

VOL. I of VI

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2013-CP-40-00233

Melinda Richmond, #331874,

Petitioner,

v.

State of South Carolina,

Respondent.

APPELLATE CASE NO. 2015-001289

APPENDIX

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SC SUPREME COURT

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (dated November 10-14 2008).....	1
COURT’S EXHIBIT NO. 5.....	1193
COURT’S EXHIBIT NO. 6.....	1194
NOTICE OF MOTION AND MOTION FOR NEW TRIAL.....	1195
AFFIDAVIT OF TRACEY E. PINNOCLE.....	1201
AFFIDAVIT OF RYAN HARRIS SIGAL.....	1204
AFFIDAVIT OF CLARKE NEWTON.....	1205
AFFIDAVIT OF ELIZABETH FIELDING PRINGLE.....	1206
AFFIDAVIT OF BRIDGET BROWN.....	1207
AFFIDAVIT OF KRIS HINES.....	1208
AFFIDAVIT OF LUKE SHEALEY.....	1209
RESPONSE TO DEFENDANT’S MOTION FOR NEW TRIAL.....	1210
SUPPLEMENTAL RESPONSE TO DEFENDANT’S MOTION FOR NEW TRIAL.....	1211
AFFIDAVIT OF ELLEN REYNOLDS.....	1212
AFFIDAVIT OF DOUGLAS MOORE.....	1214
AFFIDAVIT OF ROBERT MARTIN.....	1216
AFFIDAVIT OF LINDA R. HAUGH.....	1217
AFFIDAVIT OF BECKY M. ROBERSON.....	1218
ORDER.....	1219
APPLICATION FOR POST-CONVICTION RELIEF.....	1220
RETURN.....	1227

AMENDMENT AND SUPPLEMENT TO APPLICATION FOR
POST-CONVICTION RELIEF 1234

POST-CONVICTION RELIEF HEARING TRANSCRIPT (dated April 1, 2015).....1239

PLAINTIFF’S EXHIBIT NO. 1.....1337

PLAINTIFF’S EXHIBIT NO. 2 (Final Anders Brief of Appellant).....1352

ORDER OF DISMISSAL.....1366

INDICTMENT.....1382

1 STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
2 COUNTY OF RICHLAND) 07-GS-40-4073

3

4 State of South Carolina,)
5 Plaintiff,)
6 vs.) TRANSCRIPT OF RECORD
7 Melinda Richmond,)
8 Defendant.)

9 November 10-14, 2008
Columbia, South Carolina

10

11

12 B E F O R E:

13 THE HONORABLE EDWARD W. MILLER, JUDGE; and a jury.

14

15

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Official Court Reporter

1	INDEX OF WITNESSES	
2	MICHAEL MAZEROLLE	
3	Direct By Ms. Shipley	59
4	Cross By Ms. Gripp	70
5	PATRICIA REED-ENZOR	
6	Direct By Ms. Good	90
7	Cross By Ms. Gripp	98
8	Redirect By Ms. Good	104
9	ROBERT MARTIN	
10	Direct By Ms. Good	106
11	Cross By Ms. Gripp	118
12	Redirect By Ms. Good	138
13	HEIDI SCOTT	
14	Direct By Ms. Good	141
15	Cross By Ms. Gripp	152
16	BRIEN GWYN	
17	Direct By Ms. Good	159
18	Cross By Ms. Gripp	168
19	BECKY MARIE ROBERSON	
20	Direct By Ms. Shipley	174
21	MELINDA RICHMOND	
22	Direct By Ms. Gripp	180
23	Cross By Ms. Shipley	190
24	Redirect By Ms. Gripp	196
25	TENISHA NICOLE MCCLINTON	

1	Direct By Ms. Gripp	.198
2	Cross By Ms. Shipley	.204
3	Redirect By Ms. Gripp	.209
4	Recross By Ms. Shipley	.210
5	TERESA BROWN	
6	Direct By Ms. Good	.243
7	Cross By Mr. O'Neil	.255
8	MACEY DYLAN NICHOLS	
9	Direct By Ms. Shipley	.257
10	Cross By Mr. O'Neil	.271
11	Redirect By Ms. Shipley	.275
12	LARRY D. SCHEPER	
13	Direct By Ms. Shipley	.297
14	Cross By Mr. O'Neil	.303
15	WARREN CAVANAH	
16	Direct By Ms. Shipley	.305
17	Cross By Ms. Gripp	.323
18	MICHAEL LEAHY	
19	Direct By Ms. Good	.332
20	Cross By Ms. Gripp	.343
21	Redirect By Ms. Good	.349
22	CHRISTINE BENSON	
23	Direct By Ms. Shipley	.365
24	MICHAEL MAZEROLLE	
25	Direct By Ms. Shipley	.372

1	Cross By Ms. Gripp	.393
2	Redirect By Ms. Shipley	.408
3	KENNETH GERALD	
4	Direct By Ms. Good	.412
5	Cross By Mr. O'Neil	.416
6	RAY A. LIVINGSTON	
7	Direct By Ms. Good	.424
8	Cross By Mr. Secor	.458
9	Redirect By Ms. Good	.466
10	Recross By Mr. Secor	.470
11	PATRICIA REED-ENZOR	
12	Direct By Ms. Good	.471
13	Cross By Mr. Secor	.523
14	Redirect By Ms. Good	.548
15	Recross By Mr. Secor	.552
16	STAN RICHARDS	
17	Direct By Ms. Shipley	.564
18	Cross By Mr. Secor	.602
19	Redirect By Ms. Shipley	.611
20	TENISHA NICOLE MCCLINTON	
21	Direct By Ms. Shipley	.616
22	Cross By Ms. Gripp	.688
23	Redirect By Ms. Shipley	.740
24	Recross By Ms. Gripp	.750
25	HEIDI SCOTT	

1	Direct By Ms. Good	.753
2	Cross By Ms. Gripp	.775
3	Redirect By Ms. Good	.782
4	BRIEN GWYN	
5	Direct By Ms. Good	.783
6	Cross By Ms. Gripp	.801
7	Redirect By Ms. Good	.806
8	GRAY AMICK	
9	Direct By Ms. Shipley	.807
10	Cross By Ms. Gripp	.850
11	Redirect By Ms. Shipley	.855
12	CLAY ALLEN NICHOLS	
13	Direct By Ms. Shipley	.857
14	Cross By Mr. Secor	.876
15	Redirect By Ms. Shipley	.885
16	Recross By Mr. Secor	.888
17	ROBERT MARTIN	
18	Direct By Ms. Good	.893
19	Cross By Mr. O'Neil	.912
20	Redirect By Ms. Good	.948
21	BECKY ROBERSON	
22	Direct By Ms. Shipley	.956
23	WILLIAM B. REDMOND	
24	Direct By Ms. Gripp	.966
25	Cross By Ms. Good	.969

1	MELINDA RICHMOND	
2	Direct By Ms. Gripp	.971
3	Cross By Ms. Shipley	.996
4	Redirect By Ms. Gripp	1039

5	PATTY RICKBORN	
6	Direct By Ms. Gripp	1041
7	Cross By Ms. Shipley	1046
8	Redirect By Ms. Gripp	1058
9	Recross By Ms. Shipley	1060

10	» » O < «	
11	Opening Statement by Ms. Good	.232
12	Opening Statement by Mr. O'Neil	.236
13	Closing Statement by Ms. Gripp	1095
14	Closing Statement by Ms. Shipley	1111
15	Jury Charge	1152

16
17
18
19
20
21
22
23
24
25

STATE EXHIBITS				
	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	1	Consent to Search	89	489
2	2	Consent to Search	89	489
3	3	Advice of Rights	906	906
4	4	Statement of Melinda Richmond	145	766
5	5	Consent to Search	150	757
6	6	Advice of Rights	162	789
7	7	Statement of Melinda Richmond	165	791
8	8	9-1-1 Tape	251	252
9	9	Photograph	253	269
10	10	Photograph	253	254
11	11	Diagram	264	264
12	12	Blood Swabs	451	451
13	13	Knife	393	393
14	14 - 22	Photographs	432	432
15	22/81	Diagram	307	307
16	23	Photograph	341	341
17	24 - 25	Photographs	432	432
18	26	Photograph	341	341
19	28 - 31	Photographs	432	432
20	33 - 34	Photographs	437	437
21	37	Photograph	437	437
22	39	Photograph	440	440
23	41 - 45	Photographs	440	440

1	47 - 49	Photographs	440	440
2	51	Photograph	440	440
3	53 - 56	Photographs	440	440
4	58 - 60	Photographs	440	440
5	62	Photograph	440	440
6	64 - 65	Photographs	440	440
7	67 - 69	Photographs	440	440
8	70 - 75	Photographs	447	447
9	77 - 79	Photographs	441	441
10	81	Diagram	364	364
11	82	Victim's DNA Card	812	812
12	83	Photograph	380	380
13	84	Photograph	380	385
14	85	Photograph	385	386
15	86 - 89	Photographs	414	414
16	90	ID Card of Defendant	453	453
17	91	Crack Pipe	453	453
18	92	Bag With Gray Shirt and Green Towel	453	455
19	93	Gray Shirt	456	456
20	94	Blue Jacket	456	456
21	95	Black/White Shirt	456	456
22	96 - 109	Photographs	477	479
23	110 - 113	Photographs	485	485
24	114 - 119	Photographs	497	498
25	120	Swab of Black Knife Handle	507	509

1	122	Swabs from Rembert Martin Parkway	512	512
2	123	Frank West's hair, fingerprints, nail scrapings	513	513
3	124	GSR Kit	516	516
4	125	Victim's Clothing	517	
5	126	Scrapings of Tenisha McClinton	519	519
6	127	Scrapings from Melinda Richmond	519	519
7	128	Scrapings from Bruce Thompson	519	519
8	129	Green Gray-Blue Shirt	522	522
9	130	Tan Pants	522	522
10	131	Sandals	522	522
11	132 - 174	Photographs	566	566
12	175	Box	582	585
13	176	Box	582	584
14	177	Box	582	583
15	178 - 189	Items in Box	587	
16	178	Fifteen Blood Swabs	598	598
17	179	Ten DNA Swabs	597	597
18	180	Jeans	591	591
19	181	Ryka Tennis Shoes	590	590
20	182	Blue Jean Shorts, Black Belt, Blue T-Shirt	595	595
21	183	Dark Blue T-Shirt	587	587
22	184	White Bra	590	590
23	185	Light Blue T-Shirt	589	589
24	186	White Socks	589	589

1	187	Blanket	599	599
2	188	Trace Evidence	598	598
3	189	Blue Underwear	593	593
4	190	Advice of Rights	675	675
5	191	Advice of Rights	678	678
6	192	Advice of Rights	680	680
7	193	Bird's Clothing	800	800
8	194 - 197	Diagrams	819	819
9	198	Diagram	861	861
10	200 - 201	Photographs	871	871
11	202	Photograph	867	867
12	204	Black Do-Rag	898	898

13

14

15

16

17

18

19

20

21

22

23

24

25

DEFENDANT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Advice of Rights, Waiver of Rights, 126 Statement of Tenisha McClinton		
2	Photograph	532	534
3	Statement	688	689
4	Statement	705	705
5	Medical Screening Form	967	968

COURT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Defendant's Requested Voir Dire	14	
2	Foreperson Note		
3	Motion to Exclude 9-1-1 Call		
4	Motion to Exclude Defendant's Statements		
5	Defense Argument Re: Voice	418	
6	Letter From Doctor		
7	Jury Note	752	
8	Jury Note		
9	Defense Requests to Charge		
10	Jury Question		
11	Jury Question		

NOVEMBER 10, 2008

THE COURT: Voir dire?

MS. SHIPLEY: No objection. We ask a reciprocal question for the State.

THE COURT: I ask standard stuff. Well, I don't intend to go into 11 through the end of it. Do you have any objection to that?

MS. GRIPP: Your Honor, we would request that you ask each of the questions, but if Your Honor chooses not to we understand.

THE COURT: Well, I am going to give it to them in the charge, it won't be any question about it.

I am just curious about your asking Question Number Two about the Attorney General. Are they involved in this case for some reason, or you just want to know if anybody is related to somebody --

MS. GRIPP: Any prosecutorial agency.

THE COURT: Have y'all got any?

MS. SHIPLEY: No, sir, just the reciprocal questions.

THE COURT: Okay.

MR. O'NEIL: Your Honor, we just ask voir dire be made a Court Exhibit.

THE COURT: Sure. I marked on my copy, so you

1 better introduce one.

2 I have not gone through all of these
3 witnesses. I know some of them have got to be
4 duplicative.

5 MS. SHIPLEY: Yes, sir. Your Honor, just to
6 save you the time, on the Defense witness list,
7 Number 1 is not on the State's list; Number 3 is
8 not on the State's list; Number 14 is not on the
9 State's list; Number 15 is not on the State's list;
10 Number 24 is not on the State's list; Number 32 is
11 not either; 36, 37, 38, 39 and 40 are not on our
12 list either; 41 is not on our list; 43 and 44 and
13 46. So those will be the only additional witnesses
14 you will need to ask about, Your Honor.

15 THE COURT: All right, let's do that again.
16 You say Number --

17 MS. SHIPLEY: Sure. Just if you want to go
18 over the Defense witness list, they are calling
19 Number 1, Number 3, Number 15, Number 22, Number
20 24, Number 32, Number 34, 36, 37, 38, 39, 40, 41,
21 43, 44 and 46.

22 The other ones that I did not mention, Your
23 Honor, they are already on our list. Okay.

24 THE COURT: All right. Do you agree to that?

25 MS. GRIPP: Yes, Your Honor.

1 THE COURT: Okay. All right, anything else we
2 need to do before we get the jury up here?

3 MS. SHIPLEY: No, sir, Your Honor. We're
4 waiting on the strike list, Your Honor.

5 THE COURT: Oh, okay. All right.

6 MS. SHIPLEY: Oh, Judge, Number 26 through 29,
7 those are not on our list either.

8 THE COURT: All right.

9 MS. SHIPLEY: And, Judge, I'm sorry, we had
10 removed some. The names are familiar, but I
11 removed some. Number 9 and 10 are also not on our
12 list. Sorry.

13 THE COURT: That's all right.

14 (WHEREUPON, Court's Exhibit No. 1 was
15 marked for identification only.)

16 THE COURT: Let's take a couple of minutes.
17 Did you get your list?

18 MS. SHIPLEY: Yes, sir.

19 THE COURT: Two alternates?

20 MS. SHIPLEY: Yes, sir, Your Honor.

21 THE COURT: Two.

22 (Pause.)

23 MS. SHIPLEY: Your Honor, by the time the jury
24 is brought up we'll be ready.

25 THE COURT: All right. How about the Defense?

1 MR. O'NEIL: Yes, sir.

2 THE COURT: All right.

3 MS. SHIPLEY: Your Honor, for scheduling
4 purposes, we have about five witnesses to call in
5 the Jackson versus Denno hearing. I don't know if
6 you want to pick the jury and excuse them until
7 after lunch. It is going to be more lengthy than
8 normal.

9 THE COURT: All right. Any other issues we
10 need to take up before we start the trial?

11 MR. O'NEIL: Your Honor --

12 MS. GRIPP: We do have a pretrial motions
13 list, Your Honor. We have a couple of witnesses as
14 well for the Denno hearing.

15 THE COURT: Okay.

16 (WHEREUPON, the jury came into open
17 court at approximately 11:29 a.m.)

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

19 THE COURT: Thank you very much.

20 Ladies and gentlemen, good morning. Let me
21 introduce myself. My name is Ned Miller, and I am
22 a circuit court judge from Greenville, South
23 Carolina. And I am really pleased to be down here
24 in Richland County and feel very privileged to be
25 holding this term of court. And this is a term of

1 General Sessions court. It is what we commonly
2 refer to as Criminal Court.

3 We are going to begin the process of selecting
4 a jury. I guess we have already begun that
5 process. And you all are qualified this morning,
6 and I don't know who -- which judge qualified you,
7 but you all were qualified to serve as jurors for
8 the week this week, this morning. And we have
9 asked you, invited you up here, and y'all all
10 kindly accepted that invitation, to be qualified to
11 serve for this particular case.

12 So while you were asked some questions earlier
13 about your qualifications, now I'd like to get a
14 little more case specific.

15 And I would remind you, of course, that you
16 are under oath and we do require full, complete and
17 truthful answers to the questions which I will ask
18 you.

19 Let me introduce the case to you. As I said,
20 this is a term of Criminal Court. And we're here
21 to try a case. It is known as Indictment Number
22 2007-4073. And it is the State of South Carolina
23 versus Melinda Richmond.

24 Now, this is an indictment which makes
25 allegations which brings this case to court. And

1 the allegations contained in this indictment are
2 that Melinda Richmond did, in Richland County, on
3 or about May 5th of 2007, feloniously, willfully
4 and with malice aforethought kill one Frank West by
5 means of multiple stab wounds and that the said
6 victim died as a proximate result thereof.

7 Now, ladies and gentlemen, I want to tell you
8 that to this indictment Ms. Richmond has pled not
9 guilty and, as such, that entitles her to certain
10 rights which belong to every citizen in this
11 country. And I would ask you to keep those in mind
12 and protect those rights of being sacred belonging
13 to all of us, and that is that every person who is
14 charged with a crime in this country is presumed
15 innocent of the allegations made against that
16 person unless and until the State, who is the
17 charging party, can prove that person guilty beyond
18 any reasonable doubt of each and every element of
19 the offense with which that citizen or person is
20 charged.

21 The burden of proof beyond a reasonable doubt
22 is always on the State and remains there throughout
23 the course of the trial. And the presumption of
24 innocence remains with the person charged with the
25 offense unless and until a jury finds beyond a

1 reasonable doubt that that presumption of innocence
2 or mantle of innocence or cloak of innocence, as it
3 is sometimes called, can be removed.

4 Now, before I ask you some questions -- I
5 guess the other thing I should tell you, ladies and
6 gentlemen, is that this indictment is nothing more
7 than what it appears to be right here. It is a
8 piece of paper. It is not evidence in this case.
9 You all should not consider it as evidence. The
10 allegations in there, don't draw any conclusions
11 from those. It is just a document which allows
12 this case to wind its way through the system to
13 arrive here in court.

14 And evidence in this case will be presented to
15 you from the witness stand and through some other
16 means, like documents or photographs. I don't know
17 what all is coming. But that is the only evidence
18 that you all as a jury would consider in this case.

19 Now, ladies and gentlemen, before we -- before
20 I get started asking the questions, I would like to
21 ask the attorneys involved in this case to please
22 stand and introduce themselves to you.

23 Ms. Shipley?

24 (Ms. Shipley and Ms. Good stand.)

25 MS. SHIPLEY: Good morning. My name is

1 Vanessa Shipley. I'm a prosecutor with the Fifth
2 Circuit Solicitor's Office.

3 MS. GOOD: I'm Anna Good. I'm also a
4 Solicitor with the Fifth Circuit Solicitor's
5 Office.

6 THE COURT: All right, thank you very much.

7 (Ms. Shipley and Ms. Good are seated.)

8 (Ms. Gripp, Mr. Secor and Mr. O'Neil stand.)

9 MS. GRIPP: Hi. My name is Carolyn Gripp. I
10 am an attorney with the Richland County Public
11 Defender's Office.

12 MR. SECOR: I'm Casey Secor. I'm an attorney
13 in the Public Defender's Office here in Columbia.

14 MR. O'NEIL: Good morning. I'm Deon O'Neil.
15 I'm an attorney with the Richland County Public
16 Defender's Office.

17 THE COURT: Would you introduce Ms. Richmond,
18 please?

19 (Ms. Richmond stands.)

20 MS. GRIPP: This is my client, Ms. Melinda
21 Richmond.

22 THE COURT: Thank you very much.

23 (Ms. Richmond seated.)

24 (Ms. Gripp, Mr. Secor and Mr. O'Neil are
25 seated.)

1 THE COURT: All right, ladies and gentlemen,
2 is there any member of the jury panel who is
3 related by blood or marriage or has a business,
4 personal or social relationship with any of the
5 attorneys involved in this case or with any member
6 of their respective law offices, Fifth Circuit
7 Solicitor's Office or the Richland County Public
8 Defender's Office, or I guess the Fifth Circuit
9 Public Defender's Office? If so, please stand.

10 (WHEREUPON, there was no response.)

11 THE COURT: Is there any member of the jury
12 panel who is related by blood or marriage or have a
13 business, personal or social relationship with
14 Ms. Melissa -- excuse me -- Melinda Richmond? If
15 so, please stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Now, I'm going to read to you a
18 list of potential witnesses in this case. I'm
19 going to need to know the same thing about these
20 persons, so please pay attention. It is a little
21 bit lengthy, but pay attention, please.

22 Investigator Rob Martin, with the Richland
23 County Sheriff's Department.

24 Teresa Brown.

25 Deputy Michael Leahy. Is that how you

1 pronounce it?

2 MS. SHIPLEY: Leahy.

3 THE COURT: Leahy, with the Sheriff's
4 Department.

5 Corporal Michael Mazerolle, with the Sheriff's
6 Department.

7 Deputy Warren Cavanah, with the Sheriff's
8 Department.

9 Investigator Ray Livingston, with the
10 Sheriff's Department.

11 Investigator John Baker, with the Sheriff's
12 Department.

13 Robert Guirau, G-U-I-R-A-U, with the Sheriff's
14 Department.

15 Corporal Gerardo Swall, with the Sheriff's
16 Department.

17 Macey Dylan Nichols.

18 Larry Scheper.

19 Investigator Wendell Harris, with the
20 Sheriff's Department.

21 Corporal Kenneth Gerald, with the Sheriff's
22 Department.

23 Investigator Brien Gwyn, with the Sheriff's
24 Department.

25 Becky Roberson.

1 Keith Wedmore.

2 Investigator Patricia Reed-Enzor, with the
3 Sheriff's Department.

4 Lieutenant Heidi Scott, with the Sheriff's
5 Department.

6 Investigator Travis Holdorf, with the
7 Sheriff's Department.

8 Nathan White, with the Sheriff's Department.

9 Curtis Burnett, with the Sheriff's Defendant.

10 Brian Metz, with the Sheriff's Department.

11 Tena Goff, with the Sheriff's Department.

12 Dr. Grayson Amick, with the Sheriff's
13 Department.

14 William Cedarstaff, with the Sheriff's
15 Department.

16 Christine Benson, with the Coroner's Office.

17 Investigator Stan Richards, with the Sheriff's
18 Department.

19 Trish Odom, with the Sheriff's Department.

20 Dr. Clay Nichols.

21 MS. SHIPLEY: Palmetto Richland Memorial
22 Hospital, Your Honor.

23 THE COURT: There you go. Christine
24 Barrickman, with the Sheriff's Department.

25 And Tenisha McClinton.

1 (Juror stands.)

2 THE COURT: Yes, sir? If you would, state
3 your name for me, please.

4 JUROR ANDERSON: Kelvin Anderson.

5 Dr. Richardson is my pathologist where I work.

6 THE COURT: All right, well we'll --

7 JUROR ANDERSON: Okay.

8 THE COURT: I haven't asked the question yet.
9 We'll get to you in just a second, all right?

10 (Juror seated.)

11 THE COURT: Of course, Melinda Richmond.

12 Bruce Thompson.

13 EMS Tech White.

14 EMS Tech Ganung.

15 Terry Peagler, who is a registered nurse with
16 Palmetto Richland Hospital.

17 Captain Smith, with the Sheriff's Department.

18 Kayla Roach.

19 Robin Hancock.

20 Bobby Childers.

21 Jerry Verdino, Jr.

22 Sean Eric Criss.

23 Tina Boyd.

24 Lieutenant Cann, with the Sheriff's
25 Department.

1 Van Watson.

2 Natasha Pholps, P-H-O-L-P-S.

3 Abraham Miyakazi.

4 Nancy Miyakazi.

5 Wendy Evans.

6 Joli Rish, with the Detention Center.

7 Dr. David Ford, with the Palmetto Richland
8 Hospital.

9 Dr. Raymond Bynoe, with Palmetto Richland
10 Hospital.

11 And Patricia Rickborn.

12 All right, ladies and gentlemen, I hope I
13 didn't -- did I leave some out?

14 MS. SHIPLEY: I'm sorry, Your Honor, you
15 skipped over Number 14.

16 THE COURT: Okay. Frederick A. Thompson.
17 Did I get everybody?

18 MS. SHIPLEY: Yes, sir.

19 MS. GRIPP: Your Honor, I think there was one
20 person who should have been on the list, which was
21 Captain Redmond, with the Detention Center.

22 THE COURT: All right. Captain -- what number
23 is that?

24 MS. GRIPP: I believe it was just added to the
25 list.

1 THE COURT: Oh, okay. All right. I believe
2 it is Captain Brian Redmond, with the Detention
3 Center.

4 All right, ladies and gentlemen, I apologize
5 if I mispronounced someone's name. But is there
6 any member of the jury panel who is related by
7 blood or marriage or who has a business, personal
8 or social relationship with any of those potential
9 witness's whose names I have just read? If so,
10 please stand.

11 (Juror stands.)

12 THE COURT: All right. Yes, sir, again, for
13 the record, your name, please?

14 JUROR ANDERSON: Kelvin Anderson.

15 THE COURT: All right, Mr. Anderson, tell
16 me -- it was --

17 JUROR ANDERSON: Dr. Nichols.

18 THE COURT: Okay. You say he is your --

19 JUROR ANDERSON: Head of the laboratory where
20 I work at.

21 THE COURT: Where you work?

22 JUROR ANDERSON: Yes, sir.

23 THE COURT: And do you work with him on a
24 regular basis?

25 JUROR ANDERSON: No, sir, he's just head. I

1 rarely see him, but he's the boss.

2 THE COURT: Okay. All right. Well, would the
3 fact that he is your boss impair your ability to be
4 fair and impartial to both the State and the
5 Defense in this matter?

6 JUROR ANDERSON: It should not. I rarely see
7 him.

8 THE COURT: And would you be able to follow
9 the law under your oath as I would give it to you
10 if you were selected to serve?

11 JUROR ANDERSON: I would.

12 THE COURT: Okay. All right. Thank you very
13 much.

14 (Juror seated.)

15 THE COURT: All right. Now, ladies and
16 gentlemen, is there any member of the jury panel
17 who has any knowledge about the events that are
18 alleged in this indictment that I've read to you?
19 Has anyone heard anything about it? If so, please
20 stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Is there anybody -- any member of
23 the jury panel who has formed any opinion about the
24 allegations that are alleged in this indictment?
25 If so, please stand.

1 (WHEREUPON, there was no response.)

2 THE COURT: Is there any member of the jury
3 panel or a family member or a friend who has ever
4 been the victim of an offense like this or charged
5 with an offense of this nature? If so, please
6 stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: Is there any member of the jury
9 panel who is aware of any bias or prejudice towards
10 either the State or the Defense? If so, please
11 stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Is there any member -- anyone --
14 member of the jury panel who is a member of or
15 contributor to a group whose primary concern is the
16 promotion of law enforcement or victim's rights?
17 And these would include organizations such as MADD,
18 SADD, or CAVE or CADRE? If so, please stand.

19 (WHEREUPON, there was no response.)

20 THE COURT: Is there any member of the jury
21 panel who is related by blood or marriage or a
22 close friend of a member of any law enforcement
23 agency? If so, please stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is there any member of the jury

1 panel who is employed by or related by blood or
2 marriage or a friend of anyone employed by the
3 South Carolina Attorney General's Office or the --
4 I've asked you about the Solicitor's Office -- or
5 any state prosecuting office? If so, please stand.

6 (Juror stands.)

7 JUROR KNOLL: Yes, sir, I have a question.
8 Could you repeat the question prior to that,
9 please?

10 THE COURT: All right. Is there any member of
11 the jury panel who is related by blood or marriage
12 or is a friend of a member of any law enforcement
13 agency? Okay.

14 JUROR KNOLL: Yes, sir.

15 THE COURT: Your name?

16 JUROR KNOLL: Richard Knoll.

17 THE COURT: Okay. And --

18 JUROR KNOLL: My father was a police officer.

19 THE COURT: Okay.

20 JUROR KNOLL: But not for the State of South
21 Carolina.

22 THE COURT: All right. Well, would the fact
23 that your father was a member of law enforcement,
24 would that impair your ability to be fair and
25 impartial in this case?

1 JUROR KNOLL: I do not think so.

2 THE COURT: Okay. Could you follow the law as
3 I would give to the you under your oath?

4 JUROR KNOLL: Absolutely.

5 THE COURT: And listen to the testimony and
6 the evidence presented in this case and judge it
7 fairly according to the law? You could do that?

8 JUROR KNOLL: I think so.

9 THE COURT: Okay. Thank you very much.

10 (Juror seated.)

11 THE COURT: Is there any member of the jury
12 panel who has ever been employed by any civilian or
13 military law enforcement agency? If so, please
14 stand.

15 (WHEREUPON, there was no response.)

16 THE COURT: Is there any member of the jury
17 panel who has discussed this case or heard anyone
18 else discuss this case today or before today? If
19 so, please stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Is there anything that I read to
22 you from the indictment and the nature of the
23 allegations in the case that would cause any member
24 of the jury panel any problem in sitting as an
25 impartial juror in this case?

1 (Juror stands.)

2 JUROR DOWNS: Yes, sir.

3 THE COURT: Your name, sir?

4 JUROR DOWNS: Gene Downs. Eugene.

5 THE COURT: And?

6 JUROR DOWNS: I was -- I reported for jury
7 duty some months back and discussed with a judge my
8 feelings about --

9 THE COURT: Well, I tell you what let's do,
10 let's wait and I'll talk to you separately, okay?

11 (Juror seated.)

12 THE COURT: Does -- I'm going to tell you --
13 I'll charge you all the law. I'm going to tell you
14 what the law is as the case goes along, but I am
15 going to ask you just a few questions about it to
16 see -- make sure there is no misunderstanding about
17 it.

18 Is there any member of the jury panel who does
19 not understand that as a juror you would sit only
20 as the judge of the facts in this case?

21 As I just told you, I tell you what the law
22 is. Is there anybody who doesn't understand that
23 concept, that if you are selected you would swear
24 an oath to follow the law precisely as I give it to
25 you, whether you agree with it or disagree?

1 (WHEREUPON, there was no response.)

2 THE COURT: Is there any member of the jury
3 panel who is inclined to think that a person is
4 guilty of the crime charged just because they were
5 arrested? If so, please stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Now, that is to point out that we
8 have an accusatory system of justice, and that the
9 party who makes the accusation then has to prove it
10 later, okay? And that is what the presumption of
11 innocence is all about.

12 Okay. Is there any member of the jury panel
13 who doesn't understand or could not give a person
14 charged with a crime the benefit of the presumption
15 of innocence during a trial and throughout your
16 deliberations? Is there anybody that could not do
17 that? If so, please stand.

18 (WHEREUPON, there was no response.)

19 THE COURT: And is there any member of the
20 jury panel who doesn't understand that if there is
21 uncertainty as to whether a reasonable doubt
22 exists, that the benefit of that doubt should be
23 weighed in favor of the person charged with a
24 crime, or with the Defendant, and that would result
25 in an acquittal? Is there anybody that doesn't

1 understand that concept? Okay.

2 (WHEREUPON, there was no response.)

3 THE COURT: All right, Mr. Downs, let me ask
4 you to come on around up here, right over here.

5 (WHEREUPON, the juror approaches. The
6 following is outside the hearing of the
7 jury panel.)

8 THE COURT: Hey. How are you doing?

9 JUROR DOWNS: I'm all right. I asked that I
10 be -- I told her that I had a problem with criminal
11 cases, and but she just -- she said that I could
12 come back and be on a civil trial instead, that she
13 would rearrange that.

14 THE COURT: What is your problem?

15 JUROR DOWNS: I don't believe in the death
16 penalty, Number One. And I really would not be
17 willing to expose anyone to that.

18 THE COURT: Well, tell me --

19 JUROR DOWNS: I really have a problem with the
20 prison system, frankly.

21 THE COURT: Okay. Well, let me address you
22 first this way. This is not a capital case, so
23 this is not -- the issue of the death penalty is
24 not going to be --

25 JUROR DOWNS: Okay.

1 THE COURT: -- involved in this case.

2 JUROR DOWNS: I didn't know.

3 THE COURT: I appreciate you telling me. All
4 right. And having cleared that up, what other
5 issue would you have?

6 JUROR DOWNS: I just think there are too many
7 people in prison. I have done a lot of reading on
8 the subject, and I just don't agree with long
9 prison sentences.

10 THE COURT: Well, let me explain this to you,
11 that your job as a juror is not to sentence. Your
12 job is just to listen to the facts, weigh them
13 fairly.

14 JUROR DOWNS: I'm not sure I could do that,
15 though, is what I'm saying.

16 THE COURT: Well, when you say that, what do
17 you mean?

18 JUROR DOWNS: I just am very opinionated on
19 the subject. If you want to take the chance on
20 it --

21 THE COURT: Well, no, no, I just want to --
22 I'm not trying to -- and I appreciate your honesty,
23 I really do. It is good.

24 But I want -- I need to understand. Do you
25 think that if the State proved even beyond a

1 reasonable doubt in your mind guilt, you still
2 could not find a guilty verdict?

3 JUROR DOWNS: I don't know.

4 THE COURT: Okay.

5 JUROR DOWNS: I'm different.

6 THE COURT: Well, you are not alone. I mean,
7 there are plenty of people. I'm just trying to
8 determine if as a citizen, under your oath could
9 you be fair to both sides and make a decision --
10 you don't have to worry about sentence -- make a
11 decision about guilt or innocence fairly and
12 impartially? Could you do that?

13 JUROR DOWNS: I seriously doubt it.

14 THE COURT: Okay. All right. Thank you, Mr.
15 Downs. I appreciate it.

16 (Juror seated.)

17 THE COURT: All right, y'all just come here.

18 (WHEREUPON, the attorneys approach. The
19 following is outside the hearing of the
20 jury.)

21 MR. O'NEIL: I like him.

22 THE COURT: Ten and five and four and two and
23 two alternates. Okay. All right.

24 MS. SHIPLEY: Yes, sir.

25 MS. GRIPP: Yes, sir.

1 MR. O'NEIL: Yes, sir.

2 THE COURT: Have you got anything?

3 MS. GRIPP: I would just ask whether anybody
4 is the victim of a crime of violence. You did ask
5 about the nature obviously of the charge. I would
6 just ask perhaps of a crime of violence.

7 THE COURT: Okay. All right?

8 MS. SHIPLEY: If accused of a crime of
9 violence.

10 (Bench conference concluded.)

11 THE COURT: Okay. Let me ask -- I think I
12 have got one more question to ask, one or two
13 maybe.

14 Is there any member of the jury panel who has
15 ever been charged with or let me say any member of
16 the jury panel, family member or friend who has
17 been charged with or a victim of any crime of
18 violence? If so, please stand.

19 (Juror stands.)

20 THE COURT: All right. Yes, ma'am, your name,
21 please?

22 JUROR TITUS: Laurie Titus.

23 THE COURT: Okay.

24 JUROR TITUS: My 18-year-old daughter was
25 robbed at gunpoint last summer.

1 THE COURT: All right. Would that impair your
2 ability to be fair and impartial in this case?

3 JUROR TITUS: I don't think so.

4 THE COURT: Okay. Could you follow the law
5 under your oath as I would give it to you?

6 JUROR TITUS: Yes, sir.

7 THE COURT: Thank you, ma'am. I appreciate
8 that.

9 (Juror seated.)

10 (Juror stands.)

11 THE COURT: Yes, ma'am, your name?

12 JUROR ECHOLES-MOORE: Dontay Echoles-Moore.

13 THE COURT: Elsmore?

14 JUROR ECHOLES-MOORE: Echoles-Moore.

15 THE COURT: Okay.

16 JUROR ECHOLES-MOORE: My fiance has been a
17 victim of malicious injury to property and criminal
18 domestic violence.

19 THE COURT: Would that -- the fact that that
20 has occurred impair your ability to be fair and
21 impartial in this case?

22 JUROR ECHOLES-MOORE: No.

23 THE COURT: And could you follow the law under
24 your oath as I would give it to you?

25 JUROR ECHOLES-MOORE: Yes.

1 THE COURT: Okay. Thank you very much.

2 (Juror seated.)

3 (Juror stands.)

4 JUROR LAMAN: Excuse me.

5 THE COURT: Yes, sir? I'm sorry.

6 JUROR LAMAN: I have a family member that has
7 been the victim of sexual assault.

8 THE COURT: Your name, please?

9 JUROR LAMAN: Robert Laman.

10 THE COURT: And tell me again?

11 JUROR LAMAN: Family member a victim of sexual
12 assault.

13 THE COURT: All right. Would that impair your
14 ability to be fair and impartial in this case?

15 JUROR LAMAN: No.

16 THE COURT: And could you follow the law under
17 your oath as I would give it to you?

18 JUROR LAMAN: Yes.

19 THE COURT: All right, great. Thank you very
20 much.

21 (Juror seated.)

22 THE COURT: And clearly, ladies and gentlemen,
23 the whole reason we're asking these questions is
24 because we want a jury that can be fair and
25 impartial and listen to the facts and realize that

1 every case is different and listen to the
2 individual facts on that case and weigh the
3 evidence pursuant to the law as I read it to you.

4 Is there any juror who knows of any reason
5 whatsoever why you should not serve in this case,
6 with particular emphasis on your ability to be fair
7 and impartial to both the State and the Defense?
8 If so, please stand.

9 (WHEREUPON, there was no response.)

10 THE COURT: Okay. All right.

11 Okay, ladies and gentlemen, what we're going
12 to do now is strike the jury. It is not a crime of
13 violence, I promise.

14 THE CLERK: Ladies and gentlemen of the jury
15 panel, when I call your name and number, please
16 come to the front of the room here, bringing your
17 personal belongings with you.

18 At the microphone please state your name and
19 your occupation.

20 Lilia Gonzalez, 78.

21 (Juror approaches.)

22 JUROR GONZALEZ: My name is Lilia Gonzalez.
23 And I'm a customer service representative of Blue
24 Cross Blue Shield of South Carolina.

25 THE CLERK: What says the State?

1 MS. SHIPLEY: Please present the juror.

2 THE CLERK: What says the Defense?

3 MS. GRIPP: Please seat the juror.

4 THE CLERK: Have a seat in the jury box,
5 please.

6 (Juror 78, Lilia Gonzalez, a white
7 female, was seated on the jury.)

8 THE CLERK: Louis Harris, 96.

9 (Juror approaches.)

10 JUROR HARRIS: My name is Louis Harris. I
11 work for S.C. Asphalt in Columbia.

12 THE CLERK: What says the State?

13 MS. SHIPLEY: Please present the juror.

14 THE CLERK: What says the Defense?

15 MS. GRIPP: Please seat the juror.

16 THE CLERK: Have a seat in the jury box,
17 please.

18 (Juror 96, Louis Harris, a black male,
19 was seated on the jury.)

20 THE CLERK: Cynthia Brown, 23.

21 (Juror approaches.)

22 JUROR BROWN: My name is Cynthia Brown. I
23 work for Moncrief Army Community Hospital, records.

24 THE CLERK: What says the State?

25 MS. SHIPLEY: Please present the juror.

1 THE CLERK: What says the Defense?

2 MS. GRIPP: Please seat the juror.

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

5 (Juror 23, Cynthia Brown, a black
6 female, was seated on the jury.)

7 THE CLERK: Sarah Benson, 14.

8 (Juror approaches.)

9 JUROR BENSON: My name is Sarah Benson. I am
10 a retired librarian with the Richland County Public
11 Library.

12 THE CLERK: What says the State?

13 MS. SHIPLEY: Please present the juror.

14 THE CLERK: What says the Defense?

15 MS. GRIPP: Please excuse the juror.

16 THE CLERK: Please have a seat in the back of
17 the courtroom.

18 (Juror 14, Sarah Benson, a white female,
19 was excused by the Defense.)

20 THE CLERK: Dontay Echoles-Moore, 62.

21 (Juror approaches.)

22 JUROR ECHOLES-MOORE: I work for the South
23 Carolina Department of Education.

24 THE CLERK: What says the State?

25 MS. SHIPLEY: Please present the juror.

1 THE CLERK: What says the Defense?

2 MS. GRIPP: Please seat the juror.

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

5 (Juror 62, Dontay Echoles-Moore, a black
6 female, was seated on the jury.)

7 THE CLERK: Martha Jordan, 22.

8 (Juror approaches.)

9 JUROR JORDAN: Martha Jordan. I'm on
10 disability.

11 THE CLERK: What says the State?

12 MS. SHIPLEY: Please present the juror.

13 THE CLERK: What say the Defense?

14 MS. GRIPP: Please seat the juror.

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

17 (Juror 22, Martha Jordan, a white
18 female, was seated on the jury.)

19 THE CLERK: Iris Portee, 167.

20 (Juror approaches.)

21 JUROR PORTEE: Iris Portee. Quality assurance
22 representative, Visi-Care LLC Solutions.

23 THE CLERK: What says the State?

24 MS. SHIPLEY: Please excuse the juror.

25 THE CLERK: Please have a seat at the back of

1 the courtroom.

2 (Juror 167, Iris Portee, a black female,
3 was excused by the State.)

4 THE CLERK: Paulette Jennings, 116.

5 (Juror approaches.)

6 JUROR JENNINGS: Paulette Jennings. I work
7 for Target, retail.

8 THE CLERK: What says the State?

9 MS. SHIPLEY: Please present the juror.

10 THE CLERK: What says the Defense?

11 MS. GRIPP: Please excuse the juror.

12 THE CLERK: Please have a seat at the back of
13 the courtroom.

14 (Juror 116, Paulette Jennings, a black
15 female was excused by the Defense.)

16 THE CLERK: Laura Killman, 126.

17 (Juror approaches.)

18 JUROR KILLMAN: I'm Laura Killman. I work at
19 Belk's Department Store.

20 THE CLERK: What says the State?

21 MS. SHIPLEY: Please present the juror.

22 THE CLERK: What says the Defense?

23 MS. GRIPP: Please seat the juror.

24 THE COURT: Have a seat in the jury box,
25 please.

1 (Juror 126, Laura Killman, a white
2 female, was seated on the jury.)

3 THE CLERK: John Dozier, 55.

4 (Juror approaches.)

5 JUROR DOZIER: I'm John Dozier. I work for
6 the South Carolina Department of Education.

7 THE CLERK: What says the State?

8 MS. SHIPLEY: Please present the jury.

9 THE CLERK: What says the Defense?

10 MS. GRIPP: Please seat the juror.

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

13 (Juror 55, John Dozier, a white male,
14 was seated on the jury.)

15 THE CLERK: Timothy Cook, 38.

16 JUROR COOK: Timothy Cook. I'm a customer
17 service specialist, Southeastern Freight Lines.

18 THE CLERK: What says the State?

19 MS. SHIPLEY: Please present the juror.

20 THE CLERK: What says the Defense?

21 MS. GRIPP: Please seat the juror.

22 THE CLERK: Have a seat in the jury box,
23 please.

24 (Juror 38, Timothy Cook, a white male,
25 was seated on the jury.)

1 THE CLERK: John Goettee, 77.

2 JUROR GOETTEE: I'm Jack Goettee. I work for
3 South Carolina Bank and Trust.

4 THE CLERK: What says the State?

5 MS. SHIPLEY: Please present the juror.

6 THE CLERK: What says the Defense?

7 MS. GRIPP: Please seat this juror.

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

10 (Juror 77, John Goettee, a white male,
11 was seated on the jury.)

12 THE CLERK: Christine Latham, 131.

13 JUROR LATHAM: Chris Latham. I'm a clinical
14 pharmacist at the South Carolina Department of
15 Mental Health.

16 THE CLERK: What says the State?

17 MS. SHIPLEY: Please present the juror.

18 THE CLERK: What says the Defense?

19 MS. GRIPP: Please seat the juror.

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

22 (Juror 131, Christine Latham, a white
23 female, was seated on the jury.)

24 THE CLERK: Michele Peterson, 166.

25 (Juror approaches.)

1 JUROR PETERSON: Michele Peterson. Manager at
2 Bank of America.

3 THE CLERK: What says the State?

4 MS. SHIPLEY: Please present the juror.

5 THE CLERK: What says the Defense?

6 MS. GRIPP: Please seat the jury.

7 THE CLERK: Have a seat in the juror box,
8 please.

9 (Juror 166, Michele Peterson, a white
10 female, was seated on the jury.)

11 THE CLERK: James Bethel, 15.

12 (Juror approaches.)

13 JUROR BETHEL: James Bethel. I work at Thomas
14 and Howard.

15 THE CLERK: What says the State?

16 MS. SHIPLEY: Please excuse the juror.

17 THE CLERK: Please have a seat at the back of
18 the courtroom.

19 (Juror 15, James Bethel, a black male,
20 was excused by the State.)

21 THE CLERK: Nancy Mahoney, 139.

22 (Juror approaches.)

23 JUROR MAHONEY: Nancy Mahoney. Retired.

24 THE CLERK: What says the State?

25 MS. SHIPLEY: Please present the juror.

1 THE CLERK: What says the Defense?

2 MS. GRIPP: Please excuse the juror.

3 THE CLERK: Have a seat in back of the
4 courtroom.

5 (Juror 139, Nancy Mahoney, a white
6 female, was excused by the Defense.)

7 THE CLERK: Marion Davis, 47.

8 (Juror approaches.)

9 JUROR DAVIS: Marion Davis. Pilot, Republic
10 Airlines.

11 THE CLERK: What says the State?

12 MS. SHIPLEY: Please present the juror.

13 THE CLERK: What says the Defense?

14 MS. GRIPP: Please seat the juror.

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

17 (Juror 47, Marion Davis, a white male,
18 was seated on the jury.)

19 THE CLERK: Ellen Reynolds, 169.

20 (Juror approaches.)

21 JUROR REYNOLDS: Ellen Reynolds. Retired
22 school library.

23 THE CLERK: What says the State?

24 MS. SHIPLEY: Please present the juror.

25 THE CLERK: What says the Defense?

1 MS. GRIPP: Please seat the juror.

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

4 (Juror 169, Ellen Reynolds, a white
5 female, was seated on the jury.)

6 THE CLERK: Douglas Moore, 154.
7 (Juror approaches.)

8 JUROR MOORE: Douglas Moore. Engineer, Square
9 D Company.

10 THE CLERK: What says the State?

11 MS. SHIPLEY: Please present the juror.

12 THE CLERK: What says the Defense?

13 MS. GRIPP: Please seat the juror.

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

16 (Juror 154, Douglas Moore, a white male,
17 was seated on the jury.)

18 THE COURT: All right, any exception pursuant
19 to Batson or JEB?

20 MS. SHIPLEY: None from the State, Your Honor.

21 MS. GRIPP: None from the Defense.

22 THE COURT: Okay. It always does my heart
23 good to see the smiles of people who get to come up
24 and sit in the jury box over there. We all know
25 what an inconvenience serving on a jury is. And I

1 know that now there are two distinct groups here in
2 the courtroom, this group who did not get selected
3 or wasn't called, and this group who has been
4 selected. And I want to tell you that I think
5 that -- I hope each of you at some point, maybe not
6 this week, but at some point in your lifetime get
7 an opportunity to serve on a jury, because it is a
8 great privilege and a great responsibility for you
9 to serve your country in that fashion.

10 And it has often been said that it is the
11 highest service that a citizen can render to its
12 country in peace time. And I believe that is true,
13 and I think most everyone I've ever spoken to who
14 served on a jury found it to be a very rewarding
15 experience. So I do hope you get that opportunity.

16 Unfortunately for you all, even though we have
17 got a couple of seats up there left, unless y'all
18 just want to -- do you want us to keep going? No?
19 Okay. We're going to ask y'all to step back
20 downstairs and we will get -- someone will be with
21 you and let you know what is next in store.

22 Thank you.

23 (WHEREUPON, the remaining jury panel was
24 excused.)

25 THE COURT: Okay, ladies and gentlemen, I was

1 very, very sincere about what I said about the
2 privilege and responsibility of serving on a jury.
3 I hope that -- everybody knows that you would
4 probably rather be at your job or at your home or
5 wherever else you would be normally today than
6 here. We all know that. Of course, we're up here
7 all the time, we see it from different groups of
8 people every week.

9 But I'll go so as far as to say, I promise you
10 that at the end of this experience you all will
11 have a sense of satisfaction that you have served
12 your community, that you have participated in one
13 of the great institutions in this country.

14 And we all thank you for being here and we
15 thank you for your service in advance and we will
16 thank you at the end as well.

17 I want to tell you that we have a dispute
18 about the facts in this case, which couldn't be
19 resolved in any other fashion, which is why we ask
20 you all to come up here and sit as fair and
21 impartial jurors, to listen to the evidence as it
22 is presented, to the law as it is presented, and to
23 render a decision which will resolve this dispute.
24 That is your function up here and you are the
25 judges of the facts.

1 I want to tell you and remind you again that
2 the indictment that I read to you is not evidence.
3 The fact that it makes allegations should not be
4 considered by you as evidence and no inference or
5 presumption should be drawn from the allegations
6 contained on that piece of paper.

7 The evidence that you all will need to hear
8 this case will come from that witness stand by way
9 of testimony. It may come through documentation,
10 it may come through physical objects or
11 photographs, that sort of thing. Or the third type
12 of evidence would be a stipulation of the attorneys
13 where they both agree, or both sides agree that
14 there is a fact which is beyond dispute.

15 So those are the three types of evidence that
16 is presented in a courtroom in a trial.

17 I don't know what all is coming. I know about
18 as much about the case as you do. So we'll see
19 what is presented. But that will be all that you
20 need to consider when you render your decision.

21 I would remind you again that every citizen
22 who is charged with a crime in this country is
23 presumed innocent unless and until the State, who
24 is the charging body, who has the burden of proof
25 at all times, can prove to each of you beyond any

1 reasonable doubt each and every element of the
2 offense that the Defendant is charged with.

3 So keep that in mind throughout the course of
4 the proceedings. That is sort of the foundation of
5 our justice system. And those are rights that
6 belong to every citizen. And today, of course,
7 they belong to Ms. Richmond.

8 Now, you can divide a trial into as many parts
9 as you like. I divide it in to five parts. None
10 of them -- they are not of equal length. But just
11 so you sort of have a basic road map of where we
12 are in the trial, the first part would be the
13 opening statements to you. And I guess this
14 qualifies as kind of part of it -- the attorneys
15 will make their opening statements to you, brief
16 and non-argumentative.

17 The second part of the trial is the meat and
18 potatoes of every trial, and that is the
19 presentation of the testimony and the evidence.
20 And that is generally the longest part of the
21 trial.

22 The third part will be the closing arguments
23 to you by the attorneys. And that is where they
24 get up and advocate their positions and argue to
25 you from the evidence why you, the jury, should

1 decide one way or another.

2 The fourth part of the trial will be when I
3 give you the law in the case as it applies to this
4 case.

5 And then the fifth part will be when you all
6 retire to the jury room and deliberate on the
7 evidence and the law presented and resolve this
8 dispute and reach a decision.

9 Now, I want to -- I'll ask you to do many
10 things, or a number of things throughout the course
11 of the trial. But first I think there are three
12 very, very important things I'm going to ask you to
13 do.

14 And the first one is to keep an open mind. We
15 ask you all those questions downstairs, we ask you
16 all the questions up here. We go through all those
17 processes to ensure that we have a jury that is
18 fair and impartial. And that is all we ask of you.
19 Every citizen who is qualified to serve can perform
20 this function. And we know that you can too. But
21 please remain open-minded throughout the course of
22 the proceeding.

23 The second thing I'll ask you to do is to pay
24 attention. If you for some reason -- and, believe
25 me, we all know about it, we all have done it -- if

1 you zone out and miss out on a piece of testimony,
2 you may find in your deliberations that you would
3 be at a disadvantage because that testimony may be
4 crucial to the case. So I ask you to pay attention
5 throughout the course of the trial.

6 And finally, ladies and gentlemen, I ask you
7 not to talk about this case with anybody. Don't
8 talk among yourselves, don't talk with the bailiffs
9 about the case, don't talk when you break for lunch
10 here in just a minute with anybody you might see at
11 lunch. And we know that goes against human nature.
12 Most everybody likes to talk about what they are
13 doing. And your friends and family would be
14 interested in knowing what you are doing. This
15 certainly is out of the ordinary of your normal
16 daily life.

17 Why do I ask you to do that, ladies and
18 gentlemen? And I would tell you that even an
19 innocent comment from a family member or friend,
20 someone you like or someone who you don't like,
21 might have an impact on your state of mind, your
22 mindset in this case, and that would not be fair.
23 It would not be fair to the parties involved in
24 this case, it wouldn't be fair to your fellow
25 jurors, and it wouldn't be fair to you, because

1 that person who is not up here performing their
2 civic duty, who is not listening to the evidence
3 and the law as it is presented in this courtroom,
4 it wouldn't be fair for them to have an impact on
5 the outcome of this case. We are not interested in
6 what they think and we don't want to know what they
7 think. So please do not talk about this case with
8 anybody that you might see.

9 I anticipate the case is going to go on. I
10 can tell you tomorrow the courthouse is closed, so
11 you will have tomorrow off. It is going to be a
12 great temptation to talk about it. Don't do it.
13 And remember why. We are not interested in what
14 anybody else thinks, and we only want your
15 assessment of this case.

16 And that would include, ladies and gentlemen,
17 not doing any sort of research. Don't go visit the
18 scene when you find out where it happened. Don't
19 go on the internet. Don't go look things up that
20 you might hear. Everything that you need to know
21 to decide this case will be presented to you in
22 this courtroom subject to constitutional scrutiny
23 and protection. So don't go outside of the
24 evidence and the law presented here to try to help
25 yourself make a decision. You will swear an oath

1 shortly to do just that. We trust that you will.

2 I tell you again, as I have told you, you are
3 the sole judges of the facts. I'm not allowed by
4 law to have an opinion about the facts in this
5 case, and I do not have an opinion about the facts
6 in this case, so don't think by anything I say or
7 do in the course of the trial that I have an
8 opinion. I don't. That -- you are the sole judges
9 of the facts.

10 Now, the same law that makes you the sole
11 judges of the facts makes me the sole judge of the
12 law. So if you think you have an idea about what
13 the law is or what the law should be as it pertains
14 to this case, you will swear an oath to set aside
15 your own opinion and apply the law precisely as I
16 give it to you.

17 I'm going to -- is there any reason not to
18 swear them yet?

19 MS. SHIPLEY: No, Your Honor, no reason.

20 THE COURT: All right, we're going to in just
21 a second ask you to stand and give me an oath, but
22 I am going to break for lunch. We have got some
23 pretrial matters that we need to go over. There
24 will be times throughout the course of the trial
25 when I have to ask you to leave the courtroom. We

1 are not trying to deceive you in any way. While we
2 might be trying to hide something from you -- that
3 is what it certainly looks like to you, I know --
4 it may be that we need to talk about a fact that
5 might not be properly presented in court or some
6 concept of law that might be mistaken, or
7 something, and so we ask you to leave the courtroom
8 so you won't be exposed to that so that what you
9 hear will be only the proper evidence and law that
10 you should hear and that you not be exposed to
11 anything improper.

12 The other thing I'm going to ask you to do --
13 and we're going to break for lunch, and I ask you
14 to be back at 2:30. We've got a hearing we have
15 got to do. That is almost two hours. We should be
16 able to take care of all of our business and be
17 ready to go right at 2:30. When you come back, if
18 you would, we ask you all to elect a foreperson.
19 We need someone who will be the juror's -- the
20 jury's spokesperson in the courtroom, if that is
21 necessary, and be the moderator of discussions at
22 the end of the trial.

23 So if you all can do that, if you can elect
24 your own foreperson, that would be great. I like
25 to give y'all an opportunity to do that. If not,

1 I'll be happy to do it for you, but I always like
2 to give the jury a chance to elect its own
3 foreperson.

4 So without any further ado, I'll get off my
5 soapbox and ask y'all to stand and place you under
6 oath.

7 (Jury stands.)

8 THE CLERK: Please raise your right hand.

9 (Jury complies.)

10 THE CLERK: Upon completion of the oath, if
11 you will respond with "I do" and please take your
12 seat.

13 Do you swear or affirm that you shall well and
14 truly try and true deliverance make between the
15 State of South Carolina and the Defendant at bar,
16 whom you shall have in charge, and a true verdict
17 give, according to the law and the evidence, so
18 help you God?

19 JURY: "I do."

20 THE CLERK: Thank you.

21 THE COURT: All right, great, ladies and
22 gentlemen. Don't sit down. Y'all go ahead and go.
23 Have a fine lunch. See you back at 2:30.

24 Thank you.

25 (WHEREUPON, the jury is excused for

1 lunch at 12:16 p.m.)

2 THE COURT: Okay, are you ready to go?

3 MS. SHIPLEY: Yes, sir, Your Honor. The State
4 calls Corporal Michael Mazerolle.

5 MS. GRIPP: Before he is seated, Your Honor, I
6 would request that we sequester witnesses.

7 THE COURT: Okay, she wants to sequester
8 witnesses. Any reason not to?

9 MS. SHIPLEY: I would ask that my lead
10 investigator be allowed to remain in the courtroom,
11 as well as the victim's family members.

12 THE COURT: I think they are entitled. Okay.
13 And your witnesses will go out as well.

14 MS. GRIPP: Your Honor, I don't have any
15 witnesses in here.

16 THE COURT: I'm sorry?

17 MS. GRIPP: I don't have any witnesses in
18 here.

19 THE COURT: Okay. All right.

20 THE BAILIFF: Place your left hand on the
21 Bible, raise your right hand, and face the clerk.

22 (Witness complies.)

23 THE CLERK: Do you swear or affirm the
24 testimony you are about give in this case to be the
25 truth, the whole truth, and nothing but the truth,

1 so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Please be seated in the witness
4 box, and state your name for the record, please.
5 (Witness seated.)

6 MS. SHIPLEY: May it please the Court, Your
7 Honor?

8 THE COURT: Yes.

9 MICHAEL MAZEROLLE,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SHIPLEY: (OUTSIDE PRESENCE OF THE JURY)

13 Q Corporal Mazerolle, could you tell the judge where
14 you are employed?

15 A Richland County Sheriff's Department.

16 Q How long have you been employed there?

17 A I have been employed there almost eight and a half
18 years.

19 Q And what are your duties?

20 A I am a corporal in the Region 4 sector of Richland
21 County, and a supervisor of the unit.

22 Q And supervising, what do you do as far as
23 supervising?

24 A Patrol operations, respond to calls, crime in
25 progress, take reports about the crimes that have

1 already taken place, and any unknown type trouble
2 calls.

3 Q And what region do you patrol in Richland County?

4 A For law enforcement purposes.

5 Q Which region is it, is it Region 1, 2 or 3?

6 A No, no, it is Region 4.

7 Q Region 4. And what area of Columbia does that
8 cover?

9 A From River Drive, the whole way out to Newberry
10 County.

11 Q Okay. Would that include 1417 Fairaway Drive, or
12 Fairaway --

13 A You mean --

14 Q Farrington Way?

15 A Yes.

16 Q Farrington Way?

17 A Yes.

18 Q And would that also include Bush River Road?

19 A Yes, it would.

20 Q All right. As part of your duties in Region 4, do
21 you become familiar with people that frequent that
22 area?

23 A Yes, I do.

24 Q And are you familiar with Melinda Richmond?

25 A Yes, ma'am.

1 Q Can you tell Judge Miller exactly what capacity you
2 are familiar with her?

3 A I have met her on several different occasions in
4 the course of my duties.

5 Q And obviously this won't be discussed in front of a
6 jury, but were you familiar with her investigating
7 crimes?

8 A In investigating, yes.

9 Q Okay. As part of your investigations of Melinda
10 Richmond and encounters with her, do you have
11 personal knowledge whether or not she was familiar
12 or acquainted with Frank West, the victim?

13 A Yes, I do.

14 Q All right. And were you familiar with Frank West?

15 A Yes.

16 Q Okay. And in what capacity were you familiar with
17 Mr. West?

18 A Based on getting out with him on different things
19 involving traffic stops and certain areas.

20 Q Okay. Was he the driver of these cars -- the car
21 for traffic stops?

22 A Yes, he was.

23 Q Okay. So you were familiar with him as well?

24 A Yes.

25 Q I'm going to bring your attention to May 5th, 2007.

1 A Yes.

2 Q Can you tell Judge Miller exactly how you became
3 involved in the investigation of the death of Frank
4 West?

5 A Your Honor, we got a call on May 5th, 2007,
6 approximately 5:15 in the morning. And it was in
7 reference to a -- it came out initially as a
8 domestic dispute.

9 Upon our arrival, myself and Deputy Leahy and
10 other deputies in the area, Mr. West was found
11 outside his apartment and leaning against the wall,
12 and he had several stab wounds to his body and was
13 losing a large amount of blood.

14 And EMS came. They did take the body away
15 from the scene.

16 We noticed that the door to Mr. West's
17 apartment was open. Myself and several other
18 deputies did clear that residence.

19 Q And what do you mean by *clear*?

20 A To ensure that there was no actual suspects inside
21 that had committed this offense.

22 Q Okay. And did you find anybody inside?

23 A No, not at the time. We entered, and we did not
24 find anybody inside.

25 Q Okay. And what did you do next?

1 A At that point I exited the residence. There were
2 several people outside of the apartment area.

3 Q And were those people law enforcement or civilians?

4 A They were civilians.

5 Q Neighbors?

6 A They -- yes. From talking to a few of them -- I
7 didn't have time to talk to all of them, it was a
8 freshly committed crime. I needed to try to get as
9 much basics as I could to give me some idea of what
10 was going on.

11 Q Okay. And who -- what witness or civilian or
12 neighbor did you encounter?

13 A At this point I didn't write the names down because
14 I wasn't interested in getting the names, I was
15 interested in getting information as fast as I
16 could.

17 Q Okay.

18 A I did encounter a white female out there, also a
19 black male out there. And they had told me that
20 they observed a white female, she was skinny, and
21 also she had a blondish, dirty blond type hair, and
22 she had a real pale-like complexion.

23 And based on my encounters with Melinda
24 Richmond and in the past, I suspected that she was
25 the one that they were talking about.

1 They also said that they had also observed a
2 black female and an unknown black male.

3 Q And was this black female known or unknown?

4 A Both the black male and the black female were
5 unknown.

6 Q Okay. And getting the description of the white
7 female, Melinda Richmond, where did you go -- next?

8 A Well, at this point -- prior to doing that, we went
9 ahead and canvassed the parking lot and noticed
10 that the victim's 1994 Toyota Camry, which we had
11 saw before, and I had currently stopped before on a
12 traffic stop, and it bared a Tennessee tag on it,
13 was actually not in the parking lot.

14 At this point, you know, we went under the
15 assumption that that vehicle probably had been
16 stolen or taken by the individuals that were
17 involved in this crime.

18 Q Okay.

19 A Now, at this point I went ahead and, based on the
20 fact that the description that I had gotten of the
21 white female was -- matched the basic description
22 of Melinda Richmond, went ahead and went to the
23 areas that I know that she frequents.

24 Q And what areas do you know that she frequents?

25 A The motels on Bush River Road. There are several

1 different of them, ones of them.

2 One of the ones I went to was the Western Inn,
3 located at 827 Bush River Road.

4 Q And tell Judge Miller what you observed when you
5 got to the Western Inn. And what time was it when
6 you arrived there?

7 A The approximate time that I arrived there -- if
8 you'll bear with me just a minute.

9 Q Uh-huh.
10 (Pause.)

11 A Well, it was approximately 6:29 hours on the 5th of
12 May, 2007. And I observed Ms. Richmond -- I came
13 around the back of the motel, and I saw
14 Ms. Richmond actually operating Mr. West's Toyota
15 Camry.

16 I also observed that there was a black female,
17 which I later identified as Tenisha Nicole
18 McClinton.

19 Q And so you did not know this black female from the
20 area?

21 A No. No.

22 Q You only knew the operator of that vehicle, Melinda
23 Richmond?

24 A Yes.

25 Q And you recognized her?

1 A Yes. Immediately, yes.

2 Q You immediately recognized her?

3 A As a matter of fact, I stopped the vehicle in such
4 a position that she could not pull the vehicle
5 around.

6 Q Okay. And tell Judge Miller what you did when you
7 stopped her vehicle -- or stopped the victim's
8 vehicle being driven by Ms. Richmond.

9 A I immediately detained her and placed her in the
10 back of my vehicle. I also immediately detained
11 Ms. Tenisha Nicole McClinton and placed her in the
12 back of my vehicle.

13 Q So you placed both women in the back of your patrol
14 car?

15 A Yes, under investigative detention.

16 Q And so at this point are they in custody for any
17 crime or are they in investigative detention?

18 A Right now they are in investigative detention.
19 Later on that turned into more of a probable cause
20 that they had been involved in this.

21 First I had the suspicion because they had his
22 vehicle, and she matched the description of one of
23 the females involved, Ms. Richmond did. And also
24 there was supposed to be a black female involved.
25 There was a black female passenger in there.

1 Once I placed her in my vehicle, I moved over
2 to his vehicle.

3 Q And that being Frank West's vehicle?

4 A Yes. And I looked in the back. There was a
5 blanket in the back. And what I could see looking
6 at the blanket was a partial handle, black handle
7 of a knife and a partial silver blade sticking up
8 from the blanket.

9 And at that point I went ahead and placed on
10 my gloves. Okay. And it was -- based on the fact
11 that it was in plain view, I went ahead and seized
12 it. And when I seized it, I noticed that there was
13 blood on the actual blade. I placed that in a
14 paper bag. Okay. Put it in my vehicle. And --

15 Q And did you question Melinda Richmond or the black
16 female, Tenisha McClinton, at any time?

17 A Not at this point. And --

18 Q And what, if anything, was mentioned by either
19 suspect when you collected the knife?

20 A What happened was -- at this point when I actually
21 obtained this knife, now they are suspects. This
22 is no longer investigative detention. They are
23 suspects in this.

24 Q Okay. Did you question them? My question to you
25 is did you ask them any questions?

1 A No, I did not.

2 Q Okay.

3 A At this --

4 Q Did you place them under arrest at this time?

5 A No, I did not place them under official arrest at
6 this time.

7 Q Okay. So they were not in custody?

8 A No.

9 Q They were in investigative detention?

10 A Yes.

11 Q Now, at that point what, if anything, did Melinda
12 Richland say when you found the knife?

13 A After I found the knife and brought the knife back
14 to the car, she -- she -- she was in the back seat
15 with Ms. -- Ms. -- Ms. McClinton. And she started
16 stating she tried to stop Bird. I know that street
17 name is related to Mr. Bruce Thompson.

18 Q Okay. And what exactly did she say about
19 exactly -- did you write -- make a report, sir?

20 A Yes, I did.

21 Q Okay. Did you write down verbatim what this woman
22 said to you when you brought the knife back to the
23 patrol car?

24 A Yes.

25 Q And what was it?

1 A She -- she stated she tried to stop Bird when he
2 started attacking the victim, Mr. West, with the
3 knife because she claimed that Mr. West had stole
4 some crack cocaine.

5 And like I said, I know Mr. Bird by his street
6 name. His real name is Bruce Thompson. Both the
7 females stated that Mr. Thompson might be in Room
8 118.

9 Q Okay. And so can I ask a question now?

10 A Yes, ma'am.

11 Q Okay. Other than the comment about the knife and
12 Bird being the one that stabbed Mr. West with it
13 because he stole crack cocaine from Bird, is there
14 anything else that she made -- any other comments
15 she made about her knowledge of this crime?

16 A No, not at this point.

17 Q Okay. And when she said this to you, were you
18 asking her questions for her to answer?

19 A No, I wasn't.

20 Q So she just said this on her own?

21 A Yes.

22 MS. SHIPLEY: That's all I have, Your Honor.

23 THE COURT: All right. Cross?

24 MS. GRIPP: May it please the Court?

25 THE COURT: Yes.

CROSS-EXAMINATION

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BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

Q Corporal Mazerolle, you have been with the Richland County Sheriff's Department for eight and a half years?

A Yes, ma'am.

Q Is that the extent of your law enforcement training?

A No, actually I started in 1982.

Q Where was that?

A In the Marine Corps. I was base Military Police for seven years. After I got out of the Marine Corps I was on the Swat Team for seven years. I spent approximately four years at the Columbia Police Department. And I have been with Richland County since.

Q Where did you train for the Swat Team?

A At the nuclear station.

Q All right. And you have obviously been trained, you have a lot of experience then, is that correct? Fair to say?

A I would say I have quite a bit.

Q And you are trained in all aspects of law enforcement?

A Yes.

1 Q Your training includes everything from using your
2 service weapon, right?

3 A Yes.

4 Q To writing down your reports, correct?

5 A Yes.

6 Q Okay. And I just want to go over some of the
7 things that you just testified to.

8 A Yes, ma'am.

9 Q You stated that you were dispatched at
10 approximately 5:15, is that correct?

11 A At approximately 5:15.

12 Q And I notice you are referencing your notes. The
13 notes that you have is just that one sheet of
14 paper, is that correct, from the --

15 A It is.

16 Q -- supplementary report?

17 A It is also -- partially my report, yes.

18 Q I'm sorry?

19 A Yes, it is my -- it is based on my report, yes.

20 Q Okay. Do you have something other than the
21 Richland County Sheriff's Department supplementary
22 report in front of you?

23 A I have the front page of Michael Leahy's report.

24 Q You have somebody else's reports that you are
25 relying on?

1 A On the time frame of when we initially responded,
2 yes.

3 Q Okay. So that is not in your notes, is that right?

4 A No, it is not in my supplemental note.

5 Q Okay. You don't have any handwritten notes or
6 anything to that effect?

7 A Excuse me?

8 Q You don't have any handwritten notes or anything to
9 that effect?

10 A No.

11 Q And you didn't take any handwritten notes, is that
12 correct?

13 A No, ma'am.

14 Q All right. And you were dispatched around 5:15,
15 correct?

16 A Yes, ma'am.

17 Q Okay. And you go to Farrington Way Apartments?

18 A Yes.

19 Q And you automatically -- let me go back. What did
20 dispatch tell you about the dispute? Other than
21 domestic dispute, what did they say?

22 A It was supposed to be -- it initially came out as a
23 domestic dispute, and it was called in by Ms.

24 Teresa Brown. This is what dispatch is telling us.

25 Q Right.

1 A And they also stated that a victim, which was later
2 identified as Mr. West, had been stabbed and needed
3 help.

4 Q Okay. And the dispatch also stated that the
5 suspect was Melinda Richmond?

6 A Negative.

7 Q That did not come over the 9-1-1?

8 A Not that I recall, no. I mean, if it did, I don't
9 recall it coming over 9-1-1.

10 Q Okay. And you don't recall 9-1-1 dispatch ever
11 letting you know that the suspects may be in a
12 Toyota Camry?

13 A No.

14 Q Or that dispatch stated that the suspects may be
15 heading to the Western Inn?

16 A No.

17 Q Okay. So you arrive at the incident location and
18 you saw Frank West leaning up against what
19 apartment?

20 A Initially when I arrived at the incident location,
21 he was outside. He was several apartments down
22 leaning against a pillar.

23 Q Okay.

24 A Okay. And --

25 Q What apartment was that?

1 A I have to refer to the report, because I can't
2 remember it offhand.

3 (Pause.)

4 A From the report he was supposed to be sitting down
5 leaning up against a pillar at 1417 Farrington Way
6 outside of Apartment D, as in delta.

7 Q Okay. And you stated that there were several
8 people already there. Who was there?

9 A I know that -- as I told you, ma'am, before, there
10 were several people already outside that were
11 actual civilians. And I did talk to a white female
12 and also a black male in reference to, if anything,
13 what they had seen.

14 Q Okay. Was there any other EMS or was there any
15 other officers, any law enforcement out there
16 already?

17 A Oh, Leahy was already on the scene. Myself arrived
18 on the scene. Also -- myself and Master Deputy
19 Swall, Deputy Cavanah.

20 Q Okay. So EMS wasn't there at that point?

21 A EMS had pulled up on the scene and they were
22 getting ready to actually remove the body and
23 actually go through the process of removing the
24 body.

25 Q Okay. I'm just trying to get a time frame. When

1 you pull up, is EMS there?

2 A When I actually pull up, no, they are not there.

3 Q Okay. Who is giving -- rendering First Aid to
4 Frank West at that point?

5 A At this point, the only one that is actually there
6 is Deputy Leahy. Okay. EMS then arrives on the
7 scene. Then Cavanah pulled up on scene. And if
8 I'm correct, if I'm recalling correct, I could be
9 off on this part, but I believe they had already
10 started moving him towards the ambulance by the
11 time Master Deputy Swall and Cavanah pulled up on
12 the scene.

13 Q Okay. I'm going to rephrase that question. If
14 officers -- EMS hasn't arrived yet and you are on
15 the scene, Officer Leahy is presumably giving aid,
16 and you are interviewing witnesses, is that --

17 A No, that is not the way it happened.

18 Q Okay. Explain to me how that happened.

19 A After EMS took his body away --

20 Q Okay.

21 A Okay. And after we noticed that his -- the door to
22 his apartment, Mr. West's apartment, was ajar,
23 myself, Master Deputy Swall and Deputy Cavanah --
24 he is staying outside, he is setting up the crime
25 scene -- went up there to clear the apartment. We

1 found nobody in the apartment. Came back down.

2 At this point, it is a freshly committed
3 crime, I'm trying to gather as quickly information
4 in reference to any possible suspect. And there
5 was a white female and a black male that I actually
6 talked to out there.

7 Q Okay.

8 A Okay.

9 Q And you don't have their names?

10 A No, I did not get their names, but at this point
11 I'm more interested in trying to attempt to just
12 identify what my suspects may look like.

13 Q Okay. And they said your suspects looked like
14 what?

15 A One of them described a white female with a sandy
16 blond hair, skinny, and also very pale.

17 Q And you immediately assumed that was Melinda
18 Richmond?

19 A I did, because I know that there is a -- that they
20 are acquaintances. And then also it was described
21 to me a black female, which they said unknown, they
22 didn't know who she was, they didn't know who the
23 white female was. They described a black male with
24 a very dark complexion. And I had no idea who
25 those individuals might be. But I did suspect,

1 based on the description they gave me of the white
2 female, that it may be Melinda Richmond.

3 Q Okay. Let's go back and talk about your
4 connections with Melinda Richmond previously.

5 Now, you say that you had traffic stops with
6 Frank West, is that correct?

7 A I stopped him once and I was back-up officer on
8 other traffic stops.

9 Q Involving Mr. West?

10 A Yes.

11 Q Okay.

12 A And Ms. Richmond was a passenger in the vehicle
13 both times.

14 Q Okay. Can you give me those dates?

15 A No, I can't give you those exact dates.

16 Q Reference?

17 A I can't even give you a rough date on that because
18 that was over the course of maybe four or five
19 months.

20 Q Anybody else in the cars?

21 A Not that I remember.

22 Q What were the traffic stops regarding?

23 A Basically, most of them were suspicious vehicle
24 stops and high area of drug traffic and
25 prostituting. And they were conducted late at

1 night.

2 Q And did you give a ticket to Mr. West?

3 A No.

4 Q Are you aware that any other officer gave him any
5 tickets?

6 A I believe Deputy Hodges did at one point. He was
7 one of the officers I went out with on a traffic
8 stop. What ticket he gave him for I do not know.

9 Q Okay. So on two prior occasions Melinda Richmond
10 was a passenger in which you assisted in a traffic
11 stop?

12 A Yes.

13 Q Okay. And how long did it take for you to gather
14 up the information that you needed to attempt to
15 locate the suspects? How long did you spend
16 interviewing witnesses?

17 A I only spent about five minutes, because I wanted
18 to get basic descriptions, and I immediately
19 canvassed the area, and based on previous contacts
20 knew what type vehicle he drove, and it was not in
21 the parking lot.

22 Q Okay. What about Frank West's other car? Was that
23 in the parking lot?

24 A The main car that I know that he drives is that
25 Toyota Camry. And that was the only car that I was

1 looking for at that time.

2 Q Okay. And you said that you were familiar with
3 Melinda Richmond. You went to several locations,
4 several motels, is that right?

5 A The actual first motel that I went to was the
6 Scottish Inn at 127 Morninghill Drive. And then
7 the second hotel I went to was 827 Bush River Road,
8 Western Inn.

9 Q Okay. Did you speak to anybody at the Scottish
10 Inn?

11 A No, because I was mainly looking for that vehicle
12 at that time.

13 Q Okay. How long did it take you to clear the house?

14 A To clear the house?

15 Q Yes.

16 A It took us approximately seven minutes to clear the
17 house, give or take a minute.

18 Q And you approached the Western Inn from the back
19 side of the building, is that right?

20 A Actually I came in the front entrance and drove
21 around to the back side of the building.

22 Q Okay. And at what point do you see Melinda
23 Richmond driving a car?

24 A As soon as I start to come around the corner, that
25 vehicle was coming right towards me, and since I

1 already knew what the vehicle looked like, I knew
2 what she looked like, she is in the driver's seat
3 driving that vehicle. I immediately stopped my
4 vehicle in such a fashion that you could not get
5 around me.

6 Q Okay. So at that point she stops?

7 A Yes.

8 Q And what happens next?

9 A At that point I direct her out of the car and I
10 place her in investigative detention, put her in
11 the back of my car.

12 Q Okay. You directed her out of the car. What did
13 you say?

14 A I told her to get out of the car.

15 Q Okay. And she got out of the car?

16 A Yes, she did.

17 Q She just stepped out?

18 A Yes, she did step out.

19 Q Okay. And then what happened?

20 A I directed her over to my car.

21 Q She just came towards you cooperatively?

22 A No, I -- she -- she -- I grabbed her by her arm,
23 escorted her over to my car. At that point I put
24 her in investigative detention and put her in the
25 back of my vehicle, at the same time telling the

1 other female in the vehicle not to move, don't
2 move.

3 Q Okay. So Tenisha McClinton was still in the car at
4 that point?

5 A Yes.

6 Q And they are separated?

7 A They are separated at that point.

8 Q Is Melinda Richmond handcuffed?

9 A Yes, she was placed in handcuffs at that point.

10 Q And you were at that point pretty certain that this
11 was your suspect, correct?

12 A Pretty certain.

13 Q And what happens next?

14 A Then I got the other female out and went ahead and
15 placed her in investigative detention, placed her
16 in the back of my vehicle.

17 And at that point walked over towards that
18 vehicle, and on the back seat where there was a
19 blanket, I could see the black handle of a knife as
20 well as a blade sticking up out of that blanket
21 because it wasn't laying -- it wasn't buried, it
22 was more just laying on top.

23 Q So it wasn't wrapped in the blanket?

24 A No. And at that point I went ahead and seized that
25 knife and placed it in a paper bag and put it in my

1 vehicle and kept it secure.

2 And after transporting both Ms. Richmond and
3 Ms. McClinton to headquarters, I immediately went
4 down to the evidence room and packaged it up
5 properly, per policy, and I placed that -- the
6 knife in Locker Number 4, which was secured and
7 locked by me.

8 Q Okay. So you found the knife. Did you put it in
9 your front seat?

10 A It was in my front seat, yes.

11 Q Okay. And at that point Tenisha McClinton and
12 Melinda Richmond are in your back seat in
13 handcuffs?

14 A Yes.

15 Q That's correct?

16 A Yes, to the best that I can recall.

17 Q Okay. And at which point did you read them their
18 rights?

19 A I had not read them their rights.

20 Q Okay. Was there any other officer on the scene?
21 Were there any --

22 A At this point it was just me on the scene.

23 Q Okay.

24 A Now, other officers, once they -- I called out,
25 were responding to the scene.

1 Q Okay. How long did it take for other officers to
2 arrive?

3 A Approximately ten minutes at the most other
4 officers arrived on the scene.

5 Q Did you call the officers before you got out of
6 your vehicle?

7 A I called out that I was getting out with Mr. West's
8 vehicle and Ms. Richmond was driving it and to go
9 ahead and send me some other units.

10 Q Okay. So it was ten minutes from that point?

11 A Excuse me?

12 Q Other officers arrived ten minutes after you
13 initially stated that you were --

14 A Approximately. I don't have it in my report, but
15 it didn't take long to get there.

16 Q Okay. The vehicle -- withdraw that. You stated
17 that once you laid the knife in the front seat,
18 both women just started talking, is that correct?

19 A Once I came back to the vehicle, I got in the
20 vehicle, Ms. Richmond started basically talking. I
21 didn't ask her any questions at this point. She
22 was telling me Bird did it, and I told Bird not to
23 do it, you know, that he was attacking the victim
24 with a knife because Bird claimed that the victim,
25 Mr. West, had stolen some crack cocaine.

1 Like I said, I know Mr. Bird as Bruce Thompson
2 from previous contact with him.

3 And at this point they told me that Mr. Bird
4 was probably in Room 118 with his brother.

5 And when we did go to 118, we made contact
6 with Mr. Frederick Thompson.

7 Q Of course. What was the first thing that Melinda
8 Richmond said?

9 A That she tried to stop Mr. Bird when he started
10 attacking Mr. West with the knife.

11 Q Okay. She said that she tried to stop Mr. Bird
12 from attacking Mr. West. Those are her words
13 verbatim?

14 A Verbatim to the best of what I recall, and also
15 what I put in my report.

16 Q Okay. And then the next thing she says is what?

17 A That she tried to stop Bird when he was attacking
18 Mr. West with a knife.

19 And she made reference that the attack was
20 because Mr. -- or Bird, Bruce Thompson, claimed
21 that the victim had stole some crack cocaine.

22 Q What was your response to that?

23 A At this point I'm just letting her ramble on.

24 Q Okay. Is Tenisha McClinton saying anything?

25 A Excuse me?

1 Q Is Tenisha McClinton saying anything?

2 A The only time I remember her saying anything,
3 because I do have in here that -- which --
4 either -- which one was the first one to say that
5 Bird might be in Room -- his brother's room, 118,
6 I'm not sure. I don't recall which one, but one of
7 them stated, the other one, Ray Bynoe once stated
8 that he was probably in that room with his bother.

9 Q Okay. And you didn't ask where Bird was?

10 A Not at this point, because at this point I'm
11 believing that he is possibly in this room with his
12 brother.

13 Q Prior to that statement you didn't ask where Bird
14 was?

15 A No.

16 Q So all of these statements that she is making, you
17 are just standing there, is that correct?

18 A I'm sitting inside the car listening to them.

19 Q Okay. And you transported Tenisha McClinton and
20 Melinda Richmond to headquarters, is that right?

21 A Yes, I did.

22 Q And that is on Two Notch?

23 A Yes.

24 Q And when was that?

25 A This was after the forensic unit arrived on the

1 scene and made sure that the vehicle was towed from
2 the scene.

3 Q So you saw the car being towed?

4 A No. But we made sure that the arrangements were
5 made and a tow truck on the way. There was also a
6 unit sitting with that vehicle.

7 Q Okay. So approximately what time was that?

8 A I can't give you an approximate time on that. I'm
9 not exactly sure.

10 Q Thirty minutes, an hour, two hours?

11 A I can't -- it most definitely was not two hours
12 later, but it may have been 30, 45 minutes at the
13 max. Once we -- I -- once I called out other units
14 to come down there, once they got there, once we
15 had already talked -- I had already talked to Mr.
16 Frederick Bird and asked where his brother might
17 be.

18 Q You spoke to Frederick Bird?

19 A Yes.

20 Q Okay. So there is a point in time where you leave
21 these girls alone in the car?

22 A The car is right outside the room. And they are
23 both in the back of that vehicle locked in the
24 vehicle.

25 Q Alone?

1 A What?

2 Q Alone?

3 A Yes.

4 Q So was there anybody else around them?

5 A Yes, there was other officers there that met me at
6 that room.

7 Q Was there anyone else around the car?

8 A Yes, there were people standing right outside the
9 door. In other words -- you are missing what I'm
10 saying. The vehicle is sitting outside of the room
11 door.

12 Q Okay.

13 A There are other officers standing right outside in
14 front of that vehicle and by that vehicle while we
15 are making contact with Frederick Bird -- or
16 Frederick Thompson.

17 Q So you are speaking to Frederick Thompson, taking
18 them, getting these statements from Melinda and
19 Tenisha McClinton?

20 A Based on what they had told me, I talked to him and
21 asked him if he knew where his brother was. That
22 is the point he told me that his brother was
23 possibly located in 105 Latonea Drive.

24 Q 105 Latonea Drive?

25 A Yes. No, 205 Latonea Drive, sorry.

1 Q Okay. And within 30 or 45 minutes you transported
2 both of them to headquarters?

3 A Yes.

4 Q And where did you place them?

5 A Approximately somewhere about there. I placed them
6 inside -- I did not place them in the D cell to the
7 best of my knowledge. I brought them both in and
8 sat them down in a chair inside the investigative
9 area. And they were both at that point handcuffed
10 to the chair.

11 And at that point I contacted Investigator
12 Martin and I appraised him on everything because he
13 had had me escort them up there.

14 Q And Martin asked you to escort both females to
15 headquarters?

16 A Yes.

17 Q Okay. Do you know approximately what time it was?

18 A No.

19 Q Do you know how long they were handcuffed to the
20 chair?

21 A No, I don't, because after I turned them over I
22 went ahead and took the knife and went ahead and
23 went down and properly packaged it and put it into
24 evidence.

25 MS. GRIPP: No more questions for the witness.

1 Nothing further, Your Honor.

2 MS. SHIPLEY: No further questions.

3 THE COURT: Thank you, sir. You can step
4 down.

5 THE WITNESS: Thank you, Your Honor.

6 (Witness steps down.)

7 MS. GOOD: The State calls Investigator
8 Patricia Reed-Enzor.

9 MS. SHIPLEY: Your Honor, may this witness be
10 excused until we call him in the case in chief?

11 MS. GRIPP: Without objection.

12 THE COURT: Okay, without objection.

13 MS. SHIPLEY: You can leave until Wednesday
14 morning.

15 (Witness excused.)

16 (WHEREUPON, State's Exhibit No. 1 was
17 marked for identification only.)

18 (WHEREUPON, State's Exhibit No. 2 was
19 marked for identification only.)

20 (Witness enters courtroom.)

21 THE BAILIFF: Place your left hand on the
22 Bible, raise your right hand, and face the clerk.

23 (Witness complies.)

24 THE CLERK: Do you swear or affirm the
25 testimony you are about to give in this case to be

1 the truth, the whole truth, and nothing but the
2 truth, so help you God?

3 THE WITNESS: Yes, ma'am.

4 THE CLERK: Have a seat in the witness box,
5 and state your name for the record.

6 (Witness seated.)

7 THE WITNESS: Patricia Reed-Enzor.

8 PATRICIA REED-ENZOR,
9 after being duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

12 Q Where are you employed?

13 A Richland County Sheriff's Department.

14 Q And what do you do there?

15 A I'm a forensic -- well, I was a forensic
16 investigator. I'm currently an investigator.

17 Q And how long have you been with the Sheriff's
18 Department?

19 A Seven years.

20 Q And as a crime scene investigator, because that is
21 what you were at the time, what duties does that
22 entail?

23 A I'm sorry, you said what was my duties as a crime
24 scene investigator?

25 Q Yes?

1 A I responded to scenes, I photographed, I collected
2 evidence, I did analysis, collected evidence.

3 Q And when you collect evidence, does that include
4 evidence from persons?

5 A From persons, from crime scenes.

6 Q And in this particular case you did quite a lot.
7 Let's focus on your involvement with Ms. Richmond,
8 in particular.

9 At what time or what date did you come in
10 contact with Ms. Richmond?

11 A With Ms. Richmond, I came in contact with her on
12 May the 5th, 2007.

13 Q About what time was that?

14 A At 10:20 in the morning.

15 Q When you first saw Ms. Richmond, how was she? Was
16 she in handcuffs, was she free?

17 A I believe she was in handcuffs. I'm not
18 100 percent sure.

19 Q Okay. And for what purpose did you have contact
20 with Ms. Richmond?

21 A I had received a request -- let me get my request
22 out -- but I received a request to collect
23 evidence, trace evidence from her hands. Let me
24 get the request out real quick. I had received a
25 request to do major case prints and also to take

1 DNA swabs and trace evidence from her hands.

2 Q And before you did that, did you get consent of any
3 sort?

4 A Yes, I did.

5 Q I want to show you what is marked as State's
6 Exhibit Number 1 for identification purposes. Do
7 you recognize this?

8 A Yes, ma'am.

9 Q And what is that?

10 A That is a consent to search for evidence for DNA
11 and fingernail scrapings from Ms. Melinda Richmond.

12 Q And were you present when that consent was done?

13 A Yes, I was.

14 Q And can you explain to the judge how that consent
15 was obtained?

16 A That was done -- it was completed by I believe it
17 was Investigator Martin -- it was done in my
18 presence. Ms. Melinda was explained the form, and
19 I witnessed her signature.

20 Q And what date was that?

21 A On May 5th, 2007.

22 Q And was that done right before you --

23 A It was done before me. It was done at the
24 Sheriff's Department in my presence.

25 Q And can you read to the judge what that consent

1 states?

2 A It says:

3 I, Melinda Richmond, do hereby consent to the
4 search of my person without a search warrant by
5 Investigator Reed-Enzor, investigator for the
6 Richland County Sheriff's Department. This
7 investigator is authorized by me to take from my
8 person any materials or other property which he/she
9 may desire. This search shall be made of my person
10 for the purpose of obtaining DNA and fingernail
11 scrapings as evidence. I am aware that any
12 evidence obtained as a result of this search can be
13 used against me in a court of law. This written
14 permission is being given by me to the above-named
15 investigator freely, voluntarily and without
16 threats or promises of any kind.

17 It was signed by Melinda Richmond, witnessed
18 by myself.

19 Q And when this was gone over with Ms. Richmond, was
20 it read to her, did she read it? Do you recall?

21 A If I recall correctly, it was read to her.

22 Q And did she seem to understand what was being said
23 to her?

24 A Yes, ma'am.

25 Q And you said she signed it at the bottom?

1 A Yes, ma'am.

2 Q And is there anybody else's signature on that?

3 A My signature.

4 Q And then I'm also going to show you what is marked
5 as State's Exhibit 2. Do you recognize that?

6 A Yes, I do.

7 Q And what is that?

8 A That was done specifically for the buccal swab that
9 was collected by myself.

10 Q Okay. And is it also a consent --

11 A Yes, it is a consent to search for DNA evidence.

12 Q And what date was that given?

13 A May the 5th, 2007.

14 Q And was that done before you got --

15 A Before the actual buccal swab was collected.

16 Q And who gave that -- or who did that along with
17 you?

18 A Investigator Martin.

19 Q And --

20 A Yes, it was Martin.

21 Q And when that was done, did you witness those --
22 that sheet being read to her?

23 A I did.

24 Q And did she seem to understand that sheet?

25 A She did.

1 Q And can you read for the judge what that particular
2 sheet says?

3 A I, Melinda Richmond, do hereby consent to the
4 search of my person without a search warrant by
5 Investigator Reed-Enzor, investigator for the
6 Richland County Sheriff's Department. This
7 investigator is authorized by me to take from my
8 person any materials or other property which he or
9 she may desire. This search shall be made of my
10 person for the purposes of obtaining any buccal
11 oral swabs for DNA evidence. I'm aware that any
12 evidence obtained as a result of this search can be
13 used against me in a court of law. This written
14 permission is being given by me to the above-named
15 investigator freely, voluntarily and without
16 threats or promises of any kind.

17 Signed by Melissa Richmond, witnessed by Heidi
18 Scott and witnessed by myself.

19 Q And did Ms. Richmond seem to understand what was
20 being read to her?

21 A Yes, ma'am.

22 Q And you witnessed her sign that?

23 A Yes, ma'am.

24 Q And after these consents were given by
25 Ms. Richmond, where was all this taking place?

1 A In the lab.

2 Q And can you describe the lab for the judge, the
3 room, how it is set up?

4 A This was actually done in the hallway -- well, it
5 is in the -- the lab is separate from the -- in the
6 Sheriff's Department if you go into the back area
7 of the lab, my office was over to the side. In the
8 hallway in the back area of the lab there is a
9 hallway area where we actually take the
10 fingerprints, and then there is a table. I
11 remember standing at that table where the scrapings
12 were done. Also where the -- the buccal swab was
13 also collected, it was at that table that these
14 forms were completed.

15 Q And while you were doing this, is it your practice
16 to interrogate Defendants?

17 A No, ma'am.

18 Q Okay. And when you began taking the swabs and
19 getting the scrapings from under her fingernails,
20 can you tell the judge what, if anything, occurred
21 with Ms. Richmond and any statement she may have
22 made?

23 A Yes, ma'am. While I was making the fingernail
24 scrapings, I do remember holding -- taking control
25 of Ms. Richmond's hands, which is very common to

1 hold her hands to be able to get the -- it is like
2 a wooden dowel that you scrape underneath the
3 fingernails to get the scrapings from underneath
4 their fingers, and she was very unsteady on her
5 feet and swaying. And I remember asking her if she
6 was okay.

7 Q And what was the purpose for asking that question?

8 A To see if she needed any medical attention.

9 Q And what was her response to that?

10 A Her response back, she said, I am hungry, and, I
11 keep seeing what I did.

12 Q And did you in any way elicit that information from
13 her?

14 A No, ma'am.

15 Q Is that responsive to your question as to whether
16 she was okay medically?

17 A She -- she -- she said that she was hungry. She
18 didn't say she was --

19 Q And once you asked that question and she answered,
20 did you follow up on any of those statements?

21 A No, ma'am.

22 Q And why not?

23 A Because it wasn't my job to follow up on those
24 statements.

25 Q And what did you do with that information that she

1 had given to you?

2 A I followed up and let the investigator know what
3 she said.

4 Q And during this time mentioning she is swaying, did
5 she still seem to understand everything that was
6 going on and what you were doing?

7 A Yes, ma'am.

8 Q And at the time that she was giving the consent,
9 was she swaying or doing anything in that manner?

10 A No, ma'am.

11 MS. GOOD: No further questions, Your Honor.

12 THE COURT: All right. Cross?

13 MS. GRIPP: Your Honor, may it please the
14 Court?

15 CROSS-EXAMINATION

16 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

17 Q Investigator Reed-Enzor?

18 A Yes, ma'am.

19 Q You are now just an investigator, right?

20 A Yes, ma'am.

21 Q Not a promotion?

22 A It was a transfer.

23 Q And you were trained as a CSI investigator, is that
24 right?

25 A A crime scene investigator.

1 Q A crime scene investigator. Okay. And how long
2 did you spend training for that?

3 A Several years. It was a total of two and a half
4 years.

5 Q Okay. And you responded to crime scenes?

6 A Yes, ma'am.

7 Q And you dealt with Defendants or suspects on a
8 regular basis, correct?

9 A Yes, ma'am. Collecting evidence, yes, ma'am.

10 Q Okay. And it is not your general practice to ask
11 them questions during your obtaining of the
12 forensic evidence, correct?

13 A As in what type of questions?

14 Q Well, you stated earlier that there wasn't any type
15 of interrogation -- you didn't typically speak to
16 them or talk to them, right?

17 A To interrogate, no, ma'am.

18 Q Okay. And your notes say that you had -- initially
19 had contact with Melinda Richmond at approximately
20 10:20? Doesn't it say 10:20 to 11:00 o'clock?

21 A That was when I did the call, yes, ma'am.

22 Q Okay. And do you remember where in that time frame
23 Melinda Richmond, obtaining her evidence would have
24 been?

25 A No, ma'am. It would have been between 10:20 and

1 11:00 o'clock was the time that I obtained the
2 evidence between Ms. Richmond and the other person
3 that I did that call.

4 Q Okay. And were they in close contact with each
5 other?

6 A No, they would have been done separately.

7 Q Okay. Do you remember who you did first?

8 A No, ma'am.

9 Q And you said she was probably handcuffed at the
10 time? Do you recall that?

11 A I don't recall. If she would have been handcuffed
12 to begin with, she would have been unhandcuffed to
13 be able to roll her prints and everything else that
14 I did during that time.

15 Q Okay. And who brought her to you?

16 A I'm thinking it would have been Investigator
17 Martin, but I'm not sure.

18 Q Okay. Do you remember who else was present at the
19 time?

20 A It would have been -- I'm not sure if it was
21 Lieutenant Scott or Sergeant Scott, but it would
22 have been Heidi Scott as well.

23 Q Okay. So there are two officers, you and Melinda
24 Richmond, correct?

25 A Correct.

1 Q Okay. And in your notes you stated that she was
2 read her rights or her consent form was read to
3 her?

4 A Yes.

5 Q Okay. And at that point -- in your notes you
6 stated that she was shaking?

7 A She was -- her hands were shaky, yes.

8 Q Okay. And you actually mentioned in your notes
9 that you thought that she appeared to be coming
10 down off of something, is that right?

11 A I wasn't sure what her problem was, but I thought
12 that was a possibility, yes, ma'am.

13 Q All right. And you thought that she might be in
14 need of medical attention?

15 A I wasn't sure if that was the problem or not, that
16 is why I asked, yes, ma'am.

17 Q And your question to her was, are you okay?

18 A Yes.

19 Q And she didn't actually respond to your, are you
20 okay?

21 A Right. She said that her reason why that she was
22 shaking is because she was hungry and she kept
23 seeing what she saw.

24 Q Did she say she was shaking because she was hungry?

25 A When I asked her if she was all right, her response

1 was, I am hungry and I keep seeing what I did.

2 Q Okay. Do you know if she got any food?

3 A I do not know that, no, ma'am. I gave the
4 investigators that information.

5 Q Okay. But in your experience as an officer she
6 appeared to be coming down off of something?

7 A It is possible, yes, ma'am.

8 Q And she perhaps needed some kind of medical
9 attention?

10 A I'm not a medical person. I just was asking her
11 that.

12 Q All right. But that was within your experience?

13 A What was in my experience?

14 Q You said you didn't typically ask those people, or
15 Defendants, whether or not they needed assistance,
16 you didn't ask them if they were okay typically, is
17 that right?

18 A No, I said I don't typically interrogate people.

19 Q Do you typically ask everybody if they are okay?

20 A I don't typically ask people in my forensic
21 investigations if they are okay, it is just that
22 she was shaking, so I was asking her if she was all
23 right.

24 Q Okay. So her behavior to you would be atypical?

25 A Well, most of the people that I deal with

1 forensically were normally dead, ma'am, so that is
2 why it is not normally that I am interviewing
3 people when they are being -- normally when I get
4 their nails scraped they are normally not
5 responsive to me.

6 Q Okay. And the second consent to search, which was
7 specifically for the DNA, you stated that she was
8 read that form to her?

9 A Yes, ma'am. The forms would have been read to her,
10 yes, ma'am.

11 Q And what, if anything, was said in explaining these
12 forms by way of explanation, or were they just
13 simply read?

14 A They would have been read and if she would have had
15 any questions they would have been explained to
16 her.

17 Q Do you remember her asking questions?

18 A I don't recall that.

19 Q And do you know if she got any medical attention
20 after --

21 A I don't know that, ma'am.

22 Q And that would have been between 10:20 and
23 11:00 o'clock?

24 A Yes, ma'am.

25 MS. GRIPP: Beg the Court's indulgence.

1 (Pause.)

2 MS. GRIPP: No further questions, Your Honor.

3 MS. GOOD: Very briefly, Your Honor.

4 THE COURT: All right.

5 REDIRECT EXAMINATION

6 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

7 Q Was she the only Defendant that you were getting
8 evidence from?

9 A No, ma'am.

10 Q So how many others were you also collecting
11 evidence from?

12 A During that period, also Bruce Thompson. And I'll
13 have to check to see if Tenisha McClinton -- one
14 moment. Let me check to see if she was also during
15 that time period.

16 (Pause.)

17 A It also says that Tenisha McClinton was also --
18 major case prints were rolled. So it was also
19 during that time period I rolled prints as well.

20 Q And when the forms were being read to Ms. Richmond,
21 was she shaking in any way then?

22 A Not -- not that I'm aware of, but I was only
23 holding her hands while I was scraping her nails,
24 so I would have only noticed her hands shaking
25 while I was actually scraping her nails.

1 Q And when you asked if she was okay and she
2 responded to you, did she request any medical
3 attention from you?

4 A No, ma'am.

5 MS. GOOD: I have no further questions.

6 THE COURT: All right, thank you, ma'am. You
7 can step down.

8 THE WITNESS: Thank you.

9 (Witness steps down.)

10 MS. GOOD: The State calls Investigator Rob
11 Martin.

12 (Witness enters courtroom.)

13 THE BAILIFF: Place your left hand on the
14 Bible, raise your right hand, and face the clerk.

15 (Witness complies.)

16 THE CLERK: Do you swear or affirm the
17 testimony you are about to give in this case to be
18 the truth, the whole truth, and nothing but the
19 truth, so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Have a seat in the witness box,
22 and state your name for the record, please.

23 (Witness seated.)

24 THE WITNESS: Robert Martin.

25 ROBERT MARTIN,

1 after being duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

4 Q Where are you employed?

5 A Richland County Sheriff's Department.

6 Q And in what capacity?

7 A I'm an investigator in the Special Victim's Unit.

8 Q And how long have you been an investigator?

9 A About six or seven years.

10 Q And how long you been with the Sheriff's
11 Department?

12 A Almost eight.

13 Q And to become investigator, have you had any
14 training?

15 A Yes.

16 Q And what training is that?

17 A A basic investigator's class at the academy, some
18 DEA investigative narcotics classes, some raid club
19 classes. It's just been a lot of -- I actually
20 keep a binder on the different things I have taken,
21 other courses.

22 Q And are you familiar with the investigation against
23 Melinda Richmond?

24 A I am.

25 Q And how are you familiar with that?

1 A I was assigned as the primary homicide investigator
2 for that case.

3 Q And as the primary investigator of that case, did
4 you at some point come in contact with
5 Ms. Richmond?

6 A I did.

7 Q Let me show you first what is marked as State's
8 Exhibit 1. Do you recognize this?

9 A Yes.

10 Q And what is that?

11 A It is the consent for evidence form that we have
12 signed for gathering DNA and fingernail scrapings.

13 Q And what date is on that?

14 A May the 5th, 2007.

15 Q And can you explain to the judge how you obtain
16 this consent from Ms. Richmond?

17 A I pretty much read her the form, and I told her
18 that we wanted to collect if there was any presence
19 of DNA on her person in her fingernail scrapings
20 due to the crime scene being as bloody as it was.
21 And I read her the -- do you want me to read it?

22 Q Yes, please.

23 A It has the date on it. It has the location as 5623
24 Two Notch Road.

25 Q And where is that?

1 A That is the Sheriff's Department. It is the main
2 headquarters on Two Notch right next to Fontaine.

3 And then it has got some penciled-in blanks.
4 It says:

5 I, Melinda Richmond, do hereby consent to a
6 search of my person and without a search warrant by
7 Investigator Reed-Enzor, investigator for the
8 Richland County Sheriff's Department. This
9 investigator is authorized by me to take from my
10 person any material or other property which he or
11 she may desire. This search is being made of my
12 person for the purpose of obtaining DNA and
13 fingerprint scraping -- finger scrapings as
14 evidence. I'm aware that any evidence obtained as
15 a result of the search can be used against me in a
16 court of law. This written permission is being
17 given by me to the above-named investigator freely,
18 voluntarily and without threats or promise of any
19 kind.

20 Signed by Melinda Richmond, and witnessed but
21 Ms. Enzor.

22 Q And when you went through that form with
23 Ms. Richmond, did you read it line-for-line?

24 A I did.

25 Q And did Ms. Richmond seem to understand what you

1 were reading to her?

2 A She did.

3 Q And did she ask any questions about it?

4 A She did not.

5 Q And you witnessed her signing that?

6 A I did.

7 Q Okay. And at that point did you give her over to
8 Investigator Reed-Enzor?

9 A We were already back in that department of the
10 Sheriff's Department, and Reed-Enzor was present.

11 Q And did you stay around for the collection of
12 evidence?

13 A I don't recall if I stayed for the actual
14 collection or if someone spelled me out. I was in
15 between some different suspects.

16 Q And the next contact that you had with
17 Ms. Richmond, when was that?

18 A Ms. Scott had her for a while, and then we began an
19 interview. I don't have the time in front of me.

20 Q Did you at some point interview Ms. Richmond
21 yourself?

22 A I did.

23 Q And let me show you what is marked as State's
24 Exhibit Number 3. Do you recognize that?

25 A I do.

1 Q And what is that form?

2 A It is the written interrogation Advice of Rights
3 form by the Sheriff's Department.

4 Q And can you explain to the judge exactly what that
5 is?

6 A It is a written Miranda waiver that she will read
7 and be Mirandized, and if she decides to speak
8 there is waiver at the bottom.

9 Q And did you do this form with Ms. Richland?

10 A I did.

11 Q And at the time that you did this form with
12 Ms. Richmond, was she in handcuffs or was she free?

13 A I don't recall. We had her in and out of handcuffs
14 for some different events: Fingernail scrapings,
15 she was afforded to eat. At this particular time I
16 don't recall if she was handcuffed or not.

17 Q You said she was afforded to eat?

18 A Yes. Ms. Scott -- Investigator Scott, now
19 lieutenant, provided her a meal, a frozen meal of
20 some type.

21 Q And was she in custody at this time?

22 A She -- yes, she was in custody at this time.

23 Q And can you explain to the judge what type of room
24 you were in when you started going over the form
25 with her?

1 A This is an office, Captain Smith's office at the
2 Richland County Sheriff's Department. It has a
3 glass window, a wooden door, it has a desk, some
4 plastic and metal chairs, filing cabinets, fax
5 machine, and some blinds going in front of the
6 windows.

7 Q And before you started interrogating Ms. Richmond,
8 can you explain to the judge exactly by going down
9 and reading that form what you did with
10 Ms. Richmond?

11 A I told her it was like you saw on TV. She was
12 Mirandized. I went down it line-by-line. Again,
13 it has got some information. It has got her name
14 and where we were at, my name, the date and time.

15 Q What was the date?

16 A The date was May 5th, 2007.

17 Q What was the time?

18 A It was 11:21 hours.

19 Q Okay. And can you read the form to the judge and
20 explain to him how you went over each line with
21 her?

22 A Certainly. There is a little square box beside
23 each bullet, and in each box as we go down I will
24 check off any covered.

25 Before we got started with the actual form

1 itself, I kind of did some background with
2 Ms. Richmond, and it is pending at the bottom
3 left-hand corner of the page.

4 Q And what background did you go over with her?

5 A I went over how far she went in school. She said
6 that she completed two years of college, or had two
7 years of college.

8 I asked her if she had any alcohol to drink or
9 consumed. And she said she had beer, one at about
10 3:00 a.m.

11 I asked her if she smoked any marijuana,
12 consumed any marijuana. She said that she had a
13 few days ago.

14 And I asked her about crack cocaine. She said
15 that she had ingested crack cocaine around
16 3:00 a.m.

17 Q And at what time were you asking her these
18 questions?

19 A Again, it is 11:21.

20 Q So that is approximately eight hours later?

21 A Correct.

22 Q And can you read each line for the judge and tell
23 him whether you checked it off or not?

24 A Certainly. The first part is Your Rights section.
25 It says:

1 Before we ask you any questions, you must
2 understand your rights. I put a check.

3 You have right to remain silent. I put a
4 check.

5 Prior to this I asked her if she had any
6 questions as we go along to stop me. She did not.

7 Anything that you say can be used against you
8 in court. I put a check.

9 You have the right to talk to a lawyer for
10 advice before we ask any questions and have a
11 lawyer with you during any questioning. Check.

12 If you cannot afford a lawyer, one will be
13 appointed for you before any questioning if you
14 wish. Check.

15 If you decide to answer questions now without
16 a lawyer present, you still have the right to stop
17 answering at any time. You also have the right to
18 stop answering at any time until you talk to a
19 lawyer. At that point she signed that section.

20 Q And did she seem to understand all those rights as
21 you went over them?

22 A She did. She was handed the form and allowed to
23 read it, and then she signed it.

24 Q And did -- you mentioned during that part that if
25 she has any questions to ask. Did she ask you any

1 questions?

2 A She did not.

3 Q Go on.

4 A The second section is where she waived her rights.
5 It says:

6 I have read this statement of my rights and
7 understand what my rights are. I am willing to
8 talk and answer questions. I understand and know
9 what I am doing. No promises have been made to me
10 and no pressure or coercion of any kind has been
11 used against me. I placed a check.

12 I went over the word coercion. I underlined
13 it. I asked her if she knew what it meant. She
14 said she did. As I told her, it is similar to
15 pressure, I'm not forcing her to do this, she is
16 here of her own free will to give this statement.
17 She acknowledged and signed a Waiver of Rights.

18 Q So she seemed to understand even when you were
19 going over the word coercion what that meant?

20 A That's correct. She didn't have any questions.

21 Q And during this time, did you ever make any threats
22 or promises to her?

23 A I did not.

24 Q Did you ever hold out to her that anything would be
25 given to her for giving you a statement?

1 A I did not.

2 Q And you mentioned that she had eaten at that time?

3 A She had.

4 Q Did you ever -- did she ever ask for an attorney?

5 A No, she did not.

6 Q Did she seem to be under the influence of any type
7 of drugs to you?

8 A No, she did not.

9 Q And at that point did you get a statement from
10 Ms. Richmond?

11 A I took a verbal statement from Ms. Richmond, and I
12 took notes.

13 Q And those notes you took were handwritten notes?

14 A They were.

15 Q And at this point you didn't put her statement in
16 writing?

17 A I did not. I was still in the gathering phase. I
18 interviewed another suspect and then interviewed
19 her as well trying to find where we were in this
20 case. And there were some discrepancies.

21 MS. GOOD: Beg the Court's indulgence.

22 (Pause.)

23 Q As to this verbal statement -- do not go into every
24 detail of it, obviously, but in general what did
25 she tell you?

1 A I have it. It is laying on the table right there,
2 if you would like to get it.

3 (Pause.)

4 Q And what are you referring to?

5 A This is the notes that I took. These are the notes
6 that I took on the notepad that day.

7 Q Why do you take notes?

8 A Well, to try not to forget anything, not to miss
9 out on key points, and also when you are doing an
10 interview or interrogation you might ask a
11 question, hear the response, but you might already
12 be formulating your next question and which
13 direction you are going, so you have to kind of
14 keep track of the responses so you don't miss key
15 parts of the interview.

16 Q In general, what did Ms. Richmond convey to you
17 about the murder of Mr. West?

18 A We kind of went through the timeline as to where
19 she was that night, what she had done, how she had
20 met up with Tenisha, who Bird was, where they had
21 gone, the drugs she had purchased, places she had
22 been.

23 Then they get back to the house and the group
24 is ingesting or having -- smoking crack cocaine
25 back at the -- at Frank West's apartment on

1 Farrington. The argument of some missing crack
2 from a plate they had as a community plate that
3 they were all taking from.

4 She says that Bird found out there was a piece
5 missing. Bird would be Bruce Thompson in this
6 case. He had found out. She said that he became
7 angry, confronted -- or she went up to confront
8 Frank on it and ask him if he had done this because
9 he had -- evidently may have done this before.
10 They got in an argument. She called out for Bird.
11 Bird came up and started assaulting Frank West.

12 She continues to say that -- I could kind of
13 read through it or I can paraphrase it, which would
14 you like?

15 Q Who did she say assaulted Mr. West with the knife?

16 A At first she said that Bird did.

17 Q And did she eventually put the knife in her hand
18 during the statement with you?

19 A She said she took it away.

20 Q And during this entire time of you asking her
21 questions, did she respond appropriately to you?
22 Did she seem to understand your questions?

23 A Oh, yes. Yes, she does. She understands what I'm
24 asking and she is giving details of what she
25 remembers.

1 MS. GOOD: No further questions, Your Honor.

2 THE COURT: All right. Cross?

3 MS. GRIPP: Thank you, Your Honor. May it
4 please the Court?

5 CROSS-EXAMINATION

6 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

7 Q Officer Martin, you are the lead investigator in
8 the case?

9 A I am.

10 Q So everything falls back on you?

11 A It seems to, yes.

12 Q Okay. When was your initial contact with
13 Ms. Richmond?

14 A When I took her to get her DNA and fingerprint
15 scrapings.

16 Q I'm going to go back and go over some of your
17 experience. You said that you have been working
18 for the Richland County Sheriff's Department for
19 eight years?

20 A That's correct.

21 Q And specifically for -- as an investigator for six
22 or seven years?

23 A That's correct.

24 Q And you have a substantial amount of training?

25 A I have some.

1 Q Okay. You said you were -- had taken some basic
2 investigator classes?

3 A That's correct.

4 Q What does that entail?

5 A Forty-hour courses at the academy and basic
6 collection of evidence. It has been a while.
7 Laws, interviews, interrogations, development of
8 informants, use of informants, controlling
9 informants. I think there were some auto theft
10 classes. I've got quite a broad background of
11 investigations.

12 Q Okay. And you've gone to one of those classes?

13 A I went to -- honestly I can't give you an answer.
14 I've got several that I have been to.

15 Q Okay.

16 A And also a bond technician. So I go into training
17 on a regular basis. So I couldn't tell you how
18 much training I've got in investigations with law
19 enforcement.

20 Q Are you trained to drive the tank that Richland
21 County got last year?

22 THE COURT REPORTER: I'm sorry, I didn't hear
23 you.

24 Q I said, are you trained to drive the tank that
25 Richland County got last year?

1 A No, ma'am.

2 Q So you are assigned as the primary investigator.
3 And the first time that you encounter Ms. Richmond
4 is when you take her to get DNA?

5 A I believe that is correct.

6 Q Okay. What did you say to her?

7 A I had already taken Bruce Thompson to get his DNA,
8 and then I went and was continuing around, and I
9 went and got her and asked her to come with me to
10 collect samples.

11 Q Okay. Where was she at at the time?

12 A I don't recall if I got her out of the cell. We
13 have a couple of -- it varies. There is a unit
14 where we see people on, there is a cell we have,
15 and then I don't know if she was in the offices, I
16 don't recall exactly where I had taken her from.

17 Q Are you the first officer to encounter her at
18 Richland County headquarters?

19 A I don't believe so.

20 Q Okay. Do you know who else would have encountered
21 her before you?

22 A I was the on-call investigator. I didn't get the
23 call out until about 8:10 in the morning.

24 Q Uh-huh.

25 A They were already in custody at headquarters by the

1 time I had gotten there. Sergeant Scott was the
2 evening shift supervisor. And, like I said, I
3 couldn't tell you who encountered them when they
4 arrived at the Sheriff's Department.

5 Q Okay. So you didn't place them where they were?

6 A I did not. I did not.

7 Q Okay. You escorted her. Was she in handcuffs?

8 A I don't recall.

9 Q Okay. All right, would she have been in handcuffs
10 in the cell?

11 A Not in the cell, no.

12 Q Okay. And you took her -- walked her down the hall
13 and you took her to --

14 A It is not far. It is down a hallway and then to
15 the left is where the lab unit is. If you are
16 looking at the Sheriff's Department from the front,
17 it is the right upper corner office is where the
18 lab is contained. Where we were was pretty much
19 the same area, straight line back in the back of
20 the building, so we just walk down the hall to the
21 left.

22 Q Okay. And at that point you read her her rights,
23 or her consent form?

24 A I did.

25 Q All right. And you hadn't really said anything to

1 her at that point?

2 A I had gotten her information for the report and
3 then -- and the actual form was back in the --
4 where the lab area was, so I obtained a form and
5 filled it out there while waiting for Ms. Enzor.

6 Q You got information for the report? What report
7 was that?

8 A This little thing right here, this consent.

9 Q Okay. So when you say you got the information,
10 what information did you get?

11 A Just her name.

12 Q Okay. So you just -- did you introduce yourself?

13 A Yes.

14 Q All right. Just said, what is your name, filled it
15 out?

16 A That is about the extent of it, that's correct.

17 Q Okay. And read it to her?

18 A I did.

19 Q And you said that she seemed to understand?

20 A Yes.

21 Q What was her demeanor?

22 A She seemed remorseful.

23 Q What do you mean by that?

24 A She kept apologizing for what she did.

25 Q Okay. When did she do that?

1 A She -- well, through the night, most of the time.
2 I mean, while we were interviewing her she kept
3 apologizing for what she did. I'm not sure what
4 part are you asking, the whole interview, the whole
5 time I'm talking to her, or just that little
6 section when we were in the back in the lab.

7 Q When you first encountered her, what was her
8 demeanor?

9 A Maybe anxious.

10 Q Okay. What makes you say that?

11 A Just the way she was acting.

12 Q Which was?

13 A Um --

14 Q Shaking? Swaying on her feet?

15 A I didn't notice her swaying on her feet. She just
16 seemed ready to get started with whatever she was
17 going to be a part of.

18 Q Okay. And she didn't ask you any questions?

19 A I don't recall her asking me any questions.

20 Q All right. And was she crying?

21 A At that point, I don't believe she was.

22 Q And you had Ms. Scott with you?

23 A I don't know if Ms. Scott was there with me when I
24 walked her down the hall or if she came in after.

25 Q Okay. So -- but at some point she comes before DNA

1 or testing is done on Ms. Richmond?

2 A I can't place her at that time. I'm not sure what
3 time she walked in.

4 Q And did you hear the statement that Ms. Richmond
5 told Ms. Reed-Enzor when she said, I'm hungry, I
6 keep seeing what I did?

7 A No.

8 Q You didn't hear that?

9 A No, I didn't.

10 Q Okay. And you said that Ms. Scott provided her a
11 meal?

12 A Something from her own -- her own store, something
13 that she had pur -- she had brought for herself
14 that she provided to Ms. Richmond.

15 Q Okay. When was that?

16 A When? Before the interview. So between the time
17 she came out from the lab until the time we --

18 Q So between 11:00 o'clock and 11:21?

19 A Somewhere along that time frame. It was some
20 microwavable frozen entree. I couldn't tell you
21 what it was.

22 Q Okay. And did you watch her eat? Did you sit down
23 with her? Was she --

24 A I don't believe I did. I believe that Ms. Scott
25 stayed with her.

1 Q All right. So you left her with Ms. Scott?

2 A We had three -- we had multiple suspects that we
3 were dealing with.

4 Q Okay. So you -- she -- collects the DNA, just kind
5 of go over the form, and then you go interview
6 other suspects?

7 A It could be. That sounds about right, because I
8 was in between her and Ms. McClinton and Bruce.

9 Q And you got some background information prior to
10 giving her her rights?

11 A No, I didn't ask her any background information
12 before giving the rights.

13 Q You asked her about the college or her level of
14 education?

15 A I guess you're right, that is correct, I did do
16 that.

17 Q Okay. So what else did you ask her?

18 A Basically that was it. I took notes as far as
19 trying to find out her drug use, education level,
20 alcohol consumption, and then read her Miranda
21 rights.

22 Q Okay. And at that point you had already spoken to
23 Tenisha McClinton?

24 A I have to look at my notes. I don't recall at
25 which point I was -- if I had spoken to her or if I

1 had read her statement.

2 Q You already had information from Tenisha McClinton?

3 A I'd have to look at my notes. I can't recall at
4 which point that we got information from
5 Ms. McClinton.

6 Q Okay.

7 MS. GRIPP: Beg the Court's indulgence.

8 (Pause.)

9 (WHEREUPON, Defendant's Exhibit No. 1
10 was marked for identification only.)

11 MS. SHIPLEY: This is just for the pretrial
12 hearing?

13 MS. GRIPP: That's correct.

14 MS. SHIPLEY: Okay.

15 Q I am going to hand you what has been marked as
16 Defense Exhibit 1. Can you identify that?

17 A It is an interrogation Advice of Rights form for
18 the Sheriff's Department for Tenisha McClinton.

19 Q And what time is that?

20 A 9:22.

21 Q And who advised her of her rights?

22 A Heidi Scott.

23 Q And was there any witness?

24 A Heidi Scott.

25 Q Heidi Scott is the only witness?

- 1 A On that form?
- 2 Q Uh-huh?
- 3 A It appears to be so.
- 4 Q Okay. And if you turn the page, do you recognize
- 5 that document?
- 6 A I do.
- 7 Q And what is that?
- 8 A It is a statement from Tenisha McClinton.
- 9 Q Okay. And what time is that?
- 10 A 9:28.
- 11 Q All right. And who takes that statement?
- 12 A Heidi Scott.
- 13 Q All right. Is that witnessed by anybody?
- 14 A It is notarized by me.
- 15 Q Okay. So you were present at the time --
- 16 A Of the signature.
- 17 Q Just the signature?
- 18 A Correct.
- 19 Q So at 9:22 -- 9:28 -- what time would it have been
- 20 that you would have notarized that?
- 21 A After they took it, so if they started at 9:28,
- 22 whenever she completed her statement, which is
- 23 five, six pages, and Heidi conducted her interview
- 24 of Ms. McClinton, she asked me to come and notarize
- 25 the signature going on the document. And

1 Ms. McClinton signed it and swore that it was true
2 and correct and her statement, and I notarized it
3 for her.

4 Q Okay. Do you remember approximately what time that
5 was?

6 A I know that in the time that she was dealing with
7 Ms. McClinton I was dealing with Mr. Thompson. So
8 it could have been an hour and a half, two hours.
9 I don't know how long they were -- I don't recall
10 how long they were in the interview.

11 Q What is an approximate time of how long a five or
12 six page statement would take?

13 A Well, that is not a fair -- because if you were
14 conducting the interview and it was -- you are
15 pinning down points, depending on how in-depth or
16 how the person giving the statement, whether it is
17 a witness or a suspect is giving that statement, I
18 mean, it can take five or six hours to get the same
19 amount of pages. It is not volume, it is the
20 questions and what you are asking and how the
21 responses are coming. So, I mean, to say two hours
22 is normal for five pages would not be correct.

23 Q Okay. But in your approximation, in your
24 recollection of the date, an hour and a half, two
25 hours is probably the right time?

1 A I would say that would be approximate. I can't say
2 for sure how long. I don't have any recollection.

3 Q Do you remember signing -- notarizing that
4 statement before you spoke with Melinda Richmond?

5 A I did.

6 Q And did you review that information?

7 A Of the statement?

8 Q Yes?

9 A I think that I -- I didn't read it. I asked
10 Ms. Scott to kind of give me a synopsis of what was
11 being said.

12 Q Okay. And you had already spoken to Bruce
13 Thompson?

14 A I had.

15 Q And the last person you spoke with as far as the
16 suspects go would be Melinda Richmond?

17 A At that time we went back and interviewed all three
18 more than once. I mean, we kind of would get
19 information and then go and run the information
20 against the other to find out where the truth lie.
21 They would recall different things. They put the
22 knife in each other's hands and we kind of went
23 back and forth. So to say that she was the last
24 one interviewed, I can't say that. She was the
25 last one -- I interviewed her in succession, but I

1 did not interview Ms. McClinton, Ms. Scott did.

2 Q Okay. But you were aware of the information that
3 she provided?

4 A As a synopsis, yes.

5 Q And you are reading her her rights. What was her
6 demeanor?

7 A I don't recall anything standing out. She seemed
8 to understand what I was reading her.

9 Q And she didn't ask you any questions?

10 A About her rights, no.

11 Q Okay. Was she crying?

12 A At this point I don't think she was.

13 Q Was she shaking?

14 A I don't recall.

15 Q All right. You had already determined that they
16 had been out all night, correct? Bruce Thompson
17 and Tenisha McClinton had stated that they had been
18 out all night?

19 A Well, Bruce was somewhere else, and I interviewed
20 him. Bruce was in -- was held up in a different
21 location. When I came on at 8:10 I was asked to go
22 and assist at that location. That process took a
23 little bit of time. And he got transported to
24 headquarters. He was my first contact.

25 And at that time he had been implicated by the

1 two women through the officers, not to me, that he
2 was the one that had stabbed Frank West.

3 Q Okay.

4 A And so he was my primary concern when I got there
5 because the other investigators were handling the
6 search warrants, some other lab personnel were
7 being dispatched, and Ms. Scott was dealing with
8 Ms. McClinton.

9 Q But you were aware that Ms. McClinton and Bruce
10 Thompson stated that nobody had gone to sleep that
11 night?

12 A That's not correct.

13 Q You were not aware of that?

14 A Bruce Thompson wasn't with them all night. He
15 showed up at a different point. So his
16 recollection of -- he was out and then he goes to
17 the house. He doesn't know -- he wouldn't have had
18 first-hand knowledge of what they had done.

19 Q Does Bruce Thompson tell you that he goes to sleep?

20 A He does not.

21 Q Okay. Does Tenisha McClinton tell you that she got
22 to sleep?

23 A Again, I didn't interview Tenisha.

24 Q Did you get any information that she had been able
25 to sleep?

1 A I hadn't heard that.

2 Q And at any point did you ask Melinda Richmond if
3 she needed to sleep?

4 A I did not.

5 Q And did you see her eat?

6 A I believe she was eating with Ms. Scott. I think I
7 saw her preparing it. Whether I saw her actually
8 physically eat, I don't know.

9 Q And what was literally the first thing you said to
10 her once you guys were in the interrogation room?

11 A I asked her to tell me what happened that night.

12 Q Okay. And what was her response?

13 A We started off with where they were. She said:

14 At Frank's apartment on Farrington after
15 midnight.

16 I asked her who was there.

17 Q So what happened that night?

18 Her response was what?

19 A She started to tell me the story of what occurred
20 at Frank's apartment.

21 Q Okay. So her first statement is what?

22 A I asked where she was.

23 And she said that she was at Frank's
24 apartment.

25 Q Okay. So you said --

1 A I don't ask her just to give me -- and tell me
2 everything that is in the world. I kind of direct
3 them, so I ask her questions pertaining to the
4 incident that night: Where was she, who was she
5 with, where did she go, what did she do, what she
6 saw, where did she go after that. That is pretty
7 much how we went through the interview.

8 Q Okay. So your first question was two parts: What
9 happened that night; where were you?

10 A Started off why we are there, because we were going
11 over what happened that night. My questions are
12 based on what happened that night: Where were you,
13 who are you with, what did you see, what did you do
14 on these times, finding out what her part, if any,
15 was in this case.

16 Q Okay. And how long did your interrogation last?

17 A I'd say 45 minutes to an hour. Maybe longer.

18 Q And how many pages is her first statement?

19 A It is in my notes, and it is two.

20 Q Two pages of notes?s

21 A Uh-huh. Handwritten, one line, bolus.

22 Q Did you ask her if she wanted to write her own
23 statement?

24 A No.

25 Q Okay. Why not?

1 A We don't do that at the Sheriff's Department.

2 Q Why not?

3 A It is just a policy, we don't let the suspects,
4 witnesses or victims write their own statements.
5 That is my job.

6 Q Did you record this?

7 A No.

8 Q Why not?

9 A Other than handwritten notes.

10 Q Did you audio or video record it?

11 A No.

12 Q Why not?

13 A It is not a policy of the Richland County Sheriff's
14 Department.

15 Q You stated that you had been trained in narcotics
16 investigations, correct?

17 A That's correct.

18 Q And you are aware that in narcotics investigation
19 they have all sorts of recording equipment,
20 correct?

21 A It is a different division for that.

22 Q It is Richland County, correct?

23 A It is. It is a different division.

24 Q Okay. So they have recording devices?

25 A For different occasions, that's correct, but not

1 for what we do.

2 Q All right. So the recording device is to --

3 A They are used in obtaining drug transactions with
4 confidential informants, but not so much
5 statements.

6 Q All right. And that is because it is policy?

7 A Well, it refers back to a memo that was put out in
8 CID.

9 Q What does the memo say?

10 A The use of recording devices for interviews.

11 Q I'm sorry?

12 A The use of recording devices for interviews.

13 Q That's all it said?

14 A That is what I remember of it. There is a memo on
15 it, it is not to be done.

16 Q Did it explain why?

17 A No, it usually doesn't explain why, not our
18 directives. It is not a democracy.

19 Q All right. So that is 45 minutes to an hour. Then
20 what happens?

21 A I believe I went and grabbed the other
22 investigators that we had, Investigator Baker,
23 Investigator Harris, Investigator Scott and,
24 myself, and kind of went over what we had going so
25 far, what each party was saying, what facts we had.

1 We had everything coming back from the field,
2 from the lab, what they saw, and we kind of came up
3 with a collaboration of what all statements. They
4 were kind of conflicting. And they were pointing
5 at different persons as being the one who stabbed
6 Frank West.

7 Q Okay. Then what?

8 A Investigator Harris went in and spoke to Tenisha
9 McClinton. Tenisha -- Ms. McClinton changed her
10 original statement and wanted to clear up some
11 points, change her point of view.

12 Q And were you there to witness that?

13 A Part of that, yes.

14 Q Okay. What point were you in that?

15 MS. GOOD: Objection, Your Honor. I don't
16 know at this point if this has anything to do with
17 the voluntariness of Ms. Richmond's statement?

18 THE COURT: Let's cut to the chase. I mean,
19 we're not in front of the jury here.

20 MS. GRIPP: Your Honor, I'm trying to
21 establish the interrogation tactics of the
22 officers, and the fact that they were leaving the
23 Defendant for long periods of time.

24 THE COURT: Well, just ask -- let's be more
25 direct, okay?

1 MS. GRIPP: Yes, Your Honor.

2 Q Investigator Martin, at what point do you return to
3 Ms. Richmond's interrogation room?

4 A I returned with Heidi Scott to take another
5 statement.

6 Q Did you re-Mirandize her?

7 A Off the top of my head I don't recall if I did or
8 not.

9 Q And were you there the entire time?

10 A I don't believe I was there the entire time. I was
11 in and out of that office.

12 Q Do you remember who else was present?

13 A Melinda Richmond and Heidi Scott were there. I
14 don't recall who else was there.

15 Q Do you know what the conversation consisted of?

16 A Whose?

17 Q Heidi Scott and Melinda Richmond?

18 A She took notes and put it into a statement.

19 Q And how long did that take?

20 A I don't recall. Until it was completed. I don't
21 know how long the statement took.

22 Q Did you witness the statement? Did you notarize
23 it?

24 A I'd have to see it. I don't recall. I notarized a
25 lot of stuff.

1 MS. GRIPP: Beg the Court's indulgence.

2 (Pause.)

3 MS. GRIPP: That's all, Your Honor.

4 THE COURT: All right.

5 MS. GOOD: Two questions, Your Honor, I'm
6 sorry.

7 REDIRECT EXAMINATION

8 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

9 Q You were aware she wanted to eat and she was
10 allowed to eat, is that correct?

11 A That's correct.

12 Q Did she ever tell you she was sleepy?

13 A No, she did not.

14 MS. GOOD: No further questions, Your Honor.

15 THE COURT: Okay. How many more witnesses do
16 you have, two?

17 MS. GRIPP: Your Honor, I have at least two,
18 the Defendant and --

19 THE COURT: Well, why don't we just break
20 until 2:30 and try and get some lunch.

21 How long are these witnesses going to be? I'm
22 going to start shortening this up.

23 MS. GOOD: The next witness -- the next two
24 witnesses actually took written statements from
25 Ms. Richmond, Your Honor. I mean, we're not going

1 to go into details, obviously, of the statements,
2 but as to surrounding her giving the statements we
3 are going to get into.

4 THE COURT: Okay. And how about yours?

5 MS. GRIPP: I will have Tenisha McClinton and
6 Melinda Richmond.

7 THE COURT: All right. Okay, well, let's
8 break until 2:30 and we will just deal with the
9 jury when we get back. Thanks.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: All right, the foreperson is Lilia
12 Gonzalez. Okay.

13 MR. O'NEIL: Your Honor, if I may, one thing
14 before we start back.

15 It became aware to me that I think one of the
16 witnesses, Patricia Reed-Enzor, after she finished
17 testifying she went outside in the general area and
18 she was speaking with -- one of my -- one of the
19 employees in my office witnessed, and I will ask
20 her to be sworn in -- said she was talking to one
21 of the investigators, I think it was Investigator
22 Gwyn she described him as, the investigator with a
23 blue tie and dark brown hair. She was speaking
24 with him concerning -- one of my colleagues
25 overheard -- concerning her testimony specifically

1 questions that Ms. Gripp had asked her about our
2 client, Ms. Richmond's hands shaking.

3 I would want you to question, or I would, out
4 of an abundance of caution, to talk to her or get
5 the Court to inquire of Investigator Gwyn what was
6 the substance of that conversation he had with
7 Ms. Enzor.

8 THE COURT: All right. Well, you can -- he is
9 alleging that they violated the sequestration
10 order, not talking to -- who is the person -- who
11 are your other witnesses?

12 MS. SHIPLEY: The next witness is Heidi Scott
13 and Brien Gwyn.

14 THE COURT: Call Heidi Scott. Let's see if
15 this guy comes in to testify, and if not we'll --
16 Oh, we better get her.

17 MS. SHIPLEY: And also, Your Honor, just to be
18 clear, Investigator Gwyn was nowhere near the
19 incident when the shaking occurred and the
20 statements were made to Reed-Enzor. That happened
21 in the lab. He wasn't even there.

22 THE COURT: Okay.

23 MS. SHIPLEY: So it is not going to
24 contaminate his testimony.

25 THE COURT: All right. Well, we'll have to

1 have a word with the witnesses.

2 Well, let's get the Defendant. Is she on the
3 way? Okay.

4 (Defendant enters courtroom.)

5 MS. GOOD: The State calls Lieutenant Heidi
6 Scott.

7 THE BAILIFF: Place your left hand on the
8 Bible, raise your right hand, and face the clerk.

9 (Witness complies.)

10 THE CLERK: Do you swear or affirm the
11 testimony you are about to give in this case to be
12 the truth, the whole truth, and nothing but the
13 truth, so help you God?

14 THE WITNESS: Yes, I do.

15 THE CLERK: Have a seat in the witness box,
16 and state your full name for the record, please.

17 (Witness seated.)

18 THE WITNESS: My name is Heidi Scott.

19 HEIDI SCOTT,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

23 Q Good afternoon. Where are you employed?

24 A I'm employed with the Richland County Sheriff's
25 Department.

1 Q In what capacity?

2 A I work as a lieutenant.

3 Q And what do your duties entail as a lieutenant?

4 A As a lieutenant I work in the criminal
5 investigation division, and specifically in victim
6 services at this time. I supervise other employees
7 within the department as well, and administrative
8 duties as well.

9 Q How long have you been with the Sheriff's
10 Department?

11 A Ten years.

12 Q And are you trained in interrogation?

13 A Yeah, I'm trained in interviewing, yes.

14 Q And can you explain your training to the judge?

15 A Yes. I have gone through interviewing classes and
16 also the basic investigations through the Criminal
17 Justice Academy.

18 Q And I want to turn your attention to the case
19 against Melinda Richmond. Did you become involved
20 in this case?

21 A Yes, I did.

22 Q And what date was that?

23 A May 5th of 2007.

24 Q And on that day did you come in contact with
25 Ms. Richmond?

1 A Yes, I did.

2 Q When you first came in contact with Ms. Richmond,
3 where was she?

4 A At our headquarters, 5623 Two Notch Road.

5 Q And was she in custody at that time?

6 A Yes, she was right there.

7 Q And what room were you when you would meet with
8 her?

9 A I'm sorry?

10 Q What room were you in when you had contact with her
11 first?

12 A First contact was in the main area of the criminal
13 investigation division.

14 Q And did you come to take a statement from
15 Ms. Richmond?

16 A Yes, I did.

17 Q And where did you take that statement?

18 A In Captain Smith's office.

19 Q Can you explain that office to the judge?

20 A Yeah. The office is -- when you go in the
21 investigations unit, it is the second door on the
22 back -- from the back door it is the second door on
23 the right, and the office would be on the left-hand
24 side.

25 Q And about what time did you come in contact with

1 Ms. Richmond?

2 A I came in contact with her -- the first time I saw
3 her would have been earlier in the day before I
4 actually took a statement from her. I saw her
5 around, I guess it was somewhere in the general
6 area around 8:00 o'clock or so.

7 Q And at some point before her statement did you
8 provide anything to Ms. Richmond?

9 A Before her statement? Oh, yeah. She was -- before
10 we -- before I sat down and gave a statement, or
11 she gave a statement to me, she ate some lunch.
12 She was hungry at that time.

13 Q And what did she eat?

14 A I keep some frozen meals in the freezer there at
15 the office, so she had a frozen meal.

16 Q And after she ate that meal, did you proceed to
17 take a statement from her?

18 A Yes, I did.

19 Q And before you took that statement, was she read
20 her rights?

21 A Yes, she was.

22 Q And can you explain that process to Judge Miller?

23 A Right. She was read her rights, and also on the
24 statement she also has acknowledged her rights as
25 well.

1 And how we do the Advice of Rights, it is a
2 written Advice of Rights that was done and -- do
3 you want me to go through the whole Advice of
4 Rights?

5 Q Hold on just one second. Well, did you watch her
6 do the Advice of Rights form?

7 A No, I didn't watch the Advice of Rights form. It
8 was already done.

9 Q Okay. It was already done by the time it got to
10 you?

11 A Yes.

12 (Pause.)

13 (WHEREUPON, State's Exhibit No. 4 was
14 marked for identification only.)

15 Q And you just mentioned that there was another
16 Advice of Rights that is at the top of her
17 statement.

18 A Right.

19 Q Let me show you what is marked as State's Exhibit
20 Number 4 for identification purposes. Do you
21 recognize that?

22 A Yes, I do.

23 Q And what is that?

24 A That is the statement that I took from Melinda
25 Richmond.

1 Q And at the top of that statement, can you read to
2 the judge what you read or whatever you did
3 regarding the rights of Ms. Richmond?

4 A Yes, I can.

5 I, Melinda Jo Richmond, understand that I have
6 the right to remain silent. Anything I say can be
7 used against me in court. I have the right to talk
8 to a lawyer for advice before you ask me any
9 questions and to have a lawyer with me during any
10 questioning. If I cannot afford a lawyer, one
11 will be appointed for me before any questioning if
12 I wish. If I decide to answer questions now
13 without a lawyer present I still have the right to
14 stop answering at any time. I also have the right
15 to stop answering at any time until I talk to a
16 lawyer. Do make the following statement.

17 And then should I go on?

18 Q That's good for now. What time did you give her
19 these rights?

20 A I gave her the rights at 13:34, which is 1:34.

21 Q And on what day was this?

22 A It was on May 5th of 2007.

23 Q Did she seem to understand those rights when you
24 read them to her?

25 A Yes, she did.

1 Q And did she ask you any questions or ask for an
2 attorney?

3 A No, she did not.

4 Q And at that point, once you gave her her rights,
5 did you proceed to take a statement from
6 Ms. Richmond?

7 A Yes, I did.

8 Q And how did you take that statement?

9 A In question/answer form in a room and just a
10 conversation, just talking back and forth.

11 Q And was it done verbally or did you get a written
12 statement?

13 A A written statement.

14 Q And how do you get the written statement? How do
15 you put it on paper?

16 A Okay. It starts out and I ask her a question, and
17 then she'll answer the question, and I type it out
18 while she is talking. I go back and read it and
19 make sure I got it accurate. And then we go
20 through the whole process back and forth like that.
21 And at the very end I read the statement to her and
22 make sure I got everything accurate, then give it
23 to her to read as well.

24 Q And when you took the statement, how many pages did
25 you get from Ms. Richmond?

1 A It was a six-page statement.

2 Q And you mentioned that before she signed the
3 statement you went back over each question with
4 her?

5 A That's correct.

6 Q And did she indicate to you in any way that there
7 was anything wrong with her statement?

8 A No, she did not.

9 Q Did she seem to understand --

10 A Yes, she understood.

11 Q -- when you went over it?

12 A Yes.

13 Q Did she answer your questions appropriately? Did
14 she respond?

15 A Yes, she did.

16 Q Did she seem to understand what was going on?

17 A Yes, she did.

18 Q And at the bottom of each page, did she sign her
19 statement?

20 A Yes, she did.

21 Q And can you read to the judge what is right above
22 where she signed?

23 A This is to certify that I have read or have read to
24 me the foregoing statements consisting of six
25 pages and a true copy has been given to me this 5th

1 day of May, 2007.

2 Q And right above that, what is also there?

3 A Her signature.

4 Q And above her signature does it say anything about
5 her voluntarily giving her statement?

6 A I have made the foregoing statement freely and
7 voluntarily, without fear, threat, coercion, or
8 hope of reward of any kind.

9 Q And is that on each page of her six-page statement?

10 A Yes, ma'am.

11 Q And did she sign each page?

12 A Yes, she did.

13 Q And did you see her sign each page?

14 A Yes, I did.

15 Q And did you coerce her in any way or point out any
16 promises to her?

17 A No.

18 Q Did you threaten her in any way?

19 A No.

20 Q And not to go into the details of the statement,
21 but when she gave you a statement, in the big
22 scheme of things basically what did she say?

23 A That she had stabbed Frank West in the back.

24 Q And also at that time --

25 (Pause.)

1 (WHEREUPON, State's Exhibit No. 5 was
2 marked for identification only.)

3 Q I show you what is marked as States Exhibit Number
4 5 for identification purposes. Do you recognize
5 that piece of paper?

6 A Yes, I do.

7 Q And what is that?

8 A This is a consent to search that was signed by
9 Melinda Richmond.

10 Q And what is it a consent to search for?

11 A For 1417-A Farrington Way.

12 Q And did you read that form to her before she signed
13 it?

14 A Yes.

15 Q And can you read the form for the judge?

16 A I, Melinda Jo Richmond, do hereby consent to
17 the search of my premises or automobile without a
18 search warrant by Investigator Baker and -- and
19 there is a blank because there was no other officer
20 with him -- officers of the Richland County
21 Sheriff's Department. These officers are
22 authorized by me to take from my premises and/or
23 automobile letters, papers, materials or other
24 property which they may desire. Description of the
25 property to be searched is 1417-A Farrington Way.

1 I understand that I'm free to leave and I'm aware
2 that if any evidence is obtained through results of
3 this consent to search it can be used against me in
4 a court of law. The written permission is being
5 given by me and the above-named officers freely,
6 voluntarily and without threats or promise of any
7 kind.

8 Q And did you do that at the same time you took her
9 statement?

10 A Yes. They were not at the exact same time. We
11 first handled one, then the other.

12 Q And did she same to understand those?

13 A Yes, she did.

14 Q And did she ask you any questions about it?

15 A No, she did not.

16 Q I will show you what is marked as State's Exhibit
17 2. Do you recognize this piece of paper?

18 A Yes, I do.

19 Q And what is that?

20 A This one is a -- it is our consent to search for
21 DNA evidence.

22 Q And did you conduct that consent to search form?

23 A Yes. I was there when this was taken.

24 Q And you do not have to read it, we have already
25 read it to the Court --

1 A Okay.

2 Q -- but did she seem to understand all of your
3 questions when asking her that?

4 A Yes, she did.

5 Q Did she seem to be under the influence of any type
6 of drugs or alcohol?

7 A No.

8 Q And at what time was that taken? Do you recall?

9 A I don't recall.

10 Q What day was it?

11 A It was on May 5th of 2007. And this -- I do know
12 it was before I took a statement before I
13 interviewed her.

14 MS. GOOD: No further questions, Your Honor.

15 THE COURT: All right. Cross?

16 MS. GRIPP: Your Honor, may it please the
17 Court?

18 THE COURT: Sure.

19 CROSS-EXAMINATION

20 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

21 Q Ms. Scott, you stated that you first encountered
22 Melinda Richmond at approximately 8:00 o'clock in
23 the morning?

24 A Yes, it was in the morning.

25 Q Okay. And where was she?

1 A At our headquarters at 5623 Two Notch Road.

2 Q Where in the headquarters?

3 A In our CID. It is a big open area. The whole CID
4 offices are a whole big open area. That is my
5 first contact with her.

6 Q Was she milling around? Was she handcuffed? Was
7 she --

8 A No, she was in custody.

9 Q Okay. She was in handcuffs?

10 A I'm not sure if she was in handcuffs or not.

11 Q And did you speak to her at that time?

12 A Not when I first saw her I didn't speak to her.

13 Q Okay. And when did you have first occasion to talk
14 to her?

15 A It was when I took her statement. Well, I'm sorry,
16 it was before that. It was when we were -- I was
17 asking if we could do the consent to search and
18 also the form for the DNA.

19 Q So you hadn't talked to her before --

20 A I'm sorry?

21 Q So prior to meeting up with her at the lab, you
22 hadn't spoken to her?

23 A No. There was no speaking to her at that point. I
24 was busy with another -- I was talking to the other
25 girl.

- 1 Q Tenisha McClinton?
- 2 A Yes.
- 3 Q And after the collection of the DNA, did you read
- 4 her that or did somebody else read that?
- 5 A No, I did.
- 6 Q You read her consent?
- 7 A I did.
- 8 Q Okay. And after that what happened?
- 9 A As far as?
- 10 Q Did you escort her out of the lab?
- 11 A No. Ms. Enzor did at that point.
- 12 Q Okay. When was your next contact with her?
- 13 A When I went to do the statement with her at 1:34.
- 14 Q So you didn't see her again from the time she gave
- 15 her DNA until the time of the statement, you don't
- 16 have occasion to talk to her?
- 17 A Huh-uh.
- 18 Q Okay. And you say that the she seemed to
- 19 understand her rights. What was her demeanor?
- 20 A She was very calm as far as talking to us. She was
- 21 friendly.
- 22 Q Was she crying?
- 23 A Yes, she -- she -- during the course of the
- 24 interview she would cry a little.
- 25 Q Let's talk about the interview itself. What was

1 the first thing you asked her?

2 A I asked her if she had -- I confirmed that she had
3 been read her rights and that she understood her
4 rights.

5 Q Okay. Did you go over them again?

6 A Yes, I did.

7 Q Did you have her sign another form?

8 A Yes, she signed her statement.

9 Q Prior to printing out the statement, did you have
10 her sign another form?

11 A I had already seen her -- the form that she had
12 signed when she had been advised of her rights.

13 Q So you witnessed that statement being -- or that
14 Advice of Rights form being read to her?

15 A No, I didn't, but I saw the investigator and I saw
16 the statement that she had already signed and her
17 Advice of Rights statement.

18 Q Okay. You saw another statement as well?

19 A No, I saw the Advice of Rights, that she had signed
20 that Advice of Rights.

21 Q Okay. And then you went over it with her again?

22 A I did.

23 Q And what did you tell her about her Advice of
24 Rights?

25 A Would you like me to read it again?

1 Q Did you just read it verbatim?

2 A I did.

3 Q Did you explain anything else in detail?

4 A No. I asked if she understood it.

5 Q Okay.

6 A Uh-huh.

7 Q And then you started asking her the questions?

8 A Yeah, that's when I asked her if she was -- you
9 know, if she wanted to talk, and she said yes, she
10 did. So I went into the question-and-answer.

11 Q All right. And did you write down, do you want to
12 talk to me?

13 A Well, no, I asked her, would you like -- are you
14 willing to talk? That is just standard.

15 Q Okay. So when you are saying that you are typing
16 out everything verbatim, it is not everything
17 verbatim, correct?

18 A No. I asked her if she would like to talk to me,
19 and on the bottom she did say that she had made the
20 foregoing statement freely, voluntarily, without
21 fear, so it is on there.

22 Q Okay. But you didn't type out, would you like to
23 talk to me, and you didn't type out, yes, I'd like
24 to talk to you?

25 A No, that is not on here.

1 Q Okay. So some of the statements -- the questions
2 you asked are on the statement and some of them
3 aren't?

4 A I did ask her if she would like to talk to me, and
5 she said yes, she would like to talk to me.

6 Q How long did your interrogation last?

7 A The interview -- I generally take pretty thorough
8 interviews, so we were in there I would say at
9 least an hour talking.

10 Q Was anyone else there?

11 A No, it was she and I.

12 Q Was she handcuffed during this time?

13 A No, she wasn't when we talked because we were
14 having a fairly long discussion.

15 Q And just so I'm clear, you -- do you type the
16 question first or do you ask it and then type it?

17 A I generally type the question out and then ask it
18 and wait for her response.

19 Q Okay. And you type pretty fast then?

20 A I do.

21 Q At any point did you ask if she needed a break?

22 A No. We had just got done -- she had just eaten and
23 everything, so I didn't specifically ask her if she
24 needed a break, but she didn't indicate that she
25 needed one.

1 Q She had just gotten done eating? What did she eat?

2 A She ate right around lunch time. We interviewed at
3 1:34, so we came in and interviewed right after she
4 ate.

5 Q And did you sit with her when she ate?

6 A Actually I did, yes.

7 Q But you didn't talk to her?

8 A No, we didn't talk anything about this case right
9 then. She mentioned she had a child, and things
10 like that, but that's it.

11 Q Okay. What else did she say?

12 A I asked her if the food was okay, was she needing
13 anything to drink, just stuff like that.

14 Q Okay. And so it was immediately preceding your
15 interrogation?

16 A That is correct.

17 Q And you don't have any witnesses to the actual
18 interview itself?

19 A No. I interviewed her.

20 Q Okay. And you didn't record it?

21 A Record? No.

22 Q And you didn't ask her if she wanted to write down
23 her own statement?

24 A No.

25 MS. GRIPP: Nothing further, Your Honor.

1 THE COURT: All right. Anything else?

2 MS. GOOD: No, sir.

3 THE COURT: All right, thank you, ma'am. You
4 can step down.

5 (Witness steps down.)

6 MS. GOOD: We call Investigator Brien Gwyn.

7 (Witness enters courtroom.)

8 THE BAILIFF: Place your left hand on the
9 Bible, raise your right hand, and face the clerk.

10 (Witness complies.)

11 THE CLERK: Do you swear or affirm the
12 testimony you are about to give in this case to be
13 the truth, the whole truth, and nothing but the
14 truth, so help you God?

15 THE WITNESS: I do.

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

18 (Witness seated.)

19 THE WITNESS: Brien Gwyn.

20 BRIEN GWYN,
21 after being duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. GOOD: (OUTSIDE PRESENCE OF THE JURY)

24 Q Where are you employed?

25 A Richland County Sheriff's Department.

1 Q And in what capacity?

2 A Investigator.

3 Q How long have you been there?

4 A Four years.

5 Q And what training have you had as an investigator?

6 A I've had first line supervision, I had several
7 classes on arson investigation, post-blast
8 investigation, blood spatter, DUI.

9 Q Have you had training in interviewing?

10 A Yes.

11 Q And were you on call May 5th, 2007?

12 A I was not at that time, no.

13 Q Your first involvement with Ms. Richmond with this
14 case was on what day?

15 A May the 7th.

16 Q And how did you become involved in this case?

17 A I learned of the homicide and was informed that
18 Ms. Richmond had asked for me by name when she was
19 apprehended.

20 I spoke with Captain Smith, which was on the
21 7th, which was that Monday, I asked him if he
22 thought I should go talk to her, and he said I
23 should.

24 Q And are you aware of why Ms. Richmond would be
25 asking for you?

1 A She was familiar with me from the neighborhood.

2 Q And did you in fact go see Ms. Richmond?

3 A I did.

4 Q And that was May 7?

5 A It was.

6 Q And when you went to see Ms. Richmond, for what
7 purpose was it?

8 A To talk to her about the incident, to see if I
9 could obtain an additional statement, or statement
10 from her about the incident.

11 Q And were you able to obtain a statement from her?

12 A I was.

13 Q And when you first came into contact with
14 Ms. Richmond, where was she?

15 A She was in the holding cell down in Alvin S. Glenn
16 Detention Center.

17 Q And what did she do when she first saw you?

18 A When they -- when I was waiting in the hallway,
19 they brought her out. The first thing she did when
20 she saw me was burst into tears.

21 Q And did she indicate to you she wanted to speak
22 with you?

23 A She did.

24 (Pause.)

25 (WHEREUPON, State's Exhibit No. 6 was

1 marked for identification only.)

2 Q Let me show you what is marked State's Exhibit 6.

3 Do you recognize this piece of paper?

4 A I do.

5 Q And what is it?

6 A That is Advice of Rights, Miranda rights.

7 Q And it is an Advice of Rights for who?

8 A Melinda Richmond.

9 Q And can you explain how you go through the rights
10 with Ms. Richmond and how you go through that form?

11 A I sat down with her and I read each right as they
12 are listed on the page. They are broken down in
13 sections. And after I read each one I put a check
14 mark beside it to make sure that they understand.
15 If they have any questions they can answer them at
16 that time.

17 Q And can you do that for us now, explain what rights
18 you read to her and checked off?

19 A You want me to read off the form?

20 Q Yes.

21 A It says:

22 Before we ask you any questions you must
23 understand your rights. So I check it.

24 You have the right to remain silent. Anything
25 you say can be used against you in court. You have

1 the right to talk to a lawyer for advice before
2 answering questions. You can have a lawyer with
3 you during any questioning. If you cannot afford a
4 lawyer, one will be appointed for you before any
5 questioning if you wish. If you decide to answer
6 questions now without a lawyer present you still
7 have the right to stop answering at any time. You
8 also have the right to stop answering at any time
9 if you talk to a lawyer.

10 Q And did you check each one of those off?

11 A I did.

12 Q And did she seem to understand each of those
13 rights?

14 A She did.

15 Q And did she ask you any questions or ask for an
16 attorney?

17 A She did not.

18 Q And is there a second part to that form?

19 A There is.

20 Q And what is that?

21 A It is a Waiver of Rights. And they read it.

22 I read the statement of my rights. I
23 understand what my rights are. I am willing to
24 talk and answer questions. I understand and know
25 what I am doing. No promises have been made to me,

1 no pressure or coercion of any kind has been used
2 against me.

3 And I always make sure they understand what
4 coercion means.

5 Q And did she seem to understand what coercion meant
6 and the rest of the waiver?

7 A She did.

8 Q And did she sign that form?

9 A She did, both times.

10 Q And on what date was that?

11 A May 7th, 2007.

12 Q Does it have a time on it?

13 A It is timed 14:35, which is 2:35 in the afternoon.

14 Q And after you gave her those rights and she waived
15 them, did you proceed to get a statement from
16 Ms. Richmond?

17 A I did.

18 Q And how do you go about getting the statement?

19 A When I obtain my statement, I'll talk with them
20 first, kind of get an idea about what the
21 incident -- what took place in their words and then
22 we sit down and we type it out.

23 Q And did you actually get a written statement from
24 Ms. Richmond?

25 A I typed it out for her and we went over it and she

1 signed it, yes.

2 (Pause.)

3 (WHEREUPON, State's Exhibit No. 7 was
4 marked for identification only.)

5 Q And I show you what is marked State's Exhibit
6 Number 7. Do you recognize this statement?

7 A I do.

8 Q And what is it?

9 A It is the statement that I took from Ms. Richmond.

10 Q And how many pages is that statement?

11 A It is four pages.

12 Q And before you gave that statement -- you just went
13 over the Waiver of Rights -- are her rights also at
14 the top of that statement?

15 A They are.

16 Q And did you read these rights to her?

17 A I did not read these set of rights to her. I did
18 explain to her that they are at the top of the page
19 again once she signed it.

20 Q And did you ask her any particular questions about
21 her understanding her rights in her written
22 statement there?

23 A During the questioning I asked her if I was -- if
24 she was advised of her rights by me. She said yes.

25 I asked her if she understood them. And she

1 indicated she did.

2 Q And did she indicate whether she was under the
3 influence of any drugs or alcohol at the time?

4 A She said she was not.

5 Q And when you were taking the statement from
6 Ms. Richmond, what was her demeanor?

7 A At the time it was just general conversation like
8 what we're having now. It was very calm.

9 During the interview she got a little
10 emotional here and there, but it was just like what
11 we're talking now.

12 Q And did she seem to understand everything that you
13 asked her?

14 A Yes, she did.

15 Q Did she respond appropriately to your questions?

16 A She did.

17 Q Did you ever threaten her or promise her or coerce
18 her in any way?

19 A No, ma'am.

20 Q And at the bottom did she sign each page of that
21 statement?

22 A She did.

23 Q And before she signed it, did you do anything with
24 her regarding the statement? Did you go over it
25 with her?

1 A I have her read it to make sure that she understood
2 everything. I always have everybody read their
3 statement to make sure I did not add or keep out
4 anything that they had told me.

5 Q Did she indicate to you that that was her
6 statement?

7 A She did.

8 Q And right above where she signs, does she -- is
9 there anything mentioning whether it was given
10 voluntarily or not?

11 A It does.

12 Q And what does it say?

13 A It says:

14 I have made the foregoing statement freely and
15 voluntarily, without fear, threat, promise, reward
16 or hope of any kind.

17 Q And she signed each of those pages right below that
18 statement?

19 A She did.

20 Q And just in general, not to go into the details of
21 the statement, but what was her general description
22 of what happened?

23 A That there was an assault that took place on
24 Mr. West, that she was involved in the assault, and
25 that she did stab him with a knife.

1 MS. GOOD: No further questions, Your Honor.

2 THE COURT: All right. Cross?

3 MS. GRIPP: Thank you, Your Honor. May it
4 please the Court?

5 THE COURT: Uh-huh.

6 CROSS-EXAMINATION

7 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

8 Q Officer Gwyn, before we get started, did you have a
9 chance prior to your testimony to speak to Officer
10 Reed-Enzor outside the courtroom?

11 A I did speak with her, yes.

12 Q Okay. Can you tell us what the substance of that
13 conversation was?

14 A Which time? I talked to her before she came in and
15 after.

16 Q After?

17 A After. We talked about her baby. Not so much I, I
18 was listening. We talked about her knee, she had
19 surgery. Her baby being sick.

20 Q Okay. And did she tell you about testifying that
21 she witnessed the Defendant's hands shaking and she
22 was swaying on her feet?

23 A No.

24 Q She did not tell you that?

25 A No.

1 Q Nothing was mentioned about her testimony?

2 A No, ma'am. We talked about her baby, her knee.

3 Q Okay. In your first involvement, did you get a
4 phone call from Ms. Richmond?

5 A Did I receive a phone call from her? No, ma'am.

6 Q Okay. So she didn't directly contact you?

7 A No.

8 Q All right. So how did you -- who told you that you
9 should get involved in this case?

10 A I can't remember exactly who told me that she
11 requested me. I think Investigator Baker told me.
12 I believe Mazerolle, Corporal Mazerolle also stated
13 that she asked for me by name.

14 Q Do you know when she did that?

15 A I was told that she asked for me as soon as she was
16 taken out of the car when she was apprehended.

17 Q And when you saw her in the holding cell at the
18 Alvin S. Glenn Detention Center, what made you
19 decide to take her to a different location as
20 opposed to interviewing them at the jail?

21 A Because Region 1's headquarters is closer to the
22 jail than headquarters.

23 Q But you do interview people at the jail?

24 A No, ma'am, I do not.

25 Q You do not?

1 A No, ma'am.

2 Q Okay. You're not able to do that?

3 A I think they have a place provided, but I generally
4 like to type out my statements. I don't have the
5 neatest handwriting in the world, so I generally
6 type it out.

7 Q Okay. And you saw her in holding. She burst into
8 tears. And then what?

9 A I asked her if she still wanted to talk to me, and
10 she said yes.

11 Q Okay. And at that time on your way did she request
12 an attorney?

13 A No, ma'am.

14 Q How did you transport her?

15 A We were -- I can't remember which vehicle, we were
16 in an unmarked vehicle. It was myself and
17 Investigator Baker.

18 Q Okay. Was anyone else there?

19 A No, ma'am.

20 Q And was Investigator Baker with you the entire
21 time?

22 A During the statement? Yes, ma'am.

23 Q And what time did you initially see her at the --

24 A At the jail?

25 Q Uh-huh?

1 A I couldn't give you a specific time.

2 Q All right. So you are not writing down any notes,
3 are you?

4 A No, ma'am.

5 Q And did you provide a copy of the statement to the
6 Defendant?

7 A I don't believe I did. I don't think we had a
8 working copy machine at the time.

9 Q Okay. And Investigator Baker witnessed this? Is
10 his signature on the notarized -- or on the witness
11 of the statement?

12 A No, ma'am.

13 Q Okay. Why is that?

14 A Just didn't sign it. He was present, but he didn't
15 sign it.

16 Q And to your knowledge did he take any notes?

17 A Did he? During the interview? I did not see him
18 writing anything down.

19 Q All right. And during the interview basically you
20 sit down and have a chat with her and then you type
21 up the synopsis of what you guys just discussed, is
22 that right?

23 A Not a synopsis of what she tells me. As she is
24 telling me I'm typing it.

25 Q But you already had a conversation?

1 A Right. To get a general idea of what happened.

2 Q Okay. So this isn't an exact duplicate of what was
3 said?

4 A For the most part, yes, ma'am, because her --

5 Q It doesn't include anything that was said prior to
6 the time you start typing?

7 A Well, her story is her story. That is what I have
8 typed down was what she was telling me.

9 Q All right. But you did not write anything down
10 prior to the time she starts telling you?

11 A No.

12 Q All right. So how long were you guys chatting
13 before you started typing?

14 A I mean, if I look at the time from the time I wrote
15 on the Advice of Rights until I put down the time
16 of the statement, it is roughly an hour.

17 Q Okay. And then how long did it take you to type
18 out the statement?

19 A Maybe 45 minutes.

20 Q Do you remember having any computer malfunctions or
21 anything like that?

22 A I did. I thought I lost the whole statement at one
23 time.

24 Q All right. And what happened?

25 A I found it.

1 Q You didn't have to call in anybody?

2 A I don't -- maybe the lieutenant at the time out
3 there to look at it, but I can't remember, I
4 just -- we were trying to get it -- it wouldn't
5 print, so we were trying to figure out -- at one
6 point it disappeared off the screen, and we were
7 able to find it, so --

8 Q Okay. And did you tell her you would help her out
9 with her bond setting?

10 A No, ma'am.

11 Q Did you tell her anything about talking about the
12 time that you had had previous contacts with her?
13 Did you discuss that?

14 A Did I -- did we discuss her previous contacts?
15 Basically about the company that she keeps. I
16 can't make any promises as to whether -- there is
17 nothing I could have offered her for this incident.

18 MS. GRIPP: No further questions, Your Honor.

19 THE COURT: All right. Any redirect?

20 MS. GOOD: No, sir.

21 THE COURT: Okay. Thank you, sir. You can
22 step down.

23 (Witness steps down.)

24 MS. SHIPLEY: Your Honor, we have one more
25 brief one. The State calls Becky Roberson.

1 (Witness enters courtroom.)

2 THE BAILIFF: Place your left hand on the
3 Bible, raise your right hand, and face the clerk.

4 (Witness complies.)

5 THE CLERK: Do you swear or affirm the
6 testimony you are about to give in this case to be
7 the truth, the whole truth, and nothing but the
8 truth, so help you God?

9 THE WITNESS: Yes, ma'am, I do.

10 THE CLERK: Please be seated in the witness
11 box, and state your full name for the record,
12 please.

13 (Witness seated.)

14 THE WITNESS: Becky Marie Roberson.

15 BECKY MARIE ROBERSON,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SHIPLEY: (OUTSIDE PRESENCE OF THE JURY)

19 Q Ms. Roberson, how are you related to Frank West?

20 A I'm his niece.

21 Q And where do you live?

22 A I live in Chesapeake, Virginia.

23 Q Were you notified by the Richland County
24 Solicitor's Office or law enforcement regarding a
25 bond hearing for the people accused of killing your

1 uncle?

2 A Yes, ma'am.

3 Q And did you make the trip from Virginia to
4 Columbia, South Carolina for the bond hearing?

5 A Yes, ma'am.

6 Q And tell Judge Miller what happened when you saw
7 the Defendant, Melinda Richmond, in court?

8 A It was myself, my sister and my cousin, which is
9 Frank West's daughter. We were sitting back over
10 here. And when Melinda seen us -- and we had
11 been -- well, Ms. Shipley had introduced us as his
12 family and who we were. Ms. Richmond looked back
13 at us and she mouthed, I'm sorry.

14 And all three of us looked at each other like,
15 okay, she just told us she is sorry. We thought
16 she was remorseful at that time, but --

17 Q Thank you.

18 MS. SHIPLEY: No further questions, Your
19 Honor.

20 THE COURT: All right. Cross?

21 MS. GRIPP: No questions, Your Honor.

22 THE COURT: All right, thank you. You can
23 step down.

24 (Witness steps down.)

25 THE COURT: All right, anything else?

1 MS. GOOD: Not from the State, Your Honor.

2 THE COURT: Okay.

3 MS. GRIPP: At this time we would call Tenisha
4 McClinton. I believe she is in holding.

5 MS. SHIPLEY: Your Honor, we would object
6 about this -- Tenisha McClinton is the Co-Defendant
7 that has already pled guilty. She is doing 30
8 years. She pled as charged.

9 THE COURT: Uh-huh.

10 MS. SHIPLEY: This is a hearing for you to
11 determine the voluntariness of this Defendant's
12 statement, not whether or not Ms. McClinton's
13 statement was voluntary. And you have heard from
14 law enforcement, they were never advised of their
15 rights together, they were separate. So she would
16 have no personal knowledge as to whether or not --

17 THE COURT: Okay, let's see what -- what are
18 you going to --

19 MS. GRIPP: Your Honor, my purpose in calling
20 Ms. Tenisha McClinton is to corroborate the
21 surroundings of how they interrogated her. It is
22 the same investigators, the same day, the same bit
23 of facts. The accounts of how she was interrogated
24 I think are directly relevant to corroborate my
25 client's statement of how she was interrogated.

1 Your Honor, I believe that the police conduct
2 in this matter is relevant to the voluntariness. I
3 obviously am not disputing her statement, but I
4 think that her testimony is extremely relevant as
5 to how the police conducted themselves in the
6 interrogation.

7 THE COURT: So you just want to impeach the
8 testimony that has been put up, is that what you --
9 am I right? I mean, I'm just --

10 MS. GRIPP: Essentially, yes. Well, it is
11 more than impeaching. It is getting further
12 information of their -- the tactics that they used,
13 Your Honor.

14 THE COURT: That is more of a jury argument
15 than it is -- you know, to me.

16 MS. GRIPP: Your Honor, I would -- I would
17 disagree. I would say that this is a pretrial
18 hearing on the voluntariness. And I understand
19 that it is the voluntariness of my client's
20 statement; however, you know --

21 THE COURT: Well, I have to -- you were asking
22 me to speculate from how she was treated and
23 extrapolate from that that your client was treated,
24 I presume it is going to be negative testimony from
25 the State, and I'm supposed to extrapolate from

1 that how your client was treated?

2 MS. GRIPP: Your Honor, my client is also
3 going to take the stand.

4 THE COURT: Okay. Well let's put her up.
5 Let's do her first. I mean, I don't think it is --
6 unless it has got something to do that is going to
7 show a conflict in some statement or some testimony
8 that has been presented, I'm not sure it is
9 relevant.

10 MS. GRIPP: The testimony that has already
11 been --

12 THE COURT: I mean, this has been going on for
13 quite a while. So, I mean, we're just -- looking
14 at the totality of the circumstances and, you know,
15 there is a lot of jury stuff that you obviously are
16 aiming at, but --

17 MS. GRIPP: But, Your Honor, it is more than
18 just a jury thing. And obviously there is a
19 totality of circumstances. And part of my argument
20 is that the State purposefully chose not to record
21 or give us any exact replications of what was done,
22 what was said, and so in getting into the totality
23 of the circumstances, I believe that we need to
24 observe all the witnesses that we can to get the
25 relevancy. I think that the burden lies with the

1 State. I'm just simply trying to establish that it
2 is not just my client who is stating this, it is
3 the interrogation as a whole that day.

4 MS. SHIPLEY: It seems to me she is arguing
5 about the accuracy of the officer's recording of
6 the statement, not whether the statement was made.
7 I mean, that is the purpose of Jackson v. Denno is
8 to whether or not it was voluntarily made, and then
9 the jury can determine whether or not the officers
10 put words in her mouth.

11 MS. GRIPP: Your Honor, I intend to impeach
12 the testimony of the witness during pretrial with
13 knowledge he would type the statement.

14 THE COURT: All right. Put her up, and make
15 it quick.

16 MS. GRIPP: Yes, Your Honor. I call Ms.
17 Richmond.

18 THE COURT: Is she downstairs? Ms. McClinton?

19 MS. GRIPP: Oh, I'm sorry, did you want me
20 to --

21 THE COURT: Oh, oh, oh. Whatever you want to
22 do.

23 MS. GRIPP: I'll go ahead and put up Ms.
24 Richmond.

25 THE COURT: Okay. All right.

1 THE BAILIFF: Place your left hand on the
2 Bible, raise your right, and face the clerk.

3 (Witness complies.)

4 THE CLERK: Do you swear or affirm the
5 testimony you are about to you give in this case to
6 be the truth, the whole truth, and nothing but the
7 truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Have a seat in the witness box,
10 and state your full name for the record, please.

11 (Witness seated.)

12 THE WITNESS: My name is Melinda Richmond.

13 MELINDA RICHMOND,

14 after being duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

17 Q Ms. Richmond, I just want to talk to you about the
18 statements the State discussed at this point, okay?

19 So the first statement is that of the arrest,
20 the initial arrest with Corporal Mazerolle. Can
21 you tell us what happened at the time that he
22 stopped your car?

23 A When he stopped the car, he asked me to get out of
24 the car. I went to get out the car. He grabbed my
25 arm, twisted it behind my back and told me he would

1 break my arm.

2 Q Okay. And did he ask you any direct questions at
3 that point?

4 A Not at that point, no.

5 Q Okay. And when did the conversation begin with
6 Corporal Mazerolle?

7 A When Tenisha stepped out of the car.

8 Q Okay. And then what was said?

9 A It wasn't really -- there wasn't really anything in
10 detail said at that point. More it was talking
11 about where Bruce was.

12 Q So he was asking you questions?

13 A Yes.

14 Q Okay. And did you initiate conversation at that
15 point?

16 A No.

17 Q Okay. And did he tell you that you had the right
18 to remain silent?

19 A No.

20 Q Give you any of the Advice of Rights?

21 A No.

22 Q Okay. And were you talking as well as Tenisha
23 McClinton, or was it just her or just you?

24 A I think I was telling him that -- about Fred's
25 room.

1 Q And that was after he had questioned you about
2 that?

3 A Yes.

4 Q Okay. Next I want to talk to you about the
5 statement that -- the first initial interrogation
6 that you had with Investigator Martin. Do you
7 remember that?

8 A Yes, I do.

9 Q Okay. And how long were you detained prior to that
10 happening?

11 A Before the interview?

12 Q Yes?

13 A Not for long at all.

14 Q Okay. Do you remember if he came to get you or if
15 you were placed in a room?

16 A He brought me into a room.

17 Q And did he at that point tell you that you had the
18 right to remain silent?

19 A No.

20 Q Did he advise you of your rights?

21 A No.

22 Q Okay. Did he ask you any questions?

23 A Yes.

24 Q What questions was he asking you?

25 A He just started asking about what had happened. I

1 remember telling him, I don't know. I was very
2 tearful. I was pretty much hysterical. I was
3 asking about Frank, how was Frank. He was telling
4 me Frank was okay, that he was in the hospital and
5 everything was all right, that they were checking
6 on him.

7 Q Okay. And at any point did he tell you that you
8 had the right to have an attorney?

9 A No.

10 Q Okay. At any point did you ask him to stop?

11 A Yes, I did.

12 Q Okay. And how did you ask him to stop?

13 A I was -- I was nodding out. At one point I did it
14 when both him and Heidi Scott were in the room, I
15 just fell asleep in the chair.

16 He looked over at me and kind of touched me
17 there and said, he said, it won't be much longer.

18 And I told him, I said, I want to stop, I
19 don't feel right.

20 Q Okay. And did you -- how did you feel? What was
21 the physical condition at that point?

22 A I felt dizzy, I felt nauseated, I felt like I was
23 going to pass out, I felt like I was having an
24 anxiety attack, I couldn't breathe, I couldn't
25 catch my breath.

1 Q And did you tell them any of this?

2 A Yes, I did.

3 Q And did you tell them that you were hungry?

4 A Yes, I did.

5 Q And when was the first time that you were fed?

6 A I was not fed until all of the questioning was
7 over, right before they took me from headquarters
8 and brought me to the jail, right before they
9 locked me in the cell with -- with Bruce Thompson.

10 Q Okay. And do you remember who fed you?

11 A Heidi.

12 Q And do you remember approximately what time that
13 was?

14 A No, ma'am, not -- not -- not -- as -- I didn't see
15 any clocks or anything. I just know it was when
16 all the questioning was done. She was done with us
17 and she took me, she fed me, and in a small break
18 room she fed me a TV dinner out the refrigerator.

19 And then she told me, she says, I have someone
20 else to take care of. I'm going to lock you up.
21 She took me and locked me in a cell, like I said,
22 with Bruce Thompson.

23 Q Okay. And the second statement, the first written
24 statement that we have, that is the one with Heidi
25 Scott, do you remember her going over your Advice

1 of Rights?

2 A No, I don't.

3 Q Okay. And did she start talking to you -- how did
4 that initial conversation begin?

5 A I don't -- I don't recall exactly how it began.
6 I -- it was, like I said, with her she seemed very
7 cold, but not intimidating. And there was just --
8 it was more her asking questions. Then the other
9 two gentlemen would come in at one time and start
10 saying, well, this is what happened, or this person
11 has said this, or this is what -- this is what you
12 did. I mean, more or less just trying to -- I
13 mean, they were very intimidating, very abrupt,
14 very angry.

15 Q Okay. What was their tone?

16 A Angry. Very -- I was scared. I was -- I was -- I
17 was not in a very good state of mind at that point.
18 I had been up for -- well, my last sleep was
19 Wednesday morning. I had not ate since then. I
20 had been --

21 Q And it happened on what day?

22 A This happened -- this was Saturday morning when
23 this took place, when the questioning. I had been
24 doing crack cocaine, marijuana, drinking various
25 things, I had took Xanax, I had also took

1 Trazodone. I actually tried to commit suicide
2 Tuesday night and took a handful of Trazodone pills
3 before I woke up Wednesday, that morning.

4 Q And did you mention the fact that you hadn't slept
5 or that you consumed these --

6 A Yes, I did.

7 Q And what was their response?

8 A They didn't seem to care. It didn't matter.

9 Q Okay. And when -- did you ever ask them to stop or
10 use the bathroom, to feed you?

11 A I never asked them to use the bathroom, but I did
12 ask them to stop.

13 Q And how did you do that?

14 A I just -- I was -- the whole time, through the
15 whole thing I was crying, I was upset. I was very
16 upset.

17 Q And do you remember the entirety of the statements?

18 A I don't remember every detail of them, but I
19 remember the whole experience.

20 Q And did you have -- at any time did you pop out
21 during your interrogation with Heidi Scott?

22 A Yes, I did.

23 Q And let's just move on to the interrogation that
24 you had with Investigator Gwyn. Did you ask for
25 him?

1 A No, I didn't.

2 Q Okay. Did you call him?

3 A No, I didn't.

4 Q All right. And did anybody ask if you wanted to
5 talk to him?

6 A No.

7 Q Okay. And how long had you been at the detention
8 center at that point?

9 A I had been there, I believe it was a night and a
10 day.

11 Q And were you in -- what kind of facility were you
12 in at the jail?

13 A They had me in the medical unit. They had me under
14 observation because they thought I was suicidal. I
15 was -- I had been treated in the jailhouse for
16 post-traumatic stress disorder because I have
17 really horrible, bad nightmares. At that point I
18 was in a very, very bad state of mind.

19 Q Okay. And when Investigator Gwyn had come to see
20 you, had you been able to sleep at that point?

21 A No, not -- just the nightmares, the -- no. I
22 wasn't eating or sleeping. That is why they were
23 keeping me in observation. I was just crying. I
24 was --

25 Q Okay. And when Investigator Gwyn transported you,

1 how did he go about doing that?

2 A He took me in a -- I thought it was his personal
3 vehicle. The other investigator got in a different
4 vehicle and followed us to the headquarters, the
5 substation.

6 Q You were alone in the car with him?

7 A Yes, I was.

8 Q Okay. And then he takes you to a different
9 station, is that correct?

10 A Yes.

11 Q And then what happened?

12 A And then he starts to talk to me and he starts
13 to -- he starts to pretty much try -- they played
14 like a good guy/bad guy thing. And I did before --
15 like I -- before I had talked to Detective Gwyn a
16 few times and I had established a trust with him.
17 And I did -- you know, and he was -- he was just
18 trying to tell me everything was all right. And,
19 you know, he was just wanting to help matters.

20 And at the same time, the other fellow was
21 hollering at me. And he brought a piece of paper
22 and he handed it to me, and he is like, do you
23 realize that -- the amount -- the extent of what
24 happened to Frank?

25 And he -- they were more or less -- it was

1 like they were focused a lot on Bruce. You know,
2 they wanted to know things about Bruce. They were
3 just -- it wasn't really questioning, it was
4 more -- he was very hostile.

5 Q And did you -- did Investigator Gwyn at any point
6 read you your rights?

7 A No.

8 Q Okay. But you did sign these statements?

9 A I did.

10 Q Okay. And let's talk about the first Advice of
11 Rights. When did you sign that?

12 A As far as with Detective Gwyn?

13 Q The first Advice of Rights, going back to the one
14 that Investigator Martin --

15 A After questioning.

16 Q After all of the questioning?

17 A Yeah, I believe so. I mean, I remember signing the
18 things for the lab. I remember talking with that
19 lady and signing those. Any other papers that I
20 signed was after the questioning was done.

21 Q Okay. So you signed them all at the same time?

22 A Yes.

23 Q And then Investigator Gwyn, did you also sign those
24 papers at the same time?

25 A After the questioning.

1 Q Okay.

2 A After he printed everything up.

3 Q Okay.

4 MS. GRIPP: Beg the court's indulgence.

5 (Pause.)

6 Q Did you have an opportunity to read your statements
7 beforehand?

8 A No, I didn't.

9 Q And why did -- did they tell you you couldn't read
10 them?

11 A No, they didn't tell me I couldn't.

12 Q Why didn't you read them?

13 A With Detective Gwyn, honestly I trusted him.
14 Beforehand, with the first initial investigation, I
15 was, to be honest with you, so out of it that I had
16 no idea what was going on. I really didn't think
17 about it.

18 MS. GRIPP: No further questions, Your Honor.

19 THE COURT: Okay. Cross?

20 CROSS-EXAMINATION

21 BY MS. SHIPLEY: (OUTSIDE PRESENCE OF THE JURY)

22 Q Ms. Richmond, when you were first stopped by
23 Investigator or Deputy Mazerolle, you were asked by
24 your attorney that he did not begin questioning you
25 until Tenisha McClinton got out of the car?

1 A Yes, ma'am.

2 Q And so you were already in the back of his car?

3 A No, he did not put us in the car right away. He
4 left us standing out in front of his car.

5 Q Didn't you try to run at that point?

6 A No.

7 Q Okay. And at that point you said that all he
8 wanted to know was, where is Bruce?

9 A That's -- that's -- yes.

10 Q But you weren't answering his questions, he just
11 wanted to know where Bruce was?

12 A I do believe that I was answering as far as where
13 Fred's room was, yeah, I do believe I was the one
14 that told him that.

15 Q How did he know how to look for Bruce Thompson if
16 you didn't tell him Bruce -- Bird had the knife?

17 A Well, because, like I said, when Tenisha got out,
18 Tenisha started talking to him.

19 Q But you told him about Bird?

20 A No. No, I didn't.

21 Q You admitted earlier that you were helping him find
22 Bruce.

23 A Excuse me?

24 Q You admitted earlier that you were trying to help
25 him find Bruce in Fred's room.

1 A After he asked me where Bruce was, yes, I did tell
2 him where Fred's room was.

3 Q Mr. Mazerolle was not questioning you, is that
4 correct?

5 A No, that is not correct. He was questioning me.

6 Q At what point?

7 A When he asked me where Bruce was, if I knew his
8 whereabouts.

9 Q And who told him about Bruce?

10 A Tenisha did when she got out of the car.

11 Q And you know Investigator Mazerolle from previous
12 encounters, correct?

13 A No, I don't.

14 Q Now, when you were being questioned about your
15 interview with Investigator Martin, you testified
16 that you were not interviewed or you were not held
17 that long before you gave him a statement, is that
18 correct?

19 A As far as Mr. Martin?

20 Q Yes?

21 A No. No. He --

22 Q So your answer -- if I may finish my question.
23 Your answer was, not long at all?

24 A Exactly.

25 Q Okay.

1 A He questioned me before they did the labs.

2 Q You also indicated that you were complaining of
3 medical conditions, that you are dizzy, you are
4 nauseated, you were having an anxiety attack and
5 you could not breathe, correct?

6 A Yes.

7 Q But then you were also asked by Investigator
8 Reed-Enzor if you were okay, and your answer was,
9 and I quote, I'm hungry and I keep thinking about
10 what I did to him?

11 A I don't recall saying that to her.

12 Q Okay. But you don't deny saying it?

13 A I don't recall saying that to her.

14 Q Then you indicated that you were not fed all day
15 long, despite the fact that Investigator Heidi
16 Scott wrote down that in her report that she fed
17 you prior to your second statement at 1:30 p.m.?

18 A She fed us after the statements were done.

19 Q Okay. You were coming down from a major crack
20 binge, is that correct?

21 A Yes.

22 Q All right. And so you are aware of the timing of
23 everything?

24 A I'm pretty much of aware of, yeah, how the events
25 took place.

1 Q Okay. So you remember the details of the times,
2 and so forth, but you can't remember the details of
3 your confession to a murder?

4 A I did not confess to a murder.

5 Q You also indicated that you had passed out during
6 your interview, is that correct?

7 A Yes, I did.

8 Q However, you can't sleep at the jail because you
9 are suffering from post-traumatic stress disorder
10 two days later?

11 A I said I was having nightmares and just not even
12 sleeping, just -- just having nightmares of this
13 incident that took place, yes.

14 Q Because you can't stop remembering what you did to
15 him?

16 A No, because I can't stop remembering the incident
17 that took place. It was not a -- it was a pretty
18 horrific incident.

19 Q You recall that you testified earlier that you
20 trusted Investigator Brien Gwyn, is that correct?

21 A Yes, ma'am.

22 Q And you knew Brien Gwyn from previous encounters, I
23 believe as a prostitution encounter?

24 A Yes.

25 Q You were offering to give sexual performances for

1 \$50 alone in a bedroom with Mr. Gwyn?

2 A That wasn't exactly how it happened, but that is
3 how it came out to be.

4 Q Well, you were charged and convicted of
5 prostitution, correct?

6 A Exactly. I was told that I could either do that or
7 take a different charge, so, yes.

8 Q Okay. But you obviously understand your rights,
9 then, if you were told you could plead or take a
10 different route, right?

11 A Excuse me?

12 Q You understand what you can do when you are charged
13 with a crime, you can go forward with a jury trial
14 or you can plead guilty, correct?

15 A No, that wasn't -- there wasn't no jury trial or
16 anything like that in that incident. That incident
17 was a simple fine type incident. Just, you know,
18 go to court and --

19 Q Okay. And so because you trusted Investigator
20 Gwyn, that is why you asked for him to talk to him
21 about what happened?

22 A I did not ask for him.

23 Q Well, when he asked you if you still wanted to talk
24 to him in the lobby of the headquarters or, excuse
25 me, in the Alvin S. Glenn Detention Center, you

1 agreed to go with him?

2 A He told me, come with me, was his exact words.

3 MS. SHIPLEY: I have no further questions,
4 Your Honor.

5 THE COURT: All right. Any redirect?

6 MS. GRIPP: Just real quick, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

9 Q Was there any time when you were having -- during
10 your -- the first few days after this incident you
11 were having any audio/visual hallucinations?

12 A Yes, I did.

13 Q And did you have any of those during the
14 interrogation?

15 A Yeah, kinda.

16 Q Did you tell anybody about them?

17 A No.

18 Q Did you tell anybody at the jail about them?

19 A I did speak to my counselor about it.

20 Q Okay. And when was the first time that you got to
21 speak to a counselor?

22 A It was a few weeks after.

23 Q All right. And when did you first get any contact
24 from me?

25 A The note -- the letter that I got was the night

1 after I had been into headquarters and questioned.

2 I got the letter stating that you were my lawyer.

3 Q The night after which statement?

4 A After Detective Gwyn took me to the headquarters.

5 MS. GRIPP: No further questions, Your Honor.

6 THE COURT: Okay. All right, thank you. You
7 can step down.

8 (Witness steps down.)

9 MS. GRIPP: Your Honor, we would call Tenisha
10 McClinton.

11 THE COURT: All right.

12 (Witness enters courtroom.)

13 THE BAILIFF: Place your left hand on the
14 Bible, raise your right hand, and face the clerk.

15 (Witness complies.)

16 THE CLERK: Do you swear or affirm the
17 testimony you are about give in this case to be the
18 truth, the whole truth, and nothing but the truth,
19 so help you God?

20 THE WITNESS: Yes.

21 THE CLERK: Have a seat in the witness box,
22 and state your full name for the record, please.

23 (Witness seated.)

24 THE WITNESS: Tenisha Nicole McClinton.

25 TENISHA NICOLE MCCLINTON,

1 after being duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

4 Q Tenisha, I'm just going to ask you some basic
5 questions about the statements that you gave on
6 that incident date, okay, May 5th, 2007?

7 A Uh-huh.

8 Q Okay. Do you remember about what time you were
9 arrested?

10 A No.

11 Q You don't remember that? Do you remember who
12 arrested you?

13 A No.

14 Q Do you remember if that officer asked you any
15 questions?

16 A What you mean?

17 Q Did he ask you anything about -- did he ask you
18 any, I mean, what is your name...

19 A Yes.

20 Q He asked you a question?

21 A Uh-huh.

22 Q Did you guys start talking to him or did he start
23 talking to you?

24 A We started talking to him.

25 Q Okay. And did he ask you questions in response to

1 those statements?

2 A I don't understand.

3 Q Did he ask you for clarification or more
4 information or anything to that effect?

5 A Not that I remember.

6 Q Okay. By the time you got back to headquarters,
7 how long had it been -- how long had it been since
8 you had slept?

9 A Almost 24 hours.

10 Q And had you been consuming any alcoholic beverages,
11 any narcotics?

12 A Yes.

13 Q And did you tell them that?

14 A Yes.

15 Q What was their response to that?

16 A There wasn't one.

17 Q Okay. Did they ask you if you needed a rest or
18 anything to that effect?

19 A Excuse me?

20 Q Did they ask you if you needed a rest or anything?

21 A No.

22 Q Okay. And did you tell them that you had a history
23 of mental health problems?

24 A Yes.

25 Q What was their response to that?

1 A There wasn't one.

2 Q Specifically, I want to talk to you about who was
3 in the interrogation room with you. Do you
4 remember giving a few different statements?

5 A Yes.

6 Q All right. The first statement, do you remember
7 who was in the room with you?

8 A A woman.

9 Q Just one woman?

10 A (Nods affirmatively.)

11 Q Was there anyone else around?

12 A No.

13 Q Okay. Were you handcuffed?

14 A No.

15 Q Did she read you your rights?

16 A I don't remember.

17 Q All right. Do you think -- do you remember if she
18 read you your rights?

19 A I don't remember.

20 Q And the second interview that you had, did -- do
21 you remember that one?

22 A Uh-huh.

23 Q Okay. And do you remember who interviewed you at
24 that point?

25 A Detective Harris.

1 Q Okay.

2 THE COURT: Can you speak up, ma'am? I can't
3 hear you.

4 THE WITNESS: Detective Harris.

5 THE COURT: Okay, thank you.

6 Q Do you remember if Detective Harris read you your
7 rights?

8 A Yes, he did.

9 Q He did?

10 A Uh-huh.

11 Q Okay. And did he ask you some of the same
12 questions about how long you had slept or any of
13 the drugs that you had consumed?

14 A I don't think so.

15 Q The third statement that you give, do you remember
16 who that was?

17 A No.

18 Q Do you remember if they read you your rights then?

19 A No.

20 Q Okay. Do you remember ever asking them if you
21 could get some food?

22 A No, I never asked them.

23 Q All right. And what time did they feed you?

24 A Before I was transported to the county jail.

25 Q Okay. So it was later in the afternoon?

1 A Yes.

2 Q Okay. Did you ever have a time to ask them to use
3 the restroom?

4 A Yes.

5 Q When was that?

6 A When I first got there.

7 Q And what was their response?

8 A Hold on.

9 Q And when did you get to use the bathroom?

10 A A couple of hours later.

11 Q Hours later?

12 A (Nods affirmatively.)

13 Q Were you handcuffed at that point?

14 A To a bench.

15 THE COURT REPORTER: I'm sorry, I didn't hear
16 you.

17 THE WITNESS: To a bench.

18 Q And how would you describe the demeanor of the
19 officers as they -- when they interrogated you?

20 A I had time to think about that and I think they
21 wanted to -- because I was kind of scared because I
22 knew I did something wrong, so I guess I felt
23 intimidated because I knew I was wrong. I know I
24 was crying at the time.

25 Q But they weren't glaring at you or anything?

1 A No.

2 Q Do you remember telling Patty Rickborn, our
3 investigator, that they were glaring at you?

4 A I remember telling her that they was looking at me,
5 like just staring at me, but they wasn't glaring.

6 Q Okay. Do you remember telling Patty Rickborn that
7 you didn't have a chance to read over your rights
8 until they gave you all the papers to sign?

9 A I don't remember.

10 Q Okay. I said they read you your rights. Do you
11 understand what your rights are?

12 A Yes.

13 Q Okay. Did you have any -- did you have an
14 opportunity to discuss with them any of the
15 hallucinations that you may have had at the time or
16 in the past?

17 A No.

18 Q Okay. Did they ever ask you about that?

19 A No.

20 Q And what was the size of the room that you were in?

21 A It was small.

22 Q How many officers were there?

23 A The first time, just one; the second time, three.

24 Q Okay.

25 MS. GRIPP: Beg the Court's indulgence.

1 (Pause.)

2 MS. GRIPP: No further questions, Your Honor.

3 THE COURT: All right. Cross?

4 CROSS-EXAMINATION

5 BY MS. SHIPLEY:

6 Q Good afternoon, Ms. McClinton.

7 A Hi.

8 Q Ms. McClinton, you were asked by Ms. Richmond's
9 attorney about who was talking to the first officer
10 that pulled you over in the car.

11 A Uh-huh.

12 Q Who was initiating the conversation with that
13 officer?

14 A Melinda.

15 Q Okay. And do you remember when the officer asked
16 y'all to get out of the vehicle? Tell Judge
17 Miller, what did Melinda try to do at that point?

18 A She got out the car and just started talking to him
19 or something, I don't know. I couldn't really
20 understand everything she was saying, but she was
21 trying to tell him something.

22 Q All right. And do you recall whether or not she
23 tried to escape?

24 A I know she jumped out of the car. I don't -- I
25 know he hurried up and put her handcuffs on.

1 Q Okay. So she jumped out of the car?

2 A Uh-huh.

3 Q And he handcuffed her?

4 A Yes.

5 Q Now, you were talking about you didn't remember
6 whether or not you were advised of your rights in
7 written form the first statement you gave? I'm
8 just going to show you a document and ask if you
9 recognize that. Do you recognize that?

10 A Yes, ma'am.

11 Q Okay. Is that your signature?

12 A Yes.

13 Q What time is this given to you?

14 A 9:22.

15 Q And what date is that?

16 A The 5th.

17 Q Of what --

18 A Of May.

19 Q Okay. And is that 2007?

20 A Yes.

21 Q All right. And who is the officer who is
22 interviewing you?

23 A Heidi Scott.

24 Q Okay. Then you were asked about being Mirandized.
25 And, incidentally, you gave a statement to Heidi

1 Scott, right?

2 A Yes.

3 Q And in that first statement to Heidi Scott, tell
4 Judge Miller, was that the truth or not the truth?

5 A Not the truth.

6 Q Were you lying?

7 A Yes.

8 Q And who were you blaming for this murder?

9 A Bruce.

10 Q Okay. At that point you indicated you had time to
11 think about it, you thought maybe they were staring
12 at you or you felt intimidated. Tell Judge Miller
13 again why you felt intimidated.

14 A Because I knew I was lying, and I was scared.

15 Q Okay. Then you were questioned by Detective
16 Harris, correct?

17 A Yes.

18 Q I'm going to show you two documents and ask if you
19 recognize the first document. Do you see that?

20 A Yes.

21 Q What time was this given to you?

22 A 1330 hours.

23 Q 1330 hours?

24 A Yes.

25 Q Okay. So that is 1:30 military time?

- 1 A I guess so.
- 2 Q Okay. You are not familiar --
- 3 A No.
- 4 Q So it says 1330 hours.
- 5 A Uh-huh.
- 6 Q And is that your signature?
- 7 A Yes.
- 8 Q And is also -- is that also on that May 5th, 2007?
- 9 A Yes.
- 10 Q And did you sign giving up your rights?
- 11 A Yes.
- 12 Q Okay. Two times on that form, correct?
- 13 A Uh-huh.
- 14 Q So that is at 1330 hours. Then I'm going to show
- 15 you a second document. What time was this given to
- 16 you?
- 17 A 1600.
- 18 Q And, again, is that the same day?
- 19 A Yes.
- 20 Q And did you -- were you advised of your rights?
- 21 A Yes.
- 22 Q Is that your signature?
- 23 A Yes.
- 24 Q Did you waive your rights?
- 25 A Yes.

1 Q And when you gave Detective Harris this second
2 statement -- and we're not going to go into all of
3 it right now, okay, this is just for your
4 hearing -- did you come clean with Detective
5 Harris?

6 A Yes.

7 Q Did you admit that you knew what happened to Frank
8 West?

9 A Yes.

10 Q Did you admit to your involvement in this case?

11 A Yes.

12 Q And, again, you were offered an opportunity to
13 clarify any changes in that statement, correct?

14 A Yes.

15 Q When you pled guilty in front of the Honorable
16 Judge Barber back on April 14th, 2008, remember
17 being questioned that, everything you told the
18 police on May the 5th, 2007, at 3:00 o'clock -- and
19 I'll show you this document just to make sure we're
20 all on the same page -- is that accurate? And your
21 answer was yes?

22 A Yes.

23 Q Is that the truth?

24 A Yes.

25 MS. SHIPLEY: No further questions, Your

1 Honor.

2 THE COURT: All right. Any redirect?

3 MS. GRIPP: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. GRIPP: (OUTSIDE PRESENCE OF THE JURY)

6 Q Do you remember speaking to my investigator and
7 telling them -- telling her that the officers
8 promised to help you out with a bond?

9 A Yes.

10 Q And did they help you out with a bond?

11 A No.

12 Q And do you remember speaking with my investigator
13 and telling her that you had repeatedly asked for
14 your father?

15 A Yes.

16 Q And did they let you call your father?

17 A Not till afterwards.

18 Q Okay. And did they let you use the phone at all?

19 A Afterwards.

20 Q After your statements were written down?

21 A Yes.

22 Q Okay. And do you remember speaking with my
23 investigator and telling them that you observed
24 Melinda Richmond crying hysterically from the
25 beginning to the end?

1 A Yes.

2 Q Okay.

3 MS. GRIPP: No further questions, Your Honor.

4 THE COURT: All right.

5 MS. SHIPLEY: Just one question.

6 RECROSS-EXAMINATION

7 BY MS. SHIPLEY: (OUTSIDE PRESENCE OF THE JURY)

8 Q How old are you?

9 A Twenty-five.

10 Q Okay.

11 MS. SHIPLEY: Thank you, Your Honor. No
12 further questions.

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

15 (Witness steps down.)

16 THE COURT: All right, anything else?

17 MS. GRIPP: No, Your Honor.

18 THE COURT: All right, any redirect, anything
19 else?

20 MS. SHIPLEY: No, sir.

21 THE COURT: All right. Anything you want to
22 tell me?

23 MS. SHIPLEY: Your Honor, the State would
24 argue these were voluntarily given.

25 THE COURT: Okay.

1 MS. GRIPP: Your Honor, we would argue -- Your
2 Honor, it is our argument that the statements were
3 not given voluntarily, they were not given freely.
4 The State has not met their burden by a
5 preponderance of the evidence.

6 My client just said that she was dizzy, asked
7 to stop, she felt threatened, she was denied food,
8 she was physically shaking as per Ms. Reed-Enzor,
9 as per own testimony. Your Honor, that she was not
10 provided a copy of any of her statements, that the
11 Defendant was clearly intoxicated and sleep
12 deprived, Your Honor.

13 The interrogation, by their own accounts,
14 lasted for nearly ten hours from beginning to end.

15 And I think anybody would agree that ten
16 hours' interrogation under any circumstances would
17 be coercive in nature, Your Honor.

18 I have a written motion. Let me provide one
19 for the State as well. Your Honor, some of the
20 assertions I have in there as to Tenisha McClinton
21 were based on statements from -- that we received
22 from Tenisha McClinton given to my investigator as
23 far as --

24 THE COURT: Conflicting with her testimony
25 today?

1 MS. GRIPP: The only thing I think that
2 conflicts is the Advice of Rights, which she
3 initially told my investigator happened at the end
4 of everything, and then today she is stating that
5 they were not.

6 THE COURT: All right.

7 MS. GRIPP: Your Honor, my other argument is
8 that there is no way for the State to not have a
9 preponderance of the evidence based on their
10 policies.

11 Your Honor, they have a policy not to record
12 any statements. And the reason for that is clear.
13 They want to shift the burden for us to disprove
14 them. And, Your Honor, it is their burden by a
15 preponderance of the evidence. So they understand
16 that they are going to put the police up, law
17 enforcement up to testify and say, of course it was
18 given freely and voluntarily. There is no way to
19 duplicate and there is no way for the Court to look
20 at the totality of the circumstances surrounding it
21 in its entirety. And that is why they don't record
22 it, Your Honor.

23 My client is not -- does not have the burden
24 to disprove the State, which is exactly what we're
25 having to do at this point. But she has to testify

1 on her own behalf, not just in the Denno hearing,
2 but if the State -- if the Court does deem it is by
3 a preponderance of the evidence, she then has to
4 give up her Fifth Amendment right and testify in
5 her own defense.

6 Your Honor --

7 THE COURT: Well, before you go any further
8 with that, I want to tell you that that is a
9 misstatement. That may be a strategical decision
10 that she makes, but I would certainly not require
11 her to testify. No one else will either. That
12 would be her choice.

13 MS. GRIPP: Your Honor, I apologize for the
14 misstatement. I would rephrase that to say that if
15 we are to try to disprove the voluntariness of the
16 statement, she would then have to take the stand.

17 And then, again, I believe that that is burden
18 shifting because she has a constitutional right to
19 remain silent. It is their burden to prove beyond
20 a reasonable doubt. The only evidence that they
21 are going to put up is the cops' statement of this
22 recreated scene that they have written down.

23 THE COURT: Okay. All right.

24 MS. GRIPP: Your Honor, I believe that my
25 motion speaks for itself.

1 THE COURT: Okay. Well, I'm going to --
2 viewing the totality of the circumstances, I'm
3 going to find that the State has met its burden by
4 a preponderance of the evidence of showing that it
5 was voluntary. And certainly you have a lot of
6 arguments that you can make to the jury, but I'm
7 going to leave that up to a jury to make that
8 decision.

9 All right. The other -- I'll grant -- I'd be
10 happy to hear you on the motion to sequester. I'm
11 inclined to grant that motion. I have her list.

12 MS. SHIPLEY: That's fine, Your Honor.

13 THE COURT: What do you want to tell me about
14 the non -- I tell you, the jury has been back for
15 an hour and a half. Do we need to go through all
16 this now or can we get started up? When are you
17 going to put up the 9-1-1 tape?

18 MS. SHIPLEY: The first witness. And Ms. Good
19 was going to mention it in the opening statements.

20 THE COURT: Okay. All right. What is your
21 basis for excluding it?

22 MR. O'NEIL: Your Honor, basically based on
23 the confrontation clause.

24 THE COURT: What does it say?

25 MR. O'NEIL: I have a copy of it if Your Honor

1 wants to hear it. Then the motion will probably be
2 more relevant at that point.

3 THE COURT: Well, who called?

4 MS. SHIPLEY: It --

5 MR. O'NEIL: The neighbor --

6 MS. SHIPLEY: Yes, go ahead.

7 MR. O'NEIL: Essentially the decedent came
8 over to this neighbor's house, and the neighbor
9 called 9-1-1. And both the neighbor and the
10 decedent are both audible on the 9-1-1 tape.

11 THE COURT: Okay.

12 MR. O'NEIL: And the substance of that is the
13 9-1-1 operator essentially asked the neighbor, who
14 then asked the decedent, who was the person who
15 attacked him. And they go about describing --
16 naming the person that attacked him and describing
17 the person that attacked him and then describing
18 what kind of vehicle they left in and where they
19 may or may not be headed to.

20 THE COURT: Okay. Who said that, the
21 neighbor?

22 MR. O'NEIL: The neighbor. Your Honor, it
23 will probably be better to hear the tape, but the
24 operator is asking these questions. The neighbor
25 then stops and asks the victim questions, and the

1 victim responds and the neighbor responds into the
2 phone to the 9-1-1 operator.

3 THE COURT: Okay.

4 MS. SHIPLEY: Your Honor, it is a classic
5 dying declaration. The victim is literally
6 bleeding to death and he is asking his neighbor for
7 help, and the neighbor is trying to tell the 9-1-1
8 operator about his medical condition. And then at
9 that point they start going into who did this to
10 him.

11 And the neighbor -- the victim is telling his
12 neighbor Melinda Richmond did it. And then he is
13 able to have the wherewithal to give them a
14 description of his car that she left in, as well as
15 the location where they could be found.

16 So it is a dying declaration and a classic of
17 its kind because he dies shortly thereafter. He
18 makes it to the hospital and dies.

19 Also, Teresa Brown, who is the neighbor, is
20 prepared to testify that he started apparently
21 realizing he was dying because he starts to sit
22 down, and she is trying to prevent him from losing
23 consciousness, and she is worried that while he
24 sits that he might just pass out.

25 And then also, this is also admissible under

1 excited utterance. They are both -- the neighbor
2 is freaking out because her, you know, friend that
3 she knows is walking up to her house covered in
4 blood. So she is also excited about seeing her
5 neighbor this way. And the victim is clearly under
6 the stress of the excitement as he is bleeding to
7 death.

8 So there is two avenues to get it in under
9 excited utterance -- of hearsay exceptions, Your
10 Honor.

11 MR. O'NEIL: Your Honor, may I approach? I do
12 have a written motion. I would say in response, it
13 is immaterial whether it is a hearsay exception or
14 not if it is deemed testimonial. The law simply
15 says no matter whether it is a hearsay exception or
16 not, if it is deemed to be testimonial, then the
17 confrontation clause applies. End of story, Your
18 Honor.

19 It is our argument -- it would probably be
20 best if Your Honor actually hears the tape first,
21 then we can argue about what it says or it doesn't
22 say.

23 THE COURT: I mean, this is -- have y'all seen
24 this?

25 MS. GOOD: No, Your Honor.

1 MS. SHIPLEY: No, Your Honor.

2 THE COURT: Well, give them a copy.

3 MR. O'NEIL: They have a written copy, Your
4 Honor.

5 THE COURT: Okay. I don't want to listen to
6 it if this is an accurate transcription.

7 MS. GOOD: Your Honor, as to their transcript
8 of what was occurring, it does -- it is fairly
9 accurate as to his statement, but it doesn't
10 include the rest of the tape where he begins to lay
11 down, they are trying to stop him from bleeding
12 with towels to go towards the fact that is dying.
13 The man has 24 stab wounds, which the pathologist
14 will testify to. In fact, one is a big gash across
15 his neck, Your Honor. It doesn't go into any of
16 the treatment that they are trying to give him
17 while they are waiting on the ambulance and the
18 fact that he is laying down and going in and out of
19 consciousness at that point.

20 MR. O'NEIL: Your Honor, I don't go into that
21 because I feel like that doesn't violate Crawford,
22 so that is why I didn't put that in there. That
23 portion of the 9-1-1 tape does not violate
24 Crawford, that is why it wasn't in my motion, Your
25 Honor.

1 MS. GOOD: Your Honor, as to Crawford, the
2 fact that they mention in their motion that the
3 statement -- the questions were clearly to
4 indicate -- to get information to be used against
5 the Defendant in prosecution.

6 At this point they are trying to find out who
7 did this so that they can maybe try to get them in
8 custody. They have got a bleeding man with stab
9 wounds. They want to make sure that he is not a
10 danger to the community in any way. They are just
11 trying to make sure that the emergency is truly
12 over and that they are nowhere around at that point
13 so that they can get her into custody to prevent
14 this happening to anybody else. And I believe that
15 would not be testimonial in nature. And I believe
16 there is actually case law on that, Your Honor.

17 MR. O'NEIL: Your Honor, I would say, I think
18 the first question on the second page asked -- the
19 9-1-1 operator asked:

20 Is she still there? Can he tell you?

21 Answer: I don't know. Let me ask him.

22 Okay.

23 Frank, is the girl still here?

24 No, ma'am, she has left.

25 And they still go into more information about

1 her.

2 And, Your Honor, this case is specifically
3 what Davis v. Washington, the Supreme Court case I
4 handed up to Your Honor as part of my motion,
5 specifically deals with, 9-1-1 tapes as they relate
6 to Crawford.

7 In Davis the Court made out a clear
8 delineation of what is testimonial and what is not
9 testimonial, Your Honor.

10 Clearly, Crawford and Washington bars
11 testimonial information if the Defendant does not
12 have an opportunity to confront the witness, Your
13 Honor.

14 This is clearly testimonial, Judge. The test
15 is laid out in Davis v. Washington, Your Honor. It
16 states that:

17 The Court held in Davis that statements are
18 not testimonial when made in the course of police
19 interrogation when the circumstances leading
20 indicate that the primary purpose of an
21 interrogation is to enable the police essentially
22 to meet an ongoing emergency, Your Honor.

23 The key in that is ongoing. If you read Davis
24 v. Washington, what was happening in that case is
25 the victim was on the phone with 9-1-1 at the time

1 her assailant was attacking her, Your Honor, and
2 then during the course of that conversation the
3 assailant ran out of the house.

4 And according to that case, Your Honor, they
5 say that the emergency was ongoing because the
6 assailant was still in the house.

7 In this case, Your Honor, at the point where
8 Mr. West went up to his neighbor's house, all the
9 alleged assailants were long gone at that point,
10 Your Honor, they left in a car.

11 The 9-1-1 operator even asked Mr. West whether
12 or not the people were still there. He indicated
13 they were gone at that point.

14 At this point it becomes no longer an ongoing
15 emergency, but a past event.

16 In Davis, that case held that statements are
17 testimonial when the circumstances objectively
18 indicate that no search or ongoing emergency and
19 that the primary purpose of an interrogation is to
20 establish or prove past events potentially relevant
21 to later criminal prosecution.

22 Since that it is clear that all the alleged
23 assailants with gone at the point Mr. West and the
24 neighbor Ms. Brown was on the phone with 9-1-1,
25 they are clearly describing or trying to establish

1 or prove past events at that point, which would
2 make this testimonial against prior confrontation
3 of Mr. West.

4 So it would be our argument this is
5 testimonial and clearly barred by the confrontation
6 clause, and in Crawford it is barred by the
7 confrontation clause.

8 And I would have a separate argument if Your
9 Honor would find that it is testimonial -- Your
10 Honor, I'm sorry, if Your Honor finds it was not
11 testimonial, I will have a separate argument.

12 THE COURT: All right. What do y'all want to
13 tell me?

14 MS. SHIPLEY: Your Honor, I don't think
15 Crawford was decided in order to do away with
16 firmly rooted exceptions to the hearsay rule.
17 These are clearly either an excited utterance --
18 even present sense impression because the
19 witness/neighbor is basically asking these
20 questions on behalf of the operator and can relay
21 to the operator what her present sense impression
22 of the victim.

23 For instance, she is explaining to the
24 operator that:

25 He is collapsing. He is starting to, you

1 know, lose consciousness.

2 And the operator is directing her on what to
3 do in this emergent situation to keep this man
4 alive.

5 But regardless, Your Honor, under -- Crawford
6 is not meant to do away with all the firmly rooted
7 exceptions to the hearsay rule.

8 And that -- clearly dying declaration, it
9 doesn't get any more classic than this dying
10 declaration, Your Honor.

11 THE COURT: All right. Let me hear your
12 second argument.

13 MR. O'NEIL: Your Honor, I would argue that
14 Crawford -- and, Your Honor, I passed up a copy of
15 Crawford as well, Your Honor. Crawford explicitly,
16 Your Honor, I think it is on Page 1370 of the
17 Crawford case I passed up, it explicitly rejects
18 the notion that -- I apologize. Let me back up,
19 Your Honor. I think it is actually on Page 1364.
20 Where Crawford considered the argument about
21 whether or not it was -- that the confrontation
22 clause specifically only applies to testimony and
23 non-testimony. They specifically passed on that
24 question in Crawford. They did not say that in
25 Crawford the confrontation only applies to

1 testimonial. It says in Crawford it definitely
2 applies to testimonial statement, that the question
3 is still open as to whether or not the
4 confrontation clause applies to non-testimonial
5 statements and whether or not that should be
6 governed by the Roberts case, Your Honor.

7 But I would venture to say that Crawford
8 applies to both testimonial and non-testimonial
9 statements, Your Honor.

10 And even if this is deemed to be
11 non-testimonial, the foundation would first have to
12 be laid as to whether or not it was a dying
13 declaration, Your Honor.

14 I think before the State can go into opening
15 and discuss the statement in opening, I think the
16 foundation needs to be laid as to whether or not
17 this is truly a dying declaration, Your Honor.

18 But our main argument is that this is -- this
19 is the clear definition. We don't get to whether
20 or not this is --

21 THE COURT: Okay. If you were going to put
22 the 9-1-1 tape up, if I allow it, when are you
23 going to do that?

24 MS. SHIPLEY: First witness, Your Honor.

25 THE COURT: First witness.

1 MS. SHIPLEY: And, Your Honor, we would simply
2 ask the Court to apply the Ohio versus Roberts
3 test, the fact that it is a hearsay statement that
4 falls squarely in a firmly rooted exception or has
5 an indicia of reliability or trustworthiness.

6 It doesn't get more trustworthy than a man
7 dying telling his neighbor, who is trying to help
8 him, who did this to him. It does not get more
9 trustworthy than that, Your Honor.

10 THE COURT: And the neighbor is going to
11 testify, is that right?

12 MS. SHIPLEY: Yes, sir.

13 MR. O'NEIL: Your Honor, Roberts, Your Honor,
14 is just not applicable. Davis v. Washington, the
15 case, the Supreme Court case I passed up, 2006, is
16 squarely on point as it relates to 9-1-1 calls and
17 Crawford and confrontation, Your Honor.

18 THE COURT: Tell me what page that --

19 MR. O'NEIL: The whole first portion of this
20 case is dealing with 9-1-1 tapes.

21 Basically, the Defendant -- the Defendant in
22 Davis, Your Honor, he was alleged to have attacked
23 his wife, or his girlfriend, Your Honor. She was
24 on the phone in Davis calling 9-1-1 while he was
25 attacking her, in the process of attacking her.

1 While she was on the phone with him, he
2 continued to attack -- I reference in my motion
3 exactly what she said, that he is here and he is
4 hitting me. He was attacking her on the phone in
5 Davis.

6 What the Court said in that case was that
7 Crawford applies to testimonial statements clearly
8 and maybe to non-testimonial.

9 But in this case the question is whether or
10 not the 9-1-1 call is testimonial. The fact that
11 they looked at it. The line of demarcation is
12 whether or not it is ongoing or describing a past
13 event.

14 If a 9-1-1 tape is describing a past event,
15 under Davis v. Washington, Your Honor, the Court
16 said that that is testimonial.

17 THE COURT: Well, where -- point me to the
18 part of Davis v. Washington.

19 MR. O'NEIL: Okay, Your Honor. I'm sorry,
20 Your Honor, the version I've got is not numbered.

21 (Pause.)

22 THE COURT: I think I'm looking at what you
23 are talking about. It would be Page approximately
24 2273 and 4 of the decision, I think.

25 MR. O'NEIL: Yes, Your Honor. It actually

1 held in the beginning of the holding, I think it is
2 one, two, three, fourth page, Your Honor. I think
3 it is the second to last paragraph.

4 (Pause.)

5 THE COURT: Okay, well -- all right, anything
6 else?

7 MR. O'NEIL: No, Your Honor.

8 THE COURT: Okay. Well, I'm going to -- it is
9 a good argument, but I'm not ruling with you. I
10 think that this would be a situation where it was
11 an ongoing investigation, and I think that it was
12 an ongoing emergency. The man is bleeding to
13 death. There is the assailant, alleged assailant,
14 is at-large.

15 Based on what I'm reading here, it certainly
16 reads as if it is sort of a res gestae, the whole
17 thing. It is -- it sounds like an excited
18 utterance. I don't know what the tape sounds like
19 exactly, but -- so I'm going to rule against you on
20 that.

21 Anything else you need to put in the record to
22 preserve your issue?

23 MR. O'NEIL: Yes, Your Honor. I think the
24 inquiry is not whether or not the investigation was
25 ongoing, the inquiry is whether or not the

1 emergency to the specific victim was ongoing.

2 The concern they had in Davis was that the
3 victim was physically still in the house while she
4 was on the phone, Your Honor.

5 THE COURT: Right.

6 MR. O'NEIL: The victim and the Defendant were
7 still in the same house when it was going on in
8 Davis, Your Honor, which clearly is not the case
9 here in this case, Your Honor.

10 THE COURT: Okay. Well, I mean, it could
11 be -- that is true that that is what happened, but
12 it could be that -- I mean, there are all kinds
13 of -- we can make all kind of speculative analysis
14 on this. They may just have been trying to find
15 out who it was so they could prevent them coming
16 back to, you know, to participate in more violence
17 or any number of things.

18 I do think it is an ongoing event, so I'm
19 going to rule against you on that. Okay?

20 MR. O'NEIL: Your Honor, I guess just so the
21 record is clear, Your Honor is ruling that it is
22 non-testimonial or it is testimonial, this
23 statement? Would the ruling of the Court be that
24 the statement made on 9-1-1 was testimonial or
25 non-testimonial?

1 THE COURT: No, I don't think it is
2 testimonial. Okay? Does that help?

3 MR. O'NEIL: Yes, Your Honor.

4 THE COURT: All right. Okay. Do y'all need
5 anything else? Oh, settle the record. I'm not
6 sure I know what that means.

7 MS. GRIPP: You know, just settle the record
8 of any witnesses that they may call, their initial
9 witness's mental health --

10 MS. SHIPLEY: We're getting it for her right
11 now. We didn't have a date of birth, Your Honor.

12 MS. GRIPP: Your Honor, we would also ask that
13 our motions be made a part of the record.

14 THE COURT: I'm sorry?

15 MS. GRIPP: We would also ask that our motions
16 be made a part of the record.

17 THE COURT: Do you have a copy to provide to
18 the --

19 MR. O'NEIL: Yes, Your Honor.

20 THE COURT: All right. Does anybody need to
21 take a break before we start?

22 MS. SHIPLEY: The pregnant lady needs to take
23 a break.

24 MS. GOOD: Just a quick restroom break.

25 THE COURT: All right. Well, we will just

1 stand down here for a few minutes.

2 (Defendant's Motions marked for the record.)

3 (Break.)

4 THE COURT: It is going to come out on the
5 record. I have already ruled. If I'm wrong y'all
6 can come back and it will be a problem later. What
7 point do you want to proffer testimony?

8 MR. O'NEIL: The Solicitor maintains it is a
9 dying declaration. There has been no testimony in
10 the record it is a dying declaration. There is no
11 foundation for that statement to come in.

12 THE COURT: Well, I think they testified -- I
13 think the first guy that testified talked about how
14 they took the body away, when he arrived he was
15 slumped against the wall.

16 MR. O'NEIL: Your Honor, he didn't die until
17 like two hours later when he got to the hospital,
18 maybe even three hours later. This was at 5:20 in
19 the morning.

20 THE COURT: Well, if we do that, then, I mean,
21 we would have to call the coroner to determine the
22 cause of death. I mean, it would just go on and on
23 and on. The guy died as a result of the stab
24 wounds?

25 MR. O'NEIL: Yes, Your Honor. I'm just asking

1 for the foundation to be laid at the time he made
2 the statement whether or not he felt as though he
3 was going to die.

4 I have listened to the tape and I have heard
5 his voice during this period of time. He sounds
6 strong and there is no indication from the 9-1-1
7 tape that he felt as though he was -- that death
8 was imminent, Your Honor.

9 THE COURT: Well, you know, I think it would
10 fit under the present sense impression and excited
11 utterance, and so I'm going to be heavy-handed and
12 rule I'm not going to do it.

13 All right, now let's bring them.

14 (WHEREUPON, the jury came into open
15 court at approximately 4:30 p.m.)

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

17 THE COURT: Ms. Gonzalez, I want to thank you
18 for agreeing to serve as the forelady.

19 THE FORELADY: Thank you.

20 THE COURT: I appreciate that very much. And
21 I want to apologize to all of you all for the
22 delay, but I felt it was necessary to give y'all
23 quality time for a bonding experience. But,
24 please, it was very necessary. I promise you that
25 we only took 30 minutes for a lunch break, so we

1 are -- we had a number of issues that resolved that
2 will shorten the case and will be in the long run
3 be beneficial to you, but if you are upset or angry
4 at anybody about the delay, please blame me because
5 I'm the one responsible.

6 So at this time we are going to go forward
7 with the trial, and I turn it over to the attorneys
8 for their, as I told you before, brief,
9 non-argumentative opening statements.

10 Okay.

11 OPENING STATEMENT

12 MS. GOOD: Good afternoon.

13 In the early morning hours of May 5th, 2007,
14 Frank West, the victim of a vicious murder in this
15 case, and the Defendant, Melinda Richmond, were
16 partying. They were acquaintances. They were
17 friends. And they were having a good time.

18 And you are going to hear, ladies and
19 gentlemen, how on that night they decided to do
20 some crack cocaine. And as a result of that, they
21 got in an argument over whose crack was whose.

22 You're going to hear when Melinda Richmond
23 didn't like what Frank West said, she proceeded to
24 stab him and viciously murder him.

25 Ladies and gentlemen, this isn't just one stab

1 wound. This isn't two stab wounds. It isn't three
2 stab wounds. It is not ten. Twenty-four stab
3 wounds, including seven to the back, all over his
4 torso, and one long gash across his throat.

5 Ladies and gentlemen, that is why you are here
6 today, because of a fit of anger and rage because
7 Frank West stole her crack cocaine, Melinda
8 Richmond is charged with murder.

9 Murder in this state -- I want to go over a
10 little bit with you what the law is and what we
11 have to prove to you. Ms. Shipley and I are the
12 prosecutors in this case, and we thank you for your
13 patience. We know this probably isn't the place
14 you'd like to be this week. We thank you along
15 with Frank West's family. They are here also.

16 Murder is the unlawful killing of another with
17 malice aforethought. Clear and simple. Malice
18 aforethought is basically hatred or ill-will. It
19 doesn't have to be three days planned in advance.
20 It can be one split second before you decide to
21 kill somebody.

22 Ladies and gentlemen, we have to prove to you
23 beyond a reasonable doubt -- which is a burden that
24 we welcome -- that Melinda Richmond is guilty of
25 this crime.

1 Beyond a reasonable doubt is what causes a
2 reasonable person to hesitate to act. In this case
3 we're going to show you evidence: One, to prove
4 that there was an unlawful killing; and, two, that
5 there was malice aforethought.

6 You're going to hear from a range of different
7 people. You are going to see physical evidence.
8 You are going to hear from the criminal crime scene
9 investigation team from the Richland County
10 Sheriff's Department.

11 And I want to make it clear, ladies and
12 gentlemen, this isn't CSI, this is not Law and
13 Order, this is real life. This was the life of
14 Frank West and the life of his family.

15 You are going to see how crime scene
16 investigations work in real life. You are going to
17 get to see about DNA. You are going to get to see
18 the crime scene that night and how there was blood
19 everywhere. You are going to get to hear from
20 witnesses as to what they observed that night. And
21 you are going to get to see the knife. You are
22 going to get to see the weapon that took the life
23 of Frank West.

24 You are also going to hear from a woman by the
25 name of Tenisha McClinton, because on that night

1 when they were partying, Ms. Melinda Richmond was
2 not alone. She had a Co-Defendant by the name of
3 Tenisha McClinton.

4 And Ms. McClinton is going to take this stand
5 and she is going to tell you what happened that
6 night. She has taken responsibility and she is
7 going to tell you exactly what she did. And she is
8 going to tell you exactly what Melinda Richmond
9 did.

10 And you are going to get to hear Melinda
11 Richmond's confession, ladies and gentlemen,
12 because she spoke to those police officers and she
13 confessed to stabbing Mr. West. Remember, it
14 wasn't one stab wound, not two, but 24.

15 And the most single important piece of
16 evidence you are going to get to hear, ladies and
17 gentlemen, Frank West may not be with us today, but
18 you are going to get to hear the last words of a
19 dying man, because the evidence is going to show
20 that after he was stabbed 24 times and his throat
21 was cut, he managed to get down the stairs of his
22 apartment, go two apartments over to one of his
23 friends, Teresa Brown, who you are going to hear
24 from. You are going to hear how Ms. Brown called
25 9-1-1 to get him help.

1 And you are going to hear Frank West as he is
2 bleeding, slumped against a wall, tell you on that
3 9-1-1 tape, you will hear his voice tell you who
4 did this to him. And he is going to point out
5 Melinda Richmond as his killer.

6 And, ladies and gentlemen, keep in mind that
7 this is a very big responsibility. You are the
8 finders of the facts. And after all the facts are
9 brought in in this case, you are going to see how
10 Ms. Melinda Richmond was mad, she was upset she
11 couldn't get her crack that Mr. West had paid for,
12 you are going to hear how she took that out on him
13 and how it was her decision to kill Frank West to
14 shut him up.

15 You will hear in her confession from the
16 investigators in this case how she is the one that
17 said, let's kill him to shut him up.

18 And at the end we're going to come back to you
19 and we're going to ask you to find Melinda Richmond
20 beyond a reasonable doubt guilty of the vicious
21 murder of Frank West.

22 MR. O'NEIL: May it please the Court?

23 THE COURT: Yes, sir.

24 OPENING STATEMENT

25 MR. O'NEIL: The person responsible for the

1 death of Frank West is Tenisha McClinton. The
2 person responsible for the death of Frank West is
3 the State's own star witness, Tenisha McClinton.

4 On April 4th, 2008, she pled guilty to murder.
5 She pled guilty to the murder of Frank West. She
6 is the person responsible for Frank West's death.

7 Now, if Tenisha McClinton is responsible for
8 Frank's death, why are we here then? That is a
9 good question. We are here because the State of
10 South Carolina assumed that the easy answer would
11 be to blame Melinda Richmond.

12 Now, you heard something about this 9-1-1
13 tape. I want you to listen to that 9-1-1 tape
14 carefully. You are going to hear about the
15 circumstances of that 9-1-1 tape. You are going to
16 hear a particular reason why Frank West only gave
17 the name of Melinda Richmond. You will learn that
18 that is the only name, of the three people that
19 were there, that Frank West knew. He didn't know
20 Tenisha McClinton's name, he didn't know Bruce
21 Thompson's name.

22 Now, why is blaming Melinda Richmond easiest?
23 At first glance we think, she was arrested for this
24 case, she has to be guilty. But, ladies and
25 gentlemen, three people were arrested for the

1 murder of Frank West on May 5th, 2007. Those
2 people were: Melinda Richmond, Tenisha McClinton,
3 and Bruce Thompson.

4 You have already heard that Tenisha McClinton
5 pled guilty to the murder of Frank West. Melinda
6 Richmond pled not guilty. And that is why we are
7 here today.

8 You will hear that Bruce Thompson was charged
9 with murder about a year and a half, and now he is
10 charged with accessory after the fact. That proves
11 just because you are arrested for a crime doesn't
12 mean you are guilty of that crime.

13 This may not be Law and Order, but you are
14 going to see some physical evidence. I want you to
15 pay close attention to the physical evidence. You
16 are going to see the clothes that everybody was
17 wearing that night.

18 Pay close attention to Tenisha McClinton's
19 clothes. The shirt that she was wearing, the whole
20 front of her shirt was soaked in blood. Her pants,
21 the whole front of her pants was soaked in blood.
22 The crotch area of her pants was soaked in blood.
23 The seat area of her pants was soaked in blood.

24 Why is that important? Tenisha McClinton gave
25 three statements in this case. All three of those

1 statements she denied ever stabbing Frank West.
2 She said she never had a knife in her hand, was
3 nowhere near Frank West when he was killed. If
4 that is the case, why are her clothes so bloody?

5 Look at the other physical evidence. You will
6 see pictures of Tenisha McClinton's hands. You
7 will learn that she had cuts on her hands that
8 night. If she never held a knife, never stabbed
9 Frank West, how did she get a cut on her hand?

10 Pay close attention to the sizes of everybody
11 in this case. The State wants you to believe that
12 Melinda Richmond stabbed Frank West 24 times. They
13 say not once, not ten, but 24 times.

14 Frank West was 5'11", 190 pounds. Bruce
15 Thompson, who was also arrested for murder, was
16 5'8", 140 pounds. Melinda Richmond at this time
17 was 5'5", 120 pounds. Tenisha McClinton was 5'8",
18 200 pounds.

19 Who do you think was more likely to have
20 stabbed a man 24 times, a person who was 5'5", 120,
21 or 5'8", 200 pounds?

22 Look closely at the physical evidence in this
23 case. Don't just settle for the easy answer, go
24 for the correct answer.

25 Now, you heard about this so-called

1 confession. Ladies and gentlemen, all confessions
2 happen all the time. That is one of the reasons we
3 have the DNA Innocence Project, to overturn
4 convictions of people who made false confessions.

5 You see, this table is going to be full with
6 investigators for the Richland County Sheriff's
7 Office. They go to school, have hours of training
8 on how to interrogate people, how to get
9 confessions from them. They are trained on this,
10 they know how to do it, they are professionals in
11 how to get statements from people. Pay close
12 attention to the statement. You will notice that
13 it won't be written in Melinda Richmond's
14 handwriting, it will be typed out by an
15 investigator.

16 Pay close attention to the state of mind of
17 Melinda Richmond when these so-called confessions
18 were given. She had been up for days, coming down
19 off a crack binge, hadn't eaten in days, unsteady
20 on her feet, and hands are shaking.

21 Your specific job whenever a statement is
22 being introduced into evidence is to determine
23 whether or not it is voluntary before you can even
24 consider what the statement says. It is your job
25 to see if it is voluntary.

1 Now, this is no accident that you 14 are here.
2 Over 200 people were summoned for jury duty this
3 week. You 14 were chosen because you can decide
4 this case on the evidence, not on emotion, not on
5 sympathy, not on prejudice.

6 Now, the judge asked you a couple of questions
7 before we started, whether or not you could presume
8 Melinda innocent unless the State would prove her
9 guilty beyond a reasonable doubt.

10 It is the State of South Carolina's job to
11 prove to you that she is guilty, not the other way
12 around. She does not have to prove to anybody that
13 she is innocent.

14 Now, while I was preparing for this case, I
15 was in my office and I got an e-mail. I just was
16 curious and opened the e-mail. The title of the
17 e-mail said, one question IQ test, see if you are a
18 genius.

19 So I thought, hey, I'm a pretty smart guy, let
20 me see if I'm a genius here. So I opened the
21 e-mail. It had one question, a one question test.
22 And the question was: How many months have 28
23 days?

24 I thought to myself, hey, this is easy. I am
25 smart. The answer to that is one, February. One

1 month has 28 days.

2 And I scrolled down to the end of the e-mail
3 and it said, if you picked one, February, you are
4 totally and completely wrong. One month is the
5 easy answer. But, in fact, all 12 months have 28
6 days. Some just have more.

7 I learned an important lesson -- two important
8 lessons that day, as a matter of fact. One, I'm
9 not a genius. And, two, a lot of times the easy
10 answer isn't the right answer.

11 I'm calling on the 14 of you today to ask the
12 hard questions. Don't settle for the easy answer.
13 Find the right answer.

14 The right answer is Melinda Richmond is not
15 guilty.

16 Thank you.

17 THE COURT: All right.

18 MS. GOOD: The State calls Teresa Brown.

19 (Witness enters courtroom.)

20 THE BAILIFF: Place your left hand on the
21 Bible, raise your right hand, and face the clerk.

22 (Witness complies.)

23 THE CLERK: Do you swear or affirm the
24 testimony you are about to give in this case to be
25 the truth, the whole truth, and nothing but the

1 truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Have a seat in the witness box,
4 and state your name for the record, please.

5 (Witness seated.)

6 THE WITNESS: My name is Teresa Brown.

7 TERESA BROWN,
8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. GOOD:

11 Q Good afternoon, Ms. Brown. Ms. Brown, can you tell
12 the jury a little bit about where you are from?

13 A Right now or when that happened?

14 Q Where are you now?

15 A I'm at 1212 Metz Road.

16 Q And are you -- do you live in Columbia?

17 A Yes, ma'am.

18 Q Have you always lived in Columbia?

19 A No, not always.

20 Q Are you from South Carolina?

21 A Originally from West Virginia.

22 Q And when did you move down to South Carolina?

23 A It was 2001.

24 Q And do you have any family here?

25 A Just my children and my husband.

1 Q And how many children do you have?

2 A Four.

3 Q And how old are they?

4 A My oldest one is 28, and I have one 26, one is 21,
5 and I have an 8-year-old.

6 Q And you just mentioned where you lived. Were you
7 living there on May 5th of 2007?

8 A Yes, ma'am.

9 Q And --

10 A I mean, 2007 I lived in Farrington Apartments.

11 Q And which apartment did you live in?

12 A I lived 1417-D.

13 Q Are you a little nervous?

14 A Yes, ma'am.

15 Q And from living in those apartments, did you know a
16 man by the name of Frank West?

17 A Yes, ma'am.

18 Q And how did you know Frank?

19 A When I first moved in, me, him and my husband used
20 to talk a lot because he lived alone. And my
21 husband and him used to talk about the service a
22 lot. My husband, he had been activated twice.

23 And when my husband left, Frank, you know,
24 would check on me and my little girl. And then one
25 day I went out to get my little girl for dinner,

1 and he asked me if I had anything left over would I
2 give it to him. And I said of course.

3 So after that every evening me and my little
4 girl started taking him his dinner.

5 Q And did he live in that apartment complex where you
6 were?

7 A Yes, ma'am, he lived in A, and I lived in D.

8 Q So you got to know him pretty well?

9 A Yes.

10 Q Over dinner while your husband was activated?

11 A (Nods affirmatively.)

12 Q I'm going to take you to May 5th of 2007. Do you
13 remember that day?

14 A Yes, ma'am.

15 Q And do you remember the early morning hours what
16 you were doing?

17 A Yes, ma'am.

18 Q And what was that?

19 A I was asleep on the couch. I had put my little
20 girl in the bed, you know, about 8:30. And I was
21 downstairs watching a movie, and I had fallen
22 asleep. And about right around 5:30 a.m. somebody
23 was just ringing my doorbell over and over and
24 over. And when I went to the door it was Frank.
25 When I got to the door, it was Frank.

1 Q And when you first opened the door, did you
2 recognize Frank?

3 A No, ma'am, I did not at first.

4 Q And why not? What did you see when you opened the
5 door?

6 A When I opened the door, he was bleeding very badly
7 and he was stabbed a lot. And he had a very bad
8 puncture wound right here in his neck, and the
9 blood was squirting so bad that at first it scared
10 me and I shut the door in his face and screamed for
11 my daughter to come help me because I thought -- my
12 other daughter, 26-year-old by now, she was there
13 with me at the time also.

14 Q And was anybody else there with you?

15 A Her husband at the time was.

16 Q What is his name?

17 A Kelvin Nichols.

18 Q And when you saw Frank West standing there and
19 blood spurting out of his neck and you shut the
20 door, what did you do after you yelled for your
21 daughter?

22 A I picked up the phone and dialed 9-1-1. And it
23 just took like a few seconds. And when we opened
24 the door, my daughter, she recognized him and she
25 said, oh, my God, it is Frank.

1 Q And when you first opened the door, did the person
2 who was standing there spurting blood out say
3 anything to you?

4 A He said --

5 MR. O'NEIL: Objection, Your Honor.
6 Foundation.

7 THE COURT: I'm sorry?

8 MR. O'NEIL: Objection. Foundation.

9 MS. GOOD: I was asking about blood spurting
10 out of his neck.

11 THE COURT: Okay, I am going to overrule your
12 objection.

13 MR. O'NEIL: And subject to my previous
14 objection as well.

15 THE COURT: Okay.

16 Q At this point, what did he say to you?

17 A Help; call 9-1-1. But he said it so -- you know,
18 he was like whispering, he didn't have a lot of
19 strength.

20 Q Was he standing or sitting at that point?

21 A When I first opened the door, he was standing with
22 his back against like the facing of my door. And
23 then when I shut the door and opened it back up, he
24 had already slid down the door facing. By that
25 time he was sitting.

1 Q And when you opened the door back up and you said
2 you had called 9-1-1, at that point did you realize
3 who it was?

4 A Yes, ma'am.

5 Q And who was it?

6 A It was Frank West.

7 Q And you had mentioned a little bit about what you
8 had seen on him injury-wise. Can you go into a
9 little bit more detail with the jury about what
10 exactly you saw on him?

11 A I remember his cheek was swollen real bad and his
12 eyes were real little, you know, because where he
13 had been beat so bad. And he didn't have on a
14 shirt and all he had on was pants. And his chest
15 had a lot of stab wounds on it. And his back and
16 then his neck was real bad.

17 Q And when you said his neck was real bad, what do
18 you mean by that?

19 A It -- it -- to me it looked liked somebody had hit
20 his main artery because the blood was coming out so
21 bad and you could almost -- you could see the
22 inside of his neck pretty much.

23 Q And you said you had called 9-1-1. What was the
24 purpose for calling 9-1-1?

25 A Well, when I opened up the door and saw how bad he

1 was, and he said, help, call 9-1-1, and I went and
2 grabbed my phone and called for my daughter to help
3 me. And they asked me questions to ask him.

4 Q Let's stop right there for a second. When you were
5 speaking with him, had you ever seen him in this
6 way, this demeanor?

7 A I mean, what do you mean? Do you mean with --

8 Q Right. Had you ever seen him in this condition?

9 A No, ma'am.

10 Q And at this point when you called 9-1-1, was he
11 able to speak still at that time?

12 A Yes, ma'am.

13 Q And throughout the 9-1-1 call, was he able to speak
14 the entire time?

15 A Yes, ma'am.

16 Q Did he eventually go unconscious at any point or
17 was he awake the entire time?

18 A Towards the end of the 9-1-1 call, he went to lay
19 down, and I can remember hollering, Frank, don't
20 lay down.

21 And he could barely look at me. He said, I
22 have to. And when he laid down, he never moved
23 again.

24 Q And you never saw him wake up after that?

25 A No, ma'am.

1 Q And this 9-1-1 call, have you had an opportunity to
2 listen to this 9-1-1 call?

3 A Yes, ma'am.

4 Q And does it fairly and accurately represent the
5 phone call that you made that night to 9-1-1?

6 A Yes, ma'am.

7 Q And everything that happened while you were on the
8 phone with them?

9 A Yes, ma'am.

10 Q And when you called 9-1-1, did they send anybody to
11 help you?

12 A Yes, ma'am, they sent police officers and
13 ambulance.

14 Q And how long did it take them to get there, do you
15 remember?

16 A It didn't take very long, maybe 10, 15 minutes.

17 Q And when they got there, what happened?

18 A When -- as soon as they got there, they asked if we
19 knew who it was. And I told them. And one officer
20 recognized him and said, yes, that is him.

21 And they told us to go back in the house and
22 close the door and then he would come and talk to
23 us when they were ready.

24 Q And did you talk to them eventually?

25 A Yes, ma'am.