Smith,
23 they think he's gone 15 minutes or so. I
24 concede he had to have been gone longer than
25 that. Because these folks are not wearing

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1 watches, they're guessing at the time, it's a
2 year later.. It's a minor detail.

3 Hiram Johnson testified. Hiram
4 Johnson, again, young man up here said he had a
5 head injury, testified he didn't drink and he
6 went to that beer joint that night with those
7 guys. Four of them went in Kandee Martin's car.
8 You hadn't heard any testimony about Hiram
9 Johnson having any kind of charge against him or
10 any kind of a deal with the State, any reason to
11 say something wasn't true.

12 And he told y'all that on the way back
13 from that club before them riding in Kandee
14 Martin's car going back to Branchville, before
15 he got out what did Marion Bowman say in that
16 car? "I killed Kandee." And then, ladies and
17 gentlemen, he laughed when he said that. His
18 words were "I killed Kandee, heh, heh, heh."
19 Y'all recall that testimony. And Hiram
20 Johnson's a friend of his with no reason to lie
21 about it.

22 .380 High Point semiautomatic pistol.
23 You heard Hiram Johnson and Felder say both of
24 them testified they're with him several weeks
25 before this murder, they're with Marion Bowman,

Closing Argument by Mr. Bailey

1 goes to Orangeburg and buys a gun like this.
2 They can't get up here and say, yeah, I looked
3 at the serial number, it's that same gun, but
4 bought a gun that looked just like this.

5 You heard numerous people, I lost
6 count of them, that had seen Marion Bowman, Jr.
7 with a gun stuck in his pants in Branchville, in
8 the villas, at the beer joint, in the car, out
9 on Nursery Road, had this gun on him. Pretty
10 much every time somebody testified about it they
11 testified he had a gun with him.

12 Let's look at this gun a little bit.
13 Dorothy Mae Bowman, Marion Bowman's wife,
14 testified a couple times here. She testified
15 that early morning around daybreak,
16 February 17th, she's asleep in bed, Marion
17 Bowman comes to her house. He comes in there
18 and he's wearing black Levi's, gray shirt, I
19 think, some boots. She awakened up by him
20 coming over to the house and said that he sat in
21 a chair and went to sleep, I think.

22 Later on deputies come out to the
23 house, they're looking for him, Ms. Bowman lets
24 them in. Marion Bowman, according to
25 Mrs. Bowman, or according to one of the

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1 deputies, Mr. Van Doran, is in one of the
2 bedrooms hiding behind a bed in his underwear.
3 He's arrested. They don't want to carry him out
4 in the street in his underwear, ask him if you
5 want some pants to put on. And Marion Bowman
6 says, yeah, yeah, pants over here. And the
7 pants are lying on a piece of furniture there.
8 Police arresting somebody, they're not going
9 to -- they're going to search the pockets. They
10 did search it.

11 And what did they find when they
12 searched those pants pockets? Just a second,
13 please. I don't see it right now, but y'all
14 will have it back in the evidence room with you,
15 Kandee Martin's watch. How do we know it's
16 Kandee Martin's watch? Because her mother
17 bought that watch for her a couple of weeks
18 earlier and she showed you all that receipt from
19 Wal-Mart, I believe, where she bought the watch.
20 Marion Bowman's pants in that chair, dead girl's
21 watch in his pocket. They photographed the
22 pants, y'all will have that in evidence.

23 Dorothy Bowman testified that she gave
24 consent, signed a consent form for them to take
25 the watch and the pants and some other stuff out

Closing Argument by Mr. Bailey

1 of her house. And they did. And Dorothy Mae
2 Bowman says that shortly after her husband was
3 arrested, that she said around February 18th or
4 20th, she located, she found that -- a gun
5 hidden up under that piece of furniture, in that
6 chair, didn't want that gun in her house. So
7 she took it over to one of the sisters, I think
8 it was Kendra, took it over to Kendra, wanted to
9 get this gun out of here.

10 Kendra gets up with her daddy,
11 according to Kendra's testimony, gives that gun
12 to him. Next day Kendra, the other sister,
13 Yolanda, get up with the father, they follow him
14 out to Zion Church Cemetery, father goes over,
15 comes back, has got a pistol wrapped up in a
16 piece of towel and he comes back and hands that
17 gun to them. They drive down the old Cope Road
18 where the bridge crosses the Edisto River and
19 they throw that gun off into the water. That's
20 why those ladies are charged with accessory
21 after the fact, disposing of the murder weapon.

22 Divers go out there. You heard the
23 divers, they recover a pistol, they pass it up
24 with a rope, they turn it over to Sergeant Coker
25 here. This gun's carried to SLED. And you

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1 heard David Collins, a SLED firearms expert,
2 testify about this gun yesterday. And he also
3 testified about the shell casings that
4 Mr. Porter recovered. There were six shell
5 casings, one fired bullet. He told you all that
6 the bullet was consistent with being fired by
7 this gun, but he couldn't say whether it was or
8 it wasn't because it could have been fired by
9 another gun, but it was consistent. He couldn't
10 exclude it, but he couldn't say for sure that it
11 was.

12 One of those shell casings, same
13 thing, the marking characteristics weren't
14 distinctive enough where he could tell y'all
15 with 100 percent certainty that shell was
16 fired -- that bullet was fired by this gun. But
17 the other five shell casings, you recall what
18 Mr. Collins said to you? Those other five shell
19 casings were found out here where this murder
20 occurred were fired by this gun to the exclusion
21 of every other gun, this gun that was fished out
22 of the Edisto River where his sisters threw it.
23 And we got that chain all the way back to this
24 sofa here.

25 Now, Mr. Cummings is probably going to

Closing Argument by Mr. Bailey

1 get up here and tell you something hanky-panky
2 going on here, they looked for it and couldn't
3 find it, somebody broke in and planted the gun
4 there. Now, Dorothy Mae Bowman did testify
5 somebody came into that trailer at some point in
6 time and spread some kind of substance on the
7 floor. Ladies and gentlemen, that happened
8 after she had found the gun and after she turned
9 that gun over to Bowman's sisters, you'll recall
10 that testimony, so whatever happened on that
11 occasion couldn't have had a thing to do with
12 this gun.

13 We talked about the watch. All that
14 night Marion Bowman's in her car, Kandee
15 Martin's car, Kandee Martin's lying dead out in
16 the woods. Hiram Johnson said when they got in
17 that car they were told to put gloves on and he
18 says that Marion Bowman said, "I stole the car."
19 And remember the testimony from one of these
20 witnesses that while they were at the beer joint
21 out in the parking lot Marion Bowman's trying to
22 sell the car. Taiwan Gadson testified that
23 after all this happened, they're driving back to
24 Branchville, Marion Bowman says if I told anyone
25 he'd blow my brains out.

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1 Again, I ask you all to think about
2 when you deliberate Kandee Martin in her last
3 moments, "Please, Black, don't shoot me no more,
4 I've got a child to take care of."

5 I'm going to sit down in a minute, I
6 probably talked too long. Somebody's got to go
7 first, somebody's going to go last under our
8 rules. If the defense wishes to make a closing
9 statement, they can. And I might want to jump
10 up here and come back at it, I can't do that.
11 So what I've got to do now is try to kind of
12 anticipate what he might say.

13 I might have taken too long and if I
14 did I apologize, but I want to make sure I've
15 covered everything that I thought that was
16 significant. But y'all are the ones that decide
17 what is significant, what is important, what is
18 true, what is false, you judge those facts.

19 Again, I appreciate your attention. I
20 ask you to please pay close attention to the
21 Judge's charges and remember throughout this
22 entire thing, the deliberations, everything,
23 we're not dealing with speculation, we're not
24 guessing, we're dealing with the facts, and the
25 facts have to come from that witness stand.

Closing Argument by Mr. Bailey

1 We went through a grueling process
2 that lasted a week. Y'all were picked out of
3 350 people that were originally drawn by both
4 sides as being 12 intelligent, decisive people
5 that could decide this case based on the facts
6 in an intelligent, fair, non-biased manner and
7 we put the State of South Carolina -- on behalf
8 of the State of South Carolina we put this case
9 in your hands and all I can ask is that y'all
10 come back and bring back a verdict that speaks
11 the truth. Thank you.

12 THE COURT: Thank you, Mr. Bailey.

13 MR. BAILEY: Yes, ma'am.

14 THE COURT: Mr. Cummings.

15 MR. CUMMINGS: Your Honor, Mr. Bailey.

16 Ladies and gentlemen, I come before
17 you this afternoon as I told you in my opening
18 argument with a heavy heart. And I make this
19 with no statements other than complete candor.
20 There's been a loss of life and there's no
21 question of that. There's been a loss of a
22 young life, Miss Kandee Martin. And it's easy
23 for each of you good ladies and gentlemen to
24 want to seek out and say there is a price to pay
25 for taking somebody's life, it's easy.

Closing Argument by Mr. Cummings

1 And I told you that in opening
2 argument revenge, motive, all the reasons in the
3 world for you folks sitting as jurors and
4 listening to this to lash out by saying
5 somebody's got to pay for this horrible
6 incident. And somebody has to pay.

7 And then I have the burden. But I
8 have the privilege also of standing before you
9 today because this is how the system works, and
10 it is a privilege. Anybody who wants to take
11 this job, anybody who wants to come before good
12 citizens like you and ask you to, please, keep
13 an open mind after -- and, ladies and gentlemen,
14 proverbially you've been slapped in the face,
15 you've been taken away from your family, your
16 friends, your loved ones and you've been asked
17 to do something which is rare and that is to sit
18 in judgment of a fellow human being.

19 And you've heard what appears to be a
20 loss of a life of another person at least so far
21 based all on him, Mr. Marion Bowman, Jr. You
22 know why that says that? Because if they have
23 not proven that, the State has not proven that
24 beyond a reasonable doubt, then we're not here.
25 And you know why? Because they've got to say

Closing Argument by Mr. Cummings

1 Marion Bowman did that now because everybody
2 else has cut a deal. The person who went to
3 trial in this case is Mr. Marion Bowman, Jr.
4 His fate is in your hands after Her Honor gives
5 you the law and the charge.

6 It's easy to prejudge, isn't it? It
7 is easy. You've got one more issue here that
8 you have to make a promise to yourself through
9 your integrity and your fellow jurors, you have
10 promised to give this citizen a fair trial, you
11 have promised from your oath.

12 And you have also promised that you'll
13 take the law from Her Honor. And like I said,
14 remember, she's the boss. Sometimes you see Mr.
15 Bailey and I jump up, back and forth with each
16 other. And, again, if I've done anything to
17 offend you in my speech or mannerism or how I've
18 tried this case, please don't hold that against
19 Mr. Bowman. I'm what he got. I've been Court
20 appointed to represent this gentleman and I'm
21 doing everything I can in my power to present
22 Mr. Bowman to you for a fair trial.

23 We don't have the luxury -- and you
24 don't see me running over to the teleprompter,
25 I'm looking at this and everybody wants you to

Closing Argument by Mr. Cummings

1 understand this, that only bad things have been
2 presented to you based on Mr. Bowman, only
3 certain parts in this closing argument by Mr.
4 Bailey. And I don't mean that directly at him.
5 The State, okay? He gave the closing argument
6 like I'm trying to give a closing argument for
7 Mr. Bowman. They've only showed you what they
8 believe should be shown. And that's why I
9 always wondered why sometimes when Her Honor
10 tells the ladies and gentlemen of the profession
11 to stand up and give an opening or a closing
12 argument and then everybody at the end says,
13 but, please, whatever the lawyers say is not
14 evidence. You wonder why we do it.

15 And why we do it, folks, is so you'll
16 understand that the system is balanced. So you
17 understand that it is the State's job to try to
18 show you every bad thing they can, so all of a
19 sudden it goes like this. Because if it doesn't
20 do that, then they haven't proved beyond a
21 reasonable doubt.

22 And believe me, folks, it is easy to
23 close an eye. It is easy to take everything in
24 one short perspective, hear horrible words said
25 about a human being, it is so easy to close your

Closing Argument by Mr. Cummings

1 mind. And then I, or any lawyer, have to come
2 back before you and ask you to, please, open
3 your mind up. Because, ladies and gentlemen,
4 Mr. Bowman is charged with two crimes here, and
5 only two. He's charged with two. He has pled
6 not guilty to those charges. And you're right,
7 we have spent a solid week asking you good
8 citizens, and you've made your oath to your God
9 saying you would be fair and impartial and give
10 any citizen a fair trial.

11 And, you know, you look, you look at
12 each other, you look out here, you paid close
13 attention to this evidence, you've paid close
14 attention to a lot of things in here. And one
15 of the issues is let's go back and look at the
16 beginning of this. There was a clean slate.
17 You didn't know anything about the facts other
18 than all of a sudden when you showed up here in
19 court that day there's a lot of you folks up
20 there, a lot of people, a lot of policemen
21 around here, a lot of people who look like
22 they're sad, a lot of people that look like they
23 don't want to be up here. A lot of people, but
24 only 12 of you good citizens, and of course four
25 alternates that were here, only you sit in

Closing Argument by Mr. Cummings

1 judgment of this fellow human being.

2 And here's what they've asked you to
3 do, they've asked you to listen to evidence.
4 And some of it has been back and recreated
5 evidence. And you've got to take that into
6 consideration, whether you like it or not you
7 have to do it.

8 And I'll start with the very first
9 one, okay? Mr. Waters. If you're going to put
10 any weight on Mr. Waters' testimony, please do
11 it twofold. The first one is when something is
12 fresher in your mind, would you submit to each
13 other that if you learned something today it
14 would probably be in your mind a lot more today
15 than it would be four or five months later?

16 How about when a police officer goes
17 back to a citizen and asks them to change their
18 statements or testimony and only then do you
19 come back and say, yeah, I think he might have
20 said.... And, of course, you saw the flash card
21 on the screen. Do you know why we ask you to
22 weigh the evidence? Because you judged the
23 credibility of Mr. Waters when he first took
24 that stand.

25 What happened when I cross-examined

Closing Argument by Mr. Cummings

1 him? Did he have a reason to want to go back
2 and change his testimony? Sure. Do you know
3 why? A friend was lost. Does not anger dwell
4 within, inside anybody if you've lost somebody,
5 or if you really, really feel the police need
6 something from you are you trying to help them?
7 That's your speculation. That is your province.
8 I'm asking you to submit that.

9 What was said the first go around?
10 And that's important. If you'll please ask each
11 other back in that room what was important. Why
12 did the State go back months later and ask him
13 to reconsider what he told them when it was
14 first fresh in his mind? That's why, ladies and
15 gentlemen, you put your minds together, not bits
16 and pieces that are recreated at the end to try
17 to convince you to vote one way or the other.

18 Now, I had some nice compliments paid
19 to me a few moments ago by the State's
20 representative by anticipating what we may do.
21 That's speculation, but obviously to think ahead
22 of time about what I might propose in a case is
23 exactly what I'm going to do. Anybody's who's
24 been around a long time, they've got a little
25 gray hair, anybody that's been around a long

Closing Argument by Mr. Cummings

1 time is going to submit to you issues of
2 contention, issues of reasonable doubt for a
3 reason.

4 And that's your weight, ladies and
5 gentlemen. Because after Mr. Waters, when you
6 look at the family, Mr. Bowman's family,
7 Yolanda, that lady appeared to be angry at me,
8 she didn't want to answer my questions. She cut
9 a deal with the State. And I know this is
10 horrible, I'm going to sit here and my client's
11 going to be angry with me and I got to sit down
12 with him in the next few moments. His sister
13 was angry about being up here. They're angry.
14 How can you expect somebody to answer back in a
15 truthful way?

16 Again, you weigh that credibility.
17 Because if they don't cut a deal with the State
18 they lose their deal. Please remember that.
19 There's a reason why somebody wants to cut that
20 deal. And the truth of these people, folks, I'm
21 not going to insult your intelligence, you weigh
22 the truth for what you saw up there, did they
23 have a reason.

24 And when you listen to Her Honor's
25 charges, ladies and gentlemen, I promise you she

Closing Argument by Mr. Cummings

1 doesn't waste two or three pages per issue here
2 for a reason. And you listen to that, see if
3 it's made any sense from us on behalf of
4 Mr. Bowman, or any sense from this witness chair
5 as to the importance of weighing why somebody
6 has something to say.

7 Again, it's easy to close your mind.
8 You've heard probably enough to make you
9 disgusted about what happened on a night in
10 February back in 2001, but you promised. You
11 not only promised Mr. Bowman, you promised the
12 citizens of this county and this state that you
13 would do your job. And you know something, I'll
14 know you'll do it.

15 The other issue I'm going to say now
16 as we go through people is Kendra. Appears to
17 be a very simple, very polite lady, didn't want
18 to testify, had her head hung down the whole
19 time. Again, if she didn't keep up with her
20 deal, prosecuted. Look when these deals were
21 cut, please, that's a very important factor.

22 And, again, it's easy to sit back and
23 say, okay, so they cut a deal, so what? I
24 haven't got to the good stuff yet and I hope I'm
25 not losing you yet and I'll tell you why,

Closing Argument by Mr. Cummings

1 because the most important witness in this case
2 and probably the nicest guy in this case at
3 least as far as laypeople goes is Mr. Judy, what
4 a nice man. And it looks like he was scared to
5 death of me or anybody about asking him a
6 question. And I know I'm kind of big and I told
7 you like a bull in a china shop.

8 Mr. Judy was only up for what, to say
9 about five minutes to 8:00 when his wife, his
10 bride is telling him to get home, they've got
11 family in town, they want to get home. His
12 bride is asking him to go home, get there, don't
13 stop.

14 Mr. Judy said he stops and looks at a
15 dark colored car there. Now, is that important?
16 Yes, because everybody else is trying to say
17 something different than what Mr. Judy said.
18 Now, did he see anybody around at all? No.
19 You've got to take that at Mr. Judy's testimony
20 if that's what you find, good ladies and
21 gentlemen. Mr. Judy leaves, then the world
22 explodes for everybody, Mr. Bowman, and every
23 other person that's ever been connected with
24 Mr. Bowman, friends, family, you name it, Miss
25 Martin, everything has exploded after that.

Closing Argument by Mr. Cummings

1 We know that Mr. Judy was on that road
2 at night and we know what he saw. And we know
3 that from that man coming back the next day, he
4 said, oh, my goodness, all these police cars are
5 down there, fire department, ambulances, let me
6 go back there and find out what happened,
7 because he heard in the community what happened.
8 Are you ready? He heard and went back.

9 Is that significant to you folks? It
10 sure is. Because if I submit to you, ladies and
11 gentlemen, that one person hears this and by the
12 end of the line it gets down to here you're
13 going to hear something different, or if you
14 hear something that's exactly how you're going
15 to report it back. Did you hear the accident
16 happen outside the building sitting here, or did
17 you watch the accident happen? That was just an
18 old basic thing a long, long time ago. Did you
19 hear the tires screech? Did you hear the metal
20 clang, or did you tell the officer you saw the
21 accident? It's easy to do that.

22 You might have heard something, then
23 turned around and glanced and saw the cars
24 bouncing off of each other. Did you see the
25 accident, though? Did you see what happened

Closing Argument by Mr. Cummings

1 that night? No. They got to come in here and
2 prove to you beyond a reasonable doubt what
3 happened. Is there any doubt the crime scene
4 was messed up?

5 Now, it's easy to say -- again,
6 shutting that thing off, it's easy to say you
7 don't care about it, a young girl has died and
8 somebody must pay. My question to you is, is
9 the right somebody paying? That's where I have
10 the toughest job along with Ms. Thomas on behalf
11 to Mr. Bowman to submit to you to keep an open
12 mind.

13 You 12 good folks are going to go back
14 there in a little bit, you're going to put your
15 minds together and you're going to judge based
16 on the law and the evidence as Her Honor gave
17 you, the facts and circumstances that cause you
18 to vote guilty or not guilty as to Mr. Bowman as
19 to two charges.

20 But I want to submit a couple things
21 to you that are going to make you think as we
22 speak now. Is it so important for the State to
23 have Mr. Gadson to say that Mr. Bowman fired
24 three times? And why is that? Because
25 Mr. Gadson told you. And, again, you weigh what

Closing Argument by Mr. Cummings

1 you heard. If I am different from what Mr.
2 Bailey stated or he's different from what I
3 state, that's why you good ladies and gentlemen
4 remember what was said on the stand. I submit
5 to you he said he heard three shots, saw three
6 flashes I think were his exact words based on my
7 notes.

8 Dr. Ross testified to you, and folks
9 this is vital. As I go over here to grab this
10 thing, I'm going to stand it up in just a
11 moment, Dr. Ross is a medical doctor, nobody,
12 nobody asked her anything other than what she
13 heard from her own mind about what she found
14 that day when she did her examination. And her
15 testimony is, ladies and gentlemen, a shot to
16 the back of the head on Miss Martin and a shot
17 to the back of Miss Martin. What did Mr. Gadson
18 say to you good folks?

19 And, again, you may not put any weight
20 on this, you may ignore what I say, you may
21 ignore anything about what we present to you,
22 but you can't ignore the fact of what was said.
23 And it was said by Mr. Gadson. He was facing
24 Black, he was facing Mr. Bowman and he shot her
25 front on. And I asked him that deliberately

Closing Argument by Mr. Cummings

1 because he saw three shots. He says he saw
2 Mr. Bowman shoot her in the front. He didn't
3 see that. This poor girl was shot in the back,
4 she was shot in the back of the head.

5 And he just happened to be up at the
6 stop sign looking at the stars? That was my
7 cross-examination question, looking at the
8 stars, not doing nothing. That's kind of
9 important because if he admitted doing it he
10 would be in trouble, he would be facing trial.

11 Folks, he has pled to a maximum
12 sentence of two charges of 20 years. Do you
13 think he has a motive of bias or reason to want
14 to testify at the last moment? What date did
15 that gentleman cut that deal? That deal was cut
16 so that this man would face the ultimate charge,
17 you can't dispute that. It's not nice, you
18 don't want to hear it, but it's the truth. It
19 is the truth of what he did signing that plea
20 agreement on the 13th.

21 It's easy to shut me off and I'm going
22 to ask you on behalf of Mr. Bowman to, please,
23 not do that yet. There's no rush to judgment
24 and I'm going to ask you to please keep that
25 open mind a little bit longer, please.

Closing Argument by Mr. Cummings

1 Gadson accordingly testifies that Miss
2 Martin is so frightened that she jumps in the
3 woods. That's Mr. Judy. They're white people.
4 I hate to say this, and, again, please, don't
5 hold this against Mr. Bowman, if anybody was
6 frightened, why did they jump in the bushes?
7 Why not flag the car down, jump the car? Does
8 that make any sense to you? What is the reason
9 why anybody would jump in the bushes if they're
10 afraid?

11 Especially Miss Martin is a young,
12 white lady and she's out there with two young,
13 black males. That's what you want Mr. Gadson --
14 if that's what you believe his testimony is, you
15 weigh that credibility issue. Does that make
16 common sense? If it does, ladies and gentlemen,
17 I defer to your judgment and your wisdom.
18 You're on this earth like we are, you use your
19 good common sense, don't leave it behind that
20 back door. Look at that issue. Was there three
21 shots fired?

22 Mr. Newsome's sitting at his house and
23 he thinks it's night hunting. He drives down
24 the road, got another vehicle coming down the
25 road. If Mr. Gadson was so afraid or so worried

Closing Argument by Mr. Cummings

1 about this mean guy blowing his brains out,
2 okay, if you want to read that little prompter
3 that was up on the screen, then he was out there
4 flagging down Mr. Newhouse running down the
5 roadway coming out there saying, oh, please, get
6 me away from this guy, get me away from this
7 guy. And, oh, by the way, let me show you this.
8 Call the police. Does that make common sense?
9 If it does, ladies and gentlemen, I defer to
10 you.

11 We know if you want to count and you
12 want to look at this crime scene as evidence and
13 you want to say it was not messed up and you
14 want to say that all the lawyer was doing was
15 trying to put up smoke and mirrors, there's six
16 casings out there, six. At least six. Because
17 who knows what really happened that day, who
18 knows. Is that a reasonable doubt? How do you
19 go from three shots to six casings? If you put
20 that much credibility and weight on Mr. Gadson's
21 testimony, then tell me and tell yourselves in
22 that room where the other three came from.

23 Because remember now you're going to
24 be asked in a few moments, again, to remember
25 that Mr. Collins says he can say there's a

Closing Argument by Mr. Cummings

1 breech scratch or marks on this firearm that can
2 match five out of six shells out of this weapon.
3 Wow. Do you think Mr. Gadson would have
4 remembered five shots especially? Saying it's
5 six to show more, to show, my goodness, all
6 these shots fired at Miss Martin.

7 Miss Martin is gone, folks, she is
8 deceased, I am truly sorry for that. I don't
9 stand before you looking like I don't care,
10 because I do. I try to be as humble, polite,
11 not only to you folks, but every witness in here
12 other than the witnesses that wouldn't even
13 answer my questions. And that's not a fair
14 trial. Her Honor even had to tell people to
15 answer my questions. But you look at
16 Mr. Gadson's statement, that doesn't add up. It
17 adds up to a great deal. And I know it's not
18 something you want to talk about, it isn't.
19 May 13th when we start calling you folks up here
20 a deal's cut, it's cut in a back room.

21 I don't know what to tell you about
22 Hiram Johnson other than I'm going to cover it
23 right real quick. Mr. Johnson, Hiram Johnson,
24 shot in the back of the head by police. I asked
25 him about questions, asked him about jury

Closing Argument by Mr. Cummings

1 preparation, any lawyer talks to people ahead of
2 time, there's no shame in that. Why we ask the
3 question is to point out to you people and say,
4 oh, my goodness, they're going to ask me
5 questions about that. Yeah, Hiram Johnson. The
6 only thing he knows is what? He knows enough to
7 go back and tell the wife of Mr. Bowman there's
8 a gun in the couch.

9 The police search that couch twice.
10 And, ladies and gentlemen, if you want to
11 believe that when they have control of a
12 situation, they got control of a human being,
13 Mr. Bowman's arrested on the 17th. Mr. Coker
14 stated that he got on his knees and looked under
15 that couch. They don't do anything other than
16 tear things apart.

17 Now, use your common sense on that.
18 And there's no question about that. If you want
19 to believe that they overlooked that gun in the
20 couch, then so be it, that is your province.
21 You notice why that rail is there? Nobody can
22 invade your province. The sanctity of the jury
23 box is exactly that. And Her Honor protects
24 that and you've seen that. Not one of us is
25 going to be allowed to be near you. If we see

Closing Argument by Mr. Cummings

1 you in the hallway we've got to back up politely
2 and go, right? Because that's how important it
3 is that you folks have your privacy and
4 protection.

5 I'm asking you look at this, look at
6 what was said by Mr. Johnson. He went and told
7 Ms. Bowman there's a gun in the couch. The back
8 door of that trailer couldn't be secured. And
9 everybody wants to make a big deal about when
10 she found the red spatter there. Hold it,
11 you're missing the picture.

12 First picture is when Mr. Johnson
13 being the good cooperative citizen that he is,
14 tells the police. Does he tell the police that
15 he told Ms. Bowman where the gun was? No. It
16 looks like somebody's planted something there in
17 the couch. The problem is it didn't grow fast
18 enough and for whatever reason Ms. Dorothy
19 Bowman, the wife, is told about this gun and she
20 finds it.

21 But then it gets a little bit more
22 hairy or a little bit more cloudy here. Because
23 when somebody finds something they're scared,
24 obviously, and they call upon people for help
25 instead of doing what they should have been

Closing Argument by Mr. Cummings

1 doing. And what is right? That is send it to
2 law enforcement at the time because obviously
3 he's in jail and no way -- and he had no way to
4 get to that couch.

5 They took the pants off there, and
6 that's another thing. You didn't hear any
7 objections about the trousers coming off the
8 couch by us because we knew that the trousers
9 have kerosene on them, some sort of odor of
10 kerosene on the pants and they heat their home
11 with kerosene.

12 Yolanda made a big deal, don't know
13 nothing, never went over there. She didn't want
14 nothing more to do with that gun, nothing more
15 to do with that house, nothing more to do with
16 anybody. Kendra went over a couple times,
17 didn't know, didn't want to know. Dorothy knew
18 it heated her home, she's got three babies, an
19 infant from Mr. Bowman and he has two other
20 stepchildren. It's a big deal with Mr. Layton
21 when I asked him what he found. He found
22 nothing of gasoline on my client's clothing,
23 nothing.

24 And if you want to believe that what
25 Mr. Felder said that my client gets back in the