

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Newberry County

The Honorable Brooks P. Goldsmith, Circuit Court Judge
2000-CP-36-0051

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S.C. Supreme Court

STEPHEN ANDREW BECKHAM,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VERSUS) 96-GS-36-79
STEPHEN ANDREW BECKHAM,)
DEFENDANT.)

NEWBERRY, SOUTH CAROLINA
SEPTEMBER 14-OCTOBER 4, 1996

B E F O R E

HONORABLE HENRY F. FLOYD, JUDGE.

A P P E A R A N C E S

W. TOWNES JONES, IV, SOLICITOR
MICHAEL T. COULTER, DEPUTY SOLICITOR
BETTY C. STROM, ASST. SOLICITOR
KNOX MCMAHON, DEPUTY SOLICITOR
APPEARING ON BEHALF OF THE PLAINTIFF.

JACK SWERLING, ATTORNEY
RICHARD HARPOOTLIAN, ATTORNEY
APPEARING ON BEHALF OF THE DEFENDANT.

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Brenda A. Douglas, CVR
Certified Court Reporter
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SEPTEMBER 27, 1996

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1 STATE CALLS WADE FLEMING.

2 THOMAS WADE FLEMING, BEING

3 DULY SWORN TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION:

5 BY MR. MCMAHON:

6 Q MR. FLEMING, BY WHOM ARE YOU EMPLOYED?

7 A I'M EMPLOYED BY THE SOUTH CAROLINA LAW
8 ENFORCEMENT DIVISION IN COLUMBIA.

9 Q AND HOW LONG HAVE YOU BEEN EMPLOYED WITH
10 SLED?

11 A I'VE BEEN EMPLOYED WITH SLED
12 APPROXIMATELY THREE YEARS.

13 Q WOULD YOU RELATE TO THE JURY, PLEASE,
14 YOUR EDUCATIONAL BACKGROUND, YOUR TRAINING, YOUR
15 EXPERIENCE AND YOUR PARTICULAR FIELD OF EXPERTISE?

16 A ALL RIGHT, SIR. I'M A GRADUATE OF
17 WOFFORD COLLEGE WITH A B.A. IN GOVERNMENT; I
18 ATTENDED THE SOUTH CAROLINA CRIMINAL JUSTICE
19 ACADEMY AND BASIC LAW ENFORCEMENT CERTIFICATION; I
20 WORKED AS A SHERIFF'S DEPUTY IN UNIFORM PATROL FOR
21 THE SPARTANBURG COUNTY SHERIFF'S OFFICE FOR FOUR
22 YEARS PRIOR TO COMING TO SLED; I CAME TO SLED IN
23 OCTOBER OF '93. SINCE THAT TIME, I'VE BEEN TRAINED
24 UNDER COURT QUALIFIED EXAMINERS, COMPLETED OUR
25 TRAINING PROGRAM.

1 I'VE ATTENDED THE BASIC FINGERPRINT
2 COURSE TAUGHT BY THE SOUTH CAROLINA CRIMINAL
3 JUSTICE ACADEMY, BASIC LAW ENFORCEMENT PHOTOGRAPH
4 COURSE TAUGHT BY THE SOUTH CAROLINA CRIMINAL
5 JUSTICE ACADEMY.

6 I'VE ATTENDED CHEMICAL DEVELOPMENT
7 TECHNIQUES COURSE AND THE ADVANCE FINGERPRINTS
8 COURSE TAUGHT BY THE FEDERAL BUREAU OF
9 INVESTIGATIONS; I'VE ATTENDED A BLOOD STAIN PATTERN
10 ANALYSIS COURSE TAUGHT BY THE METRO-DADE POLICE
11 DEPARTMENT, MIAMI, FLORIDA, AND I'M A MEMBER OF THE
12 INTERNATIONAL ASSOCIATION OF IDENTIFICATION WHICH
13 PUTS OUT BI-MONTHLY PUBLICATIONS IN FORENSIC FIELD
14 TO KEEP UP WITH THE CHANGES IN THE FORENSIC
15 COMMUNITY.

16 Q AGENT FLEMING, IF MY MATH IS CORRECT,
17 YOU HAVE ABOUT SEVEN YEARS EXPERIENCE IN LAW
18 ENFORCEMENT?

19 A THAT IS CORRECT.

20 Q AND FOUR OF THOSE YEARS WAS AS A UNIFORM
21 DEPUTY IN SPARTANBURG COUNTY?

22 A THAT IS CORRECT.

23 Q AND HAVE BEEN WITH SLED, I GUESS NEXT
24 MONTH WILL BE YOUR THIRD YEAR ANNIVERSARY, IS THAT
25 RIGHT?

1 A YES, SIR.

2 Q NOW, WHAT DIVISION ARE YOU ASSIGNED AT
3 SLED?

4 A I'M ASSIGNED TO LATENT PRINT AND CRIME
5 SCENE DEPARTMENT. MY DUTIES THERE ARE A MEMBER OF
6 THE STATEWIDE CRIME SCENE RESPONSE TEAM; I AM A
7 LATENT PRINT EXAMINER. I COMPARE LATENT PRINTS TO
8 KNOWN INK IMPRESSIONS ON A DAILY BASIS. I DO
9 FOOTWEAR EXAMINATIONS, AND TIRE TREAD EXAMINATIONS.

10 Q HOW DID YOU LEARN HOW TO COMPARE LATENT
11 PRINTS?

12 A THROUGH COURSES SUCH AS BASIC
13 FINGERPRINTS GIVING THE FOUNDATIONS AND THROUGH
14 STUDYING UNDER COURT QUALIFIED EXAMINERS IN THIS
15 FIELD.

16 Q AND WHEN YOU SAY COURT QUALIFIED
17 EXAMINERS, ARE THOSE OTHER MORE EXPERIENCED
18 EMPLOYEES OF THE STATE LAW ENFORCEMENT DIVISION?

19 A YES, SIR. THAT IS CORRECT.

20 Q SO NOW, AGENT FLEMING, IN YOUR THREE
21 YEARS, APPROXIMATELY THREE YEARS PERIOD OF TIME
22 WITH SLED, HAVE YOU EVER BEEN OFFERED AS AN EXPERT
23 IN THE FIELD OF LATENT FINGERPRINT IDENTIFICATION?

24 A YES, I HAVE, IN BOTH STATE AND FEDERAL
25 COURTS.

1 Q ON APPROXIMATELY HOW MANY DIFFERENT
2 OCCASIONS HAVE YOU BEEN OFFERED AS AN EXPERT?

3 A I'VE BEEN OFFERED AS AN EXPERT IN
4 FEDERAL COURT ON TWO OCCASIONS, AND STATE COURT ON
5 TEN OCCASIONS.

6 Q ALL RIGHT, SIR. AND ON THOSE TEN AND
7 TWO, TWELVE OCCASIONS, HAVE YOU BEEN ACCEPTED BY
8 THE STATE AND FEDERAL COURTS AS AN EXPERT IN THE
9 FIELD OF LATENT FINGERPRINT IDENTIFICATIONS?

10 A YES, SIR, EACH AND EVERY TIME.

11 Q HAVE YOU EVER BEEN OFFERED AS AN EXPERT
12 IN THAT FIELD AND NOT ACCEPTED BY THE COURTS AS AN
13 EXPERT IN THAT FIELD?

14 A NO, SIR.

15 MR. MCMAHON: YOUR HONOR, I WOULD OFFER
16 AGENT FLEMING AS AN EXPERT IN THE FIELD OF LATENT
17 FINGERPRINT IDENTIFICATION.

18 MR. HARPOOTLIAN: NO OBJECTION.

19 THE COURT: WITHOUT OBJECTION.

20 Q (BY MR. MCMAHON) NOW, I GUESS MY
21 QUESTION, MY NEXT QUESTION IS, AGENT FLEMING, NOW
22 THAT WE KNOW WHAT YOU'RE AN EXPERT IN, COULD YOU
23 EXPLAIN GENERALLY AND BRIEFLY THAT FIELD TO THE
24 JURY, TO US?

25 A OKAY. FIRST LET ME EXPLAIN WHAT AN INK

1 IMPRESSION IS. PRESENT ON YOUR FINGERS, IF YOU'LL
2 TAKE A MINUTE AND LOOK AT YOUR FINGERS, YOU'LL SEE
3 RAISED PORTIONS OF SKIN WHICH IS CALLED FRICTION
4 RIDGE SKIN. THESE RIDGES DO NOT FLOW FROM ONE SIDE
5 TO THE OTHER IN ONE CONTINUOUS MOTION, BUT ARE
6 RATHER BROKEN.

7 THE RIDGES FLOW ALONG AND STOP; WE CALL
8 THIS AN ANTI-RIDGE. A RIDGE MAY FLOW ALONG AND
9 DIVIDE INTO TWO RIDGES. WE CALL THIS A
10 BIFURCATION, OR A RIDGE MAY HAVE A DOT OR SIMPLY A
11 CIRCLE IN IT. THESE ARE CHARACTERISTICS THAT MAKE
12 THAT PARTICULAR AREA, FRICTION RIDGE SKIN, UNIQUE
13 AND IS HOW WE MAKE AN IDENTIFICATION.

14 THE UNIQUENESS OF FINGERPRINTS IS THAT
15 THEY'RE FORMED PRIOR TO BIRTH AND REMAIN THE SAME
16 WITHOUT SCARING UNTIL ONE DIES. SO IT IS A
17 PERMANENT UNIQUE RECORD OF AN INDIVIDUAL.

18 A LATENT PRINT, ON THE OTHER HAND, IS
19 THE TERM THAT WE GIVE PRINTS FOUND AT A CRIME
20 SCENE. IT IS A PRINT LEFT BY SOMEONE BY CHANCE OR
21 ACCIDENT. A PRINT IS LEFT BECAUSE WE SWEAT. THE
22 RIDGES THAT ARE RAISED PORTIONS HAVE PORES IN THEM
23 AND WHEN WE SWEAT AND COME IN CONTACT WITH OILS ON
24 OUR BODY, WE PICK UP THIS RESIDUE AND WHEN WE TOUCH
25 AN OBJECT, WE HAVE A CHANCE OF LEARNING A

1 FINGERPRINT.

2 LATENT PRINTS ARE LEFT BY CHANCE, BY
3 ACCIDENT AND THEY'RE USUALLY PARTIAL PRINTS. THEY
4 ARE NOT A FULL ROLL PRINT LIKE AN INK PRINT IS ON A
5 FINGERPRINT CARD THAT WE USE FOR COMPARISON
6 PURPOSES. SO WE'RE COMPARING NORMALLY A SMALL
7 FRAGMENT TO A COMPLETE RECORDING OF THE FINGERPRINT
8 ON A FINGERPRINT CARD.

9 Q AT OUR REQUEST, DID YOU EXAMINE CERTAIN
10 ITEMS OF EVIDENCE AND PRINT CERTAIN INDIVIDUALS IN
11 REGARDS TO THIS CASE?

12 A YES, SIR, I DID.

13 Q AND I WANT TO SHOW YOU WHAT HAS
14 PREVIOUSLY BEEN MARKED AS DEFENSE EXHIBIT NUMBER
15 FOUR, AND DEFENSE EXHIBIT NUMBER FIVE. CAN YOU
16 IDENTIFY THOSE ITEMS FOR US, PLEASE?

17 A THE DEFENDANT'S EXHIBIT FOUR IS A
18 FINGERPRINT CARD BEARING THE NAME JEFFERY MICHAEL
19 BEATTY, WITH THE SLED LABORATORY CASE NUMBER OF
20 L948604 AND THE ITEM 139. IT BEARS INKED
21 IMPRESSIONS AND BEARS MY INITIALS I CAN IDENTIFY.

22 Q NOW, WOULD THAT BE A KNOWN PRINT OR A
23 LATENT PRINT?

24 A THIS IS CONSIDERED A KNOWN PRINT.

25 Q AND THAT'S THE KNOWN PRINT OF WHAT

1 INDIVIDUAL?

2 A THE CARD BEARS THE NAME MICHAEL JEFFERY
3 BEATTY.

4 Q ALL RIGHT, SIR. NOW, AND WHAT--DOES
5 THAT CARD BEAR A DATE OF BIRTH?

6 A YES, IT DOES. THE DATE OF BIRTH ON THIS
7 CARD IS 04-02-48.

8 Q I WANT TO SHOW YOU ANOTHER ITEM AND ASK
9 IF YOU CAN IDENTIFY IT FOR US, PLEASE?

10 A YES, SIR. THIS IS WHAT IS REFERRED TO
11 AS A COMPLETE SET OF MAJOR CASE PRINTS BEING ROLLED
12 IMPRESSIONS OF ALL TEN FINGERS, AND IMPRESSIONS
13 FROM THE PALMS. IT BEARS THE CASE NUMBER L948604,
14 THE ITEM NUMBER 285, AND THESE WERE TAKEN BY MYSELF
15 FROM MICHAEL JEFFERY BEATTY, SENIOR, ON 9/22/96.

16 Q ALL RIGHT AGENT FLEMING, I APOLOGIZE, I
17 DON'T EVEN KNOW WHAT TODAY'S DATE IS. WHAT DAY WAS
18 9/22/96? DO YOU RECALL?

19 A THAT WOULD HAVE BEEN SUNDAY.

20 Q SUNDAY?

21 A YES, SIR.

22 Q YOU TOOK THOSE PRINTS SUNDAY?

23 A YES, SIR, I DID.

24 MR. MCMAHON: ALL RIGHT, YOUR HONOR, I
25 WOULD OFFER THESE INTO EVIDENCE.

1 THE COURT: ANY OBJECTION TO THE PRINTS
2 THAT HE TOOK, OTHER THAN AS WE'VE DEALT IN CAMERA?

3 MR. HARPOOTLIAN: WELL, I MEAN, YOUR
4 HONOR, OF COURSE, WE, WITHOUT THE INDIVIDUAL WHO
5 GAVE THOSE PRINTS HERE, WE WOULD OBJECT TO THE
6 AUTHENTICITY, UNDER STATE VERSUS RICH.

7 THE COURT: ALL RIGHT, I OVERRULE THAT
8 OBJECTION.

9 (SO MARKED AND ENTERED AS STATE'S
10 EXHIBIT NUMBER 134, OVER OBJECTIONS AS STATED.)

11 Q (BY MR. MCMAHON) I'M NOW SHOWING YOU
12 STATE'S EXHIBIT NUMBER 134, AND I'D ASK YOU TO LOOK
13 AT 134 AND DEFENSE EXHIBIT NUMBER FOUR AT THE SAME
14 TIME.

15 A DEFENDANT'S EXHIBIT FOUR WHICH IS A
16 FINGERPRINT CARD BEARING THE NAME MICHAEL JEFFERY
17 BEATTY AND STATE'S EXHIBIT 134, SET OF MAJOR CASE
18 PRINTS BEARING THE NAME MICHAEL JEFFERY BEATTY,
19 SENIOR WERE PRODUCED BY THE SAME INDIVIDUAL.

20 Q WHAT SOCIAL SECURITY NUMBER APPEARS ON
21 DEFENSE EXHIBIT NUMBER FOUR?

22 A SOCIAL SECURITY NUMBER ON DEFENSE
23 EXHIBIT FOUR IS [REDACTED]

24 Q AND WHAT SOCIAL SECURITY NUMBER APPEARS
25 ON STATE'S EXHIBIT NUMBER 124?

1 A ONE, THIRTY-FOUR.

2 Q ONE, THIRTY-FOUR. WHAT SOCIAL SECURITY

3 NUMBER APPEARS ON 134?

4 A NUMBER [REDACTED].

5 Q ARE THOSE PRINTS, DEFENSE EXHIBIT NUMBER

6 FOUR, STATE'S EXHIBIT NUMBER 134, PRINTS OF THE

7 SAME INDIVIDUAL?

8 A YES, SIR, THEY WERE PRODUCED BY THE SAME

9 INDIVIDUAL.

10 Q AND WHO WAS THAT INDIVIDUAL BY NAME ON

11 BOTH THE DEFENSE EXHIBIT AND THE STATE EXHIBIT?

12 A THE DEFENSE EXHIBIT SIMPLY LISTS THE

13 NAME MICHAEL JEFFERY BEATTY, THE STATE'S EXHIBIT

14 NUMBER 134 LISTS THE NAME MICHAEL JEFFERY BEATTY,

15 SENIOR. AND I VERIFIED THIS THROUGH AN

16 IDENTIFICATION.

17 Q AN IS ALL THE IDENTIFICATION INFORMATION

18 ON BOTH THESE EXHIBITS THE SAME AS FAR AS THE DATE

19 OF BIRTH, RACE, SEX, SOCIAL SECURITY?

20 A THAT IS CORRECT.

21 Q NOW, DID YOU COMPARE BOTH, YOU SAID

22 SOMETHING ABOUT AN ITEM NUMBER. LET ME GO OVER

23 THAT JUST A MOMENT, ON STATE'S EXHIBIT--EXCUSE ME,

24 DEFENSE EXHIBIT NUMBER FOUR. ITEM NUMBER, WHAT

25 ITEM NUMBER IS THAT?

1 A THIS IS ITEM NUMBER 139 ASSIGNED BY OUR
2 LABORATORY.

3 Q AND HOW DOES IT GET A PARTICULAR
4 DESIGNATION OF A PARTICULAR ITEM NUMBER, AGENT
5 FLEMING?

6 A WHEN A CASE IS BROUGHT TO OUR
7 LABORATORY, IT IS GIVEN THE NEXT CONSECUTIVE CASE
8 NUMBER. EACH ITEM BEGINNING WITH THE FIRST ITEM
9 SUBMITTED IS GIVEN THE ITEM ONE, AND ANY SUBSEQUENT
10 SUBMISSIONS OR ITEMS THAT ARE BROUGHT IN ARE GIVEN
11 CONSECUTIVE ITEM NUMBERS. AND THIS WAS THE 139TH
12 ITEM SUBMITTED TO OUR LABORATORY.

13 Q AND STATE'S 134, DOES IT HAVE AN ITEM
14 NUMBER?

15 A YES, SIR, IT DOES. IT IS ITEM NUMBER
16 285. THIS WAS THE 285TH ITEM THAT WE RECEIVED.

17 Q NOW, DID YOU COMPARE MICHAEL BEATTY,
18 SENIOR'S PRINTS TO ALL...

19 MR. HARPOOTLIAN: YOUR HONOR, I WOULD
20 OBJECT UNLESS HE REFERS...I MEAN, HE REFERS IT TO
21 MICHAEL BEATTY'S FINGERPRINTS. HE HAS A
22 FINGERPRINT CARD WITH AN IDENTIFICATION NUMBER ON
23 IT AND EXHIBIT NUMBER. HE'S STATING AS IF THEY
24 WERE OF HIS OWN KNOWLEDGE MICHAEL BEATTY'S
25 FINGERPRINTS. ALL HE KNOWS IS SOMEONE'S SAYING HE

1 WAS MICHAEL BEATTY.

2 THE COURT: I SUSTAIN THE OBJECTION.

3 REFER TO IT BY THE COURT EXHIBIT.

4 Q (BY MR. MCMAHON) NOW, LET ME ASK YOU
5 THIS. THIS COURT EXHIBIT, DID ON THE FRONT OF IT,
6 DID SOMEONE SAY THIS IS MICHAEL JEFFERY BEATTY'S
7 PRINT? SOMEONE SAYS THAT?

8 A YES, SIR.

9 Q WHAT IS THAT COURT EXHIBIT NUMBER?

10 A DEFENDANT'S EXHIBIT FOUR.

11 Q DEFENDANT'S EXHIBIT FOUR, OKAY. DID YOU
12 COMPARE DEFENDANT'S EXHIBIT FOUR AND STATE'S
13 EXHIBIT 134 TO ALL THE IDENTIFIABLE, BUT
14 UNIDENTIFIED PRINTS ON THE VICTIM'S VEHICLE, THAT
15 WERE LIFTED FROM THE VICTIM'S VEHICLE?

16 A YES, SIR, I DID.

17 Q AND WHAT WAS THE RESULTS OF THAT
18 EXAMINATION, AGENT FLEMING?

19 A THEY WERE ALL NEGATIVE WITH THE STATE'S
20 EXHIBIT 134 AND DEFENDANT'S EXHIBIT FOUR.

21 Q AND WHEN YOU SAY THEY WERE ALL NEGATIVE,
22 WHAT DOES THAT MEAN? WAS MICHAEL BEATTY, MICHAEL
23 BEATTY, SENIOR'S PRINTS...

24 MR. HARPOOTLIAN: OBJECTION, YOUR HONOR,
25 IF HE WILL REFER IT FROM THE EXHIBIT NUMBER.

1 THE COURT: SUSTAINED.

2 MR. MCMAHON: YES, SIR. I APOLOGIZE

3 Q (BY MR. MCMAHON) DEFENSE EXHIBIT NUMBER
4 FOUR IN THE NAME OF MICHAEL JEFFERY BEATTY, ARE ANY
5 PRINTS OF MICHAEL JEFFERY BEATTY ON DEFENSE EXHIBIT
6 NUMBER FOUR IDENTIFIED OFF THE VEHICLE OF VICKIE
7 LANDER BECKHAM?

8 A NO, SIR, THEY WERE NOT.

9 Q PRINTS WASN'T ON THERE?

10 A NO, SIR.

11 Q NOW, YOU HAVE AN EXHIBIT IN FRONT OF
12 YOU, DEFENDANT'S EXHIBIT NUMBER FIVE, I BELIEVE.

13 IS THAT STILL UP THERE, SIR?

14 A NO, SIR.

15 Q WOULD YOU LOOK AT THAT AND IDENTIFY THAT
16 FOR US, PLEASE?

17 A DEFENDANT'S EXHIBIT FIVE IS A SET OF INK
18 PALM IMPRESSIONS BEARING OUR LABORATORY CASE NUMBER
19 L948604, THE ITEM NUMBER 181, AND BEARS MY
20 INITIALS.

21 Q ALL RIGHT, SIR, AND I WANT TO SHOW YOU
22 ANOTHER ITEM AND ASK IF YOU CAN IDENTIFY IT FOR US,
23 PLEASE?

24 A YES, SIR, THIS IS A SET OF MAJOR CASE
25 INKED FINGER IMPRESSIONS BEARING THE NAME OF

1 MICHAEL JEFFERY BEATTY, JUNIOR, OUR LABORATORY CASE
2 NUMBER OF L948604, THE ITEM NUMBER 286. THESE
3 IMPRESSIONS WERE TAKEN BY MYSELF FROM MICHAEL
4 JEFFERY BEATTY, JUNIOR ON 9/22/96.

5 MR. MCMAHON: YOUR HONOR, I WOULD OFFER
6 THESE INTO EVIDENCE.

7 THE COURT: SUBJECT TO THE SAME...

8 MR. HARPOOTLIAN: STATE VERSUS RICH,
9 YOUR HONOR.

10 THE COURT: STATE VERSUS RICH. LET
11 ME...

12 MR. MCMAHON: YOUR HONOR, I BELIEVE THEY
13 COMPLY WITH RICH.

14 THE COURT: COME OVER HERE JUST A
15 MINUTE.

16 (BENCH CONFERENCE IN THE PRESENCE OF THE
17 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
18 RECORD.)

19 THE COURT: IT'S OFFERED IN OVER THE
20 OBJECTION, PURSUANT TO STATE V. RICH, WHICH I
21 OVERRULE.

22 (SO MARKED AND ENTERED AS STATE'S
23 EXHIBIT 135 AND DEFENSE EXHIBIT NUMBER FIVE, OVER
24 OBJECTION AS NOTED ABOVE.)

25 Q (BY MR. MCMAHON) NOW, STATE'S 135 AND

- 1 DEFENSE FIVE, WHAT NAME APPEARS ON DEFENSE FIVE?
2 DEFENDANT'S FIVE?
3 A DEFENDANT'S FIVE EXHIBIT HAS A SIGNATURE
4 THAT'S HARD TO READ. I CAN MAKE OUT BARELY A
5 MICHAEL J. BEATTY.
6 Q AND WHAT NAME APPEARS ON STATE'S 135?
7 A STATE'S EXHIBIT 135 IS THE PRINTED
8 SIGNATURE THAT I PRINTED MYSELF, MICHAEL JEFFERY
9 BEATTY, JUNIOR.
10 Q NOW, DID YOU COMPARE STATE'S 135 TO
11 DEFENSE, DEFENDANT'S NUMBER FIVE?
12 A YES, I COMPARED STATE'S EXHIBIT 135 AND
13 DEFENDANT'S EXHIBIT FIVE TO DETERMINE THEY WERE
14 USED BY THE SAME INDIVIDUAL.
15 Q THOSE ARE THE SAME PERSON'S PRINTS?
16 A YES, SIR, THEY ARE.
17 Q AND BY NAME, WHO IS THAT PERSON?
18 A MICHAEL JEFFERY BEATTY, JUNIOR.
19 Q AND DID YOU GET ANY, I BELIEVE YOU SAID
20 YOU PRINTED STATE'S 135 SUNDAY?
21 A YES, SIR, I DID.
22 Q DID YOU CONFIRM THAT IDENTIFICATION IN
23 ANY MANNER?
24 A YES, SIR. HE ALSO PRODUCED AN
25 IDENTIFICATION, DRIVER'S LICENSE.

1 Q AND THESE TWO, STATE'S 135 AND
2 DEFENDANT'S NUMBER FIVE ARE THE FINGERPRINTS OF ONE
3 PERSON?

4 A THAT IS CORRECT.

5 Q NOW, DID YOU COMPARE STATE'S 135 AND
6 DEFENDANT'S NUMBER FIVE TO THE
7 UNIDENTIFIABLE...EXCUSE ME, TO THE UNIDENTIFIED
8 LATENT FINGERPRINTS THAT WERE LIFTED BY AGENT BLACK
9 FROM VICKIE LANDER BECKHAM'S VEHICLE?

10 A YES, SIR, I DID.

11 Q AND WHAT WAS THE RESULT OF YOUR
12 EXAMINATION?

13 A THEY WERE NEGATIVE WITH STATE'S EXHIBIT
14 FIVE, CORRECTION, DEFENDANT'S EXHIBIT FIVE AND
15 STATE'S EXHIBIT 135.

16 Q AND WHEN YOU SAY THEY WERE NEGATIVE...

17 A I SAY THEY WERE NEGATIVE. MICHAEL
18 JEFFERY BEATTY JUNIOR'S PRINTS WERE NOT ON THAT
19 VEHICLE.

20 Q NOW, SIR, I WANT TO ASK YOU ONE FURTHER
21 QUESTION. DEFENDANT'S EXHIBIT NUMBER TWO, WOULD
22 YOU IDENTIFY THAT FOR US, PLEASE?

23 A DEFENDANT'S EXHIBIT NUMBER TWO IS A
24 BLACK AND WHITE PHOTOGRAPH THAT BEARS LABORATORY
25 NUMBER L948604 AND THE ITEM NUMBER 95 AND MY

1 INITIALS.

2 Q DID YOU HAVE AN OPPORTUNITY TO EXAMINE
3 THAT ITEM?

4 A YES, SIR, I DID.

5 Q AND WHAT WAS THE RESULT OF YOUR
6 EXAMINATION, AGENT FLEMING?

7 A I DETERMINED THAT THE RIDGE DETAIL
8 PRESENT ON THIS, IN THIS PHOTOGRAPH WAS
9 INSUFFICIENT FOR IDENTIFICATION.

10 Q AND WHAT EXHIBIT NUMBER IS THAT AGAIN?

11 A THAT IS DEFENSE EXHIBIT NUMBER TWO.

12 MR. MCMAHON: ONE MOMENT PLEASE, YOUR
13 HONOR.

14 I HAVE NO FURTHER QUESTIONS OF AGENT
15 FLEMING.

16 THE COURT: CROSS EXAMINATION, MR.
17 HARPOOTLIAN.

18 CROSS EXAMINATION:

19 BY MR. HARPOOTLIAN:

20 Q AGENT FLEMING, BEFORE I GET TO THE
21 FINGERPRINT DISCUSSION HERE, LET ME DEAL WITH
22 ANOTHER MATTER THAT I'VE GOT HERE. WELL, AS USUAL,
23 I'VE LEFT IT BACK HERE. HERE IT IS. JUST BEFORE I
24 FORGET ABOUT IT, ON JULY 12TH, 1995 YOU TOOK SOME
25 EVIDENCE TO DOCTOR JOEL SEXTON FOR EXAMINATION, DID

1 YOU NOT?

2 A LET ME SEE THE DOCUMENT. I DON'T
3 REMEMBER THE DATE.

4 YES, SIR. I WENT TO THE NEWBERRY
5 HOSPITAL, I ARRIVED AT 5:58 P.M. I'M NOT SURE IF
6 IT'S ON THE 12TH OR NOT. I DON'T HAVE THE OTHER
7 PAGE OF MY NOTES.

8 Q OKAY, BUT THOSE ARE YOUR NOTES?

9 A YES, SIR.

10 Q AND THEY REFRESH YOUR MEMORY?

11 A YES, SIR.

12 Q AND YOU SHOWED HIM THIS GUN?

13 A YES, SIR. I SHOWED HIM A .22 PISTOL
14 WHICH IS WHAT I HAVE HERE.

15 Q AND WHAT DID DOCTOR SEXTON, YOU ASKED
16 HIM, ACCORDING TO YOUR NOTES, TO EXAMINE THE PIECE
17 OF, YOU HAD A PIECE OF METAL, AND A SMITH AND
18 WESSON, .22 CALIBER SEMI-AUTOMATIC PISTOL, AND WHAT
19 DID HE TELL YOU ABOUT THAT PISTOL AND THE PIECE--I
20 DON'T HAVE THE PIECE OF METAL, BUT WHAT DID HE TELL
21 YOU ABOUT THE PISTOL AND THE PIECE OF METAL?

22 A AT THAT TIME, HE STATED THAT THESE TWO
23 WERE NOT THE CAUSE OF MS. BECKHAM'S INJURIES.

24 Q OKAY. NOT THE CAUSE OF HER INJURIES.
25 THANK YOU, AND NOW I CAN GET ON. I WANTED TO ASK

1 YOU ABOUT THAT.

2 LET ME TALK ABOUT SOME FINGERPRINTS
3 HERE. NOW, WHEN DID YOU START EXAMINING THE
4 FINGERPRINTS FROM THE HOMICIDE OF VICTORIA BECKHAM
5 WHICH OCCURRED ON JUNE 12TH, 1994?

6 A I'VE BEEN INVOLVED WITH THE CASE SINCE
7 JUNE 12TH. I WAS PART OF THE THREE AGENTS THAT
8 RESPONDED TO THE CRIME SCENE. I'VE BEEN INVOLVED
9 IN THE CASE SINCE ITS BEGINNING.

10 Q YOU MISUNDERSTAND MY QUESTION. WHEN DID
11 YOU START EXAMINING FINGERPRINTS FOR COMPARISON
12 PURPOSES IN THIS HOMICIDE INVESTIGATION?

13 A I STARTED EXAMINING, REVIEWING PRINTS
14 PROBABLY ABOUT A YEAR AGO.

15 Q SO YOU WERE PART OF THE ORIGINAL TEAM
16 THAT MADE THE COMPARISONS?

17 A I EXAMINED PARTS OF THE CASE. THIS IS
18 AN ENORMOUS CASE. SUBMITTALS WERE COMING IN DAILY
19 OR WEEKLY AND I WAS INVOLVED IN SOME PORTIONS OF
20 EXAMINATIONS.

21 Q WELL, MY UNDERSTANDING, AND CORRECT ME
22 IF I'M WRONG, WAS THAT AGENT BLACK WAS THE ONE WHO
23 PREPARED THE REPORTS AND DID THE COMPARISONS FOR
24 ALL THE FINGERPRINTS THAT WERE GATHERED, EXAMINED
25 AND COMPARED, IS THAT NOT CORRECT?

1 A THAT IS CORRECT, BUT AS A PROCEDURE IN
2 OUR SECTION, SOMEONE WOULD HAVE REVIEWED HIS
3 RESULTS.

4 Q AND THAT WOULD HAVE BEEN AGENT CHRISTY,
5 I BELIEVE.

6 A AGENT CHRISTIE REVIEWED SOME OF HIS
7 RESULTS AND I REVIEWED SOME RESULTS.

8 MR. HARPOOTLIAN: BEG THE COURT'S
9 INDULGENCE.

10 Q WOULD YOU HAVE NOTES OF WHAT YOU
11 REVIEWED AND WHEN YOU REVIEWED IT?

12 A YES, AS PART OF THE CASE FILE.

13 Q DO YOU HAVE THOSE WITH YOU?

14 A THEY'RE WITH SPECIAL AGENT BLACK.

15 Q SO YOUR TESTIMONY IS THAT YOU WERE PART
16 OF THIS PROCESS OF REVIEWING HIS RESULTS THROUGHOUT
17 THE YEAR?

18 A I DIDN'T REVIEW ALL OF HIS RESULTS.
19 AGENT CHRISTY REVIEWED SOME RESULTS AND THEN WHEN
20 AGENT CHRISTY TRANSFERRED OUT OF OUR SECTION, I
21 BEGAN REVIEWING THE RESULTS.

22 Q WELL, LET ME SHOW YOU STATE'S EXHIBIT
23 NUMBER 84 WHICH IS A CHART THAT THEY'VE INTRODUCED
24 SHOWING A NUMBER OF IDENTIFIED, INSUFFICIENT, AND
25 UNIDENTIFIED PRINTS. AND THIS WAS INTRODUCED ON

1 THE I BELIEVE THE 20TH OF SEPTEMBER WHICH WOULD
2 HAVE BEEN SIX DAYS AGO.

3 A YES, SIR.

4 Q IS THIS CHART RIGHT? THIS WAS PREPARED
5 BY AGENT BLACK AND INTRODUCED INTO EVIDENCE BY THE
6 STATE OF SOUTH CAROLINA. IS IT RIGHT?

7 A I WOULD HAVE TO GO BACK AND REVIEW THE
8 REPORTS. I ASSUME IT'S RIGHT IF IT'S ENTERED IN
9 COURT.

10 Q YOU WOULD ASSUME IT'S RIGHT IF IT'S
11 ENTERED IN COURT?

12 A BUT I DID NOT--THINGS THAT WERE
13 IDENTIFIED AS INSUFFICIENT WAS DONE PRIOR TO ME
14 EXAMINING SOME OF THE CASE. LIKE I SAID, I BEGAN
15 EXAMINING APPROXIMATELY A YEAR AGO.

16 Q WELL, LET ME JUST SORT OF CUT TO THE
17 CHASE HERE. YOU REALLY STARTED EXAMINING, YOU WENT
18 BACK AND REVIEWED EVERYTHING AGENT BLACK DID AFTER
19 HE TESTIFIED, IS THAT RIGHT?

20 A YES, SIR, AT THE REQUEST OF THE STATE.

21 Q SOLICITOR'S OFFICE SAID, "HOW ABOUT LOOK
22 AT THIS. THERE MAY BE A MISTAKE," ISN'T THAT
23 CORRECT?

24 A YES, SIR. THE REQUEST WAS TO MY
25 SUPERVISOR, LIEUTENANT JIM SPRINGS. AND THEN

1 ANYTHING LIEUTENANT JIM SPRINTS LOOKED AT, I
2 REVIEWED.

3 Q OKAY, SO YOU DID NONE OF THIS INITIAL
4 EXAMINATION YOURSELF?

5 A AS FAR AS THE INITIAL EXAM...LATENT
6 EXAMINATION...

7 Q I'M TALKING ABOUT THIS WEEK.

8 A I WAS THE ONE REVIEWING LIEUTENANT
9 SPRING'S WORK. HE REVIEWED IT FIRST AND THEN I
10 REVIEWED IT BEHIND HIM.

11 Q SO HE DEALT WITH EVERYTHING BEFORE YOU
12 DEALT WITH IT?

13 A WELL, WE WERE DOING IT TOGETHER, BUT HE
14 WAS THE FIRST ONE LOOKING AT IT, THOSE THINGS.

15 Q WELL, CORRECT ME IF I'M WRONG, BUT
16 AREN'T A NUMBER OF THE PRINTS ACCORDING TO AGENT'S
17 BLACK'S REPORT THAT WERE UNIDENTIFIABLE? THAT WAS,
18 HE SAID WASN'T SUFFICIENT RIDGE DETAIL JUST LIKE
19 THE ONES THE SOLICITOR ASKED YOU ABOUT A MOMENT
20 AGO, FROM VICKIE BECKHAM'S THIGH THAT WAS AMIDO
21 BLACK RAISED. HAVEN'T Y'ALL GONE BACK AND LOOKED
22 AT AGENT BLACK'S REPORT AND RESULTS AND DETERMINED
23 HE WAS WRONG ABOUT THAT ON FOUR OCCASIONS? YOU CAN
24 ANSWER YES OR NO, AND THEN EXPLAIN YOUR ANSWER.
25 WAS HE WRONG?

- 1 A YES, SIR. LIEUTENANT SPRINGS...
- 2 Q I'M SORRY?
- 3 A YES, SIR.
- 4 Q OKAY. GO AHEAD.
- 5 A LIEUTENANT SPRINGS DID FIND AND IDENTIFY
- 6 SOME PRINTS AND I REVIEWED THEM BEHIND HIM, BUT
- 7 SOME OF THEM WERE VERY HARD PRINTS. LIEUTENANT
- 8 SPRINGS HAD TO SHOW SOME OF THEM TO ME, AND THEY
- 9 WERE REVIEWED, AND I CONCUR WITH HIS FINDINGS.
- 10 Q SOME WERE VERY HARD PRINTS?
- 11 A YES, SIR.
- 12 Q AND AS A MATTER OF FACT, Y'ALL, IN THE
- 13 PROCESS OF REVIEWING AGENT BLACK'S WORK DISCOVERED
- 14 ANOTHER UNIDENTIFIED PRINT, IDENTIFIABLE, ENOUGH
- 15 RIDGE DETAIL, BUT COULD NOT BE IDENTIFIED, IS THAT
- 16 CORRECT?
- 17 A YES, SIR. I BELIEVE IT'S 67 WHICH WAS
- 18 PALM IMPRESSION FOUND BY LIEUTENANT SPRINGS. HE
- 19 DEEMED SUITABLE FOR IDENTIFICATION, I LOOKED AT IT
- 20 AND CONCURRED, AND WE COMPARED IT WITH VARIOUS
- 21 PEOPLE.
- 22 Q AND CORRECT ME IF I'M WRONG, BUT SINCE
- 23 MONDAY, OR WHENEVER YOU BEGAN THIS PROCESS--I
- 24 BELIEVE AGENT BLACK TESTIFIED ON THE 20TH WHICH
- 25 WOULD HAVE BEEN SATURDAY, SUNDAY, SATURDAY?

1 SUNDAY?

2 A I THINK THE 20TH WOULD HAVE BEEN FRIDAY.

3 Q FRIDAY? SOMEBODY HELP ME, FRIDAY?

4 OKAY, ON SUNDAY YOU BEGAN THIS PROCESS OR ON
5 SATURDAY?

6 A SUNDAY, I BEGAN THE PROCESS.

7 Q WHO, DID SOMEBODY IN YOUR DIVISION, YOUR
8 UNIT START IT BEFORE SUNDAY?

9 A IT'S MY UNDERSTANDING LIEUTENANT SPRINGS
10 STARTED ON SATURDAY.

11 Q OKAY, HE TESTIFIES ON FRIDAY AND Y'ALL
12 BEGIN LOOKING AFTER HE'S COME BEFORE THIS JURY AND
13 SWORN UNDER OATH WHAT HIS RESULTS WOULD BE, THEN
14 AGENT SPRINGS ON SATURDAY, AND YOU COME IN ON
15 SUNDAY. AND SINCE THEN Y'ALL HAVE BEEN WORKING
16 EVERY DAY ON THIS, HAVEN'T YOU?

17 A YES, SIR. IT'S MY UNDERSTANDING THAT
18 THEY WERE REQUESTED ON SATURDAY BY STATE TO LOOK AT
19 SOME STUFF.

20 Q AND SINCE THEN YOU FOUND THAT AT LEAST
21 ONE OF THE PRINTS THAT HE SAID COULDN'T BE
22 IDENTIFIED, YOU SAY CAN BE IDENTIFIED? AT LEAST
23 ONE?

24 A YES, SIR.

25 Q CORRECT ME IF I'M WRONG, AGENT BLACK

1 TESTIFIED THERE WERE THIRTY-ONE TOTAL PRINTS FOUND
2 IN THIS CAR. Y'ALL FOUND ANOTHER ONE ON ONE OF THE
3 CARDS?

4 A I'M NOT SURE ABOUT THE NUMBERS BUT...

5 Q YOU FOUND AN ADDITIONAL PRINT THAT HE
6 HADN'T EVEN SEEN, ISN'T THAT CORRECT?

7 A IT'S MY UNDERSTANDING THAT ONE PRINT
8 THAT WAS DEEMED INSUFFICIENT BY AGENT BLACK WAS
9 DETERMINED TO BE IDENTIFIABLE.

10 Q WELL, IT WAS MORE THAN THAT. IT WAS
11 ACTUALLY THREE OF THEM THAT WERE DEEMED
12 INSUFFICIENT THAT WERE...

13 A CORRECT. I'LL CORRECT MYSELF. THERE
14 WAS FOUR THAT WERE INSUFFICIENT THAT WERE DEEMED
15 IDENTIFIABLE. THREE WERE IDENTIFIED AND ONE WAS...

16 Q ONE STILL WE DON'T KNOW WHO IT IS?

17 A THAT'S CORRECT.

18 Q AND THEN ON ONE OF THOSE IDENTIFIABLE, I
19 THINK ONE HE SAID MR. SNELLING, HE IDENTIFIED A
20 PALM PRINT, BUT ON THAT LIFT Y'ALL IDENTIFIED THAT
21 HE HAD A THUMB PRINT TOO.

22 A THERE WAS ANOTHER FRAGMENT, AS I STATED,
23 LATENTS ARE OFTEN FRAGMENTS. THERE WAS A FRAGMENT
24 THAT WE IDENTIFIED.

25 Q SO INSTEAD OF THIRTY-ONE, THERE WERE

- 1 ACTUALLY THIRTY-TWO IDENTIFIABLE PRINTS?
- 2 A I'M NOT AWARE OF THE COUNT BUT THERE WAS
- 3 ONE ADDITIONAL ONE.
- 4 Q ASSUME AGENT BLACK TOLD US THERE WERE
- 5 THIRTY-ONE, YOU WOULD NOW AGREE THERE ARE THIRTY-
- 6 TWO?
- 7 A YES, SIR.
- 8 Q NOW, YOU HAVE OBTAINED CERTAIN PRINTS
- 9 FROM A MR. BEATTY AND HIS SON, IS THAT CORRECT?
- 10 A THAT IS CORRECT.
- 11 Q AND DID YOU GO TO MYRTLE BEACH TO DO
- 12 THAT?
- 13 A NO, SIR. I PRINTED THEM AT THE
- 14 COURTHOUSE HERE IN NEWBERRY.
- 15 Q THIS COURTHOUSE?
- 16 A YES, SIR.
- 17 Q WHEN?
- 18 A SUNDAY.
- 19 Q WHERE?
- 20 A AT 9:22, IN ONE OF THE JURY ROOMS/
- 21 Q MICHAEL BEATTY AND HIS FATHER WERE HERE
- 22 IN THIS COURTHOUSE ON WHEN, SUNDAY?
- 23 A YES, SIR. I PRINTED THEM IN ONE OF THE
- 24 OFFICES HERE IN THE COURTHOUSE ON SUNDAY.
- 25 Q NO PROBLEM FINDING THEM?

- 1 A NO, SIR.
- 2 Q NO PROBLEM HAVING THEM COME TO NEWBERRY?
- 3 A THEY WERE AT NEWBERRY WHEN I GOT HERE SO
- 4 I ASSUME...
- 5 Q SO THEY'VE BEEN HERE?
- 6 A I CAN'T TELL YOU WHERE THEY'VE BEEN, BUT
- 7 THEY WERE HERE WHEN I WAS HERE.
- 8 Q NOW, AS I UNDERSTAND IT, THERE ARE TWO
- 9 FINGERPRINTS THAT WERE FOUND IN AMIDO BLACK, THAT
- 10 Y'ALL FOUND BY USING AMIDO BLACK. DID YOU APPLY
- 11 THAT AMIDO BLACK?
- 12 A I WAS WITH AGENT CHRISTY, AGENT BLACK
- 13 WHEN WE PROCESSED THE VEHICLE BUT I DON'T REMEMBER
- 14 WHO SPRAYING THE AMIDO BLACK, BUT I WAS PRESENT
- 15 WHEN THEY WERE DEVELOPING THE PHOTOGRAPHS.
- 16 Q WHY DO YOU SPRAY AMIDO BLACK?
- 17 A AMIDO BLACK IS A DYE STAIN THAT REACTS
- 18 WITH PROTEIN THAT WE USE TO DEVELOP PRINTS AROUND
- 19 BLOODY CRIME SCENES.
- 20 Q OKAY, IT'S USED TO RAISE PRINTS IN
- 21 BLOOD, IS THAT CORRECT?
- 22 A IT WILL RAISE A PRINT IN ANYTHING THAT'S
- 23 PROTEIN.
- 24 Q AND TYPICALLY USE IT FOR BLOOD. I MEAN,
- 25 PROTEIN WOULD BE EGG WHITES, THOSE KINDS OF THINGS?

1 A THAT'S CORRECT. YOU COULD HAVE AN EGG
2 BROKEN AT A BURGLARY AND GET A PRINT IF SOMEONE
3 TOUCHED THE EGG. BUT PRIMARILY, WE USE THEM AT
4 CRIME SCENES...

5 Q DIDN'T SEE ANY BROKEN EGGS AROUND THIS
6 CRIME SCENE?

7 A NO, SIR.

8 Q SAW BLOOD?

9 A YES, SIR.

10 Q SO YOU'RE WILLING TO TELL THIS JURY YOU
11 USE IT TO PROCESS FINGERPRINTS AROUND OR IN BLOOD,
12 IS THAT CORRECT?

13 A THAT IS CORRECT.

14 Q NOW, ISN'T IT TRUE THAT ON THE DRIVER'S
15 SIDE DOOR ABOVE THE WINDOW ON THE CHROME, NUMBER
16 41.8 IN THE FINGERPRINT, WHICH I BELIEVE WOULD BE
17 RIGHT ABOUT HERE WHERE THIS BLOOD DOT IS WHICH
18 MEANS UNIDENTIFIED, RIGHT ABOUT HERE...

19 A YES, SIR.

20 Q ...YOU HAD AN AMIDO BLACK PRINT, A PRINT
21 RAISED USING AMIDO BLACK, IS THAT CORRECT?

22 A YES, SIR. WHEN WE EXAMINED THE AREA,
23 NOTHING WAS VISIBLE PRIOR TO APPLYING AMIDO BLACK.
24 AND WHEN WE APPLIED AMIDO BLACK, RIDGE DETAIL WAS
25 DEVELOPED, IT WAS DOCUMENTED AND SUBSEQUENTLY

1 COMPARED.

2 Q AND IN THE LAST SEVENTY-TWO HOURS, IS IT
3 TRUE OR NOT TRUE THAT YOU'VE IDENTIFIED THAT PRINT
4 AS GEORGE RICHARD ANDERSON? IS THAT TRUE?

5 A YES, SIR.

6 Q IN BLOOD OVER THE DRIVER'S DOOR?

7 A I CANNOT TELL YOU THAT PRINT IS IN BLOOD
8 BECAUSE NO SEROLOGY STANDARD WAS TAKEN PRIOR TO US
9 TREATING IT WITH AMIDO BLACK BECAUSE NOTHING THAT
10 APPEARED TO BE BLOOD WAS VISIBLE PRIOR TO US
11 APPLYING AMIDO BLACK. SO I CANNOT TELL YOU IT'S IN
12 BLOOD.

13 Q NOW, YOU INDICATE YOU WERE PART OF THE
14 REVIEWING PROCESS DURING THIS YEAR OR SO, TWO YEARS
15 SINCE THE CRIME SCENE LATENTS WERE LIFTED AND
16 COMPARISONS WERE DONE, IS THAT CORRECT?

17 A THAT IS CORRECT.

18 Q WERE YOU PART OF ANY OF THESE MISTAKES
19 THAT HAVE BEEN MADE?

20 A WHEN I BEGAN REVIEWING, I RECEIVED THE
21 PALM PRINTS AND SIMPLY COMPARED THE PALM PRINTS TO
22 ALL THAT ARE UNIDENTIFIED AND RENDERED A NEGATIVE
23 OPINION. I WAS NOT TAKING THE CASE WHEN THE
24 FINGERPRINT CARD ON MICHAEL BEATTY CAME IN. I WAS
25 INVOLVED IN THE CHECK WHEN THIS PRINT THAT'S VERY

1 HARD IN THE AMIDO WAS COMPARED TO MR. ANDERSON AND
2 I DID NOT SEE IT. I WOULD COMPARE THAT TO LOSING
3 YOUR CAR KEYS IN YOUR BACKYARD. IT DOESN'T MEAN
4 YOUR CAR KEYS AREN'T BACK THERE. IT SIMPLY MEANS
5 THAT YOU DIDN'T SEE IT. THE FACT THAT I
6 MISIDENTIFYING MR. ANDERSON WHEN I FIRST LOOKED AT
7 THE PRINT, DOESN'T MEAN IT WASN'T HIS PRINT. IT
8 SIMPLY MEANS I DID NOT SEE IT.

9 Q YOU MISSED SEEING IT.

10 A I MISSED SEEING IT THE FIRST TIME.

11 Q AND THAT'S DIFFERENT THAN, WELL LET ME
12 ASK YOU THIS. IN YOUR OPINION, DID AGENT BLACK
13 MAKE MISTAKES OR JUST MISSED SEEING THINGS?

14 A I THINK...

15 Q YOU'RE AN EXPERT.

16 A I THINK AGENT BLACK, AS FAR AS THE
17 BEATTY ISSUE MADE A CLERICAL ERROR. EARLY ON IN
18 THE CASE, HE RECEIVED A FINGERPRINT CARD THAT HAD
19 THE NAME MICHAEL JEFFERY BEATTY. A YEAR LATER THE
20 INVESTIGATION AFTER HE REQUESTED PALM PRINTS, HE
21 RECEIVES PALM PRINTS THAT HAD THE NAME MICHAEL
22 JEFFERY BEATTY. HE COMPARED THOSE TO THE LATENT,
23 THEY WERE NEGATIVE. HIS MISTAKES WAS THAT HE
24 ASSUMED THEY WERE BY THE SAME INDIVIDUAL WITHOUT
25 COMPARING INK PRINTS TO INK PRINTS.

1 Q IF HE HAD TESTIFIED HE HAD COMPARED INK
2 PRINTS TO INK PRINTS, WOULD THAT HAVE BEEN A
3 MISTAKE OR WOULD THAT BE LIKE LOSING YOUR KEYS IN
4 THE BACKYARD AND NOT BEING ABLE TO FIND THEM?

5 A I'M NOT SURE WHAT...

6 Q IF HE TESTIFIED THAT HE COMPARED INK
7 PRINTS TO INK PRINTS, THE TWO DEFENSE EXHIBITS. IF
8 HIS TESTIMONY WAS THAT HE COMPARED DEFENDANT'S
9 EXHIBIT NUMBER FOUR WITH DEFENDANT'S EXHIBIT NUMBER
10 FIVE, IS THIS LIKE LOSING YOUR KEYS IN THE BACK
11 YARD OR IS IT A MISTAKE?

12 A WELL, IT'S A MISTAKE, IF HE COMPARED THE
13 MINUTIAE OF THOSE PRINTS. IT'S NOT AS BIG A
14 MISTAKE IF HE SIMPLY REFERRED TO THE NAMES. I'M
15 NOT--I THINK AGENT BLACK WOULD BE BETTER SUITED TO
16 ANSWER THAT QUESTION.

17 Q HE CERTAINLY WOULD.

18 THE COURT: AND STRIKE THAT FROM THE
19 RECORD, MR. HARPOOTLIAN.

20 MR. HARPOOTLIAN: I APOLOGIZE, YOUR
21 HONOR.

22 THE COURT: YES, SIR.

23 Q I GUESS WHAT I'M ASKING YOU, WE GET BACK
24 TO THE ORIGINAL QUESTION, YOU INDICATE THAT YOU
25 MISSED SOMETHING; THAT IS THAT YOU LOOKED AT THE

1 . AMIDO BLACK PRINT AND COMPARED IT TO RICHARD
2 ANDERSON'S PRINT CARD AND DID NOT MAKE A MATCH A
3 YEAR AGO?

4 A WE RECEIVED TWO SUBMISSIONS ON MR.
5 ANDERSON. THE FIRST CARD ON MR. ANDERSON, THE AREA
6 WAS NOT REPRESENTED. THERE'S A DELTA AREA OF THE
7 PRINT, IT WAS NOT REPRESENTED ON THE FINGERPRINT
8 CARDS. THE SUBMISSION LATER ON WAS A COMPLETE SET
9 OF PRINTS. AS I STATED I MISSED IT, BUT WE HAVE
10 SINCE FOUND IT AND IDENTIFIED IT.

11 Q SO YOU MISSED IT?

12 A YES, SIR.

13 Q GONE BACK AFTER WE DISCOVERED AGENT
14 BLACK HAD MADE SOME MISTAKES AND NOW YOU'VE FOUND
15 IT?

16 A YES, SIR.

17 Q THERE ARE OTHER MISTAKES THAT WERE MADE
18 BY AGENT BLACK, YOU CONFIRMED THAT. PRINTS YOU
19 SAID YOU COULDN'T IDENTIFY, YOU CAN, CORRECT?

20 A YES, SIR. THOSE WERE ORIGINALLY FOUND
21 BY MY LIEUTENANT WHO IS CERTAINLY MORE EXPERIENCED
22 AT LOOKING AT HARD LATENTS. LATENTS THAT MAY BE
23 INSUFFICIENT TO ONE EXAMINER WITH LESS EXPERIENCE,
24 BUT IDENTIFIABLE TO A MORE EXPERIENCED EXAMINER.
25 THEY WERE FOUND BY THE MORE EXPERIENCED EXAMINER.

- 1 Q THEN AGENT BLACK IS NOT THE MOST
2 EXPERIENCED EXAMINER YOU HAVE?
- 3 A NO, SIR, HE'S NOT.
- 4 Q WHO GATHERED AND WHO WAS IN CHARGE OF
5 GATHERING THE EVIDENCE FROM THIS CRIME SCENE?
- 6 A AGENT BLACK. HE WAS THE MOST
7 EXPERIENCED EXAMINER WORKING THE CASE.
- 8 Q HE WAS THE MOST EXPERIENCED EXAMINER
9 WORKING THE CASE, BUT BY NO MEANS THE MOST
10 EXPERIENCED EXAMINER YOU HAD ON YOUR STAFF?
- 11 A THAT'S CORRECT.
- 12 Q NOW, FOR INSTANCE, IF YOU WALKED UP TO
13 THIS FIRE, STATE'S EXHIBIT NUMBER EIGHTEEN, IN THE
14 BACKYARD OF THE DEFENDANT, THE MORNING AFTER THE
15 HOMICIDE, WERE YOU WITH HIM WHEN HE WENT THERE?
- 16 A NO, SIR, I WAS NOT.
- 17 Q AND IT WAS STILL BURNING?
- 18 A I WAS NOT THERE.
- 19 Q BUT IF IT WAS STILL BURNING AND YOU SAW
20 IT BURNING, WOULD YOU LOOK AT IT TO DETERMINE IF
21 THERE WAS ANYTHING IN IT? YOU'VE EXAMINED FIRES
22 BEFORE AS PART OF YOUR CRIME SCENE INVESTIGATION,
23 HAVEN'T YOU?
- 24 A YES, SIR. BUT NORMALLY, WE HAVE OUR
25 ARSON UNIT, WELL WITH BIG FIRES BUT...

1 Q WELL, LET ME ASK YOU THIS. YOU WORK IN
2 THE LAB. REFERRING TO STATE'S EXHIBIT EIGHTEEN,
3 CERTAINLY YOU HAVE WITHIN YOUR LABORATORY PEOPLE
4 WHO COULD GO THROUGH THIS FIRE AND DETERMINE WHAT
5 HAD BEEN BURNED, COULD DO A CHEMICAL ANALYSIS OF
6 WHETHER IT WAS WOOD OR WHETHER IT WAS CLOTHE OR
7 WHETHER IT WAS PAPER, OR WERE THERE ANY CHEMICALS
8 IN THERE OR WHETHER ANY ACCELERANTS WERE USED, ALL
9 OF THOSE THINGS, ISN'T THAT CORRECT?

10 A WE HAVE PEOPLE ASSIGNED TO ARSON...

11 Q COULD YOU ANSWER YES OR NO, AND THEN
12 EXPLAIN YOUR ANSWER, PLEASE? YES, YOU DO OR NO,
13 YOU DON'T?

14 A YES, WE HAVE SOMEONE ON STAFF. I DON'T
15 KNOW WITH THIS PARTICULAR FIRE WHETHER THEY WOULD
16 HAVE BEEN ABLE TO DETERMINE ANYTHING.

17 Q BUT SOMEONE COULD HAVE CHECKED, COULDN'T
18 THEY? YOU WOULD TAKE A SAMPLE, WOULDN'T YOU, OR
19 ASK THEM TO COME OUT AND LOOK AT IT IF YOU WERE
20 CONDUCTING THIS CRIME SCENE INVESTIGATION?

21 A I DON'T KNOW IF I WOULD HAVE TAKEN A
22 SAMPLE OR NOT.

23 Q BECAUSE IT DIDN'T APPEAR TO MATTER TO
24 YOU?

25 A WELL, IT WOULD HAVE DEPENDED ON THE

1 INFORMATION I KNEW ABOUT THE CASE WHETHER I WOULD
2 HAVE COLLECTED A SAMPLE OR NOT.

3 Q WELL, YOU WERE ON THE SCENE THAT NIGHT,
4 WEREN'T YOU?

5 A I WAS ON THE SCENE AT LITTLE MOUNTAIN
6 ROAD.

7 Q LITTLE MOUNTAIN ROAD. DID YOU GO DOWN
8 TO SLED OR GO DOWN TO THE NEWBERRY COUNTY SHERIFF'S
9 DEPARTMENT?

10 A I ESCORTED THE VICTIM'S VEHICLE BACK TO
11 THE SLED LABORATORY.

12 Q WERE YOU PRESENT WHEN AGENT BLACK TOOK
13 PICTURES OF THE DEFENDANT?

14 A NO, SIR, I WAS NOT.

15 Q ARE YOU AWARE OR DID YOU EVER BECOME
16 AWARE OF THE FACT THAT THERE WAS ALLEGED THAT THE
17 DEFENDANT WAS IN A FIGHT WITH THE VICTIM BEFORE HER
18 DEATH AND PERHAPS GOT BLOOD ALL OVER HIM? WERE YOU
19 AWARE OF THAT? JUST YES OR NO.

20 MR. MCMAHON: YOUR HONOR, I OBJECT TO
21 THE FORM OF THE QUESTIONS. I MEAN, HE'S JUST
22 TESTIFYING NOW AS TO WHETHER HE'S AWARE OF THIS OR
23 AWARE OF THAT. HE SAID HE FOLLOWED THE CAR TO
24 SLED.

25 THE COURT: THAT'S CROSS EXAMINATION,

1 MR. MCMAHON.

2 MR. MCMAHON: YES, SIR.

3 Q WERE YOU AWARE OF THAT?

4 A I'M NOT AWARE OF ALL ASPECTS OF THE
5 INVESTIGATION.

6 Q JUST A YES OR NO, AGENT. WE COULD SAVE
7 A LOT OF TIME IF YOU SAY YES OR NO. WERE YOU AWARE
8 OF THAT?

9 MR. MCMAHON: YOUR HONOR, I OBJECT TO
10 THAT. HE SAYS, "I'M NOT AWARE OF IT." THAT IS AN
11 ANSWER.

12 MR. HARPOOTLIAN: NO, WHAT HE SAYS IS,
13 "I'M NOT...

14 MR. MCMAHON: I OBJECT.

15 THE COURT: EXCUSE ME JUST A MINUTE, AND
16 I SUSTAIN THE OBJECTION.

17 Q ASSUME HYPOTHETICAL, SINCE YOU'RE AN
18 EXPERT, THAT THE ALLEGATION WAS THAT THE DEFENDANT
19 IN THE CASE HAD BEEN IN A FIGHT WITH HIS WIFE IN A
20 CAR AND HAD BEATEN HER TO DEATH, OR PARTICIPATED IN
21 THE PROCESS OF BEATING HER TO DEATH. ASSUME
22 FURTHER THAT WHEN YOU WENT TO THE SCENE YOU FOUND A
23 WOMAN IN VERY MUCH THE CONDITION YOU SAW VICKIE
24 BECKHAM IN ON THE NIGHT OF JUNE 12TH AND EARLY
25 MORNING HOURS OF JUNE 13TH. I WOULD ASSUME THERE

1 . WAS A LOT OF BLOOD?

2 A YES, SIR.

3 Q AS A MATTER OF FACT, THERE WAS SO MUCH
4 BLOOD, IT WAS DRAINING OUT OF THE CAR ONTO THE
5 HIGHWAY?

6 A YES, SIR.

7 Q BLOOD ALL OVER HER, BLOOD ALL OVER THE
8 INSIDE OF THE CAR.

9 A YES, SIR.

10 Q ASSUME FURTHER THAT YOU DETERMINED ONE
11 OF THE LAST PEOPLE TO SEE HER WAS HER HUSBAND,
12 OKAY?

13 A ALL RIGHT.

14 Q AND THAT YOU HAVE THE ABILITY TO GO TO
15 HIS HOUSE, BY HIS CONSENT, WITHIN A TWELVE HOUR
16 PERIOD AFTER THAT HOMICIDE, AND SEIZE CLOTHES, TO
17 GO THROUGH HIS HOUSE, TO GO THROUGH HIS CAR, TO
18 LOOK AT HIS PERSONAL ITEMS. AND YOU ACTUALLY HAVE
19 HIM AT THE LAW ENFORCEMENT CENTER WEARING THE
20 CLOTHES ALLEGEDLY HE HAD ON THE NIGHT BEFORE WHEN
21 HE WOULD HAVE BEEN IN THIS FIGHT WITH THE VICTIM.
22 NOW, IF YOU SEE A FIRE BURNING OUT BACK...

23 MR. MCMAHON: I OBJECT TO THE FORM OF
24 THE QUESTION. HE HAS NOT INCLUDED ALL THE FACTS IN
25 THE HYPOTHETICAL...

1 MR. HARPOOTLIAN: WELL, I DON'T HAVE...

2 THE COURT: HE DOES NOT HAVE TO...HE

3 ONLY HAS TO LIST FACTS THAT ARE IN EVIDENCE.

4 MR. MCMAHON: YES, SIR, AND HE HAS NOT
5 DONE THAT.

6 THE COURT: WELL, YOU'LL HAVE TO TALK TO
7 ME OVER HERE ABOUT THAT.

8 (BENCH CONFERENCE IN THE PRESENCE OF THE
9 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
10 RECORD.)

11 THE COURT: OBJECTION OVERRULED.

12 MR. HARPOOTLIAN: AND I'LL SUMMARIZE IT
13 VERY QUICKLY SO WE CAN GET TO THE ANSWER.

14 Q ONE OF THE LAST PEOPLE TO BE SEEN WITH
15 THE DECEASED IS THE DEFENDANT, THE DEFENDANT, AT
16 ABOUT 6:30 THE PREVIOUS EVENING. YOU HAVE THE
17 DEFENDANT IN CUSTODY AT THE LAW ENFORCEMENT CENTER
18 FROM ABOUT 2:30 IN THE MORNING ON. YOU HAVE HIS
19 CONSENT TO SEARCH HIS HOUSE, TO SEARCH HIS CAR, TO
20 LOOK ANYWHERE YOU WANT. YOU HAVE HIS CONSENT TO
21 SEARCH HIS BODY, TO TAKE HIS PICTURE, TO EXAMINE
22 HIS CLOTHES. YOU GO TO HIS PROPERTY--NOW, REMEMBER
23 PART OF THIS HYPOTHETICAL IS THAT THE ALLEGATION IS
24 THAT HE'S PARTICIPATED IN THE BEATING DEATH OF HIS
25 WIFE WHO APPEARED, WHEN FOUND, THE SAME AS VICKIE

1 BECKHAM, COVERED IN BLOOD, CAR IN BLOOD, DRIPPING
2 IN BLOOD, BLOOD EVERYWHERE. YOU SEE A FIRE BURNING
3 IN THE BACK YARD, OR NOT BURNING, BUT SMOLDERING
4 SUCH AS THIS.

5 MY SIMPLE QUESTION IS THIS...

6 MR. MCMAHON: YOUR HONOR, I OBJECT TO
7 THE FORM OF THE QUESTIONS, THAT THEY HAD KNOWLEDGE
8 OF ALL OF THAT ON THE MORNING OF JUNE 13TH OF '94.
9 MAY I APPROACH THE SIDE BAR?

10 MR. HARPOOTLIAN: WELL, JUST TELL ME
11 WHAT FACTS ARE NOT IN AND I MAY EVEN CUT IT OUT.

12 (BENCH CONFERENCE IN THE PRESENCE OF THE
13 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
14 RECORD.)

15 THE COURT: OBJECTION OVERRULED.

16 MR. HARPOOTLIAN: THANK YOU, YOUR HONOR.

17 Q I'M NOT GOING TO REPEAT ALL THAT OTHER
18 STUFF AGAIN. YOU HAVE THE DEFENDANT'S CONSENT TO
19 GO TO HIS HOUSE THE NEXT MORNING ABOUT 7:30. YOU
20 SEE A FIRE LIKE THIS BURNING OUT IN THE BACKYARD,
21 AND IT'S IN THIS SHAPE. I MEAN YOU THINK ENOUGH OF
22 IT TO TAKE A PICTURE OF IT. TWO QUESTIONS: ONE,
23 DOES THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION
24 HAVE THE TECHNICAL ABILITY TO SIFT THROUGH, ASSESS
25 AND DETERMINE THROUGH TRACE EVIDENCE OR ANY OTHER

1 KIND OF WAY, CHEMICALLY, FORENSICALLY, ELECTRON
2 BOMBARDMENT, WHATEVER, DETERMINE WHAT WAS BURNED IN
3 THIS FIRE. DO YOU HAVE THE ABILITY TO DO THAT?
4 JUST YES OR NO?

5 A YES, THEY HAVE THE ABILITY TO DETERMINE
6 WHETHER EXCELLERANTS ARE PRESENT.

7 Q OKAY. NOW, THE SECOND QUESTION IS,
8 GIVEN THOSE FACTS THAT I'VE JUST ASKED YOU, AND THE
9 FACT THAT YOU'RE THERE LOOKING FOR ANY CLOTHES.
10 THAT'S EXACTLY WHAT YOU'RE ASKING HIM FOR IS HIS
11 CLOTHES, WOULD YOU HAVE WANTED SOMEONE WITH THAT
12 EXPERTISE TO EXAMINE THE REMNANTS OF THIS FIRE?
13 JUST YES OR NO AND THEN YOU CAN EXPLAIN YOUR
14 ANSWER.

15 A YES, IF I SAW SOMETHING IN THE ASHES
16 THAT MIGHT RESEMBLE CLOTHING OR FIBER; IF IT WAS
17 ALL BURNED UP AND THERE WAS SIMPLY NOTHING BUT ASH
18 SO I COULD DETERMINE WHAT IT WAS, I PROBABLY WOULD
19 NOT HAVE DONE ANYTHING WITH IT OTHER THAN SIMPLY
20 MAKE A PHOTOGRAPH BECAUSE I WOULDN'T BE ABLE TO
21 PROVE WHETHER CLOTHES WERE BURNED OR WHETHER TRASH
22 WAS BURNED.

23 Q YOU'RE TELLING ME THAT SLED DOESN'T HAVE
24 THE ABILITY TO LOOK AT THE MICROSCOPIC CONTENTS AND
25 TELL WHETHER THERE WAS FIBER IN THERE? IS THAT

1 WHAT YOU'RE TELLING ME?

2 A I'M SAYING IF THE EXAMINER ON THE SCENE,
3 HE WOULD HAVE TO MAKE A DECISION WHETHER THERE WERE
4 ASHES THERE HE FELT WERE PROBATIVE ENOUGH TO
5 COLLECT AND SUBMIT TO THE LAB. IF HE SAW NOTHING,
6 I WOULDN'T COLLECT ANYTHING.

7 Q IF HE DIDN'T SEE ANY REMENANTS OF
8 CLOTHES, HE DIDN'T SEE ANYTHING OF ANY EVIDENTIARY
9 VALUE, HE WOULDN'T COLLECT IT, IS THAT CORRECT?

10 A THAT'S CORRECT. I WOULDN'T.

11 Q OKAY. SO THE PERSON ON THE SCENE
12 LOOKING AT THIS FIRE THE NEXT MORNING DIDN'T SEE
13 CLOTHES IN IT, AND YOU WOULD AGREE THAT IF HE HAD
14 ANY SUSPICION WHATSOEVER, HE COULD TAKE THE SAMPLE,
15 TAKE IT TO THE LAB AND THEY COULD LOOK AT IT, DOWN
16 TO THE ATOMS TO DETERMINE WHAT IT WAS, ISN'T THAT
17 CORRECT?

18 A I THINK HE WOULD DO JUST AS I'VE
19 TESTIFIED, THAT IF HE DIDN'T SEE ANYTHING THAT HE
20 FELT LIKE WAS PROBATIVE, THEN HE WOULDN'T COLLECT
21 ANYTHING.

22 Q I'VE JUST GOT A COUPLE MORE QUESTIONS
23 FOR YOU, AGENT. I WANT TO UNDERSTAND THIS PROCESS
24 THAT OCCURRED THIS WEEK SINCE AGENT BLACK'S
25 TESTIMONY BEFORE THIS JURY. ON SATURDAY, IS IT

- 1 LIEUTENANT SPRINGS?
- 2 A YES, SIR. LIEUTENANT JAMES A. SPRINGS.
- 3 Q HE'S IN CHARGE OF THE FINGERPRINT
- 4 SECTION?
- 5 A YES, SIR, HE'S MY DEPARTMENT SUPERVISOR.
- 6 Q HE'S THE HEAD GUY?
- 7 A YES, SIR.
- 8 Q THE HEAD GUY AT SLED ON FINGERPRINTS
- 9 PERSONALLY TAKES OVER THIS CASE AND EXAMINES
- 10 PERSONALLY EVERY FINGERPRINT? IS THAT RIGHT?
- 11 A HE WAS REQUESTED TO RE-EXAMINE STUFF AT
- 12 THE REQUEST OF THE SOLICITOR'S OFFICE.
- 13 Q THE SOLICITOR ASKED THAT THE HEAD OF THE
- 14 SLED FINGERPRINT DIVISION EXAMINE THESE
- 15 FINGERPRINTS?
- 16 A YES, I THINK HE WOULD BE BETTER SUITED
- 17 TO ANSWER EXACTLY WHAT WAS REQUESTED OF HIM.
- 18 Q OKAY. AND SO THE HEAD OF THE DIVISION,
- 19 ALL DAY SATURDAY, EXAMINED THESE FINGERPRINTS?
- 20 A AGAIN, THAT IS HEARSAY; THAT IS WHAT I
- 21 WAS TOLD.
- 22 Q WELL, THE REPORTS THAT YOU HAVE WOULD
- 23 INDICATE THAT'S WHAT HE DID ALL DAY SATURDAY,
- 24 DOESN'T IT?
- 25 A I WOULD ASSUME THAT'S WHAT HE DID.

1 Q THEN YOU WERE BROUGHT IN ON SUNDAY?

2 A THAT IS CORRECT. I WAS CONTACTED LATE
3 SATURDAY NIGHT.

4 Q AND THEN YOU BROUGHT IN SOMEBODY ELSE?
5 ANYBODY ELSE WORK ON THIS OTHER THAN YOU AND
6 LIEUTENANT SPRINGS?

7 A MYSELF AND SPECIAL KAOLIN KREMLINGER
8 CAME HERE AND PRINTED FOUR INDIVIDUALS ON SUNDAY.

9 Q WHO DID YOU PRINT OTHER THAN THE
10 BEATTYS?

11 A EXCUSE ME, LET ME CHECK MY NOTES. I
12 PRINTED A WHITE FEMALE BY THE NAME OF CONNIE JO
13 DOLBY, AND I PRINTED ANOTHER WHITE FEMALE BY THE
14 NAME OF TAMMY L. MCKENNEY, AND I PRINTED MR.
15 BEATTY, SENIOR AND MR. BEATTY, JUNIOR ON SUNDAY.
16 THESE WERE COMPARED WITH THE UNIDENTIFIED LATENTS
17 ON THE CAR, AND THE RESULTS WERE NEGATIVE WITH ALL
18 OF THOSE INDIVIDUALS.

19 Q OKAY, AND WHEN YOU SAY THEY WERE
20 COMPARED WITH THE UNIDENTIFIED LATENTS ON THE CAR,
21 THOSE WOULD BE THE UNIDENTIFIED LATENTS THAT WERE
22 LIFTED BY AGENT BLACK; IS THAT CORRECT?

23 A THAT IS CORRECT.

24 Q AND SO WHEN YOU TELL THIS JURY THAT THEY
25 WERE COMPARED TO UNIDENTIFIED LATENTS, OR THEY WERE

1 COMPARED WITH ANYTHING OFF THE CAR, THAT IS AS A
2 RESULT OF THE FOUNDATION OF ALL THIS, ALL THE
3 PRINTS, ALL THE EVIDENCE TAKEN OUT OF CAR, WAS DONE
4 SO BY AGENT BLACK; ISN'T THAT CORRECT?

5 A IT WAS DONE BY AGENT BLACK, THE CASE
6 AGENT; I WAS ASSISTING HIM IN PROCESSING THE CAR.

7 Q AND YOU ASSISTED HIM LAST YEAR WHEN HE
8 WAS MIS-IDENTIFYING THE TWO BEATTY CARDS, TOO,
9 WEREN'T YOU? I MEAN, NOT ON THE CARDS, BUT YOU
10 WERE ASSISTING HIM?

11 A I DID NOT DO THE TECHNICAL REVIEW WHEN
12 THE BEATTY, SENIOR FINGERPRINT CARD CAME IN,
13 SOMEONE ELSE DID IT. I DID THE TECHNICAL REVIEW
14 WHEN THE BEATTY PALM PRINTS CAME IN AND I ONLY
15 COMPARED THOSE TO THE UNIDENTIFIED LATENTS. I
16 DIDN'T COMPARE BEATTY'S PALM PRINTS TO BEATTY'S
17 FINGERPRINTS.

18 Q JUST AS YOU DIDN'T COMPARE HIM WHEN HE
19 TOOK EVIDENCE OFF THIS VEHICLE AS HE WENT FROM
20 PLACE TO PLACE TO PLACE. YOU DIDN'T HELP HIM ON
21 EVERY...

22 A YES, SIR. I THINK IF YOU'LL LOOK AT THE
23 LATENT LIST, I WAS PRESENT AND ASSISTING DAVID
24 BLACK WHEN THOSE WERE LIFTED.

25 Q WELL, LET ME ASK YOU THIS. IF YOU

1 ASSISTED HIM THROUGHOUT THIS PROCESS, YOU DIDN'T
2 ASSIST, OF COURSE YOU ADMIT YOU DIDN'T IDENTIFY
3 GEORGE RICHARD ANDERSON'S PRINT WITH THE AMIDO
4 PRINT. YOU MADE THAT MISTAKE ALONG WITH HIM. YOU
5 DIDN'T SEE IT.

6 A NO, SIR. BUT IT DOESN'T MEAN IT WASN'T
7 THERE, IT SIMPLY MEANS I DIDN'T SEE IT AT THE TIME.
8 WHEN IT WAS FOUND ON LIEUTENANT SPRINGS, I LOOKED
9 AT IT AND SAID, "YES, THIS ...

10 Q AND YOU DIDN'T ASSIST HIM OR YOU DID
11 ASSIST HIM WHEN HE MISSED THE THIRTY-SECOND PRINT,
12 THE THIRTY-SECOND, THE PARTIAL ONE?

13 A NO, SIR. THOSE WERE DEEMED INSUFFICIENT
14 PRIOR TO ME DOING THE TECHNICAL REVIEW ON THE CASE.

15 Q WHAT ABOUT THE ITEMS THAT HE RECEIVED
16 FROM DOCTOR SEXTON? WERE YOU THERE WHEN HE
17 RECEIVED THOSE? LIKE THE MATERIAL THAT WAS TAKEN
18 OUT OF THE WOUND ON HER NECK, WERE YOU THERE WHEN
19 THAT WAS RECEIVED?

20 A I WAS THERE AT THE AUTOPSY, BUT I DON'T
21 REMEMBER ALL OF THE EVIDENCE THAT WAS RECEIVED.

22 Q DO YOU KNOW WHAT HAPPENED TO ALL THAT
23 STUFF?

24 A I HAVE NO IDEA.

25 Q ALL OF THE STUFF THAT WAS THE HAIR, THE

1 FIBER, THE MATERIAL TAKEN OUT OF THE WOUND ON HER
2 NECK, THE FINGERPRINT SCRAPINGS; DO YOU KNOW WHAT
3 HAPPENED TO THOSE?

4 A IF AGENT BLACK COLLECTED THEM, THEN THEY
5 WERE CARRIED BACK TO THE LABORATORY AND LOGGED IN.

6 Q THAT'S WHAT YOU THINK HAPPENED. YOU
7 DIDN'T LOG THEM IN, DID YOU?

8 A NO, SIR, I DIDN'T.

9 Q YOU DON'T KNOW WHERE THEY ARE TODAY, DO
10 YOU?

11 A NO, SIR.

12 Q OF YOUR OWN PERSONAL KNOWLEDGE, YOU
13 DON'T KNOW WHETHER THEY WERE EVER TESTED OR NOT, DO
14 YOU?

15 A I DON'T KNOW WHAT EXAMS MAY HAVE BEEN
16 ATTEMPTED ON PIECES OF EVIDENCE THAT I DID NOT COME
17 IN CONTACT WITH.

18 MR. HARPOOTLIAN: BEG THE COURT'S
19 INDULGENCE.

20 Q THANK YOU.

21 THE COURT: REDIRECT, MR. MCMAHON?

22 MR. MCMAHON: JUST A COUPLE OF
23 QUESTIONS.

24 REDIRECT EXAMINATION:

25 BY MR. MCMAHON:

1 Q YOU USED THE TERM ACCELERANTS; WHAT IS
2 THAT?

3 A ACCELERANTS WOULD BE SOME TYPE OF FUEL
4 THAT WOULD BE USED TO HELP IGNITE A FIRE. THAT'S
5 WHAT GENERALLY YOU REFER TO AS ACCELERANTS, WOULD
6 BE GASOLINE, KEROSENE, DIESEL FUEL, AND NUMEROUS
7 OTHERS, BUT THAT'S NOT MY FIELD OR EXPERTISE.

8 Q EXACTLY. THAT IS NOT YOUR FIELD OF
9 EXPERTISE.

10 A THAT IS CORRECT.

11 Q AND LIKE MR. HARPOOTLIAN ASKED YOU,
12 THERE ARE INDIVIDUALS DOWN THERE WITH EXPERTISE IN
13 THAT FIELD?

14 A YES, SIR, THAT IS CORRECT.

15 Q AND DECISIONS ARE MADE BY PEOPLE BACK IN
16 THE LAB OR BY THOSE INDIVIDUALS KIND OF OUT OF
17 GROUND ZERO AT THE TIME?

18 A THE AGENT OR INVESTIGATOR WHO'S AT A
19 CRIME SCENE HAS TO DETERMINE WHAT HE FEELS,
20 EVIDENCE HE FEELS IS PROBATIVE TO COLLECT AND
21 SUBMIT TO A LABORATORY FOR EXAMINATION. A LOT OF
22 TIMES WE MAKE DECISIONS ON SITE NOT TO COLLECT
23 EVIDENCE AND WHETHER IT'S PROBATIVE.

24 Q AND YOU WERE NOT PRESENT WHEN STATE'S
25 EXHIBIT NUMBER EIGHTEEN WAS TAKEN, THAT MR.

1 HARPOOTLIAN ASKED YOU ABOUT?

2 A NO, SIR, I WAS NOT.

3 Q BUT GENERALLY THEY WOULDN'T CALL
4 SOMEBODY OUT IF THEY DIDN'T SEE ANYTHING PROBATIVE
5 IN THERE, THAT WAS YOUR TESTIMONY?

6 A YES, SIR, THAT WOULD BE MY TESTIMONY.

7 Q BUT OBVIOUSLY, IF THEY TOOK A PICTURE,
8 THEY WOULD THINK THERE WAS SOMETHING PROBATIVE
9 ABOUT IT?

10 A WELL, WHEN WE GENERALLY WORK A CRIME
11 SCENE INVESTIGATION WE DOCUMENT THE ENTIRE AREA OF
12 A CRIME SCENE. IF IT'S A HOUSE, WE DOCUMENT THE
13 CARTILAGE OF THE HOUSE WHICH THIS APPEARS TO BE
14 OUTSIDE OF THE HOUSE. WE WOULD DOCUMENT THE
15 INSIDE. THAT'S JUST PART OF OUR STANDARD OPERATING
16 PROCEDURES IN INVESTIGATION.

17 Q THANK YOU. I DON'T HAVE ANY FURTHER
18 QUESTIONS.

19 THE COURT: ANYTHING ELSE OF THIS
20 WITNESS?

21 MR. HARPOOTLIAN: NO, SIR.

22 THE COURT: THANK YOU, SIR. YOU MAY
23 STEP DOWN. CALL YOUR NEXT WITNESS.

24 MR. MCMAHON: STATE CALLS AGENT SPRINGS
25 TO THE STAND.

1 JAMES A. SPRINGS, JUNIOR,

2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION:

4 BY MR. MCMAHON:

5 Q SIR, BY WHOM ARE YOU EMPLOYED?

6 A BY THE SOUTH CAROLINA LAW ENFORCEMENT
7 DIVISION.

8 Q AND HOW LONG HAVE YOU BEEN EMPLOYED WITH
9 SLED?

10 A A LITTLE OVER TWENTY-THREE YEARS.

11 Q AND AGENT SPRINGS, WHAT IS YOUR CURRENT
12 POSITION WITH SLED?

13 A I'M A LIEUTENANT WITH THAT DIVISION, AND
14 I'M SUPERVISOR OF THE LATENT PRINT AND CRIME SCENE
15 DEPARTMENT.

16 Q AND HOW LONG HAVE YOU HELD THE POSITION
17 OF SUPERVISOR OVER LATENT PRINT AND CRIME SCENE
18 DEPARTMENT?

19 A APPROXIMATELY TEN YEARS.

20 Q GENERALLY, WHAT ARE YOUR DUTIES THERE AS
21 THE SUPERVISOR OF THAT GROUP?

22 MR. HARPOOTLIAN: YOUR HONOR, I'VE KNOWN
23 AGENT SPRINGS FOR TWENTY YEARS. I'VE GOT NO
24 OBJECTIONS TO HIS QUALIFICATIONS WHATSOEVER. AND I
25 UNDERSTAND HE MAY WANT TO GO INTO SOME ASPECTS OF

1 IT, BUT WE WOULD STIPULATE HE IS AN EXPERT IN
2 LATENT PRINTS...

3 THE COURT: ALL RIGHT, HE WILL STIPULATE
4 TO IT BUT YOU MAY FURTHER EXAMINE THE WITNESS AS
5 YOU FEEL NECESSARY.

6 MR. MCMAHON: THANK YOU, YOUR HONOR.
7 AND JUST VERY BRIEFLY...

8 Q WHAT WOULD YOUR DUTIES JUST GENERALLY BE
9 ON A DAY TO DAY BASIS, AS FAR AS SUPERVISION,
10 LIEUTENANT SPRINGS?

11 A TO GENERALLY SUPERVISE THE ACTIVITIES OF
12 THAT PARTICULAR DEPARTMENT WHICH IS RESPONSIBLE FOR
13 THE DEVELOPMENT AND IDENTIFICATION OF LATENT
14 IMPRESSIONS, THOSE LATENT IMPRESSIONS BEING
15 FINGERPRINT IMPRESSIONS, TIRE AND FOOTWEAR, AND THE
16 OVERALL COORDINATION OF CRIME SCENE SEARCHES AND
17 RECONSTRUCTIONS.

18 Q WHEN YOU SAY THE OVERALL COORDINATION,
19 WOULD YOU EXPLAIN TO ME A LITTLE FURTHER?

20 A OUR PARTICULAR DEPARTMENT, THE LATENT
21 PRINT AND CRIME SCENE DEPARTMENT IS ONE OF FOURTEEN
22 DEPARTMENTS WITHIN THE LABORATORY COMPLEX. WHEN A
23 CALL COMES IN FOR THE RECONSTRUCTION OR OVERVIEW,
24 OVERSIGHT OF A CRIME SCENE, WE ARE BASICALLY THE
25 COMMAND STRUCTURE FOR THE LABORATORY. WE CAN CALL

1 OUT FROM THE OTHER THIRTEEN DEPARTMENTS SPECIALISTS
2 IN DIFFERENT AREAS TO ASSIST US IN THAT CRIME SCENE
3 RECONSTRUCTION, IF IT'S NEEDED.

4 Q PRIOR TO I BELIEVE YOU SAID TWENTY-PLUS
5 YEARS, I APOLOGIZE...

6 A TWENTY-THREE PLUS YEARS.

7 Q TWENTY-THREE PLUS? PRIOR TO YOUR
8 SUPERVISORY POSITION, WHAT POSITIONS HAVE YOU HELD
9 WITH SLED?

10 A I JOINED THE STATE LAW ENFORCEMENT
11 DIVISION JUNE 29TH OF 1973 AND WAS ASSIGNED TO THE
12 FIREARMS AND LATENT PRINT DEPARTMENT AT THAT TIME.
13 SINCE THAT TIME, THAT DEPARTMENT HAS SPLIT INTO TWO
14 SEPARATE DEPARTMENTS, THE FIREARMS AND TOOL MARK
15 DEPARTMENT, AND MY CURRENT DEPARTMENT, THE LATENT
16 PRINT AND CRIME SCENE DEPARTMENT. SO BASICALLY
17 I'VE MOVED FROM AN ENTRY LEVEL ALL THE WAY UP TO
18 SUPERVISORY LEVEL IN THE SAME DEPARTMENT.

19 Q WELL, HOW MANY YEARS, LIEUTENANT, HAVE
20 YOU BEEN EXAMINING LATENT FINGERPRINTS?

21 A FOR THE FULL TWENTY-THREE AND ALMOST
22 ONE-HALF YEARS.

23 Q AND ON HOW MANY DIFFERENT OCCASIONS, IF
24 YOU COULD GIVE US AN IDEA, HAVE YOU TESTIFIED IN
25 COURT AS AN EXPERT IN THE FIELD OF FINGERPRINT,

1 LATENT FINGERPRINT EXAMINATION?

2 A IN STATE AND FEDERAL COURTS IN THE STATE
3 OF SOUTH CAROLINA, AND OTHER STATES IN THE NATION,
4 PROBABLY WELL OVER THREE HUNDRED TIMES.

5 Q AND I BELIEVE MR. HARPOOTLIAN SAID HE'D
6 EVEN KNOWN FOR WHAT, TWENTY YEARS OR SOMETHING?

7 A THAT IS CORRECT.

8 Q ALL RIGHT, DO YOU PERSONALLY WORK CASES
9 ON A DAILY OR WEEKLY BASIS, LIEUTENANT?

10 A NOT AT THIS PARTICULAR POINT IN TIME.
11 I'M AVAILABLE FOR OVERSIGHT AND AVAILABLE FOR THE
12 JUNIOR AGENTS AND LESS SENIOR AGENTS TO COME TO ME
13 FOR COUNSELING.

14 Q WHO WOULD BE THE MOST SENIOR, IN TERMS
15 OF EXPERIENCE, FINGERPRINT EXAMINERS IN Y'ALL'S
16 DIVISION, IN Y'ALL'S DEPARTMENT?

17 A IT WOULD BE MYSELF.

18 Q YOURSELF? NO ONE IN THAT DIVISION HAS
19 MORE NUMBER OF YEARS EXPERIENCE THAN YOU DO,
20 LIEUTENANT?

21 A THAT IS CORRECT.

22 Q SO NOW, LIEUTENANT, AT OUR REQUEST, AT
23 THE SOLICITOR'S REQUEST, DID YOU REVIEW CERTAIN
24 ITEMS OF EVIDENCE AND SUBMISSIONS IN REGARDS TO
25 THIS PARTICULAR CASE?

1 A I DID, YES.

2 MR. HARPOOTLIAN: YOUR HONOR, I WOULD
3 ENTER AN OBJECTION TO ANYTHING EXCEPT 41.8 WHICH IS
4 THE AMIDO BLACK, UNDER STATE VERSUS RICH.

5 THE COURT: ALL RIGHT, I HAD ASSUMED YOU
6 WERE GOING TO EXAMINE THIS WITNESS ALONG THE SAME,
7 AS TO THE SAME FINGERPRINTS YOU EXAMINED THE
8 PREVIOUS WITNESS.

9 MR. MCMAHON: CORRECT.

10 THE COURT: THEN I OVERRULE THE
11 OBJECTION ON THE BASIS I'VE PREVIOUSLY PUT IN THE
12 RECORD PURSUANT TO STATE V. RICH.

13 MR. MCMAHON: COULD WE WALK AROUND HERE
14 JUST SO I DON'T HAVE ANY MISUNDERSTANDING, YOUR
15 HONOR?

16 (BENCH CONFERENCE IN THE PRESENCE OF THE
17 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
18 RECORD.)

19 THE COURT: THE RULING STANDS.

20 MR. MCMAHON: THANK YOU, YOUR HONOR.

21 Q LIEUTENANT, GOING BACK, DID YOU HAVE THE
22 OPPORTUNITY AND DID YOU REVIEW CERTAIN ITEMS OF
23 EVIDENCE AT THE REQUEST OF THE SOLICITOR IN THIS
24 PARTICULAR CASE?

25 A YES, I DID.

1 Q AND WOULD YOU TELL US, PLEASE, WHEN YOU
2 BECAME OR WHEN YOU WERE FIRST ASSIGNED OR REQUESTED
3 TO DO THIS REVIEW, SIR?

4 A EARLY LAST FRIDAY EVENING.

5 Q AND LAST FRIDAY WOULD HAVE BEEN THE 20TH
6 OF SEPTEMBER, IS THAT CORRECT?

7 A THAT IS CORRECT; YES, SIR.

8 Q AND LIEUTENANT, AMONG THOSE ITEMS, I
9 WANT TO SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS
10 DEFENDANT'S EXHIBIT NUMBER FOUR AND STATE'S EXHIBIT
11 NUMBER 134, AND ASK IF YOU HAD AN OPPORTUNITY TO
12 REVIEW THOSE TWO ITEMS? HAVE YOU COMPARED THOSE
13 TWO?

14 A YES, I DID.

15 Q AND WHAT WAS THE RESULTS OF THE
16 COMPARISON OF DEFENDANT'S EXHIBIT NUMBER FOUR WITH
17 STATE'S EXHIBIT NUMBER 134?

18 A GOING BACK TO STATE'S EXHIBIT 139, I
19 EXAMINED A PHOTOGRAPHIC COPY OF THIS PARTICULAR
20 CARD, RECOGNIZED AS BEING THE SAME AS A PHOTOSTAT,
21 IN ITEM NUMBER 285. DETERMINED FROM DOING WHAT WE
22 CALL A MINUTIAE BASE SEARCH OR LOOKING AT THE
23 CHARACTERISTICS OF THE INDIVIDUAL PRINTS THAT THESE
24 TWO CARDS AND THE IMPRESSIONS ON THEM ARE MADE BY
25 ONE AND THE SAME PERSON.

1 Q AND WHAT NAME APPEARS ON STATE'S EXHIBIT
2 NUMBER, I BELIEVE YOU SAID 139, BUT STATE'S EXHIBIT
3 NUMBER 134, I BELIEVE? WHAT NAME APPEARS ON THAT,
4 LIEUTENANT?

5 A IT IS 139. THE NAME THAT APPEARS HERE
6 IS MICHAEL JEFFERY BEATTY.

7 Q ALL RIGHT, SIR. I THINK WE'RE USING TWO
8 DIFFERENT NUMBERS. IS THE EXHIBIT NUMBER 139 OR
9 THE ITEM NUMBER?

10 A IT IS ITEM NUMBER 139. I'M SORRY, IT IS
11 OUR ITEM NUMBER WHICH WE DESIGNATE EVIDENCE FOR
12 TRACKING PURPOSES. THE ACTUAL EXHIBIT WHICH IS A
13 DEFENDANT'S EXHIBIT, THE ONLY STICKER I SEE ON IT,
14 THE DEFENDANT'S EXHIBIT NUMBER FOUR.

15 Q AND THOSE TWO EXHIBITS, DEFENDANT'S
16 EXHIBIT NUMBER FOUR AND STATE'S EXHIBIT NUMBER
17 134...

18 A ONE, THIRTY-FOUR, CORRECT.

19 Q WERE THOSE FINGERPRINTS OF ONE AND THE
20 SAME PERSON?

21 A YES, SIR, IT IS.

22 Q ALL RIGHT, SIR, NOW DID YOU HAVE AN
23 OPPORTUNITY, LIEUTENANT, TO COMPARE THESE PRINTS TO
24 THE LATENT LIFTS FROM THE VEHICLE OF VICKIE LANDER
25 BECKHAM?

1 A THE REMAINING UNIDENTIFIED LATENTS, YES.

2 Q AND WHAT WAS THE RESULTS OF YOUR
3 EXAMINATION?

4 A ALL RESULTS WERE NEGATIVE.

5 Q NOW, LIEUTENANT, REFERRING TO
6 DEFENDANT'S EXHIBIT NUMBER FIVE AND STATE'S EXHIBIT
7 NUMBER 135, DID YOU HAVE THE OPPORTUNITY TO EXAMINE
8 THOSE TWO ITEMS?

9 A EXAMINED A COPY OF STATE'S EXHIBIT
10 NUMBER FIVE, A XEROX COPY, AGAINST THE ORIGINAL
11 STATE'S EXHIBIT NUMBER 135, EXCUSE ME, THAT'S
12 DEFENDANT'S EXHIBIT NUMBER FIVE AGAINST STATE'S
13 EXHIBIT 135, AND CONCLUDED THAT BOTH OF THESE WERE
14 MADE BY ONE AND THE SAME INDIVIDUAL.

15 Q AND WHAT NAME APPEARS ON DEFENDANT'S
16 EXHIBIT NUMBER FIVE?

17 A DEFENDANT'S EXHIBIT NUMBER FIVE, AND I'M
18 HAVING A TIME READING THE ACTUAL SCRIPT, BUT IT
19 LOOKS LIKE A MICHAEL...IT COULD BE A MICHAEL J. AND
20 THE LAST NAME IS BEATTY, AND IT LOOKS LIKE A
21 SCRIBBLING BEHIND THAT, POSSIBLY A JUNIOR.

22 Q AND WHAT NAME APPEARS ON STATE'S EXHIBIT
23 NUMBER 135?

24 A IN PRINT AND NOT A SCRIPT ON STATE'S
25 EXHIBIT NUMBER 135, PLAINTIFF SPELLED OUT MICHAEL

1 JEFFERY BEATTY.

2 Q AND THOSE TWO SETS OF PRINTS, DEFENSE
3 NUMBER FIVE AND STATE'S 135 WERE MADE BY ONE AND
4 THE SAME PERSON?

5 A THAT IS CORRECT.

6 Q DID YOU COMPARE THOSE PRINTS TO THE
7 IDENTIFIABLE BUT UNIDENTIFIED LATENT PRINTS THAT
8 WERE LIFTED FROM THE VEHICLE OF THE VICTIM, VICKIE
9 LANDER BECKHAM.

10 A YES, I DID.

11 Q AND WHAT WAS THE RESULTS OF THAT
12 EXAMINATION?

13 A ALL RESULTS WERE NEGATIVE.

14 Q NOW, LIEUTENANT, THERE WAS ANOTHER ITEM
15 I BELIEVE, DEFENSE EXHIBIT NUMBER TWO-- DEFENDANT'S
16 EXHIBIT NUMBER TWO. DID YOU FURTHER HAVE AN
17 OPPORTUNITY TO REVIEW THAT ITEM OF EVIDENCE?

18 A YES, I DID. NOT PARTICULARLY THIS ONE
19 BUT A COPY OF IT WHICH WE HAVE WITHIN OUR
20 LABORATORY.

21 Q AND WHAT WAS THE RESULT OF THAT
22 EXAMINATION, LIEUTENANT?

23 A I DEEMED THIS PARTICULAR IMPRESSION,
24 DEVELOPED IMPRESSION, TO BE OF INSUFFICIENT DETAIL
25 FOR IDENTIFICATION.

1 Q NOW, LIEUTENANT, DID YOU HAVE AN
2 OPPORTUNITY TO REVIEW CERTAIN OTHER ITEMS OF
3 EVIDENCE, PARTICULARLY A LATENT LIFT FROM THE
4 VICTIM'S VEHICLE IDENTIFIED IN YOUR RECORDS AS
5 41.8?

6 A FORTY-ONE (POINT) EIGHT, JUST TO CORRECT
7 YOU, COUNSELOR, WAS NOT A LIFT BUT A PHOTOGRAPH OF
8 AN IMPRESSION ON THE VEHICLE ITSELF.

9 Q ACTUALLY, THAT WAS MY NEXT QUESTION...

10 MR. HARPOOTLIAN: YOUR HONOR, PERHAPS I
11 COULD SAY SOME TIME. WE STIPULATE AGENT SPRINGS
12 IDENTIFIED THAT AS THE PRINT OF MICHAEL GEORGE
13 ANDERSON, MAYBE THAT WILL SAVE SOME TIME HERE.
14 WILL THAT SAME TIME?

15 THE COURT: I DON'T KNOW.

16 MR. MCMAHON: THEY ARE STIPULATING THAT
17 41.8...LET ME WALK AROUND. LET ME WALK AROUND.

18 MR. HARPOOTLIAN: YEAH, 41.8 IS THE
19 FINGERPRINT OF, IF YOU TELL ME WHICH FINGER IT IS,
20 BUT I MEAN...

21 MR. MCMAHON: ALL RIGHT, SIR, I'LL GO
22 INTO THAT.

23 MR. HARPOOTLIAN: THAT WAY WE DON'T HAVE
24 TO GO THROUGH ALL OF THAT...

25 Q IS 41.8 AND I WAS GOING TO ASK YOU THAT

1 QUESTION, LIFT AS OPPOSED TO A PHOTOGRAPH, WHY WAS
2 IT A PHOTOGRAPH AND NOT A LIFT, LIEUTENANT?

3 A MY UNDERSTANDING WAS THIS WAS IN A
4 MEDIUM THAT COULD NOT BE LIFTED. NORMALLY,
5 POWDERED PRINTS, THE POWDER WOULD BE LIFTED WITH
6 STICKY SIDE TAPE, BUT THIS WAS DEVELOPED, BASED
7 UPON MY OWN EXPERIENCE FROM LOOKING AT THE
8 PHOTOGRAPH AND WHAT IT LOOKS LIKE, AND WHAT I HAVE
9 BEEN TOLD, IT WAS SOMETHING THAT COULD NOT BE
10 LIFTED.

11 Q AND THAT'S BECAUSE IT WAS IN AMIDO
12 BLACK?

13 A THAT'S WHAT I WAS TOLD, YES.

14 Q THAT'S YOUR UNDERSTANDING?

15 A THAT'S MY UNDERSTANDING.

16 Q AND YOU COMPARED THAT PHOTOGRAPH WITH
17 THAT LATENT FINGERPRINT WITH THE KNOWN INK
18 IMPRESSION OF RICHARD GEORGE ANDERSON?

19 A YES, I DID.

20 Q AND WHAT WAS THE RESULTS OF THAT
21 EXAMINATION, LIEUTENANT?

22 A AFTER CLOSE EXAMINATION OF THE
23 IMPRESSION SHOWN IN ITEM 41.8, I IDENTIFIED IT AS
24 HAVING COME FROM THE SAME SOURCE AS THE NUMBER
25 SEVEN LEFT INDEX FINGER OF ITEMS NUMBER 184 AND 235

1 WHICH BORE THE NAME OF RICHARD GEORGE ANDERSON.

2 Q LEFT INDEX, THIS FINGER HERE?

3 A THAT IS CORRECT. THAT IS THE NUMBER
4 SEVEN FINGER.

5 Q AND WAS THAT THE ONLY PRINT THAT WAS
6 PHOTOGRAPHED BY THE USE OF AMIDO BLACK THAT WAS
7 SUFFICIENT FOR IDENTIFICATION?

8 A THAT IS CORRECT, OTHER THAN THE ONE WE
9 MENTIONED EARLIER IN THE PHOTOGRAPH YOU GAVE TO ME
10 EARLIER, AND THERE WAS ONE OTHER THAT WAS IN AMIDO
11 BLACK THAT WAS INSUFFICIENT FOR IDENTIFICATION.

12 Q THOSE ARE INSUFFICIENT FOR
13 IDENTIFICATION, CORRECT?

14 A THAT IS CORRECT.

15 Q THIS WAS THE ONLY ONE THAT WAS
16 SUFFICIENT FOR IDENTIFICATION?

17 A THAT IS ALSO CORRECT, YES.

18 Q NOW, LIEUTENANT, DID YOU PREPARE CERTAIN
19 CHARTS AND DIAGRAMS AS FAR AS SHOWING, VISUALLY
20 SHOWING THE COMPARISONS OF MR. ANDERSON'S KNOWN
21 PRINTS TO THE LATENT LIFT, THE LATENT AMIDO PRINT?

22 A I DID. I PREPARED DEMONSTRATIVE CHARTS
23 TO HELP THE COURT, THE JURY AND OTHERS HERE
24 UNDERSTAND HOW THE COMPARISON OF THE MATCH WAS
25 CONDUCTED.

1 Q DO YOU HAVE THOSE WITH YOU TODAY?

2 A YES, I DO.

3 Q MAY I SEE THEM, PLEASE?

4 MR. HARPOOTLIAN: YOUR HONOR, I'VE SEEN
5 THOSE TODAY. WE HAVE NO OBJECTION TO THEM COMING
6 INTO EVIDENCE.

7 THE COURT: WITHOUT OBJECTION.

8 (SO MARKED AND ENTERED STATE'S EXHIBIT
9 NUMBER 136, WITHOUT OBJECTION.)

10 MR. MCMAHON: STATE'S EXHIBIT NUMBER 136
11 WHAT I'M HOLDING UP NOW, LIEUTENANT -- YOU'VE
12 ALREADY SHOWN THESE TO MR. HARPOOTLIAN, IS THAT
13 CORRECT?

14 A YES, I HAVE.

15 MR. HARPOOTLIAN: AND WE HAVE NO
16 OBJECTION. I WOULD REITERATE YOU CAN GO AHEAD AND
17 PUT THEM IN EVIDENCE IF YOU WANT.

18 MR. MCMAHON: I THOUGHT I DID. I
19 APOLOGIZE.

20 MR. HARPOOTLIAN: DID YOU? I'M SORRY;
21 WE'RE BOTH STUMBLING HERE.

22 Q AND THIS IS THE CHARTING, THE RESULTS OF
23 YOUR EXAMINATION, IS THAT CORRECT?

24 A AS I SAID, THIS IS A DEMONSTRATIVE CHART
25 TO SHOW HOW THE EXAMINATION AND THE COMPARISON WAS

1 . DONE TO ARRIVE AT A POSITIVE MATCH.

2 MR. MCMAHON: YOUR HONOR, MAY THE
3 WITNESS STEP DOWN.

4 THE COURT: SURE. GIVE HIM THE MIC.

5 Q PERHAPS, LIEUTENANT, I COULD JUST HOLD
6 THIS UP TO THE JURY BECAUSE I BELIEVE IT'S A LITTLE
7 SMALL FOR THE EASEL. BUT COULD YOU EXPLAIN,
8 ORIENTATE THE JURY TO STATE'S EXHIBIT NUMBER 136,
9 PLEASE?

10 A FIRST OF ALL, IN CONDUCTING AN
11 EXAMINATION OF LATENT FINGERPRINTS, WHAT YOU'RE
12 LOOKING FOR IS A CORRELATION OR A MATCHING OF THE
13 CHARACTERISTICS IN THAT ONE CHARACTERISTIC APPEARS
14 IN THE SAME SPACE AND PLACE AS ALL THE OTHER
15 SURROUNDING CHARACTERISTICS FROM ONE PARTICULAR
16 ELEMENT OR ONE PARTICULAR SPECIMEN OF THE LATENT
17 PRINT AND THE INK PRINT THUS COMING UP WITH A
18 POSITIVE MATCH.

19 WHAT THIS PARTICULAR DISPLAY IS ARE TWO
20 ENLARGED PHOTOGRAPHS, ONE MARKED LATENT PRINT IS A
21 APPROXIMATELY EIGHT TIMES NORMAL SIZE PHOTOGRAPH,
22 BLACK AN WHITE, OF THE PRINT ON THE SUSPECT
23 VEHICLE, OR VICTIM'S VEHICLE.

24 THE OTHER ENLARGED PHOTOGRAPH, IN BLACK
25 AND WHITE, MARKED INK PRINT, IS THE PLAIN

1 IMPRESSION ON ONE OF THE CARDS MARKED WITH THE NAME
2 GEORGE ANDERSON. IT'S THE NUMBER SEVEN AGAIN INK
3 IMPRESSION.

4 Q AND I BELIEVE THAT'S RICHARD GEORGE
5 ANDERSON?

6 A RICHARD GEORGE ANDERSON, YES. THAT'S
7 CORRECT, RICHARD GEORGE ANDERSON.

8 IN DOING A COMPARISON, AGAIN, WHAT WE'RE
9 LOOKING FOR IS WHAT'S KNOWN AS A SPACIAL
10 RELATIONSHIP. IN OTHER WORDS, IF YOU HAVE A
11 CHARACTERISTIC WHICH SHOWS UP IN ONE PARTICULAR AND
12 THE NEXT CHARACTERISTIC IS SEPARATED BY TWO RIDGES
13 BETWEEN IT AND THE FIRST CHARACTERISTIC THEN THAT
14 IS A COINCIDENCE OR A MATCHING IN SPACIAL
15 CHARACTERISTICS OR SPACIAL RELATIONSHIP.

16 SO WHAT I'VE DONE HERE IS TO SHOW YOU
17 BASICALLY WHAT MY EYE WAS LOOKING AT AND HOW I
18 STARTED WITH ONE PARTICULAR CHARACTERISTIC AND
19 MOVED AROUND THE LATENT PRINT, MATCHING THE LATENT
20 AND IT'S CHARACTERISTICS TO THE INK IMPRESSION.

21 WITH CHARACTERISTIC NUMBER ONE, IT IS A
22 BIFURCATION GOING DOWNWARD WHEREBY THE RIGHT HAND
23 LEG--EXCUSE ME, WITH YOUR PERSPECTIVE IT WOULD BE
24 THE LEFT HAND LEG ALSO BIFURCATES DOWNWARD CREATING
25 CHARACTERISTIC NUMBER TWO.

1 Q LIEUTENANT, CAN I STOP YOU A MINUTE

2 A CERTAINLY.

3 Q CAN YOU EXPLAIN BIFU...

4 A BIFURCATION.

5 Q YES, SIR. WOULD YOU EXPLAIN THAT FOR
6 THE JURY, PLEASE?

7 A THERE ARE SEVERAL DIFFERENT TYPES OF
8 FORMATIONS. THERE ARE THREE BASIC FORMATIONS WHICH
9 CAN, WITH COMBINATIONS AND BY THEMSELVES, COME UP
10 WITH ANY POSSIBLE TYPE OF FORMATION THAT MIGHT
11 APPEAR IN THE HUMAN FINGERPRINT. THOSE THREE BASIC
12 FORMATIONS ARE RIDGE ENDINGS, WHICH IS A RIDGE THAT
13 RUNS FOR A DISTANCE AND STOPS.

14 A BIFURCATION, B-I-R-U-F-A-C-A-T-I-O-N,
15 [REPORTER'S NOTE: WITNESS MISSPELLS] WHICH IS A
16 RIDGE WHICH RUNS, A SINGLE RIDGE, DOWNWARD, UPWARD
17 OR EITHER SIDE, AND BASICALLY SPLITS INTO TWO
18 SEPARATE RIDGES. AND THEN THERE'S A DOT RIDGE.
19 ANY OTHER FORMATION WITHIN THE PATTERN OF A HUMAN
20 FINGERPRINT OR THE SOLE PRINT OF THE FEET CAN BE A
21 COMBINATION OF TWO OR MORE OF THESE PARTICULAR
22 BASIC CHARACTERISTICS.

23 SO AGAIN, CHARACTERISTIC NUMBER ONE IS A
24 BIFURCATION DOWNWARD WHEREBY IF YOU'RE LOOKING AT
25 THE DISPLAY, THE LEFT LEG BIFURCATES AGAIN DOWNWARD

1 CREATING THE NUMBER TWO CHARACTERISTIC WITH ONE
2 RIDGE BETWEEN IT AND THE NEXT CHARACTERISTIC.
3 CHARACTERISTIC NUMBER THREE IS A RIDGE ENDING
4 UPWARD. IF YOU TAKE THESE THREE CHARACTERISTICS
5 AND THEIR CORRELATION AND GO BACK TO THE INK
6 IMPRESSION, FIRST CHARACTERISTIC NUMBER ONE IS A
7 BIFURCATION DOWNWARD. YOU FOLLOW THE LEFT LEG
8 AGAIN FROM YOUR PERSPECTIVE, IT SEPARATES AGAIN
9 FROM A SINGLE RIDGE INTO TWO RIDGES CREATING
10 ANOTHER BIFURCATION, AND THEN YOU'VE GOT AN
11 INTERVENING RIDGE BETWEEN IT AND THE ADJACENT RIDGE
12 ONE OVER, NUMBER THREE, WHICH AGAIN IS THAT RIDGE
13 ENDING UPWARD.

14 IN KEEPING THESE SPACIAL RELATIONSHIPS,
15 YOU GO FROM NUMBER THREE AND GO TO THE LEFT AND
16 SLIGHTLY DOWNWARD YOU'LL FIND ANOTHER BIFURCATION
17 DOWN. FOLLOWING THAT BIFURCATION DOWNWARD, YOU
18 WILL FIND ANOTHER BIFURCATION UPWARD CREATING WHAT
19 WE CALL AN ENCLOSURE, WHERE TWO BIFURCATIONS SPLIT
20 AND THEN RE-CLOSE AGAIN. THAT IS AN ENCLOSURE.

21 FOLLOWING THE LOWER LEG OF THAT
22 BIFURCATION UPWARD WHICH CREATES THE LOWER SIDE OF
23 THE ENCLOSURE DOWN ONE, TWO, THREE RIDGES, YOU WILL
24 FIND A RIDGE ENDING WHICH COMES VERY CLOSE TO
25 MAKING A BIFURCATION ALMOST TOUCHING THE RIDGE

1 BELOW IT.

2 THAT SAME TYPE CORRELATION CAN BE FOUND
3 ON THE LATENT IMPRESSION BETWEEN CHARACTERISTICS
4 FOUR, FIVE AND SIX BEING THE BIFURCATION DOWNWARD,
5 NUMBER FOUR; THE BIFURCATION UPWARD CREATING AN
6 ENCLOSURE, NUMBER FIVE, AND THEN THE FIRST, SECOND,
7 THIRD RIDGE DOWN CREATING THE RIDGE ENDING NUMBER
8 SIX.

9 BY FOLLOWING THIS SAME TYPE OF MATCHING
10 PROCEDURE, YOU CAN CORRELATE ALL OF THESE
11 CHARACTERISTICS EITHER CLOCKWISE OR COUNTER-
12 CLOCKWISE TO FIND THAT THEY'RE ALL CORRELATED.

13 I MIGHT DRAW TO YOUR ATTENTION WHEN YOU
14 GET THE DISPLAY AND ARE ABLE TO LOOK AT IT, IF
15 YOU'LL CHECK CHARACTERISTIC NUMBER NINE, IT'S
16 ACTUALLY TWO CHARACTERISTICS, AND I'LL FIRST POINT
17 TO THE INK IMPRESSION. NUMBER NINE POINTS TO AND
18 LEADS TO WHAT WE CALL TWO DOT RIDGES. THEY'RE SIDE
19 BY SIDE, ONE OVER THE OTHER. BY FOLLOWING THE
20 NUMBER NINE INDICATOR ALL THE WAY DOWN TO WHERE IT
21 STOPS, YOU'LL LOOK AND YOU'LL SEE THE TWO DOT
22 RIDGES JUST ACROSS FROM NUMBER ONE AS IT ALSO
23 APPEARS IN THE INK IMPRESSION.

24 IT'S A VERY SIMPLE CHART TO FOLLOW.
25 JUST MAKE SURE THAT THE SPACIAL RELATIONSHIP IS

1 CORRECT WHEN YOU LOOK AT IT, AND THAT THE RIDGE
2 COUNT BETWEEN YOUR DIFFERENT CHARACTERISTICS IS
3 EQUAL.

4 Q LIEUTENANT, IT LOOKS A LITTLE THICKER,
5 WIDER UP HERE LIKE AROUND NUMBER ONE AND NUMBER TWO
6 AS OPPOSED TO THE INK PRINT. WHY IS THAT? WHAT
7 CAUSES THAT?

8 A THIS WOULD HAVE BEEN CAUSED, THIS
9 PARTICULAR INSTANCE, BY A MOVEMENT OF THE RIDGES
10 ACROSS THIS SURFACE. THIS IS ANGULAR PIECE OF
11 CHROME THAT WAS ON THE VEHICLE. THE FINGER WOULD
12 HAVE TOUCHED THE EDGE OF THE CHROME AND WHATEVER
13 SUBSTANCE THIS WAS IN AND WAS LATER DEVELOPED OF
14 COURSE WOULD HAVE STARTED THE FINGER MOVING AND AS
15 IT LOST TRACTION AND WENT OVER THE EDGE, CAUSED
16 THESE RIDGES TO SQUEEZIE OUT OR MOVE OUT CREATING A
17 WIDER RIDGE. THAT'S SIMPLY TORQUING OF THE MEATY
18 FLESHY PORTION OF THE SKIN WHICH IS A VERY, VERY
19 PLIABLE AREA OF THE HUMAN BODY.

20 Q THANK YOU, LIEUTENANT, YOU MAY TAKE THE
21 STAND.

22 LIEUTENANT, YOU GOT NINE ON THE LATENT
23 SIDE AND NINE ON THE INK SIDE. WHY IS THAT?

24 A I'M SIMPLY SHOWING THE CORRELATION
25 BETWEEN THE CHARACTERISTICS. AND AS I SAID, THAT

1 NINTH CHARACTERISTIC IS ACTUALLY TWO. IT'S TWO DOT
2 RIDGES WHICH IS HIGHLY PECULIAR.

3 Q AND WITHIN YOUR FIELD OF EXPERTISE,
4 THERE'S NO DOUBT, THAT IS THE PRINT OF RICHARD
5 GEORGE ANDERSON?

6 A I HAVE NO DOUBT WHATSOEVER.

7 Q LIEUTENANT, ARE YOU AWARE IF THAT PRINT
8 HAS FURTHER BEEN EXAMINED BY A FORMER FBI
9 FINGERPRINT EXAMINER?

10 A I PERSONALLY DELIVERED A PHOTOGRAPH OF
11 THAT PRINT AND THE ACTUAL FINGERPRINT CARDS TO AN
12 EXAMINER LAST EVENING.

13 MR. MCMAHON: ONE MOMENT, PLEASE, YOUR
14 HONOR.

15 Q LIEUTENANT, I BELIEVE, IF I REMEMBER THE
16 NUMBERS YOU TESTIFIED TWENTY-THREE PLUS YEARS,
17 PERHAPS THREE HUNDRED PLUS COURT EXPERT
18 APPEARANCES. COULD YOU TELL US THE DEGREE OF
19 DIFFICULTY, IN YOUR OPINION, IT WAS TO IDENTIFY
20 THAT PRINT?

21 A THAT PARTICULAR PRINT WAS A VERY
22 DIFFICULT PRINT TO IDENTIFY. IT WAS A VERY
23 DIFFICULT PRINT TO FIND. WHERE YOU'RE DEALING WITH
24 A ORIENTATION THAT THAT COULD HAVE BEEN A PARTIAL
25 TIP PRINT, IT COULD HAVE BEEN A SECOND OR THIRD

1 JOINT WHICH ARE THE TWO JOINTS BELOW THE END TIP OF
2 EACH FINGER, OR IT COULD HAVE BEEN ANYWHERE ON THE
3 PALM. AND HAVING THE NUMBER OF SUSPECT AND/OR
4 ELIMINATION PRINTS, THE NUMBER OF PRINTS WE HAD TO
5 LOOK AT IN THIS PARTICULAR CASE, IT WOULD HAVE BEEN
6 EXTREMELY DIFFICULT AND WAS EXTREMELY DIFFICULT.

7 Q HOW MANY DID YOU GO THROUGH, LIEUTENANT,
8 OF THE OTHER KNOWN PRINTS IN THE CASE BEFORE MR.
9 ANDERSON'S CAME UP, RICHARD GEORGE ANDERSON?

10 A I WAS ASKED TO CHECK AND START AT A
11 CERTAIN AREA IN THIS PARTICULAR CASE BECAUSE WHEN I
12 WAS ASKED TO CHECK THE CASE OR TO, NOT NECESSARILY
13 RE-DO BUT TO CHECK THE RESULTS ON THE CASE AND TO
14 DO OTHER SEARCH TECHNIQUES, I TOLD THOSE REQUESTING
15 THIS IT WAS AN IMPOSSIBLE JOB TO DO THAT OVER THE
16 AMOUNT OF TIME ALLOTTED. SO I ASKED AUTHORITIES
17 WITH THE PROSECUTION TO GIVE ME A LIST IN PRIORITY
18 FORM, AND THAT LIST WAS APPROXIMATELY SIXTEEN OR
19 EIGHTEEN IN NUMBER. I'D SAY TWO-THIRDS THE WAY
20 DOWN THAT LIST, I CAME TO MR. ANDERSON'S CARD AND
21 MADE THE IDENTIFICATION.

22 Q THANK YOU, LIEUTENANT, I DON'T HAVE ANY
23 FURTHER QUESTIONS.

24 THE COURT: CROSS EXAMINATION, MR.
25 HARPOOTLIAN?

1 CROSS EXAMINATION:

2 BY MR. HARPOOTLIAN:

3 Q LIEUTENANT, YOU DON'T ROUTINELY WORK
4 CASES ANYMORE, DO YOU?

5 A I DON'T ROUTINELY WORK CASES IN TOTAL,
6 NO.

7 Q I MEAN, YOU DON'T GO OUT TO CRIME SCENES
8 AND PROCESS CRIME SCENES MUCH ANYMORE?

9 A NO, I DON'T.

10 Q YOU AND I USED TO DO THAT TWENTY YEARS
11 AGO?

12 A DAY AND NIGHT, YES SIR.

13 Q DAY AND NIGHT. WE'RE GETTING A LITTLE
14 OLD FOR THAT NOW, I SUPPOSE? GETTING UP AT THREE
15 IN THE MORNING AND GOING AND PROCESSING A CRIME
16 SCENE?

17 A I STILL DO IT ON OCCASIONS.

18 Q ON OCCASIONS. YOU DIDN'T DO IT ON THIS
19 OCCASION?

20 A SPEAKING OF?

21 Q VICKIE BECKHAM'S CAR.

22 A WHEN THE VEHICLE WAS FOUND?

23 Q RIGHT.

24 A YES, I WENT TO THIS PARTICULAR SCENE,
25 AND I WAS THERE TO ASSIST AS NEEDED. I STAYED

1 OUTSIDE THE PERIMETER AND WAS THERE FOR MY STAFF TO
2 CALL UPON IF THEY NEEDED ME.

3 Q YOU DIDN'T PROCESS THE CAR THOUGH?

4 A NO, I DID NOT.

5 Q AND YOU DIDN'T PROCESS IT WHEN IT GOT TO
6 SLED?

7 A NO, I DID NOT. NO, SIR.

8 Q THAT WAS DONE PRIMARILY BY DAVID BLACK?

9 A YES, MR. BLACK WAS THE ASSIGNED CASE
10 AGENT AND WAS ASSIGNED THIS CASE ON ROTATION.

11 Q IN OTHER WORDS, WHEN YOU SAY ON
12 ROTATION, HE WAS ASSIGNED THIS CASE BECAUSE HE
13 HAPPENED TO BE ON DUTY THAT NIGHT?

14 A THAT'S CORRECT, YES.

15 Q NOW, LET ME UNDERSTAND. YOUR
16 INVOLVEMENT IN THIS CASE WAS SOMEWHAT TANGENTIAL
17 UNTIL FRIDAY?

18 A WELL, OF COURSE I KNEW THE CASE EXISTED
19 AND THAT THE CASE WAS ON-GOING, AND BEING EXAMINED.
20 BUT FOR ME TO ACTUALLY HAVE ANY FULL FLEDGED
21 INVOLVEMENT, YES, FRIDAY.

22 Q AND THAT WAS AS A RESULT OF A CALL FROM
23 THE SOLICITOR?

24 A AS A MATTER OF FACT, IT WAS A CALL FROM
25 CAPTAIN CHARLIE WEBER AND MR. KNOX MCMAHON.

1 Q MR. KNOX MCMAHON FROM THE SOLICITOR'S
2 OFFICE?

3 A THAT'S CORRECT.

4 Q DID YOU RECEIVE A CALL FROM CHIEF
5 STEWART?

6 A NO, I DID NOT.

7 Q YOU TALKED TO CHIEF STEWART ABOUT THIS?

8 A NO, SIR, I HAVE NOT.

9 Q YOU'RE A SUPERVISOR OF THE DEPARTMENT,
10 IS THAT CORRECT?

11 A THAT IS CORRECT, YES SIR.

12 Q AND I'M NOT GOING TO GO THROUGH DETAIL
13 AND DETAIL, BUT SUFFICE IT TO SAY WHEN YOU LOOK AT
14 STATE'S EXHIBIT NUMBER EIGHTY-FOUR WHICH WAS
15 INTRODUCED LAST FRIDAY BY AGENT BLACK, HE HAS A
16 NUMBER, THESE ARE DIVIDED INTO IDENTIFIED,
17 INSUFFICIENT, AND UNIDENTIFIED, OKAY? BASED ON HIS
18 INITIAL REPORT, THE REPORT THAT HE SWORE UNDER OATH
19 TO BEFORE THIS JURY AND HE WORKS UNDER YOUR
20 SUPERVISION, CORRECT?

21 A HE DOES, YES.

22 Q WE NOW KNOW THAT ONE OF THEM THAT HE
23 SAYS WAS UNIDENTIFIED WHICH WAS THE AMIDO BLACK--
24 THAT WOULD BE THIS BLUE DOT RIGHT HERE--YOU LOOKED
25 AT AND FOUND TO BE MR. ANDERSON'S?

1 A THAT IS CORRECT; YES, I HAVE.

2 Q WE ALSO KNOW THAT PURSUANT TO
3 INVESTIGATIONS DONE BY YOU AND YOUR STAFF,
4 EXAMINATIONS DONE BY YOU AND YOUR STAFF SINCE LAST
5 WEEK THAT YOU FOUND A NUMBER OF THOSE THAT HE HAD
6 CLASSIFIED, I BELIEVE THREE THAT HE HAD CLASSIFIED
7 AS UNIDENTIFIABLE, OR IS IT...YES, YOU HAVE NOW
8 IDENTIFIED?

9 A THAT IS ALSO CORRECT, YES.

10 Q AND THEN ONE HE HAS FOUND, HE PUT ON
11 THIS CHART AS UNIDENTIFIABLE, I MEAN...YEAH,
12 UNIDENTIFIABLE, YOU HAVE DETERMINED IS READABLE,
13 THAT IS THERE'S ENOUGH RIDGES LIKE THESE, BUT YOU
14 CAN'T MATCH IT TO ANY OF THE KNOWN PRINTS?

15 A THAT IS CORRECT. I BELIEVE THAT WAS
16 ITEM NUMBER SIXTY-SEVEN.

17 Q ITEM NUMBER SIXTY-SEVEN, CORRECT. WHO
18 FOUND THAT ONE, ITEM NUMBER SIXTY-SEVEN? WHO
19 LOOKED AT IT AGAIN?

20 A I LOOKED AT IT. YOU WERE SPEAKING
21 EARLIER ABOUT MYSELF AND MY STAFF. MOST OF THIS
22 WORK WAS DONE BY MYSELF.

23 Q OKAY. AND WHEN DID YOU LOOK AT IT?

24 A THE ACTUAL PALM IMPRESSION, NUMBER
25 SIXTY-SEVEN?

1 Q RIGHT. WHEN DID YOU SAY, "WHOOPS, THIS
2 IS ONE THAT WE CAN IDENTIFY?"

3 A I BELIEVE THAT PARTICULAR PRINT, ALONG
4 WITH THE OTHERS THAT YOU MENTIONED THAT WERE
5 IDENTIFIED, SATURDAY; THAT WOULD HAVE BEEN THE
6 21ST.

7 Q OKAY. SO ON THE 21ST WE KNEW, OR YOU
8 KNEW THAT DAVID BLACK HAD MADE AN INCORRECT, OR I'M
9 GOING TO CALL IT A MISTAKE. IS MISTAKE TOO HARSH A
10 WORD?

11 A YES, SIR, I BELIEVE IT IS TOO HARSH A
12 WORD.

13 Q OKAY, WHAT WOULD YOU CALL IT, A MIS-
14 IDENTIFICATION?

15 A IT WAS NOT A MIS-IDENTIFICATION. I
16 BELIEVE WHAT WE HAVE HERE IS AN OFFICER WITH OF
17 COURSE QUITE A FEW LESS YEARS OF EXPERIENCE THAN
18 MYSELF AND HE CALLED CERTAIN PRINTS UNIDENTIFIABLE
19 BASED UPON HIS TRAINING AND HIS NUMBER OF YEARS OF
20 EXPERIENCE, WHICH ARE APPROXIMATELY EIGHT IN
21 NUMBER.

22 Q OKAY, BUT ON SATURDAY, YOU'RE IN CHARGE
23 NOW. IT'S NOT DAVID BLACK, IS THAT CORRECT, IN
24 TERMS OF PROCESSING AND LOOKING AT THESE PRINTS?

25 A THAT IS CORRECT.

1 Q AND ON SATURDAY, THE 21ST, YOU FOUND
2 SIXTY-SEVEN TO BE AN IDENTIFIABLE BUT AN
3 UNIDENTIFIED PRINT, IS THAT CORRECT?

4 A THAT IS CORRECT; YES.

5 Q AND SO THEN YOU ASKED YOUR STAFF, I
6 THINK MR. BLACK AND MR. FLEMING, TO GO THROUGH AND
7 CHECK THE UNKNOWNNS AGAINST CERTAIN PRINTS, IS THAT
8 CORRECT? DOLBY--ACTUALLY, IT WAS AGAINST MR. GEHM
9 AND MR. MITCHELL, IS THAT CORRECT?

10 A I'M NOT SURE I UNDERSTAND...

11 Q WELL, ON THE 23RD, THEY GENERATED THIS
12 REPORT FOR YOU WHICH INDICATED THAT THEY WERE GOING
13 THROUGH AND CHECKING THE UNIDENTIFIED PRINTS--
14 THAT'S WHAT YOU'D BE CHECKING--AGAINST TWO KNOWN,
15 MR. MITCHELL AND MR. GEHM. IS THAT CORRECT?

16 A THAT IS CORRECT.

17 Q LIEUTENANT, I WANT YOU TO, YOU'VE
18 ALREADY INDICATED THAT AT THAT POINT YOU KNEW
19 SIXTY-SEVEN WAS IDENTIFIABLE BUT UNIDENTIFIED. DID
20 THEY CHECK SIXTY-SEVEN AGAINST THE KNOWN PRINTS?

21 A ON THIS PARTICULAR EXAMINATION, NO SIR,
22 THOSE WERE NOT CHECKED AND THAT'S PROBABLY BECAUSE
23 OF THE FACT IT WAS DISCOVERED ON THE 21ST AND
24 BECAUSE OF THEM GOING ON THE 21ST TO DO THIS ALSO,
25 MAYBE THE WORD HAD NOT BEEN PASSED. BUT I BELIEVE

1 ON ANOTHER LIST...

2 Q NO, YOU DO IT LATER ON.

3 A YES, I DO IT LATER ON. THAT'S CORRECT.

4 SO WE'RE COVERED.

5 Q WELL, I AGREE YOU'RE COVERED, YES. BUT

6 WHEN THEY'RE CHECKING ALL THE UNKNOWNNS AGAINST

7 AGAIN KNOWN PRINT CARDS TWO DAYS AFTER YOU

8 IDENTIFIED PRINT NUMBER SIXTY-SEVEN AS IDENTIFIABLE

9 WHICH AGENT BLACK HAD ORIGINALLY SAID WAS

10 UNIDENTIFIABLE, CORRECT? AGENT BLACK TESTIFIED IN

11 COURT LAST WEEK UNIDENTIFIABLE, CAN'T IDENTIFY, NOT

12 ENOUGH RIDGE DETAIL, CORRECT?

13 A THAT IS CORRECT.

14 Q YOU LOOK AT IT AND SAY, "OH, IT IS

15 IDENTIFIABLE." AND THEN YOU ASK YOUR STAFF TO

16 CHECK IT AGAINST THE KNOWN PRINT CARDS, CORRECT?

17 A I BELIEVE THE REQUEST CAME FROM THE

18 SOLICITOR'S OFFICE, AND I SENT THEM TO DO THAT,

19 YES.

20 Q AND THEN WHEN THEY CHECKED THE KNOWN

21 PRINT CARDS, THEY DON'T DO IT ON THE 23RD.

22 A IF YOU'LL LOOK AT THAT, I BELIEVE MR.

23 BLACK'S INITIALS APPEAR ON THE 21ST WHICH IS THE

24 SAME DAY THIS PRINT WAS DEEMED UNIDENTIFIABLE.

25 Q WHAT ABOUT MR. FLEMING WHO'S CHECKING

1 BEHIND IT?

2 A HE IS CHECKING BEHIND HIM BASED UPON
3 WHAT ITEMS ARE ON THIS LIST THAT HE CHECKED ON THE
4 21ST WHICH PROBABLY WAS IN A TIME FRAME THAT HE HAD
5 NOT GOTTEN THE WORD YET ABOUT NUMBER SIXTY-SEVEN
6 BEING UNIDENTIFIABLE.

7 Q BUT...

8 A WHICH WAS PICKED UP LATER WITH THE
9 ADDITIONAL LIST.

10 Q BUT FINALLY I THINK YESTERDAY, DIDN'T
11 YOU FINISH THIS YESTERDAY?

12 A YES, I DID.

13 Q FINALLY YESTERDAY, YOU LOOK AT IT?

14 A THAT IS CORRECT.

15 Q YOU'RE THE SUPERVISOR OF THIS
16 DEPARTMENT, IS THAT CORRECT?

17 A THAT IS CORRECT.

18 Q ARE YOU SATISFIED WITH INVESTIGATOR
19 BLACK'S PERFORMANCE IN INVESTIGATING AND COMPARING
20 THESE FINGERPRINTS AND THESE CARDS? IS THIS THE
21 QUALITY OF INVESTIGATION THAT SATISFIES YOU?

22 A WELL, YES, BECAUSE MR. BLACK HAS EIGHT
23 YEARS EXPERIENCE, I HAVE TWENTY-THREE. AND HE DID
24 NOT ERR; WHAT HE DID, HE PLAYED THIS ON THE SIDE OF
25 CAUTION. IF HE WAS UNSURE, RATHER THAN IDENTIFY

1 SOMETHING THAT WAS BORDERLINE, HE DEEMED AS
2 UNIDENTIFIED.

3 Q WELL, UNSURE WHEN HE PUT ON HIS REPORT
4 THAT MIKE BEATTY, JUNIOR AND MIKE BEATTY, SENIOR'S
5 FINGERPRINTS WERE THE SAME, WAS HE ERRING ON THE
6 SIDE OF CAUTION THEN? WHEN HE SAID THAT
7 DEFENDANT'S EXHIBITS NUMBERS FIVE AND FOUR WERE THE
8 SAME PERSON? WAS HE ERRING ON THE SIDE OF CAUTION
9 THEN?

10 A I CAN GIVE YOU MY UNDERSTANDING OF THAT,
11 NOT MY FIRST-HAND KNOWLEDGE.

12 Q WHAT I WANT IS YOUR OPINION AS HIS
13 SUPERVISOR AND HEAD OF THIS DEPARTMENT.

14 A MY OPINION, BASED UPON WHAT HAPPENED IN
15 THAT PARTICULAR SITUATION IS HE HAD GOTTEN THE
16 FINGERPRINT CARDS IN, DID THE COMPARISON ON FINGER
17 AND PALM IMPRESSIONS AND REQUESTED, AS HIS NOTES
18 SHOW, ADDITIONAL PALM IMPRESSIONS TO COMPARE. AT A
19 LATER DATE, MUCH LATER DATE, FROM ITEM 139 TO 181
20 GOT IN PALM IMPRESSIONS BEARING BASICALLY THE SAME
21 NAME. HE ERRED, HE ASSUMED THEY WERE BOTH THE SAME
22 PERSON BECAUSE HE HAD REQUESTED PALM PRINTS THAT GO
23 WITH THE FINGERPRINT CARDS AND PUT THEM TOGETHER.

24 Q MADE A MISTAKE?

25 A IN THAT PARTICULAR CASE, YES. BUT HE

1 DID NOT MAKE A FALSE IDENT THAT...HE STILL COMPARED
2 139 AGAINST ALL FINGERPRINTS AND 189 AGAINST ALL
3 PALM PRINTS.

4 Q BUT DIDN'T COMPARE...

5 A ONE AGAINST THE OTHER. HE STILL GOT
6 EVERYTHING COMPARED AND CROSS COMPARED, BUT HE JUST
7 ASSUMED THE PALM PRINTS BELONGED TO THE
8 FINGERPRINTS.

9 Q AND TESTIFIED UNDER OATH THAT BOTH
10 FINGERPRINT CARDS WERE FROM THE SAME PERSON.

11 A NOW, THAT I DON'T KNOW BECAUSE I WAS NOT
12 IN THE COURTROOM.

13 Q AND IF HE DID THAT, THAT WOULD BE AN
14 ERROR, CORRECT? LIEUTENANT?

15 A IF HE MADE THE ASSUMPTION, HE WOULD HAVE
16 BEEN IN ERROR, YES.

17 Q OKAY. NOW, YOU WOULD AGREE THAT HE WAS
18 THE INVESTIGATOR IN CHARGE OF THE INTEGRITY OF THIS
19 VEHICLE'S PROCESSING, IS THAT CORRECT?

20 A YES, HE WAS.

21 Q AND TO THE EXTENT THAT WE CAN HAVE FAITH
22 IN, AND GIVE CREDIT TO, FULL FAITH AND CREDIT TO
23 THAT INVESTIGATION AND THAT INTEGRITY, WE HAVE TO
24 LOOK TO MR. BLACK, DO WE NOT? BECAUSE HE WAS IN
25 CHARGE OF THE INTEGRITY OF THAT VEHICLE, THE CRIME

1 SCENE?

2 A IF YOU'RE SPEAKING OF HIM HAVING LIFTED
3 PRINTS FROM WHERE HE SAID HE DID, I KNOW HE DID
4 THAT. YOU'RE SPEAKING OF INTEGRITY IN WHAT VEIN?

5 Q WELL, IN THE VEIN OF FINDING ALL THE
6 PRINTS. ACTUALLY, YOU WOULD ADMIT THAT YOU
7 IDENTIFIED AN ADDITIONAL PRINT. HE TESTIFIED AND
8 SAID THERE WERE THIRTY-ONE PRINTS. YOU FOUND AN
9 ADDITIONAL PARTIAL, DID YOU NOT?

10 A I DID, YES.

11 Q SO, AGAIN, YOU FOUND AN AREA IN WHICH
12 LIEUTENANT, YOU FOUND THAT AGENT BLACK HAD ERRED.

13 A I WOULDN'T SAY ERRED. HE IDENTIFIED THE
14 PALM PRINT ON THAT ONE LIFT. THERE WAS A THUMB
15 PRINT CLOSE TO IT WHICH WAS ANOTHER VERY BORDERLINE
16 PRINT, BUT IT BELONGED TO THE SAME INDIVIDUAL THAT
17 THE PALM PRINT DID AND POSSIBLY WAS LAID DOWN AT
18 THE SAME TIME AS THE PALM PRINT.

19 Q OKAY. LET ME LEAVE FINGERPRINTS FOR
20 JUST A MINUTE.

21 YOU HAVE ALSO WORKED TRACE EVIDENCE?
22 WOULD YOU LIKE SOME WATER?

23 A IF YOU DON'T MIND, PLEASE.

24 Q SURE.

25 MR. HARPOOTLIAN: MAY I, YOUR HONOR?

- 1 A THANK YOU. THAT'S ENOUGH.
- 2 Q YOU, IN YOUR TWENTY-SOMETHING YEARS WITH
- 3 SLED HAVE WORKED TRACE EVIDENCE ALSO, IS THAT
- 4 CORRECT?
- 5 A NOW, YOU SPEAK OF WORKED TRACE EVIDENCE,
- 6 AS FAR AS ANALYZING THE EVIDENCE, NO.
- 7 Q GATHERING IT?
- 8 A COLLECTING IT, YES.
- 9 Q YOUR AGENT FLEMING DID SOME COMPARISON
- 10 OF FOOTWEAR IN THIS CASE, DID HE NOT? OR ARE YOU
- 11 AWARE OF THAT?
- 12 A I'M NOT...I THINK HE DID, BUT I CAN'T
- 13 SAY THAT I HAVE ACTUALLY READ THAT IN THE CASE FILE
- 14 BECAUSE I WAS CONCENTRATING ON THE FINGERPRINT
- 15 PORTION OF IT.
- 16 Q OKAY. WELL, ACTUALLY, IT WAS AGENT
- 17 BLACK AGAIN. THIS AREA RIGHT DOWN HERE.
- 18 A BOTH PARAGRAPHS?
- 19 Q YEAH. I MEAN, IT REFERS TO TWO SEPARATE
- 20 ITEMS, IS THAT CORRECT?
- 21 A THAT IS CORRECT, 50 AND 50.1, AND 51.2.
- 22 Q AND IF YOU GO BACK TO 50 AND 50.1 WOULD
- 23 BE TWO CARDS CONTAINING FOOTWEAR OUTSOLE DESIGN
- 24 FROM PROCESSED VICTIM'S VEHICLE, ITEM NUMBER 41, IS
- 25 THAT CORRECT?

- 1 A AS YOU JUST READ FROM THE REPORT, YES.
- 2 Q FROM THE LAB REPORT.
- 3 A YES.
- 4 Q AND IF THEY WERE COMPARED TO ITEMS 47
- 5 AND 31, IS THAT CORRECT?
- 6 A THAT IS CORRECT.
- 7 Q AND 47 AND 31, 31 WOULD BE ONE WHITE IN
- 8 COLOR REEBOC, HEXALIGHT, LEFT SHOE, PROPERTY OF
- 9 VICTIM. AND 47 WOULD BE ONE WHITE IN COLOR
- 10 REEBOCK, HEXALIGHT, RIGHT SHOE, PROPERTY OF VICTIM.
- 11 IS THAT CORRECT?
- 12 A THAT IS THE WAY IT READS, YES.
- 13 Q AND THE ASSESSMENT OF THE REPORT IS THAT
- 14 THE IMPRESSIONS MADE BY THE VICTIM'S SHOES COMPARE
- 15 FAVORABLY WITH THE IMPRESSIONS GATHERED BY AGENT
- 16 BLACK FROM THE FRONT AND BACK DRIVER'S SIDE WINDOWS
- 17 OF THE CAR, OF THE VICTIM'S CAR. TAKE A MINUTE AND
- 18 LOOK AT THAT. I KNOW IT'S...
- 19 A ALL RIGHT, SIR, YOUR QUESTION?
- 20 Q MY QUESTION IS THAT AGENT BLACK FOUND
- 21 THAT THE IMPRESSIONS HE TOOK FROM THE WINDOWS OF
- 22 THE VEHICLE MATCH THE VICTIM'S FOOTWEAR, ISN'T THAT
- 23 THE BOTTOM LINE HERE?
- 24 A YOU'RE USING THE TERM MATCH; THIS
- 25 BASICALLY IS SAYING THAT IT WAS CONSISTENT.

1 Q CONSISTENT. I'M SORRY. THAT THEY WOULD
2 BE CONSISTENT, THAT THE IMPRESSIONS FOUND ON THE
3 WINDOWS OF THE VICTIM'S CAR WERE CONSISTENT WITH
4 HER SHOES. SAME SIZE, SAME MAKE, SAME SOLE
5 PATTERN?

6 A THAT IS WHAT THE REPORT STATES, YES.

7 Q ALSO, YOU'RE AWARE OF THE FACT WHEN YOU
8 GATHER EVIDENCE AT A CRIME SCENE, FOR INSTANCE, IF
9 YOU FOUND A KNIFE AT A STABBING SCENE, EVEN IF
10 BLOOD WAS NOT VISIBLE, YOU WOULD HAVE IT PROCESSED.
11 DO YOU HAVE A LAB AT SLED THAT PROCESSES THOSE
12 THINGS FOR BLOOD, DO YOU NOT?

13 A YES, I DO.

14 Q AND THEY CAN LOOK AT, WHEN I SAY LOOK AT
15 IT, YOU MAY LOOK AT IT AND NOT SEE ANY BLOOD ON IT,
16 BUT IT'S POSSIBLE TO PROCESS IT, CORRECT?

17 A THAT IS CORRECT. YOU'RE TALKING ABOUT
18 SEROLOGICAL EVIDENCE?

19 Q YES. AND IF YOU'RE WORKING A CRIME
20 SCENE IN WHICH THESE ITEMS HAVE BEEN IDENTIFIED AS
21 BEING USED IN A BLUDGEONING DEATH OF SOMEONE WHO
22 WAS COVERED IN BLOOD, YOU WOULD WANT THEM
23 PROCESSED, WOULD YOU NOT?

24 A THERE'S A POSSIBILITY OF FINDING BLOOD,
25 DEPENDING UPON TIME FACTORS.

1 Q BUT YOU WOULD WANT THEM PROCESSED?

2 A YEAH, IT WOULD BE A DEFINITE AVENUE THAT
3 WE'D FOLLOW, YES.

4 Q RIGHT. AND IF A WEAPON SUCH AS THIS WAS
5 ALLEGED TO HAVE BEEN USED IN A BLUDGEONING DEATH OF
6 SOMEONE WHO WAS COVERED IN BLOOD, YOU'D WANT IT
7 PROCESSED, WOULD YOU NOT?

8 A YES, SIR. AND THE RESULTS WOULD DEPEND
9 UPON THE TIME FACTOR.

10 Q SURE. I UNDERSTAND THERE ARE A NUMBER
11 OF VARIABLES, JUST LIKE FINGERPRINTS.

12 A YES, SIR.

13 Q ALSO, IF FOREIGN MATTER WERE REMOVED
14 FROM A VICTIM'S NECK WHERE SHE HAD BEEN BLUDGEONED
15 WITH SOMETHING OR HER LARYNX HAD BEEN CRUSHED, AND
16 THOSE ITEMS, HAIRS AND FIBERS WERE REMOVED FROM THE
17 VICTIM'S BODY AT THE TIME OF THE AUTOPSY BY THE
18 DOCTOR DOING THE AUTOPSY, YOU HAVE THE ABILITY AT
19 SLED TO PROCESS THOSE ITEMS AND TELL THE PROSECUTOR
20 AND THE DEFENSE ATTORNEY AND THE JURY WHAT WERE
21 THOSE ITEMS, WHAT WERE THEY MADE OF, WHAT WERE
22 THEIR COMPOSITION, COULD YOU NOT? YOU HAVE THE
23 ABILITY TO DO THAT AT SLED?

24 A DEPENDING UPON THE SAMPLE, THOSE
25 CAPABILITIES ARE THERE, YES.

- 1 Q AND IF YOU HAD EVIDENCE OF A FIRE, NOT
2 NECESSARILY AN ARSON, BUT A FIRE PERHAPS SOME
3 ALLEGATION OR INSINUATION WAS MADE THAT EVIDENCE
4 WAS DESTROYED IN, YOU HAVE SEEN WHERE SAMPLES OF
5 ASHES HAVE BEEN GATHERED AND EXAMINED
6 MICROSCOPICALLY OR CHEMICALLY BY YOUR LAB TO
7 DETERMINE WHETHER IT WAS WOOD OR FIBER OR CERAMIC,
8 OR HUMAN REMAINS, WHATEVER, IN THAT FIRE, HAVE YOU
9 NOT?
- 10 A YES, SIR. AND THOSE DETERMINATIONS
11 WOULD BE MADE BY THE OFFICER IN THE FIELD AS TO
12 WHETHER OR NOT IT WAS A FRUITFUL EXAM.
- 13 Q BUT WHAT I'M SAYING IS, JUST AS YOU SAID
14 AGENT BLACK ERRED ON THE SIDE OF CAUTION, CERTAINLY
15 IF THERE WERE THAT INSINUATION, YOU WOULD GATHER
16 SOME OF IT AND TAKE IT BACK AND HAVE IT EXAMINED BY
17 THE LAB?
- 18 A THAT ASSUMPTION WOULD BE THERE, YES.
- 19 Q OKAY. AND TO THE EXTENT THAT SOMEONE, I
20 GUESS WHAT I'M SAYING IS THIS. WHOEVER IS
21 PROCESSING THE SCENE, YOU REALLY LEFT TO THAT
22 AGENT'S DETERMINATION OF WHAT IS OF EVIDENTIARY
23 VALUE AND NOT OF EVIDENTIARY VALUE, IS THAT
24 CORRECT?
- 25 A NOT NECESSARILY JUST THAT AGENT, BECAUSE

1 WE SEND MORE THAN JUST ONE AGENT TO A SCENE. THERE
2 COULD BE TWO, THREE, OR FOUR, OR MAYBE EVEN MORE
3 THAN THAT. THAT AGENT SIMPLY COORDINATES WHAT IS
4 BEING DONE. THE GRAY MATTER WE SEND IS IN THREE OR
5 FOUR CRANIUMS. THOSE PEOPLE ARE COORDINATED
6 THROUGH THAT ONE AGENT AND THAT ONE AGENT IS
7 RESPONSIBLE FOR BRINGING EVERYTHING TOGETHER.

8 Q SURE, AND JUST AS YOU IN FINGERPRINTS,
9 HAVE BACKUP PEOPLE, SOMEONE LOOKING FOR
10 FINGERPRINTS YOU I.D., CORRECT?

11 A THAT IS CORRECT. THAT'S PROCEDURE.

12 Q AND ALL THESE PRINTS THAT AGENT BLACK
13 SAID WERE UNIDENTIFIED OR IDENTIFIABLE BUT
14 UNIDENTIFIED, OR NOT ENOUGH RIDGE DETAIL, OR A
15 MATCH WITH SOMEBODY. YOUR PROCEDURE WOULD BE TO
16 HAVE SOMEBODY ELSE IN YOUR AGENCY GO BEHIND HIM AND
17 CONFIRM HIS RESULTS, IS THAT CORRECT?

18 A SOMEONE CONFIRMED MY RESULTS, YES.

19 Q SOMEONE CONFIRMED DAVID BLACK'S RESULTS,
20 TOO, IS THAT CORRECT?

21 A THAT IS CORRECT, AND WERE OF ABOUT EQUAL
22 EXPERIENCE.

23 Q OKAY. NOW, YOU WERE OUT AT THE SCENE OF
24 THIS CRIME THE NIGHT IT HAPPENED, IS THAT CORRECT?

25 A FOR A PERIOD OF TIME, YES.

1. Q DO YOU GO OUT TO ALL OF THE CRIME
2 SCENES?

3 A I PROBABLY GO OUT TO, RIGHT NOW VERY FEW
4 SCENES. I WOULD SAY PROBABLY LESS THAN FIVE
5 PERCENT.

6 Q SO NINETY-FIVE PERCENT OF THEM, YOU
7 DON'T GO TO. WHAT DREW YOU TO THIS SCENE? THIS ONE
8 OUT OF ALMOST TWENTY.

9 A TO BE PERFECTLY HONEST, IT WAS CLOSE TO
10 MY HOME.

11 Q OH, YOU LIVE OUT IN THAT AREA?

12 A YES, I DO.

13 Q OKAY. DIDN'T KNOW ANY OF THE PEOPLE
14 INVOLVED?

15 A NO, I DID NOT.

16 Q DO YOU REMEMBER CHIEF STEWART COMING OUT
17 THERE?

18 A YOU'RE TESTING MY MEMORY NOW. I DON'T
19 KNOW WHETHER CHIEF STEWART CAME OUT THERE. I DON'T
20 REMEMBER SEEING HIM.

21 Q OKAY.

22 MR. HARPOOTLIAN: BEG THE COURT'S
23 INDULGENCE ONE MOMENT, PLEASE.

24 Q THANK YOU.

25 THE COURT: ANYTHING ON REDIRECT?

1 MR. MCMAHON: JUST VERY BRIEFLY.

2 REDIRECT EXAMINATION:

3 BY MR. MCMAHON:

4 Q HE ASKED YOU ABOUT SOME OTHER NAMES ON
5 THE COMPARISONS YOU DID. YOU COMPARED THE LATENTS
6 TO RICHARD MITCHELL, AND I'M LOOKING AT YOUR REPORT
7 OF SEPTEMBER 23RD OF '96?

8 A YES, I DID.

9 Q AND THAT WAS ALL NEGATIVE?

10 A THAT IS CORRECT.

11 Q AND IN LOOKING AT YOUR REPORT OF
12 SEPTEMBER 26TH OF '96, JERRY HOGAN?

13 A EXCUSE ME ONE MOMENT, I'M LOOKING AT MY
14 NOTES. YES, THAT'S CORRECT.

15 Q AND THAT'S NEGATIVE?

16 A THAT IS CORRECT.

17 Q THANK YOU. I DON'T HAVE ANY FURTHER
18 QUESTIONS.

19 THE COURT: ALL RIGHT, THANK YOU, SIR.
20 YOU CAN STEP DOWN.

21 LET'S TAKE ABOUT TEN MINUTES AND WE'LL
22 BE BACK OUT.

23 (JURY RECESSED TO JURY ROOM AT 5:17
24 P.M.)

25 THE COURT: BRING THE JURY BACK OUT.

1 THERE'S ONE MORE FINGERPRINT WITNESS AND THEN
2 YOU'LL BE INTO YOUR....WAIT JUST A MINUTE. I WANT
3 TO MAKE SURE THE RECORD REFLECTS NOW, UNDER RULE
4 615, I TOLD BOTH SIDES THAT I WOULD CALL THE THREE
5 WITNESSES IF YOU WANT THEM.

6 MR. HARPOOTLIAN: WE DON'T WANT THEM.

7 THE COURT: DON'T WANT THEM.

8 MR. HARPOOTLIAN: NOT BASED ON THIS
9 TESTIMONY.

10 THE COURT: ALL RIGHT. STATE?

11 MR. JONES: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT, THAT'S GOOD.

13 BRING THE JURY.

14 (JURY RETURNED TO THE OPEN COURTROOM AT
15 5:35 P.M.)

16 ALL RIGHT, AS FAR AS WORK SCHEDULE, THE
17 JURY HAS CONSIDERED IT AND THEY'D RATHER WORK A
18 HALF A DAY ON SUNDAY, SO WE'LL START ABOUT ONE
19 O'CLOCK SUNDAY AFTERNOON. AND I WILL ARRANGE THE
20 VISITATION FOR SUNDAY MORNING, OKAY.

21 MR. SWERLING: SUNDAY AFTERNOON? WORK
22 SUNDAY AFTERNOON?

23 THE COURT: WORK SUNDAY AFTERNOON, OFF
24 SUNDAY MORNING.

25 OKAY. LET'S SEE, MR. MCMAHON, CALL YOUR

1 NEXT WITNESS.

2 MR. MCMAHON: STATE CALLS JAMES BARTEE.

3 JAMES R. BARTEE, BEING DULY

4 SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION:

6 BY MR. MCMAHON:

7 A MY NAME IS JAMES R. BARTEE. THAT'S

8 SPELLED B, AS IN BOY, A-R-T-E-E.

9 Q MR. BARTEE, WHERE DO YOU PRESENTLY
10 RESIDE?

11 A I LIVE IN MYRTLE BEACH, SOUTH CAROLINA.

12 Q AND WHAT IS YOUR PRESENT OCCUPATION?

13 A I'M RETIRED.

14 Q AND WHERE ARE YOU RETIRED FROM, MR.
15 BARTEE?

16 A I RETIRED FROM THE UNITED STATES SECRET
17 SERVICE.

18 Q ALL RIGHT, SIR. NOW, HOW LONG WERE YOU
19 WITH THE UNITED STATES SECRET SERVICE?

20 A APPROXIMATELY TWENTY YEARS.

21 Q AND WHAT WAS YOUR POSITION, OR WHAT
22 VARIOUS POSITIONS DID YOU HOLD DURING YOUR TWENTY
23 YEARS WITH THE U.S. SECRET SERVICE?

24 A I WAS A FINGERPRINT SPECIALIST, AND ALSO
25 A SUPERVISORY FINGERPRINT SPECIALIST.

1 Q WERE YOU EITHER A FINGERPRINT SPECIALIST
2 AND/OR A SUPERVISOR FINGERPRINT SPECIALIST DURING
3 THAT ENTIRE TWENTY YEAR PERIOD OF TIME?

4 A YES, SIR, I WAS.

5 Q NOW, ...

6 MR. HARPOOTLIAN: YOUR HONOR, WE'D
7 STIPULATE HE'S AN EXPERT IN FINGERPRINT
8 EXAMINATION. AS I UNDERSTAND IT, HE'S ONLY GOING
9 TO TESTIFY ABOUT 48.1, IS THAT CORRECT?

10 MR. MCMAHON: CORRECT.

11 THE COURT: ALL RIGHT, YOU CAN ACCEPT
12 THE STIPULATION OR YOU CAN GO A LITTLE FURTHER.

13 MR. MCMAHON: YES, SIR, I ACCEPT THE
14 STIPULATION. I'D JUST LIKE TO ASK JUST A FEW MORE
15 BRIEF QUESTIONS, YOUR HONOR.

16 Q MR. BARTEE, PRIOR TO YOUR TWENTY YEARS
17 WITH THE U.S. SECRET SERVICE, BY WHOM WERE YOU
18 EMPLOYED?

19 A THE FEDERAL BUREAU OF INVESTIGATION.

20 Q AND WHAT, SIR, DID YOU DO WITH THE FBI?

21 A I WAS ALSO A FINGERPRINT SPECIALIST AND
22 ANOTHER TITLE I HAD THERE WAS SUPERVISORY
23 FINGERPRINT SPECIALIST.

24 Q SO HOW MANY YEARS TOTAL DO YOU HAVE,
25 SIR, IN THE FIELD OF FINGERPRINT IDENTIFICATION?

1 A APPROXIMATELY THIRTY-EIGHT YEARS.

2 Q ALL RIGHT, SO, MR. BARTEE, HAVE YOU
3 TESTIFIED IN COURT AND BEEN ACCEPT AS AN EXPERT IN
4 THE FIELD OF LATENT FINGERPRINT EXAMINATIONS IN THE
5 PAST?

6 A YES, I HAVE.

7 Q ON APPROXIMATELY HOW MANY DIFFERENT
8 OCCASIONS, SIR?

9 A APPROXIMATELY THREE HUNDRED TIMES.

10 Q AND SIR, COULD YOU GIVE US AN IDEA,
11 LET'S SAY HOW MANY DIFFERENT STATES HAVE YOU
12 TESTIFIED IN AS AN EXPERT IN THE FIELD OF
13 FINGERPRINT IDENTIFICATION?

14 A I WOULD SAY APPROXIMATELY FORTY STATES.

15 Q FORTY STATES?

16 MR. MCMAHON: I APOLOGIZE FOR REPEATING,
17 YOUR HONOR.

18 Q AND WHEN YOU SAY THREE HUNDRED TIMES,
19 JUST GOING BACK FOR ONE MOMENT, HOW MANY YEARS HAVE
20 YOU BEEN RETIRED NOW, MR. BARTEE?

21 A FIVE YEARS.

22 Q FIVE YEARS. NOW, SIR, AT THE REQUEST OF
23 THE SOLICITOR, DID YOU EXAMINE, REVIEW CERTAIN
24 ITEMS OF EVIDENCE IN REGARDS TO THIS PARTICULAR
25 CASE?

1 A AT THE REQUEST OF CAPTAIN CHARLIE WEBER.

2 I THINK IT WAS THROUGH THE SOLICITOR'S OFFICE.

3 Q ALL RIGHT, SIR. AND CAPTAIN WEBER, AS
4 YOU KNOW, IS A CAPTAIN WITH THE STATE LAW
5 ENFORCEMENT DIVISION?

6 A THAT IS CORRECT.

7 Q AND YOU BELIEVE THAT REQUEST CAME
8 THROUGH THE SOLICITOR'S OFFICE, IS THAT RIGHT?

9 A YES, SIR; I DO.

10 Q AND I WANT TO SHOW YOU WHAT HAS
11 PREVIOUSLY MARKED AS STATE'S FOR IDENTIFICATION
12 136. DO YOU RECOGNIZE THAT DIAGRAM, MR. BARTEE?

13 A YES, I DO.

14 Q AND AS PART OF YOUR EXAMINATION AND
15 EVALUATION, DID YOU REVIEW THE KNOWN, THE KNOWN
16 FINGERPRINT OF RICHARD GEORGE ANDERSON?

17 A YES, I DID.

18 Q AND DID YOU COMPARE THAT TO ONE
19 PARTICULAR LATENT FINGERPRINT THAT WAS PHOTOGRAPHED
20 BY THE PROCESS OF AMIDO BLACK?

21 A YES, SIR, I DID.

22 Q AND WHAT WAS THE RESULTS OF YOUR
23 EXAMINATION, MR. BARTEE?

24 A IT WAS MY OPINION THAT THE LATENT
25 FINGERPRINT THAT APPEARED IN THE PHOTOGRAPH THAT I

1 EXAMINED AND THE INK FINGERPRINT THAT APPEARED ON A
2 FINGERPRINT CARD BEARING THE NAME OF RICHARD
3 ANDERSON, WHICH WAS MADE BY THE LEFT INDEX
4 FINGERPRINT WAS BOTH MADE BY THE SAME INDIVIDUAL.

5 Q AND WHEN YOU SAY THE LEFT INDEX FINGER,
6 COULD YOU TELL US, MR. BARTEE, WHAT AREA OF THE
7 LEFT INDEX FINGER, YOU EXAMINED WHAT AREA OF THE
8 LATENT PRINT? WHAT AREA OF THE LEFT INDEX FINGER
9 WAS REPRESENTED ON THE LATENT FINGERPRINT?

10 A IT WAS, LOOKING AT YOUR LEFT INDEX
11 FINGER, IT WOULD BE THE RIGHT SIDE OF YOUR INDEX
12 FINGER.

13 Q ALL RIGHT, SIR. COULD YOU POINT ON MY
14 LEFT INDEX FINGER APPROXIMATELY WHERE YOU'RE
15 REFERRING TO, SIR?

16 A LET ME LOOK AT IT THIS WAY. RIGHT HERE.

17 Q RIGHT IN THIS AREA?

18 A YES, SIR.

19 Q SO THE LATENT PRINT THAT WAS LEFT WAS
20 THIS PART OF RICHARD ANDERSON'S, THE FINGERPRINT
21 CARD BEARING THE NAME RICHARD ANDERSON'S PRINT, IS
22 THAT CORRECT?

23 A THAT IS CORRECT.

24 Q NOW, SIR, ON A SCALE, SAY, MR. BARTEE,
25 OF ONE TO TEN, COULD YOU DESCRIBE FOR THE JURY,

1 PLEASE, YOUR OPINION, YOUR EXPERT OPINION OF THE
2 DEGREE OF DIFFICULTY INVOLVED IN IDENTIFYING THAT
3 PRINT?

4 A ON A SCALE OF ONE TO TEN, WITH THE TEN
5 BEING HIGH, I WOULD SAY THIS WOULD BE PROBABLY
6 ABOUT AN EIGHT, AS FAR AS DIFFICULTY.

7 Q THANK YOU, MR. BARTEE. I DON'T HAVE ANY
8 FURTHER QUESTIONS.

9 THE COURT: CROSS EXAMINATION, MR.
10 HARPOOTLIAN?

11 MR. HARPOOTLIAN: MAY IT PLEASE THE
12 COURT, YOUR HONOR?

13 CROSS EXAMINATION:

14 BY MR. HARPOOTLIAN:

15 Q IT'S BARTEE, IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND MR. BARTEE, YOU HAVE BEEN HIRED BY
18 THE STATE TO DO THIS EXAMINATION?

19 A THAT'S CORRECT.

20 Q AND YOU DO THAT ON A FEE BASIS? YOU DO
21 THAT ALL OVER THE COUNTRY?

22 A THIS IS MY FIRST CASE THAT I HAVE
23 TESTIFIED IN SINCE I RETIRED.

24 Q OKAY.

25 A I DON'T SOLICIT CASES, AND I'M REALLY,

1 YOU KNOW.

2 Q BUT, I MEAN, I GUESS WHAT I'M ASKING IS

3 ARE YOU CHARGING THE STATE FOR YOUR SERVICES?

4 A THAT IS CORRECT.

5 Q AND WHAT DO YOU CHARGE THEM?

6 A FIFTY DOLLARS AN HOUR.

7 Q AND YOU SPENT HOW LONG EXAMINING THIS

8 PRINT BEFORE YOU MADE AN IDENTIFICATION? HOW MANY

9 HOURS, I GUESS, ARE YOU CHARGING THE STATE?

10 A EXAMINING THIS PRINT, IT ONLY TOOK ME

11 APPROXIMATELY THIRTY MINUTES TO MAKE THE

12 IDENTIFICATION.

13 Q THIRTY MINUTES?

14 A THAT IS CORRECT.

15 Q AND THAT'S AN EIGHT? IT'S A TOUGH ONE

16 TO MAKE? NORMALLY, HOW LONG DOES IT TAKE YOU TO

17 MAKE A HIT?

18 A WELL, IT DEPENDS ON THE DIFFICULTY OF

19 THE PRINTS.

20 Q WELL, THIS IS AN EIGHT.

21 A THAT'S RIGHT.

22 Q HOW LONG DOES IT TAKE YOU TO MAKE A

23 SEVEN?

24 A IT WOULD DEPEND ON THE KNOWN PRINTS.

25 YOU'VE GOT TO TAKE TWO THINGS INTO CONSIDERATION

1 HERE, THE DIFFICULTY OF THE INK FINGERPRINT, THE
2 DIFFICULTY OF THE LATENT FINGERPRINT. NOW THIS WAS
3 A DIFFICULTY OF EIGHT, BUT BEAR IN MIND, I HAD THE
4 AREA POINTED OUT TO ME BEFORE I STARTED MAKING THE
5 COMPARISONS. IT WASN'T A PRINT I HAD TO SIT DOWN
6 AND LOOK AND LOOK AND LOOK TO SEE WHERE THE AREA
7 WAS.

8 Q WELL, ALL YOU'VE DONE IS CONFIRM IT. IN
9 OTHER WORDS, THEY SAID TO YOU, "IF YOU LOOK AT THIS
10 PART OF THE FINGERPRINT, DOESN'T IT LOOK TO YOU
11 LIKE THIS?" AND YOU USED YOUR EXPERTISE AND SAID,
12 "YEAH, THAT'S RIGHT. YOU'RE RIGHT."

13 A THEY TOLD ME IT WAS THE LEFT INDEX
14 FINGERPRINT. I COMPARED THE LATENT PRINT WITH IT
15 AND IT'S MY OPINION THAT THEY'RE ONE AND THE SAME,
16 YES.

17 Q OKAY. NOW, WHEN THEY ASKED YOU TO
18 COMPARE THE FINGERPRINTS OF MICHAEL BEATTY...

19 MR. MCMAHON: NO, SIR. NO, SIR. NOW,
20 HE SAID 41.8.

21 THE COURT: SUSTAINED. YOU ALL AGREED
22 IT WAS ONLY ON 48.1.

23 MR. HARPOOTLIAN: WELL, LET ME PUT IT
24 THIS WAY.

25 Q DID THEY ASK YOU TO EXAMINE ANY OTHER

- 1 PRINTS?
- 2 A NO, SIR.
- 3 Q LATENT OR CARDS?
- 4 A THAT'S CORRECT.
- 5 Q SO THE ONLY FINGERPRINT...
- 6 MR. HARPOOTLIAN: AND THAT'S WHY, YOUR
- 7 HONOR, I LIMITED IT TO 48.1.
- 8 Q THE ONLY FINGERPRINT YOU EXAMINED WAS
- 9 THIS FINGERPRINT?
- 10 A THAT IS CORRECT.
- 11 Q AND THAT'S AFTER THEY POINTED OUT TO YOU
- 12 WHERE THEY MADE THE IDENTIFICATION, IS THAT
- 13 CORRECT?
- 14 A THAT IS CORRECT.
- 15 Q WHEN WERE YOU HIRED TO DO THIS?
- 16 A I RECEIVED THE CALL YESTERDAY AT
- 17 APPROXIMATELY 8:30 A.M.
- 18 Q YESTERDAY AT 8:30?
- 19 A YES, SIR.
- 20 Q ARE YOU AWARE THIS PRINT WAS LIFTED ON
- 21 JUNE 12TH, 1994?
- 22 A NO, SIR, I AM NOT.
- 23 Q AND ARE YOU AWARE THAT THE, AT LEAST THE
- 24 LATENT PRINT LIFTED HAS BEEN IN THEIR POSSESSION
- 25 SINCE JUNE 12TH OF 1994 AND THE INK PRINT HAS BEEN

1 IN THE POSSESSION OF THE STATE FOR OVER A YEAR AND
2 A HALF NOW?

3 A I HAVE NO PERSON KNOWLEDGE, NO SIR.

4 Q IT WOULDN'T HAVE TAKEN YOU A YEAR AND A
5 HALF TO MAKE THAT IDENTIFICATION, WOULD IT?

6 A I HOPE NOT.

7 Q OKAY. LET ME ASK YOU A LITTLE BIT ABOUT
8 THIS PROCESS OF FINGERPRINT IDENTIFICATION. IT IS
9 WHAT I WOULD CALL--AND LISTEN TO MY EXPLANATION--AN
10 EYEBALL SIZE. THAT IS IT'S A COMPARISON, IS THAT
11 CORRECT?

12 A YES, SIR.

13 Q IN DOING IT, THE ABILITY TO DO IT IS
14 BASED ON, I GUESS, YOUR PATIENCE AND YOUR ABILITY
15 TO LOOK FROM HERE OVER TO HERE AND SEE, AND TRAIN
16 YOUR EYE AFTER SOMEONE HAS SHOWN YOU THE DISTINCT
17 WHATEVER THEY CALL THEM. THERE'S DIFFERENT NAMES
18 FOR DIFFERENT PARTS OF THIS FINGERPRINT, IS THAT
19 CORRECT?

20 A THAT IS CORRECT.

21 Q AND SO YOU LOOK FOR THOSE PATTERNS IN
22 THE LATENT AND IN THE INK, AND WHEN YOU FIND THEM,
23 YOU HAVE A MATCH, IS THAT CORRECT?

24 A THAT IS CORRECT.

25 Q AND THE SAME, IT'S PART OF YOUR DUTIES

1 WITH THE FBI AND OTHERS, YOU'VE PROCESSED CRIME
2 SCENES, HAVE YOU NOT?

3 A THAT IS CORRECT.

4 Q AND A CRIME SCENE MIGHT BE A HOUSE, IT
5 MIGHT BE A CAR, YOU'VE EVEN LIFTED PRINTS--HAVE YOU
6 EVER LIFTED PRINTS OFF A HUMAN SKIN, OFF A BODY?

7 A NO, SIR, I HAVE NOT DONE IT PERSONALLY.

8 Q YOU'VE SEEN IT DONE THOUGH?

9 A YES, SIR.

10 Q AND TO THE EXTENT THAT THAT IS DONE
11 SUCCESSFULLY, THAT THAT IS DONE IN A FASHION WHICH
12 MEETS THE STANDARDS THAT YOU WORKED UNDER AT THE
13 FEDERAL BUREAU OF INVESTIGATION, THAT'S A PRETTY
14 METICULOUS PROCESS, IS IT NOT?

15 A THAT IS CORRECT.

16 Q AND THE RESULTS ARE ONLY AS GOOD AS THE
17 ATTENTIVENESS AND THOROUGHNESS OF THE PERSON DOING
18 THE EXAMINATION, ISN'T THAT CORRECT?

19 A THAT IS CORRECT.

20 Q SO IF THAT PERSON HAS A PROVEN RECORD OF
21 MISTAKES OR OVERLOOKING CERTAIN DETAILS, THE
22 INTEGRITY OF THAT RESULT WOULD BE QUESTIONABLE,
23 WOULD IT NOT?

24 A YES, IT WOULD.

25 MR. HARPOOTLIAN: BEG THE COURT'S

1 INDULGENCE.

2 Q THANK YOU.

3 THE COURT: ANYTHING ON REDIRECT?

4 MR. MCMAHON: NOTHING ON REDIRECT, YOUR
5 HONOR.

6 THE COURT: THANK YOU. IS THERE ANY
7 REASON THE WITNESS CAN'T BE RELEASED FROM THE
8 SUBPOENA?

9 MR. MCMAHON: NO, YOUR HONOR. THANK
10 YOU, MR. BARTEE.

11 THE COURT: THANK YOU. CALL YOUR NEXT
12 WITNESS, PLEASE.

13 MR. HARPOOTLIAN: YOUR HONOR, FIRST WE
14 HAVE A STIPULATION.

15 THE COURT: ALL RIGHT. LADIES AND
16 GENTLEMEN OF THE JURY, THE STATE AND THE DEFENSE
17 ENTERED INTO A STIPULATION OF FACT. AS I'VE TOLD
18 YOU PREVIOUSLY, A STIPULATION IS AN AGREEMENT
19 BETWEEN THE PARTIES AS TO A PARTICULAR FACT. THE
20 FACT, THE USE THAT YOU GIVE THAT FACT IS SOLELY
21 WITHIN YOUR DISCRETION. BUT AS THE PARTIES HAVE,
22 IN THIS CASE, THE STIPULATION IS THE AMOUNT OF TIME
23 INDICATED ON ANY PHONE RECORD FOR A LOCAL CALL
24 BEGINS TO RUN FROM THE TIME THE CONNECTION IS MADE.
25 THAT IS, FROM WHEN THE CALL IS ANSWERED. THE CALL

1 MAY BE ANSWERED BY A PERSON OR BY AN ANSWERING
2 MACHINE OR A FAX MACHINE. AND WE'LL MARK THE
3 STIPULATION AS A PART OF THE RECORD, AND YOU'LL
4 HAVE IT FOR YOUR DELIBERATIONS.

5 ALL RIGHT, MR. COULTER?

6 MR. COULTER: THANK YOU. STATE WOULD
7 CALL JACKIE BOWERS TO THE STAND.

8 JACKIE BOWERS, BEING DULY
9 SWORN, TESTIFIED AS FOLLOWS:

10 MR. SWERLING: YOUR HONOR, OUR
11 OBJECTIONS ARE PRESERVED AS TO THIS WITNESS?

12 THE COURT: I DON'T KNOW OF--OH, YEAH.
13 OKAY.

14 DIRECT EXAMINATION:

15 BY MR. COULTER:

16 Q MS. BOWERS, COULD YOU TELL THE JURY,
17 PLEASE, WHAT YOUR ROLL IS WITH THE NEWBERRY COUNTY
18 COURTHOUSE?

19 A YES, CLERK OF COURT FOR NEWBERRY COUNTY.

20 Q ALL RIGHT, AND AS THE CLERK OF COURT,
21 YOU TAKE CARE OR ARE THE RECORD KEEPER FOR VARIOUS
22 RECORDS FILED IN THIS COURTHOUSE?

23 A YES, SIR.

24 Q ALL RIGHT, AND DO SOME OF THOSE RECORDS
25 INCLUDE TAX LIENS PLACED AGAINST INDIVIDUALS?

- 1 A YES, SIR.
- 2 Q ALL RIGHT. LET ME HAND YOU WHAT'S BEEN
- 3 MARKED AS STATE'S EXHIBIT NUMBER 131, AND ASK IF
- 4 YOU CAN IDENTIFY THIS PARTICULAR RECORD?
- 5 A YES, SIR. THIS IS A TAX LIEN THAT WAS
- 6 FILED IN MY OFFICE ON AUGUST 31ST, 1992 AGAINST A
- 7 STEPHEN A. AND VICTORIA L. BECKHAM, FROM THE U.S.
- 8 INTERNAL REVENUE, IN THE AMOUNT OF \$37,864.58. AND
- 9 ALSO, A CERTIFICATE OF RELEASE FILED ON MARCH 27TH,
- 10 1996 OF THAT TAX LIEN.
- 11 Q ALL RIGHT. IF YOU COULD, IF YOU COULD
- 12 TURN TO THE SECOND PAGE OF THAT PARTICULAR TAX
- 13 LIEN. WHEN DOES THIS PARTICULAR RECORD SHOW THAT
- 14 NOTICE WAS GIVEN OF THIS AMOUNT OWED OF \$37,864?
- 15 A THE DATE OF ASSESSMENT IS 7/6/92. IT
- 16 WAS PREPARED AUGUST 27, '92 AND THEN FILED WITH ME
- 17 ON THE 31ST OF THAT YEAR.
- 18 Q THE 31ST OF 1992?
- 19 A YES, SIR.
- 20 Q WHAT MONTH AGAIN?
- 21 A AUGUST.
- 22 Q AUGUST 31ST OF 1992. I'D ASK YOU TAKE A
- 23 LOOK AT WHAT'S BEEN MARKED AS STATE'S EXHIBIT
- 24 NUMBER 120. IS THAT AN ENLARGEMENT OF THAT SAME
- 25 TAX LIEN?

1 A YES, SIR.

2 Q ALL RIGHT. AND YOU SAID THAT THIS
3 PARTICULAR LIEN FOR \$37,000 WAS SATISFIED?

4 A YES, SIR.

5 Q PAID OFF?

6 A YES, SIR.

7 Q AND WHEN WAS THAT DONE?

8 A IT WAS FILED IN MY OFFICE ON MARCH 27TH,
9 1996.

10 MR. SWERLING: YOUR HONOR, COULD WE
11 APPROACH SIDE BAR?

12 THE COURT: SURE.

13 (BENCH CONFERENCE IN THE PRESENCE OF THE
14 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
15 RECORD.)

16 THE COURT: ALL RIGHT, THE OBJECTION IS,
17 402, 403 IS OVERRULED.

18 Q NOW, THE FEDERAL TAX LIEN THAT YOU HAVE
19 FOR \$37,864, THAT WAS FILED PRIOR TO THE DEATH OF
20 VICKIE LANDER BECKHAM ON JUNE 12TH, 1994, IS THAT
21 CORRECT?

22 A YES, SIR.

23 Q AND IT WAS SATISFIED AFTER HER DEATH, IS
24 THAT RIGHT?

25 A YES, SIR.

1 Q LET ME HAND YOU STATE'S EXHIBIT NUMBER
2 132. I'D ASK IF YOU COULD PUBLISH THAT TO THE
3 JURY.

4 A THIS IS A SOUTH CAROLINA DEPARTMENT OF
5 REVENUE INDIVIDUAL INCOME TAX LIEN FILED WITH MY
6 OFFICE ON JUNE 22ND, 1994 IN THE AMOUNT OF \$467.04,
7 AND THE NAME IS AGAINST STEPHEN A. AND VICTORIA
8 BECKHAM.

9 Q IN THE AMOUNT OF HOW MUCH?

10 A FOUR HUNDRED AND SIXTY-SEVEN DOLLARS AND
11 FOUR CENTS.

12 Q ALL RIGHT, AND ON THE SECOND PAGE OF
13 THAT PARTICULAR LIEN WHICH I BELIEVE IS STATE'S
14 EXHIBIT 132, COULD YOU PLEASE POINT OUT WHEN, IN
15 FACT, THAT NOTICE WAS GIVEN?

16 A DATE OF NOTICE WAS APRIL 27TH, 1994.

17 Q ALL RIGHT, AND WHAT'S THE STATUS OF THAT
18 PARTICULAR LIEN?

19 A THIS TAX LIEN WAS SATISFIED IN MY OFFICE
20 ON JANUARY 12TH, 1996.

21 Q ALL RIGHT, SO THAT LIEN, THE NOTICE OF
22 THAT LIEN WAS GIVEN PRIOR TO JUNE 12TH OF 1994?

23 A YES, SIR.

24 Q AND WAS SATISFIED AFTER JUNE 12TH OF
25 1994, CORRECT?

1 A YES, SIR.

2 Q LET ME HAND YOU WHAT'S BEEN MARKED AS
3 STATE'S EXHIBIT NUMBER 133; I'D ASK IF YOU COULD
4 PUBLISH THAT PARTICULAR...

5 A THIS IS A SOUTH CAROLINA DEPARTMENT OF
6 REVENUE TAX LIEN FILED AGAINST STEPHEN A. AND
7 VICTORIA BECKHAM ON JANUARY 20TH, 1995, IN THE
8 AMOUNT OF \$27,539.65.

9 Q ALL RIGHT, AND THAT PARTICULAR TAX LIEN
10 IS IN REGARDS TO INCOME TAX REPORT FROM WHAT YEAR,
11 WHAT PERIOD?

12 A PERIOD ENDING DECEMBER, 1989.

13 Q SO THAT'S A LIEN CAUSED FROM A DEBT OWED
14 FROM 1989?

15 A YES, SIR.

16 Q AND WHEN WAS THE NOTICE OF THIS
17 PARTICULAR TAX LIEN, WHICH IS STATE'S EXHIBIT
18 NUMBER 133?

19 A DATE OF NOTICE WAS NOVEMBER 30TH, 1994.

20 Q ALL RIGHT. THAT WOULD HAVE BEEN AFTER
21 THE DEATH OF VICTORIA LANDER BECKHAM ON JUNE 12TH
22 OF 1994?

23 A YES, SIR.

24 Q HAS THAT PARTICULAR LIEN BEEN SATISFIED?

25 A NO, SIR, IT'S STILL OPEN.

1 Q AND THESE WERE ALL FILED JOINTLY, BOTH
2 STEPHEN AND VICTORIA BECKHAM, RIGHT?

3 A YES, SIR.

4 THE COURT: WERE THOSE FOR I.D. OR HAVE
5 YOU...

6 MR. COULTER: WELL, I'D MOVE TO HAVE
7 131, 132 AND 133 INTRODUCED INTO EVIDENCE, AS WELL
8 AS STATE'S EXHIBIT, THIS ENLARGEMENT, STATE'S
9 EXHIBIT NUMBER 120.

10 THE COURT: SUBJECT TO THE OBJECTION
11 PURSUANT TO 402,403, AND I WOULD ADOPT THE RULING
12 THAT I MADE IN THAT CONNECTION THIS MORNING
13 PREVIOUSLY.

14 CROSS EXAMINATION, MR. SWERLING?

15 CROSS EXAMINATION:

16 BY MR. SWERLING:

17 Q MS. BOWERS, I GET CONFUSED ABOUT THESE
18 THINGS. THE STATE'S EXHIBIT 133 IS A TAX LIEN THAT
19 WAS IMPOSED WHEN?

20 A IT WAS FILED IN MY OFFICE ON JANUARY
21 20TH OF '95. DATE OF NOTICE WAS NOVEMBER 30TH,
22 1994.

23 Q OKAY, AND THAT WAS FOR TWENTY-SEVEN
24 THOUSAND?

25 A TWENTY-SEVEN THOUSAND, FIVE HUNDRED AND

- 1 THIRTY-NINE DOLLARS AND 65 CENTS.
- 2 Q SO THAT WAS, AND THE NOTICE WAS WHEN?
- 3 I'M SORRY.
- 4 A THE DATE OF NOTICE ON THIS FORM WAS
- 5 NOVEMBER 30TH, 1994.
- 6 Q SO THAT WAS AFTER MS. BECKHAM'S DEATH?
- 7 A YES.
- 8 Q BUT IT'S FOR A PERIOD ENDED, THE TAX
- 9 LIEN IS FOR THE PERIOD ENDING DECEMBER, 1989, IS
- 10 THAT CORRECT?
- 11 A YES, SIR.
- 12 Q ALL RIGHT. IT'S JUST THAT THIS IS WHEN
- 13 IT WAS FILED WITH YOUR OFFICE?
- 14 A YES, SIR.
- 15 Q OKAY, BUT THE TAX YEAR WE'RE TALKING
- 16 ABOUT IS 1989?
- 17 A YES, SIR.
- 18 Q AND THAT WAS FOR VICKIE AND STEPHEN
- 19 BECKHAM, IS THAT CORRECT?
- 20 A YES, SIR.
- 21 Q AT 129 ANDERSON DRIVE, PROSPERITY?
- 22 A CORRECT.
- 23 Q AND THEN THERE'S THE, THIS OTHER TAX
- 24 LIEN WAS FOR THE PERIOD ENDED DECEMBER, 1990?
- 25 A YES, SIR.

- 1 Q OKAY. IN THE FIRST INSTANCE, WE'RE
2 TALKING ABOUT A \$27,000 OUTSTANDING AMOUNT WITH THE
3 SOUTH CAROLINA TAX COMMISSION?
- 4 A YES, SIR.
- 5 Q WAS FIVE YEARS PRIOR TO MS. BECKHAM'S
6 DEATH, CORRECT?
- 7 A YES, SIR.
- 8 Q PERIOD ENDING DECEMBER OF '89?
- 9 A YES, SIR.
- 10 Q THIS ONE IS FOUR YEARS PRIOR TO HER
11 DEATH? AND THIS IS FOR \$467? IS THAT WHAT THE
12 STATEMENT SHOWS?
- 13 A FOUR HUNDRED AND SIXTY-SEVEN DOLLARS AND
14 FOUR CENTS.
- 15 Q ALL RIGHT, AND THAT WAS FILED WITH YOUR
16 OFFICE...
- 17 A THE LIEN WAS FILED JUNE 22ND OF 1994;
18 SATISFIED ON JANUARY 12TH, '96.
- 19 Q OKAY, SO THIS IS THE ONLY, ACTUALLY THE
20 ONLY LIEN FILED AGAINST MR. AND MRS. BECKHAM PRIOR
21 TO HER DEATH WAS \$467?
- 22 A THE INTERNAL REVENUE LIEN WAS FILED
23 AUGUST 31ST, '92?
- 24 Q YEAH, I WAS TALKING ABOUT THE SOUTH
25 CAROLINA TAX COMMISSION?

1 A YES.

2 Q NOW, THE INTERNAL REVENUE SERVICE,
3 FEDERAL, THAT WAS FOR THE PERIOD ENDING WHEN? '89
4 ALSO, CORRECT?

5 A YES, SIR, DECEMBER 31ST, '89.

6 Q ALL RIGHT, SO THAT AGAIN IS FIVE YEARS
7 BEFORE MS. BECKHAM'S DEATH, AND IT'S ASSESSED
8 AGAINST BOTH STEPHEN AND VICTORIA BECKHAM, IS IT
9 NOT?

10 A YES.

11 Q AND THAT WAS FILED IN YOUR OFFICE IN
12 '92?

13 A YES.

14 Q ALL RIGHT NOW, YOU'VE TESTIFIED THAT
15 THESE WERE SATISFIED, IS THAT CORRECT?

16 A NO, SIR. THE SOUTH CAROLINA DEPARTMENT
17 OF REVENUE LIEN THAT WAS FILED JUNE 22ND, '94 IS
18 SATISFIED. THE LIEN THAT WAS FILED JANUARY 20TH,
19 '95, IS NOT SATISFIED.

20 Q OKAY. AND THAT WAS THE ONE FROM JANUARY
21 OF 1995 IS NOT SATISFIED?

22 A YES, SIR.

23 Q AND THIS IS THE ONE THAT WAS FILED AFTER
24 MS. BECKHAM'S DEATH, IS THAT CORRECT?

25 A YES, SIR, IT WAS FILED AFTER MS.

1 BECKHAM'S DEATH.

2 Q OKAY. WHEN A LIEN IS SATISFIED, DO YOU
3 KNOW HOW AND WHY IT'S SATISFIED? IS THAT RECORDED
4 IN YOUR OFFICE?

5 A WE JUST GET THE NOTICE OF SATISFACTION,
6 AND WE JUST ASSUME IT'S BEEN PAID.

7 Q OKAY. IT CAN EITHER BE PAID OR
8 DISCHARGED IN BANKRUPTCY, ISN'T THAT CORRECT?

9 A YES, SIR.

10 Q OKAY, DO YOU KNOW IF THESE HAVE BEEN
11 PAID OR WHETHER OR NOT MR. BECKHAM'S LIENS OR
12 OBLIGATIONS WITH THE INTERNAL REVENUE SERVICE AND
13 SOUTH CAROLINA WERE SATISFIED BY BANKRUPTCY?

14 A NO, SIR, I DO NOT KNOW.

15 Q ALL YOU KNOW IS THAT THEY ARE NO LONGER
16 OUTSTANDING?

17 A CORRECT.

18 Q AND YOUR OFFICE IS NOT ADVISED WHETHER
19 OR NOT THE METHOD OF SATISFACTION?

20 A NO, SIR.

21 Q ALL YOU'RE NOTIFIED IS WHETHER OR NOT TO
22 TAKE THE LIEN OFF OR NOT.

23 A YES, SIR.

24 Q ALL RIGHT, THANK YOU.

25 THE COURT: ANYTHING ELSE OF THIS

1 WITNESS?

2 MR. COULTER: NO, SIR.

3 THE COURT: ALL RIGHT, THANK YOU, MA'AM.

4 CALL YOUR NEXT WITNESS.

5 MR. MCMAHON: STATE CALLS DEPUTY KERRY
6 JOHNSON.

7 KERRY JOHNSON, BEING DULY
8 SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION:

10 BY MR. MCMAHON:

11 A MY NAME IS KERRY JOHNSON; FIRST NAME IS
12 SPELLED K-E-R-R-Y.

13 Q SIR, BY WHOM ARE YOU EMPLOYED?

14 A I'M A MASTER DEPUTY WITH THE LEXINGTON
15 COUNTY SHERIFF'S DEPARTMENT, LEXINGTON COUNTY,
16 SOUTH CAROLINA.

17 Q AND HOW LONG HAVE YOU BEEN WITH THE
18 LEXINGTON COUNTY SHERIFF'S DEPARTMENT, DEPUTY
19 JOHNSON?

20 A AS OF TODAY, IT'S BEEN EIGHT YEARS,
21 ELEVEN MONTHS.

22 Q ALL RIGHT, SIR, AND WHAT ARE YOUR DUTIES
23 VERY BRIEFLY AND GENERALLY, IN THE POSITION YOU
24 CURRENTLY HOLD WITH THAT DEPARTMENT?

25 A AS A MASTER DEPUTY, A MORE COMMON TERM

1 WOULD BE CORPORAL, IF YOU'RE FAMILIAR WITH THAT.
2 MY DUTIES IS TO RUN A SHIFT, TWELVE HOUR SHIFT OF
3 DEPUTIES WHO ARE UNDER ME. AND I BASICALLY, IN
4 ADDITION TO RUNNING THE SHIFT, I PERFORM THE
5 REGULAR DUTIES OF ANY PATROL OFFICER. I RESPOND TO
6 CALLS. WE TRY TO PREVENT CRIME AND ENFORCE THE
7 LAWS, SUCH AS THAT.

8 Q NOW, SIR, WERE YOU ON DUTY ON THE NIGHT,
9 I BELIEVE THE NIGHT OF JULY 14TH AND THE EARLY
10 MORNING HOURS OF JULY 15TH OF 1995?

11 A YES, SIR, I WAS.

12 Q AND WHAT PARTICULAR AREA OF LEXINGTON
13 COUNTY WERE YOU ASSIGNED?

14 A THE COUNTY IS BROKEN UP INTO TWO AREAS.
15 I WAS ASSIGNED TO WHAT WE CALL THE IRMO AREA. THE
16 IRMO AREA CONSISTS OF THE SAINT ANDREWS AREA AS
17 WELL AS UP IN CHAPIN. THAT PARTICULAR NIGHT, I WAS
18 ASSIGNED TO PATROL THAT AREA.

19 Q GOING ON TOWARD MIDNIGHT OF THE 14TH AND
20 THE EARLY MORNING HOURS OF THE 15TH OF JULY OF '95,
21 DID YOU RECEIVE A CALL TO GO TO A PARTICULAR
22 LOCATION IN LEXINGTON COUNTY?

23 A YES, SIR. AT APPROXIMATELY 12:49 THAT
24 MORNING, MYSELF AND DEPUTY JACK WEED, WE WERE
25 DISPATCHED TO A CHURCH ON OLD LEXINGTON ROAD IN THE

1 CHAPIN AREA. IT'S THE SAINT FRANCIS OF ASSISI
2 CHURCH IN REFERENCE TO AN OVERDOSE.

3 Q WHAT TYPE OF CHURCH WAS IT? WHAT IS THE
4 NAME OF IT?

5 A THE NAME OF THE CHURCH IS SAINT FRANCIS
6 OF ASSISI EPISCOPAL CHURCH. IT'S LOCATED ON OLD
7 LEXINGTON ROAD.

8 Q AND OLD LEXINGTON ROAD, THAT IS LOCATED
9 OFF OF WHAT HIGHWAY?

10 A IF YOU COME INTO CHAPIN OUT OF THE WAY
11 ON 76 AND YOU TURN INTO TOWN LIMIT, IT'S CALLED
12 LEXINGTON STREET. AS SOON AS YOU GET OUT OF THE
13 TOWN LIMIT, IT CHANGES NAMES TO LEXINGTON ROAD.
14 IT'S PROBABLY, FROM HIGHWAY 76, IT'S A MILE AND A
15 HALF, MAYBE TWO MILES FROM TOWN.

16 Q AND APPROXIMATELY WHAT TIME DID YOU
17 ARRIVE AT THIS LOCATION?

18 A AS I SAID, WE WERE DISPATCHED AT ABOUT
19 12:49 A.M. WE ARRIVED APPROXIMATELY FIFTEEN
20 MINUTES LATER.

21 Q SO YOU'RE TALKING ABOUT ONE O'CLOCK OR
22 SHORTLY AFTER ONE O'CLOCK IN THE MORNING?

23 A THAT'S CORRECT.

24 Q AND WHAT WAS THE NATURE OF THE CALL YOU
25 WERE RESPONDING TO?

1 A ONCE AGAIN, WE WERE INFORMED IT WAS
2 POSSIBLY AN OVERDOSE WHICH IS QUITE COMMON FOR US
3 TO BE DISPATCHED TO SOMETHING LIKE THAT. MAYBE
4 IT'S AN ACCIDENTAL OVERDOSE OR ATTEMPTED SUICIDE OR
5 WHATEVER.

6 Q NOW, WOULD YOU DESCRIBE FOR THE JURY,
7 PLEASE, DEPUTY JOHNSON, YOUR OBSERVATIONS UPON YOUR
8 ARRIVAL AT THIS LOCATION?

9 A YES, SIR. UPON OUR ARRIVAL WHEN WE CAME
10 UP INTO THE PARKING LOT OF THE CHURCH, THE FIRST
11 THING WE NOTICED WAS AN AMBULANCE HAD ALREADY
12 ARRIVED. THE BACK DOOR OF THE AMBULANCE WAS OPEN,
13 TWO EMT'S WERE MILLING ABOUT. THERE WAS A BLUE
14 FORD CROWN VICTORIA SIMILAR TO OUR POLICE CARS
15 PARKED PERPENDICULAR TO THE AMBULANCE RIGHT IN
16 FRONT OF THE CHURCH.

17 I NOTICED ANOTHER INDIVIDUAL WHICH I
18 LATER IDENTIFIED TO BE A MR. LIBBY STANDING NEXT TO
19 THE VEHICLE.

20 Q STANDING NEXT TO THE FORD CROWN VICTORIA
21 VEHICLE?

22 A YES, SIR. WHEN WE PULLED IN, AND ONCE
23 WE GOT OUT AND KIND OF ESTABLISHED WHAT WAS GOING
24 ON, MR. LIBBY, I THINK IT'S ROBERT LIBBY, WHO I SEE
25 OVER HERE IN THE COURTROOM.

1 Q WOULD YOU POINT HIM OUT FOR THE JURY,
2 PLEASE? DO YOU SEE MR. LIBBY?

3 A YES, SIR. THE GENTLEMAN STANDING UP.

4 Q ALL RIGHT, SIR.

5 A HE WAS GETTING SOME ITEMS OUT OF THE
6 FRONT SEAT OF THE VEHICLE. THERE WAS ANOTHER
7 GENTLEMAN TOTALLY UNRELATED TO THIS CALL ALREADY IN
8 THE BACK OF THE AMBULANCE. SO AT FIRST WE ASSUMED
9 THAT MAYBE HE WAS THE OVERDOSE PATIENT. ONE OF THE
10 EMT'S ADVISED ME THAT THE PATIENT WAS IN THE BACK
11 OF THE CROWN VICTORIA.

12 Q AND THAT WAS THE CROWN VICTORIA NEAR
13 WHERE MR. LIBBY WAS AT?

14 A YES, SIR. AND AS I STATED, HE WAS
15 GETTING SOME ITEMS OUT OF THE FRONT SEAT OF THE
16 VEHICLE SO IT APPEARED IT WAS HIS VEHICLE, WHICH I
17 LATER FOUND OUT THAT IT WAS.

18 SO WE WALKED OVER AND THE EMT'S WERE
19 TALKING TO SOMEONE IN THE BACK OF THE CROWN
20 VICTORIA. WHEN THEY KIND OF STEPPED BACK OUT OF
21 THE WAY, I IMMEDIATELY RECOGNIZED STEPHEN BECKHAM
22 AS THE GUY IN THE BACK SEAT. WE WERE NOT DIRECTLY
23 RELATED TO THE CASE, BUT WE HAD BEEN GIVEN SOME
24 INFORMATION TO LOOK OUT FOR HIM AND I IMMEDIATELY
25 RECOGNIZED HIM.

1 Q NOW--EXCUSE ME, I DIDN'T MEAN TO
2 INTERRUPT YOU, DEPUTY JOHNSON. WHEN THE EMT'S,
3 WHEN YOU FIRST OBSERVED THEM, THEY WERE IN THE BACK
4 SEAT YOU LATER IDENTIFIED AS THE DEFENDANT, MR.
5 BECKHAM?

6 A RIGHT, MR. BECKHAM WAS SITTING UPRIGHT
7 IN THE BACK SEAT AND THEY WERE BASICALLY LEANING
8 OVER TALKING TO HIM, TRYING TO FIND OUT WHAT WAS
9 WRONG WITH HIM.

10 Q NOW, DID YOU HEAR ANY OF THAT
11 CONVERSATION BETWEEN THE EMT'S AND THE DEFENDANT,
12 MR. BECKHAM?

13 A NO, SIR. I COULDN'T HEAR WHAT THEY WERE
14 SAYING. ONCE THEY ESTABLISHED THAT THEY NEEDED TO
15 TRANSPORT, THEY WENT BACK TO THE AMBULANCE, AT
16 WHICH TIME THAT'S WHEN WE NOTICED IT WAS MR.
17 BECKHAM IN THE BACK SEAT. I ASKED MR. BECKHAM, YOU
18 KNOW, "ARE YOU STEPHEN BECKHAM? WE NEED TO KNOW,
19 WE NEED TO GET YOU TO IDENTIFY YOURSELF."

20 MR. SWERLING: YOUR HONOR, NOTE MY
21 OBJECTION...

22 THE COURT: WELL, YOU NEED TO MAKE IT
23 NOW.

24 MR. SWERLING: BASED ON THE CONDITION HE
25 WAS IN, I OBJECT TO...

1 THE COURT: AND I SUSTAIN IT RIGHT NOW.
2 NOW COME OVER HERE AND I'LL TELL YOU...

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

6 THE COURT: ALL RIGHT, LAY YOUR
7 FOUNDATION, MR. MCMAHON.

8 Q DEPUTY JOHNSON, WHERE WERE YOU AT IN
9 RELATIONSHIP TO THE DEFENDANT, MR. BECKHAM, WHEN
10 YOU ASKED HIM HIS NAME?

11 A I WAS LEANING DOWN TALKING INTO THE
12 VEHICLE. MY FACE WAS APPROXIMATELY TWO FEET FROM
13 HIS FACE.

14 Q AND WAS THERE ANY OTHER INDIVIDUALS
15 BETWEEN YOU AND MR. BECKHAM?

16 A NO, SIR. MR... AS I STATED, THE DOOR
17 WAS OPEN AND RIGHT ON THE OTHER SIDE OF THE DOOR,
18 MR. ROBERT LIBBY, WHO WAS STANDING UP OVER THERE,
19 HE WAS THERE.

20 Q AND COULD YOU DESCRIBE FOR THE JURY,
21 PLEASE, THE TONE OF YOUR VOICE, THE LOUDNESS OF
22 YOUR VOICE?

23 A BASIC CONVERSATION. I MEAN, I DIDN'T
24 HAVE TO YELL OR ANYTHING. HE WAS RIGHT THERE. I
25 MEAN, IT WASN'T ANY TYPE OF AN EMERGENCY SITUATION.

1 IT WAS JUST CASUAL CONVERSATION; JUST BASICALLY
2 ASKING HIM TO IDENTIFY HIMSELF.

3 Q AND WHAT WAS YOUR QUESTION PRECISELY?

4 A I ASKED STEPHEN BECKHAM IF HE WAS IN
5 DEED STEPHEN BECKHAM, IF HE HAD ANY TYPE OF
6 IDENTIFICATION. AT WHICH TIME, MR. ...

7 THE COURT: NO, YOU CAN'T ANSWER THE
8 QUESTION YET. NOW, HE JUST ASKED YOU WHAT YOU
9 ASKED HIM.

10 Q IN YOUR OPINION, WAS THE DEFENDANT, FROM
11 WHERE YOU WERE STANDING WHEN YOU WERE ASKING HIM
12 THIS QUESTION, WAS HE ABLE TO HEAR YOUR STATEMENT?

13 A OH, ABSOLUTELY, YES.

14 Q WOULD YOU DESCRIBE FOR THE JURY, PLEASE,
15 YOUR OBSERVATION AT THAT TIME, OF THE DEFENDANT'S
16 CONDITION?

17 A HE WAS VERY WIDE-EYED. I NOTICED HIS
18 EYES WERE REAL WIDE.

19 Q HIS EYES WERE OPEN?

20 A YES, SIR. HE WAS LOOKING AROUND AS IF
21 HE WAS NOT SURE WHAT WAS GOING ON.

22 Q IN HIS LOOKING AROUND, DID HE EVER LOOK
23 IN YOUR DIRECTION?

24 A YES, SIR.

25 Q AND HOW WERE YOU DRESSED, IN THE SAME

1 MANNER AS YOU ARE NOW?

2 A RIGHT, AND THERE WERE LIGHTS ON IN THE
3 PARKING LOT. I MEAN, HE COULD SEE THAT I WAS A
4 POLICE OFFICER. IT WAS WELL LITE TO THE POINT
5 THERE COULDN'T HAVE BEEN ANY MISTAKE.

6 MR. MCMAHON: YOUR HONOR, I WOULD OFFER
7 IT AT THIS TIME.

8 THE COURT: ALL RIGHT. ANY FURTHER
9 OBJECTION, MR. SWERLING?

10 MR. SWERLING: WELL, JUDGE, I MEAN, I
11 RECKON HE SATISFIED...GO AHEAD, IT DOESN'T MAKE ANY
12 DIFFERENCE. GO AHEAD.

13 THE COURT: OVERRULE THE OBJECTION NOW.
14 YOU CAN ASK THE...

15 MR. SWERLING: I'LL WITHDRAW THE
16 OBJECTION.

17 THE COURT: ...QUESTION AND HE CAN
18 ANSWER THE QUESTION.

19 Q AND WHAT WAS THE QUESTION YOU ASKED THE
20 DEFENDANT?

21 A I ASKED HIM IF HE WAS IN DEED STEPHEN
22 BECKHAM?

23 Q AND WHAT DID HE RESPOND?

24 A HE DID NOT.

25 MR. SWERLING: I'M SORRY?

1 THE COURT: HE SAID HE DID NOT.

2 A HE DID NOT RESPOND.

3 Q NOW, WHAT STEPS DID YOU THEN TAKE TO
4 IDENTIFY THIS INDIVIDUAL?

5 A I TURNED TO MR. LIBBY, ONCE I ASKED MR.
6 BECKHAM WHAT HIS NAME WAS, MR. LIBBY SAID
7 SOMETHING'S WRONG WITH HIM.

8 MR. SWERLING: JUDGE, I'D HAVE TO
9 OBJECT. STIPULATE THAT THE PERSON THERE WAS
10 STEPHEN BECKHAM.

11 THE COURT: YES, SIR.

12 MR. SWERLING: OKAY, THAT'S NOT AN
13 ISSUE.

14 MR. MCMAHON: WELL, WHY IS THAT AN
15 OBJECTION? WHAT'S THE BASIS OF THE OBJECTION?

16 MR. SWERLING: ANYBODY ELSE TALKING
17 ABOUT WHAT ANYBODY ELSE SAID IS HEARSAY.

18 MR. MCMAHON: NO, SIR, IT'S RES GESTAE.

19 THE COURT: ALL RIGHT, I OVERRULE THE
20 OBJECTION. LAY YOUR SCENARIO OUT...

21 Q WOULD YOU DESCRIBE FOR...

22 MR. SWERLING: JUDGE, COULD I APPROACH
23 FOR A MINUTE?

24 THE COURT: SURE.

25 Q ...THE JURY YOUR OBSERVATION...

1 THE COURT: WAIT JUST A MINUTE.

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

5 THE COURT: THE OBJECTION TO THIS LINE
6 OF QUESTIONING IS CONTINUING AND IT IS OVERRULED
7 PURSUANT TO 803(1) AND/OR (2), DEPENDING ON THE
8 PARTICULAR QUESTION PUT.

9 MR. MCMAHON: THANK YOU, YOUR HONOR.
10 MAY IT PLEASE THE COURT?

11 THE COURT: YES, SIR.

12 Q WOULD YOU DESCRIBE FOR THE JURY, PLEASE,
13 YOUR OBSERVATIONS OF MR. LIBBY?

14 A MY OBSERVATION OF MR. LIBBY WAS THAT HE
15 WAS VERY, VERY NERVOUS. HE WAS OBVIOUSLY VERY
16 CAUGHT UP IN THE MOMENT. I ASKED MR. LIBBY SOME
17 THINGS THAT MR. LIBBY DIDN'T SEEM TO WANT TO SPEAK
18 TO.

19 Q AND WHEN YOU SAY VERY, VERY NERVOUS,
20 SPECIFICALLY WHAT DID YOU OBSERVE ABOUT MR. LIBBY
21 DURING THIS TIME?

22 A WELL, WHEN I ASKED HIM, YOU KNOW, IF
23 THIS WAS MR. BECKHAM, HE DIDN'T WANT TO ANSWER ME
24 AT FIRST. HE KIND OF HESITATED, AND I ASKED HIM
25 AGAIN AND HE SAID, "YES, THAT'S STEPHEN BECKHAM."

1 I HAD A FEW MORE QUESTIONS FOR HIM; AT THAT TIME, I
2 PLACED MR. BECKHAM UNDER ARREST.

3 Q AND WHERE DID YOU PLACE MR. BECKHAM?

4 A ONCE HE WAS PLACED UNDER ARREST, WE ALSO
5 FOUND A WALLET IN THE CAR WHICH HAD HIS DIVER'S
6 LICENSE IN IT. DUE TO THE FACT THAT HE WAS
7 POSSIBLY OVERDOSED, WE PLACED HIM INTO THE
8 AMBULANCE TO BE TRANSPORTED. I INSTRUCTED DEPUTY
9 WEED TO GET IN THE AMBULANCE WITH HIM AND TO STAY
10 WITH HIM UNTIL THEY GOT TO THE HOSPITAL.

11 Q NOW, LET ME ASK YOU THIS. YOU DESCRIBED
12 THE TWO EMT'S BEING THERE, THE DEFENDANT, MR.
13 BECKHAM, MR. LIBBY, YOURSELF AND ONE OTHER OFFICER,
14 I BELIEVE. IS THAT CORRECT?

15 A THAT'S CORRECT.

16 Q WERE THERE ANY OTHER INDIVIDUALS THERE
17 AT THIS TIME?

18 A SHORTLY AFTER WE PLACED HIM INTO THE
19 AMBULANCE, A VEHICLE PULLED UP, YES SIR.

20 Q WAS ANY CHILDREN THERE AT THIS TIME?

21 A NO, NO CHILDREN WHATSOEVER.

22 Q HAD YOU ASKED MR. LIBBY OR ANYONE ABOUT
23 THE CHILDREN...

24 MR. SWERLING: OBJECT TO THE RELEVANCE
25 OF THIS.

1 Q ...PRIOR TO THIS OTHER...

2 THE COURT: I'M NOT SURE I UNDERSTAND
3 THAT QUESTION.

4 MR. MCMAHON: I'M GOING INTO HIS
5 CONVERSATIONS WITH MR. LIBBY PRIOR TO MR. BECKHAM
6 BEING PLACED IN THE AMBULANCE.

7 MR. SWERLING: I DON'T SEE HOW THAT
8 WOULD BE RELEVANT.

9 THE COURT: PRIOR TO?

10 MR. MCMAHON: YES, SIR. PRIOR TO MR.
11 BECKHAM BEING PLACED IN THE AMBULANCE.

12 THE COURT: OKAY, OVERRULE THE
13 OBJECTION.

14 MR. SWERLING: YOUR HONOR, I STILL DON'T
15 SEE THE RELEVANCE.

16 THE COURT: YES, SIR. I UNDERSTAND.

17 MR. SWERLING: JUDGE, COULD WE?

18 THE COURT: SURE.

19 (BENCH CONFERENCE IN THE PRESENCE OF THE
20 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
21 RECORD.)

22 THE COURT: OBJECTION IS OVERRULED.

23 MR. MCMAHON: THANK YOU, YOUR HONOR, MAY
24 IT PLEASE THE COURT?

25 Q DEPUTY JOHNSON, NOW GOING BACK PRIOR TO

1 WHEN MR. BECKHAM WAS MOVED FROM MR. LIBBY'S VEHICLE
2 TO THE AMBULANCE. YOU TALKED ABOUT WHO ALL WAS
3 THERE. WAS THERE ANY CHILDREN THERE?

4 A NO, SIR, THERE WERE NO CHILDREN.

5 Q DID YOU ATTEMPT TO LOCATE OR DETERMINE
6 THE LOCATION OF THOSE CHILDREN?

7 A RIGHT, I HAD KNOWLEDGE THAT SOME
8 CHILDREN WERE ALSO BEING SOUGHT, AND I ASKED MR.
9 LIBBY WHERE THE CHILDREN WERE. HE SAID THEY WERE
10 IN A SAFE PLACE, BUT HE WOULD NOT TELL ME WHERE
11 THEY WERE.

12 Q ALL RIGHT, SIR, NOW AFTER MR. BECKHAM
13 WAS PLACED IN THE AMBULANCE, DID ANOTHER VEHICLE
14 ARRIVE?

15 A YES, SIR. A VEHICLE PULLED UP BEHIND
16 US, TUNED AROUND, TWO MEN EXITED THE VEHICLE. I
17 GOT TO TALKING WITH THEM, IDENTIFIED ONE TO BE
18 STEPHEN'S FATHER, MR. BECKHAM, WHO'S IN THE
19 COURTROOM.

20 Q AND YOU'VE IDENTIFIED HIM IN THE
21 COURTROOM AND THAT'S MR. BECKHAM THERE ON THE FRONT
22 CORNER?

23 A YES, SIR.

24 Q AND WHAT TIME AGAIN WAS THIS? WHAT TIME
25 OF MORNING WAS THIS?

- 1 A BY NOW THIS IS AT LEAST TEN AFTER ONE IN
2 THE MORNING.
- 3 Q A.M.?
- 4 A YES, SIR.
- 5 Q AND THIS VEHICLE THAT ARRIVED, WHAT TYPE
6 OF VEHICLE WAS THIS?
- 7 A I DON'T RECALL. IT SEEMS LIKE IT WAS
8 LIKE A UTILITY TYPE, MAYBE A BRONCO OR SOMETHING.
9 I DON'T RECALL BECAUSE IT CAME IN BEHIND ME AND I
10 WAS MORE CONCERNED WITH WHAT WAS GOING ON WITH THE
11 VEHICLES.
- 12 Q AND YOU SAY MR. BECKHAM'S FATHER WAS ONE
13 OF THOSE TWO INDIVIDUALS. DID YOU IDENTIFY THE
14 OTHER INDIVIDUAL WHO WAS IN THIS VEHICLE?
- 15 A RIGHT, A MR. ZEIDER, I THINK IS HOW YOU
16 PRONOUNCE IT.
- 17 Q ALL RIGHT, SIR, NOW WERE THERE ANY
18 CHILDREN WITH DEFENDANT BECKHAM'S FATHER OR MR.
19 ZEIDER THAT YOU OBSERVED?
- 20 A NO, SIR.
- 21 Q DID YOU FURTHER ATTEMPT TO LOCATE THE
22 CHILDREN, IN CONVERSATIONS WITH THEM? I'M NOT
23 ASKING YOU TO GO INTO THE SUBSTANCE OF THOSE
24 CONVERSATIONS.
- 25 A FROM WHAT I RECALL IN CONVERSATION, I

1 BASICALLY ASKED MR. BECKHAM THE SAME THING, THE
2 WHEREABOUTS OF THE CHILDREN, AND THEY ALL ASSURED
3 ME THAT THE CHILDREN WERE IN A SAFE PLACE BUT THEY
4 DID NOT WISH TO TELL ME WHERE THE CHILDREN WERE.

5 Q NOW, THIS PARTICULAR AREA, THIS SAINT
6 FRANCIS OF ASSISI EPISCOPAL CHURCH, I BELIEVE YOU
7 SAID ON OLD LEXINGTON HIGHWAY?

8 A THAT'S CORRECT.

9 Q COULD YOU DESCRIBE FOR THE JURY...

10 COURT REPORTER: EXCUSE ME, JUDGE.

11 (PRIMARY EQUIPMENT MALFUNCTION.)

12 COURT REPORTER: I'M SORRY. THANK YOU,
13 YOU MAY PLEASE CONTINUE.

14 THE COURT: ALL RIGHT, MR. MCMAHON.

15 MR. MCMAHON: YES, SIR.

16 Q NOW, DEPUTY JOHNSON, THIS AREA WE WERE
17 TALKING ABOUT, SAINT FRANCIS EPISCOPAL CHURCH I
18 BELIEVE YOU SAID, ON OLD LEXINGTON HIGHWAY, WOULD
19 YOU DESCRIBE FOR THE JURY, PLEASE, THIS HIGHWAY,
20 THIS ROADWAY AS FAR AS THE AMOUNT OF TRAFFIC YOU
21 WOULD USUALLY OBSERVE ON THAT ROAD THAT TIME OF
22 MORNING?

23 A OLD LEXINGTON ROAD EVENTUALLY DEAD-ENDS
24 UP TO LAKE MURRAY. IT CROSSES OVER WESINGER ROAD;
25 IT'S REALLY NOT WHAT I WOULD CALL A THROUGH STREET

1 WHERE YOU WOULD SEE A LOT OF TRAFFIC. IT'S ALL
2 RESIDENTIAL. PRETTY MUCH THAT TIME OF NIGHT THE
3 ONLY PEOPLE YOU SEE OUT THERE ARE GOING TO OR FROM
4 THEIR HOUSES.

5 Q AND IF I REFER BACK TO STATE'S EXHIBIT
6 NUMBER EIGHTY-FIVE, STEP DOWN HERE FOR ME.

7 MR. MCMAHON: WITH THE COURT'S
8 PERMISSION, MAY HE STEP DOWN A MINUTE?

9 THE COURT: SURE. GIVE HIM THE MIC.

10 Q AND DEPUTY JOHNSON, DO YOU RECOGNIZE
11 THIS HIGHWAY AS HIGHWAY 76?

12 A YES, SIR.

13 Q AND BASICALLY THIS GOES ON BACK AND
14 CROSSES LAKE MURRAY DAM AND GOES ON BACK INTO
15 LEXINGTON?

16 A THAT'S CORRECT.

17 Q AND THE IRMO SECTION IS BACK DOWN IN
18 HERE, IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q AND UP HERE IS CHAPIN. WHICH SIDE OF
21 HIGHWAY 76 WOULD OLD LEXINGTON HIGHWAY BE ON?

22 A RIGHT HERE. OF COURSE THIS MAP ISN'T
23 VERY DETAILED BUT RIGHT IN THE HEART OF CHAPIN OLD
24 LEXINGTON ROAD COMES BACK UP IN HERE.

25 Q AND YOU SAY IT GOES ON DOWN AND WOULD

1 DEAD-END INTO LAKE MURRAY, IS THAT RIGHT?

2 A EVENTUALLY, YES SIR.

3 Q DID YOU OR DEPUTY WEED OR ANY OF THE
4 OFFICERS OF THE LEXINGTON COUNTY SHERIFF'S
5 DEPARTMENT NOTIFY THE DEFENDANT'S FATHER OF Y'ALL
6 BEING THERE?

7 A NO, SIR.

8 Q WHEN DID HE ARRIVE AT THAT LOCATION IN
9 RELATIONSHIP TO WHEN YOU AND DEPUTY WEED ARRIVED?

10 A SHORTLY AFTER, I WOULD SAY NO MORE THAN
11 TEN MINUTES AFTER WE ARRIVED.

12 Q WITHIN TEN MINUTES OF YOU AND DEPUTY
13 WEED ARRIVING, AND CORRECT MY MEMORY, SHORTLY AFTER
14 ONE O'CLOCK IN THE MORNING?

15 A I THINK OUR ARRIVAL TIME WAS 1:04.

16 Q NOW, ALL RIGHT, SIR. THANK YOU. YOU
17 CAN RETAKE THE STAND.

18 NOW, DO YOU KNOW WHO NOTIFIED REVEREND
19 BECKHAM, MR. BECKHAM?

20 A I HAVE NO IDEA.

21 Q NOW, I BELIEVE YOU SAID THIS WAS ON THE
22 15TH, THE EARLY MORNING HOURS OF THE 15TH?

23 A THAT'S CORRECT.

24 Q COULD YOU IDENTIFY THIS DOCUMENT FOR US,
25 PLEASE?

- 1 A YES, SIR, THIS IS A HANDWRITTEN WARRANT.
2 Q FOR WHOSE ARREST?
3 A FOR THE ARREST OF STEPHEN ANDREW BECKHAM
4 FOR THE CHARGE OF MURDER.
5 Q AND WHAT DATE WAS THAT WARRANT ISSUED?
6 A THAT SAME...IT WAS COUNTER-SIGNED THAT
7 DAY FOR SERVICE IN OUR COUNTY. IT WAS ISSUED AS--
8 CAN'T HARDLY READ THEIR WRITING. IT WAS I THINK
9 JULY 11TH.
10 Q JULY THE 11TH OF '95?
11 A YES, SIR.
12 Q FOUR DAYS BEFORE THIS INCIDENT YOU
13 DESCRIBED?
14 A RIGHT.
15 Q NOW, SIR, YOU'VE GOT IDENTIFYING
16 INFORMATION, I BELIEVE, YOU TESTIFIED YOU GOT MR.
17 BECKHAM'S WALLET?
18 A THAT'S CORRECT.
19 Q AND FROM HIS WALLET, WERE YOU ABLE TO
20 DETERMINE WHAT ADDRESS HE HAD ON HIS WALLET?
21 A YES, SIR. IT'S THE SAME ONE I PUT ON MY
22 INCIDENT REPORT FROM HIS DRIVER'S LICENSE. ALL THE
23 INFORMATION I WROTE ON MY REPORT UNDER THE SUSPECT
24 INFORMATION CAME FROM THAT DRIVER'S LICENSE. THE
25 ADDRESS THAT HE HAD LISTED ON HIS DRIVER'S LICENSE

- 1 WAS 4650 HIGHWAY 773 IN POMARIA, SOUTH CAROLINA.
- 2 Q ALL RIGHT, SIR. NOW, I'M SHOWING YOU
- 3 STATE'S EXHIBIT NUMBER 116 WHICH I BELIEVE HAS BEEN
- 4 STIPULATED TO?
- 5 MR. SWERLING: YES.
- 6 Q I JUST WANT TO ASK YOU A COUPLE OF
- 7 QUESTIONS ABOUT THIS. I BELIEVE YOU SAID THAT
- 8 WARRANT WAS ISSUED ON JULY 11TH OF '95, IS THAT
- 9 CORRECT?
- 10 A THAT'S WHAT I CAN SEE ON HERE, YES.
- 11 Q ALL RIGHT, STATE'S EXHIBIT NUMBER 116 IS
- 12 A MOTEL RECEIPT FROM FLORIDA. WHAT DATE IS
- 13 REPRESENTED ON THERE?
- 14 A JULY 11TH, 1995.
- 15 Q SAME DATE AS THE WARRANT?
- 16 A YES, SIR.
- 17 Q AND IS THERE A TIME INDICATED THERE, A
- 18 CHECK-IN?
- 19 A FIVE, TWENTY-FOUR P.M.
- 20 Q AND IS THERE A TIME OF CHECK-OUT?
- 21 A SIX, THIRTY-SEVEN P.M.
- 22 Q SAME DATE?
- 23 A YES, SIR.
- 24 Q AN HOUR AND THIRTEEN MINUTES?
- 25 A YES, SIR.

- 1 Q NOW, THIS NAME AND ADDRESS, STEPHEN
2 BECKHAM, 4650 HIGHWAY 773, POMARIA, IS THAT THE
3 SAME ADDRESS THAT YOU GOT OFF HIS DRIVER'S LICENSE
4 ON THE EARLY MORNING HOURS OF JULY 15TH?
- 5 A NO, SIR. IT'S A DIFFERENT ADDRESS.
- 6 Q THIS IS THE SAME OR DIFFERENT?
- 7 A I'M SORRY; YES, SIR, THAT'S THE SAME
8 ADDRESS THAT WAS ON THE DRIVER'S LICENSE.
- 9 Q THIS ADDRESS ON THIS IS THE SAME AS THE
10 ONE YOU GOT OFF HIS DRIVER'S LICENSE?
- 11 A RIGHT.
- 12 Q NOW LET ME ASK YOU, IT'S GOT COMMENT:
13 HONDA, EWJ188SC. WHEN YOU ARRESTED MR. BECKHAM,
14 WAS HE IN A HONDA?
- 15 A NO, SIR. HE WAS IN THE BACK OF MR.
16 LIBBY'S CROWN VICTORIA.
- 17 Q STATE'S EXHIBIT NUMBER FORTY-THREE; DID
18 YOU SEE THIS VEHICLE AT THE SAINT FRANCIS CHURCH ON
19 THE EARLY MORNING HOURS OF JULY 15TH, '95?
- 20 A NO, SIR. THAT VEHICLE WAS NOT AT THE
21 CHURCH.
- 22 Q NOW, GOING TO WHAT'S BEEN PREVIOUSLY
23 MARKED AS STATE'S EXHIBIT NUMBERS 117 AND 118, AND
24 130, I BELIEVE, BY STIPULATION?
- 25 MR. SWERLING: YES, SIR.

- 1 Q AND I'LL HAND YOU 130 WHICH IS THE
2 ORIGINAL FRONT AND BACK OF THIS DOCUMENT. IF YOU
3 WOULD LOOK IN THIS LOCATION, DEPUTY JOHNSON, DO YOU
4 SEE A DATE THERE?
- 5 A THE DATE IS 7/12.
- 6 Q JULY 12TH. SO THAT WOULD BE THE DAY
7 AFTER THE FLORIDA MOTEL RECEIPT?
- 8 A THAT'S CORRECT.
- 9 Q AND WHAT NAME IS THIS REGISTRATION CARD
10 IN?
- 11 A IT'S NOT PRINTED. IT'S SIGNED, BUT IT
12 APPEARS TO BE STEPHEN BECKHAM.
- 13 Q NOW, WHAT IS THE STREET ADDRESS GIVEN?
- 14 A THE STREET ADDRESS ON THIS CARD IS 199
15 SOUTHLAKE SUMMIT, TUXEDO, NORTH CAROLINA. NO ZIP
16 CODE.
- 17 Q NOW YOU WENT IN HIS WALLET?
- 18 A THAT'S CORRECT.
- 19 Q YOU LOOKED AT HIS DRIVER'S LICENSE?
- 20 A THAT'S CORRECT.
- 21 Q WAS 199 SOUTHLAKE DRIVE, TUXEDO, NORTH
22 CAROLINA THE ADDRESS LISTED ON HIS DRIVER'S
23 LICENSE?
- 24 A NO, SIR, IT WASN'T.
- 25 Q NOW, THERE APPEARS TO BE A CAR LICENSE

- 1 TAG, ADB489SC.
- 2 A RIGHT.
- 3 Q IS THAT TAG THE SAME OR DIFFERENT FROM
- 4 THE TAG LISTED?
- 5 A THAT'S A DIFFERENT TAG LISTED ON THAT.
- 6 Q DIFFERENT TAG LISTED?
- 7 A RIGHT.
- 8 Q AND THIS WOULD BE, IT ALSO SHOWS A DATE
- 9 OUT ON THIS, IS THAT CORRECT?
- 10 A YES, SIR, 7/14 IS THE DATE OUT.
- 11 Q JULY 14TH OF '94 WHICH IS THE DAY BEFORE
- 12 THE EARLY MORNING HOURS WHEN YOU PLACED HIM UNDER
- 13 ARREST, IS THAT CORRECT?
- 14 A THAT'S CORRECT.
- 15 Q NOW, COULD YOU TURN OVER THE BACK OF
- 16 THAT. WHAT APPEARS ON THE BACK OF STATE'S EXHIBIT
- 17 NUMBER 130?
- 18 A IT APPEARS SOMEONE HAS WRITTEN DOWN WHAT
- 19 I WOULD BELIEVE TO BE A VEHICLE TAG. IT'S EJW188
- 20 WITH THE LETTERS SC INDICATING THAT IT WAS A SOUTH
- 21 CAROLINA TAG.
- 22 Q AND THAT'S THE TAG NUMBER ON THE BACK OF
- 23 THE RECEIPT WHERE THE TUXEDO, NORTH CAROLINA
- 24 ADDRESS IS AT?
- 25 A SAY THAT AGAIN, SIR?

- 1 Q THAT IS THE TAG NUMBER...
- 2 A RIGHT. THAT'S CORRECT, ON THE BACK...
- 3 Q ...ON THE BACK OF THE RECEIPT WHERE THE
- 4 TUXEDO, NORTH CAROLINA ADDRESS IS AT?
- 5 A RIGHT.
- 6 Q AND OF COURSE, BY STIPULATION, THIS
- 7 MOTEL IS IN KENTUCKY. WERE YOU AWARE OF THAT,
- 8 DEPUTY JOHNSON?
- 9 A NO, SIR, I WAS NOT.
- 10 Q AND DEPUTY JOHNSON, THE EWJ188 LICENSE
- 11 NUMBER IS THE SAME NUMBER THAT APPEARED ON THE
- 12 FLORIDA RECEIPT THE DAY BEFORE, CORRECT?
- 13 A THAT'S CORRECT.
- 14 Q NOW, --
- 15 MR. MCMAHON: YOUR HONOR, MAY IT PLEASE
- 16 THE COURT, BY WAY OF STIPULATION, IT IS MY
- 17 UNDERSTANDING THAT THE JULY 11TH, 1995 RECEIPT THAT
- 18 I HAVE REFERRED TO WITH DEPUTY JOHNSON WITH A
- 19 CHECK-IN AND CHECK-OUT TIME ON 7/11, '95, AN HOUR
- 20 AND THIRTEEN MINUTES, IS FROM A MOTEL IN DAYTONA
- 21 BEACH, FLORIDA, AND WE WOULD NOT BE REQUIRED TO
- 22 BRING THE CUSTODIAN OF THE RECORDS HERE?
- 23 THE COURT: AS I UNDERSTAND, THEY'VE
- 24 AGREED TO THAT.
- 25 MR. SWERLING: THAT'S CORRECT.

1 MR. MCMAHON: AND THEN BY WAY OF
2 STIPULATION...

3 MR. SWERLING: SUBJECT TO OUR
4 OBJECTIONS.

5 THE COURT: YES, SIR, AS TO THE...

6 MR. MCMAHON: BY WAY OF STIPULATION, 118
7 AND 117 IS THE FRONT AND BACK OF THE CARD
8 REGISTERING STEPHEN BECKHAM ON JULY 12TH, 1995, THE
9 NEXT DAY AFTER FLORIDA, IN WILLIAMSBURG, KENTUCKY.
10 AND THERE IS A LICENSE TAG ON THE FRONT AND A
11 LICENSE TAG WRITTEN ON THE BACK WE HAD BLOWN UP AND
12 I UNDERSTAND THAT IS BY WAY OF STIPULATION WITHOUT
13 HAVING TO BRING THE CUSTODIAN.

14 THE COURT: YES, SIR.

15 Q ALL RIGHT, SIR. NOW, DID YOU HAVE
16 CERTAIN CONVERSATIONS WITH DEFENDANT BECKHAM'S
17 FATHER?

18 A YES, SIR. ONCE, I DON'T RECALL WHAT
19 EXACTLY ALL WAS GOING ON AT THE MOMENT AS FAR AS
20 THE EMT'S WERE ATTENDING TO HIM, BUT WE WERE
21 JUST...

22 Q TENDING TO HIM, YOU'RE TALKING ABOUT THE
23 DEFENDANT BECKHAM?

24 A TENDING TO THE DEFENDANT, MR. BECKHAM.

25 Q AND THIS TYPE OF CALL WAS A WHAT? A

- 1 SUSPECTED WHAT?
- 2 A SUSPECTED OVERDOSE.
- 3 Q NOW, FROM THERE, WHERE WAS DEFENDANT
- 4 BECKHAM TAKEN?
- 5 A TO THE LEXINGTON MEDICAL CENTER, TO THE
- 6 EMERGENCY ROOM.
- 7 Q AND WAS HE IN CUSTODY OF A LEXINGTON
- 8 COUNTY SHERIFF'S DEPUTY FROM THAT POINT ON?
- 9 A THAT'S CORRECT.
- 10 Q AND WERE YOU ABLE TO LOCATE DEFENDANT
- 11 BECKHAM'S CHILDREN?
- 12 A ABSOLUTELY NOT. NO ONE WOULD TELL US
- 13 WHERE THEY WERE.
- 14 Q THANK YOU. I DON'T HAVE ANY FURTHER
- 15 QUESTIONS.
- 16 THE COURT: CROSS EXAMINATION, MR.
- 17 SWERLING?
- 18 CROSS EXAMINATION:
- 19 BY MR. SWERLING:
- 20 Q MR. JOHNSON, YOU TOOK MR. BECKHAM OVER
- 21 TO THE LEXINGTON COUNTY HOSPITAL?
- 22 A NO, SIR. HE RODE IN THE BACK OF AN
- 23 AMBULANCE WITH ESCORT OF DEPUTY JEFF WEED.
- 24 Q OKAY, DID YOU GO ALSO?
- 25 A LATER ON IN THE EVENING AS WE FINISHED

1 . UP IN CHAPIN, I WENT DOWN THERE TO HAND OFF SOME
2 PAPERWORK AND TO SPEAK WITH SOME OTHER SLED AGENTS
3 THERE.

4 Q DO YOU RECALL SEEING ME THERE?

5 A YES, SIR.

6 Q OKAY. AND WE TURNED OVER THE CHILDREN
7 TO CHIEF STEWART, DID WE NOT?

8 A I DON'T KNOW THAT, SIR.

9 Q BUT YOU ARE AWARE THAT I WAS THERE AND
10 CHIEF ROBERT STEWART OF SLED WAS THERE?

11 A I REMEMBER SEEING YOUR CAR PARKED RIGHT
12 AT THE ENTRANCE TO ...

13 Q AND THAT WAS SHORTLY...ABOUT WHAT TIME
14 WAS THAT, DO YOU REMEMBER?

15 A I HAVE NO RECOLLECTION BECAUSE I DON'T
16 RECALL HOW LONG WE WERE THERE AT THE CHURCH. I
17 WOULD SAY AN HOUR AND A HALF LATER, MAYBE TWO.

18 Q ALL RIGHT. A COUPLE OF THINGS I WANTED
19 TO ASK YOU ABOUT. YOU SAID WHEN YOU GOT THERE MR.
20 BECKHAM DID NOT SPEAK OR DID NOT ANSWER.

21 A THAT'S CORRECT.

22 Q BUT YOU DESCRIBED IN A REPORT THAT HE
23 WAS LETHARGIC AND DAZED, AND INCOHERENT.

24 A THAT'S CORRECT.

25 Q IS THAT CORRECT?

1 A RIGHT.

2 Q SO YOU DON'T KNOW WHETHER OR NOT HE DID
3 NOT SPEAK BECAUSE HE DIDN'T HEAR YOU OR DIDN'T
4 UNDERSTAND YOU OR BECAUSE HE WAS DAZED AND
5 LETHARGIC AND INCOHERENT?

6 A IT'S MY OPINION THAT HE HEARD ME ASK THE
7 QUESTION; IT'S MY OPINION THAT HE DIDN'T ANSWER ME
8 POSSIBLY BECAUSE HE WAS IN SOME TYPE OF LETHARGIC,
9 DAZED TYPE CONDITION.

10 Q ALL RIGHT. VERY GOOD. NOW, YOU ALSO
11 SAID SOMETHING ABOUT REVEREND LIBBY, WHEN YOU ASKED
12 HIM AND HE HESITATED AND THEN HE SAID THAT WAS
13 STEPHEN BECKHAM WHEN YOU ASKED. AS A MATTER OF
14 FACT, YOUR REPORT SAYS THAT WHEN YOU ASKED REVEREND
15 LIBBY WAS THAT STEPHEN BECKHAM, HE SAID YES.

16 A EVENTUALLY, HE DID. BUT HE HESITATED
17 AND I HAD TO ASK HIM TWICE, YES SIR.

18 Q I UNDERSTAND. WELL, THAT'S NOT WHAT THE
19 REPORT SAYS, DOES IT?

20 A NO, IT DOES NOT.

21 Q WHAT YOU WROTE DOWN WAS THAT YOU ASKED
22 REVEREND LIBBY WAS THAT STEPHEN BECKHAM, HE SAID
23 YES.

24 A EVENTUALLY, YES SIR.

25 Q WELL, THE REPORT DOESN'T SAY EVENTUALLY.

1 THE REPORT DOESN'T SAY HE HESITATED. THE REPORT
2 SAYS HE ANSWERED YES.

3 A FOR THE PURPOSE OF CONCISEMENT, YEAH, I
4 DIDN'T NEED TO PUT THAT IN THERE. THE REPORT,
5 YEAH, HE ANSWERED THAT IT WAS STEPHEN BECKHAM.

6 Q RIGHT, AND THE REPORT DOES NOT INDICATE
7 THAT HE HESITATED OR ANYTHING ELSE, CORRECT?

8 A CORRECT.

9 Q OKAY. NOW, WHAT I UNDERSTAND IS THAT
10 STEPHEN BECKHAM WAS IN LEXINGTON COUNTY ON JULY
11 15TH, 1995, IS THAT CORRECT?

12 A THAT'S CORRECT.

13 Q WHAT TIME OF THE MORNING WAS THIS?

14 A WE ARRIVED AT THE CHURCH AT 1:04,
15 APPROXIMATELY 1:04 A.M. ON THE MORNING OF JULY
16 15TH.

17 Q MORNING OF THE 15TH, OKAY. SO IT'S
18 JUST, THE 14TH HAD JUST ENDED AN HOUR AND TWENTY
19 MINUTES BEFORE, CORRECT?

20 A RIGHT.

21 Q LEXINGTON COUNTY IS RIGHT--LEXINGTON IS
22 NEXT TO NEWBERRY COUNTY, CORRECT?

23 A THEY DO BORDER, YES, SIR.

24 Q OKAY. AND HOW FAR ACTUALLY FROM WHERE
25 YOU WERE, WHERE YOU FOUND MR. BECKHAM, WAS THAT TO

- 1 WHERE WE ARE RIGHT NOW, APPROXIMATELY?
- 2 A SAY FOR EXAMPLE DRIVING FROM THERE,
- 3 PROBABLY THIRTY-FIVE, FORTY MINUTES.
- 4 Q THIRTY-FIVE MINUTES. IT'S NOT TOO FAR?
- 5 CORRECT?
- 6 A DEPENDS ON WHAT YOU'RE DRIVING, SIR.
- 7 Q OKAY. BUT I MEAN, THIRTY-FIVE, I MEAN
- 8 IN MILEAGE, I'M NOT TALKING ABOUT IN TIME.
- 9 A RIGHT.
- 10 Q BUT THE MILEAGE IS NOT THAT FAR?
- 11 A RIGHT, RIGHT.
- 12 Q NOW, LET ME ASK YOU ABOUT THIS FIRST--
- 13 LET ME SEE IF I CAN FIND IT. OKAY, THIS IS THE ONE
- 14 FROM DAYTONA. THIS IS STATE'S EXHIBIT NUMBER 116.
- 15 JUST FOR CLARITY, BECAUSE IT'S GETTING LATE AND I
- 16 KIND OF DIDN'T FOLLOW YOU. THIS IS THE ONE FROM
- 17 FLORIDA, RIGHT? THIS IS STATE'S EXHIBIT 116. WHAT
- 18 THIS SHOWS IS THAT WHEN, THE DATE OF THE WARRANT
- 19 WHICH IS JULY 11TH, 1995, STEPHEN BECKHAM WAS IN
- 20 FLORIDA; I GUESS, DOESN'T IT?
- 21 A THIS INDICATES A CHECK-IN TIME OF 5:24
- 22 P.M. ON JULY THE 11TH.
- 23 Q ALL RIGHT, SO THE ANSWER TO MY QUESTION
- 24 I GUESS IS WHEN THERE'S A WARRANT ISSUED IN
- 25 NEWBERRY COUNTY ON JULY 11TH, STEPHEN BECKHAM IS IN

- 1 FLORIDA?
- 2 A YES, SIR.
- 3 Q AND HE CHECKS IN AND USES HIS RIGHT
- 4 ADDRESS? CORRECT?
- 5 A RIGHT.
- 6 Q THAT'S THE ADDRESS YOU GOT OFF THE
- 7 DRIVER'S LICENSE?
- 8 A I NOTICE HIS FIRST NAME IS SPELLED
- 9 SOMEWHAT DIFFERENT. IT'S AN A INSTEAD OF AN E, BUT
- 10 THE ADDRESS IS CORRECT.
- 11 Q THAT'S STILL STEPHEN NO MATTER HOW YOU
- 12 LOOK AT IT, INSIDE OUTWARDS, UPSIDE DOWN AND
- 13 BACKWARDS, IT'S STILL STEPHEN.
- 14 A IT'S MIS-SPELLED FROM HIS REGULAR NAME,
- 15 BUT YES SIR.
- 16 Q BUT IT'S STILL STEPHEN BECKHAM, RIGHT?
- 17 YOU AGREE THAT'S...
- 18 A RIGHT.
- 19 Q AND IT'S STILL HIGHWAY 773, POMARIA; AND
- 20 IT'S A HONDA EWJ188? CORRECT?
- 21 A THAT'S WHAT'S LISTED ON THE CARD, YES
- 22 SIR.
- 23 Q ALL RIGHT, AND THAT'S WHAT THE CARD IS
- 24 IN FACT WHAT IT IS. LET ME SHOW YOU THIS FROM THE
- 25 HIGHWAY DEPARTMENT. IS THAT VEHICLE REGISTERED TO

- 1 A FAMILY MEMBER OF THE BECKHAMS, THE BECKHAM
2 FAMILY?
3 A IT'S REGISTERED TO A WILLIAM A. BECKHAM,
4 YES SIR.
5 MR. SWERLING: ANY OBJECTION?
6 MR. MCMAHON: NO OBJECTION.
7 THE COURT: WITHOUT OBJECTION.
8 (SO MARKED AND ENTERED IN EVIDENCE AS
9 DEFENDANT'S EXHIBIT NUMBER 30, WITHOUT OBJECTION.)
10 Q SO, STEPHEN BECKHAM, ON JULY 11TH WHEN
11 THE WARRANT IS ISSUED IS IN FLORIDA, REGISTERING IN
12 A MOTEL UNDER THE NAME OF STEPHEN BECKHAM AND
13 PUTTING HIS CORRECT ADDRESS, PUTTING THE TAG NUMBER
14 OF HIS VEHICLE, CORRECT?
15 A CORRECT.
16 Q NOW, THE STATE ALSO INTRODUCED EVIDENCE
17 FROM STATE'S EXHIBIT NUMBER 117, AND I MEAN THAT
18 STILL SAYS STEPHEN BECKHAM, CORRECT?
19 A RIGHT. FROM WHAT I CAN SEE; IT'S SIGNED
20 BUT IT APPEARS TO BE STEPHEN BECKHAM, YES SIR.
21 Q AND IT SAYS THIS IS THE 12TH, RIGHT?
22 A RIGHT.
23 Q AND IT HAS A CAR LICENSE, ADB489?
24 A THAT'S CORRECT.
25 Q AND IT LISTS AN ACCORD, IS THAT RIGHT?

- 1 A YES, SIR. THAT APPEARS TO BE AN ACCORD.
- 2 Q AND COULD YOU LOOK AT THIS RECORD FROM
- 3 THE HIGHWAY DEPARTMENT AND SEE IF THAT LICENSE TAG
- 4 ON THAT REGISTRATION MATCHES WHAT IS DOWN HERE?
- 5 A COULD I SEE THE TAG?
- 6 Q SURE, ADB489.
- 7 A YEAH, IT MATCHES THIS REGISTRATION.
- 8 Q AND WHOSE NAME IS THAT REGISTRATION IN?
- 9 A STEPHEN BECKHAM.
- 10 Q STEPHEN BECKHAM. AND WHAT'S THE ADDRESS
- 11 ON THE REGISTRATION?
- 12 A ROUTE 1, BOX 164, POMARIA, SOUTH
- 13 CAROLINA.
- 14 Q ALL RIGHT, WHAT TYPE OF VEHICLE IS IT?
- 15 A CHEVY, FOUR-DOOR, K10, 1982 MODEL,
- 16 WHATEVER THAT IS.
- 17 MR. SWERLING: LIKE TO OFFER THIS INTO
- 18 EVIDENCE.
- 19 MR. MCMAHON: NO OBJECTION.
- 20 THE COURT: WITHOUT OBJECTION.
- 21 (SO MARKED AND ENTERED IN EVIDENCE AS
- 22 DEFENSE EXHIBIT NUMBER 31, WITHOUT OBJECTION.)
- 23 Q AND THE OTHER EXHIBIT THAT THE STATE
- 24 INTRODUCED, 118, SHOWS ANOTHER LICENSE PLATE,
- 25 EJW188 WHICH IS THE SAME LICENSE PLATE THAT WE

1 PREVIOUSLY TALKED ABOUT ON STATE'S EXHIBIT 116,
2 CORRECT?

3 A I BELIEVE THAT'S CORRECT, YES SIR.

4 Q SO, BUT FOR THE ADDRESS ON JULY 12TH,
5 1995, IN KENTUCKY, WHICH LISTS THIS LAKE SUMMIT,
6 TUXEDO, NORTH CAROLINA, MR. BECKHAM PUT HIS NAME
7 DOWN, HIS REAL NAME, CORRECT?

8 A THAT'S CORRECT.

9 Q AND HAS LISTED DRIVER'S LICENSE TAGS
10 WHICH ARE CLEARLY IDENTIFIABLE AND TRACEABLE TO HIM
11 AS WE'VE SEEN, IS THAT CORRECT?

12 A THAT'S CORRECT.

13 Q AND WHEN YOU FIND HIM AN HOUR AND A HALF
14 AFTER THE EXPIRATION OF JULY 14TH, 1995, HE'S IN
15 LEXINGTON COUNTY?

16 A THAT'S CORRECT.

17 Q AND IS, OR ARE YOU AWARE OF THE FACT
18 THAT THE CHILDREN WERE TURNED OVER THAT NIGHT? DO
19 YOU KNOW THAT?

20 MR. MCMAHON: OBJECTION; ASKED AND
21 ANSWERS. SAID HE HAD NO KNOWLEDGE.

22 THE COURT: IT'S CROSS EXAMINATION.
23 WAIT A MINUTE, HE CAN ANSWER. I THOUGHT YOU ASKED
24 THAT QUESTION.

25 MR. MCMAHON: NO, SIR.

KERRY JOHNSON-CROSS BY SWERLING

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1 THE COURT: HE ASKED THAT QUESTION.

2 MR. SWERLING: I ASKED HIM IF HE WAS
3 THERE WHEN THEY WERE TURNED OVER. WHAT I'M ASKING
4 IS IF HE HAS KNOWLEDGE OF THE FACT THAT THEY WERE
5 TURNED OVER.

6 THE COURT: I'LL ALLOW HIM TO ANSWER.
7 IT'S CROSS EXAMINATION.

8 A I NEVER SAW ANY CHILDREN THAT NIGHT. I
9 HAVE NO IDEA WHAT HAPPENED TO THEM.

10 Q OKAY. EXCUSE ME ONE MINUTE.

11 I THINK I HAVE JUST ONE OTHER QUESTION.
12 BY THE WAY, HE WAS PLACED UNDER ARREST WITHOUT
13 INCIDENT, CORRECT?

14 A THAT'S CORRECT.

15 Q ALL RIGHT. AND ARE YOU AWARE THAT THE
16 99 SOUTHLAKE SUMMIT DRIVE IS A HOUSE THAT MR.
17 BECKHAM HAD RENTED?

18 A NO, I'M NOT.

19 Q OF YOUR OWN KNOWLEDGE, YOU DON'T KNOW
20 THAT?

21 A I HAVE NO KNOWLEDGE OF THAT, NO SIR.

22 Q I DON'T THINK I HAVE ANYTHING FURTHER.

23 OH, EXCUSE ME. MR. HARPOOTLIAN IS SIGNALING ME.

24 NOTHING FURTHER.

25 THE COURT: REDIRECT, MR. MCMAHON.

IT
, T

AS?
K TO

1 Q THAT'S WHAT I'M SAYING, YOU'D KNOW WHO
2 IT WAS, RIGHT?

3 A RIGHT.

4 Q AND IF YOU RAN THE TAG THROUGH THE
5 HIGHWAY DEPARTMENT ON ADB489, WHO WOULD THAT HAVE
6 COME BACK TO?

7 A THAT WOULD COME BACK TO STEPHEN BECKHAM
8 ON AN '82 CHEVROLET, FOUR-DOOR.

9 Q OKAY. THAT'S ALL.

10 THE COURT: ALL RIGHT, THANK YOU, SIR.
11 YOU MAY STEP DOWN. ANY FURTHER WITNESSES?

12 MR. JONES: YOUR HONOR, AT THIS TIME,
13 THE STATE RESTS ITS CASE.

14 THE COURT: ALL RIGHT, WELL, HANG ON
15 JUST A MINUTE.

16 LET ME LET THE JURY GO IN THE JURY ROOM
17 AND CHECK THESE EXHIBITS AND BE SURE WE'RE--IT'LL
18 TAKE JUST A FEW MINUTES TO DOUBLE CHECK EVERYTHING,
19 ALL RIGHT?

20 (JURY EXCUSED TO JURY ROOM AT 6:44)

21 ALL RIGHT, PLEASE, THE WAY THE DAY HAS
22 GONE TODAY, I WANT TO MAKE SURE YOU'VE ACCOUNTED
23 FOR ALL THE EXHIBITS BEFORE EVERYBODY CLOSES, OKAY?
24 SO I WON'T HAVE ANY MORE PROBLEMS.

25 MR. MCMAHON: YOUR HONOR, WE APPRECIATE

1 THAT. WE'LL CHECK THEM OUT.

2 THE COURT: OKAY. AND HOW LONG WILL IT
3 TAKE YOU TO DO THAT?

4 MR. COULTER: YOU WANT US TO JUST CHECK
5 THEM OR...

6 THE COURT: I DON'T CARE HOW YOU DO IT,
7 AS LONG--NO, I DON'T WANT YOU TO READ THEM INTO THE
8 RECORD. I JUST WANT TO MAKE SURE YOU'VE GOT WHAT
9 YOU'VE INTRODUCED INTO THE RECORD AND WE'VE GOT IT
10 ACCOUNTED FOR.

11 MR. COULTER: ALL RIGHT SIR.

12 MR. JONES: JUDGE, WE TRIED HARD TODAY.

13 THE COURT: I AGREE.

14 (BRIEF RECESS WHILE EXHIBITS WERE
15 REVIEWED BY COUNSEL AND COURT REPORTER.)

16 MR. COULTER: FOR THE RECORD, YOUR
17 HONOR, WE'RE NOT QUITE SURE ABOUT ITEM SIXTY-SIX,
18 WHICH IS A PHOTOGRAPH OF THE BAND BOOSTER BAG AND
19 MOVE THAT ITEM SIXTY-SIX BE INTRODUCED INTO
20 EVIDENCE.

21 THE COURT: HAVE NO OBJECTION FROM
22 THE...

23 MR. HARPOOTLIAN: WE HAD OBJECTED
24 ORIGINALLY ON RELEVANCE, THEY GOT SOME TESTIMONY IN
25 THE RECORD AND I'M JUST NOTING THAT OBJECTION,

1 UNDERSTANDING OF COURSE...

2 THE COURT: ALL RIGHT, YOU'RE SATISFIED
3 YOU'VE GOT ALL OF YOUR EXHIBITS NOW?

4 MR. COULTER: YES, SIR.

5 THE COURT: AND DEFENSE, TOMORROW, YOU
6 CHECK YOUR EXHIBITS AND MAKE SURE YOU'RE COVERED.

7 MR. HARPOOTLIAN: TOMORROW, YES SIR.
8 YOU WANT TO ARGUE THAT MOTION FOR DIRECTED VERDICT
9 TONIGHT OR TOMORROW?

10 THE COURT: YOU'VE WAIVED IT.

11 MR. SWERLING: WELL, I THINK THAT'S...

12 THE COURT: THE EVIDENCE IS IN THE
13 RECORD.

14 MR. HARPOOTLIAN: WE JUST NEED TO NOTE
15 IT FOR THE RECORD.

16 MR. SWERLING: WELL, I THINK WE HAVE
17 TO...ON SUFFICIENCY WE PROBABLY HAVE AS FAR AS
18 MAKING THAT MOTION. I THINK WE CAN MAKE THE
19 MOTION.

20 THE COURT: I'LL LET YOU DO IT.

21 MR. HARPOOTLIAN: WE'LL DO IT TOMORROW.
22 IT WON'T TAKE THIRTY SECONDS.

23 MR. JONES: JUDGE, LET'S DO ANYTHING WE
24 CAN DO IN THIRTY SECONDS.

25 THE COURT: WE MIGHT DO THAT.

1 MR. HARPOOTLIAN: JUDGE, YOU NEED US FOR
2 SOMETHING?

3 THE COURT: YEAH, I THINK I'M GOING TO
4 LET YOU ARGUE YOUR MOTION. WHY NOT? YOU ALL AGREE
5 IT WON'T TAKE LONG.

6 MR. HARPOOTLIAN: WELL, WE'RE NOTING A
7 MOTION FOR DIRECTED VERDICT.

8 MR. SWERLING: LET'S MAKE IT.

9 MR. HARPOOTLIAN: WE'LL MAKE IT.

10 MR. SWERLING: COULD I SEE THE
11 INDICTMENT?

12 THE COURT: ALL RIGHT, BRING THE JURY IN
13 AND LET ME...I'LL LET YOU FORMALLY REST, MR.
14 SOLICITOR.

15 (JURY RETURNED TO OPEN COURTROOM AT 6:59
16 P.M.)

17 THE COURT: ANY FURTHER WITNESSES OR
18 TESTIMONY?

19 MR. JONES: NO, YOUR HONOR. AT THIS
20 TIME, THE STATE RESTS ITS CASE.

21 THE COURT: ALL RIGHT. NOW, MADAM
22 FOREMAN, AND LADIES AND GENTLEMEN OF THE JURY, AS I
23 TOLD YOU YESTERDAY, OR TODAY, WE WILL--YOU'LL HAVE
24 THE MORNING OFF TOMORROW, AND OF COURSE YOU'LL
25 OBVIOUSLY HAVE THE MORNING SUNDAY BY YOUR CHOICE

1 TOMORROW AT ONE O'CLOCK. IF YOU'LL LEAVE YOUR
2 PADS, WE'LL TAKE CARE OF THEM.

3 (JURY RECESSED FOR EVENING AT 7:02 P.M.)

4 THE COURT: ALL RIGHT, MOTIONS, MR.
5 SWERLING?

6 MR. SWERLING: YOUR HONOR, IF WE COULD,
7 JUST FOR THE RECORD, UNDERSTANDING WE INTRODUCED
8 EVIDENCE BUT I WOULD LIKE TO PRESERVE THE RECORD TO
9 THE EXTENT THAT WE CAN. AS FAR AS THE CONSPIRACY,
10 KIDNAPPING AND MURDER CHARGES, WE WOULD ASK THE
11 COURT TO ENTERTAIN A MOTION FOR DIRECTED VERDICT
12 BASED UPON THE INSUFFICIENCY OF THE EVIDENCE AS
13 WELL AS ALL OBJECTIONS AND MOTIONS WE MADE DURING
14 THE COURSE OF THE STATE'S CASE IN CHIEF. AND
15 PRESERVING ALL OF THOSE ISSUES GOING INTO THIS NEXT
16 PHASE OF THE TRIAL.

17 THE COURT: ALL RIGHT, VIEWING THE
18 EVIDENCE IN THE LIGHT MOST TO THE STATE, GIVING
19 THEM EVERY REASONABLE INFERENCE, I WOULD DENY YOUR
20 MOTION AS TO EACH COUNT OF THE INDICTMENT.

21 ALL RIGHT, WE'LL START BACK TOMORROW AT
22 -- HOW ABOUT LET'S DO THIS. YOU FOLKS BE HERE A
23 LITTLE BIT BEFORE SO THAT IF WE HAVE ANY LAST
24 MINUTE PROBLEM. WHEN I TALK ABOUT ONE O'CLOCK, I
25 MEAN FOR THE JURY TO BE IN THE BOX AT ONE O'CLOCK.

1 AND SO IF WE NEED TO BE HERE A LITTLE EARLIER, THEN
2 I'LL BE GLAD TO DO THAT.

3 MR. JONES: THIS IS PROBABLY SOMETHING
4 THAT I SHOULD KNOW AS FAR AS SEQUESTRATION OF
5 DEFENSE WITNESSES DURING THE PRESENTATION OF THEIR
6 CASE, DO WE HAVE ANY SITUATION THERE THAT THERE'S
7 GOING TO BE A SEQUESTRATION ISSUE CONCERNING ANY
8 WITNESSES?

9 THE COURT: I THOUGHT YOU ALL HAD
10 DISCUSSED IT AND HAD AGREED ON IT, BUT BEFORE YOU
11 LEAVE HERE TONIGHT, LET'S AGREE TO IT SO WE'LL KNOW
12 IF THERE WAS.

13 MR. HARPOOTLIAN: DURING THE DEFENSE
14 CASE?

15 THE COURT: YEAH.

16 MR. HARPOOTLIAN: YOUR HONOR, OUR
17 INTENTION IS TO HAVE ONLY HIS FAMILY, AS I
18 UNDERSTAND IT, IN THE...

19 MR. SWERLING: AND THE LIBBYS, WHICH IS
20 WHAT HAS BEEN HERE.

21 MR. HARPOOTLIAN: THAT'S BEEN WHAT'S
22 BEEN HERE. NO ONE ELSE.

23 MR. JONES: WHEN YOU SAY HIS FAMILY,
24 DOES THAT INCLUDE THE ZEIDERS?

25 MR. SWERLING: OH, YEAH. THEY'RE ON

1 THAT LIST.

2 MR. JONES: THEY'RE ON THE LIST OF THE
3 FAMILY.

4 MR. SWERLING: THE LIST I GAVE YOU.

5 MR. HARPOOTLIAN: YEA, THE ZEIDERS, THE
6 BECKHAMS AND THE LIBBYS.

7 MR. JONES: I DON'T GUESS YOU'VE GOT
8 ANOTHER COPY OF THAT LIST?

9 THE COURT: LET'S JUST HAVE A LIST
10 AVAILABLE TOMORROW.

11 MR. HARPOOTLIAN: WE'LL HAVE IT BEFORE
12 WE CRANK UP.

13 MR. SWERLING: JUDGE, I MEAN, FROM THE
14 BEGINNING, WE'VE BEEN COOPERATIVE ABOUT THIS THING.
15 ALL WE ASK FOR IS TO BE ALLOWED TO HAVE THE FAMILY
16 IN. ZEIDERS ARE FAMILY. AND THE LIBBYS.

17 THE COURT: AND I REALLY THINK THE KEY
18 THING EVERYBODY WANTED HAD TO DO WITH THE OUT-OF-
19 TOWN WITNESSES.

20 MR. SWERLING: THE BEACH PEOPLE.

21 MR. HARPOOTLIAN: THAT'S RIGHT. THAT'S
22 RIGHT.

23 MR. JONES: ALL I'M SAYING, AND IF IT'S
24 TOO MUCH TROUBLE AND YOU THINK I'M ASKING TOO MUCH,
25 IS A LIST OF THE NAMES OF THOSE PEOPLE. I'M NOT

1 TRYING TO KEEP ANYBODY OUT. I JUST WANT TO KNOW
2 WHO IT IS THAT THEY SAY IS GOING TO BE ON THE LIST.

3 THE COURT: I HAVE NO PROBLEM WITH THAT.
4 GIVE HIM A LIST OF THE PEOPLE YOU'RE GOING TO--OR
5 EITHER FIND THE COPY THEY GAVE YOU OR GIVE THEM
6 ANOTHER TOMORROW.

7 MR. SWERLING: I GUESS I DON'T
8 UNDERSTAND. DO YOU WANT A LIST OF THE PEOPLE WE
9 HAD ON THE LIST BEFORE?

10 MR. JONES: A LIST OF THE PEOPLE...

11 MR. SWERLING: ...OR A LIST OF OUR
12 WITNESSES?

13 MR. JONES: NO, I DON'T WANT A LIST OF
14 YOUR WITNESSES. I WANT A LIST OF YOUR WITNESSES
15 THAT YOU FEEL SHOULD NOT BE SEQUESTERED, AND
16 ANYBODY ELSE THAT YOU CALL, AS I UNDERSTAND IT,
17 SHOULD NOT HAVE BEEN IN THIS COURTROOM DURING THE
18 COURSE OF THE PRESENTATION OF THE STATE'S CASE OR
19 THE DEFENSE CASE.

20 MR. SWERLING: WE HAVE NOT HAD ANYBODY
21 FROM THE BEACH IN THE COURTROOM.

22 THE COURT: LISTEN, ALL I KNOW IS THIS.
23 I DON'T KNOW ALL THESE PEOPLE PERSONALLY. I'VE
24 WATCHED BOTH SIDES, AND I'M--THE ONLY PEOPLE I'M
25 AWARE OF THAT THEY'RE GOING TO CALL AS WITNESS THAT

1 HAVE BEEN IN THE COURTROOM ARE THE BECKHAMS, THE
2 ZEIDERS,...

3 MR. SWERLING: THE LIBBYS.

4 THE COURT: THE CHILDREN HAVE BEEN IN
5 AND OUT, THINGS LIKE THAT. WE'LL GET A LIST.

6 MR. JONES: SO THE BECKHAMS, THE ZEIDERS
7 AND THE LIBBYS?

8 THE COURT: AND THE LIBBYS, YES. I'VE
9 PHYSICALLY SEEN THEM. I DON'T KNOW THEM BUT I'VE
10 SEEN THEM IN HERE.

11 MR. SWERLING: SUBER.

12 THE COURT: SUBER HAS BEEN IN HERE.

13 MR. SWERLING: YEAH, BUT THAT'S FAMILY.
14 THAT'S ALL PART OF THE FAMILY.

15 MR. JONES: THE BECKHAMS, THE ZEIDERS,
16 THE LIBBYS AND THE SUBERS.

17 THE COURT: JUST GET A LIST. GIVE THEM
18 A LIST.

19 MR. SWERLING: JUDGE, I DON'T BELIEVE
20 THAT ANYBODY ELSE WE INTEND TO CALL WAS IN THE
21 COURTROOM, AND IF THEY WERE...

22 MR. HARPOOTLIAN: IF THEY WERE, IT WAS
23 INADVERTENT. THEY MAY HAVE WALKED IN, WALKED OUT.
24 I MEAN, IF THERE'S SOMEBODY IN PARTICULAR YOU'RE
25 WORRIED ABOUT, WE'LL BE HAPPY TO ASK.

1 MR. JONES: I'M REALLY NOT WORRIED ABOUT
2 ANYBODY IN PARTICULAR. I WAS JUST TRYING TO GET
3 THAT LIST DURING THE COURSE OF THE PRESENTATION OF
4 THE DEFENSE CASE. I'M NOT TOO CONCERNED ABOUT OUR
5 CASE, BUT I AM CONCERNED ABOUT THE PRESENTATION OF
6 THEIR CASE.

7 MR. HARPOOTLIAN: OKAY, AND WE'LL
8 TIGHTEN IT DOWN SO THAT THERE'S NO QUESTION.

9 MR. SWERLING: WELL, I CAN TELL YOU, NOW
10 THAT WE KNOW WHAT WE'RE GOING TO PRESENT, TOMORROW
11 WE'LL BE ABLE TO TELL YOU WHO WE'RE GOING TO CALL
12 AS WITNESSES.

13 MR. HARPOOTLIAN: EXACTLY.

14 THE COURT: AND THAT WOULD KIND OF BE
15 HELPFUL. NOW THAT YOU KNOW WHAT YOU'RE GOING TO
16 DO, THE ORDER WOULD BE KIND OF HELPFUL TO BOTH
17 SIDES.

18 MR. SWERLING: I THINK WE CAN LET THEM
19 KNOW.

20 THE COURT: ALL RIGHT. OKAY NOW,
21 TOMORROW WE WILL BASICALLY WORK UNTIL ABOUT FIVE
22 O'CLOCK, 5:30, AND THEN SUNDAY, WE MIGHT PUSH A
23 LITTLE FURTHER ALONG THE WAY.

24 MR. JONES: SATURDAY...

25 THE COURT: I'M SORRY, I'VE LOST TRACK

1 MYSELF. SATURDAY. LET'S SEE, TOMORROW IS FRIDAY.
2 TOMORROW WE WILL WORK--I'M SORRY, TOMORROW, FRIDAY,
3 WE START AT ONE O'CLOCK. SATURDAY IS AN ALL DAY
4 THING UNTIL ABOUT FIVE, AND THEN SUNDAY, WE'LL WORK
5 ONE AND PUSH IT A LITTLE BIT AND SEE WHERE WE ARE.

6 MR. HARPOOTLIAN: OKAY, YOUR HONOR,
7 TOMORROW NIGHT, WE'LL HAVE ENOUGH WITNESSES TO GO
8 FROM MAYBE ONE TO 6:30 OR SO.

9 THE COURT: THAT'S FINE. IN THAT
10 NEIGHBORHOOD.

11 MR. HARPOOTLIAN: WE DON'T HAVE THE
12 MASSIVE RESOURCES OF THE STATE AT OUR DISPOSAL TO
13 PREPARE THESE WITNESSES. I USED TO HAVE THEM, BUT
14 I AIN'T GOT THEM NO MORE.

15 THE COURT: ALL RIGHT, ANYTHING ELSE WE
16 NEED TO TALK ABOUT? ANYTHING Y'ALL CAN THINK OF?

17 NOW, WE'RE KIND OF THROUGH HAVING
18 HEARINGS EXCEPT POTENTIAL, THE POTENTIAL FOR A
19 MESSIAH HEARING WHICH MAY OR MAY NOT OCCUR IN THE
20 REPLY CASE.

21 MR. HARPOOTLIAN: YES, SIR, AND WE'LL
22 NEED A HEARING WITH OUR CLIENT AT SOME JUNCTURE BUT
23 CERTAINLY NOT TOMORROW.

24 THE COURT: YEAH, ON THE RIGHT TO
25 TESTIFY.

1 MR. HARPOOTLIAN: YOUR HONOR, IT MAY BE
2 THAT TOMORROW EVENING IS WHEN WE MAY WANT TO SPEND
3 A LITTLE TIME REVIEWING.

4 THE COURT: OKAY. ALL RIGHT, WE'LL SEE
5 Y'ALL TOMORROW AT ONE O'CLOCK.

6 MR. JONES: THANK YOU, JUDGE.

7 THE COURT: YES, SIR.

8 (COURT RECESSED FOR EVENING AT 7:30
9 P.M.)

10 (COURT RECONVENED ON FRIDAY, SEPTEMBER
11 27TH, 1996, AT 1:05 P.M.)

12 THE COURT: ALL RIGHT, MR. SWERLING, YOU
13 AND MR. HARPOOTLIAN READY TO GO?

14 MR. SWERLING: YOUR HONOR, IF I COULD
15 JUST GET MY NOTEBOOK WHICH WAS JUST BROUGHT IN,
16 I'LL BE READY.

17 JUDGE, BEFORE YOU BRING THE JURY OUT, I
18 JUST WANT TO MAKE SURE THE RECORD WAS CLEAR
19 YESTERDAY ABOUT SOME THINGS. WE HAD A COUPLE OF
20 SIDE BAR CONFERENCES, AND SOMETIMES WHEN WE HAVE
21 THOSE I GET CONCERNED ABOUT WHETHER OR NOT IT'S
22 ACTUALLY ON THE RECORD.

23 AS TO THE TAX LIENS, WE HAD INTERPOSED
24 AN OBJECTION UNDER 402 THAT THEY WERE NOT RELEVANT,
25 AND ALSO UNDER 403, IF YOU FOUND THEY WERE

1 RELEVANT, THEIR PREJUDICIAL EFFECT OUTWEIGHED THE
2 PROBATIVE VALUE.

3 I WANTED TO MAKE SURE THAT WAS FULLY ON
4 THE RECORD AND THAT OUR OBJECTIONS WERE
5 CONTEMPORANEOUS, AS FAR AS THE COURT CONSIDER, RAN
6 THROUGHOUT THAT TESTIMONY.

7 THE COURT: YES, SIR. AND IN THAT
8 REGARD, I THINK I PUT IN THE RECORD THAT I FOUND
9 THEY WERE RELEVANT UNDER 402 AND THEY WERE NOT
10 UNDULY PREJUDICIAL AND PROBATIVE UPON THE QUESTION
11 OF FINANCIAL CONDITION, AND THE INTERRELATIONSHIP
12 THAT MAY OR MAY NOT HAVE ON THE DOMESTIC ISSUES.
13 AND THE FACT, GIVEN THE WAY THE STATE PUT THE
14 INSURANCE EVIDENCE, I FOUND IT WOULD BE MORE
15 PROBATIVE THAN PREJUDICIAL, SO I ALLOWED IT IN
16 UNDER 403.

17 MR. SWERLING: JUDGE, I JUST ASK--ONE OF
18 THE CONCERNS I HAVE IS THAT THE COURT RECOGNIZE
19 THAT OUR OBJECTIONS ARE CONSIDERED
20 CONTEMPORANEOUSLY WITH THE OBJECTIONS OFFERED, OR
21 AT THE TIME THE EVIDENCE WAS OFFERED. THAT'S KIND
22 OF THE WAY WE'VE BEEN DEALING WITH IT.

23 THE COURT: AS FAR AS THAT EVIDENCE IS
24 CONCERNED, YES SIR.

25 MR. SWERLING: YES, SIR. JUDGE, ALSO AS

1 TO THE ISSUE OF FLIGHT, I THINK THE RECORD IS FULLY
2 PROTECTED ON THAT, BUT WE ALSO ASK THAT THAT RUN
3 THROUGHOUT THE COURSE OF THE TESTIMONY CONCERNING
4 FLIGHT, AND I THINK THE COURT ALLOWED THAT. YOU
5 MAY HAVE SAID IT AT SIDE BAR, NOT ON THE RECORD,
6 I'D LIKE THE RECORD TO REFLECT THAT.

7 THE COURT: YES, SIR, AND THAT'S TRUE.
8 WE DID AN ANALYSIS EARLY ON AND WE MAY HAVE HAD A
9 SIDE BAR CONCERNING THAT, BUT THE RECORD SHOULD
10 REFLECT THAT THERE WAS A TIMELY OBJECTION UNDER 402
11 AND 403, AND I BELIEVE I DID THE ANALYSIS PRECEDING
12 THE SIDE BAR TO THE EFFECT THAT I FOUND IT TO BE
13 RELATIVE AND PROBATIVE, AND NOT UNDULY PREJUDICIAL
14 BASED UPON CONSIDERING ALL THE FACTS AND
15 CIRCUMSTANCES IN THE CASE.

16 MR. SWERLING: AND YOUR HONOR, THE LAST
17 THING I WANT TO MAKE SURE, BECAUSE I DO CLEARLY
18 RECOLLECT THERE WAS A SIDE BAR, WAS THE EXCHANGE,
19 MR. MCMAHON WAS EXAMINING THE WITNESS JOHNSON, I
20 BELIEVE, AS TO WHAT WAS BEING SAID TO HIM BY BISHOP
21 BECKHAM AND REVEREND LIBBY, AND THE COURT WAS
22 ALLOWING IT IN UNDER 801, I BELIEVE; 801(1)?

23 THE COURT: 803...803(1) AND (2)

24 MR. SWERLING: 803(1).

25 THE COURT: IT DEPENDED ON WHICH WITNESS

1 YOU WERE TALKING ABOUT, BUT BOTH OF THEM...

2 MR. SWERLING: 803.(1).

3 THE COURT: YEAH, 803(1), PRESENT SENSE
4 IMPRESSION; ALSO, IT COULD HAVE COME IN UNDER (2)
5 AS AN EXCITED UTTERANCE CONSIDERING THE FACT THAT
6 THE TESTIMONY WAS THAT THE DEFENDANT WAS FOUND IN
7 THE VEHICLE IN A POTENTIAL OVERDOSE CONDITION. SO
8 I, DEPENDING ON WHICH WITNESS YOU'RE TALKING ABOUT,
9 IT EITHER CAME IN UNDER (1) OR (2).

10 MR. SWERLING: YES, SIR, AND THE RECORD
11 WAS, AS I UNDERSTOOD IT, FULLY PROTECTED UNDER...

12 THE COURT: YES, SIR, YOU MADE A TIMELY
13 OBJECTION TO THAT, AND AS I RECALL THE RULING WAS
14 SIMPLY THAT IT WAS BEING ALLOWED UNDER 803(1) AND
15 (2), AND THAT'S THE ONLY COMMENT I MADE ON THE
16 RECORD, BECAUSE THE JURY WAS IN.

17 MR. SWERLING: YES, SIR.

18 MR. HARPOOTLIAN: YOUR HONOR, ONE OTHER
19 MATTER, THE STATE HAS REST, AND WE'RE NOT
20 PROCEEDING WITH THE DEFENSE CASE. WE'VE BEEN IN
21 THE PROSECUTION CASE FOR ALMOST A WEEK. WE'D ASK
22 FOR AN INSTRUCTION TO THIS JURY CONCERNING THE
23 BURDEN OF PROOF, PRESUMPTION OF INNOCENCE, AND A
24 DEFENDANT DOESN'T...IN OTHER WORDS, THE DEFENDANT,
25 AS YOU WILL CHARGE AT THE CONCLUSION OF THIS CASE,

1 IS UNDER NO OBLIGATION WHATSOEVER TO PRESENT ANY
2 EVIDENCE. I MEAN, I'M TALKING ABOUT A TWO MINUTE
3 CHARGE, JUST REMINDING THEM THIS ISN'T THE SAME
4 PROCESS. THIS ISN'T THE SAME EVIDENTIARY PROCESS
5 WE'VE BEEN GOING THROUGH.

6 THE COURT: WHAT'S THE STATE'S POSITION?

7 MR. JONES: YOUR HONOR, WE'D BE AGAINST
8 THAT. IT IS NOT A PROPER INSTRUCTION. YOU
9 INSTRUCTED THEM PRIOR TO THIS TRIAL, AND YOU WILL
10 INSTRUCT THEM AT THE CONCLUSION OF THE TRIAL.
11 YOU'VE INSTRUCTED THEM THOROUGHLY AND ADEQUATELY ON
12 THE LAW. IT WOULD GIVE THIS JURY A PREJUDICIAL
13 INFERENCE, IF YOU WILL, JUDGE, AS TO, YOU KNOW, A
14 SUGGESTION THAT WHAT THEY HAVE SEEN IS SUBJECT TO
15 SOME KIND OF...IT JUST WOULD NOT BE AN APPROPRIATE
16 INSTRUCTION AT THIS POINT IN TIME.

17 THE COURT: ALL RIGHT, MR. HARPOOTLIAN,
18 I WOULD DECLINE TO DO THAT. BASICALLY, I TRY TO BE
19 CONSISTENT IN EVERY CASE THAT I TRY. AND ALSO, IN
20 CUSTOM AND PRACTICE, WE DO NOT GIVE A CHARGE AS
21 SUCH, AND I THINK THIS JURY WILL CLEARLY
22 UNDERSTAND, BY THE TIME I GET THROUGH INSTRUCTING
23 THEM, WHAT THEIR RESPONSIBILITIES ARE, AND I
24 DECLINE TO DO THAT.

25 MR. HARPOOTLIAN: YES, SIR. DOES YOUR

1 HONOR INTEND ON INSTRUCTING THIS JURY PRIOR TO
2 ARGUMENT OR POST-ARGUMENT?

3 THE COURT: I INTEND TO FOLLOW THE
4 CUSTOM AND PRACTICE IN THIS STATE WHICH IS
5 FOLLOWING THE ARGUMENT. I HAVE CONSIDERED THAT
6 POSSIBILITY BEFORE, BUT...

7 MR. HARPOOTLIAN: I SAW IT DONE RECENTLY
8 IN...

9 THE COURT: I'D RATHER HAVE THE LAST
10 WORD WITH THE JURY.

11 MR. HARPOOTLIAN: WELL, OF COURSE, YOUR
12 HONOR, CHARGING BEFORE ARGUMENT DOESN'T MEAN YOU
13 DON'T HAVE THE LAST WORD.

14 THE COURT: I UNDERSTAND. BUT I ALSO, AS
15 YOU KNOW, DON'T BELIEVE IN BEING REPETITIVE EITHER.
16 SO THAT'S THE REASON I WOULDN'T WANT TO SAY
17 SOMETHING TWICE ,OKAY? IF ONCE WILL DO IT.

18 ANYTHING ELSE?

19 MR. SWERLING: IF THE COURT WILL INDULGE
20 ME JUST ONE SECOND.

21 THE COURT: OKAY, BRING THE JURY.

22 (JURY BROUGHT TO THE OPEN COURTROOM AT
23 1:12 P.M.)

24 THE COURT: GOOD AFTERNOON, MADAM
25 FOREMAN, LADIES AND GENTLEMEN OF THE JURY. I HOPE