

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

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S.C. SUPREME COURT

GARVIN V. DUVALL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-001845

APPENDIX

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

LINDSEY MCCALLISTER
Assistant Attorney General
1000 Rembert Dennis Bldg., Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 12 – 13, 2009	1
HEARING ON POST TRIAL MOTIONS DATED JUNE 16, 2009.....	716
APPLICATION FOR POST-CONVICTION RELIEF FILED SEPTEMBER 26, 2013	728
RETURN DATED JUNE 18, 2015	738
AMENDMENT TO POST-CONVICTION RELIEF APPLICATION	744
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 8, 2016	745
POST-CONVICTION RELIEF EXHIBIT NO. 1.....	791
ORDER OF DISMISSAL FILED SEPTEMBER 6, 2016	833
FINAL BRIEF OF APPELLANT FILED MARCH 14, 2011	842
OPINION NO. 2012-UP-132.....	865
ORDER DENYING PETITION FOR WRIT OF CERTIORARI SEPTEMBER 5, 2013.....	866
INDICTMENTS AND SENTENCING SHEETS	867

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON) 10TH JUDICIAL CIRCUIT

THE STATE) TRANSCRIPT OF RECORD

-VS-) ** VOLUME I **

GARVIN DUVALL,) 2007-GS-04-1218 & 1219

AND FRANCES MOORE,) 2007-GS-04-1342 & 1343

DEFENDANTS.)

MAY 12 & 13, 2009

ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JUDGE; AND A JURY

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

T. MATTHEW BRADLEY, ASSISTANT SOLICITOR

LAUREN S. HOGAN, ASSISTANT SOLICITOR

ATTORNEYS FOR THE STATE

ROBERT GAMBLE, PUBLIC DEFENDER

MATTHEW PERKINS, ASSISTANT PUBLIC DEFENDER

ATTORNEYS FOR DEFENDANT DUVALL

CALHOUN PRUITT, ESQUIRE

ATTORNEY FOR DEFENDANT MOORE

SHARON L. VIZER-HANKS - CIRCUIT COURT REPORTER

I N D E X

(SW) - DENOTES STATE'S WITNESS

(DDW) - DENOTES DEFENDANT DUVALL WITNESS

(DMW) - DENOTES DEFENDANT MOORE WITNESS

(IC) - DENOTES IN CAMERA

PAGE

** VOLUME I **

TUESDAY, MAY 12, 2009

JURY QUALIFICATIONS	--12
PRETRIAL MOTIONS	--23
JURY SELECTION	--42

WITNESSES

(SW) JOSHUA GEORGE ANDERSON - (IC):

DIRECT EXAMINATION BY MS. HOGAN	--70
CROSS-EXAMINATION BY MR. PRUITT	--76
CROSS-EXAMINATION BY MR. GAMBLE	--79
REDIRECT EXAMINATION BY MS. HOGAN	--80
RECROSS-EXAMINATION BY MR. PRUITT	--81

(SW) LIEUTENANT GARLAND JAMES MAJOR, JR. (IC):

DIRECT EXAMINATION BY MS. BRADLEY	--82
CROSS-EXAMINATION BY MR. PRUITT	--91
CROSS-EXAMINATION BY MR. GAMBLE	--92

WEDNESDAY, MAY 13, 2009

(SW) LIEUTENANT GARLAND JAMES MAJOR, JR. (IC):

DIRECT EXAMINATION BY MR. GAMBLE	-102

I N D E X

	PAGE
OPENING STATEMENT BY MS. HOGAN	-112
OPENING STATEMENT BY MR. PRUITT	-115
OPENING STATEMENT BY MR. GAMBLE	-118

WITNESSES(SW) AARON JAMES POWERS:

DIRECT EXAMINATION BY MS. HOGAN	-120
CROSS-EXAMINATION BY MR. PRUITT	-124
CROSS-EXAMINATION BY MR. GAMBLE	-126
REDIRECT EXAMINATION BY MS. HOGAN	-130

(SW) PETER ROGERS:

DIRECT EXAMINATION BY MS. HOGAN	-132
CROSS-EXAMINATION BY MR. PRUITT	-136
CROSS-EXAMINATION BY MR. GAMBLE	-139
REDIRECT EXAMINATION BY MS. HOGAN	-143

(SW) ROBERT MULLIKIN:

DIRECT EXAMINATION BY MS. HOGAN	-144
CROSS-EXAMINATION BY MR. PRUITT	-149
CROSS-EXAMINATION BY MR. GAMBLE	-149

(SW) PELHAM M. MEDLOCK, JR.:

DIRECT EXAMINATION BY MS. HOGAN	-152
CROSS-EXAMINATION BY MR. PRUITT	-186
CROSS-EXAMINATION BY MR. GAMBLE	-187
REDIRECT EXAMINATION BY MS. HOGAN	-191

I N D E X

	PAGE
<u>(SW) DEPUTY ROBERT WARREN MILLER:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-197
CROSS-EXAMINATION BY MR. GAMBLE	-200
REDIRECT EXAMINATION BY MS. HOGAN	-204
<u>(SW) KENNETH WAYNE BLAKELY:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-206
CROSS-EXAMINATION BY MR. PRUITT	-218
CROSS-EXAMINATION BY MR. GAMBLE	-219
REDIRECT EXAMINATION BY MS. HOGAN	-224
<u>(SW) JOSHUA ROYCE ADDIS:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-225
CROSS-EXAMINATION BY MR. PRUITT	-240
CROSS-EXAMINATION BY MR. GAMBLE	-248
REDIRECT EXAMINATION BY MS. HOGAN	-253
<u>(SW) JOSHUA GEORGE ANDERSON:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-256
CROSS-EXAMINATION BY MR. PRUITT	-271
CROSS-EXAMINATION BY MR. GAMBLE	-275
REDIRECT EXAMINATION BY MS. HOGAN	-278
<u>(SW) KENNETH ERWIN (IC):</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-286
CROSS-EXAMINATION BY MR. PRUITT	-290
CROSS-EXAMINATION BY MR. GAMBLE	-290

I N D E X

	PAGE
<u>(SW) KENNETH ERWIN:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-294
CROSS-EXAMINATION BY MR. PRUITT	-297
<u>(SW) NELLIE ELAINE ERWIN:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-299
CROSS-EXAMINATION BY MR. PRUITT	-301
<u>(SW) RITA WOODS:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-304
CROSS-EXAMINATION BY MR. PRUITT	-307
<u>(SW) LIEUTENANT GREG HAWKINS:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-312
CROSS-EXAMINATION BY MR. PRUITT	-315
** VOLUME II **	
<u>THURSDAY, MAY 14, 2009</u>	
MOTIONS IN REFERENCE TO WITNESS JOHN STANSELL	-333
<u>(SW) LIEUTENANT GARLAND JAMES MAJOR, JR.:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-341
CROSS-EXAMINATION BY MR. PRUITT	-359
CROSS-EXAMINATION BY MR. GAMBLE	-365
REDIRECT EXAMINATION BY MR. BRADLEY	-379
RENEWAL OF MOTIONS REGARDING WITNESS JOHN STANSELL	-380

I N D E X

	PAGE
<u>(SW) JOHN W. STANSELL:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-382
CROSS-EXAMINATION BY MR. GAMBLE	-408
CROSS-EXAMINATION BY MR. PRUITT	-455
REDIRECT EXAMINATION BY MS. HOGAN	-459
<u>(SW) KENNETH H. WHITLER:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-468
CROSS-EXAMINATION BY MR. GAMBLE	-472
<u>(SW) GEORGE EDWARD NICHOLSON:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-474
CROSS-EXAMINATION BY MR. PRUITT	-481
<u>(SW) RUSTY GARRETT:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-482
CROSS-EXAMINATION BY MR. PRUITT	-491
CROSS-EXAMINATION BY MR. GAMBLE	-493
REDIRECT EXAMINATION BY MR. BRADLEY	-494
<u>(SW) JOSEPHINE WRIGHT:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-495
CROSS-EXAMINATION BY MR. PRUITT	-504
<u>(SW) JANE KIMBERLY MILLER:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-508
CROSS-EXAMINATION BY MR. GAMBLE	-516

I N D E X

	PAGE
<u>(SW) DR. BRETT WOODARD:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-518
CROSS-EXAMINATION BY MR. PRUITT	-525
CROSS-EXAMINATION BY MR. GAMBLE	-526
<u>FRIDAY, MAY 15, 2009</u>	
MOTIONS AFTER THE RESTING OF THE STATE'S CASE	-530
<u>(DDW) KIMBERLY DAWN HENDRIX:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-533
CROSS EXAMINATION BY MR. BRADLEY	-536
REDIRECT EXAMINATION BY MR. GAMBLE	-539
<u>(DDW) SAMUEL LEE HENDRIX:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-540
CROSS EXAMINATION BY MR. BRADLEY	-545
<u>(DDW) BILLY RALPH STANSELL:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-549
CROSS EXAMINATION BY MS. HOGAN	-553
REDIRECT EXAMINATION BY MR. GAMBLE	-557
<u>(DMW) NATHAN EDDIE MOORE:</u>	
DIRECT EXAMINATION BY MR. PRUITT	-560
CROSS EXAMINATION BY MR. BRADLEY	-568
<u>(DMW) SHIRLEY WRENN:</u>	
DIRECT EXAMINATION BY MR. PRUITT	-576
CROSS EXAMINATION BY MS. HOGAN	-579

I N D E X

(DMW) KACIE CHRISTINA WHITFIELD:

DIRECT EXAMINATION BY MR. PRUITT -582

CROSS EXAMINATION BY MS. HOGAN -584

(DMW) DEBRA STEPHENS:

DIRECT EXAMINATION BY MR. PRUITT -585

CROSS EXAMINATION BY MR. BRADLEY -605

REDIRECT EXAMINATION BY MR. PRUITT -621

(SW) JANET ELAINE STANSELL:

DIRECT EXAMINATION BY MS. HOGAN -627

CROSS-EXAMINATION BY MR. GAMBLE -628

CROSS-EXAMINATION BY MR. PRUITT -629

REDIRECT EXAMINATION BY MS. HOGAN -631

(SW) RUSTY GARRETT:

DIRECT EXAMINATION BY MR. BRADLEY -632

CROSS-EXAMINATION BY MR. PRUITT -634

CLOSING ARGUMENT BY MR. PRUITT -639

CLOSING ARGUMENT BY MR. GAMBLE -652

CLOSING ARGUMENT BY MR. BRADLEY -656

JURY CHARGE -680

VERDICT -709

SENTENCING -711

TUESDAY, JUNE 16, 2009

POST-TRIAL MOTIONS -716

CERTIFICATE OF REPORTER -727

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.

FOR THE COURT:

1	- NOTE FROM THE JURY 5/14/09	-465	
2	- NOTE FROM THE JURY 5/15/09	-704	
3	- NOTE FROM THE JURY 5/15/09	-706	
4	- NOTE FROM THE JURY 5/15/09	-707	

FOR THE STATE:

1	- PHOTO LINEUP PERTAINING TO DEFENDANT MOORE	--69	-351
2	- AFFIDAVIT BY JOSH ANDERSON	--69	-351
3	- PHOTO LINEUP PERTAINING TO DEFENDANT DUVALL	--69	-358
4	- PHOTOGRAPH OF CRIME SCENE AND CARS		-166
5	- PHOTOGRAPH OF CRIME SCENE AND WOODS		-166
6	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
7	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
8	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
9	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
10	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
11	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
12	- PHOTOGRAPH OF CRIME SCENE, CAR AND WOODS		-166
13	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
14	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
15	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
16 -	PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
17 -	PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
18 -	PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
19 -	PHOTOGRAPH OF CRIME SCENE AND STEERING IGNITION		-166
20 -	PHOTOGRAPH OF CRIME SCENE AND WOODS		-166
21 -	PHOTOGRAPH OF BULLET ON BLUE BACKGROUND		-213
22 -	PHOTOGRAPH OF BULLET, SIDE VIEW		-213
23 -	PHOTOGRAPH OF BULLET, TOP VIEW		-213
24 -	PHOTOGRAPH OF FRONT OF DEFENDANT MOORE'S CAR		-216
25 -	PHOTOGRAPH OF SIDE OF DEFENDANT MOORE'S CAR		-216
26 -	PHOTOGRAPH OF BACK OF DEFENDANT MOORE'S CAR		-216
27 -	PHOTOGRAPH OF DEFENDANT MOORE'S CAR, WINDOW AND SERIAL NUMBER		-216
28 -	PHOTOGRAPH OF PAY PHONE		-231
29 -	PHOTOGRAPH OF PAY PHONE		-231
30 -	PHOTOGRAPH OF PAY PHONE AND PARKING LOT		-231
31 -	PHOTOGRAPH OF PAY PHONE AND PARKING LOT		-231
32 -	LARGE MAP		-121
33 -	PHOTO ALBUM		-387
34 -	CAR REGISTRATION INFORMATION		-345
35 -	PHONE RECORDS FOR DEBRA STEPHENS		-477

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
36	PHONE RECORDS FOR FRANCES MOORE		-477
37	PROPERTY REPORT		
38	SHELL CASING		-471
39	BULLET NUMBER 1		-471
40	BULLET NUMBER 2		-471
41	APPLICATION POLICY		-499
42	LIFE INSURANCE POLICY ON ROBERT PAUL STEPHENS		-499
43	SETTLEMENT AGREEMENT		-499
44	EMPLOYEE ATTENDANCE DOCUMENT		-512
45	PUNCH DETAIL DOCUMENT		-512
46	EMPLOYEE HISTORY DOCUMENT (2 PAGES)		-512
47	EMPLOYEE STATUS DOCUMENT		-512

FOR DEFENDANT MOORE:

1	RECEIPT FROM SAV-A-LOT		-598
2	INSURANCE POLICIES		-602

FOR DEFENDANT DUVALL:

1	HANDMADE CARD IN ENVELOPE		-425

** COURT REPORTER'S NOTE - ALL EXHIBITS WERE PREMARKED FOR IDENTIFICATION, UNLESS OTHERWISE INDICATED.

1 Tuesday, May 12, 2009

2 THE COURT: Ladies and gentlemen, since we're moving
3 along fairly quickly, and while I know you're all excited to
4 be here I'm going to go ahead then and rather than take a
5 break I'm going to go through and ask you the questions that
6 are particular to this case.

7 Again, if any of these questions apply to you,
8 please stand, give us your name and number. I do find that
9 you are all qualified and all the exemptions have been met.

10 First what I'm going to do is ask the attorneys
11 representing the State and the defendant to stand up and
12 introduce themselves to you. I'm going to ask you after that
13 whether or not you have any close business or personal
14 relationship with these lawyers or whether or not you are
15 represented now or have been represented in the past by these
16 lawyers.

17 Yes, sir.

18 MR. PRUITT: I'm Calhoun Pruitt with the firm Pruitt
19 and Pruitt here in Anderson.

20 THE COURT: All right.

21 MR. GAMBLE: I'm Robert Gamble of Anderson. I'll be
22 representing Garvin Duvall. With me is -- I'll let him
23 introduce himself.

24 MR. PERKINS: I'm Matthew Perkins. I'm also with
25 Mr. Gamble, work in his office representing Mr. Duvall.

1 MR. BRADLEY: Good morning. My name is Matthew
2 Bradley. I'm an assistant solicitor here in the 10th Circuit,
3 which represents Anderson and Oconee Counties.

4 Sitting with me also is Lauren Hogan, assistant
5 solicitor; Catherine Huey, assistant solicitor; and Garland
6 Major of Anderson County Sheriff's Office.

7 THE COURT: Does anyone have, any member of the
8 panel have any close business or personal relationship with
9 the attorneys in this case, or are you related by blood or
10 marriage, or have you been represented in the past, or are you
11 represented now by the lawyers in this case? If so, please
12 stand.

13 Yes, ma'am. Give us your name and number.

14 POTENTIAL JUROR: Elaine Moore, 123.

15 THE COURT: Yes, ma'am.

16 POTENTIAL JUROR: Mr. Pruitt has been our
17 representative for selling houses and stuff like that.

18 THE COURT: Okay.

19 POTENTIAL JUROR: And he drew up our wills and all
20 that.

21 THE COURT: Will that fact prevent you from being
22 fair and impartial in this case?

23 POTENTIAL JUROR: I don't think so.

24 THE COURT: And can you render a verdict based only
25 on the evidence that you hear in this case?

1 POTENTIAL JUROR: I think so.

2 THE COURT: All right. Thank you.

3 Any questions?

4 MR. BRADLEY: No, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, I'm
6 going to read to you a long list of potential witnesses in
7 this case. I don't know and the parties don't know whether or
8 not these people are going to actually testify but they are
9 listed as potential witnesses.

10 I'm actually reading through 2 lists, so I suspect
11 at some point these names may overlap. I'm going to read
12 these names to you then I'm going to ask you if you have any
13 close business or personal relationship, or are you related by
14 blood or marriage to any of these people. If you need me to
15 repeat a name I'll be happy to do so.

16 Aaron Powers; Pete Rogers; Bobby Mullikin; Pelham
17 Medlock; Deputy Robert Miller, the Anderson County Sheriff's
18 Office; Ken Blakely; Josh Addis; Josh Anderson; J. W.
19 Stansell; Kenny Erwin; Elaine Erwin; Rita Woods.

20 (A potential juror stood.)

21 THE COURT: Yeah. Let me get through the whole
22 list, but you can go ahead and stand.

23 Rita Woods; Officer Greg Hawkins; Rusty Garrett;
24 Lieutenant Garland Major of the Anderson County Sheriff's
25 Office; George Nicholson; Jane Miller; Ken Whitler with SLED;

1 Dr. Brett Woodard; Inspector Bill Graham of the Anderson
2 Sheriff's Office; William West; Josie Wright; Joe Powell with
3 SLED; Denise Eargle with SLED; Arch Bishop Phillip Zimmerman;
4 Ralph Stansell; Tommy Williams; Debra Sheriff Stevens; Kim
5 Hendrix; Sam Hendrix; Diane Hendrix; Shane Duvall; Nena
6 Duvall; or Vicky Reynolds.

7 I know that's a long list and I'll be happy to
8 repeat any, but if you are related by blood or marriage or if
9 you have any close business or personal relationship with any
10 of the people that I just called out, please stand.

11 Okay. Since you stood up first -- and that was the
12 right way to do it. That's okay. Give us your name and
13 number again.

14 POTENTIAL JUROR: Betty Davenport, 37.

15 THE COURT: All right.

16 POTENTIAL JUROR: Kenny Erwin went to school with my
17 son.

18 THE COURT: Say that again. I'm sorry.

19 POTENTIAL JUROR: Kenny Erwin, he went to school
20 with my son. He's 36. Elaine, her and I used to work
21 together at Kimbrell Electronics in Belton.

22 THE COURT: So Kenny Erwin was a friend of your son?

23 POTENTIAL JUROR: Yeah.

24 THE COURT: And Elaine Erwin worked with --

25 POTENTIAL JUROR: She was a friend of mine. We met

1 at work. I haven't seen her in about 5 years.

2 THE COURT: Okay. Will the fact that you know them
3 prevent you from being fair and impartial in this case?

4 POTENTIAL JUROR: No.

5 THE COURT: And can you render a verdict based only
6 on the evidence that you hear in this case?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Okay. Thank you.

9 And you all stop me if you have a question for them
10 or I'll just go forward.

11 Yes, ma'am. Gives us your name and number.

12 POTENTIAL JUROR: Martha Kay 96. My son-in-law is
13 Ken Blakely.

14 THE COURT: That's your son-in-law?

15 POTENTIAL JUROR: Yes.

16 THE COURT: I assume that would prevent you from
17 being fair and impartial then?

18 POTENTIAL JUROR: No.

19 THE COURT: Okay. Well, since-- is he one of the
20 State's witnesses?

21 MR. BRADLEY: I'm sorry, Your Honor?

22 THE COURT: He's one of the State's witnesses?

23 MR. BRADLEY: That's correct, Your Honor.

24 THE COURT: I'm going to excuse you from the trial
25 of this case, okay. But stay, if you would, just for a little

1 while. So what was your number again?

2 POTENTIAL JUROR: Ninety-six.

3 THE COURT: All right. Ninety-six is excused.

4 THE COURT: Yes, ma'am?

5 POTENTIAL JUROR: Number 75.

6 THE COURT: I'm sorry. I can't hear you. What?

7 POTENTIAL JUROR: Number 75.

8 THE COURT: Okay. Who do you know?

9 POTENTIAL JUROR: Greg Hawkins.

10 THE COURT: Greg Hawkins. How do you know him?

11 POTENTIAL JUROR: He's my brother-in-law.

12 THE COURT: He's your brother-in-law? I'll excuse

13 you from this case. Ma'am, if you would, stay just for a

14 little while. I'm sorry, and I'll get you back.

15 Anyone else?

16 (There was no response.)

17 THE COURT: Are the defendants here? How about
18 letting them stand and I'll ask the same question. If want to
19 introduce them.

20 (The defendants stood.)

21 THE COURT: All right. This is Frances Moore and
22 Garvin Duvall?

23 MR. PRUITT: Yes, sir.

24 THE COURT: All right. Ladies and gentlemen, does
25 anyone have any close business or personal relationship, or

1 are you related by blood or marriage, or do you know in any
2 way the defendants in this case? If so, please stand.

3 (There was no response.)

4 THE COURT: Okay. Thank you.

5 There are 2 other potential witnesses, Nathan Moore
6 and Skylar . Anyone on the panel have any close business
7 or personal relationship or are you related by blood or
8 marriage to Nathan Moore or Skylar ?

9 (There was no response.)

10 THE COURT: All right. Ladies and gentlemen, is any
11 member of the jury panel or a close friend or member of your
12 immediate family been killed or severely injured by a criminal
13 act? If so, please stand.

14 (There was no response.)

15 THE COURT: Has any member of the jury panel or a
16 member of their immediate family involved in law enforcement
17 as a law enforcement officer in any form whatsoever? If so,
18 please stand.

19 Yes, ma'am. Give us your name.

20 POTENTIAL JUROR: Debra Jennings, 89.

21 THE COURT: All right. Who is it and how are they
22 involved?

23 POTENTIAL JUROR: My sister, and she works Highway
24 Patrol dispatch, for Greenwood County.

25 THE COURT: Okay. Will that fact prevent you from

1 being fair and impartial in this case?

2 POTENTIAL JUROR: No, sir.

3 THE COURT: And can you render a verdict based only
4 on the evidence that you hear in this case?

5 POTENTIAL JUROR: Yes, sir.

6 THE COURT: Any questions for her?

7 (There was no response.)

8 THE COURT: Thank you, ma'am.

9 Yes, ma'am?

10 POTENTIAL JUROR: My first cousin is a former
11 Sheriff's Deputy for Anderson County, now works for CIS.

12 THE COURT: Give us your name and number.

13 POTENTIAL JUROR: I'm Loretta Waldrop, 168.

14 THE COURT: And who is your first cousin?

15 POTENTIAL JUROR: Stephanie Rushton.

16 THE COURT: Okay. Will that fact prevent you from
17 being fair and impartial in this case?

18 POTENTIAL JUROR: No, Your Honor.

19 THE COURT: And can you render a verdict based only
20 on evidence you hear in this case?

21 POTENTIAL JUROR: Yes, Your Honor.

22 THE COURT: Thank you.

23 Anyone else?

24 (There was no response.)

25 THE COURT: Does any member of the panel know of any

1 reason whatsoever that they cannot be fair and impartial in
2 this case and that they cannot render a verdict based only on
3 the evidence they hear in this case? If so, please stand.

4 (There was no response.)

5 THE COURT: Does anyone have any opinion about this
6 case or do you know anything about this case? If so, please
7 stand.

8 (There was no response.)

9 THE COURT: Does anyone feel that they cannot be
10 fair and impartial in this case? If so, please stand.

11 Okay. All right. Ladies and gentlemen, you've been
12 sitting here for 2 hours. Does anyone need a break, a rest
13 room break or anything like that?

14 (There was no response.)

15 THE COURT: All right. You all ready to select the
16 jury?

17 MR. BRADLEY: Yes, Your Honor.

18 THE COURT: Ready?

19 MR. GAMBLE: Ready Your, Honor.

20 THE COURT: All right.

21 MR. BRADLEY: You want me to call the case?

22 THE COURT: Yeah. Call the case, if you would.

23 MR. BRADLEY: Thank you, Your Honor. May it please
24 the Court. The State calls State vs. Frances Moore on
25 indictments 2007-GS-04-1342 and 1343. Those are murder,

1 possession of a firearm during the commission of a violent
2 crime and criminal conspiracy, respectively.

3 And also State vs. Garvin Duvall on indictments
4 2007-1218 and 1219, also murder, possession of a firearm
5 during the commission of a violent crime and criminal
6 conspiracy, respectfully.

7 THE CLERK OF COURT: Your Honor, I believe
8 Mr. Gallant has her hand raised.

9 THE COURT: Yes, ma'am?

10 POTENTIAL JUROR: I can't hear.

11 THE COURT: Oh, you can't hear? That's okay.
12 You're okay. He was just calling the case.

13 I understand -- let me tell you. We've worked long
14 and hard to get the acoustics in this room. Cathy Phillips,
15 who, in my opinion, is the best clerk in the State, and it's
16 not only my opinion, has spent a thousand hours working with
17 people. Sometimes it's difficult.

18 Also, I'll tell you that my voice is about gone
19 because of whatever is floating around off the trees. So if
20 you can't hear at any point raise your hand and we'll speak up
21 or yell or something.

22 All right. Let's select a jury. Five and 10, and
23 10?

24 MR. BRADLEY: Your Honor, it will be 10 and 10,
25 since there are 2 defendants. Ten for the State and 10 for

1 each defense attorney, Your Honor, each defendant.

2 THE COURT: So 10 and 20?

3 MR. BRADLEY: Yes, Your Honor.

4 THE COURT: You all come here.

5 (WHEREUPON, a bench conference was had.)

6 THE COURT: Ladies and gentlemen, what I'm going to
7 do now, and I spoke too soon, I'm going to go ahead and give
8 you a break. I need to take up a few matters outside your
9 presence. I know that those of you that want to go home are
10 anxious but I promise you this is going to speed the process
11 up. I'm going to give you about a 20-minute break. While
12 you're gone we're going to be working.

13 Let me tell you just a couple things about potential
14 jury service. No one at all should speak to you about your
15 jury service. If you are walking around -- you're going to
16 have time to go get a coffee, I can tell you. It may take 20
17 minutes for us to finish this. If you are walking around
18 downtown and someone recognizes that you might be on the jury
19 and they try to speak to you about your jury service let the
20 bailiffs know when you get back. They'll let me know and I'll
21 take care of it. You should not be discussing your jury
22 service or potential jury service with anybody.

23 If you know lawyers and have friends that are
24 lawyers and they walk past you and don't speak to you it's
25 because they are under orders not to speak to you. Obviously,

1 what we're trying to do is protect you from any unwanted
2 conversation that you might have regarding the fact that you
3 are here as a potential juror.

4 This process, like I said, we should get you out of
5 here within the next hour but I've got to take a 20-minute
6 break. So anyway, go downtown, get you some coffee. I'm
7 going to ask that you be back in at 5 until 12:00. That's
8 actually 30 minutes. That's probably the safest thing to do.
9 And I'll see you back at 5 until 12:00. The bailiffs will let
10 you in if we are finished.

11 (WHEREUPON, the jury venire left the courtroom at
12 approximately 11:25 a.m., and a brief recess was taken.)

13 THE COURT: Okay. What do we need to take up?

14 MR. PRUITT: Your Honor, I have a motion in limine,
15 which I'd like for the Court to take up prior to the start of
16 this case.

17 THE COURT: And the reason I want to do it now is
18 just in the event that it doesn't affect jury selection I'd
19 rather do it now.

20 MR. PRUITT: Your Honor, I have attached to my
21 motion a copy of a statement that's been provided by the State
22 to us, which the statement is a statement of J. W. Stansell.
23 I've attached the whole thing, although only small parts of it
24 are relevant.

25 Your Honor, supposedly some time after the alleged

1 crime Mr. Garvin Duvall went to J. W. Stansell, who is some
2 type of preacher, or bishop or something and confessed to him
3 this crime of murder and said that he and the co-defendant had
4 committed the crime, and went on to say some more things, all
5 of which will be in the statement.

6 Your Honor, while the statement that Garvin Duvall
7 allegedly made might be evidence against him in a trial it
8 certainly is hearsay as to the co-defendant. It's clearly
9 within the case of State vs. Anders, 331 S.C. 474, 503 S.E.2d
10 443, speaking of confessions of co-defendants.

11 And Your Honor will note that this alleged
12 confession took place after the crime. So it can't be said
13 that it was a statement in furtherance of the conspiracy,
14 which is also charged herein. Further, Your Honor, it's
15 inadmissible as hearsay under Rule 803 of the South Carolina
16 Rules of Evidence.

17 Now, it's also curious to note that this crime took
18 place in June of 1999, and this confession, according to the
19 Reverend Stansell, occurred less than a year after the crime
20 but yet he waited until 2006 to come forward with this report
21 to the police, all of which in addition to being hearsay
22 prejudiced my client by the passage of time, especially in the
23 fact that Mr. Duvall's wife died and the Reverend Stansell
24 preached her funeral and then waited 4 or 5 more months to
25 come forward with this 6-year-old confession.

1 But the main focus of my motion is that the
2 statement, which I believe the State intends to use, or the
3 testimony of J. W. Stansell would be hearsay as to Frances
4 Moore, being squarely within the Anders case, which is still
5 good law.

6 THE COURT: So you are asking that even Reverend
7 Stansell's testimony be kept out?

8 MR. PRUITT: Yes, sir. I don't know that his
9 testimony is relevant other than the 2 conversations he had
10 with the co-defendant. If they had something else that didn't
11 involve a confession, well that would be different. I'm not
12 aware of it, if they have anything else that he would testify
13 to.

14 THE COURT: Yeah, but I guess what I'm asking is
15 you're not just talking about his statement; you're talking
16 about his testimony?

17 MR. PRUITT: I'm talking about his testimony, Your
18 Honor.

19 THE COURT: Okay. Yes?

20 MS. HOGAN: Your Honor, if it please the Court.
21 There are 2 parts that Mr. Stansell is going to testify to,
22 Your Honor. Mr. Duvall spoke with him before the crime
23 actually occurred and talked about Ms. Moore paid somebody
24 \$2,000 to do it, and then he also talks about Garvin telling
25 him after that they had done it and they actually did it. So

1 there are 2 separate things he's going to testify to.

2 So we believe that at least the first part should
3 come in because it was in furtherance of the crime. He was
4 actually trying to get Mr. Stansell to kill Paul Stephens for
5 him. I mean, that came up, saying that Ms. Moore was going to
6 pay somebody \$2,000 to do so. So I don't think that State V.
7 Anders applies to --

8 THE COURT: Well, I think State V. Anders applies to
9 written statements, right?

10 MR. PRUITT: No. Sorry.

11 THE COURT: That all right.

12 Doesn't it? I believe it talks about the admission
13 of a statement when the declarant is available, I think. You
14 all disagree with that?

15 MS. HOGAN: I'm sorry, Your Honor. We don't have
16 the case in front of us.

17 THE COURT: Well, basically, look -- and there's a
18 reason I don't keep these things filed in my head but there's
19 a reason I know this one. It says an out-of-court statement
20 against penal interest, made by an unavailable declarant, are
21 admissible normally in civil and criminal trials. Where
22 declarant was available the exception is inapplicable.

23 And unless I'm mistaken, I don't think Anders deal s
24 with a situation where Stansell would testify. He's going to
25 testify, right?

1 MS. HOGAN: Yes, sir.

2 THE COURT: I think it would deal with a situation
3 in which they tried to introduce a statement.

4 MR. PRUITT: Your Honor, I don't think they can
5 introduce -- it's not a written statement of Duvall in any
6 case. It is a verbal statement of Duvall that the -- and it's
7 just plain hearsay. It's a statement of Duvall which is
8 hearsay to Frances Moore. They don't have a written
9 statement of Duvall.

10 And it goes back to the part of the hearsay rule
11 that a statement -- of course, it could be written or it could
12 be oral, either one, not verbal or non verbal hearsay. The
13 statement of someone against their penal interest is
14 admissible even though the declarant, which would be the
15 person, Mr. Duvall, is unavailable.

16 So it's just a hearsay question. It wouldn't matter
17 whether it was a written statement or an oral statement. In
18 this case it is oral. And whether that evidence could be used
19 against the co-defendant is a question, written or oral.

20 THE COURT: But the rule is that it's admissible
21 unless the declarant is unavailable, right?

22 MS. HOGAN: Yes, sir, Your Honor, we would argue.

23 THE COURT: So how would you get it in?

24 MS. HOGAN: Well, it's hearsay within hearsay. I
25 mean, Garvin Duvall told Mr. Stansell all of this stuff and

1 he's implicating his co-defendant. So the co-conspirator's
2 statements is another exception under the hearsay rule. So it
3 would come in through that. Also, a statements against penal
4 interest.

5 THE COURT: Yeah, but the declarant is available.
6 The statement against interest is admissible but this Anders
7 stands for the proposition that that doesn't apply if he's
8 available. Where the declarant is available to testify the
9 exception --

10 MS. HOGAN: Could we have a copy of the case, Your
11 Honor?

12 THE COURT: Yeah.

13 MR. PRUITT: Sure I'll give you one.

14 THE COURT: Says the exception is inapplicable if
15 he's available to testify.

16 He's pulling the case State vs. Holmes. Do you have
17 that one, too?

18 MR. PRUITT: What's the case, Your Honor?

19 THE COURT: State vs. Holmes. Do you have that one?
20 It's a newer case on that.

21 MR. PRUITT: I don't have that one, Your Honor. I'd
22 point out though that the facts in Anders it says that at
23 their joint trial the wife of the employee overheard the
24 co-defendant joking that he was going to be paid for blowing
25 up something. So that statement was an oral statement and

1 it's very similar to one of those statements alleged to have
2 been made here.

3 THE COURT: Okay. You all need to look at State vs.
4 Holmes, H-o-l-m-e-s. It was heard May 9th, 2000. It was
5 after Anders. I'll let you all read it and I'm going to look
6 at it, too, to see how it's distinguished.

7 MR. PRUITT: When was it decided, Your Honor?

8 THE COURT: In 2000.

9 THE LAW CLERK: August 21st, 2000.

10 THE COURT: I'll tell you what I'm going to do. I'm
11 going to bring the jury back and send them to lunch because
12 we're going to have to deal with this and there's no point in
13 making them wait. I want you to read this Holmes case. We'll
14 send them then we'll pick the jury at 2:00.

15 You can let them back in.

16 (WHEREUPON, the jury venire enters the courtroom at
17 approximately 11:55 a.m.)

18 THE COURT: Ladies and gentlemen, what I'm going to
19 do. This is going to take us a little longer than I thought.
20 Rather than have you sit out and wait on us I'm going to go
21 ahead and let you go to lunch. I'm going to ask you to be
22 back at 2 o'clock.

23 While you're gone we're going to deal with the
24 issues that can't be heard while you're here, then when you
25 come back at 2:00 we will have resolved those issues and we'll

1 select the jury, and you'll get out of here pretty quickly.
2 I'm sorry to have to do that to you but it's the only way to
3 do it. The only option I have is to make you stand out there
4 for an hour, and I'm not going to do it.

5 Let me just tell you as an ancillary matter. I
6 understand that you're having to deal with the token issue
7 with the city parking. Well, we're having a little bit of
8 difficulty with the parking. We have a new parking garage.
9 And the city attorney is probably my best friend and I left
10 him an ugly message Friday on the phone that their parking
11 scheme with the tokens over in the garage was not going to
12 work. I ended up playing golf with him Saturday and he tried
13 to hit me with a ball because I spoke ugly to him.

14 So it's an ongoing battle to figure it out.
15 Basically today you're okay parking wherever you want. The
16 jurors that are selected we'll explain the parking token caper
17 to you when you get selected.

18 Anyway, don't discuss your jury service with
19 anybody. Again, I'm sorry to have to do this to you, but go
20 to lunch and we'll see you back at 2:00. As I said, you'll be
21 out of here by 2:30 or 2:45 for the week. Thank you very
22 much. Have a good lunch.

23 (WHEREUPON, the jury venire was excused.)

24 THE COURT: You all read these cases. I'll be right
25 back.

1 (WHEREUPON, there was a brief recess.)

2 THE COURT: All right. Here is the problem I got
3 with this issue. And, you know, it's all sort of vague and
4 theoretical until you start really thinking about it. How is
5 this statement going to be used against Mr. Pruitt's client
6 given what the case law says?

7 MS. HOGAN: Well, I'll break it into 2 parts, Your
8 Honor. The statements before the murder that actually took
9 place were made in furtherance of the conspiracy to commit the
10 murder. So it will be the co-conspirator's statement in
11 furtherance of the conspiracy. So that would fall under the
12 hearsay exception, Your Honor.

13 THE COURT: Assuming that he's not available because
14 he's going to meet one of the legal requirements for not being
15 available?

16 MS. HOGAN: Mr. Stansell?

17 THE COURT: Right. No, no. No, no, the declarant.

18 MS. HOGAN: Right, yes.

19 THE COURT: Okay. What about the second part?

20 MS. HOGAN: Well, we were looking at the case and we
21 think that this case is different from Holmes in a couple of
22 instances, Your Honor.

23 The declarant in Holmes was dead, and here he is
24 clearly available, Your Honor. The statement in this case is
25 purely self inculpatory. She says that she wanted to make

1 sure the son of a bitch was dead after she shot him, which is
2 the statement that we would be talking about that she made
3 after the murder occurred.

4 THE COURT: Well, let's say for instance just as
5 theoretically that he pled the fifth. He would be unavailable
6 then, right?

7 MS. HOGAN: Right.

8 THE COURT: Okay. Anything else?

9 Your motion is in limine against your client, right?

10 MR. PRUITT: Yes, sir, Your Honor. I would also
11 point out, of course, Holmes is much broader than State V.
12 Anders, and there's confrontation issues in addition to the
13 State V. Anders rationale, confrontation issues under the
14 United States Supreme Court.

15 And, also, Your Honor, I would point out that in
16 803, the rule, is that when they are trying to get some
17 statement in, otherwise, then it says if the statements are
18 offered to exculpate the accused. Well, there's no
19 exculpatory statement here.

20 Further, Your Honor, in regard to Ms. Hogan's first
21 part, was the furtherance of the conspiracy, that statement
22 wouldn't be admissible even if it's in furtherance of the
23 conspiracy until independent evidence of the conspiracy was
24 produced, and we believe there's no independent evidence of
25 the conspiracy.

1 THE COURT: What about that argument?

2 MS. HOGAN: Your Honor, we do believe that we've got
3 evidence corroborating Ms. Moore's involvement. We've got
4 here near the scene, we've got her pulling away from the crime
5 scene, we've got her making phone calls near the crime scene.
6 She was I. D.'d at a pay phone near the crime scene, Your
7 Honor. So we do believe we've got a lot of testimony that is
8 going to tie her to the crime, Your Honor.

9 And she threatened to kill him that day, Your Honor,
10 as she was leaving the Anderson Police Department in front of
11 an officer who is going to testify that he heard her say, I'm
12 going to kill that son of bitch.

13 MR. PRUITT: Your Honor, that may well be true, that
14 they have corroborating evidence against the Defendant Frances
15 Moore, but they don't have any corroborating evidence of the
16 conspiracy, which would be a prerequisite to allowing the
17 first part of that statement in, if it's in furtherance of the
18 conspiracy.

19 THE COURT: All right. Let's say I grant your
20 motion and prevent the statement from being used against your
21 client; how are we going to try this if I do that? How is it
22 going to be tried against them in a single trial?

23 MR. PRUITT: Well, Your Honor, they just have to put
24 up whatever else they got and not call it.

25 THE COURT: That would only be against her. It

1 would be admissible against him.

2 MR. PRUITT: Well, they are the ones that have
3 brought this case together.

4 THE COURT: I understand that. That's what I'm
5 asking. How do you try it if you do that?

6 MS. HOGAN: Your Honor, Mr. Stansell would still
7 testify as to what Mr. Duvall told him, and we do believe that
8 the statements made before the murder, the statement from
9 Mr. Duvall to Mr. Stansell 3 days before the murder, about her
10 paying \$2,000 to have him killed in furtherance of the
11 conspiracy could still be used against her when he testifies.
12 There is other evidence corroborating her involvement than the
13 statement, Your Honor.

14 THE COURT: Let's say that I grant the motion though
15 in its entirety; how would you try it? I mean, how do you do
16 it? Let's say I say that the statement doesn't fall under an
17 exception to the hearsay rule and under Anders can't be used
18 against the co-conspirator, alleged co-conspirator and it can
19 only be used in a trial against the other defendant then how
20 do you try these two together, if that's the ruling?

21 MS. HOGAN: We would just argue that the statements
22 be redacted, Your Honor.

23 THE COURT: And then that's what the case -- yeah, I
24 figured you'd stand up. That's what Holmes, those cases are
25 about, redaction, and whether or not there's actually --

1 that's what the Judge tried to do. I think it was Judge
2 Burch, may have tried to do that at one point.

3 I mean, I'm trying to get around -- trying to
4 understand how you want me to try this given the black letter
5 law that says out-of-court admissions, in this case of arson,
6 were not admissible against the declarant's co-defendant under
7 co-conspirator hearsay exception since admission was not in
8 furtherance of conspiracy.

9 So you're saying that the first part of the
10 admission was in furtherance, the second part was not?

11 MS. HOGAN: Yes, sir, Your Honor.

12 THE COURT: Okay.

13 MS. HOGAN: I also think that there is a difference
14 because this is not a written statement. He will be
15 testifying as to this. So I'll be able to ask questions and
16 keep him away from saying anything about what Garvin --

17 THE COURT: But the statement is his statement.

18 MS. HOGAN: Right.

19 THE COURT: I mean, I shouldn't have brought that
20 up. That was beyond what --

21 MS. HOGAN: But we would steer him away from saying
22 whatever Garvin said to Frances.

23 THE COURT: Okay.

24 MR. GAMBLE: Your Honor, in answer to your wondering
25 there. My defense would be to go into that statement word for

1 word, line for line, everything in it and prove each and every
2 word is a lie, and I will put that statement in or try to in
3 order to get it to a jury to see what kind of man they are
4 dealing with.

5 THE COURT: Well, then that would take the issue of
6 whether or not the State can admit it out of my hands,
7 wouldn't it?

8 MR. GAMBLE: As to my client.

9 THE COURT: As to your client.

10 MR. PRUITT: It wouldn't take it out to my client,
11 Your Honor.

12 THE COURT: Well, the rule is obviously, you know,
13 it's applicable to -- all right. Well, here's what I'm going
14 to do. I'm going to -- and I'm sure that I'll regret this,
15 but I think that under the law what I've got to do is grant
16 your motion as to the first part but not as to the second
17 part, which is what you're saying. That's what you're saying,
18 the first part, second part?

19 MS. HOGAN: That the statement made before the
20 murder in furtherance of the conspiracy can come in.

21 THE COURT: Right, but not the statements
22 afterwards.

23 MS. HOGAN: Not the statements she made afterwards.

24 THE COURT: I think it's going to be a mess to try,
25 since we're doing them together, but I think that's what the

1 law is.

2 What I'm going to need you to do is go through while
3 we're on a break and divide them up, if you don't mind, so
4 we're clear when we get back what portion you're going to use,
5 what you consider first part and second part.

6 Yes, sir?

7 MR. GAMBLE: I want a real clarification on that,
8 Your Honor. I want to see what --

9 THE COURT: Yeah, that's what I'm saying. I think
10 that's the best way to do it.

11 MR. GAMBLE: Because you may be interfering with my
12 defense in doing that.

13 THE COURT: I know. I'm not so sure these people
14 should be tried together but that's not my decision. If you
15 would, get it in writing so they can look at it. I'm going to
16 go grab some lunch. I'll come back and I may have to modify
17 my ruling based on that. Okay?

18 I assume that's the only motion you have?

19 MR. PRUITT: Yes, sir. That's the only motion I
20 have.

21 THE COURT: Okay. All right. Thanks.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: Have you all had a chance to look at the
24 statements, the revision of the statements?

25 MR. PRUITT: We haven't seen anything.

1 MR. GAMBLE: I haven't seen anything.

2 THE COURT: Okay. Show it to them.

3 [PAUSE]

4 THE COURT: Just for the record, I think it's clear
5 under the law that the statements -- well, I say it's clear,
6 it's fairly clear could come in in relation to Mr. Duvall.

7 Now, I understand the defense would have an argument
8 against that but the problem I'm having is the case law, which
9 is real clear that statements like this can't be admitted
10 against a co-defendant or co-conspirator except under real
11 strict circumstances, and that's not even going into the 403
12 analysis. That's just sort of the straight-up case law.

13 And I'll let you argue about the redactions, but I
14 assume what I'll have to do is give the jury a special charge
15 that they can only consider the statements even though they
16 are redacted as they relate to Mr. Duvall, which does not deal
17 with the issue that we're going to have to deal with if Mr.
18 Gamble uses the statements.

19 MR. PRUITT: Your Honor, I'd point out that in
20 Holmes it didn't allow in the statements because it implicated
21 the other co-defendant by implication and even though they
22 weren't expressly mentioned. So it's our position that
23 there's no statement that Garvin Duvall could have made to
24 Mr. Stansell that could be admitted in this case against
25 Frances Moore.

1 THE COURT: Yeah. Look, I guess my frustration is
2 that here we are on Monday [sic] waiting on a jury and I'm
3 having to deal with this now. I mean, why wasn't this dealt
4 with earlier? That's the problem I've got. But that's
5 neither here nor there right now. It will be later.

6 All right. So you object to the redactions?

7 MR. PRUITT: Yes, sir. It's going to implicate
8 Ms. Moore by innuendo, and I think that's clearly described by
9 Holmes, even if the actual words don't.

10 THE COURT: Yes, ma'am?

11 MS. HOGAN: Your Honor, if it pleases the Court. We
12 are not introducing this statement in as evidence, Your Honor.
13 We are going to be questioning Mr. Stansell as he's up on the
14 stand, and he is going to say that Garvin Duvall said that I
15 called Paul, called to meet him on Baugh Road. I shot him in
16 the back of the head. And we are leaving out the three or
17 four lines that apply to Frances. We are not going to go into
18 that with him. So there's not going to be any --

19 THE COURT: Because you're not going to admit the
20 statement or anything like that?

21 MS. HOGAN: No, sir. This is all that there is. So
22 there's going to be no type of innuendo as to Ms. Moore after
23 the murder has occurred.

24 Now, I do plan on going into it before with the
25 conspiracy part, Your Honor, but this part right here, there's

1 not going to be any innuendo because he is going to say that
2 Garvin said I shot him. And we have corroborating evidence
3 for the conspiracy before Your Honor. So I don't think
4 that --

5 THE COURT: Well, and I don't want you to have to
6 disclose your case to me but what do you have -- well, never
7 mind. We'll get to that.

8 MS. HOGAN: Yes, sir, Your Honor.

9 THE COURT: I mean, I've got a question about the
10 conspiracy.

11 Okay. All right. What I'll do is we'll just have
12 to listen very carefully to his statement. I'm going to
13 overrule your objection. I'll let him testify as to what I've
14 ruled. I think it's kind of dangerous but we'll go as far as
15 we can. You all are protected. If you want to put anything
16 on the record you're welcome to.

17 MR. GAMBLE: Note my objection, Your Honor, to
18 redaction of any of this statement because I want to put the
19 statement in myself and go through it word by word, piece by
20 piece and part by part. I think it's all going to be proved
21 to be lies.

22 THE COURT: Okay. We'll deal with that at the time,
23 but I understand that's where we're headed with it.

24 All right. I think the law is that we've got 30
25 strikes, 10 and 20. Right, 10, 10, 10?

1 MS. HOGAN: Your Honor, is there going to be a
2 motion for severance, because at this time that would resolve
3 how many strikes we're going to have, and I thought they said
4 there was going to be a motion for a severance?

5 THE COURT: I assumed there wasn't, but is there?

6 MR. PRUITT: (Shook head.)

7 THE COURT: That's what I was afraid of.

8 No motion for severance?

9 MR. GAMBLE: State's got a right to severe it if
10 they want to.

11 THE COURT: I know. You all want to proceed?

12 MS. HOGAN: Yes, sir.

13 THE COURT: Bring them in.

14 (WHEREUPON, the jury venire enters the courtroom at
15 approximately 2:40 p.m.)

16 THE COURT: Ladies and gentlemen, thank you very
17 much for your patience. I understand that this has been a
18 long day. Quite frankly, I can't recall the last time it's
19 taken us until 2:40 to pick a jury.

20 I assure you that nobody is wasting time or up here
21 reading or watching television. We've been working. And I
22 apologize that you have to be the one year in 8 years that
23 it's taking this long, but we've had some complicated matters
24 to take care of.

25 We're going to select a jury now. We'll pick 2

1 alternates, if that's okay. And we'll let the rest of you go.

2 THE CLERK OF COURT: Ladies and gentlemen, as I call
3 your name if you'll please come forward, present yourself to
4 the 3 tables. We'll ask that you stand right here in this
5 area. We'll ask you to face the State's table and both of the
6 defendant's tables, then we'll tell you whether to have a seat
7 in the jury box or to return to your seat.

8 I will ask that you bring any personal belongings
9 that you have with you. If you'll bring them as you come up.
10 Thank you very much.

11 Juror number 60, Carolyn Gallant. Juror number 60.

12 (A white female came forward.)

13 THE CLERK OF COURT: What say you for the State?

14 MR. BRADLEY: Please excuse this juror from service
15 in this case.

16 THE CLERK OF COURT: You may return to your seat.

17 Thank you, Ms. Gallant. You may go back and have a seat.

18 Yes, ma'am. Thank you.

19 Number 70, Troy Haguewood. Number 70.

20 (A white male came forward.)

21 THE CLERK OF COURT: What say you for the State?

22 MR. BRADLEY: Please present this juror.

23 THE CLERK OF COURT: What say you for the Defendant
24 Moore.

25 MR. PRUITT: Swear him.

1 THE CLERK OF COURT: What say you for the Defendant
2 Duvall?

3 MR. GAMBLE: Swear the gentleman.

4 THE CLERK OF COURT: Mr. Haguewood, if you'd go over
5 and have a seat in the jury box.

6 Number 11, Kimberly Hall. Juror number 11.

7 (A black female came forward.)

8 THE CLERK OF COURT: What say you for the State?

9 MR. BRADLEY: Please present this juror.

10 THE COURT: Say you for Defendant Moore?

11 MR. PRUITT: Swear him.

12 THE CLERK OF COURT: What say you for Defendant
13 Duvall?

14 MR. GAMBLE: Excuse the lady, please.

15 THE CLERK OF COURT: You may return to your seat.

16 Thank you.

17 Juror number 81, Charles Hopper. Number 81.

18 (A white male came forward.)

19 THE CLERK OF COURT: What say you for the State?

20 MR. BRADLEY: Please present this juror.

21 THE COURT: What say you for Defendant Moore?

22 MR. PRUITT: Swear him.

23 THE CLERK OF COURT: What say you for Defendant

24 Duvall?

25 MR. GAMBLE: Swear the gentleman.

1 THE CLERK OF COURT: If you'll have a seat right
2 over here in the jury box, please, Mr. Hopper.

3 THE CLERK OF COURT: Number 58, Jason Frost. Number
4 58.

5 (A white male came forward.)

6 THE CLERK OF COURT: What say you for the State?

7 MR. BRADLEY: Please excuse this juror.

8 THE CLERK OF COURT: You may return to your seat.
9 Thank you, sir.

10 Number 179, Michelle Wilson. Number 179.

11 (A white female came forward.)

12 THE DEFENDANT: What say you for the State?

13 MR. BRADLEY: Please present this juror.

14 Clerk of court: Say you for Defendant Moore?

15 MR. PRUITT: Swear the juror.

16 THE CLERK OF COURT: What say you for Defendant
17 Duvall?

18 MR. GAMBLE: Excuse the lady.

19 THE CLERK OF COURT: You may return to your seat.
20 Thank you.

21 Number 73, Dennis Hansen. Juror number 73.

22 (A white male came forward.)

23 THE CLERK OF COURT: What say you for the State?

24 MR. BRADLEY: Please excuse this juror.

25 THE CLERK OF COURT: You may return to your seat.

1 Thank you, Mr. Hansen.

2 Number 141, Andrew Price. Number 141.

3 (A white male came forward.)

4 THE CLERK OF COURT: What say you for the State?

5 MR. BRADLEY: Please present this juror.

6 THE COURT: What say you for Defendant Moore?

7 MR. PRUITT: Swear him.

8 THE CLERK OF COURT: What say you for Defendant

9 Duvall?

10 MR. GAMBLE: Swear the gentleman.

11 THE CLERK OF COURT: You may have a seat right over

12 here, please, Mr. Price, in the jury box.

13 Number 61, William Galloway. Number 61.

14 (A white male came forward.)

15 THE CLERK OF COURT: What say you for the State?

16 MR. BRADLEY: Please present this juror.

17 THE COURT: What say you for Defendant Moore?

18 MR. PRUITT: Excuse the juror.

19 THE CLERK OF COURT: You may return to your seat.

20 Thank you, Mr. Galloway.

21 Juror number 62, James Geer. Number 62.

22 (A black male came forward.)

23 THE CLERK OF COURT: What say you for the State?

24 MR. BRADLEY: Please excuse this juror.

25 THE CLERK OF COURT: You may return to your seat.

1 Thank you, Mr. Geer.

2 Number 90, Cecilia Johnson. Number 90.

3 (A white female came forward.)

4 THE CLERK OF COURT: What say you for the State?

5 MR. BRADLEY: Please present this juror.

6 THE CLERK OF COURT: What say you for Defendant

7 Moore?

8 MR. PRUITT: Excuse this juror.

9 THE CLERK OF COURT: You may return to your seat.

10 Thank you, Ms. Johnson.

11 Number 158, Cynthia Swaney. Number 158.

12 (A white female came forward.)

13 THE CLERK OF COURT: What say you for the State?

14 MR. BRADLEY: Please present this juror.

15 THE CLERK OF COURT: Say you for Defendant Moore?

16 MR. PRUITT: Swear her.

17 THE CLERK OF COURT: What say you for Defendant

18 Duvall?

19 MR. GAMBLE: Excuse the lady, please.

20 THE CLERK OF COURT: You may return to your seat.

21 Thank you, Ms. Swaney.

22 Number 173, Sal Sha F. Wiley. Number 173.

23 (A black female came forward.)

24 THE CLERK OF COURT: What say you for the State?

25 MR. BRADLEY: Please present this juror.

1 THE CLERK OF COURT: What say you for Defendant
2 Moore?
3 MR. PRUITT: Swear her.
4 THE CLERK OF COURT: What say you for Defendant-----
5 Duvall?
6 MR. GAMBLE: Swear the lady.
7 THE CLERK OF COURT: Ms. Wiley, if you'll have a
8 seat in the jury box, please, ma'am.
9 Number 3, Glenda Anderson. Number 3.
10 (A black female came forward.)
11 THE CLERK OF COURT: What say you for the State?
12 MR. BRADLEY: Please present this juror.
13 THE CLERK OF COURT: What say you for Defendant
14 Moore?
15 MR. PRUITT: Swear her.
16 THE CLERK OF COURT: What say you for Defendant
17 Duvall?
18 MR. GAMBLE: Swear the lady.
19 THE CLERK OF COURT: If you'll have a seat right
20 over there in the jury box, please, Ms. Anderson.
21 Number 80, Melanie Holland. Number 80.
22 (A white female came forward.)
23 THE CLERK OF COURT: What say you for the State?
24 MR. BRADLEY: Please present this juror.
25 THE CLERK OF COURT: Say you for Defendant Moore?

1 MR. PRUITT: Swear her.

2 THE CLERK OF COURT: What say you for Defendant

3 Duvall?

4 MR. GAMBLE: Swear the lady.

5 THE CLERK OF COURT: If you'll have a seat in the

6 jury box, please, Ms. Holland.

7 Number 95, Carol Karnes. Number 95.

8 (A white female came forward.)

9 THE CLERK OF COURT: What say you for the State?

10 MR. BRADLEY: Please present this juror.

11 THE CLERK OF COURT: What say you for Defendant

12 Moore?

13 MR. PRUITT: Excuse her.

14 THE CLERK OF COURT: You may return to your seat.

15 Thank you, Ms. Karnes.

16 ~~Number 48, William Ellison. Number 48.~~

17 (A white male came forward.)

18 THE CLERK OF COURT: What say you for the State?

19 MR. BRADLEY: Please present this juror.

20 THE CLERK OF COURT: What say you for Defendant

21 Moore?

22 MR. PRUITT: Excuse him.

23 THE CLERK OF COURT: You may return to your seat.

24 Thank you, Mr. Ellison.

25 Juror number 89, Debra Jennings. Number 89.

1 (A white female came forward.)

2 THE CLERK OF COURT: What say you for the State?

3 MR. BRADLEY: Please present this juror.

4 THE CLERK OF COURT: What say you for Defendant

5 Moore?

6 MR. PRUITT: Swear her.

7 THE CLERK OF COURT: What say you for Defendant

8 Duvall?

9 MR. GAMBLE: Excuse the lady.

10 THE CLERK OF COURT: You may return to your seat.

11 Thank you.

12 Number 24, Louis Carnes. Number 24.

13 (A white male came forward.)

14 THE CLERK OF COURT: What say you for the State?

15 MR. BRADLEY: Please present this juror.

16 THE CLERK OF COURT: What say you for Defendant

17 Moore?

18 MR. PRUITT: Swear him.

19 THE CLERK OF COURT: What say you for Defendant

20 Duvall?

21 MR. GAMBLE: Excuse the gentleman, please.

22 THE CLERK OF COURT: You may return to your seat.

23 Thank you, sir.

24 Juror number 19, George Burroughs. Number 19.

25 (A white male came forward.)

1 THE CLERK OF COURT: What say you for the State?

2 MR. BRADLEY: Please present this juror.

3 THE CLERK OF COURT: What say you for Defendant

4 Moore?

5 MR. PRUITT: Excuse the juror.

6 THE CLERK OF COURT: You may return to your seat.

7 Thank you, Mr. Burroughs.

8 Number 134, Mary Patrick. Number 134.

9 (A white female comes forward.)

10 THE CLERK OF COURT: What say you for the State?

11 MR. BRADLEY: Please present this juror.

12 THE CLERK OF COURT: What say you for Defendant

13 Moore?

14 MR. PRUITT: Excuse the juror.

15 THE CLERK OF COURT: You may return to your seat.

16 Thank you.

17 Number 123, Elaine Moore. Number 123.

18 (A white female came forward.)

19 THE CLERK OF COURT: What say you for the State?

20 MR. BRADLEY: Please excuse this juror.

21 THE CLERK OF COURT: You may return to your seat.

22 Thank you, Ms. Moore..

23 Number 106, James Martin. Number 106.

24 (A white male came forward.)

25 THE CLERK OF COURT: What say you for the State?

1 MR. BRADLEY: Please present this juror.
2 THE CLERK OF COURT: What say you for Defendant
3 Moore?
4 MR. PRUITT: Swear him.
5 THE CLERK OF COURT: Say you for Defendant Duvall?
6 MR. GAMBLE: Excuse him, please.
7 THE CLERK OF COURT: You may return to your seat.
8 Thank you, sir.
9 Number 110, Jessica McCain.
10 (A white female came forward.)
11 THE CLERK OF COURT: What say you for the State?
12 MR. BRADLEY: Please present this juror.
13 THE CLERK OF COURT: Say you for Defendant Moore?
14 MR. PRUITT: Excuse the juror.
15 THE CLERK OF COURT: You may return to your seat.
16 Thank you, Ms. McCain.
17 Number 45, Alan M. Eberspacher. Number 45.
18 (A white male came forward.)
19 THE CLERK OF COURT: What say you for the State?
20 MR. BRADLEY: Please present this juror.
21 THE CLERK OF COURT: What say you for Defendant
22 Moore?
23 MR. PRUITT: Swear him.
24 THE CLERK OF COURT: What say you for Defendant
25 Duvall?

1 MR. GAMBLE: Swear the gentleman.

2 THE CLERK OF COURT: Please have a seat in the jury
3 box.

4 Number 18, Linda Burgess. Number 18.

5 (A white female came forward.)

6 THE CLERK OF COURT: What say you for the State?

7 MR. BRADLEY: Please present this juror.

8 THE CLERK OF COURT: Say you for Defendant Moore?

9 MR. PRUITT: Swear the juror.

10 THE CLERK OF COURT: What say you for Defendant
11 Duvall?

12 MR. GAMBLE: Excuse the lady.

13 THE CLERK OF COURT: You may return to your seat.

14 Thank you, Ms. Burgess.

15 Number 125, Marcus Moton. Number 125.

16 (A black male came forward.)

17 THE CLERK OF COURT: What say you for the State?

18 MR. BRADLEY: Please present this juror.

19 THE CLERK OF COURT: What say you for Defendant

20 Moore?

21 MR. PRUITT: Swear him.

22 THE CLERK OF COURT: What say you for defendant

23 Duvall?

24 MR. GAMBLE: Swear the gentleman.

25 THE CLERK OF COURT: Have a seat, please, Mr. Moton,

1 in the jury box.

2 Juror number 154, Summer Smith. Number 154.

3 (A black female came forward.)

4 THE CLERK OF COURT: What say you for the State?

5 MR. BRADLEY: Please present this juror.

6 THE CLERK OF COURT: What say you for Defendant

7 Moore?

8 MR. PRUITT: Swear her.

9 THE CLERK OF COURT: Say you for Defendant Duvall?

10 MR. GAMBLE: Swear the lady.

11 THE CLERK OF COURT: If you'll have a seat, please,

12 Ms. Smith, in the jury box.

13 Number 14, Thomas Bronson. Number 14.

14 (A white male came forward.)

15 THE CLERK OF COURT: What say you for the State?

16 MR. BRADLEY: Please excuse this juror.

17 THE CLERK OF COURT: Thank you, sir.

18 Number 44, Jack Eaton. Number 44.

19 (A white male came forward.)

20 THE CLERK OF COURT: What say you for the State?

21 MR. BRADLEY: Please present this juror.

22 THE CLERK OF COURT: Say you for Defendant Moore?

23 MR. PRUITT: Swear him.

24 THE CLERK OF COURT: Say you for Defendant Duvall?

25 MR. GAMBLE: Excuse this gentleman, please.

1 THE CLERK OF COURT: You may return to your seat.

2 Thank you, sir.

3 Number 142, Peggy Pritchard. Number 142.

4 (A white female came forward.)

5 THE CLERK OF COURT: What say you for the State?

6 MR. BRADLEY: Please present this juror.

7 THE CLERK OF COURT: What say you for Defendant

8 Moore?

9 MR. PRUITT: Swear her.

10 THE CLERK OF COURT: What say you for Defendant

11 Duvall?

12 MR. GAMBLE: Swear the lady.

13 THE CLERK OF COURT: If you'll have a seat in the

14 jury box, please, Ms. Pritchard.

15 Number 47, William Eldering. Number 47.

16 (A white male came forward.)

17 THE CLERK OF COURT: What say you for the State?

18 MR. BRADLEY: Please excuse this juror.

19 THE CLERK OF COURT: You may return to your seat.

20 Thank you, sir.

21 Number 43, Lynn Diebold. Number 43.

22 (A white female came forward.)

23 THE CLERK OF COURT: What say you for the State?

24 MR. BRADLEY: Please present this juror.

25 THE CLERK OF COURT: Say you for Defendant Moore?

1 MR. PRUITT: Excuse her.

2 THE CLERK OF COURT: You may return to your seat.

3 Thank you.

4 Number 93, Marilyn Johnson. Number 93.

5 (A black female came forward.)

6 THE CLERK OF COURT: What say you for the State?

7 MR. BRADLEY: Please present this juror.

8 THE CLERK OF COURT: What say you for Defendant

9 Moore?

10 MR. PRUITT: Swear her.

11 THE CLERK OF COURT: What say you for Defendant

12 Duvall?

13 MR. GAMBLE: Swear the lady.

14 THE CLERK OF COURT: If you'll have a seat, please,

15 Ms. Johnson, in the jury box.

16 Number 168, Nelwyn Waldrop. Number 168.

17 (A white female came forward.)

18 THE CLERK OF COURT: What say you for the State?

19 MR. BRADLEY: Please present this juror.

20 THE CLERK OF COURT: What say you for Defendant

21 Moore?

22 MR. PRUITT: Excuse her.

23 THE CLERK OF COURT: You may return to your seat.

24 Thank you, Ms. Waldrop.

25 Number 13, Clyde Bridges, Jr. Number 13.

1 (A white male came forward.)

2 THE CLERK OF COURT: What say you for the State?

3 MR. BRADLEY: Please excuse this juror.

4 THE CLERK OF COURT: Thank you, Mr. Bridges.

5 Number 101, Gloria Lange. Number 101.

6 (A white female came forward.)

7 THE CLERK OF COURT: What say you for the State?

8 MR. BRADLEY: Please present this juror.

9 THE CLERK OF COURT: What say you for Defendant

10 Moore?

11 MR. PRUITT: Swear her.

12 THE CLERK OF COURT: What say you for Defendant

13 Duvall?

14 MR. GAMBLE: Excuse the lady.

15 THE CLERK OF COURT: You may return to your seat.

16 Thank you.

17 Number 7, Ciara Barton. Number 7.

18 (A white female came forward.)

19 THE CLERK OF COURT: What say you for the State?

20 MR. BRADLEY: Please present this juror.

21 THE CLERK OF COURT: What say you for Defendant

22 Moore?

23 MR. PRUITT: Swear her.

24 THE CLERK OF COURT: What say you for Defendant

25 Duvall?

1 MR. GAMBLE: Swear the lady.

2 THE COURT: Have a seat in the jury box, please,

3 Ms. Barton.

4 This will be the first alternate.

5 Juror number 23, Ricky Cape. Number 23.

6 (A white male came forward.)

7 THE CLERK OF COURT: What say you for the State?

8 MR. BRADLEY: Please present this juror.

9 THE CLERK OF COURT: What say you for Defendant

10 Moore?

11 MR. PRUITT: Excuse him.

12 THE CLERK OF COURT: You may return to your seat.

13 Thank you, Mr. Cape.

14 Number 177, Kyle Wilson, Jr. Number 177.

15 (A white male came forward.)

16 THE CLERK OF COURT: What say you for the State?

17 MR. BRADLEY: Please excuse this juror.

18 THE CLERK OF COURT: You may return to your seat.

19 Thank you, Mr. Wilson.

20 Juror number 78, Rebecca Hill. Number 78.

21 (A white female came forward.)

22 THE CLERK OF COURT: What say you for the State?

23 MR. BRADLEY: Please present this juror.

24 THE CLERK OF COURT: What say you for Defendant

25 Moore?

1 MR. PRUITT: Swear her.

2 THE CLERK OF COURT: What say you for Defendant

3 Duvall?

4 MR. GAMBLE: Swear the lady.

5 THE CLERK OF COURT: If you'll have a seat on that

6 second row. You'll be our first alternate, please, ma'am.

7 Number 171, Katherine Weaver. Number 171.

8 (A white female came forward.)

9 THE CLERK OF COURT: What say you for the State?

10 MR. BRADLEY: Please present this juror.

11 THE CLERK OF COURT: What say you for Defendant

12 Moore?

13 MR. PRUITT: Swear her.

14 THE CLERK OF COURT: What say you for Defendant

15 Duvall.

16 MR. GAMBLE: Excuse the lady, please.

17 THE CLERK OF COURT: You may return to your seat.

18 Thank you, ma'am.

19 Number 183, John Coates, Jr. Number 183.

20 (A white male came forward.)

21 THE CLERK OF COURT: What say you for the State?

22 MR. BRADLEY: Please present this juror.

23 THE CLERK OF COURT: What say you for Defendant

24 Moore?

25 MR. PRUITT: Swear him.

1 THE CLERK OF COURT: What say you for Defendant
2 Duvall?

3 MR. GAMBLE: Swear the gentleman.

4 THE CLERK OF COURT: If you'll have a seat on this
5 last row. You'll be our second alternate, please, Mr. Coats.

6 THE COURT: Ladies and gentlemen, I'm going to send
7 you back in the jury room for a few minutes. It will probably
8 take us 10 minutes to release the rest of the panel, then I'll
9 bring you back in and let you know how we're going to proceed.

10 Every time you leave this courtroom from this point
11 forward I'll tell you not to discuss this case. You'll get
12 tired of hearing me say it but for the first time, please
13 don't discuss this case. You can talk about anything else you
14 want but please don't discuss the case.

15 When you come back, Mr. Haguewood, I'm appointing
16 you foreman of the jury. You'll be the only person that has
17 to sit in a particular place, and you'll sit in this first
18 seat.

19 The rest of you can sit wherever you want, except
20 for the 2 alternates, who need to sit in those 2 chairs.

21 All right. Go back, introduce yourselves. Don't
22 talk about the case. We'll bring you back in a few minutes.

23 (WHEREUPON, the jury leaves the courtroom at
24 approximately 3:18 p.m.)

25 THE COURT: Any motions that we need to take up

1 before I release the panel?

2 MR. BRADLEY: No, Your Honor.

3 MR. PRUITT: No, Your Honor.

4 MR. GAMBLE: No, Your Honor.

5 THE COURT: Okay. Ladies and gentlemen, first let
6 me tell you I appreciate your patience. Obviously, while you
7 were to lunch we had matters we had to take up. It took a
8 little bit longer. As I said earlier, this is the latest
9 we've ever been here with the jury.

10 Years ago when I first started practicing, it
11 doesn't seem like that long ago but it was, jurors would come
12 up on Monday. Judge Howard Ballinger, who was a wonderful
13 soul, would sit in the back of the courtroom across the street
14 then later here while a panel like you would sit out there.

15 He would chew on a cigar, get all the lawyers back
16 there, try to get you to settle what you could settle. The
17 panel would sit out here all day Monday. Then about 5 o'clock
18 Linda DeShields, who used to be the clerk, then Cathy Phillips
19 would have to come out and sort of sheepishly tell everybody
20 they weren't going to select the jury today, we're going to
21 select it tomorrow, then jury panels would come back on
22 Tuesday. And I literally have seen them come back Monday,
23 Tuesday and Wednesday and just sit all day.

24 Obviously, we understand you have a life, and we've
25 upgraded a good bit. Quite frankly, our chief justice has

1 told all the judges that jurors have a life and need to move
2 it along. I assure you that the reasons we had the delay
3 today were legitimate, and I'm sorry.

4 During my questioning of you I asked you if you had
5 served as a juror within the last calendar year or the last 2
6 calendar years. Because you have gone through and gone
7 through the questioning you can answer yes to that now. Even
8 though you haven't served as a panel -- or served on the jury
9 panel this will serve as your service. This will be your
10 service once every 3 years. So if you get asked that question
11 or you get a notice again you can say that you came up and you
12 went through all the questioning.

13 The clerk's office will have letters for you for
14 work if you need them. Again, I really appreciate it. I'm
15 sorry you had to wait, and I know some of you all were
16 probably very excited about being picked for a jury. I'm
17 sorry. You'll have to wait until next time.

18 Have a good week. You don't have to come back or
19 even call in.

20 (WHEREUPON, the jury venire was excused.)

21 THE COURT: Yes, sir?

22 MR. PRUITT: Your Honor, I'm still unclear of what
23 Your Honor's ruling was about the motion in limine. And I
24 know we had some redacted statements that were presented by
25 the State and looked at by Mr. Gamble and I, but for purposes

1 of the record I'd like to have the State indicate what they
2 intend to put up and make it either my exhibit or the Court's
3 exhibit.

4 THE COURT: Yeah. My understanding is the
5 statements are not going to be introduced but the testimony
6 that would mirror the statements would not indicate that Mr.
7 Pruitt's client was involved.

8 MS. HOGAN: Correct, Your Honor.

9 THE COURT: Is that correct?

10 MS. HOGAN: Yes, sir, in the second part. The
11 second part of the testimony, yes, Your Honor.

12 THE COURT: Okay. I understand you probably need
13 more than that. I'm not sure how I can do it because I
14 haven't heard the testimony either but --

15 MR. GAMBLE: Is the Court attempting to restrict me
16 with regard to cross-examination on this statement?

17 THE COURT: No. No, I'm not.

18 MR. GAMBLE: Well, I've got the full statement.

19 THE COURT: I think that's available to you for use,
20 and I think that's going to be a problem, but not your
21 problem.

22 MR. GAMBLE: No, it's not my problem. Thank you.

23 MR. PRUITT: Well, when he attempts to cross-examine
24 that then I'm going to object.

25 THE COURT: Yeah, and at that point we're going to

1 need to take a break.

2 Okay. I know it's 3:30. Are you all ready to
3 start, do opening and charge, or do you want to wait until
4 tomorrow morning?

5 MS. HOGAN: Your Honor, we need to do -- there was a
6 photo I.D. in this case, so we would need to do that hearing
7 this afternoon.

8 THE COURT: All right. Why don't I go ahead and
9 send this bunch home then so they're not sitting and waiting.
10 I have to do a hearing for Judge Macaulay tomorrow morning at
11 10:00. I'll tell them to be here at 10:00. I'll try to get
12 here and get those people moving and then we'll start a little
13 after 10:00. It's not going to take me but 10 minutes.

14 How many witnesses you got tomorrow?

15 MR. BRADLEY: Your Honor, we have the full 23. We
16 approached both counsel to determine whether we can stipulate
17 to internal chain of custody. It doesn't appear that they are
18 going to allow us to do that. So it looks like every single
19 one of them, Your Honor.

20 THE COURT: And you all think you're going to finish
21 this by Friday?

22 MR. BRADLEY: Your Honor, we have some witnesses
23 that are obviously longer than others but we intend to on our
24 part yes, sir, Your Honor. We should be done by Thursday on
25 our part.

1 THE COURT: All right. We may need to talk about
2 it. We may need to go late. I think my concern in a case
3 like this is if you rest on Thursday I don't know if we can
4 finish. I mean, that puts the onerous on them to finish on
5 Thursday and Friday. I'm not sure we can do it. So you
6 better be prepared tomorrow to go until we can stop, okay?
7 And I might talk to the jury. In fact, I will talk to the
8 jury about staying a little later tomorrow night so we get it
9 done.

10 Okay. Yes, sir?

11 MR. GAMBLE: Only thing I have that I can't shun is
12 I am supposed to appear before the Ocone Council at somewhat
13 after 6 o'clock Thursday night to try to get money for my
14 office up there.

15 THE COURT: Yeah.

16 MR. GAMBLE: Nobody else can do that.

17 THE COURT: Okay. Yeah, I think tomorrow night and
18 -- well, tomorrow night will be it. We'll have to go late
19 tomorrow night. I just don't see a way around it. I'm sorry.

20 All right. You can bring them in.

21 (WHEREUPON, the jury enters the courtroom at
22 approximately 3:28 p.m.)

23 THE COURT: Ladies and gentlemen, I have several
24 matters similar to this morning, several matters that I need
25 to take up outside of your presence. Obviously, this is a

1 short week. We have to be finished with this case by Friday.
2 What I'm going to do now is I'm going to send you home for the
3 day. I know you've been here all day. We're going to
4 continue to work to try to get all the preliminary matters
5 taken care of so that tomorrow morning we can start.

6 Normally, we would try to start a little earlier
7 tomorrow. Unfortunately, I have to handle a hearing for
8 another judge who's not going to be here, at 10:00. I'm going
9 to ask that you be in the jury room at 9:30 tomorrow morning.
10 I will tell you right now that you may have to wait just a few
11 minutes but I'm going to do my best to go ahead and start and
12 take a break and hold that hearing and do it fairly quickly.

13 I'll also tell you that because it's a short week
14 and we're going to have to be finished by Friday we may have
15 to go later tomorrow night than we would normally go. By late
16 I don't mean 11 o'clock but we may go past the 5 o'clock hour.
17 So if that's going to create a problem for you let me know
18 tomorrow morning.

19 We can't go late Thursday night because we've got
20 other matters to take care of that have nothing to do with
21 this case. So tomorrow night is it. So rather than getting
22 in a situation where we're staying very late Friday night or
23 coming back on Saturday and Sunday I'm going to try to go as
24 late as I can tomorrow night. So tomorrow, if you got a
25 problem, let me know.

1 I'll also tell you that during the course of this
2 trial, as I said, I'll tell you every time you leave to not
3 discuss this case.

4 ~~I'm also going to tell you tomorrow that if you have~~
5 a problem or an issue that comes up while you're in the jury
6 room, Mr. Foreman, your main job up until the time that you
7 begin deliberations, you are to communicate those problems or
8 issues with me. And what you need to do, if something comes
9 up back there write it down on a piece of paper, sign your
10 name, knock on the door and the bailiffs will bring it to me.

11 I'll do my best to keep you comfortable, especially
12 because tomorrow is going to be a long day.

13 When you come in tomorrow morning I will give you a
14 preliminary charge. It will take 20 minutes for me to tell
15 you a little bit about how this case is going to proceed.

16 You'll also be sworn in. Then the lawyers will give you their
17 opening statements. So we'll get to testimony fairly early
18 tomorrow morning.

19 We'll again go for about an hour, hour and a half.
20 We'll take a lunch break at 1:00 until, normally 2:30. We
21 might have to shorten it a little bit because I'm really going
22 to be pushing to get this finished.

23 If at any point during the course of this trial from
24 this point until we finish you have an issue while we're in
25 the courtroom raise your hand, get my attention, get the

1 bailiff's attention and we'll deal with it.

2 If you need a break at any time during the course of
3 the trial no matter what's going on raise your hand and we'll
4 take a break no questions asked. But we will go for an hour,
5 hour and a half tomorrow, Thursday and Friday.

6 All right. For the last time today, please don't
7 discuss this case. I know that you don't know anything about
8 this case at this point.

9 I will tell you that a lot of judges and a lot of
10 people in the system have become concerned about the fact that
11 jurors are curious and they have access to the internet, and
12 recently in a county in South Carolina one or two jurors on a
13 case went home one night and did a search on the case they
14 were hearing. I will tell you now that that is not right to
15 do. I'm ordering you not to do it, and I'll also tell you,
16 not that I'm trying to scare you, but those two jurors are
17 very likely to serve some jail time because of it.

18 Obviously, you're going to have to render your
19 verdict at the end of this case based upon what you hear in
20 this courtroom, what you hear from the witness stand and what
21 you are able to glean from any evidence that's introduced.

22 You've been selected by the State and the defense as
23 the twelve people and the two alternates who everyone trusts
24 to render a verdict in this case based upon what you hear in
25 this courtroom. It would be a huge problem for you and for

1 everyone in the system if you try to get some information
2 outside this courtroom.

3 Two years ago I would never have thought that a
4 juror would do that. Now I'm very concerned because quite
5 Frankly I know you're curious, and I'm not so sure if I was a
6 juror and I wasn't specifically told not to do that that I might
7 do that. But please don't look up anything on this case.

8 I will tell you that you will know more about this
9 case than anybody else in the world, and invariably while the
10 press does its best to be correct, you're the ones that are
11 going to know more about this case than anything you read. So
12 I'm asking you, and I'm ordering you not to do any searching
13 or research on this case. Just come in and listen, and that's
14 all we can expect of you.

15 All right. Tomorrow morning I'll expand on that,
16 repeat that, and we'll get started. If you'll be there at
17 9:30. As I said, it's very possible you may have the sit for
18 a little bit. But once we get started tomorrow we'll start.

19 Okay. Have a good night. If anybody contacts you
20 at all about your service in person or by phone let the
21 bailiff know tomorrow morning. They'll let me know. I'll
22 also tell you not to read anything in the newspaper, or listen
23 to anything on the radio, or watch anything on television
24 about this case.

25 I don't know if there will be any publicity tonight

1 about it, but please don't watch it, listen to it, or read it.

2 I trust you, and I understand it's difficult.

3 Get a good night's sleep. You'll need it tomorrow.

4 All right. See you tomorrow morning at 9:30.

5 (WHEREUPON, the jury leaves the courtroom at
6 approximately 3:35 p.m.)

7 THE COURT: Let me take 5 minutes. Go to the rest
8 room then we'll come back. You got a photographic lineup.
9 Anything else you need to take up today that we can? I'm
10 really worried about finishing it this week. We're going to
11 have to push tomorrow because I can't do it next week.

12 Okay. Be back in a minute.

13 (WHEREUPON, a brief recess was taken.)

14 (WHEREUPON, State's Exhibit Numbers 1 through 3 were
15 marked for identification only.)

16 THE COURT: We got an issue with photographic
17 lineup; is that correct?

18 MS. HOGAN: Yes, sir. We have the Neil V. Biggers
19 hearing, Your Honor.

20 THE COURT: Okay. Yes, ma'am.

21 MS. HOGAN: The State calls Josh Anderson.

22 THE CLERK OF COURT: Come around, please, to be
23 sworn.

24 JOSHUA GEORGE ANDERSON, after having been duly
25 sworn, testified as follows:

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 THE CLERK OF COURT: Go right there and have a seat
2 in the witness chair, please.

3 (The witness was seated in the witness stand.)

4 THE CLERK OF COURT:-- If you'll state your full name -----
5 and spell your last name for the record.

6 THE WITNESS: Joshua George Anderson,
7 A-n-d-e-r-s-o-n.

8 MS. HOGAN: Your Honor, if it pleases the Court.

9 DIRECT EXAMINATION

10 BY MS. HOGAN:

11 Q. Mr. Anderson, did you meet with detectives in
12 reference to two photo lineups for the case of the State vs.
13 Moore and Duvall?

14 A. I did.

15 Q. When you met with detectives were you shown two
16 photographic lineups?

17 A. I was.

18 Q. And this was on July 13th of 1999?

19 A. Yeah.

20 Q. Do you remember about what time you met with the
21 detectives?

22 A. Probably around three o'clock in the afternoon.

23 Q. And where did this took place?

24 A. At my place of employment, Anderson Meats.

25 Q. Do you remember who showed you the lineup?

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 A. Garland Major.

2 Q. Okay. And was anybody else present that you
3 remember?

4 A. There was a couple other detectives there, I guess.

5 Q. Okay. Was anyone else shown these lineups in your
6 presence?

7 A. No.

8 Q. What did the detective tell you when he handed you
9 the photographic lineup?

10 A. Just if anybody -- if I could pick anybody out of
11 it. If they looked familiar.

12 Q. Did he tell you that one of the persons in either
13 lineup was definitely the person that you saw at the pay phone
14 on June 30th of 1999?

15 A. No.

16 Q. Were you led to believe that you had to or should
17 pick someone out?

18 A. No.

19 Q. Did you feel any pressure to pick somebody out of
20 either lineup?

21 A. No.

22 Q. How was the lineup presented to you?

23 A. It was just laid out in front of me.

24 Q. Okay. Just a sheet with some pictures on it?

25 A. Right.

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 Q. Did the detective or anyone else present suggest to
2 you which photograph to select?

3 A. No.

4 Q. Did they influence your decision at all?

5 A. No.

6 Q. Did you have the chance to observe the people who
7 you saw at the pay phone on June 30th of 1999?

8 A. I did.

9 Q. For how long of a period did you have to see them?

10 A. Just maybe 10 minutes.

11 Q. Where were you when you saw --

12 A. I was in the parking lot of the store. I had taken
13 an order out to my father's car --

14 Q. Okay.

15 A. -- they had to drop off, and just noticed the people
16 there on the pay phone.

17 Q. What time of day was it?

18 A. Probably around 2:45.

19 Q. So plenty of sunshine? Was the sun shining that
20 day?

21 A. It was.

22 Q. And you had plenty of time to see them?

23 A. Right.

24 Q. About how close were you to them?

25 A. About less than 10 foot.

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 Q. Did you get a good enough look at them to be able to
2 identify them?

3 A. I did.

4 Q. Now, when you were shown the female photographic
5 lineup did you see the person who you saw at the pay phone
6 displayed in the lineup?

7 A. I did.

8 Q. What caused you to make that selection?

9 A. Just I noticed the mole that was on her chin, and
10 her cheekbones, hair.

11 Q. Did you look over the lineup closely?

12 A. I did.

13 Q. Did you look at each picture carefully?

14 A. I did.

15 Q. Did you tell the detective which photograph you had
16 picked?

17 A. I did.

18 Q. What did you do then to the photo lineup after you
19 picked it up?

20 A. I just circled it and signed my name to it.

21 Q. Was there any doubt as to your selection?

22 A. No.

23 Q. Okay. I'm going to show you what's been marked
24 State's Exhibit 1 for identification purposes. Do you
25 recognize that?

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 A. I do.

2 Q. How do you recognize that?

3 A. It's my signature.

4 Q. Okay. And you have circled which number?

5 A. Number 5.

6 Q. Okay. And you dated it?

7 A. Yeah.

8 Q. Was the lineup in substantially the same condition
9 as it was when you last saw it?

10 A. It is.

11 Q. There are no changes or additions made to it?

12 A. No.

13 Q. Did you sign an affidavit that day?

14 A. I did.

15 Q. Okay. I'm going to show you what's been marked as

16 State's Exhibit 2. Do you recognize this?

17 A. I do.

18 Q. And what is it?

19 A. It's just an affidavit that I signed for Mr. Major.

20 Q. Okay. And will you read what the -- well, will you
21 tell me the distinguishing marks that you noticed of the
22 person that you saw at the pay phone on June 30th of 1999.

23 A. I just recognized her face, her cheekbones, the mole
24 that was on her chin. They were driving a white Toyota RAV4.

25 Q. Okay. Did you ever select the photograph of any

JOSHUA ANDERSON (IC) - DIRECT BY MS. HOGAN

1 other person as being the person who you saw at the pay phone
2 at Anderson Meat Market on June 30th of 1999?

3 A. No.

4 Q. Now, were you shown another photographic lineup?

5 A. I was.

6 Q. Of 6 males?

7 A. Right.

8 Q. And I will show you what has been marked State's
9 Exhibit 3 for identification purposes. Do you recognize that?

10 A. I do.

11 Q. Was that the photographic lineup that was shown to
12 you --

13 A. It was.

14 Q. -- that day at Anderson Meat Market? Okay.

15 Were you able to select anyone out of that?

16 A. Not positively I wasn't.

17 Q. Okay. What, if anything, did you tell officers that
18 day?

19 A. I just told them the only one that really jumped out
20 at me was number 3.

21 Q. And do you remember why?

22 A. Just his neck. I mean, he's just, like, a big guy.

23 Q. So the person that you saw in the pictures as number
24 3 was the person who most resembled the male that you saw at
25 the pay phone on June 30th, 1999?

JOSHUA ANDERSON (IC) - CROSS BY MR. PRUITT

1 A. Right.

2 Q. Going back to the female lineup. Do you see the
3 person who you saw at the pay phone on June 30th, 1999, and
4 who you picked in the lineup here in the courtroom today?

5 A. I do.

6 Q. Can you point her out to us.

7 A. (Indicated) the lady sitting here at this table.

8 MS. HOGAN: Let the record show that he pointed to
9 Frances Moore.

10 Nothing further from the State, Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. PRUITT:

14 Q. Tell me what you were doing -- did I understand you
15 to say that you had 10 minutes observation time?

16 A. Yes, sir.

17 Q. And you thought it was about 2:45?

18 A. Between 2:45 and 3 o'clock.

19 Q. And was Mr. Addis with you at that time?

20 A. He was.

21 Q. And where were you working?

22 A. Anderson Meats and Grocery.

23 Q. I understand that, but more specifically, what part
24 of the premises?

25 A. I was in the parking lot at the corner at the

JOSHUA ANDERSON (IC) - CROSS BY MR. PRUITT

1 intersection of 135 and 178.

2 Q. And that's a pretty big parking lot. What part of
3 the parking lot were you in?

4 A. Down at the end of the parking lot next to the pay
5 phone.

6 Q. Well, were you closer to the front door of the store
7 or closer to the pay phone?

8 A. Closer to the pay phone.

9 Q. And how close were you to the pay phone?

10 A. Less than ten feet.

11 Q. What were you doing that took 10 minutes to be there
12 less than ten feet from the pay phone?

13 A. Just putting an order in my dad's vehicle that he
14 had to drop off on his way home, standing around talking.

15 Q. Standing there talking to --

16 A. Josh Addis.

17 Q. Josh. I mean, Mr. Addis?

18 A. Uh-huh.

19 Q. Now, of the pictures that you were shown in the
20 lineup, I believe only one of them has long hair. Excuse me,
21 one of them has short hair, maybe. How many women in this
22 photo lineup have short hair?

23 A. Three.

24 Q. So you consider the number one to have short hair?

25 A. Yeah.

JOSHUA ANDERSON (IC) - CROSS BY MR. PRUITT

1 Q. Wouldn't you consider number four and number five to
2 have the shortest hair of all?

3 A. They do.

4 Q. And given the hair length of number two, and number
5 three, and number six they were obviously not the one you
6 could have identified?

7 A. Uh-huh.

8 Q. They didn't look anything at all like the person
9 that you identified, did they?

10 A. No.

11 Q. Now, were you able to ascertain or determine the age
12 of the woman that you identified?

13 A. I don't recall.

14 Q. No matter how close you were to the pay phone you
15 weren't able to identify any of the men in the photo lineup?

16 A. Not right off.

17 Q. Did the detectives that were assembled there tell
18 you what type of crime that they were investigating?

19 A. They did.

20 Q. Had you heard about anything relative to that crime
21 by virtue of the proximity of Anderson Meats to Baugh Road?

22 A. I just heard that somebody had been found dead on
23 Baugh Road.

24 Q. Other than the 2 photo lineups you've spoken of
25 today did they present any other pictures?

JOSHUA ANDERSON (IC) - CROSS BY MR. GAMBLE

1 A. No.

2 Q. Did you see both the man and the woman talking on
3 the telephone?

4 A. No. I just saw her.

5 MR. PRUITT: That's all the questions we got.

6 THE COURT: Any questions?

7 CROSS-EXAMINATION

8 BY MR. GAMBLE:

9 Q. What color shirt did the man have on that you saw?

10 A. I'm not real sure. Can't positively say.

11 Q. I didn't hear you.

12 A. I can't positively say what color. All I remember,
13 he just had a raggedy shirt on.

14 Q. A raggedy shirt?

15 A. Yeah. I don't necessarily remember the color of it.

16 Q. And he had brown hair?

17 A. Yes, sir.

18 Q. And a growth of beard?

19 A. I don't remember.

20 Q. Sir?

21 A. I don't remember.

22 Q. So you don't remember much about the man at all, do
23 you?

24 A. No, sir.

25 MR. GAMBLE: Thank you.

JOSHUA ANDERSON (IC) - REDIRECT BY MS. HOGAN

1 THE COURT: All right. Anything on redirect?

2 REDIRECT EXAMINATION

3 BY MS. HOGAN:

4 Q. Mr. Anderson, when you picked out Ms. Moore out of
5 the photographic lineup it wasn't because of her hair?

6 A. Right.

7 Q. You picked her out because of her face, correct?

8 A. Right.

9 Q. And not the fact that he had the short hair in the
10 picture?

11 A. Right.

12 MS. HOGAN: Nothing further, Your Honor.

13 THE COURT: All right. Thanks. You can step down.

14 MR. BRADLEY: Your Honor, before this witness leaves
15 the witness stand I felt that I needed to address this to the

16 Court, as an officer of the Court to let counsel know, the
17 Court know that this witness is my uncle-in-law. He is the
18 uncle of my wife. And there's been -- to feel free to ask him
19 about any kind of improper propriety.

20 We have had it to where Ms. Hogan questioned him,
21 met with him, interviewed him. His statement is the same as
22 it was in '99, long before I ever became involved in this. So
23 I just wanted to make the Court aware of that.

24 THE COURT: All right. Any objection?

25 MR. PRUITT: I'd like to ask a few questions about)

JOSHUA ANDERSON (IC) - RECROSS BY MR. PRUITT

1 it.

2 THE COURT: Okay. Go ahead.

3 RECROSS-EXAMINATION

4 BY MR. PRUITT:

5 Q. Tell me how it is that you're related to
6 Mr. Bradley.

7 A. He's married to my niece.

8 Q. He's married to your niece. Okay. And do you all
9 see each other frequently at family occasions and gatherings?

10 A. Just on Sundays after church.

11 Q. Every Sunday?

12 A. Not every Sunday.

13 Q. Lots of Sundays?

14 A. Not every Sunday.

15 Q. And to what extent have you known of Mr. Bradley's
16 involvement with this case?

17 A. None, except for when I came down here and met with
18 Laura [sic].

19 Q. Then you found out that your relative was also the
20 prosecutor on the case?

21 A. Right.

22 Q. When did this meeting take place?

23 A. Just a couple weeks ago.

24 Q. Previous to then had you met with the other lawyer
25 who had been assigned to this case?

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 A. I have.

2 Q. Is that Scott McElhannon?

3 A. It was. Him and Jimmy. Is that his name?

4 Q. I'm sorry. I couldn't hear you.

5 A. Jimmy, I think is the other guy's name.

6 Q. Jimmy.

7 THE COURT: Anything else?

8 MR. PRUITT: I don't have anything else.

9 THE COURT: Mr. Gamble, anything?

10 MR. GAMBLE: No, Your Honor.

11 THE COURT: Thank you, sir.

12 That's all right. I appreciate it. That's the
13 right thing to do.

14 MR. BRADLEY: Your Honor, the State calls Detective
15 Garland Major to the stand.

16 GARLAND JAMES MAJOR, JR., after having been
17 duly sworn, testified as follows:

18 THE CLERK OF COURT: If you'd state your full name
19 and spell your last name for the record, please.

20 THE WITNESS: My full name is Garland James Major,
21 Jr. The spelling of the last name is M-a-j-o-r.

22 DIRECT EXAMINATION

23 BY MR. BRADLEY:

24 Q. Good afternoon, Detective Major. Did you conduct
25 any photo lineups in this case?

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

- 1 A. Yes, I did.
- 2 Q. And who did you conduct those with?
- 3 A. Josh Anderson and Josh Addis.
- 4 Q. And how many photo lineups were conducted?
- 5 A. Two.
- 6 Q. Did you put together these photo lineups?
- 7 A. I did not.
- 8 Q. Who did?
- 9 A. The State Law Enforcement Division.
- 10 Q. And how many photographs were displayed in the
- 11 lineups?
- 12 A. Six per lineup.
- 13 Q. Were the defendants, Frances Moore and Garvin
- 14 Duvall, included in these lineups?
- 15 A. They were.
- 16 Q. We'll start talking about the lineup including
- 17 Ms. Moore. Were the other five persons in the lineup all
- 18 similar in physical description of the defendant, Frances
- 19 Moore?
- 20 A. Yes, sir.
- 21 Q. How so?
- 22 A. Age. We tried to limit the height, the weight, hair
- 23 color. For the males, facial hair, stuff like that.
- 24 Q. What about race and --
- 25 A. Race and sex, yes.

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 Q. Race and sex. Who did you show the lineup to first?

2 A. Josh Anderson.

3 Q. And when did you do this? What date was it?

4 A. It would be July the 13th of 1999.

5 Q. And where did this take place?

6 A. At Anderson Meats.

7 Q. Was anyone else with you?

8 A. Investigator Jim Crawford was with me.

9 Q. And how did you present the lineup to Mr. Anderson?

10 A. I gave him the lineup or put it on the table, handed
11 it to him. I told him that I was going to show him six
12 pictures, and I would like for him to look at each one of them
13 individually, carefully, and tell me if he recognized anyone.

14 Q. And did you tell Mr. Anderson that the white female
15 who he had seen using the pay phone and in the white RAV4 that
16 day at Anderson Meats was definitely in the lineup?

17 A. I did not.

18 Q. Did you lead Mr. Anderson to believe that he had to
19 or should have picked someone out of the lineup?

20 A. No, sir.

21 Q. Did you exert any pressure on Mr. Anderson to pick
22 someone out of the lineup that day?

23 A. No, sir.

24 Q. Did you suggest to the witness which photograph to
25 select?

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 A. No, sir.

2 Q. Did you in any way influence the witness as to which
3 photograph to select?

4 A. No, sir, I did not.

5 Q. Did Mr. Anderson select the photograph of the white
6 female he saw using the pay phone in the white Toyota RAV4
7 that day at Anderson Meats?

8 A. Yes, he did.

9 Q. And whose photograph was selected?

10 A. The defendant, Frances Moore.

11 Q. And how certain and confident did the witness appear
12 to you?

13 A. Very confident. He looked at all the photos and
14 without hesitation picked out the defendant.

15 Q. And did you ask him to make any marks to indicate
16 his choice?

17 A. I asked him to circle the number underneath the
18 image and to sign his name.

19 Q. Did you have him do anything else to indicate his
20 choice?

21 A. I filled out -- had him sign an affidavit of photo
22 identification, in which that just spells out how they
23 identified that that person or how they knew that person.

24 Q. Okay. Lieutenant Major, I'm handing you up State's
25 Exhibit 1 and 2. Take a look at these.

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 A. (The witness complied).

2 Q. Is State's Exhibit 1 the photographic lineup of
3 Frances Moore?

4 A. Right, yes.

5 Q. Is State's Exhibit 2 the affidavit you used on
6 Mr. Anderson?

7 A. That is correct.

8 Q. And how do you recognize these?

9 A. Both of them bear my signature.

10 Q. Okay. Are these lineups and affidavits in
11 substantially the same condition as when you used them in
12 1999?

13 A. They are.

14 Q. Do you see any changes or additions to them?

15 A. No, sir, I do not.

16 Q. If you would point out for the Court on this exhibit
17 the photograph the witness chose.

18 A. He chose image number 5, Your Honor. (Indicated).

19 THE COURT: All right. Thank you.

20 Q. Whose photograph is that?

21 A. That will be the defendant, Frances Moore.

22 Q. And will you point out any of the identifying marks
23 that the witness, Josh Anderson, made?

24 A. This is the number that he circled and his signature
25 (indicated).

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 Q. Did the witness select the photograph of any other
2 person as being the female who he saw using the pay phone at
3 the white Toyota RAV4 at Anderson Meats on June 30th, 1999?

4 A. He did not.

5 Q. Did any witness ever select a photograph of another
6 white female in another photographic display as being the one
7 who was using the pay phone in the white Toyota RAV4 at
8 Anderson Meats on June 30th, 1999?

9 A. No, sir.

10 Q. All right. Detective Major, I'm going to move on to
11 the photo lineup involving -- I'm sorry. A few more questions
12 on that one.)

13 Did you show any other witness the photographic
14 lineup that contained the defendant, Frances Moore?

15 A. Yes, I did.

16 Q. Who was that?

17 A. Josh Addis.

18 Q. Did you follow the same procedure we just went over
19 in showing the lineup to Mr. Addis?

20 A. Most certainly.

21 Q. Did you tell Mr. Addis that the white female that he
22 saw using the pay phone in the white RAV4 that day at Anderson
23 Meats was definitely in the lineup?

24 A. No, sir.

25 Q. Did you exert any pressure on Mr. Addis picking

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 someone out of the lineup?

2 A. No, sir.

3 Q. Was Mr. Addis able to select anyone from the photo
4 lineup that you presented to him as being the female he saw
5 using the pay phone in the white Toyota RAV4 at Anderson Meats
6 on June 30th, 1999?

7 A. No, sir, he was not.

8 Q. Now we'll move on to the photographic lineup
9 containing the defendant, Garvin Duvall. Could you tell us
10 why Garvin Duvall was selected to be in a photo lineup?

11 A. We knew that a white male, and we got a description
12 of a white male that was in the RAV4. After talking to
13 friends, acquaintances of Defendant Moore we found that Garvin
14 Duvall was the only one -- Defendant Duvall was the only one
15 that would fit that description that was described.

16 Q. And once you discovered Garvin Duvall matched the
17 description what did you do?

18 A. I requested that a photo lineup be made.

19 Q. Did you put together the photo lineup?

20 A. I did not.

21 Q. Who did?

22 A. The State Law Enforcement Division.

23 Q. And what photograph of Duvall was used?

24 A. It was his driver's license photo, an old driver's
25 license photo.

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 Q. And how many other photographs were displayed in the
2 lineup?

3 A. His and five others.

4 Q. Were the other five persons all similar in physical
5 description of the defendant?

6 A. Yes, sir.

7 Q. How so?

8 A. Same as the other with the race, sex, facial hair,
9 hair color, height, weight.

10 Q. Did you ever present the lineup of Duvall's picture
11 to any witnesses in this case?

12 A. Yes, I did.

13 Q. Who is that?

14 A. To both Josh Anderson and Josh Addis.

15 Q. On what day?

16 A. The same day as that, being July 13th, 1999.

17 Q. And where did this take place?

18 A. Anderson Meats.

19 Q. And what procedure did you follow in presenting
20 these lineups to the witness?

21 A. The same as I always do. I hand them the
22 photographs, tell them that there's six pictures. Look at
23 them carefully and tell me if they recognize anyone.

24 Q. And did you tell either witness that the white male
25 they saw using the pay phone in the white Toyota RAV4 was

GARLAND MAJOR (IC) - DIRECT BY MR. BRADLEY

1 definitely in the photo lineup?

2 A. I did not.

3 Q. Did you lead either witness to believe they had to
4 or should pick someone out of the lineup?

5 A. No, sir.

6 Q. When you presented the photo lineup to Josh Anderson
7 was he able to select anyone as the white male he saw using
8 the pay phone with the white female who had previously been
9 identified as Frances Moore by Mr. Anderson?

10 A. You said Josh Anderson?

11 Q. Yes.

12 A. Not positive. He pointed out someone that he said
13 jumped out at him, but he was unable to make a positive
14 identification.

15 Q. And what number was that? Who did he point out that
16 he said jumped out at him?

17 A. I think it was number 3. I do know it was the image
18 of Garvin Duvall.

19 Q. And was Mr. Addis able to select anyone from the
20 photo lineup when you presented it to him?

21 A. No, sir, he was not.

22 Q. I'm now showing you what is marked as State's
23 Exhibit Number 3. Take a look at it.

24 A. (The witness complied).

25 Q. Is this the photographic lineup you used with

GARLAND MAJOR (IC) - CROSS BY MR. PRUITT

1 Mr. Anderson and Mr. Addis July of 1999?

2 A. Yes, it is.

3 Q. Is the lineup in substantially the same condition as

4 it was when you used it with Mr. Anderson and Mr. Addis in

5 July of '99?

6 A. Yes, it is.

7 Q. You see any changes or additions to it?

8 A. No, I do not.

9 Q. Will you point out to the Court the photograph that
10 Mr. Anderson pointed to and said jumped out at him.

11 A. Number 3, Your Honor. (Indicated).

12 THE COURT: Okay.

13 Q. Whose photograph is that?

14 A. The defendant, Garvin Duvall.

15 MR. BRADLEY: That's all, Your Honor.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. PRUITT:

19 Q. Mr. Major, what criteria did you give SLED when you
20 were asking them to produce the photo I. D.?

21 A. We provide them with the full name, the driver's
22 license number, the date of birth, the race and the sex, and
23 they take it from there.

24 Q. Do you provide them any criteria as to a length of
25 hair?

GARLAND MAJOR (IC) - CROSS BY MR. GAMBLE

1 A. No, sir. They do that themselves. They have the
2 investigators, analysts, or whomever prepares the lineup.
3 They go in and do that.

4 Q. Now, I take it from your testimony that Mr. Addis
5 was not able to positively I. D. either one of the people?

6 A. You are correct.

7 Q. Did Mr. Addis indicate to you that he was in the
8 same location helping Mr. Anderson at the time that the people
9 were at the pay phone?

10 A. I did not ask him that question. He did not tell
11 that to me.

12 MR. PRUITT: That's all I got.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. GAMBLE:

16 Q. From whom did you get a description of Garvin Duvall
17 before July 13th or July 12th?

18 A. As far as the acquaintances I referred to or?

19 Q. You said you got a description of Garvin Duvall from
20 someone, and that's what you used to notify SLED. Who did you
21 get that description from?

22 A. I can't tell you exactly. We talked to several
23 acquaintances. I don't know which one or which ones said that
24 fits Garvin Duvall.

25 Q. What was the situation of his facial hair on those

GARLAND MAJOR (IC) - CROSS BY MR. GAMBLE

1 descriptions that you got that you can't describe?

2 A. I don't recall anyone saying anything about his
3 facial hair other than that sounds like Garvin Duvall.

4 Q. And that's all they told you?

5 A. Pretty much, yes, sir.

6 Q. So you told them what you had heard of a description
7 and they picked Garvin Duvall?

8 A. No, sir. We were asking if they knew anything about
9 the acquaintances of Frances Moore, and I believe we said do
10 you know -- do you know someone that's kind of tall, got brown
11 hair, a male that's with her all the time -- or that's
12 normally seen with her.

13 Q. Well, how did you know that Garvin Duvall was
14 normally seen with Frances Moore?

15 A. Well, like I told you, sir, we would ask her
16 acquaintances which male -- was there a male that was kind of
17 big, kind of tall with brown hair that would be with her, and
18 they said she hung around with Brenda and Garvin Duvall.

19 Q. Who is they?

20 A. Again, sir, I can't tell you specifically which
21 ones.

22 Q. Do you have notes?

23 A. (There was no response).

24 Q. Do you have notes?

25 A. Not with me. I do have notes, yes, sir.

GARLAND MAJOR (IC) - CROSS BY MR. GAMBLE

1 Q. Of whom you talked to?

2 A. Of some I've talked to, yes, sir.

3 Q. Do you have notes of all that you talked to?

4 A. I don't know that, sir.

5 Q. All right.

6 A. And the reason I'm saying that is it was in a case
7 file. I quite investigating quite a few years ago.

8 Q. Ten years ago?

9 A. No, sir. I think I worked --- about 8 years ago,
10 close to 10.

11 Q. In '99, and this is '09?

12 A. Well, we worked on it for about 2 years after the
13 thing. That's when I stopped after about 2 years. We ran out
14 of leads and were directed to do other stuff. The killing did
15 happen in '99.

16 Q. That's correct. And you talked to these people that
17 you are saying described Garvin Duvall in '99 or in 2000?

18 A. Throughout the time.

19 Q. When did you talk to them?

20 A. (The witness made a noise).

21 Q. No (repeated the noise). I want to know when you
22 talked to them.

23 A. From 1999 to about 2000, 2001.

24 Q. When did they give you the description?

25 A. I guess -- if you're talking about before I

GARLAND MAJOR (IC) - CROSS BY MR. GAMBLE

1 presented the lineup that would be in 1999, sir.

2 Q. When in '99?

3 A. Between June 30th and July 13th.

4 Q. And they just told you a name? They didn't tell you
5 what he looked like; is that right?

6 A. Again, I believe I said they told us something along
7 the lines of that sounds like Garvin Duvall.

8 Q. Was the man who was in Frances Moore's company a
9 lot?

10 A. Yes.

11 Q. But they didn't describe Garvin Duvall to you?

12 A. As far as going in and talking about height and
13 weight, no, sir. They just said it sounds like.

14 Q. And you have that in your notes?

15 A. I'm not sure, sir.

16 Q. Okay. Well, if you have it in your notes would you
17 bring it with you tomorrow?

18 A. Yes, sir.

19 MR. GAMBLE: Thank you.

20 THE COURT: All right. Anything else?

21 MR. BRADLEY: Nothing further, Your Honor.

22 THE COURT: Okay. Thank you, sir.

23 MR. BRADLEY: Your Honor, the State would like to
24 move that these lineups be admitted into evidence at the
25 appropriate time during the trial, obviously going forward

1 with it in front of the jury at the appropriate time.

2 MR. PRUITT: Your Honor, we'd object upon the basis
3 that the photo lineup of Frances Moore is unduly suggestive,
4 and that that particular unduly suggestive photo I. D. would
5 have prejudiced any in-court I. D. that this man could make 10
6 years after the event.

7 THE COURT: All right. Yes, sir, any objection to
8 it?

9 MR. GAMBLE: Yes, sir. I object until I can see the
10 notes that he made from whomever he got them from that were
11 made in July of 1999. I don't believe I have those in my
12 discovery file.

13 THE COURT: All right. Well, I'm inclined to let it
14 in but I'll hold the decision in abeyance until tomorrow. If
15 you've got some notes you need to let him have them. But
16 unless something extraordinary happens I'm going to let it in.

17 Anything else we need to take up before tomorrow?

18 MR. BRADLEY: Your Honor, we do have a motion to
19 make. The witnesses that would possibly testify to the
20 matter, they are not here today but I believe we could go
21 forward with the motion anyway. This is going to involve some
22 hearsay testimony on three different witnesses' parts. It's
23 talking about the victim's fear of Defendant Moore.

24 And under State vs. Garcia, witnesses are allowed to
25 testify to the fear that the victim had of the defendant and

1 anything he said about the fear. State vs. Garcia does not
2 allow the why, why they are afraid of the defendant but
3 certainly allows the statement of the fear to come into
4 evidence over objection.---And we have three witnesses, Kenny
5 Erwin, and Elaine Erwin, and Rita Woods that would testify
6 that the victim told them that on several occasions just weeks
7 prior to his death.

8 THE COURT: All right. Which defendant?

9 MR. BRADLEY: Defendant Moore.

10 THE COURT: Okay.

11 MR. BRADLEY: We'd just like to go ahead and have a
12 ruling on that so we can know about that testimony, go ahead
13 and be able to present that testimony.

14 MR. GAMBLE: I think you got to proffer the
15 testimony before we can rule on it.

16 THE COURT: Yeah. They are not here?

17 MR. BRADLEY: They're not here, Your Honor. I just
18 thought we might be able to go ahead and handle that outside
19 the presence of the jury and go ahead and get it over with
20 today.

21 THE COURT: Okay. Yeah. You all aren't consenting
22 to it, I assume?

23 MR. GAMBLE: We don't stipulate.

24 THE COURT: We'll proffer it at a break tomorrow.

25 MR. BRADLEY: Okay. That's all we have this

1 afternoon, Your Honor.

2 THE COURT: All right. I'm going to do this hearing
3 tomorrow morning, which is off the record, but I've got to do
4 it for Macaulay. So you all, 9:45 or so we'll start. All
5 right. I'll see you all tomorrow morning.

6 MR. GAMBLE: Can we address a matter in regard to
7 their present situation of house arrest?

8 THE COURT: Yeah, what about that?

9 MR. BRADLEY: Your Honor, the State's standard
10 motion is for them -- the bond to be revoked and for them to
11 be housed during the trial.

12 MR. GAMBLE: That's the standard motion. This is
13 not the standard trial, Your Honor.

14 MR. BRADLEY: Well, that's the State's motion and
15 its position, Your Honor.

16 MR. GAMBLE: I'm addressing the Court. Thank you.

17 THE COURT: Hold on. Hold on. You all talk to me.
18 I don't want to start this early. I understand. They've been
19 out on --

20 MR. GAMBLE: Since '06.

21 THE COURT: With --

22 MR. GAMBLE: House arrest, monitoring and G. P. S.

23 THE COURT: And no problems?

24 MR. GAMBLE: No problems.

25 THE COURT: From the State, have they had any

1 problems with the G. P. S.?

2 MR. BRADLEY: No, Your Honor, they have not.

3 THE COURT: For tonight, I'll allow them to remain
4 on G. P. S.

5 MR. GAMBLE: Thank you, Your Honor.

6 THE COURT: I may change my mind though tomorrow.

7 (WHEREUPON, the trial was recessed for the day.)

8 Wednesday, May 13, 2009

9 THE COURT: Any motions? Anything we need to take
10 up before we bring the jury in?

11 MR. GAMBLE: I have a motion, Your Honor.

12 THE COURT: Yes, sir.

13 MR. GAMBLE: Yesterday on questioning Detective
14 Major I asked him specifically how he came upon getting my
15 client for this photo shot. He said he interviewed several
16 people who put him being with Ms. Frances Moore at and around
17 the time that Mr. Stephens died.

18 I said, Who were they.

19 He said, They're in my notes.

20 I said, Do you have your notes with you.

21 He indicated he did not, if my memory serves me
22 correctly. We were not given, and I have checked with my
23 co-counsel, Mr. Matthew Perkins, we were not given any notes
24 regarding how my client got fingered in this matter and we
25 have not had an opportunity to go through and interview those

1 people that fingered him.

2 We have not had the list of those people from those
3 notes even though I moved in '06, when I first represented
4 this man, for discovery. And since '06 until now Jack Lynn
5 had the case. And I came on to this case again in February of
6 '09, and I went over all of Jack's discovery, Jack Lynn's
7 discovery, and all of ours again and nothing in there about
8 those notes.

9 I think it's an integral part of the case and I
10 would therefore move for a mistrial for failure to comply with
11 my requests for discovery on the part of the State and/or
12 their dominion, Detective Major.

13 THE COURT: What's the status of the notes?

14 MR. BRADLEY: Your Honor, may it please the Court.

15 In replying to Mr. Gamble's motion, Detective Major did go
16 through the case file the solicitor's office had been provided
17 by the sheriff's office and pulled out the notes that he made
18 during the investigation, all the written notes that are in
19 the case file that have been provided to Mr. Gamble and
20 Calhoun Pruitt as part of discovery.

21 We have those notes here for Your Honor to see, made
22 a Court's exhibit, or whatever may need to be done, but the
23 notes that he's referring to, he's asking Mr. Major on the
24 witness stand yesterday, there are no notes specifically
25 referring to that. We've turned over everything we have,

1 everything that was given to us, and so there could be no
2 Brady violation. We've given everything.

3 I believe Mr. Major just misspoke when he said there
4 might have been something in the notes about referring to when
5 they interviewed people when they came up with the subject
6 description regarding Duvall. It was stated there was a lot
7 of oral interviews done with these witnesses and they took
8 that information and used it in the investigation. But
9 everything that was given to the solicitor's office has been
10 turned over to Mr. Gamble with the discovery motion.

11 THE COURT: So there are no notes?

12 MR. BRADLEY: In regards to who they interviewed and
13 said that the description matched Garvin Duvall, no, Your
14 Honor, there is none.

15 THE COURT: And the defense has everything you've
16 got?

17 MR. BRADLEY: Yes, Your Honor. Ms. Hogan and I took
18 this case over 6 weeks ago. We reviewed everything that had
19 already been sent back in 2006 to Mr. Pruitt, and then this
20 year to Mr. Gamble when he retook the case. Anything that was
21 not sent or that we've gotten since we've taken the case over
22 we have made supplemental discovery disclosures. So
23 everything that we've received in the case file, every piece
24 of paper we have touched we have made sure it's been sent to
25 them.

GARLAND MAJOR (IC) - DIRECT BY MR. GAMBLE

1 THE COURT: All right. Well, yes, sir?

2 MR. GAMBLE: In view of that, Your Honor, I would
3 like to call Garland Major to the stand and have him under
4 oath to tell me that he has no notes as opposed to what he
5 told me yesterday that he had notes.

6 THE COURT: I don't have a problem with that, to
7 clear the record. Why don't we do that.

8 Come on up again.

9 GARLAND JAMES MAJOR, JR., after having been
10 duly sworn, testified as follows:

11 THE COURT: All right. Solely limited to the notes.

12 DIRECT EXAMINATION

13 BY MR. GAMBLE:

14 Q. Detective Major, yesterday I asked you how you came
15 up with the name of Garvin Duvall, and you told me, I believe,
16 that you interviewed people who put him with Frances Moore; is
17 that correct?

18 A. That is correct.

19 Q. And then I asked you if you had the notes regarding
20 that, and you said (noise made), I believe was your comment to
21 that. And I said no, I want an answer. Do you recall that?

22 A. The way I took it, you asked me if I took notes, and
23 the (noise made), my mistake. I apologize for that. But,
24 yes, I take notes, and I thought you'd be aware of that. But
25 yes, I did take some notes and I told you -- and you asked me

GARLAND MAJOR (IC) - DIRECT BY MR. GAMBLE

1 -- well, never mind. I'll let you ask the questions.

2 Q. Well, go ahead now. You're doing fine.

3 A. What I thought that you were getting at was did I
4 have in my notes specifically a specific person who told me
5 that Garvin Duvall matched the description, and I was telling
6 you I don't know if that's in the notes or not. I don't know
7 if I wrote it down, but all my notes were provided to you. I
8 just didn't know that -- if that was included in my notes, and
9 that was the reason for my answer.

10 Q. All right. But you're saying that all your notes
11 were given to us. How do you know that?

12 A. All the notes that were in the case file that were
13 written by me were copied and sent to the solicitor's office,
14 and I'm assuming that -- well.

15 Q. You don't know?

16 A. I don't know. All my notes were in the case file.

17 Q. Okay. And you had no other notes in your case file?

18 A. Correct. There are no notes that I took that were
19 not in that case file.

20 MR. GAMBLE: Thank you.

21 THE COURT: Mr. Pruitt, anything you want to ask
22 him?

23 MR. PRUITT: No, sir, Your Honor.

24 THE COURT: All right. Thank you, sir.

25 In regards to that motion, I deny the motion for

1 mistrial. I had my law clerk listen to the tape. He did
2 equivocate a little bit and there was some question about
3 whether there were notes, and I'm satisfied with his answer.
4 ~~So that motion is denied but you're protected for the record.~~

5 Anything else we need to do before we get started,
6 before we swear the jury.

7 Mr. Gamble? I can see you're thinking. That makes
8 me nervous.

9 MR. GAMBLE: Scares me, too.

10 THE COURT: Yeah, it should.

11 MR. GAMBLE: I had to straighten up Judge Anderson's
12 portrait. He was crooked over there. No, sir.

13 THE COURT: Good.

14 Anything we need to take up before we start?

15 MR. BRADLEY: No, Your Honor.

16 MR. PRUITT: No, Your Honor.

17 THE COURT: All right. Let's bring them in.

18 (WHEREUPON, the jury enters the courtroom at
19 approximately 10:34 a.m.)

20 THE COURT: Ladies and gentlemen, thank you for your
21 patience. What we're going to do now is swear you. Then I'm
22 going to give you a short opening charge, sort of an outline
23 about how we're going to proceed. Then the attorneys will
24 give their opening statements and we'll begin.

25 I'm sorry you had to sit back there for an hour. It

1 will not be the last time I tell you that I'm sorry you had to
2 sit back there for an hour, but let it be the first for today.

3 You can swear them.

4 (WHEREUPON, the jury was sworn.)

5 THE COURT: Ladies and gentlemen, let me just tell
6 you first that Sharon, the court reporter, and I have been
7 talking about it for two days, my voice is just about gone.
8 Whether it's the pollen or just getting old, I'm not sure, but
9 I want to apologize now for the fact that I'm probably going
10 to be coughing today.

11 What I want to do now is tell you a little bit about
12 how we're going to proceed and give you some general
13 instructions on the trial this week. The first thing I want
14 to tell you is that you heard reference yesterday to
15 indictments, and actually the solicitor's office called the
16 case by reading the indictments against the defendants.

17 Foremost in your mind you need to understand that an
18 indictment is not evidence. The fact that a person has been
19 indicted by the State means nothing and should not be
20 considered by you at all.

21 An indictment is literally a piece of paper, I'm
22 holding them here, that starts the process that leads to
23 today. So what I'm telling you is that the defendants in this
24 case have pled not guilty, and they carry that lack of guilt
25 into the courtroom and keep it with them.

1 Judges used to use a description that when I was a
2 lawyer I thought was a little archaic but I think it's pretty
3 good. The defendants come in here clothed in a robe of
4 righteousness and innocence. They have that cloak over their
5 shoulders now, they'll have it over their shoulders during the
6 course of the trial, and until you strip it from them through
7 your deliberations and by your deliberations they are
8 innocent.

9 That's not just a minor legal theory. It's a very
10 real theory of our State Constitution and our Federal
11 Constitution. So they pled not guilty. The fact that there's
12 an indictment against them should not be considered by you
13 and, in fact, the indictments are not evidence.

14 Now, I want to tell you a couple things about the
15 trial. First let me tell you that I and a lot of judges have
16 grown concerned about the influence of television on juries.
17 I don't watch lawyer shows just because I live it. But I will
18 tell you that lawyer shows influence juries, I think, in a bad
19 way. Juries begin to think from watching lawyer shows and
20 television shows, C. S. I., that kind of thing that everything
21 moves linearly, that everything moves quickly, that you can
22 have a problem and solve it in the space of one hour with
23 commercials.

24 I'm just going to tell you right now, and you've
25 seen already this morning, things do not move quickly in the

1 court system. We are not going to be out of here today.
2 There are going to be times when you're going to feel like
3 things are unduly delayed. But I'll tell you that this is a
4 place of honor, and I really truly believe that, and as a
5 result we move slowly. I mean, this is a serious business,
6 and I hope you understand that it's not a television program.

7 Believe it or not, I've had jurors who have gotten
8 concerned about the fact that this was not the way they
9 thought it was going to be. I suspect that none of you will
10 be that way, but I want to tell you that this will move a
11 little slower than you think.

12 I also want to tell you that you and I have very
13 different roles during the course of this week. You are the
14 judge of the facts. You are going to listen to the testimony
15 from this witness stand. You'll review any evidence that's
16 introduced in the courtroom. You have to determine what the
17 facts are in this case.

18 If at any point during the course of this week you
19 think that I have an opinion about the truth of a fact or the
20 falsity of a fact ignore it. Whether or not I believe a
21 witness's testimony or I believe the truth or falsity of a
22 fact should mean nothing to you.

23 If I turn red, if I get mad, if I yell, if I send
24 you out of the courtroom and then yell, just disregard it.
25 Whether or not I believe a witness or believe a fact is not

1 something you should consider.

2 On the other hand, I'm the judge of the law. I have
3 to make determinations during the course of the week about
4 ~~whether or not evidence should be admitted. There will be~~
5 objections to testimony. I'll have to make legal decisions on
6 that. And during the course of the week my law clerk and I
7 will be compiling the legal charge that I'll give you at the
8 end of this week.

9 You have to take my rulings on the law as the
10 rulings on the law. You can't wish that the law was
11 different, or hope that the law is different, or, in fact,
12 think that the law is different. You take the law as I give
13 it to you, you determine what the facts are, and at the end of
14 this week you'll go back into the jury room and reach a
15 verdict based upon the law as I give it to you and the facts.

16 In fact, at the end of this trial I will literally
17 read to you word for word the law in this case, and it will be
18 35 or 40 pages, but I'll have to read it to you. And you'll
19 take that law. You'll go back, you'll apply it to the facts
20 as you determine them to be and you'll reach a verdict.

21 Now, one of the things you're going to have to do is
22 determine the credibility of witnesses. Credibility under the
23 law simply means believability. Witnesses will testify here
24 under oath. You can believe everything that a witness tells
25 you, you can believe nothing that a witness tells you. You

1 can take a portion of a witness's testimony and believe it and
2 disregard the rest. That's totally up to you. But you have
3 to determine as a part of your deliberations the credibility
4 of the witness.

5 Now, the lawyers in this case, and we have very good
6 lawyers in this case, they are going to make objections.
7 That's their job. Sometimes I watch jurors and I think that
8 they are getting frustrated because again things are moving
9 slowly because lawyers make objections.

10 When a lawyer makes an objection I'll send you out
11 of the courtroom to make a decision. I can guarantee you that
12 during the course of this week I'm going to send you out of
13 the courtroom, make a decision on an objection, rule on it,
14 bring you back in and within two minutes you're going to be
15 back out. I can guarantee you're going to get your exercise
16 this week. You're going to shuttle back and forth. Please
17 understand that the reason I'm doing that is, obviously, I've
18 got to make a decision before you hear the testimony.

19 Don't get mad at the lawyers if they make
20 objections. That may be something I don't need to tell you
21 but I watch jurors sometimes get irritated at lawyers. Don't
22 get mad at the lawyers if you go back and sit in the jury room
23 for 30 minutes, and then I bring you back in, and then send
24 you back out.

25 One other thing that I have to do during the course

1 of this week is manage the trial. If you want to get mad at
2 anybody, if you want to get frustrated, get mad at me because
3 I'm the person that ultimately has to make the decision about
4 when we start and when we stop. And as I said, I don't think
5 that's going to be much of a problem. But like I said, if you
6 want to get mad, get mad at me.

7 I don't know if there's going to be any publicity on
8 this trial. I suspect that there may. As I told you
9 yesterday, you are not to look on the internet. Obviously, by
~~10 the end of this trial you'll know more about this case than~~
11 anybody in the world. You 14 people will hear everything
12 about this case that there is.

13 Please don't read anything in the paper about this
14 case, watch anything on television, or look on the internet.
15 You basically have to make your decision and we're trusting
16 that you'll make your decision based only on what you hear in
17 this courtroom.

18 If you have any problems during the week,
19 Mr. Foreman, as I told you yesterday, write it down on a piece
20 of paper, sign it. Mr. Graham here will bring it to me, and
21 I'll move forward from there.

22 Let me tell you also and finally that in a criminal
23 case in this State the State has the burden of proving each
24 and every cause of action, or each and every element of the
25 crime beyond a reasonable doubt.

1 Now, at the end of this trial I'll charge you
2 extensively on reasonable doubt, but one thing I want to tell
3 you, as I told you yesterday, you should not begin
4 deliberating or talking about this case until I tell you to at
5 the end of trial. When you go back in the jury room you
6 shouldn't talk about reasonable doubt, or evidence, or who
7 said what.

8 What goes on in this courtroom shouldn't be
9 discussed back there, mainly because the State has to prove
10 their case, the defense has to make the decisions if you're
11 going to have to hear from them or not hear from them and it's
12 not fair to anybody for you to make a decision until you've
13 heard all the testimony that you are going to hear.

14 Again, I apologize for the fact that every time you
15 walk out of the courtroom I'm going to tell you don't begin
16 your deliberations but I have to do that.

17 Now, in a few minutes you're going to hear from the
18 lawyers in this case. What they are going to do is give their
19 opening statements. What they tell you is not evidence. The
20 only evidence in this courtroom will come from this witness
21 stand and from anything admitted. But they are going to give
22 you an outline of the case, then begin the testimony.

23 As I said, if you have any problems whatsoever
24 during the trial, if you need to take a break for the rest
25 room or whatever just raise your hand, get Mr. Graham's

1 attention. For an old guy he's pretty attentive. He can't
2 hear but he's pretty attentive. And we'll take a break, no
3 questions asked. All right. Thank you.

4 MS. HOGAN: Your Honor, if it pleases the Court?

5 THE COURT: Yes, ma'am.

6 MS. HOGAN: Good morning. I am suffering from some
7 allergies myself. So if I have to stop, or cough, please
8 excuse me.

9 On June 30th of 1999 a call comes into 911 dispatch
10 reporting a vehicle fire on Baugh Road here in Anderson
11 County. Firefighters respond, and as they are in the process
12 of putting out the burnt vehicle they notice a body 20 feet
13 behind the car under some brush. It's the body of Paul
14 Stephens, who has been shot from behind twice; once in the
15 back of the head and once in the back, and left for dead 20
16 feet behind his own burning car.

17 Today we plan on proving to you beyond a reasonable
18 doubt that these 2 defendants, Garvin Duvall and Frances
19 Moore, the victim's ex-mother-in-law, are responsible for the
20 murder of Paul Stephens.

21 Each of you has been selected to determine if there
22 is evidence beyond a reasonable doubt that these 2 defendants
23 are responsible for Paul Stephens' death. Proof beyond a
24 reasonable doubt is the burden that we must meet and is a
25 burden that we welcome.

1 In order to prove to you beyond a reasonable doubt
2 that these 2 defendants are responsible for the murder of Paul
3 Stephens we are going to introduce evidence. There are two
4 types of evidence. There's direct evidence and circumstantial
5 evidence. Direct evidence is actual knowledge of a fact.
6 Circumstantial evidence is proof of a chain of facts and
7 circumstances indicating the existence of a fact, kind of like
8 when you connect the dots to get the big picture.

9 The law makes no distinction between the two,
10 between direct and circumstantial evidence. A conviction can
11 be based solely on circumstantial evidence. This is a
12 circumstantial case. We have a lot of circumstantial
13 evidence, the majority of which is going to come from right up
14 here on this witness stand in the form of witness testimony.

15 You're going to hear from eyewitnesses, you're
16 going to hear from officers, you're going to hear from those
17 who are close to the victim, and you're also going to hear
18 from Dr. Brett Woodard, who performed the autopsy on Paul
19 Stephens. Each witness is going to connect the dots in this
20 case for you.

21 Don't be surprised that there's not a lot of
22 physical evidence. There is no D. N. A., there are no
23 fingerprints to match. The evidence will show the plan was to
24 destroy any potential evidence.

25 We plan on proving beyond a reasonable doubt that

1 Garvin Duvall and Frances Moore are not only guilty of murder
2 but they are also guilty of possessing a weapon during the
3 commission of a violent crime and criminal conspiracy.

4 While you are listening to the testimony in this
5 case I want you to keep the elements of these crimes in the
6 back of your mind. Murder is defined as the killing of a
7 person with malice aforethought.

8 Malice is defined as the wrongful intent to injure
9 another indicating a wicked or depraved heart intent on doing
10 wrong. In other words, it's an evil, wicked intent to take a
11 human life without any legal cause or justification.

12 A forethought just means that the malice must
13 accompany the killing. The evil wicked intent doesn't have to
14 be there any significant amount of time before the killing.
15 It can be conceived at the very moment of the blow.

16 Possessing a weapon during the commission of a
17 violent crime is exactly what it sounds like, possessing a
18 weapon, like a gun, during the commission of a violent crime,
19 like murder.

20 Criminal conspiracy is defined as the combination of
21 two or more people for the purpose of accomplishing an
22 unlawful objective. It's essentially an agreement between two
23 or more people with the intent that the criminal objective
24 they have agreed on be achieved, in this case murder.

25 Criminal conspiracy in and of itself is an

1 independent charge, whether the criminal objective is met or
2 not; meaning that whether you follow through with the crime
3 that you've planned you're still guilty of criminal
4 conspiracy.

5 You are going to hear a lot about that later on,
6 like the Judge said, but I want you to keep those elements in
7 the back of your mind as you listen to the witness testimony
8 in this case. But at the close of all the evidence I have no
9 doubt in my mind that you are going to have no choice but to
10 find Garvin Duvall and Frances Moore guilty beyond a
11 reasonable doubt.

12 We appreciate your service this week. We know it
13 might not be something you're real excited about doing but
14 this is a very important case, especially to Paul Stephens'
15 family, who have waited a long ten years for justice for their
16 son, brother, father, and friend. Thank you.

17 MR. PRUITT: May it please the Court?

18 THE COURT: Yes, sir.

19 MR. PRUITT: Ladies and gentlemen of the jury, I
20 previously introduced myself to you. I'm Calhoun Pruitt, and
21 I'm here representing Frances Moore in this case.

22 Literally, her life is being put into your hands for
23 you to be the judges of the facts of this case. His Honor
24 will tell you that you are the judges of the facts at the end
25 of the trial, and that you are. His Honor will give you the

1 law and you must abide by the law as he gives it to you but
2 you are the judges of the facts.

3 Now, it's very interesting that the State started
4 out by saying what they don't have, and I agree with that.

5 They have no fingerprints, they have no witnesses to the
6 actual shooting, they have no D. N. A., they have no murder
7 weapon. They do have a couple of bullets that were found in
8 the body but they can't connect them to any murder weapon.

9 They searched Ms. Moore's home, tore it apart,
10 searched her car and tore it apart, searched the shed that she
11 has at the Jockey Lot and tore it apart, found nothing.

12 There's no gunshot residue, there's no anything.
13 There's just a series of events that the State and the lead
14 detective have jumped onto that gave them some suspicion, and
15 then once they jumped onto this little bit of suspicion that
16 they have they're like a bulldog with something in its mouth
17 shaking their head, and they won't let it go. They won't
18 realize that they don't have a case beyond a reasonable doubt.

19 Now, His Honor will go into great detail about the
20 fact that every person comes into this courtroom with the
21 mantle of innocence around their shoulders and it's up to the
22 State to prove beyond a reasonable doubt that the defendants
23 are guilty. Not prove some suspicion, not prove maybe, not
24 prove could be; beyond a reasonable doubt. That's the
25 standard that we have in this Country to protect people from

1 the State, and to provide all of us with the freedom that we
2 so enjoy.

3 Now, we intend to prove by our evidence, which will
4 be more direct, that Frances Moore could not have been at the
5 murder scene at the time that this accident occurred. And
6 we'll have some -- there will be some evidence in the form of
7 a timeline that we intend to prove.

8 One thing we'll be putting up is that -- and you'll
9 hear about this. Frances Moore and her daughter were at the
10 Anderson City Police Department early the morning of this
11 crime taking care of some other criminal business that will
12 connect up to the deceased, and they were there present with a
13 police officer who will probably testify that he heard
14 Ms. Moore cuss the deceased. Yet, even though she was there
15 present with a police officer only a few hours before the
16 murder they still think that she's part of it.

17 You'll have her daughter testify where she was
18 shortly around 2 o'clock at the time of the time. She fixed
19 her husband lunch at 2:30 so he could go on to lunch [sic].
20 She went to a grocery store and was there at 3:04. That with
21 the other evidence, I will testify, satisfy you that the
22 State's theory, their suspicion that they've got in their
23 mouth like a bulldog, that they won't let go of is inadequate
24 in any respect to prove Frances Moore guilty beyond a
25 reasonable doubt. Thank you.

1 MR. GAMBLE: Please the Court, Your Honor?

2 THE COURT: Yes, sir.

3 MR. GAMBLE: Walking over here just now I had a
4 thought... I bet you're saying I wish those lawyers would shut
5 up so we can get into this thing and hear what it's really all
6 about. Well, what we're doing now is giving you a preview of
7 what we're going to show you.

8 I'm going to show you that Garvin Duvall was with
9 his father law, Ralph Stansell, at the time the State alleges
10 that this murder happened. I would have Garvin Duvall's wife;
11 she died in February of '06. I would have his mother-in-law;
12 she's dead, too. They were all 3 with Ralph Stansell together
13 at Mr. Stansell's home.

14 Mr. Stansell will tell you he had just come back
15 from a mission trip with his church and he wanted to get with
16 his family and meet with them, and that's how he remembered
17 back in 1999 where they were. They were all interviewed in
18 '99, and that's when this case arose. It arose June the 30th
19 of 1999 around 3 o'clock in the afternoon. We don't know for
20 sure when because there were no times kept hard ly.

21 You're going to hear from a man named the reverend
22 -- excuse me, the Reverend Dr. John Stansell, who is the
23 State's main, key, absolute, only witness, basically. I want
24 you to pay real close attention to the Reverend Dr. John
25 Stansell. I want you to hear everything he says.

1 I want you to hear what he says Garvin Duvall told
2 him. Then I want you to hear what he says he is, what he says
3 is the Arch Bishop of the Reformed Catholic Church, when he
4 says he's the Bishop of the Celtic Anti-Baptist Church, when
5 he says he's an evangelistic minister, when he says he is a
6 minister of the Christian Life Church.

7 And I'm going to cross-examine him on each and every
8 one of those lies, each and every time he opens his mouth.
9 I'm going to show you that that man is a natural liar and not
10 to be believed. I'm going to bear his soul to you, if I can.

11 And when we get through, go back in that room and
12 come back and say State, you put a natural liar on the stand
13 to try to put this man in jail and we find him not guilty.
14 That will be the only real evidence they are going to attempt
15 to present to link my client to this matter. So listen
16 carefully when you get into the Reverend Dr. John Stansell.

17 THE COURT: All right. You can call your first
18 witness.

19 MS. HOGAN: Your Honor, if it pleases the Court.
20 The State calls Aaron Powers.

21 THE CLERK OF COURT: Come forward and be sworn.

22 AARON JAMES POWERS, after having been duly
23 sworn, testified as follows:

24 THE CLERK OF COURT: Go around and have a seat in
25 the witness chair.

AARON POWERS - DIRECT BY MS. HOGAN

1 (The witness was seated in the witness stand.)

2 THE CLERK OF COURT: If you'll state your full name
3 and spell your last name for the record.

4 THE WITNESS: Aaron James Powers, P-o-w-e-r-s.

5 THE COURT: Yes, ma'am.

6 MS. HOGAN: Your Honor, if it pleases the Court.

7 DIRECT EXAMINATION

8 BY MS. HOGAN:

9 Q. Mr. Powers, are you married?

10 A. I am.

11 Q. And how many children do you have?

12 A. Two.

13 Q. Where do you currently work?

14 A. Southern Vinyl Windows.

15 Q. And how long have you worked there?

16 A. A little over 18 years.

17 Q. Now, I'm going to draw your attention to June 30th
18 of 1999, which I know is almost 10 years ago now, but what, if
19 anything, do you remember about that day?

20 A. We came across a car on fire.

21 Q. Okay. Well, tell me, where were you heading that
22 day?

23 A. I was headed up towards Liberty to drop my helper
24 off.

25 Q. And what road were you on?

AARON POWERS - DIRECT BY MS. HOGAN

1 A. On Baugh Road.

2 MS. HOGAN: Your Honor, if it pleases the Court.

3 Both defenses have stipulated to the introduction of this map
4 into evidence, and we'd move that it be moved into evidence.

5 THE COURT: All right. Is that all right?

6 MR. GAMBLE: No objection.

7 MR. PRUITT: None.

8 THE COURT: So stipulated.

9 MS. HOGAN: It's exhibit number 32.

10 (WHEREUPON, State's Exhibit Number 32, a Large Map,
11 was admitted into evidence.)

12 BY MS. HOGAN:

13 Q. Mr. Powers, if you'll step down here for a second.

14 A. (The witness complied).

15 Q. This is a map of Liberty Highway, up that way

16 towards Easley, and we've got Baugh Road and Ruhamah Road.

17 Can you show me where you were heading up --

18 MR. GAMBLE: I hate to interrupt, Your Honor, but I
19 can't hear. I'm old and know that, and I'm probably deaf, but
20 I can't hear.

21 THE COURT: Speak up a little bit.

22 And if not, you may have to move up a little bit.

23 MR. GAMBLE: I'll move up.

24 Q. Mr. Powers, can you show me where you were coming on
25 this map.

AARON POWERS - DIRECT BY MS. HOGAN

1 A. I was coming up Baugh Road.

2 Q. Up Baugh Road. And that is towards which road?

3 A. Towards 178.

4 Q. Otherwise known as?

5 A. Liberty Highway.

6 THE COURT: Yeah, let me ask you something. Let's
7 give him a mic. I just want to make sure --

8 MS. HOGAN: He's going back up there now. He's
9 going back to the witness stand, Your Honor, if it pleases the
10 Court.

11 THE COURT: Okay. Yeah, and I understand the
12 acoustics sometimes aren't good but really speak up because
13 they're taking everything down here.

14 MS. HOGAN: Sorry, Your Honor. Thank you.

15 BY MS. HOGAN:

16 Q. So you are heading up Baugh Road towards Liberty
17 Highway?

18 A. Yes.

19 Q. And you were on your way to take somebody who worked
20 with you home?

21 A. Yes.

22 Q. And as you are heading up Baugh Road what, if
23 anything, did you notice?

24 A. We noticed a car on fire.

25 Q. And where was it in reference to you heading up the

AARON POWERS - DIRECT BY MS. HOGAN

1 road?

2 A. It was on the left side.

3 Q. Okay. And do you remember about what time this was
4 that you saw this?

5 A. It was about 3:45.

6 Q. Give or take a few minutes, around 3:45. Okay. So
7 you see this car on fire on the side of the road. Do you
8 remember anything else about this car that was on fire? Do
9 you remember anything about what you saw?

10 A. It was just on fire.

11 Q. Okay. What, if anything, did you do when you saw
12 this car on fire?

13 A. We called the fire department.

14 Q. Okay. So you called the fire department. What did
15 you do, if anything, after you called the fire department?

16 A. (There was no response).

17 Q. Did you wait on the fire department to get there?

18 A. Oh. Oh. Yeah, we saw the fire trucks coming down
19 and they turned onto the road, then we left.

20 Q. And then you left?

21 A. Uh-huh.

22 Q. Okay. What else, if anything, did you do regarding
23 the car fire after you left?

24 A. We were coming back, I came back up the road a
25 little bit later and saw a bunch of police officers. So I

AARON POWERS - CROSS BY MR. PRUITT

1 stopped and told them I was the one that called.

2 Q. So you stopped and spoke with the investigators who
3 were on the scene?

4 A. Yes.

5 Q. Okay. Do you remember who you spoke with?

6 A. The name?

7 Q. Yes.

8 A. No, ma'am.

9 Q. And did you give a statement that day as to what you
10 had seen?

11 A. I did.

12 Q. And that you had called 911?

13 A. Yes, ma'am.

14 MS. HOGAN: Nothing further from the State, Your
15 Honor.

16 CROSS-EXAMINATION

17 BY MR. PRUITT:

18 Q. Now, Mr. Powers, this location out here at the --
19 it's very near the intersection of Liberty Highway and Baugh
20 Road where you saw the car on fire, isn't it?

21 A. Yes, sir.

22 Q. And you would agree with me that if -- that from the
23 place the car was parked it wasn't parked very far off the
24 road, was it?

25 A. No, sir.

AARON POWERS - CROSS BY MR. PRUITT

1 Q. It was close to the -- backed into a little old
2 driveway or something?

3 A. Yes, sir.

4 Q. Or do you know?

5 A. Yes, sir.

6 Q. Well, the car would have been visible -- or the fire
7 would have been visible on Liberty Highway, wouldn't it?

8 A. It could have been. I don't know.

9 Q. Okay. Well, let's see. Now --

10 A. It wasn't that big of a fire when we first got
11 there.

12 Q. Okay. Now, you said that, as I heard you, that you
13 thought it was around 3:45?

14 A. Yes, sir.

15 Q. And that you stayed there until the fire department
16 arrived?

17 A. Yes, sir.

18 Q. You weren't taking notes, were you?

19 A. No, sir.

20 Q. Okay. If the fire department records indicated that
21 they arrived at 3:30 and they are the ones that have to keep
22 notes of when they arrived and when they got the call you
23 would agree with me that their notes are probably more
24 accurate than yours, wouldn't you?

25 A. I would -- yes, sir.

AARON POWERS - CROSS BY MR. GAMBLE

1 Q. Because you weren't taking notes?

2 A. Right.

3 Q. And you didn't have any notes that you had taken
4 when you stopped back by and spoke to whatever officer was at
5 the scene?

6 A. No, just what he wrote down.

7 Q. Okay. And so if there's a discrepancy in regard to
8 the time that the fire truck arrived you would go with
9 whatever the fire department said, wouldn't you?

10 A. Yes, sir.

11 MR. PRUITT: Okay. That's all I have.

12 THE COURT: All right. Mr. Gamble?

13 CROSS-EXAMINATION

14 BY MR. GAMBLE:

15 Q. Who is Billy -- oh, Bill West? Excuse me. He was
16 with you?

17 A. Yes, sir.

18 Q. At the time you all saw this burning car?

19 A. Yes, sir.

20 Q. What you saw was the seats on fire inside this car;
21 isn't that correct?

22 A. Yeah. I mean, the car was on fire.

23 Q. But when you first saw it you say it wasn't that big
24 of a fire? I wrote that down. I think that's what you said.

25 A. Okay. Well, I mean the flames weren't 80 feet tall

AARON POWERS - CROSS BY MR. GAMBLE

1 or nothing.

2 Q. They weren't shooting out of the window or anything
3 like that, were they?

4 A. I don't know. I don't remember that. I don't
5 remember that.

6 Q. Well, I'm asking you what you saw 10 years ago.

7 A. Right.

8 Q. What did the flame look like? Describe the flame.
9 That's all I'm asking.

10 A. Well, what I do remember is it was hot and we
11 couldn't get -- you know. I mean, you couldn't open the door
12 or nothing. You couldn't touch the car.

13 Q. Sir?

14 A. You couldn't touch the car.

15 Q. Okay. And you saw this as you were driving down
16 Baugh Road?

17 A. Yes, sir.

18 Q. Toward Liberty Highway?

19 A. Yes, sir.

20 Q. And it was all to your left?

21 A. Yes, sir.

22 Q. And that little dirt road that runs there off Baugh
23 Road runs not perpendicular and not really parallel but kind
24 of along Baugh Road, doesn't it?

25 A. Yeah. I mean, it's -- it's a little tiny service

AARON POWERS - CROSS BY MR. GAMBLE

1 road.

2 Q. Right.

3 A. Yeah.

4 Q. And you got out of your car and went up to this car?

5 A. Yes, sir.

6 Q. Did you park on Baugh Road and walk to the car?

7 A. Yes, sir.

8 Q. And you didn't see anyone in the car or around the
9 car, did you?

10 A. No, sir.

11 Q. You didn't see anyone at the scene at that time, did
12 you?

13 A. Yeah.

14 Q. Who?

15 A. I don't know who it was.

16 Q. What kind of car was it?

17 A. It was a truck.

18 Q. A truck?

19 A. Uh-huh.

20 Q. Was it a white Dodge type truck?

21 A. I don't know. I don't remember what it was.

22 Q. Who was in the truck?

23 A. This guy that had -- he pulled up when we pulled up
24 and he was -- he had seen the fire also.

25 Q. But when you first got there you were the only

AARON POWERS - CROSS BY MR. GAMBLE

1 people there, you and Bill West?

2 A. That sounds right.

3 Q. Well, I know it's ten years ago and I couldn't tell
4 you where I was ten years ago, but let me ask you this. What
5 I'm trying to establish, there were nobody else around that
6 fire alive that you saw?

7 A. When we first pulled up?

8 Q. When you first pulled up.

9 A. I don't really remember. That guy was there. I
10 don't remember if he pulled up three seconds before us or
11 three seconds after us. I don't remember.

12 Q. At any rate, that's the only thing you saw, was that
13 truck?

14 A. Yes, sir.

15 Q. Pick-up truck?

16 A. Yes, sir.

17 Q. Big one or a small one?

18 A. It was a --

19 Q. A pick-up?

20 A. It wasn't a mini truck, you know. It wasn't a real
21 small truck. It was probably a full size truck.

22 Q. A full size pick-up truck. Do you remember the
23 color?

24 A. No.

25 Q. And you don't remember anybody else being there

AARON POWERS - REDIRECT BY MS. HOGAN

1 except this one guy in the pick-up truck?

2 A. Yes, sir.

3 Q. That's correct?

4 A. Yes, sir.

5 MR. GAMBLE: Thank you, sir.

6 THE COURT: Any redirect?

7 MS. HOGAN: Yes, sir, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. HOGAN:

10 Q. Mr. Powers, when you said it was about 3:45, you
11 could have been off about any amount of time? I mean, that
12 was just an approximation on your part, correct?

13 A. Yes, ma'am.

14 Q. So if the fire department says the call came in at
15 3:27 you would agree that would be the call that you made
16 regarding the fire at 3:27.

17 A. Yes, ma'am.

18 Q. When you pull up to the car that you see on fire,
19 this other truck that pulled up, it pulled up right before you
20 or right after you. So they pulled over because they saw the
21 fire as well?

22 A. Yes, ma'am.

23 Q. From what you remember?

24 A. Yes, ma'am.

25 Q. Okay. So it wasn't like they were there sitting

AARON POWERS - REDIRECT BY MS. HOGAN

1 there when you pulled up? They either pulled up right before
2 you or right after you?

3 A. Yes, ma'am.

4 Q. Because they had seen the car on fire?

5 A. Yes, ma'am.

6 MS. HOGAN: Nothing else, Your Honor.

7 THE COURT: All right. Thank you, sir. You can
8 step down.

9 Is he under subpoena?

10 MS. HOGAN: Yes, sir, Your Honor. May he be
11 excused?

12 THE COURT: Yeah, any objection?

13 MR. PRUITT: No objection.

14 MR. GAMBLE: No objection.

15 THE COURT: You're excused. Thank you very much.

16 Yes, ma'am?

17 MS. HOGAN: Your Honor, the State calls Pete Rogers.

18 PETER ROGERS, after having been duly sworn,
19 testified as follows:

20 THE CLERK OF COURT: If you'll go up and have a seat
21 in the witness chair.

22 (The witness was seated in the witness stand.)

23 THE CLERK OF COURT: If you'll state your full name
24 and spell your last name for the record.

25 THE WITNESS: Peter Rogers, R-o-g-e-r-s.

PETER ROGERS - DIRECT BY MS. HOGAN

1 THE COURT: Yes, ma'am.

2 MS. HOGAN: If it pleases the Court.

3 DIRECT EXAMINATION

4 BY MS. HOGAN:

5 Q. Mr. Rogers, are you married?

6 A. Yes.

7 Q. How many children do you have?

8 A. One.

9 Q. All right. And where do you work?

10 A. I work for Charleston County.

11 Q. Okay. And what do you do for Charleston County?

12 A. I'm battalion chief for Charleston County fire.

13 Q. And how long have you worked there?

14 A. Three years.

15 Q. How long have you been a firearm?

16 A. Since '86.

17 Q. Now, I'm going to draw your attention to the summer
18 of 1999. Do you remember where you were working then?

19 A. I was part-time dispatcher with Pickens County
20 Sheriff's Office.

21 Q. And anywhere else?

22 A. I was full-time firefighter with the City of Greer.

23 Q. Now, more specifically, June 30th of 1999, which I
24 know is almost 10 years ago now, but what, if anything, do you
25 remember about that day?

PETER ROGERS - DIRECT BY MS. HOGAN

1 A. I was dispatching at the sheriff's office that day.
2 We get off around 3 o'clock. I lived off of 178 and 76, in
3 that area. I was proceeding home. I had just passed Baugh
4 Road, and it was approximately 3/10ths of a mile on the
5 Pickens side of Walker-McElmoyle Fire Station and heard a call
6 go out over my fire radio for a vehicle fire on Baugh Road. I
7 turned around, proceeded to the fire.

8 Q. Okay. And do you remember about what time this was?

9 A. It would have been between 3:00 and 3:30 because
10 shift change at the sheriff's office was at 3:00.

11 Q. I'm going to ask you to step down here and look at
12 the map for me, and try to speak up so everybody in the
13 courtroom can see -- can hear you.

14 A. (The witness complied).

15 Q. Can you show me which way you were traveling on 178.

16 A. Right. I would have been proceeding towards
17 Anderson coming from Easley, Liberty direction on 178
18 (indicated).

19 Q. And at what point did you hear the call come in?

20 A. At the time the call came in I would have been --
21 it's not on the map here. Would have been in this area of
22 Highway 178 (indicated).

23 Q. Okay. And so you hear the call come in, the
24 dispatch call come in, and what did you do then?

25 A. At that time I turned around, knew where the road

PETER ROGERS - DIRECT BY MS. HOGAN

1 was, familiar with the road, proceeded towards to the road.

2 Q. Okay. And so then you're coming up 178?

3 A. Right. I'm heading back from this direction towards
4 Liberty, Easley.

5 Q. Okay. And so when you come up on Baugh Road you are
6 taking a right?

7 A. Right, correct.

8 Q. You can take a seat back.

9 A. (The witness complied).

10 Q. Okay. So once you turn onto Baugh Road what, if
11 anything, happen?

12 A. I turned onto Baugh Road. Where the car was located
13 was on an old driveway type setting, and backed in, saw a car
14 well involved with fire, saw another vehicle in the road and
15 another vehicle on the side of the road, also saw an
16 individual that was running from the vehicle towards a Dodge
17 pick-up truck.

18 At that time, I'd gotten out, put my fire gear on.
19 That truck had left. I believe there was another party or a
20 couple that was still there. The fire department arrived. I
21 assisted in extinguishing the fire.

22 Upon extinguishing the fire, we were checking for
23 any other hot spots in the car. We were popping the truck and
24 another firefighter had taken a couple steps back and had
25 noticed something in the woods. I turned around and

PETER ROGERS - DIRECT BY MS. HOGAN

1 approached him and said hey, that's a body.

2 At that time, I checked for life signs, noticed that
3 there was injury to the body and noticed that it was a result
4 of gunshot wound. Backed out, we taped the area off.

5 Q. So what, if anything, did you do after you found the
6 body?

7 A. As soon as we found the body I checked for life
8 signs. That was the first thing, and then just the other
9 firefighter that had found the body just told him to stand
10 still, try to find out where he walked in and back out the
11 same direction so not to disturb the area.

12 Q. And at this point who did you notify?

13 A. At that time, called the sheriff's office, as well
14 as calling Pickens County Sheriff's Office.

15 Q. Okay. And why did you call both of them?

16 A. Anderson had jurisdiction, and called Pickens due to
17 the vicinity of the county line that there may be some
18 relationship to Pickens County with this call.

19 Q. Okay. Did you stay the entire -- what did you do
20 after that? Did you stay?

21 A. I stayed until the sheriff's office arrived and gave
22 a statement to, I believe it was Investigator Crawford.

23 Q. Okay.

24 A. And then was released and continued home.

25 Q. Now, about this truck that you saw somebody jumping

PETER ROGERS - CROSS BY MR. PRUITT

1 into, did you find anything else out about that truck?

2 A. I understand I think the truck came back.

3 Q. And did you see the truck come back?

4 A. I don't remember. In the notes from the statements
5 I don't remember.

6 Q. Okay. But it was your understanding that they came
7 back because they were the ones --

8 A. Right. I believe that might have been possibly one
9 of the callers reporting the fire.

10 MS. HOGAN: Nothing further from the State, Your
11 Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. PRUITT:

15 Q. It's been a long time since June of '99, hadn't it,
16 Mr. Rogers?

17 A. Yes, sir.

18 Q. And you would agree with me that if you made notes
19 about what you'd seen at the time of June of 1999 those would
20 probably be more accurate than what you remember today,
21 wouldn't you?

22 A. Right.

23 Q. Do you recall giving a statement to whoever
24 investigated the case that you received your dispatch call at
25 3:16 p.m.?

PETER ROGERS - CROSS BY MR. PRUITT

1 A. If it's in the statement at that time that would
2 have been based on -- based on the time frame that I left work
3 and had received the call. The exact time of 3:16, that would
4 be approximate.

5 Q. Well, just take a look and tell me if you agree with
6 me that at the time that you gave a statement on the day of
7 the murder that you said it was 3:16; is that right?

8 A. Based on this, that is correct.

9 Q. Now, so you got off at 3 o'clock from Pickens County
10 Sheriff's Office and started driving toward Anderson?

11 A. Correct.

12 Q. And you got the call at 3:16, or heard it on the
13 radio at 3:16 and you had already passed Baugh Road, right?

14 A. Correct.

15 Q. And you are familiar with the area so you knew where
16 Baugh Road was?

17 A. Correct.

18 Q. And you realized that you were just a little bit
19 past it and you turned around?

20 A. Correct.

21 Q. Okay. Now, when you arrived back at the scene you
22 saw -- did you say you saw a man running from the burning
23 vehicle?

24 A. Yes.

25 Q. Where did he start running from and where did he run

PETER ROGERS - CROSS BY MR. PRUITT

1 to?

2 A. Well, it would have been in the grass off the
3 shoulder of the road and ran towards the pasture on the other
4 side of Baugh Road towards a Dodge truck.

5 Q. And I believe he had on jeans and a t-shirt?

6 A. Based on the notes for that day of the statement,
7 that's correct.

8 Q. Now, I believe you also saw a green vehicle?

9 A. Right. I remember there was a -- the Dodge truck
10 was primarily in the roadway and there was another vehicle off
11 the side of the road just past the vehicle that was on fire.

12 Q. Now, how long were you there by yourself -- not by
13 yourself. How long were you there before the fire department
14 arrived?

15 A. Exact time --

16 Q. Just a few minutes?

17 A. -- not sure, but let's say under -- less than 5
18 minutes.

19 Q. Okay. So they'd already been alerted of the fire,
20 and you heard them put out the call, and they obviously
21 started on down toward the scene and you all about got there
22 about the same time?

23 A. I arrived before them. I arrived less than 2
24 minutes of the initial call going across the radio, not
25 through the 911 system.

PETER ROGERS - CROSS BY MR. GAMBLE

1 Q. So if you arrived -- if you heard the call at 3:16
2 you would have arrived at 3:18?

3 A. Correct.

4 Q. Now, being a fireman you are aware, of course, that
5 fire departments keep logs of when calls come in?

6 A. Correct.

7 Q. And they make a note of it --

8 A. Correct.

9 Q. -- so they'll have it for their report. They also
10 make a note as to the time of arrival at the fire scene?

11 A. Right.

12 Q. Just so they can keep up with how long it takes them
13 to -- they don't slide down the pole anymore, I guess, but how
14 long it takes them to assemble and get there; is that right?

15 A. Correct.

16 Q. And you would agree with me that those would be very
17 accurate notes of the time of the fire report and the time of
18 the fire truck arrival, wouldn't you?

19 A. Correct.

20 MR. PRUITT: That's all I have.

21 CROSS-EXAMINATION

22 BY MR. GAMBLE:

23 Q. Mr. Rogers, with regard to this person running from
24 the burning car, you said he had on a t-shirt that had no
25 sleeves on it?

PETER ROGERS - CROSS BY MR. GAMBLE

1 A. Yes.

2 Q. Was this person black, white, Hispanic, Chinese,
3 oriental?

4 A. White.

5 Q. White?

6 A. White male.

7 Q. Hair? What kind of hair?

8 A. Short hair, slender -- not slender. Under 200
9 pounds. Wasn't a heavy or obese individual.

10 Q. Under 200?

11 A. Well, my size your size.

12 Q. I'm under 200 and 6-1, does that pretty well do it?

13 A. That works.

14 Q. Barely under 200.

15 And he got in a white Dodge truck?

16 A. Correct.

17 Q. And what did the Dodge truck do when he got in?

18 A. They proceeded towards 178.

19 Q. They?

20 A. They. There were 2 people, the driver and a
21 passenger.

22 Q. And this guy was a passenger?

23 A. Correct.

24 Q. The running man?

25 A. Yes, sir.

PETER ROGERS - CROSS BY MR. GAMBLE

1 Q. Was the passenger in the Dodge truck?

2 A. Yes, sir.

3 Q. And they left in the Dodge truck, he and the driver.

4 You didn't see the driver, did you?

5 A. No, sir.

6 Q. They left and went toward 178?

7 A. Yes, sir.

8 Q. Which is about less than 100 yards up the road
9 there, roughly?

10 A. Approximate; that's right.

11 Q. About a football field. And do you know which way
12 they turned on 178?

13 A. No. Once they passed me and once they passed my
14 vehicle I no longer followed them or looked back to see where
15 they were going.

16 Q. But there were other people at the scene too,
17 weren't there?

18 A. Right. There was one other car, and I want to say
19 this was a couple and they were on the down side of that
20 vehicle parked on the shoulder of the road.

21 Q. On Baugh Road?

22 A. Yes, sir.

23 Q. Which this little dirt road runs not parallel?

24 A. It would be a driveway, is the easiest way to
25 explain it, an old driveway.

PETER ROGERS - CROSS BY MR. GAMBLE

1 Q. A driveway, and would you agree that it's at a --

2 A. Slant?

3 Q. About a 30-degree angle?

4 A. Yes.

5 Q. Not a 90-degree angle?

6 A. Correct.

7 Q. And you could see the burning car, could see it from
8 Baugh Road?

9 A. Correct. Yes.

10 Q. When you were even with it through the woods there?

11 A. Right, there was a short wood line.

12 Q. Yeah. And there's a power line that goes through
13 there, I believe?

14 A. Which would have been behind the car, I think, if I
15 remember correctly.

16 Q. Okay. And you couldn't identify the driver, you
17 said? I think you said that.

18 A. Yeah, that's correct. At that time, it was just --
19 it was a vehicle fire. I just noticed a car parked in the
20 road, an individual running across the road, which caught my
21 attention, and then once they passed me it was --

22 Q. Gone?

23 A. Just remember a big truck sitting in the middle of
24 the road and a guy running across the grass jumping up because
25 the grass was high that day, and getting in and they leave.

PETER ROGERS - REDIRECT BY MS. HOGAN

1 MR. GAMBLE: Okay. Thank you.

2 THE COURT: Any redirect?

3 MS. HOGAN: Yes, Your Honor. If it pleases the
4 Court.

5 REDIRECT EXAMINATION

6 BY MS. HOGAN:

7 Q. Mr. Rogers, I know in your statement that you talk
8 about 3:16 but if I told you that the fire trucks kept a log
9 and that theirs was at a later time you would agree that that
10 would be the more appropriate time, that you heard the call?

11 A. Correct. That would be a legal documented time,
12 yes.

13 Q. So it could have been a little after 3:16?

14 A. Yes.

15 Q. And this truck that you saw when you pulled up when
16 you responded to the fire, the truck that you saw that you do
17 remember coming back later that afternoon to the crime
18 scene --

19 A. While I was filling out my statement.

20 Q. While you were still at the scene this car came back
21 up.

22 All right. Nothing further, Your Honor.

23 THE COURT: Anything?

24 (There was no response.)

25 THE COURT: You can step down.

ROBERT F. MULLIKIN, JR. - DIRECT BY MS. HOGAN

1 MS. HOGAN: May this witness be excused, Your Honor?

2 MR. PRUITT: No objection.

3 MR. GAMBLE: No objection.

4 THE COURT: All right. No objection.

5 MS. HOGAN: Your Honor, if it pleases the Court.

6 The State calls Robert Mullikin.

7 ROBERT F. MULLIKIN, JR., after having been duly
8 sworn, testified as follows:

9 THE CLERK OF COURT: Go up and have a seat in the
10 witness chair, please.

11 (The witness was seated in the witness stand.)

12 THE CLERK OF COURT: Please state your full name and
13 spell your last name for the record.

14 THE WITNESS: Robert F. Mullikin, Jr.,
15 M-u-l-l-i-k-i-n.

16 MS. HOGAN: Your Honor, if it pleases the Court.

17 DIRECT EXAMINATION

18 BY MS. HOGAN:

19 Q. Mr. Mullikin, are you married?

20 A. Yes, ma'am.

21 Q. Okay. And how many children do you have?

22 A. Two.

23 Q. And where do you work?

24 A. I'm a cattle farmer.

25 Q. A cattle farmer. Okay. How long have you been a

ROBERT F. MULLIKIN, JR. - DIRECT BY MS. HOGAN

1 cattle farmer?

2 A. Sixty-four years, just about.

3 Q. Okay. All right. And do you do anything else?

4 A. Not now I don't.

5 Q. Not now. Okay. I'm going to draw your attention to

6 the summer of 1999, and more specifically June 30th of 1999,

7 which I know is almost 10 years ago now, but what, if

8 anything, do you remember about that day?

9 A. I was working in my garden behind the house and a

10 fire siren went off, and by the time I could get my equipment

11 and my shoes changed the trucks had gone up the road. So I

12 followed them up the road. At that time 88 and 178 wasn't a

13 4-way stop, and I figured we had something there because we

14 always occasionally had one --

15 Q. I'm going to stop you a second. We're going to back

16 up just a little bit, okay? So you hear the fire sirens go

17 off?

18 A. Right.

19 Q. And why would you respond to the sirens going off?

20 A. I am a volunteer fireman.

21 Q. You're a volunteer fireman. How long have you been

22 a volunteer fireman?

23 A. Approximately 30 years.

24 Q. So you hear the sirens going off. So you go inside

25 and put your boots on and everything to go help and --

ROBERT F. MULLIKIN, JR. - DIRECT BY MS. HOGAN

1 A. Actually, I just grabbed my equipment, just took the
2 old shoes I had on off and put on another pair of shoes before
3 I carried my equipment with me.

4 Q. So you start heading up 178?

5 A. True.

6 Q. Okay. Okay. If you'll step down here and look at
7 this map, State's Exhibit Number 32 for me.

8 A. (The witness complied).

9 Q. If you'll show me where you were coming.

10 A. I live on down the road (indicated).

11 Q. Speak up just a little bit.

12 A. I live on down 178, close to the fire department. I
13 was coming up looking for where the fire truck was. When I
14 got to Baugh Road I saw the truck, and I went on up to the
15 next road, I believe it's Red Barn Road, and turned around and
16 came back and parked on the side of the road.

17 Q. Okay. All right. You can step back up there.

18 A. (The witness complied).

19 Q. So you head up 178 and are looking for the fire, and
20 you see it off of Baugh Road?

21 A. That's true.

22 Q. So but you've already passed at that point so you
23 turn up and turn back around to come to Baugh Road?

24 A. That's true, yes, ma'am.

25 Q. What, if anything, did you see when you arrived at

ROBERT F. MULLIKIN, JR. - DIRECT BY MS. HOGAN

1 the car fire?

2 A. The firemen just about had the car fire out and they
3 were trying to get the trunk opened to check on it. And I
4 just stepped behind the car a few feet looking around and here
5 lay a body, and my first thought, what's that fellow doing
6 sleeping there.

7 Q. Okay. Okay. So when you arrived the firemen are
8 already there in the process of putting the fire out?

9 A. Yes.

10 Q. So you get out of your truck and you start walking
11 around the car while they are in the process of putting the
12 fire out?

13 A. Well, while they were finishing up.

14 Q. While they were finishing up. Okay. So you're
15 looking around the perimeter of the car and what do you find?

16 A. I found the body.

17 Q. Found the body. Okay. And what was your initial
18 reaction?

19 A. My first thought was what's this fellow doing
20 sleeping here.

21 Q. Okay.

22 A. Then I realized he wasn't sleeping.

23 Q. Okay. So what, if anything, did you do after you
24 saw?

25 A. I called the other firemen.

ROBERT F. MULLIKIN, JR. - DIRECT BY MS. HOGAN

1 Q. Do you remember how many people were there at the
2 time?

3 A. No, ma'am, I don't.

4 Q. Okay. After you notified someone else that there
5 was a body what, if anything, did you do?

6 A. I was told I'd be better off if I'd stay back away
7 from it, and I did.

8 Q. So you never touched the body?

9 A. No, ma'am.

10 Q. And what, if anything else, happened after you found
11 the body? Was anyone else notified?

12 A. Mr. Rogers, I reckon, he was calling the other
13 people.

14 Q. Okay.

15 A. Sheriff's departments.

16 Q. Okay. And were you still on the scene when the
17 sheriff's department arrived?

18 A. I was.

19 Q. And how long did you stay that day?

20 A. Pretty well all afternoon. I ended up -- they tied
21 the flag -- the boundary tape to my truck so I just stayed
22 with it.

23 Q. So when they taped off the scene your truck was kind
24 of involved in it?

25 A. Yes.

ROBERT F. MULLIKIN, JR. - CROSS BY MR. PRUITT

1 Q. So you stayed until everything was done. Okay. All
2 right.

3 Nothing further from the State, Your Honor.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. PRUITT:

7 Q. How close to the body did you get when you
8 determined that the person wasn't sleeping?

9 A. Two or three feet.

10 Q. Okay. And did any of the group go over to the body
11 to examine the person to see if they were still alive?

12 A. Mr. Rogers did.

13 Q. Okay. And they determined that he wasn't alive?

14 A. True.

15 Q. And then what happened? Did everybody back away and
16 wait for the sheriff's office to come?

17 A. We were advised not to touch the body. I didn't
18 know Mr. Rogers at that time. I'm using Mr. Rogers' name
19 because that's who you all identified him a while ago.

20 MR. PRUITT: That's all I have.

21 THE COURT: Any questions?

22 CROSS-EXAMINATION

23 BY MR. GAMBLE:

24 Q. Did you go to Lebanon?

25 A. Lebanon Baptist Church?

ROBERT F. MULLIKIN, JR. - CROSS BY MR. GAMBLE

1 Q. No, high school?

2 A. I went to Lebanon Grammar School. I went through
3 the 8th grade at Lebanon, and that's as far as they went when
4 I went.

5 MR. GAMBLE: Okay. I don't have anything further.

6 THE COURT: Any redirect?

7 MS. HOGAN: No, sir, Your Honor.

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

9 MS. HOGAN: May this witness be excused?

10 MR. PRUITT: No objection.

11 THE COURT: Without objection.

12 MR. GAMBLE: No objection.

13 THE COURT: Who's your next witness?

14 MS. HOGAN: Our next witness could be a few minutes,
15 Your Honor.

16 (WHEREUPON, the jury indicated they needed a break.)

17 THE COURT: Need a break? All right. What we'll do
18 is we'll take a break, and that's exactly the way to do it.
19 Actually, I'm tired of sitting, too. We'll take 10 minutes.
20 Please don't discuss the case, and we'll call you back in a
21 minute.

22 Everybody needs to stay seated until the jury gets
23 out.

24 (WHEREUPON, the jury leaves the courtroom at
25 approximately 11:35 a.m.)

1 THE COURT: Don't do that again, all right. Take a
2 break.

3 (WHEREUPON, a brief recess was taken.)

4 THE COURT: Okay. Everybody ready?

5 MR. BRADLEY: Yes, Your Honor.

6 THE COURT: Bring them in.

7 MR. GAMBLE: I'd ready.

8 THE COURT: Let me just tell you, and I'm going to
9 tell the jury. If I stand up a little bit while you're doing
10 that, don't let it bother you, just the usual, age.

11 (WHEREUPON, the jury enters the courtroom at
12 approximately 11:55 a.m.)

13 THE COURT: Thank you, ladies and gentlemen. Let me
14 just tell you, I just told the attorneys, in fact, I'm going
15 to have to stand up to tell you this. During the course of
16 the next couple hours if I stand up and lean against the wall
17 don't hold that against anybody. That's just old age creeping
18 in on me, or rushing in on me. I'm not sure what, but I hope
19 that doesn't bother you.

20 MS. HOGAN: Your Honor, if it pleases the Court.
21 The State calls Pelham Medlock.

22 PELHAM M. MEDLOCK, JR., after having been duly
23 sworn, testified as follows:

24 THE CLERK OF COURT: If you'd go around and have a
25 seat in the witness chair, please.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 (The witness was seated in the witness stand.)

2 THE CLERK OF COURT: If you'll state your full name
3 and spell your last name for the record.

4 THE WITNESS: Pelham M. Medlock, Jr., M-e-d-l-o-c-k.

5 THE COURT: Yes, ma'am.

6 MS. HOGAN: Your Honor, if it pleases the Court.

7 DIRECT EXAMINATION

8 BY MS. HOGAN:

9 Q. Mr. Medlock, what is your occupation?

10 A. I'm retired.

11 Q. Okay. When did you retire?

12 A. I retired in 2006.

13 Q. Okay. And where did you work prior to retiring?

14 A. The Anderson County Fire Department.

15 Q. Okay. And what was your position with the Anderson
16 County Fire Department?

17 A. When I retired, I retired as the chief arson
18 investigator.

19 Q. Okay. And how long were you employed with the
20 Anderson County Fire Department?

21 A. Since 1992.

22 Q. How long did you work with Anderson County Fire
23 Department as chief arson investigator?

24 A. For about the last about 4 years.

25 Q. Okay. What did your duties include as an arson

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 investigator?

2 A. As the chief investigator my duties did entail that
3 I had to oversee the entire unit, in other words, every call
4 that was responded by our unit. Of course, us being titled as
5 an arson unit only meant that we went out to fires that the
6 fire department either couldn't figure out or they felt was
7 suspicious. We did not respond to every fire.

8 I did have one full-time investigator with some
9 other part-time investigators that worked as well with me.
10 And so I oversaw their cases, as well as I carried a full
11 caseload as the chief investigator.

12 Q. Okay. So why would you be called out to the scene
13 of a fire again, could you explain that? What types of fires
14 would you be called for?

15 A. Well, the actual incident commander is the one that
16 is in charge of the fire scene. Any time there's a fire and
17 the fire department responds, of course, there has to be
18 someone in charge, and that would be what we consider the
19 incident commander.

20 The incident commander's responsibility was to
21 ensure that the fire, of course, was extinguished, any life
22 threats. We're able to remove, rescue, that sort of thing.
23 And then as it continued on, once the fire was extinguished it
24 was his responsibility to determine what caused the fire, how
25 did it catch on fire, why did it burn.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 And if they could not figure that out or if they had
2 circumstances that caused some suspicion basically because of
3 lack of intense training and investigations they had our unit
4 to depend on. So they would then call us in and we would go
5 out at their request. Sometimes it was merely an accidental
6 fire and we walk up and we could figure it right out.
7 Sometimes it was a very in-depth fire and still be accidental.

8 Just because our unit was titled arson did not mean
9 that we went with the pre-mindset that this was going to be a
10 set fire. We went strictly to help, assist and to figure out
11 exactly what happened so that we could give that final answer
12 for the victim.

13 Q. Okay. And let's kind of go back to the basics. Can
14 you explain exactly what a fire is.

15 A. Yes, and it is very important, especially for you
16 all to understand exactly what a fire is because theoretically
17 you have to have certain items together or a fire is not going
18 to burn, it's not going to create a problem.

19 You've got to have, first of all, the first thing
20 that we're sitting in here breathing now, 21 percent oxygen.
21 A fire has to have oxygen as well. The other thing is very
22 similar to us as humans, we have to have food. A fire has to
23 have a fuel. It has to have something that it can burn. Then
24 the third element to the fire triangle would be that of heat,
25 where did the heat come from.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 So you could actually have all three items sitting
2 beside each other and you're not going to have a problem, but
3 then when you have that chain reaction or whatever element
4 brings those three together, whether it be chemical,
5 accidental or man, once those come together we call that fire
6 tetrahedron, and once that completes then you have a
7 sustainable fire.

8 Q. So if you're called out to a scene of a fire your
9 duty is to find the origin and cause of fire --

10 A. That's correct.

11 Q. -- as the chief arson investigator?

12 A. Yes, ma'am.

13 Q. What kind of training do you have to be an origin
14 and cause fire investigator?

15 A. Well, my training goes way back into the very start
16 of my career. Back in 1982 was when I initially started my
17 initial training. And would you like for me to go through
18 each itemize of my C. V.?

19 Q. If you could just kind of summarize them, and then
20 the most recent.

21 A. Okay. In '83 I had -- of course, again, to be an
22 arson investigator or a fire investigator you have to
23 understand what fire is. So initially in '82, '83, '84 was
24 some of my very basic firefighting, fire understanding
25 classes. And then, of course, fire operations, fire ground

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 safety, such followed in '84, '85. Also in '85 was where my
2 interests then at that point had started toward the
3 determination of what caused the fire, why did it burn, and
4 that peaked my interest.

5 The fire service is a lot like any other job.
6 There's a lot of facets of the unit itself or the department,
7 and you can specialize in certain ones. I had an interest in
8 investigations. So in 1985, one of the first classes I took
9 was arson photography. We do document our entire fire scene
10 ourselves. We don't have to call in other people to assist
11 us, and so that started that particular part of my career.

12 I was also an instructor for the fire academy, and
13 in later years I've also taught for the police academy, in
14 particular the classes that pertain to fire and arson
15 investigation where we would actually bring classes in and
16 teach them how to look at and understand was this an
17 accidental or a set fire.

18 My training then continued on into the structural
19 fire fighting, and at that point I had already been certified
20 as an interior firefighter but at that point I then was
21 teaching firefighters how to become certified so that we could
22 ensure that once they went into a burning building they could
23 come back out. So that was where my training focussed at, at
24 that point.

25 Of course, wild land firefighting is a big area for

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 us as well. Of course, you probably remember recent fires
2 where the fires get really big, really fast. I had to learn
3 how to fight those kind of fires as well as teach others how
4 to fight those particular fires.

5 In 1991, I had an advanced arson investigation class
6 where it went beyond the basics. The basics usually started
7 around 2 weeks long. The advanced classes, in which I've
8 continued throughout my career, I've continued taking classes
9 that led up to the more modern technology.

10 We had to always train because what we learned in
11 the '80's was different from the 90's, and so on. So we had
12 to constantly stay up on it, stay in school and work at these
13 things. We had to continue with instructor enhancement, which
14 helped promote us being instructors.

15 I then moved into management classes, whereas when I
16 initially came to Anderson County -- and, you see, this is in
17 1992, was when I came. I came as the instructor supervisor
18 for all the county firefighters. I was in training to be sure
19 all of our firefighters, there were 875 of them, were properly
20 trained so they could go in and fight fires.

21 At that point, then I took training classes that
22 prepared me for management because from 1992 to 1994 I was
23 promoted from the training supervisor up to the chief of
24 Anderson County Fire Department, which entailed 27
25 departments, over 850 volunteer firefighters.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 Of course, a lot of things, as things kept growing
2 we had to continue to train in other aspects of hazmat
3 materials, also medical issues where we took legal classes
4 that teach so we could understand different medical issues. I
5 was always certified as a basic EMT in 1992.

6 Continuing on, again, continued training in lead
7 evaluator for the fire academy so that I could then qualify
8 instructors to teach, and I did that in some of the same very
9 classes I've just spoke about.

10 Chemical weapons warfare was another thing that as
11 times have changed we had to start studying those more and
12 more.

13 Then we did have some very unique training. It was
14 very specialized because in 1994 I transferred from the
15 chief's office over into the investigations office. And one
16 of the very good trainings that we had, we joined with North
17 Carolina, the International Association of Arson
18 Investigators, and we did props where we took mobile homes and
19 there would be separate types of fires, some accidental, some
20 intentional. So we would set those fires, we would study them
21 and critique them throughout the classes.

22 I'm sorry. I got lost here. Then, of course, I
23 went into other professional development for interior
24 firefighting. And also I started taking different types of
25 interview classes; kinesic interviews, firefighter arson

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 awareness, kinesic interrogations, neurolinguistics, interview
2 and interrogations of lawful interviewer, fire investigator
3 approaches. We're up to about 1997 now.

4 I continued doing updates for interior firefighting,
5 updates on my instructor recertification, other classes in
6 fire investigations approaches.

7 We had a very big class in 1998 down at Myrtle
8 Beach, again one of those joint trainings that we went through
9 with North Carolina and actually we had some engineers from
10 Ford come in. They donated some brand new Crown Vics and Mark
11 IV's, a lot of new vehicles that were test vehicles.

12 They brought them in and that was some of the very
13 good training that we had where we actually set different
14 types of fires. And these engineers, that was the real key to
15 it, these engineers would manipulate things throughout the
16 cars and then we as investigators had to go in and work them
17 to figure out how the fire started. That was up in 1998.

18 We also handled post-blast investigations, had
19 training of that in '98; again, arson detection for the first
20 responder, which was a new national class. I took it and
21 later became an instructor for that.

22 Fire investigative approaches again in '99;
23 instructor recertification in '99, essential instructor
24 update; fire investigative approaches in 2000, high voltive
25 electrical systems. That was when the hybrids first started

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 coming onto the market, when you started seeing the hybrid
2 cars. And, of course, they carry very high voltage, totally
3 different than average vehicle fires. So we had some specific
4 trainings on those.

5 I went through mock trials in 2001, instructor
6 recertification, electrical fire investigation, fire
7 investigative approaches, explosive investigations; fire
8 investigation techniques in 2002, hazardous material and fire
9 arson investigations, wild land fire investigations. That as
10 well still in 2002.

11 In 2003, fire investigative approaches. Instructor
12 recertification again in 2004 and 2005, incident command
13 systems where not only the fire departments but anyone that
14 enters a scene has to understand and know the incident command
15 system. So it's kind of a pecking order, who is in charge.
16 Somebody has got to be in charge. You can't have too many
17 chiefs and not enough Indians. Everybody has got to get out
18 and work. So that was what the incident command system taught
19 us.

20 In 2005, had introduction to fire dynamics and
21 modeling, which entails a lot of computer graphics where we
22 can start using different computer software to recreate fires
23 on computer so that we can then show them and understand them
24 and study them.

25 In 2007, another instructor recertification. And,

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 of course, right at that period in 2006 and 2007 was where I
2 retired. Then you'll see my training has dropped down some
3 since then. I retired due to a medical issue but I did try to
4 stay up with my instructor recertification.

5 I also started volunteering for some other
6 organizations; 2007 fire investigative approaches. I became
7 group 2, class 1 police officer, state constable in 2008, and
8 then again another volunteer orientation in 2008.

9 Q. Okay. And have you been qualified as an expert in
10 Anderson County in the field of origin cause fire
11 investigation before?

12 A. Yes, ma'am, I have.

13 Q. Okay. And how many times?

14 A. A couple times in Anderson County.

15 Q. Okay. All right. Have you had the occasion to
16 determine the origin cause of a vehicle fire before?

17 A. Yes, I have.

18 MS. HOGAN: Your Honor, at this point the people
19 move that Pelham Medlock be declared as an expert in field of
20 origin and cause fire investigations.

21 THE COURT: Any objection?

22 MR. PRUITT: No objection.

23 MR. GAMBLE: None.

24 THE COURT: Without objection, he's qualified.

25 BY MS. HOGAN:

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 Q. Mr. Medlock?

2 A. Yes, ma'am.

3 Q. Were you the Anderson County arson investigator on
4 June 30th of 1999?

5 A. Yes, ma'am, I was.

6 Q. Did you have an occasion to respond to Baugh Road in
7 response to a call regarding a vehicle fire?

8 A. Yes, ma'am, I did.

9 Q. And is Baugh Road located within Anderson County?

10 A. Yes, ma'am, it is.

11 Q. And for what reason were you called to the scene at
12 Baugh Road?

13 A. The fire department responded out to a vehicle fire.
14 They was in the process of extinguishing it, and they are
15 sometimes short. I did not listen to the radio traffic. I
16 wasn't even aware of the fire until the dispatcher come back
17 and told me that it was one of those daytime fires. And he
18 came back and said you've got a car fire up on Baugh Road.
19 And so then I got my stuff together and left off as soon after
20 and proceeded to Baugh Road.

21 Q. What time did the call come into the fire
22 department?

23 A. And I'll refer to our call log.

24 Q. Okay.

25 A. That is obtained by the dispatcher. The fire

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 department on case number 991635 on June 30th, 1999 received
2 the call of a vehicle fire at 3:27 p.m.

3 Q. Okay. And what time did the fire department arrive
4 on the scene that day?

5 A. The first truck for the fire department, which was
6 engine 16, which is a truck from Walker-McElmoyle Fire
7 Department Number 16, engine 16 arrived at 3:31.

8 Q. Okay. And did anyone else respond?

9 A. Yes, ma'am. They also had a tanker to respond,
10 which is very typical. A fire truck carries a very limited
11 amount of water, 500 to a thousand gallons. Tankers carry a
12 thousand to 1500 gallons. So typically when an engine goes
13 out a tanker follows. The tanker as well left at 3:37 and
14 arrived at 3:33.

15 Q. So the call came in at 3:27 and it left at 3:33?

16 A. No, it arrived at --

17 Q. 3:33?

18 A. -- 3:33. Yes, ma'am.

19 Q. So you have the first engine arriving at 3:31, and
20 the tanker arriving at 3:33?

21 A. That's correct.

22 Q. After they were notified at 3:27?

23 A. Yes, ma'am.

24 Q. And what time did you get the call that you needed
25 to be out at Baugh Road?

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1 A. I received notification at 3:39.

2 Q. Okay. And what time did you arrive?

3 A. And I arrived on the scene 3:59.

4 Q. What did you find upon your arrival on Baugh Road?

5 A. Well, when I arrived I found the fire department, of
6 course, still on the scene. And, of course, in route prior to
7 my arrival the fire department had called and reported that
8 they had found a victim.

9 I was then notified by my dispatcher of the victim,
10 and when I arrived I seen the--- for the most part the fire
11 was out. The fire department had already extinguished it and,
12 you know, the fire itself was okay.

13 I was then showed the location of the victim. At
14 that point, I continued to enforce seeing that security remove
15 any unessential people from the scene. That included
16 ~~firefighters. I made them go back, and the area was secure~~
17 with a tape, crime scene, fire department tape, probably both
18 of them on that particular day. They roped the area off. Not
19 a 360 but they protected the scene and kept everyone out at
20 that point.

21 Q. Okay. Now, typically when you arrive on the scene
22 of a suspicious vehicle fire what is the protocol that you
23 follow when you arrive?

24 A. Well, we actually go by a systematic order. So in
25 this system that we use, of course, is noted in different

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 guidelines, but the system allows us to go through a process
2 so that we won't forget to do anything, so that we don't
3 overlook anything. And one of the very first things is we
4 conduct a walkabout of the scene, just kind of look around.
5 We don't focus right on the fire. We look at the whole scene
6 as a whole. And, of course, scene safety is a big concern,
7 not only from the reason the victim was there but as well as
8 there were head power lines such as that. We wanted to be
9 sure that the fire has not damaged something that could injure
10 more people in that area. We then do that, continue that
11 walkabout throughout the scene.

12 And then we will start documenting it with
13 photographs. We started photographic documentation of
14 everything we see so we can look at the entire area again on
15 photograph.

16 Q. Okay. Did you follow the protocol in this case?

17 A. Yes, ma'am, I did.

18 Q. And so how did you start when you arrived on scene?

19 A. Started with, again, of course, first being showed
20 where the body was, secured the scene, and then I started
21 making photographs of the entire area.

22 Q. Okay. I'm going to be handing you what is marked
23 State's Exhibits 4 through 20.

24 A. Okay.

25 Q. Can you look through those and tell me what you see.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 A. Yes, ma'am.

2 Q. Do you recognize those?

3 A. I do.

4 Q. And how do you recognize them?

5 A. These were a very accurate depiction of the scene
6 that I found the day that I arrived on the car fire.

7 Q. So they are a true and accurate depiction of the
8 vehicle fire you responded to on Baugh Road?

9 A. That is correct.

10 Q. On June 30th of 1999?

11 A. Yes, ma'am.

12 MS. HOGAN: Your Honor, the State moves exhibits
13 number 4 through 20 into evidence.

14 THE COURT: Any objection?

15 MR. PRUITT: No objection.

16 ~~THE COURT: Any objection?~~

17 MR. GAMBLE: No, Your Honor.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit Numbers 4 through 20,
20 Photographs, were admitted into evidence.)

21 MS. HOGAN: Permission to publish to the jury, Your
22 Honor?

23 THE COURT: Sure.

24 BY MS. HOGAN:

25 Q. Mr. Medlock, I'm going to ask you to step down.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 A. Okay.

2 Q. I'm going to put what has been marked as State's
3 Exhibit Number 4 up on this.

4 A. This particular photograph is going to be showing,
5 of course, where the fire truck is at. That's going to be the
6 hard paved road. Where this photograph is taken from is the
7 rear of the vehicle, of course, with the body to the right and
8 the vehicle in the center.

9 That kind of gives you a quick overview of what we
10 could see, this back here being more of a -- this area here
11 (indicated) is carrying us back to a trail at the end of that
12 driveway. You can see it's kind of open but it does have some
13 overgrowth as it comes through there.

14 Q. Okay. I'm going to show you what has been marked as
15 State's Exhibit Number 5. What, if anything, does this
16 picture depict?

17 A. Okay. This is a photograph of the scene. This is
18 the exterior of the leaves and all you just seen. The victim
19 was located right in this area (indicated). Then, of course,
20 the vehicle fire would be up in this area (indicated).

21 Q. Okay. I'm showing you what has been marked as
22 State's Exhibit Number 6. What, if anything, does this
23 picture depict?

24 A. This picture is showing us looking at the vehicle
25 fire more from the hard surface road, not right beside the

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 fire truck but the fire trucks would probably be located in
2 this area (indicated). So we were looking on the front.

3 And, of course, these types of photographs are very
4 important to us so that we can look at exactly what kind of
5 burn patterns we have. The whole process of an investigation
6 is built off of evidence that we see, that we develop based on
7 burn patterns and other indicators that we look for. So we'll
8 look at the grass, we'll look at the trees, we'll look at, of
9 course, the vehicle itself.

10 We start all of our investigations from the extreme
11 outside, the least burnt, and then we work our way into the
12 worst burn, and then get on down into the area of origin. And
13 then once we determine the area as we continue processing
14 we'll find the point of origin.

15 Q. Can you explain why the hood of the car is up at
16 that point.

17 A. Yes, ma'am. This was the way that we found it.
18 This was the way it was when I arrived on the scene. This is
19 not the status of the vehicle at the time of the fire. The
20 hood was actually closed at the time of the fire.

21 I like to dictate the scene as I seen it and then
22 because a lot of times the fire department has to do certain
23 things to a scene in order to extinguish it. So in this
24 particular case the fire department raised the hood to check
25 for extinction of fires and the hood was remained open.

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1 Q. Okay. I'm going to be showing you what has been
2 marked as State's Exhibit Number 7. What, if anything, do you
3 see in this picture?

4 A. This is, of course, the passenger side of the
5 vehicle. To kind of orient you a little bit, the road, the
6 hard surface road is up here (indicated) and this, of course,
7 is back toward where the victim is at (indicated).

8 Again, you're looking at the passenger side, and as
9 you start looking -- and you can kind of start seeing what
10 we're looking for. This is a great picture. If you look here
11 you kind of start seeing a little bit of a pattern.

12 Okay. One thing that a fire does, as a fire burns
13 it's going to burn up and out. Okay. So as it burns up and
14 out it makes a V pattern. And so as investigators, we take
15 and look at these patterns and we start developing an
16 apotheosis of probably what happened. We start building those
17 theories in our mind.

18 And, of course, we can look at this, we can tell
19 that the trunk area was not burnt, the paint is still good.
20 We still got the rubber molding on the right passenger side,
21 and then you see how the fire comes back up. So the whole
22 front of the vehicle, as well as most of the rear of the
23 vehicle did not suffer any flame impingement, at least direct
24 flame impingement.

25 Q. Okay. I'm going to be showing you what has been

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 marked as State's Exhibit Number 8. What, if anything, is
2 depicted in this picture?

3 A. Okay. This is a little closer up picture of the
4 passenger side of the vehicle. And one thing I want you to
5 understand, I'll talk about passenger side, I'll talk about
6 driver's side but then I'll talk about passenger compartment,
7 that being both the front and the rear, the right and the left
8 side of the vehicle, but it's just where people sit.

9 So this is going to be the passenger side. Of
10 course, this is the engine compartment at the front
11 (indicated). The hood is still raised. And what I'm looking
12 at here, of course, here is a closer pattern (indicated).
13 Look at that pattern I was just talking. As a matter of fact,
14 you can still see some parts of the brand of the vehicle. You
15 can tell all of this molding is still intact. So you can
16 start looking at levels of where the fire was at.

17 And another thing that I was observing at this point
18 was the two seats. Again, those both seats were reclined.
19 That is very typical in a vehicle fire due to mechanical
20 failure. Mechanical failure happens because of extreme heat.
21 It attacks different parts of the vehicle seats and so the
22 seats were more or less relaxed. So that is not necessarily
23 the position that the seats would have been found in prior to
24 the fire. Also, this starts showing us some evidence that we
25 have no fire or very minimum fire in the engine compartment.

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1 Q. Okay. What else, if anything, do you notice about
2 the mirror?

3 A. Can I grab my water?

4 Q. Sure.

5 A. Sorry. Of course, as she mentioned, the mirror
6 here, of course, that does not look like a typical mirror.
7 You can tell that the more of the rounded end part of it is
8 missing. This is also dictating where the flames actually
9 proceeded at (indicated).

10 You did not lose the entire part of this, and this
11 is some varied lot in metal composites. It's not all aluminum
12 but it's kind of a light weight pot metal type of a product
13 that these mirrors are made out of. So they do fail under a
14 kind of an average medium amount of heat.

15 Q. Okay. When you say something fails what are you
16 meaning?

17 A. When it fails it starts to charring in its original
18 composition. It's changing from the way we as humans was
19 using it and the way it was designed and built is actually
20 changed due to the paralysis that has took place in the
21 burning of the product of the combustible material.

22 Q. Now, it looks like something is up on the roof.

23 A. Yes, ma'am. Up here at the top -- of course, this
24 was something that we was looking at. We look at the windows,
25 we look at the windshield, and then at the top also is a

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1 sunroof. It wasn't T-tops now. It was just a sunroof, and
2 you have an opening in the very top.

3 The glass is very important to us in a vehicle fire.
4 The glass is one of those things -- and if you -- hopefully,
5 you kind of understood what I'm talking about with looking at
6 a fire scene. A fire scene is a lot like a book. Everything
7 is written. It will tell you everything that happened if you
8 know how to read. So that's what we have to do, start reading
9 this book.

10 One of the things of importance was going to be, of
11 course, the glass. We look at the glass, in the vehicles to
12 tell where the fire came from, tell what parts of the glass
13 was attacked by the fire first, and then, of course, that also
14 makes an influence on the amount of time or length of burn
15 based off of what kind of airflow was actually inside -- this
16 particular case inside the vehicle.

17 Q. Okay. I'm going to show you what has been marked as
18 State's Exhibit Number 9. What, if anything, does this
19 picture depict?

20 A. This, of course, is the rear of the vehicle. This
21 is the passenger side (indicated). This is the driver's side
22 (indicated). Great picture here for us to look at simply
23 because, again, we're looking at extinction of the fire.
24 We're looking where did this fire come from, where did it
25 start.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 You know, a lot of times you want to take the
2 obvious and go, oh, it started right there. Well, again,
3 remember, we start from the least burn and work to the worst
4 burn. And so that's what we're doing here with this picture
5 is we're looking. You can tell the tires are intact. We've
6 got the rubber bumper that's intact. We still got even the
7 little rubber molding and the light aluminum part that
8 protects the trunk area.

9 Of course, we lost the back glass, but again, look
10 at this V pattern that's formed in here (indicated). And
11 we've got a lot of heat up high but we don't have very much
12 heat at the trunk area. This again is part of the system of
13 forming where did this fire come from, where did it originate,
14 and that would then lead us to what caused the fire.

15 Q. Okay. I'm going to show you what has been marked as
16 State's Exhibit Number 10. What, if anything, does this
17 picture depict?

18 A. In this particular one, this is an interior view of
19 the trunk. And the great thing about this, again, is to
20 narrow it down where that area of origin was, and it's quite
21 obvious the fire did not start in the trunk.

22 And one big thing, this is a plastic spray bottle.
23 You know, plastic don't hold up to heat very well. So that
24 plastic bottle was still intact. We've got the lining of the
25 trunk is still here, a lot of plastic and other rubber

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1 material that's in the back. So there was very minimum, what
2 we consider flame impingement.

3 Flame impingement is where the flames actually went
4 and met, where the flames touched. You can see that we had
5 some flame impingement but very minimum where the back of the
6 backseats and that separator from the backseats to the trunk
7 started failing. So you had a little bit of heat, a little
8 bit of smoke, very, very minimal flame impingement.

9 Q. Okay. I'm going to be showing you what has been
10 marked as State's Exhibit Number 11. What, if anything, does
11 this picture depict?

12 A. This particular photograph shows us the driver's
13 side of the vehicle. And, again, we're looking at patterns.
14 You can see the V pattern here.

15 Again, we look at the hood area and the engine
16 compartment. And if you'll notice right in here you start
17 seeing components that you'll notice under your hood. You'll
18 notice that there's different containers and different parts
19 of the engine, and if you look at them a lot of those fail
20 under a minimum amount of heat.

21 Now, they do sustain some heat due to the heat
22 that's built up in the engine compartment but as we notice,
23 all of these intact. The are intact tires, we still got the
24 molding on the side, rear tire. So it again is helping point
25 us back to that area of origin.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 Q. Okay. Showing you what's been marked as State's
2 Exhibit Number 12. What, if anything, does this picture
3 depict?

4 A. This particular picture is again another one of
5 those -- you know, we prove all during the process of a scene,
6 we prove what didn't happen, okay, before we have to rule out
7 everything that could have possibly happen. So one of the
8 things I was looking at with this particular photograph is I
9 had fire that extended from the vehicle.

10 Okay. Now, a lot of times -- and as the Judge
11 talked about this morning, don't let TV play into your mind
12 here because the gasoline is used so much in TV and the big
13 long pour patterns, okay?

14 If an ignitable liquid is actually distributed it
15 does leave distinct patterns. And so what we try to do is
16 look at everything that was there to see if there was any sort
17 of pour patterns of an ignitable liquid, did the fire follow
18 from the wooded area to the vehicle. So that was what we was
19 looking at here and to make a determination.

20 Q. Okay. And to give the jury some perspective, where
21 was the body in reference to the car in this picture?

22 A. It's going to be located right back here
23 (indicated).

24 Q. Toward back down that way?

25 A. And I'm sorry, if I may. When we're talking about

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1 ignitable liquids, if you'll notice coming out of the driver's
2 door everything is still intact. Okay. If an ignitable
3 liquid had of been poured we would have had some distinct
4 pattern here leading to the vehicle.

5 What this photograph shows us very distinctly is
6 that the fire proceeded from the vehicle to the woods. Not
7 from this area to the vehicle (indicated).

8 Q. Okay. I'm going to be showing you what has been
9 marked as State's Exhibit Number 13. What, if anything, does
10 this picture depict?

11 A. This is actually showing us the passenger
12 compartment. Again, I'm talking front, back, driver's side,
13 passenger side. This is actually looking from the passenger
14 side of the passenger compartment, and if you will, we're kind
15 of looking across through here.

16 This is the driver's seat (indicated). This area
17 here is going to be the passenger seat (indicated). And one
18 of the big things we're starting to look at, of course, is the
19 glass, the molten glass, and that tells us a lot about
20 temperatures and how things fail.

21 And also looking at the electrical system because
22 electrical system is a potential -- if you remember earlier I
23 talked about what it took to make a fire. One of things it
24 takes to make a fire is heat. So the electrical system is a
25 possible reason for a heat, how the heat could have got

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 started. And, of course, through the examination it ruled out
2 all of the electrical system in this particular vehicle.

3 Q. Okay. I'm going to be showing you what has been
4 marked State's Exhibit Number 14. -- What, if anything, does
5 this picture depict?

6 A. This particular photograph is showing us this is the
7 front two seats. This is the driver's side (indicated). This
8 is the passenger side (indicated). And keep in mind they are
9 in their reclined position. One thing -- and this is going to
10 be part of the door frame of between the front and the rear
11 area (indicated).

12 One of the things that was really good about this is
13 this actually shows us the amount of burn, where the fire was
14 at, where the fire was headed, how was it working. And what
15 we can see here, we can tell the back of these seats are
16 totally destroyed. There's nothing but the hard metallic
17 parts of the seats left.

18 But now, keep in mind, just think of your
19 automobile. The seats are cushioned. They've got foam on
20 them, they've got leather or something to encompass them. So
21 there's a material there. All that has been burned away.

22 If you'll look, this is the bottom. This is
23 actually where the people sit in the backseat. If you'll
24 notice, this is still somewhat intact. Okay. It's not where
25 you could run over it with a dust buster and use it again but

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 at the same time it's not all consumed. But if you'll look up
2 a little bit higher you can tell the other parts of the
3 backseat have actually been consumed, the higher part. So
4 again, taking that and looking at the exterior part that
5 starts bringing us in to, again, looking for the area of
6 origin.

7 Q. Okay. I'm showing you what has been marked as
8 State's Exhibit Number 15. What, if anything, does this
9 picture depict?

10 A. Okay. This particular photograph is the driver's
11 seat. You'll note here in the center is going to be the hand
12 brake for the vehicle (indicated). And if you'll notice here
13 in the driver's seat there is some of the cushion. You can
14 see where some of that bottom part of the cushion was actually
15 retained (indicated). Again, look at the front area kind of
16 where the back of your legs would go when you're sitting down
17 in the seat all of that area is totally consumed.

18 Q. And why, if anything, would this seat not be burned?

19 A. Well, and actually, what did take place is there was
20 an item or the substance that was actually sitting on the
21 seat, and anything that can give protection will allow the
22 fire to burn around or burn longer before it actually consumes
23 it all. So there was something on that seat that preserved
24 that part of it.

25 Q. Okay. I'm showing you what has been marked as

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 State's Exhibit Number 16. What, if anything, does this
2 picture depict?

3 A. Okay. Now, this is standing -- this is on the
4 driver's side, and actually looking down in that seat, the
5 back of the driver's seat. Again, the bottom of this seat
6 (indicated). This is the unburned portion, and this is what
7 is sitting on the seat (indicated).

8 Q. Okay. Showing you what has been marked as State's
9 Exhibit Number 17. What, if anything, does this picture
10 depict?

11 A. Okay. This is looking at the vehicle from the
12 exterior on the passenger side. And you're kind of again
13 looking across. This being the passenger seat, this is the
14 driver's seat, and there's the hand brake again (indicated).
15 And, again, we're just looking at the amount of burn. We're
16 looking at the amount of heat that was transpired to the door.

17 Looking at the glass, I mentioned the glass earlier.
18 There's several pictures that's pretty good with the glass.
19 Glass fails according to where the fire was at. If you have
20 an engine compartment fire the glass will fail right at the
21 top of the dashboard area. If you have a passenger
22 compartment fire your front windshield -- what I'm taking
23 about now, it will actually fail up at the top. It will fail
24 high.

25 And then a lot of times you'll find that where it

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 fails and it molts in, and that's what's taking place here, is
2 where the glass is heated up and failing. It was hot when it
3 actually landed on these items.

4 Q. Okay. Showing you what has been marked as State's
5 Exhibit Number 18. What, if anything, does this picture
6 depict?

7 A. Okay. This particular one is showing a view from
8 the driver's side. If this is the vehicle, standing here
9 looking back across from the driver's side, the back side here
10 being back in this area (indicated). This is the steering
11 column, and, of course, the passenger and driver's seat
12 (indicated). And, of course, one thing that is noted is the
13 steering wheel is missing, and that failed due to the fire.

14 Q. And what is this, and this right here in this
15 picture?

16 A. This, again, is some of the molten glass that has
17 failed and fell into the interior of the vehicle.

18 Q. So the glass failed at which part in this car?

19 A. In this particular fire the glass failed up at the
20 top of the windshield, not down at the bottom (indicated).

21 Q. So when it failed it fell from the top?

22 A. Uh-huh. And keep in mind now, it don't just fall
23 out. You know, it's hot, and when I say fail that's just
24 where it's starts -- the fire starts breaching through. So as
25 it starts failing then it's going to melt and gradually come

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 on in.

2 Q. Okay.

3 A. Remember, too, that the windshield is a different
4 type of glass, much different than the side-glasses as well
5 because they have a different break in the melting areas.

6 Q. Okay. I'm showing you what has been marked as
7 State's Exhibit Number 19. What, if anything, does this
8 picture depict?

9 A. Again, this particular picture shows us the steering
10 wheel, and a very significant item that we look at because we
11 don't know why the vehicle is there, how did the vehicle get
12 there, why is it there? We don't know.

13 So what this picture actually showed me was that the
14 vehicle was driven there with a key. That's the big key there
15 that I'm looking at is that -- in other words, the steering
16 column wasn't punched and they stuck a screw driver in it and
17 stole it. I'm not saying it wasn't stolen. I'm just saying
18 they didn't breach in the steering column. They actually used
19 the key to drive the vehicle there.

20 Q. Okay. And finally, I'm showing you State's Exhibit
21 Number 20 --

22 A. Okay. This --

23 Q. What, if anything does, this depict?

24 A. I'm sorry.

25 Q. That's okay.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 A. This particular one shows us that this -- now, keep
2 in mind this is after the vehicle has been removed, and we
3 always make pictures then as well so that we can go back and
4 we can look at what is taking place around the vehicle that we
5 couldn't see with it in place.

6 Of course, the vehicle was sitting in this area
7 (indicated). And we've got some burn here and then, of
8 course, this goes up into the woods (indicated). If the fire
9 had of originated underneath the vehicle we would have had a
10 much different burn pattern. We'd of had a lot more of the
11 vegetation consumed. So the fire, again, was in the vehicle
12 itself and not coming from the ground.

13 Q. Okay. Thank you, Mr. Medlock. You can take a seat
14 back on the witness stand for me.

15 A. (The witness complied).

16 Q. Mr. Medlock, after going through the pictures what
17 else, if anything of significance, did you find at the scene
18 that day?

19 A. Well, we did -- was able to look at all of the
20 evidence that we had there and come to a conclusion of at
21 least the area of origin of this particular fire.

22 Q. In your expert opinion, where was the origin of fire
23 in this car?

24 A. It was in the passenger compartment.

25 Q. Okay. And when you say the passenger compartment,

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 can you explain what you mean by that?

2 A. Yes, ma'am. That would be any of the area where
3 people actually occupy, where people sit. Not a position
4 inside. It's where they would sit. So it is within the front
5 rear and rear seats.

6 Q. In your expert opinion, what was the cause of the
7 fire?

8 A. After evaluating it and looking at all of the
9 possible causes, ruling out all accidental reasons, I did
10 conclude that this was an incendiary fire, an incendiary
11 meaning intentionally set. So the factors that we talked
12 about earlier and when I was explaining fire, that which
13 brought them all together was going to be that of a human
14 intervention.

15 Q. We talked about this a little bit during the
16 pictures but could you look at the scene and determine how
17 long the fire had been burning in the car before it had been
18 put out?

19 A. Well, I cannot say the fire started at a certain
20 time and this was the exact time it was put out. No, I cannot
21 determine that. But we can look at -- and again, this come
22 back from some of my training earlier. We can tell sometimes
23 how long fires react or how long they burn based on the
24 ventilation. Ventilation is a big key of how long a fire will
25 burn, what kind of intensity it's going to burn.

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 Now, vehicle fires can reach up to 1800 degrees on
2 the interior. That's 1800 degrees Fahrenheit. So they do get
3 extremely hot. Again, ventilation is what's playing that big
4 part, how much ventilation was there.

5 As I mentioned earlier, fire is a lot like you and
6 I. We have to have oxygen to survive. So if the ventilation
7 was very limited as this particular fire was burning then that
8 starts filling up that passenger compartment with super heated
9 gases and smoke, smoke being the incomplete combustion.
10 That's the product of pyrolysis that did not burn. So as that
11 process is taking place the byproducts, being smoked, will
12 start occupying that interior space.

13 Now, given the amount of ventilation will dictate
14 how long it will burn. As it builds up if the ventilation is
15 very limited, as it builds up the fire would start acting
16 again like you and I. At about 16 percent oxygen as the smoke
17 starts taking up the fire, using up the oxygen about 16
18 percent then the fire is going to get real lazy. You and I
19 would get real sleepy. So it kind of has that same effect,
20 and the less oxygen the less intense of the burn.

21 Q. Okay. So in your expert opinion, this fire started
22 in the passenger compartment of the car through human
23 intervention. Could you tell what type of human intervention
24 it was?

25 A. Well, we do have some indications that there was an

PELHAM M. MEDLOCK, JR. - DIRECT BY MS. HOGAN

1 ignitable liquid used, but as far as what that exact heat
2 source was, no, ma'am, I cannot tell you that.

3 Q. Just in general what, if anything, could a fire like
4 this vehicle fire do to any potential evidence that was in a
5 car?

6 A. It does hold a very high possibility of evidence
7 destruction. Of course, keeping in mind that's part of our
8 studying, we learn what things look like after they are
9 burned. All of the evidence is still there but at the same
10 time we have to know how to look for it.

11 Unfortunately, the fire department is one of our
12 enemies at that point because the potential of the hose
13 streams destroying some evidence. It could be a very firm
14 piece of evidence and then as pyrolysis takes place -- and
15 pyrolysis is the heating of the substance, that the
16 combustible material heats it up.

17 And I want you to just kind of think for a second of
18 the last campfire you was at or you had a fire burning in your
19 fireplace burning some wood. The wood itself is not being
20 consumed. The wood does not burn. What is actually taking
21 place is pyrolysis, which is the breakdown of the substance by
22 heat. As the heat breaks it down it then releases a gas.

23 So if you could actually look the flames would
24 actually be off of that substance just a tiny bit, and that's
25 that vapor filled with gas there. But during that breakdown

PELHAM M. MEDLOCK, JR. - CROSS BY MR. PRUITT

1 it then changes the solid exchanging to a gas, and it also is
2 reducing it to a char, which is the unburned portion.

3 Q. Okay. Okay. And now going back to the burn time.

4 Were you able to come up with any kind of parameters as to how
5 long the fire had been burning?

6 A. Well, it's a very wide parameter, unfortunately.
7 You know, we've looked at some that we've done in controlled
8 situations from very open doors, open windows, free burning.
9 It can go anywhere from minutes to as much as -- this

10 particular fire could have went maybe as much as 45 minutes.

11 Q. So it could have been as few as 10 or 15 minutes up
12 to 45 minutes?

13 A. Yes, ma'am, that is possible.

14 MS. HOGAN: Nothing further from the State, Your
15 Honor.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. PRUITT:

19 Q. Mr. Medlock, you last testified, I believe, to
20 Ms. Hogan that your opinion was that the fire had been burning
21 10 to 15, to 45 minutes?

22 A. That is a possible window, yes, sir.

23 Q. And that would have been starting -- if the fire
24 department received the call at 3:27 then the fire would have
25 had to have been started from approximately quarter of 3 to

PELHAM M. MEDLOCK, JR. - CROSS BY MR. GAMBLE

1 whatever 45 minutes would be after that?

2 A. Well, based off of some of the witnesses the fire
3 was not real intense when they first got there. (So it was not
4 totally out of the vehicle. So, you know, really the only
5 thing I can say for sure is fire started prior to 3:27.

6 Q. Okay. Well, if it started on the short end of your
7 thing it would have started 10 minutes before 3:27, and on the
8 long end of your estimate it would have started 45 minutes
9 prior to the 3:27; is that right?

10 A. That is a possibility that it could have burned as
11 long as 45 minutes.

12 Q. Well, now, you were sitting here in the courtroom
13 and when Aaron Powers got there he said the car was very hot,
14 it was too hot to the touch. That would indicate that it had
15 been burning for quite sometime, wouldn't it?

16 A. It had been burning long enough to build up heat,
17 yes, sir.

18 MR. PRUITT: That's all I have.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. GAMBLE:

22 Q. The fire would destroy fingerprints, naturally,
23 wouldn't it?

24 A. Yes, sir.

25 Q. Because a fingerprint is caused by oil of the skin?

PELHAM M. MEDLOCK, JR. - CROSS BY MR. GAMBLE

1 A. Yes, sir. That's part of a print, yes, sir.

2 Q. Yes, sir. Did you find any kind of can or container
3 that would carry gasoline, kerosene, or diesel fuel, or any of
4 that type accelerant?

5 A. We did not collect anything like that, no, sir.

6 Q. Well, did you see anything like that?

7 A. No, sir.

8 Q. If it were plastic and thrown into there it would be
9 consumed, wouldn't it, a container?

10 A. Not totally. I mean, it would be distorted. It
11 would not look familiar to most people. A bottle or
12 container, for instance, will shrivel up very small but it's
13 still there, but would be greatly damaged.

14 Q. Could you hazard a guess as to what was on the front
15 driver's seat?

16 A. I'm sorry. Could you --

17 Q. Could you hazard a guess as to what that thing was
18 on the front driver's seat?

19 A. Some sort of white substance. A white substance,
20 powdery substance.

21 Q. On the driver's seat?

22 A. Yes. That's correct.

23 Q. And that kept it from burning?

24 A. Yes, sir. The volume of it, the amount of it that
25 was sitting there protected that seat area?

PELHAM M. MEDLOCK, JR. - CROSS BY MR. GAMBLE

1 Q. So it wasn't an accelerant of any kind?

2 A. No, sir, that wasn't an accelerant.

3 Q. Did you have the white substance tested in any way?

4 A.--- I didn't collect it.---The sheriff's office, I
5 believe, did collect it.

6 Q. The sheriff's office collected the white substance?

7 A. That's correct. I did not retain it. Let me
8 rephrase that. I think I assisted in collection. I did not
9 retain it nor did I send it off for testing.

10 Q. What's the melting point of aluminum?

11 A. I can't give you an exact temperature but we're
12 getting around a thousand degrees.

13 Q. A thousand?

14 A. Yes, sir.

15 Q. What about steel?

16 A. Steel is going to be much higher. It's going to,
17 you know --

18 Q. Five times higher?

19 A. Not quite 5. It's going to get up to 3,000 or
20 better, yes, sir, according to the hardness of what type of
21 steel it is.

22 Q. What about gun metal?

23 A. I'm sorry?

24 Q. Gun metal.

25 A. Again, according to what the composite of the metal

FELHAM M. MEDLOCK, JR. - CROSS BY MR. GAMBLE

1 is, but it can melt, yes, sir.

2 Q. But about 4,000, 5,000 degrees?

3 A. Honestly, I can't answer that. I just don't have
4 those figures in my mind.

5 Q. But you did say steel will melt at 4,000 degrees?

6 A. Well, it's an elevate. I can't give an exact
7 temperature based off of is it hard, is it soft, is it
8 tempered.

9 Q. In that range?

10 A. It could be, yes, sir.

11 Q. Okay. This body that you found, I read somewhere
12 the man was 6 foot 8. Does that appear right to you?

13 A. I couldn't dispute it. I mean, I observed him and,
14 you know, secured it and then assisted in toting out but as
15 far as --

16 Q. You didn't measure it?

17 A. No, sir, I didn't measure it.

18 Q. Did you see any drag marks ahead of the feet?

19 A. I did not notice that.

20 Q. Or behind the feet rather?

21 A. No, sir.

22 Q. Didn't notice any?

23 A. I did not notice any.

24 Q. Were you looking for it?

25 A. Yes, sir.

PELHAM M. MEDLOCK, JR. - REDIRECT BY MS. HOGAN

1 Q. And didn't see any?

2 A. Didn't see any.

3 Q. So evidently he fell where he was shot? You can
4 draw a conclusion of that, at any rate?

5 A. That could be an assumption. I don't know.

6 Q. All right. Thank you. What are you doing now?

7 A. I'm retired and enjoying it.

8 Q. Okay. Thank you.

9 A. Thank you.

10 THE COURT: Anything on redirect?

11 MS. HOGAN: Yes, sir. Just one question, if it
12 pleases the Court.

13 REDIRECT EXAMINATION

14 BY MS. HOGAN:

15 Q. Mr. Medlock, there was a question about the heat
16 could have been -- it was so hot because the heat could have
17 been built up within 45 minutes. Is there any way the heat
18 could have built up in a shorter amount of time than 45
19 minutes?

20 A. Yes, it could have been built up sooner than that,
21 again, based off of the available material that was being
22 consumed and the oxygen delivery to sustain the fire.

23 MS. HOGAN: Nothing further from the State, Your
24 Honor.

25 THE COURT: All right. Thank you, sir. You can

1 step down.

2 Can he be released?

3 MS. HOGAN: Yes.

4 MR. PRUITT: No objection.

5 THE COURT: All right. Without objection.

6 MR. GAMBLE: I don't have any objection.

7 THE COURT: We're going to break for lunch now.

8 All right. Ladies and gentlemen, we're going to
9 take a lunch break. I'll ask that you be back into the jury

10 room by 2:30. We will, as I said yesterday, probably go a
11 little late today, and I'll sort of feel my way through it.

12 I'm assuming that doesn't create a problem for anybody.

13 If it does, Mr. Foreman, if you'd write the problem
14 down I'll see if I can deal with it.

15 Please don't discuss the case. Keep your badges on.

16 If anybody tries to approach you about your jury service let
17 me know. See you at 2:30.

18 (WHEREUPON, the jury leaves the courtroom at
19 approximately 12:55 p.m.)

20 THE COURT: All right. See you at 2:30.

21 (WHEREUPON, a lunch break was taken.)

22 THE COURT: Before we bring the jury in, I was
23 instructed prior to the break that we got some smokers on the
24 jury and they may have gone outside to smoke, and it's
25 possible that someone, family member or girlfriend of one, I

1 guess of the defendant, spoke to one of the jurors. Do you
2 know anything about that, from the State?

3 MS. HOGAN: Just what you know, Your Honor, that
4 someone had seen someone from the defendant's side speaking to
5 a juror.

6 THE COURT: While they were on break, right?

7 MS. HOGAN: I'm not sure exactly when it was -- yes.

8 THE COURT: Okay. We don't know which juror?

9 MS. HOGAN: I don't know which juror it is. I'm not
10 sure. I could find out, if we need to.

11 THE COURT: Yeah. I need to make sure that's not a
12 problem.

13 MS. HOGAN: May we approach?

14 THE COURT: Yeah.

15 (WHEREUPON, a bench conference was had.)

16 THE COURT: We need to put this on the record.

17 What's your name?

18 MS. HENDRIX: Dianne Hendrix.

19 THE COURT: And you deny that you talked to a juror?

20 MS. HENDRIX: I've not spoken to any of the jurors.

21 THE COURT: Okay. All right. Thanks.

22 (WHEREUPON, bench conference was had.)

23 THE COURT: Mr. Pruitt, do you care if I talk to a
24 juror off the record rather than bringing her in and embarrass
25 her? I mean, I'll do whatever you want me to do. I shouldn't

1 couch it in those terms. Do you care if I talk to her off the
2 record?

3 MR. PRUITT: I don't care, Judge. Go ahead.

4 THE COURT: I'll be right back. I'm going to go off
5 the record real quick.

6 (WHEREUPON, a brief recess was taken.)

7 THE COURT: All right. I talked to the juror. She
8 denies that anybody talked to her.

9 MR. GAMBLE: Therefore nobody talked to anybody.

10 THE COURT: If you got any more information from the
11 State's side I need to know it.

12 [PAUSE]

13 MR. BRADLEY: Your Honor, apparently one of the
14 victim's family members saw Garvin Duvall's girlfriend walk
15 towards the trash can at the same time as this juror. Their
16 mouths were moving, she said. She didn't know what they said.
17 Their mouths were moving as they were approaching the trash
18 can at the same time and apparently spoke, is what she's
19 saying happened. And the juror that she pointed out she said
20 was a black female in all white that was sitting on the back
21 row earlier this morning.

22 THE COURT: That's who I talked to.

23 MR. BRADLEY: That's the information we've been
24 given.

25 THE COURT: All right. Well, that's not enough for

1 me to --

2 FEMALE SPEAKER: Your Honor --

3 THE COURT: Hold on. You need to talk to a lawyer.

4 Listen. Let me just explain something. We can't have people

5 in the audience talking to me. Talk to the lawyer then I'll

6 let him talk to me.

7 [TALKING IN THE AUDIENCE]

8 THE COURT: Hold on. Talk to the lawyer.

9 MR. GAMBLE: Sit down and hush.

10 THE COURT: You need to talk to her?

11 MR. GAMBLE: Me?

12 THE COURT: Yeah.

13 MR. GAMBLE: No, sir.

14 THE COURT: All right. All right. I don't think

15 there's enough to be concerned about. If there was some

16 inadvertent conversation at a trash can I don't think it's a

17 problem. I'll tell the jury again that nobody should talk to

18 them. My concern is not something funny going on with the

19 jury it's that a juror may be bothered by somebody.

20 Who is your next witness?

21 MS. HOGAN: We've got Deputy Robert Miller, who was

22 the first responding officer, followed up by Ken Blakely, the

23 forensic investigator on the case.

24 THE COURT: Okay. You can bring them in.

25 (WHEREUPON, the jury enters the courtroom at

1 approximately 2:43 p.m.)

2 THE COURT: All right. Ladies and gentlemen, just
3 so you'll know what's going on. To the extent that I can
4 always tell you what's going on I will. There was some
5 concern about juror contact not on the part of a juror, not at
6 the fault of a juror with someone involved in this case. And
7 as I told you, my main concern is that you're not bothered.
8 So keep your juror badges on.

9 I am ordering everybody who is involved in this
10 case, and quite frankly anybody in the courthouse, they are
11 not going to talk to you with that badge on if they see it.
12 So if you are contacted, if anybody tries to talk with you let
13 me know and it will be dealt with pretty harshly. So just let
14 me know.

15 All right. You can call your next witness.

16 MS. HOGAN: Your Honor, if it pleases the Court.

17 The State calls Deputy Robert Miller.

18 ROBERT WARREN MILLER, after having been duly
19 sworn, testified as follows:

20 THE CLERK OF COURT: If you'll have a seat in the
21 witness chair, please, sir.

22 (The witness was seated in the witness stand.)

23 THE CLERK OF COURT: State your full name and spell
24 your last name for the record, please.

25 THE WITNESS: Robert Warren Miller, M-i-l-l-e-r.

ROBERT MILLER - DIRECT BY MS. HOGAN

DIRECT EXAMINATION

1 BY MS. HOGAN:

2 Q. Deputy Miller, where do you work?

3 A. Anderson County Sheriff's Department.

4 Q. Okay. And how long have you worked there?

5 A. Twelve years off and on.

6 Q. Okay. And what is your position?

7 A. Deputy sheriff.

8 Q. And how long have you worked in that capacity?

9 A. Twelve years.

10 Q. And when you weren't with the sheriff's office what
11 were you doing?

12 A. Patrol, answering calls generated by the public.

13 Q. Okay. Okay. When you worked with the sheriff's
14 office, you said on and off for 12 years, what were you doing
15 when you weren't with the sheriff's office?16 A. I took 2 years and went to Iraq to train their
17 police officers. That was from '06 to '08.18 Q. Okay. And then say again what your duties include
19 as deputy sheriff with the sheriff's office?20 A. Patrol, check residential areas, buildings, answer
21 calls generated by the public, domestic, criminal domestic
22 violence, assaults, larcenies. I take the initial report.23 Q. Okay. Okay. Were you working in that capacity in
24 the summer of 1999?
25

ROBERT MILLER - DIRECT BY MS. HOGAN

1 A. Yes, I was.

2 Q. Specifically June 30th of 1999?

3 A. Yes, ma'am.

4 Q. And did you respond to a dispatch call for Baugh

5 Road?

6 A. I did.

7 Q. And is that located within Anderson County?

8 A. It is, yes, ma'am.

9 Q. And for what reason were you dispatched to Baugh

10 Road?

11 A. I got the call in reference to a dead body next to a
12 burning vehicle.

13 Q. Okay. And what was the dispatch time that you were
14 called to the scene?

15 A. Looking over my report I see that I was dispatched
16 at 3:43 in the afternoon.

17 Q. Okay. And what time did you arrive on the scene?

18 A. I arrived on the scene at 3:49.

19 Q. And what did you find upon your arrival?

20 A. When I arrived there were some fireman there that
21 has already taped off an area. EMS personnel were there. I
22 checked with the EMS personnel to confirm that the victim was
23 deceased. At that point in time I think I put up some more
24 crime scene tape securing a larger area.

25 I didn't go to the body because I didn't need to

ROBERT MILLER - DIRECT BY MS. HOGAN

1 contaminate any more than it has already been contaminated at
2 the scene, and then I notified my supervisor of a possible
3 homicide.

4 Q. Okay. So when you were securing the scene what did
5 you tape off? What was taped off?

6 A. Around the car and the grass area on the side of the
7 road I believe is where I taped, and just so that nobody would
8 have access to the victim.

9 Q. Okay. Other than securing the scene what, if
10 anything else, did you do?

11 A. I spoke -- I tried to get whoever was the initial
12 caller to 911. We call that a complainant, I tried to get
13 that information, as well as any witnesses for investigations
14 to later interview, and just make sure that -- document
15 everybody who enters the crime scene after my arrival.

16 Q. Okay. And what did you do with the information that
17 you collected of potential witnesses or anything like that?

18 A. It would have been passed on to investigations.

19 Q. So an investigator was also at the scene that you
20 passed the information on to?

21 A. Not at that time but later --

22 Q. Later. Okay.

23 A. -- they arrived.

24 Q. Okay. Did you collect any evidence from the scene?

25 A. No, ma'am.

ROBERT MILLER - CROSS BY MR. GAMBLE

1 MS. HOGAN: Okay. Nothing further from the State,
2 Your Honor.

3 THE COURT: All right. Yes, sir.

4 MR. PRUITT: I don't have any questions.

5 THE COURT: Yes, sir.

6 MR. GAMBLE: Just a few, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. GAMBLE:

9 Q. Where were you physically at 3:43?

10 A. That's a tough question.

11 Q. Where did you get the call, put it that way?

12 A. Where I was at in my patrol car when I received the
13 car; is that what you are asking?

14 Q. Yeah. Yeah.

15 A. I couldn't answer that question, sir. It's been a
16 long time.

17 Q. I understand.

18 A. I do know that I was on the Anderson side of Liberty
19 Highway. I would have been on that side. I wouldn't have
20 been on the -- if you had the map up, I wouldn't have been on
21 the Pickens County line side. I would have been either coming
22 in off the interstate or coming from Wal-Mart, Clemson
23 Boulevard area.

24 Q. So it took you about 7 minutes -- or it took you 7
25 minutes from the call until you got there, and you were

ROBERT MILLER - CROSS BY MR. GAMELE

1 running blue light, too, weren't you?

2 A. No, sir.

3 Q. Just running regular?

4 A. Regular...

5 Q. Like we always drive 70 miles an hour, thereabout?

6 A. I'm not going to incriminate myself.

7 [LAUGHTER]

8 Q. You said when you got there you wanted to prevent
9 the scene from being any more contaminated, or it was already
10 contaminated?

11 A. Just I wanted to make sure that no one else entered
12 the scene that didn't need to enter the scene, and I also can
13 remember kicking out EMS and firemen away from an area that I
14 thought might hold significant evidential value.

15 Q. Did you look in the car?

16 A. No, sir.

17 Q. It already burned -- it was put out, rather, when
18 you got there?

19 A. That's correct.

20 Q. So you didn't have anything to pass on to the
21 investigating officer?

22 A. Other than the basic facts of what I knew at that
23 time, a victim, possible homicide, gunshot wounds, burning
24 vehicle, and the complainant's information. I passed that
25 along to the investigators when they arrived.

ROBERT MILLER - CROSS BY MR. GAMBLE

1 Q. Now, the complainant was the person that called 911?

2 A. That's correct.

3 Q. And that would have been Aaron Powers, I believe.

4 Did you talk to him?

5 A. No, sir. That was Mr. Mullikin, was who I have down

6 as --

7 Q. Robert Mullikin?

8 A. Yes, sir.

9 Q. Called your 911?

10 A. That's correct.

11 Q. And I believe Aaron called the --

12 A. The fire in.

13 Q. The fire, called in the fire?

14 A. Yes, sir.

15 Q. Right. And you hadn't talked with anybody else but

16 Robert Mullikin?

17 A. And I may have talked to a few other people to see
18 if they had witnessed anything or if they knew anything about
19 the vehicle or the victim but that would have -- I'm sure I
20 talked to a few people on the scene.

21 Q. I would think you did, too, as an investigating
22 officer first to arrive. You were trying to do the first
23 interview with whomever you could find.

24 A. That's correct.

25 Q. You didn't find any witnesses that would know

ROBERT MILLER - CROSS BY MR. GAMBLE

1 anything of any import?

2 A. No, sir.

3 Q. Did you learn about the white Dodge truck, pick-up
4 truck that left rapidly?

5 A. I'm trying to recall. I'm trying to read my report.

6 Q. I'm trying to leave you alone. I know it's 10 years
7 ago.

8 [PAUSE]

9 A. No, sir. I don't have anything in my initial report
10 concerning a white Dodge vehicle.

11 Q. All right, sir. And that was from -- were you here
12 this morning?

13 A. Yes, sir.

14 Q. That was from Pete Rogers, I believe, the fireman
15 from Andol [sic] --

16 A. Right.

17 Q. -- Fire Department down in Charleston. All right.
18 And you didn't even go look into the Pontiac car, did you?

19 A. No, sir. Once I determined that it was a possible
20 homicide I secured the scene and wouldn't let anybody go near
21 it at that point in time until investigations arrived to
22 relieve me.

23 Q. That secure the scene, that means you put yellow
24 tape around it?

25 A. Yes, and physically kept anybody from entering that

ROBERT MILLER - REDIRECT BY MS. HOGAN

1 area.

2 Q. You just guarded the area?

3 A. Yes, sir.

4 Q. Right. Did you find any shell casings or anything
5 like that?

6 A. No, sir. I didn't look. As soon as I put up the
7 tape I didn't enter the crime scene. I didn't look for any
8 evidence.

9 Q. So nothing of evidentiary value was found that you
10 knew of?

11 A. Not that I found, no, sir.

12 MR. GAMBLE: All right. Thank you, sir.

13 THE COURT: Anything on redirect?

14 MS. HOGAN: Just one, Your Honor. If it pleases the
15 Court.

16 REDIRECT EXAMINATION

17 BY MS. HOGAN:

18 Q. Just to clarify, what did you mean when you said
19 that the scene, you wanted to prevent it from being
20 contaminated more? What did you mean by that?

21 A. My job as a first responder on -- I can investigate.
22 I do investigate some crimes, but not a crime of this nature.
23 It's going to be handled by our C. I. D. division. At that
24 point my job is to secure the scene. I don't collect
25 evidence. I don't even look for evidence. I try to get

ROBERT MILLER - REDIRECT BY MS. HOGAN

1 witnesses, I try to find out everything that I can to make it
2 easier for the investigators when they arrive because that's
3 their job at that point in time. I don't even look for any
4 evidence on something like that.

5 Q. And when you clear the scene that's to get people
6 away from what you consider to be the crime scene?

7 A. That's correct. Now, I do find evidence, and when I
8 find it I leave it where it is and know where it is, but my
9 job on that crime scene was to secure it and gather all the
10 facts that I could from witnesses, or victims, or anything of
11 that nature.

12 MS. HOGAN: Nothing further from the State, Your
13 Honor.

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

15 MS. HOGAN: May this witness be excused, Your Honor?

16 THE COURT: Any objection?

17 MR. PRUITT: No objection.

18 THE COURT: Without objection.

19 Yes, ma'am.

20 MS. HOGAN: The State calls Ken Blakely.

21 KENNETH WAYNE BLAKELY, after having been duly
22 sworn, testified as follows:

23 THE CLERK OF COURT: Have a seat in the witness
24 chair, please.

25 (The witness was seated in the witness stand.)

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 THE CLERK OF COURT: If you'll please state your
2 full name and spell your last name for the record.

3 THE WITNESS: Kenneth Wayne Blakely, B-l-a-k-e-l-y.

4 DIRECT EXAMINATION

5 BY MS. HOGAN:

6 Q. Mr. Blakely, where do you work?

7 A. I currently work for the Anderson County Fire
8 Commission.

9 Q. And how long have you worked there?

10 A. Going on 2 years now.

11 Q. And what is your position?

12 A. I'm a supervisor over the investigations unit.

13 Q. Okay. And how long have you worked in that
14 capacity?

15 A. For about a year and a half now.

16 Q. Where did you work prior to the Anderson County Fire
17 Department?

18 A. I worked for the Anderson County Sheriff's Office.

19 Q. Okay. And in what position were you last?

20 A. I was promoted in 1996 to crime scene division,
21 crime scene forensics as a forensics tech?

22 Q. Okay. And so that's what you were in 1999?

23 A. That's correct.

24 Q. You were a forensic investigator, was your title?

25 A. That's correct.

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. What did your duties and responsibilities include as
2 a forensic investigator?

3 A. As a forensics investigator once uniform patrol,
4 such as Deputy Miller, or others arrive on the scene and
5 determine that a crime has taken place they secure that scene,
6 make the other notifications, whether C. I. D. or crime scene
7 needs to be notified to respond.

8 If, in fact, crime scene is notified to respond then
9 we respond to the scene, make sure the scene is secure, arrive
10 and wait on investigations to get there, and then we formulate
11 a game plan. My job as the crime scene technician is to
12 collect, photograph and document any evidence that may be
13 located within that scene.

14 Q. And what kind of training do you receive to be a
15 forensic investigator?

16 A. I've received training basically all over the
17 country, as far away as Salt Lake City, Utah in crime scene
18 classes. I've had crime scene photography, law enforcement
19 photography by the South Carolina Criminal Justice Academy.

20 Q. Okay. Were you working as a forensic investigator
21 on June 30th of 1999?

22 A. Yes, I was.

23 Q. Okay. Did you respond to a crime scene on Baugh
24 Road that day?

25 A. Yes, I did.

KENNETH BLAKELY - DIRECT BY MS. HOGAN.

1 Q. Is that located within Anderson County?

2 A. Yes, it is.

3 Q. And for what reason were you called to the crime
4 scene?

5 A. I was notified by my lieutenant that county fire had
6 arrived on the scene of a car fire. After extinguishing the
7 car fire and putting out hot spots a body was then discovered,
8 just behind the vehicle in the wood line. So I was notified
9 that we had a body call.

10 Q. And when you were called out to the scene what is
11 your typical protocol once you respond?

12 A. Again, to secure the scene, make sure it's secured,
13 get with the crime scene, other crime scene investigators that
14 may respond with me, the C. I. D. division investigators, and
15 then I start photographing and documenting and collecting any
16 evidence that may be present.

17 Q. And what, if anything, did you do when you arrived
18 on scene at Baugh Road that day?

19 A. I started photographing the area, took overall
20 general photographs working my way up to the body, then
21 photographing the body itself. In situations where we have
22 bodies and we notice that there are gunshot wounds or any
23 other type of injuries we typically do a G. S. R. kit or a
24 gunshot residue kit on that person before moving the body.

25 Q. Okay. I'm going to back you up just a second and

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 show you State's Exhibit Number 4 through 20. Do you
2 recognize these?

3 [PAUSE]

4 A. Yes. This is the scene that I responded to on Baugh
5 Road.

6 Q. Are these the pictures that you took that day?

7 A. They are in fact.

8 Q. So after you took these pictures what else, if
9 anything, do you do next?

10 A. As I said, that particular day then we -- before we
11 moved the body after the coroner arrived and took his
12 photographs as well then I did a G. S. R. kit on the victim,
13 noticing that he had suffered gunshot wounds we do that.
14 That's a gunshot residue kit that we do on all victims or
15 anybody present at the scene that was present at the time of
16 the shooting.

17 Q. How do you go about the testing for G. S. R.?

18 A. G. S. R. is a two-part test. It consists of a
19 sticky part test where you take swabs and swab both hands of
20 the individual on different locations of the hand. You follow
21 that up with a nitric acid swab to collect any residual
22 residue that may be left or present on the skin that you
23 didn't get from the first part of the test.

24 Q. Okay. And what, if anything, did you do with the
25 G. S. R. kit that you collected?

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 A. Once it is collected it is packaged and sealed and
2 it is sent to SLED.

3 Q. What else, if anything, did you do in regards to
4 collecting evidence?

5 A. I collected a few cans, some trash, which appeared
6 to be trash at that particular time, anything that could be
7 potential evidence. We don't know its value at that
8 particular time so we go ahead and collect it.

9 Q. I'm going to show you what has been marked as
10 State's Exhibit Number 37 for identification purposes. Do you
11 recognize this?

12 A. Yes. This is a property and evidence sheet that I
13 done for the Baugh Road location on 178.

14 Q. And tell me what a property report is used for.

15 A. A property report is used to track the evidence that
16 is collected. Once it is collected it is brought back to the
17 sheriff's office in a more controlled environment. It is
18 sealed and packaged ready for SLED, and then we do a property
19 list to itemize what we have collected, then it becomes our
20 chain of custody on the evidence.

21 Q. Okay. And how do you know that that's the property
22 report that you filled out that day?

23 A. There's a signature location on here from a
24 handwritten signature as well as a typed or printed signature,
25 and this is the one I prepared.

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. And what, if anything significant, did you collect
2 from the crime scene at Baugh Road that day?

3 A. Just a 380 shell casing.

4 Q. I'm going to show you what has been marked as
5 State's Exhibit Number 38. Do you recognize this?

6 A. This is a 380 caliber shell casing that was packaged
7 with my handwriting on the package that it was collected and
8 placed in.

9 Q. So you can recognize it because it has your name on
10 it?

11 A. It has my handwriting on it. That's correct.

12 Q. And what did you do with that 380 shell casing once
13 you collected it that day?

14 A. Logged it in on the evidence sheet, packaged it to
15 be sent to SLED for further testing, if needed.

16 Q. Had it been altered or tampered with in any way?

17 A. It didn't appear to be, no.

18 Q. Was a weapon collected that day?

19 A. No, it was not.

20 Q. There was no weapon found at the crime scene?

21 A. No weapon was found on the scene.

22 Q. What else, if anything, did you do next, in
23 reference to the crime at Baugh Road that day?

24 A. Just that day I attended the autopsy later on of
25 Paul Stephens.

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. And what is the purpose of you attending the
2 autopsy?

3 A. Again, the body itself can no longer speak for us
4 after it's deceased and it may contain evidence. So it is our
5 job to assist that body in recovering and bringing that
6 evidence to light if any is found. So we attend the autopsy
7 and we're there with the pathologist as he may collect
8 anything. In this particular case we did collect some shell
9 -- or projectiles, excuse me, from the body of Paul Stephens.

10 Q. So what, if any evidence, was collected at the
11 autopsy?

12 A. The projectiles were collected from his body once
13 removed by the pathologist.

14 Q. I'm going to show you what has been marked as
15 State's Exhibits Number 39 and 40. Do you recognize these?

16 A. Yes. These were the projectiles retrieved from
17 Paul's body at autopsy by Dr. Woodard.

18 Q. And how do you recognize them?

19 A. I was present when they was packaged in the falcon
20 tubes here. Also, before we package them once they are
21 removed they are cleaned. We use a scale and we photograph
22 those projectiles, which I did do that day.

23 Q. Do they look like they've been tampered or altered
24 with in any way?

25 A. No.

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. I'm going to show you what has been marked as
2 State's Exhibits 21, 22 and 23. Do you recognize these?

3 A. Yes. These are scaled photographs that I took of
4 the projectiles once they had been removed from the body.

5 Q. How do you recognize them?

6 A. They have my scale on them, as well as the autopsy
7 number.

8 MS. HOGAN: The State moves to introduce these
9 pictures of the bullets into evidence, Your Honor.

10 THE COURT: Any objection?

11 MR. PRUITT: No objection.

12 MR. GAMBLE: No objection.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit Numbers 21 through 23,
15 Photographs, were admitted into evidence.)

16 MS. HOGAN: May I publish them to the jury at this
17 time?

18 THE COURT: Yes, ma'am.

19 BY MS. HOGAN:

20 Q. You want to step down and show us what, if anything,
21 this picture depicts, if you would.

22 (The witness stepped down from the witness stand.)

23 A. This is my scale that I was speaking of earlier.
24 This is the autopsy number that would refer back to Paul if
25 you check hospital records. This is the projectile that has

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 been deformed that was removed from his body, which tells us
2 that it hit something hard within the body, which is why it
3 was deformed.

4 Q. Okay. And I'm sorry, that was State's Exhibit 21.
5 This is State's Exhibit 22. What, if anything, does the
6 picture depict?

7 A. This is the second projectile that was removed,
8 again, with my scale, the same autopsy number. As you can see
9 there's no deformities noted to that particular projectile.

10 Q. And State's Exhibit 23. What, if anything, does
11 this depict?

12 A. Same photograph of the same -- or a different
13 photograph of the same projectile. It's just turned on end so
14 you can see the ending, so you can tell that it has the open
15 end on the projectile.

16 Q. Okay. Thank you. You can have a seat back.

17 A. (The witness complied).

18 Q. And what, if anything, did you do with the bullet
19 after you collected them at the autopsy?

20 A. They again were brought back to the Anderson County
21 Sheriff's Office in a controlled environment, further packaged
22 and sealed for testing, and logged in as evidence.

23 Q. And where are they sent from there?

24 A. If further testing are needed they are sent to SLED,
25 as well as some of the other stuff.

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. What else, if anything, did you do regarding this
2 case?

3 A. I assisted the investigators in a search warrant of
4 her residence up in Pickens County.

5 Q. You assisted in the service of a search warrant at
6 Frances Moore's house?

7 A. That's correct.

8 Q. Was anything of significance found at her house when
9 you assisted in serving the search warrant?

10 A. We just collected or took into custody her RAV4
11 vehicle and brought it back to Anderson County to our shop on
12 29 North for further processing.

13 Q. And it was a -- what kind of car was it?

14 A. A RAV4.

15 Q. Okay. And you know what kind of brand that is?

16 A. I do not.

17 Q. You know what color it was?

18 A. It was white.

19 Q. White. Okay. I'm going to show you what has been
20 marked as State's Exhibits 24 through 27. If you'll look at
21 those for me.

22 A. Yes. These are the photographs that I took of the
23 RAV4, which is a Toyota.

24 Q. And how do you recognize these pictures?

25 A. I took those photographs at that location, which is

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 our shop on 29 North. I know it's Frances' vehicle. I know I
2 took them at our shop.

3 Q. So when you assisted in serving the search warrant
4 what did you do with the RAV4 from Frances' house? How did it
5 end up in the impound lot?

6 A. It was secured by one of our wreckers who was called
7 to the scene out there, and brought back to Anderson County
8 where a search warrant was obtained to serve on that vehicle.

9 Q. Is this a true and accurate depiction of the car
10 that you saw that day at Frances Moore's house?

11 A. Yes, it is.

12 MS. HOGAN: Your Honor, we move these pictures of
13 the Toyota RAV4, State's 24 through 27 into evidence.

14 THE COURT: Any objection?

15 MR. PRUITT: No objection.

16 MR. GAMBLE: No, Your Honor.

17 THE COURT: Without objection.

18 (WHEREUPON, State's Exhibit Numbers 24 through 27,
19 Photographs, were admitted into evidence.)

20 MS. HOGAN: May I publish them to the jury, Your
21 Honor?

22 THE COURT: Yes, ma'am.

23 BY MS. HOGAN:

24 Q. If you'll step back up.

25 A. (The witness stepped down from the witness stand).

KENNETH BLAKELY - DIRECT BY MS. HOGAN

1 Q. I'm showing you what's been marked as State's
2 Exhibit 24. What, if anything, does this picture depict?

3 A. It depicts the front end of the vehicle. Typically
4 I do a 360 of the vehicle just to show reference on the
5 vehicle from all sides.

6 Q. Okay. And showing you State's Exhibit 25. What, if
7 anything, does this picture depict?

8 A. Again, it shows moving on around the vehicle and
9 photograph of the side of the vehicle.

10 Q. Okay. And State's Exhibit 26?

11 A. Again, the rear of the vehicle with tag number here
12 (indicated).

13 Q. Okay. And State's Exhibit 27?

14 A. This is actually the VIN number in one of the
15 windows on the vehicle (indicated).

16 Q. You can step back up.

17 A. (The witness returned to the witness stand).

18 Q. Is there anything else that you did in reference to
19 this case?

20 A. I believe that's about it, that I can recall.

21 MS. HOGAN: Nothing further from the State, Your
22 Honor.

23 THE COURT: All right. Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. PRUITT:

KENNETH BLAKELY - CROSS BY MR. PRUITT

1 Q. Other than the gun residue kit that you performed or
2 that you used on the deceased's hands did you perform any
3 other type of forensic investigation?

4 A. As far as what?

5 Q. Any other type.

6 A. On the scene up there?

7 Q. At the scene.

8 A. No, sir, just the collection of the G. S. R. on the
9 victim.

10 Q. And I think you found, what, one shell casing?

11 A. Yes, sir.

12 Q. Where was the shell casing?

13 A. It was apparently recovered from the scene up there.

14 Q. Apparently recovered?

15 A. I don't know. I don't remember exactly where I
16 recovered the shell casing from.

17 Q. You did recover it though, right?

18 A. Yes, sir.

19 Q. You were the one that saw it, picked it up?

20 A. Yes, sir.

21 Q. Were there any fingerprints on it?

22 A. Not to my knowledge, no, sir.

23 Q. Well, did you dust for fingerprints?

24 A. You don't dust a shell casing for fingerprints, sir.

25 It has to be chemically treated, and, no, sir, I did not.

KENNETH BLAKELY - CROSS BY MR. GAMBLE

1 Q. Did you try to find any other type of fingerprints
2 around the scene?

3 A. There was nothing else to fingerprint, sir. The
4 vehicle was burned, nothing but trees and foliage left.

5 Q. Well, was there any -- did you scrape any D. N. A.
6 material from the victim's fingernails?

7 A. No, sir, I did not.

8 Q. Did you take anything from the scene other than the
9 one shell casing and the gun residue kit?

10 A. Other than just the trash that was laying around,
11 no, sir.

12 Q. Has any of the trash amounted to anything?

13 A. Not that I'm aware of, no, sir.

14 Q. Now, were you the one that searched the Toyota RAV4?

15 A. I was there present at the time that the search
16 warrant was done and I was doing the photographs. I don't
17 recall actually being the one to search the RAV4 itself.

18 Q. That was done some later time?

19 A. Yes, sir.

20 MR. PRUITT: That's all I have.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. GAMBLE:

24 Q. You found a 380 shell?

25 A. That is correct, yes, sir.

KENNETH BLAKELY - CROSS BY MR. GAMBLE

1 Q. Now, correct me. I can't ever remember which way it
2 goes, but a 380 will fire a 38 but a 38 won't fire a 380?

3 A. Sir, I'm not a firearms expert. I'm not being smart
4 but I couldn't tell you that neither.

5 Q. Okay. I got to wait for the SLED man to come, I
6 guess.

7 A. Yes, sir.

8 Q. All right. Good. You recovered item number 4, a
9 silver can with 2 bags of white powder. Did you field test or
10 do any testing on that white powder?

11 A. No, sir, I did not.

12 Q. Did it appear to be cocaine or anything like that?

13 A. It appeared to be possibly a drug. I couldn't tell
14 you what type.

15 Q. And you hadn't followed up on that with wherever it
16 went, did you?

17 A. No, sir. My job as the evidence custodian or crime
18 scene tech is to collect it and turn it in. I don't typically
19 do the testing on drugs and things of that nature.

20 Q. Did you find -- did you look inside the car, the
21 Pontiac.

22 A. I was present with Investigator Medlock, yes, sir,
23 when he was taking his photographs and doing his arson stuff
24 on the vehicle.

25 Q. In your presence, did he collect anything from the

KENNETH BLAKELY - CROSS BY MR. GAMBLE

1 front diver's seat of the Pontiac?

2 A. The driver's seat, I believe -- I would have to
3 check my notes but I believe that powdered substance came from
4 the driver's seat.

5 Q. The can? I'm looking at your note. I'm not
6 tricking you or anything.

7 A. It was from the driver's side.

8 Q. The can was?

9 A. No. The can itself -- from the driver's side seat
10 was collected the white powdery substance. Also collected up
11 there was soda cans and beer cans. That was from the scene
12 itself around the body.

13 Q. And you didn't take a picture of the shell casing,
14 380 shell casing, did you?

15 A. No, sir, I did not.

16 Q. Isn't it normal to do that though?

17 A. Yes, sir, that's an oversight on my part.

18 Q. When you looked at the gunshots, bullet holes, if
19 you will, you saw 2?

20 A. Yes. To my knowledge, I believe it was 2.

21 Q. Did you notice any charring or any gunshot residue
22 around the hole on the shirt or on the back of Paul Stephens'
23 head?

24 A. I didn't get that close to it and try to disturb
25 that area because gunshot residue, as you know, is so fragile.

KENNETH BLAKELY - CROSS BY MR. GAMBLE

1 Q. Yeah.

2 A. So I didn't disturb the area at all. I just did the
3 hands. We packaged the body as it was found, transported to
4 the morgue in a more controlled environmental setting.
5 Dr. Woodard may be better to ask that question.

6 Q. Oh, I will. The body when you got there, was it in
7 a fetal position?

8 A. Sort of semi-fetal, yes, sir.

9 Q. Knees drawn up and bent forward a little?

10 A. Sort of -- the best I can recall it was -- he was
11 laying on his, I believe right side, semi-fetal position.

12 Q. Did you ascertain if anyone had moved the body or
13 touched the body when you came on the scene?

14 A. I was told that it had not been moved from its
15 original position.

16 Q. In State's Exhibit 4 -- I don't know how to work
17 this thing but I'll try. You might have to step down a minute
18 again.

19 A. (The witness complied).

20 Q. Is that the position we were describing just now?

21 A. Yes, sir. That's what I mean by semi-fetal
22 position, the legs are not totally drawn up. That's what I
23 would call a semi-fetal position.

24 Q. Is that arrow on the --

25 A. That's on your computer. That's not part of the

KENNETH BLAKELY - CROSS BY MR. GAMBLE

1 scene at all. That will move actually if you move your mouse.

2 Q. Oh, really. It's like a computer thing?

3 A. Probably.

4 Q. Okay. And that doesn't bring back to memory

5 anywhere you found the shell, does it?

6 A. No, sir. I honestly don't remember exactly which

7 area that I collected it.

8 Q. All right. I understand. Thank you.

9 A. (The witness returned to the witness stand).

10 Q. You attended the autopsy?

11 A. Yes, sir, I did.

12 Q. And, again, I guess I need to wait for Dr. Woodard,

13 but did you notice bruises on the man's -- Paul Stephens'

14 arms, Robert Paul Stephens' arms?

15 A. I can't say that I did notice any.

16 Q. Didn't make any notes of it?

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

18 Q. Your primary reason for being there was to gather

19 evidence for SLED?

20 A. Yes, sir. Not necessarily for SLED but for our

21 case, yes, sir.

22 Q. For analyzing?

23 A. Yes, sir, that's correct.

24 Q. Excuse me just a minute. I think I'm through but

25 let me check with my co-counsel.

KENNETH BLAKELY - REDIRECT BY MS. HOGAN

1 [PAUSE]

2 You didn't take any more pictures of the car or
3 anything else, did you?

4 A. Other than what's on the scene.

5 Q. That's what I'm talking about, you took those --

6 A. Yes, sir.

7 Q. -- that were introduced with the fireman?

8 A. Yes, sir, I did.

9 MR. GAMBLE: All right. Thank you.

10 THE COURT: Any redirect?

11 MS. HOGAN: Just one, Your Honor, if it pleases the
12 Court.

13 REDIRECT EXAMINATION

14 BY MS. HOGAN:

15 Q. Mr. Blakely, why would it have been difficult to
16 collect any more evidence at the scene that day?

17 A. Why would it have been difficult?

18 Q. Yes.

19 A. Given the location and the area that it was in and
20 the heavy foliage and things of that nature, and the fire
21 itself in the vehicle would have consumed or could have
22 possibly consumed any potential evidence that would have been
23 left behind.

24 MS. HOGAN: Thank you. Nothing further, Your Honor.

25 THE COURT: Thank you, sir.

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Can he be excused?

2 MR. PRUITT: No objection.

3 MS. HOGAN: Yes, sir.

4 MR. GAMBLE: Without objection.

5 THE COURT: Thank you, sir.

6 MS. HOGAN: Your Honor, the State calls Josh Addis.

7 JOSHUA ADDIS, after having been duly sworn,

8 testified as follows:

9 THE CLERK OF COURT: Have a seat in the witness
10 chair.

11 (The witness was seated in the witness stand.)

12 THE CLERK OF COURT: If you'll please state your
13 full name and spell your last name for the record.

14 THE WITNESS: Joshua Royce Addis, A-d-d-i-s.

15 DIRECT EXAMINATION

16 BY MS. HOGAN:

17 Q. Mr. Addis, are you married?

18 A. Yes, ma'am.

19 Q. And do you have any children?

20 A. Yes, ma'am, one.

21 Q. Okay. And where are you employed?

22 A. Right now I'm employed at I. T. T. Technical
23 Institute in Greenville, South Carolina.

24 Q. Okay. And how long have you worked there?

25 A. Five years as of April.

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Q. Okay. Now, I'm going to draw your attention to the
2 summer of 1999, which I know is almost 10 years ago now.

3 A. Yes, ma'am.

4 Q. But do you remember where you were working that
5 summer?

6 A. That summer I was working at Anderson Meat and
7 Grocery. It's on the intersection of 178 and 135.

8 Q. Okay. Now, more specifically June 30th, 1999, what,
9 if anything, do you remember about that day?

10 A. I was coming -- I was going to work from Norris on
11 Ruhamah Road. It's actually called Road 27, I think, but it's
12 actually Ruhamah Road. It intersects right across from Baugh
13 Road and 178. So there's a stop sign at Baugh facing 178 and
14 a stop sign off of Ruhamah looking down onto Baugh.

15 Q. I'm going to get you to come down here and look at
16 this map so that you can show the jury exactly what you are
17 talking about here.

18 A. (The witness stepped down from the witness stand).

19 Q. This is just a map of Liberty Highway.

20 A. All right. This road right here is what's called
21 Ruhamah Road. It goes all the way to 123, and then you can
22 take a left and actually go into Norris, South Carolina, but
23 that's the way I usually travel to go to work. There's a stop
24 sign right here and a stop sign on Baugh Road and they face
25 each other (indicated).

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Q. So you are on your way to work that day --

2 A. Yes, ma'am.

3 Q. -- on June 30th, 1999 --

4 A. Yes, ma'am.

5 Q. And pulling up to the stop on Ruhamah Road --

6 A. To the stop sign and I'm going to take a left to go
7 to Anderson Meat and Grocery, which is right here (indicated).

8 Q. And what else, if anything, happened after you
9 pulled up to the stop sign?

10 A. I pulled up to the stop sign and I noticed that
11 there was a white Toyota RAV4 parked right in the area right
12 before the bridge. There's a bridge on Baugh Road. It's
13 right before the bridge.

14 There's actually the turn-off in there. There's
15 actually, like, 2 ponds back there, and me and my boss man's
16 son had went fishing back there and knew the guy that owned
17 that land, so I knew that that was an access to the road.

18 And I thought maybe somebody was fishing back
19 through there and I figured, well, they're going to end up mad
20 because somebody was fishing on this property without
21 permission. But there was a white Toyota RAV4 facing me on
22 the opposite side of the road. So if I'm at the stop sign
23 it's on the right-hand side of the road and facing me looking
24 at that way.

25 Q. Okay. What, if anything, happened when you are

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 sitting at the stop sign? What did you do next?

2 A. I had to wait on a couple cars. I noticed once I
3 got stopped at the stop sign that the RAV4 started up, went to
4 the stop sign and we were pretty much facing each other
5 waiting on the couple cars to pass on 178. I think they were
6 going towards Anderson.

7 What happened then is that I turned pretty quick to
8 try to get to work. So I sort of cut in front of them and got
9 on 17 to make it to work.

10 Q. Okay.

11 A. And to head to Anderson Meat and Grocery.

12 Q. And what, if anything, did the white Toyota RAV4 do?

13 A. Sort of tailgated me all the way to Anderson Meat
14 and Grocery and usually -- I thought they were mad because I
15 had, you know, sort of cut in front of them to get to work to
16 sort of get past the traffic because I'm not very patient when
17 it comes to traffic.

18 But I sort of cut in front of them and they sort of
19 got in front of me -- or got behind me and sort of was riding
20 my tailgate pretty bad. So that's the only reason why I
21 thought I made somebody mad because they were tailgating me
22 pretty bad all the way down to the store.

23 Q. And so as soon as you took a left off of Ruhamah up
24 on Liberty Highway heading towards --

25 A. They took a right.

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Q. They took a right, right behind you?

2 A. Yes, ma'am.

3 Q. And then can you show me where on that map where

4 Anderson Meat-Market is.

5 A. It's right here (indicated).

6 Q. So right at the --

7 A. Right at the -- it's sort of -- this is actually 178
8 and that goes to Liberty (indicated). This is 135 and it goes
9 to Easley (indicated). This way goes by West End School.

10 It's a 2-lane road just like Liberty Highway is.

11 Q. So there's a white Toyota RAV4 following you very
12 closely?

13 A. Yes, ma'am.

14 Q. Up to where you were?

15 A. Yes, ma'am.

16 Q. Could you see who was in the car?

17 A. Not while I was driving. I saw them later when I
18 got to the store and I pulled off. I actually just -- it's
19 sort of a V shape -- not a V, sort of a curve. I sort of took
20 that curve, went off.

21 All the employees parked right here (indicated).

22 The store is actually set off the road off that V. I pulled
23 -- took the sort of left-hand turn and pulled right back in
24 right. All the employees parked in the front right next to
25 the pay phones. So what I did is just sort of V'd off and

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 sort of parked right next to Mr. Anderson's Jeep.

2 Q. You can take a seat.

3 A. Yes, ma'am.

4 (The witness returned to the witness stand.)

5 Q. I am going to show you what has been marked as

6 State's Exhibits 28, 29, 30 and 31 and ask you if you

7 recognize them.

8 A. Yes, ma'am.

9 Q. And what are they?

10 A. It's actually the pay phone at Anderson Meat and

11 Grocery where right in front of the store there were pay

12 phones in front of the gas pumps.

13 Q. If you'll step down here for me.

14 A. Yes, ma'am.

15 (The witness stepped down from the witness stand.)

16 Q. Mr. Addis, do these pictures reflect a true and
17 accurate description of the parking lot and the store as they
18 were 10 years ago, for the most part?

19 A. For the most part.

20 Q. Look at them again. Tell me what you think would be
21 different.

22 A. The only thing might be different is it looks like
23 that the awning for the gas pumps isn't there?

24 Q. Okay.

25 A. But it looks like the telephone pole is --

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Q. And the parking lot --

2 A. -- roughly about the same place, yes, ma'am.

3 Q. And the parking lot looks like it would be a true
4 and accurate description?

5 A. Yes, ma'am. Yes, ma'am. It looks relatively true.

6 MS. HOGAN: The State moves 28, 29, 30 and 31 into
7 evidence, Your Honor.

8 THE COURT: Any objection?

9 MR. PRUITT: No objection.

10 THE COURT: Mr. Gamble?

11 MR. GAMBLE: No.

12 THE COURT: Without objection.

13 (WHEREUPON, State's Exhibit Numbers 28 through 31,
14 Photographs, were admitted into evidence.)

15 MS. HOGAN: May I publish them to the jury, Your
16 Honor?

17 THE COURT: Yes, ma'am.

18 BY MS. HOGAN:

19 Q. Okay. I'm going to show you what is marked as
20 State's Exhibit 28. Can you show the jury what that is.

21 A. That's a pay phone right at -- actually, it's 135
22 and 178. This is 135 right here (indicated). It stops at
23 this stop sign. And 178 pretty much just has right-of-way all
24 the way down, and this is the road if you look right here that
25 I said that I took (indicated). In one of the other pictures

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 shows better of the parking lot where I actually parked.

2 Q. Okay. So you are coming out 178?

3 A. Yes, ma'am. I'm coming this way (indicated).

4 Q. Uh-huh, and you pull around there?

5 A. And I pull around because there's not a yield or
6 stop or anything. So what I do is I pull right here and then
7 sort of just take a right back into the parking lot and sort
8 of just V in to park because all the employees parked sort of
9 towards the front (indicated).

10 Q. I'm going to show you what's marked as State's
11 Exhibit 29.

12 A. This is just a more blown-up picture from the road,
13 and this is the 178 side as far as you're going through
14 (indicated). It's sort of a weird intersection because it
15 sort of points and then you've got stops and yields both ways.
16 But you come around through here, then right here is where I
17 would have parked (indicated).

18 Q. Okay. And this is State's Exhibit 30. What, if
19 anything, does this depict. I know it's kind of a glare.

20 A. It just shows you got 135 on both sides of the
21 median right here (indicated). This is the right-hand lane,
22 the left-hand lane, 178 is on this side (indicated). And I
23 parked right here, and what happened is that the RAV4 followed
24 me through this intersection and parked right on my bumper
25 (indicated).

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 That's the only reason why I technically even
2 noticed that the RAV4 was behind me, other than them
3 tailgating me all the way down to the store, is that they
4 pulled up on bumper really, really hard and I thought they
5 were going to hit me. So I sort of stopped and got out, sort
6 of just made a quick glance and then went into the store.

7 Q. So show us again where you parked at the parking
8 lot.

9 A. Right here (indicated).

10 Q. And which way was your car facing?

11 A. It was facing the store.

12 Q. It was facing the store?

13 A. Yes, ma'am.

14 Q. And the white Toyota RAV4 pulled up directly behind
15 you?

16 A. Yes, ma'am.

17 Q. On your bumper?

18 A. Yes, ma'am.

19 Q. I'm going to show you what's been marked as State's
20 Exhibit 31. What, if anything, does this picture depict?

21 A. This shows the opposite view. This shows the actual
22 store. Technically where I parked would have been right here
23 (indicated). This is 178 (indicated). This is 135 and 178
24 connected (indicated). This over here is 178 turning into 135
25 (indicated). Then this is 178 going back towards Liberty

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 (indicated). So going this way, I would have went through
2 this, and then turned right here and parked (indicated).

3 Q. You can take a seat.

4 A. Thank you.

5 (The witness returned to the witness stand.)

6 Q. Okay. So you pull in and you park because this is
7 where you work?

8 A. Yes, ma'am.

9 Q. And what, if anything, did you do next?

10 A. After I noticed that the RAV4 pulled in directly
11 behind me what I did is sort of just did a touch glance to
12 make sure they didn't hit me or make sure I wasn't going to
13 get something said to me because if you realize when you're 19
14 years old you sort of want to pick a fight with everybody, so
15 I was in that state. And I sort of just wanted to make being
16 ~~there wasn't going to be a problem out in front of the store.~~

17 So what I did after that is I got out and locked the
18 doors and went on into work. I think I said hello to the
19 cashier that was there, then I clocked into work at -- I think
20 the time card said 2:54.

21 Q. Okay. So the reason that you thought they maybe
22 were going to -- tell me why you though they were maybe going
23 the fight you --

24 A. Well, because they tailgated me. It was 2 and a
25 half to 3 miles from Ruhamah to the store. And so they got on

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 me pretty quick and got on me pretty fast. And I thought they
2 were going to pass me. And so I just pretty much slowed down
3 and did the speed limit, you know, not to make them mad but
4 just to make sure that, you know, if they were going to pass
5 me that they could have enough time to pass me on the dotted
6 line on Liberty Highway.

7 But once I got inside, I clocked in. So that's the
8 only reason why I thought I made them mad is because I cut in
9 front of them and they got mad because I sort of cut in front
10 of them to get on 178.

11 Q. Okay. So as you get out of your car to go into work
12 what, if anything, was the RAV4 doing at that point that day?

13 A. There was a woman driving the RAV4 and there was a
14 man that was in the passenger seat. The man sort of jumped
15 out of the RAV4, and they sort of headed towards the pay
16 phone. Evidently, I thought they were just in a rush to get
17 on the pay phone. So that's what I noticed whenever I sort of
18 looked back, glanced back to make sure that I didn't hit them
19 or anything. So he sort of jumped out of the RAV4 and was
20 heading towards the pay phone, and then I walked inside and
21 clocked in.

22 Q. So then you clocked in, which is at 2:54 --

23 A. 2:54 was what was on the time card.

24 Q. Okay. And what, if anything, happened after that?

25 A. After that, I clocked in and went back to the meat

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 department. That was where my primary responsibility was. I
2 went back to meat department.

3 My boss man's son, Josh Anderson, was there. And so
4 I got talking to him, and we needed to take out an order.
5 When you're 19 you want to discuss every little thing that
6 happens with your friends, and so I discussed to him about
7 somebody tailgating me all the way down to -- you know, to the
8 store from Ruhamah.

9 We took an order out for his dad, in his dad's Jeep.
10 He had a Jeep Cherokee. Took it out. Took that order out. I
11 sort of helped push the card. He pushed the cart -- pulled
12 the cart and I sort of pushed it, went out to the RAV -- not
13 RAV4, went out to the Jeep and loaded up the Jeep with the
14 information -- or with the merchandise.

15 And then what we did was we were still discussing
16 what was going on, you know, with life and noticed that at
17 that time the woman was on the phone and looked like she was
18 upset with the man and was sort of jawing back and forth with
19 him, but that's all that I noticed.

20 Q. So you go into your work and your boss man asked you
21 to take something out to his car?

22 A. Yes, ma'am.

23 Q. And where was his car in reference to the white
24 Toyota RAV4 and your car out in the parking lot?

25 A. It was pretty close to mine, and so we sort of just

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 pushed the stuff out and went, and we were still talking back
2 and forth and I said those people are still -- I think I
3 remember making a comment that those people were still here
4 that followed me from 178.

5 Q. Okay. So your boss man's car, was it parked in the
6 same way that you were in the parking lot or?

7 A. I can't recall because it's not in my statement but
8 I think at the time it was pointed towards the pay phone.

9 Q. Pointing towards the pay phone?

10 A. Yes, ma'am. So we didn't have to go around to
11 unload it. We just sort of popped the hatchback and put it in
12 there.

13 Q. And as you go outside the people that followed you
14 up 17 towards work --

15 A. Were on the pay phone, yes, ma'am. Still on the pay
16 phone talking, except that the guy wasn't on the pay phone
17 now. The lady that I saw was on the pay phone and looked like
18 she was upset and talking to him, talking back and forth like
19 they were trying to have a three-way conversation on the
20 phone.

21 Q. Can you describe what the man looked like.

22 A. According to my statement, it's he was 5-10 to
23 6-feet tall, 225 to 265. Had sort of like a 2 to 3-day-old
24 beard. Had light brown hair and sort of looked unkempt, and
25 that was pretty much the description I remembered of him.

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Q. Okay. And what about the female that you saw there?

2 A. The female was 5-4 to 5-7, approximately 145 to 175
3 as far as pounds, had short hair, sort of just like a perm on
4 the top. It was sort of curly but it was short. Sort of had
5 showed some dying, like the hair was dyed.

6 Q. Okay. Were you shown a photo lineup regarding this
7 case?

8 A. Yes, ma'am.

9 Q. And were you able to pick anyone out of that photo
10 lineup?

11 A. No, ma'am.

12 Q. What, if anything else, do you remember that day?

13 A. Not really a lot other than I couldn't remember if
14 it was actually that day, but I know that a lot of times on
15 county lines is that different fire departments get called out
16 because of overlapping lines and it's not really sure if you
17 get a cell phone call whether or not it's Liberty's district
18 or Walker-McElmoyle and so I thought that I remembered that
19 Liberty Fire Department had went by about 3:30 that day, had
20 went by, you know, with blazing sirens and stuff.

21 Q. So you remember a fire truck going by --

22 A. Yes, ma'am.

23 Q. -- that afternoon about 3:30?

24 A. If my memory serves me right I remember that I had
25 made a statement to one of the guys that worked with me about

JOSHUA ADDIS - DIRECT BY MS. HOGAN

1 Liberty must have a call because they have gone on, the fire-
2 department, because I heard the fire truck.

3 Q. And which way was the fire truck headed?

4 A. Down 178 down towards Ruhamah Road.

5 Q. Mr. Addis, I'm going back to when you first saw the
6 white RAV4 at Baugh Road. Do you remember what time that was?

7 A. Estimating as far as how long it takes me to get to
8 Ruhamah Road it would probably be 2:48 to 2:50 because it's
9 not that far of a drive to get -- you know, 2:45 to 2:50ish
10 because it's not that far to get from there but if you go the
11 speed limit it's going add time on it.

12 Q. Do you know about how far Ruhamah Road is from your
13 work?

14 A. I would guesstimate 2 miles, 2 and a half miles.

15 Q. So about 2:45, 2:50 that you see the white RAV4?

16 A. Yes, ma'am.

17 Q. On Baugh Road --

18 A. Yes, ma'am.

19 Q. -- before you got to work? Okay.

20 About how long after you clocked in when you got to
21 work were you asked to go back outside to your boss man's
22 Jeep?

23 A. Probably between 5 and 10 minutes.

24 Q. Okay. I'm going to show you 1 more picture. This
25 is State's Exhibit 25. If you'll come back down here.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 A. (The witness complied).

2 Q. Does that look a like the type of car that you saw
3 that day?

4 A. Yes, ma'am, Toyota RAV4.

5 Q. A white Toyota RAV4?

6 A. Yes, ma'am.

7 MS. HOGAN: Nothing further from the State, Your
8 Honor.

9 THE COURT: Mr. Pruitt?

10 CROSS-EXAMINATION

11 BY MR. PRUITT.

12 Q. Now, Mr. Addis, you're quite sure that you looked
13 down across, what is it, Ruhamah Road?

14 A. Yes, sir.

15 Q. Now, it's Ruhamah Road on one side and it's Baugh
16 Road on the other?

17 A. Yes, sir.

18 Q. And could you -- you said you were familiar with the
19 area. Could you see any car down there --

20 A. No, sir.

21 Q. -- parked in the turn-off?

22 A. As far as parked inside the turn-off?

23 Q. Yeah.

24 A. No, sir, because there was wooded areas right there
25 so technically the only reason why I knew where the car was

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 parked at is because I know the area and knew that there was a
2 turn-off down there. That's the only reason why. It was just
3 on the opposite side of the road.

4 Q. Well, where is the bridge? How far down is the
5 bridge?

6 A. It's not that far. It's right next to that turn-off
7 almost, and it's just a little bridge. It's not a big bridge
8 or anything. It might be over --

9 Q. Is the bridge shown on this picture here?

10 A. I can look.

11 I don't see it on that bridge but it's just a small
12 bridge that's right there (indicated) right next to the
13 turn-off.

14 Q. So the bridge is further away, further down Baugh
15 Road than the little turn-off there?

16 A. Yes, sir, only by a couple -- maybe a hundred yards,
17 two hundred yards.

18 Q. So the car was parked --

19 A. Right at that turn-off, where the turn-off is.

20 Q. Okay. Now, you said something about the bridge
21 though. You said you looked down there and saw the car parked
22 down there next to the bridge.

23 A. Parked in the turn-off. The only reason why I know
24 is because there's a turn-off right there and then the next
25 recognizable thing is the bridge as you come across.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 Q. But the bridge is one hundred to two hundred yards
2 further down the road than the turn-off?

3 A. Yes, sir.

4 Q. Okay.

5 A. But I knew where that turn-off was, and that's the
6 only reason why that I had mentioned it in my statement was
7 that there was a turn-off right there. Then the bridge is the
8 next recognizable, I guess landmark, because there's no
9 turn-off anywhere else other than on Baugh Road right there
10 before you get to the bridge. So that's my point of
11 reference.

12 Q. All right. Now, as you were looking across Liberty
13 Highway you'd agree that that's a busy highway, isn't it?

14 A. Yes, sir.

15 Q. And you had to wait for several cars to pass?

16 A. Yes, sir.

17 Q. Then the white car came up and you cut in front of
18 it?

19 A. Yes, sir.

20 Q. In other words, they would have had the right-of-way
21 turning right and you would have been supposed to wait turning
22 left --

23 A. Technically I think the rules of law is that's
24 correct.

25 Q. Now, and so you made your turn. Now, did you see

1 any smoke?

2 A. No, sir.

3 Q. If a car had been on fire at that turn-off where you
4 saw the car parked close and it had been producing smoke would
5 you have been able to see it?

6 A. It would have been difficult to say because that
7 area is wooded and so as smoke rises it dissipates. So
8 usually if I see smoke I'm going to try to find out where it's
9 at because I wasn't a volunteer firearm at the time but I am
10 now. So usually how you track a fire is to find the smoke if
11 it's during the day, but I didn't see smoke at that time, no,
12 sir.

13 Q. Okay. Now, as you got up to the -- I'm a little
14 confused here. Maybe you can straighten me out. When you
15 were parking your car were you parking your car close to the
16 pay phone?

17 A. Yes, sir. It wasn't close but there was a wide
18 intersection between the gas pumps and where the -- actually
19 the parking lot ended. So it was close to the pay phone.

20 Q. Well, how far is it from the front door of the meat
21 market back then to the pay phone?

22 A. Probably 500 yards, I would say. I mean, it's quite
23 a distance.

24 Q. It's a long way --

25 A. It's a big parking lot, yes, sir.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 Q. As a matter of fact, the pay phone is at the far end
2 of the parking lot?

3 A. Yes, sir.

4 Q. Now, so when you came up and parked your car if it's
5 500 feet to the front door do you go in the front door?

6 A. Yes, sir.

7 Q. Were you, like, halfway to the store?

8 A. No, sir. I was closer towards the intersection of
9 138 and 178 than I was to the front door.

10 Q. Well, when you parked --

11 A. I was closer to the pay phone.

12 Q. Okay. When you parked how far away were you from
13 the pay phone?

14 A. Probably 15, 20 feet, at the most.

15 Q. All right. Now --

16 A. I left enough room for them because they were on my
17 tail, that if they followed me in that they could park.

18 Q. Well, you were afraid there was going to be some
19 kind of ruckus?

20 A. Yes, sir.

21 Q. And we already know you are in a hurry, right,
22 because you were almost late to work?

23 A. Well, I was never late to work. I wasn't late to
24 work. Usually, most of the time I got there about 10 minutes
25 early.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 Q. Well --

2 A. Ten to 5 minutes early. So I just impulsive wanted
3 to get to work, and that's usually how I was. That's how I am
4 today.

5 Q. All right.

6 A. Yes, sir.

7 Q. Didn't you just testify just a minute ago in
8 response to the State's questions that you were in a hurry and
9 that's why you turned in front of them?

10 A. Yes, sir.

11 Q. Okay. Well, were you in a hurry or were you not?

12 A. I was always in a hurry, sir.

13 Q. Okay. Now, so let's see. You were in a hurry to
14 get to work and you realized at that time that you'd perhaps
15 transgressed the traffic laws?

16 A. Yes, sir.

17 Q. And you were a little worried that these people were
18 mad at you?

19 A. Yes, sir.

20 Q. So when you got out and parked your car and you
21 locked it you didn't write down the tag number, did you?

22 A. No, sir.

23 Q. Did you make any notes as to any identifying
24 characteristics of the car other than it was a white Toyota?

25 A. No, sir.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 Q. Did you apologize to the people for cutting in front
2 of them?

3 A. No, sir. They looked like they had other things on
4 their mind other than me at the time.

5 Q. Now, after you get to work at 2:54 you stayed inside
6 for at least 5 minutes, you think?

7 A. Yes, sir.

8 Q. Or 5 to 10 minutes before you came back out?

9 A. Yes, sir, rough estimate.

10 Q. And when you came back out the Toyota or the white
11 car was still there?

12 A. Yes, sir.

13 Q. Well, did you make any notes as to the tag number or
14 anything about the car --

15 A. No, sir.

16 Q. --- at that time?

17 A. No, sir, because they were still on the pay phone.

18 Q. Okay. So it would be your testimony that the total
19 time that they were there in front of the store at the pay
20 phone site would be, what, at least 10 to 15 minutes?

21 A. Yes, sir.

22 Q. So if you're correct in the time that you got there
23 at 2:54, and I believe you had your time card stamped and
24 that's how you know that, right?

25 A. Yes, sir.

JOSHUA ADDIS - CROSS BY MR. PRUITT

1 Q. It would have been at least 3 o'clock at the
2 earliest before you got back out?

3 A. Rough estimate, yes, sir.

4 Q. And it would have been from 3:10 to 3:15 before the
5 white vehicle left the pay phone?

6 A. I didn't see them leave so I couldn't testify to
7 that.

8 Q. Well, the last time you saw them there --

9 A. They were still at the pay phone after me and Josh
10 Anderson went out, yes, sir.

11 Q. It would have been at least 3:15, wouldn't it?

12 A. I couldn't tell you because I didn't write that down
13 in my statement, sir.

14 Q. Well, let's just go through this thing. You got
15 there at 2:54 and you didn't get back outside until at least
16 3 o'clock?

17 A. Yes, sir.

18 Q. Would you agree with that?

19 A. Yes, sir.

20 Q. So --

21 A. Five, 10 minutes outside, probably 3:05, 3:10
22 getting back inside the store.

23 Q. And they could have stayed longer than that because
24 they didn't leave while you were watching them?

25 A. Yes, sir. I did not see them leave.

JOSHUA ADDIS - CROSS BY MR. GAMBLE

1 Q. So when you went back in the store they were still /
2 there?

3 A. At that time, yes, sir.

4 Q. And I believe you estimated the height of the woman
5 you saw at 5-4 to 5-7?

6 A. Yes, sir. That's what I included in my statement.

7 Q. How old was the woman?

8 A. Late 30's, 40's.

9 MR. PRUITT: That's all the questions I have.

10 CROSS-EXAMINATION

11 BY MR. GAMBLE:

12 Q. How close were you to that side of the building at
13 the meat market when you parked your car?

14 A. To the front? The front?

15 Q. No. There's a wall that runs the length of the
16 parking lot, isn't it?

17 A. Which --

18 Q. On the left side, if you're facing the building.

19 A. The left side used to be a feed and grain store --

20 Q. Yeah.

21 A. -- from there all the way down. I was way back from
22 that wall.

23 Q. Why did you park out in the middle of the parking
24 lot?

25 A. That's where all the employees parked.

JOSHUA ADDIS - CROSS BY MR. GAMBLE

1 Q. In the middle?

2 A. Well, we're parked more towards the end, towards the
3 pay phone. That's where we parked, to let people that had
4 gas, that were getting gas, let people getting gas in. We
5 never parked on -- well, I never parked on the side because
6 that was usually reserved for customers.

7 Q. All right. Did the man have on a t-shirt that had
8 no sleeves on it?

9 A. Wait just one second. I don't remember that offhand
10 so I'll refer to my statement.

11 Q. Your statement said it was a red shirt.

12 A. I couldn't tell you if it was a tank top or not.

13 Q. So you don't know?

14 A. No, sir.

15 Q. Was he wearing glasses or not?

16 A. Not that I'm aware of.

17 Q. Okay. He weighed between 210 and 235?

18 A. In my statement it's got 225 to 265.

19 Q. What do you remember?

20 A. Just that he had a 2 to 3 day old beard, and that
21 was the only defining feature, and light brown hair.

22 Q. Light brown?

23 A. Yes, sir, and sort of was unkempt. That's what I
24 put in my statement.

25 Q. Was it long?

JOSHUA ADDIS - CROSS BY MR. GAMBLE

1 A. No, sir, it was short.

2 Q. For 1999, I don't even remember what the style was
3 back them.

4 A. It was longer than mine, and mine stayed the same
5 since 1999.

6 Q. Was it long as mine? Mine is longer than yours.

7 A. May --

8 Q. It's hard to tell. Mine is thin.

9 A. Yeah, it was -- it was short. It wasn't long and it
10 wasn't parted or anything.

11 Q. Just (indicated)?

12 A. Just unkempt, yes, sir.

13 Q. Woolly kind of?

14 A. Yes, sir.

15 Q. What about the britches, if you remember? I've read
16 your statement.

17 A. Just long pants is what I put on.

18 Q. Long pants?

19 A. Yes, sir.

20 Q. Jeans?

21 A. I couldn't tell you. At the time I had a tendency
22 not to actually look people in the face --

23 Q. Why?

24 A. -- and so --

25 Q. You shy?

JOSHUA ADDIS - CROSS BY MR. GAMBLE

1 A. Yes, sir. I was an introvert when I was a young
2 man.

3 Q. Me too.

4 You indicated on direct examination the man jumped
5 out and went to the pay phone. Did he run to the pay phone,
6 walk to the pay phone? How did he get to the pay phone?

7 A. He just got out and walked.

8 Q. Strolled across the pavement there to the pay phone?

9 A. Yes.

10 Q. All right, sir. This guy you saw you wouldn't say
11 weighed in excess of 300 pounds, would you?

12 A. No, sir.

13 Q. Did you see or hear fire trucks that day other than
14 the Liberty City Fire or Liberty Fire Department?

15 A. No, sir.

16 Q. And you were, you think, about 2 miles away from
17 Baugh Road?

18 A. Yes, sir. It's 2 and a half -- 2, 2 and a half. I
19 don't know exactly how far that is.

20 Q. But around 3:15 you were helping Mr. Anderson load
21 his Jeep?

22 A. Yes. Yes, sir.

23 Q. What were you putting in it?

24 A. At the time I couldn't remember. It was an order.

25 Q. Meat?

JOSHUA ADDIS - CROSS BY MR. GAMBLE

1 A. Probably so.

2 Q. I mean, it's Anderson Meats?

3 A. Yes, sir. It was probably meat or groceries or
4 something. But I know I was helping him stack it up for his
5 dad.

6 Q. So you were in behind the Jeep?

7 A. I was right next to the Jeep.

8 Q. Loading stuff into the back of it?

9 A. Yes, sir.

10 Q. And Mr. Anderson was stacking it in the Jeep?

11 A. Well, me and him was sort of throwing it in the
12 Jeep.

13 Q. Right. So you were paying attention then to putting
14 the stuff in the Jeep?

15 A. Yes, sir. Once we had -- not really dollies, but we
16 had sort of carts that we had the stuff stacked on. He was
17 pulling one and I was sort of guiding it, pushing it in the
18 back to make sure that nothing fell off.

19 Q. So that's what your attention was directed to at
20 that time --

21 A. Yes, sir. Yes, sir, other than to notice that the
22 people were still on the pay phone and still parked behind me.

23 Q. Just noticed?

24 A. Yes, sir. Yes, sir.

25 Q. Didn't paid any attention really though?

JOSHUA ADDIS - REDIRECT BY MS. HOGAN

1 A. No, sir, other than to, you know, I sort of glanced
2 over and seen who was on the phone at that time, and the woman
3 was on the phone. And other than that that's all I saw.

4 Q. Kind of hoping that 225, 250 pound man wasn't going
5 to jump on you for pulling in front of him?

6 A. Yes, sir.

7 MR. GAMBLE: All right. I don't have anything
8 further.

9 THE COURT: Any redirect?

10 MS. HOGAN: Just one, Your Honor, just to clarify.

11 REDIRECT EXAMINATION

12 BY MS. HOGAN:

13 Q. Mr. Addis, so you clock in at work at 2:54 --

14 A. Yes, sir.

15 Q. --that afternoon?

16 And how soon thereafter were you asked to go out to
17 the Jeep?

18 A. It was 5 to 10 minutes. Yes, ma'am.

19 Q. So around 3 o'clock you're asked to go out to the
20 jeep?

21 A. Yes, ma'am.

22 Q. And you think you're out there how long?

23 A. Five to 10 minutes at the most.

24 Q. Okay. So at the most you're back inside by about
25 3:10?

JOSHUA ADDIS - REDIRECT BY MS. HOGAN

1 A. Yes, ma'am, 3:15.

2 MS. HOGAN: Nothing further, Your Honor.

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

4 Can he be excused?

5 MS. HOGAN: Yes, sir, Your Honor.

6 MR. PRUITT: No objection.

7 THE COURT: Without objection?

8 MR. GAMBLE: No objection.

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to take a 15-minute break. If you would, please don't
11 discuss the case. And if you go outside to smoke, I
12 understand there may be some smokers, please don't talk to
13 anybody.

14 (WHEREUPON, the jury leaves the courtroom at
15 approximately 4:07 p.m.)

16 THE COURT: All right. Take 15 minutes.

17 (WHEREUPON, a brief recess was taken.)

18 THE COURT: Yes, sir?

19 MR. BRADLEY: Your Honor, at this time -- we brought
20 up this matter yesterday, about 3 witnesses being able to
21 testify to the fact that the victim was afraid of Defendant
22 Moore. They are here today. Yesterday they weren't here when
23 I brought up this motion. They are here today to go ahead and
24 go through the testimony if you'd like to hear that now while
25 the jury is still out.

1 They weren't slated to appear next in front of the
2 jury but since the jury is out we thought we would go ahead
3 and bring this up now if you wanted to go ahead and get to it.

4 THE COURT: Well, why don't we do this. Are they
5 going to be here for a little while?

6 MR. BRADLEY: Yes, sir.

7 THE COURT: Let's go ahead and get a couple more
8 witnesses, since they've been out for 15 minutes, then the
9 next break I'll do them.

10 MR. BRADLEY: Well, there will be 1 witness and then
11 that's who we were going to get into, would be them.

12 THE COURT: All right. Well, let's go ahead and do
13 the 1 witness, then we'll take another break. We'll do that
14 later. I'm just trying to keep them moving a little bit back
15 there.

16 All right. You can bring them in.

17 (WHEREUPON, the jury enters the courtroom at
18 approximately 4:28 p.m.)

19 THE COURT: All right. Ladies and gentlemen, just
20 so you know. We're going to have 1 witness and then I'm going
21 to have to take another break because I have to take some
22 matters outside your presence. If it's close to 5:00 or 5:15
23 I may have the bailiff take you out and let you watch the
24 Canadian jets fly over while we work up here. That's what I
25 did last year, sat out in the parking lot and watched the

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 jets. It's pretty good.

2 Okay. Call your next witness.

3 MS. HOGAN: Your Honor, if it pleases the Court.

4 The State calls Josh Anderson.

5 JOSHUA GEORGE ANDERSON, after having been duly
6 sworn, testified as follows:

7 THE CLERK OF COURT: Go around and have a seat in
8 the witness chair, please.

9 (The witness was seated in the witness stand.)

10 THE CLERK OF COURT: Please state your full name and
11 spell your last name for the record.

12 THE WITNESS: Joshua George Anderson,
13 A-n-d-e-r-s-o-n.

14 DIRECT EXAMINATION

15 BY MS. HOGAN:

16 Q. Mr. Anderson, are you married?

17 A. No.

18 Q. Do you have any children?

19 A. I have one.

20 Q. Okay. Where do you work?

21 A. At Anderson Meats.

22 Q. And how long have you worked there?

23 A. About 13 years.

24 Q. And which Anderson Meats do you work at?

25 A. That's on Powdersville Road in Easley.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. All right. Now, I'm going to draw your attention to
2 the summer of 1999, which I know is about 10 years ago, but do
3 you remember where you were working that summer?

4 A. I do.

5 Q. And where were you working?

6 A. At Anderson Meats at the intersection of 135 and 178
7 in Liberty.

8 Q. Okay. Now, more specifically, on June 30th, 1999
9 what, if anything, do you remember about that day?

10 A. Just that around 3 o'clock my dad had asked us to go
11 out and take an order to his Jeep. We went out there and
12 placed the order in the Jeep and saw 2 people out there by the
13 pay phone.

14 Q. So around 3 o'clock your dad asks you to take an
15 order out to his car?

16 A. Right.

17 Q. Which is in the parking lot at Anderson Meat Market?

18 A. Right.

19 Q. And this is at the intersection of 178 and 135?

20 A. It is.

21 Q. And was anyone with you when you went out to the
22 car?

23 A. Josh Addis.

24 Q. Josh Addis who just testified?

25 A. Right.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. And as you are taking the package out to the car do
2 you notice anything going on?

3 A. Just that the people were out there by the pay
4 phone.

5 Q. Okay. And who was by the pay phone?

6 A. The lady was on the phone and there was a man
7 standing next to her.

8 Q. Okay. Did you see what car they were --

9 A. I did.

10 Q. What kind of car was that?

11 A. It was a late modal Toyota RAV4. A white Toyota
12 RAV4.

13 Q. A white Toyota RAV4. And how did you know that that
14 was the car that they were with?

15 A. Well, me and Josh just had the discussion about them
16 following him up the road. That's the main reason why I
17 noticed them.

18 Q. Okay. Do you remember what they were wearing?

19 A. Just scraggly clothes mainly. I don't remember
20 exactly. I think she may have had on a pair of cotton shorts.

21 Q. What, if anything, do you remember about their
22 demeanor?

23 A. They were just in a hurry.

24 Q. They were acting like they were in a hurry?

25 A. Yeah. They were upset.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. What, if anything else, do you remember about that?
2 When you were out there were they on the phone the entire
3 time?

4 A. They were.

5 Q. Did you see the white Toyota RAV4 leave?

6 A. I did because after Josh went back in the store my
7 dad had came out and me and him had stood in the parking lot
8 talking. He was telling me stuff that needed to be done for
9 the night. And they left and went back down 178 towards
10 Anderson.

11 Q. So they went back down 178 towards Anderson?

12 A. They did.

13 Q. Okay. So you saw a white Toyota RAV4 leaving the
14 Anderson Meat Market heading down 178 towards Anderson?

15 A. Yes.

16 Q. Did you have a chance to meet with detectives in
17 reference to a photo lineup?

18 A. I did.

19 Q. And this was on July 13th of 1999?

20 A. It was.

21 Q. And do you remember about what time that was that
22 you met with them?

23 A. Probably around 3 o'clock in the afternoon.

24 Q. Okay. And where did this take place?

25 A. At work. At Anderson Meats.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. At Anderson Meats where you work. Okay. Do you
2 remember who showed you the lineup?

3 A. Detective Major.

4 Q. And do you remember if anybody else was present?

5 A. There was one other one, I believe. I'm not sure
6 who it was.

7 Q. Was anyone else shown these lineups in your
8 presence?

9 A. They were not.

10 Q. What did the detective tell you when he handed you
11 these photo lineups?

12 A. Just if anybody looked familiar to me.

13 Q. Okay.

14 A. If those people were at the pay phone.

15 Q. Did he tell you that one of the persons in either
16 ~~lineup was definitely the person who you saw at the pay phone~~
17 on June 30th, 1999?

18 A. No, ma'am.

19 Q. Were you led to believe that you had to or should
20 pick someone out?

21 A. No.

22 Q. Did you feel any pressure to pick somebody out of
23 that lineup?

24 A. No.

25 Q. How was the photo lineup shown to you?

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 A. It was just laid out in front of me on a piece of
2 paper.

3 Q. Did the detective or anyone else present suggest to
4 you which photograph you needed to choose?

5 A. No.

6 Q. Did they influence your decision at all?

7 A. No, ma'am.

8 Q. These photographic lineups were in reference to the
9 2 people that you saw at the pay phone on June 30 of 1999?

10 A. They were.

11 Q. That day did you have a chance to observe the people
12 who you saw on the pay phone on June 30th of 1999?

13 A. I did.

14 Q. For how long a period of time?

15 A. Maybe 10 minutes.

16 Q. Maybe 10 minutes. Okay. And where were you in
17 connection with the pay phone as to where you were standing?

18 A. Less than 10 foot from the pay phone.

19 Q. Okay. And it was in the middle of the day?

20 A. It was.

21 Q. Do you remember --

22 A. Well, right around 3 o'clock. I mean, it was clear,
23 sunny.

24 Q. Clear and sunny?

25 A. Yeah.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. So you had plenty of time to see them --

2 A. Yes.

3 Q. -- while you were standing outside, to see the
4 people on the pay phone?

5 A. I did.

6 Q. Did you get a good enough look at them to be able
7 the identify them?

8 A. The lady I did.

9 Q. Okay. So you were shown a female lineup and a male
10 lineup?

11 A. I was.

12 Q. Okay. So as to the female lineup, you got a close
13 enough look to be able to identify her?

14 A. I did.

15 Q. Now, when you were shown the female photographic
16 ~~lineup did you see the person who you saw at the pay phone~~
17 displayed in the lineup?

18 A. I did.

19 Q. What caused you to make that selection?

20 A. Just her facial features, cheekbones. She had a
21 mole on her chin, stuff like that.

22 Q. Okay. Did you look over the lineup closely?

23 A. I did.

24 Q. Did you look at each picture carefully?

25 A. I did.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. Did you tell the detective which photograph you had
2 picked?

3 A. I did.

4 Q. What did you then do to the photo lineup after you
5 picked this person out?

6 A. I circled it and put my signature on it, dated it.

7 Q. Was there any doubt as to your selection?

8 A. No.

9 Q. I'm going to show you what has been marked as
10 State's Exhibit Number 1. If you'll take a look at that for
11 me. Do you recognize that?

12 A. I do.

13 Q. And what is it?

14 A. It's the photo lineup I was shown that day of the
15 female.

16 Q. And how do you recognize that as the photo lineup
17 you saw that day?

18 A. It had my signature on it.

19 Q. Okay. Is it in substantially the same condition as
20 it was when you saw it last?

21 A. It is.

22 Q. Okay. You don't see any additions or changes?

23 A. No, ma'am.

24 Q. Okay. What marks did you make on the page to show
25 which picture you chose?

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 A. I circled number 5, and put my signature and date on
2 there.

3 Q. So you circled the number that you chose and put the
4 date and the signature?

5 A. Right.

6 Q. Okay. So that is the person that you saw at the pay
7 phone who was driving the white Toyota RAV4?

8 A. Yes, ma'am.

9 Q. So the lady that you circled on the photographic
10 lineup is the person that you saw on June 30th of 1999 at --
11 Anderson Meat Market on the pay phone?

12 A. Yes.

13 Q. And who left in a white Toyota RAV4?

14 A. Right.

15 Q. Do you see that person who you saw on June 30th,
16 1999 at the pay phone, who left in a white Toyota RAV4? Do
17 you see her in the courtroom today?

18 A. I do.

19 Q. And can you point her out to us.

20 A. The lady here at the table (indicated).

21 Q. So you're pointing to the defendant sitting --

22 A. Yes, ma'am.

23 Q. -- in the middle table?

24 A. Yes, ma'am.

25 MS. HOGAN: Let the record show that he picked out

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 the defendant, Frances Moore?

2 THE COURT: All right.

3 Q. I'm going to also show you what has been marked as

4 State's Exhibit Number 2. Do you recognize that?

5 A. I do.

6 Q. Okay. And can you tell me what it is?

7 A. It's an affidavit that I give Detective Major.

8 Q. And can you tell me what it says about the remarks
9 you made about the person that you picked out?

10 A. It's just stating where I recognized her face, like
11 her facial feature and her cheekbones, the mole on her chin,
12 and she was driving a white Toyota RAV4.

13 Q. So those are the remarks that you made about the
14 person that you saw on June 30th of 1999 at the pay phone at
15 Anderson Meats?

16 A. Right.

17 Q. That you also saw leaving in the white Toyota RAV?

18 A. Right.

19 Q. Were you also shown another photographic lineup?

20 A. I was.

21 Q. And this was for the male that you saw --

22 A. Right.

23 Q. -- at the pay phone in Anderson Meat Market?

24 I'm going to show you what's --

25 MR. GAMBLE: I'm going object to this, Your Honor.

1 THE COURT: All right. What's objection?

2 MR. GAMBLE: You want me to approach?

3 THE COURT: Yeah.

4 (WHEREUPON, a bench conference was had.)

5 THE COURT: Ladies and gentlemen, I need to send you
6 out for just a few minutes. Please don't discuss the case.

7 (WHEREUPON, the jury leaves the courtroom at
8 approximately 4:40 p.m.)

9 THE COURT: There was an objection to the testimony
10 regarding the photographic. Yes, sir?

11 MR. GAMBLE: Yes, sir. The objection was that at
12 the pretrial hearing regarding the photograph Mr. Anderson
13 testified that he could not identify the male in the lineup
14 but that number 3 jumped out at him, end quote.

15 That is not sufficient, I don't think, Your Honor,
16 to cause this photo lineup to be put before the jury and bring
17 out the prejudice that it would cause.

18 THE COURT: All right. Yes, sir?

19 MR. BRADLEY: Your Honor, State vs. Washington is a
20 case that we referred to.

21 THE COURT: What's that cite?

22 MR. BRADLEY: It is 323 S. C. 106.

23 THE COURT: Okay.

24 MR. BRADLEY: And, Your Honor, in that case the
25 witness said he was 99 percent sure it was the person he

1 picked out of the photo lineup. He couldn't be a hundred
2 percent positive. And then went on to describe the reasons
3 why he thought the person stood out to him. It was the person
4 who most closely resembled the person he had seen during this
5 incident.

6 And because the jury had the opportunity to observe
7 the witness and attach the credibility that was deemed proper
8 to his testimony, including the certainty or uncertainty of
9 his identification, the identification is not unreliable.
10 This was the Court ruling, Your Honor.

11 THE COURT: Yes, sir?

12 MR. GAMBLE: The question of degree. Your Honor, 99
13 percent sure is a whole lot more than just jumped out at him.

14 THE COURT: Yeah. I understand that. I'm going to
15 let him testify but I'll obviously give them some leeway on
16 cross-examination. I mean, it's a factual issue and I'll let
17 you go into it.

18 MR. PRUITT: Your Honor, while the jury is out I'm
19 going to object to State's Number 2, his affidavit. He's not
20 entitled to put into evidence his affidavit of what he did or
21 said. He's already testified to it.

22 THE COURT: Are you putting it into evidence?

23 MS. HOGAN: I'm not putting it into evidence with
24 this witness, Your Honor, no, sir.

25 THE COURT: Okay. For now. If it comes up we'll

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 deal with it.

2 THE COURT: Okay. You can bring them in.

3 (WHEREUPON, the jury enters the courtroom at
4 approximately 4:45 p.m.)

5 THE COURT: All right, ladies and gentlemen. Thank
6 you.

7 You can continue.

8 MS. HOGAN: Your Honor, if it pleases the Court.

9 BY MS. HOGAN:

10 Q. Mr. Anderson, I'm going to show you what's been
11 marked as State's Exhibit Number 3. Do you recognize that?

12 A. I do.

13 Q. And how do you recognize that?

14 A. It was what Detective Major showed me on that day.

15 Q. Okay. And is it a photo lineup?

16 A. It is.

17 Q. Okay. With --

18 A. With a male.

19 Q. With a male. Okay. And so this is this
20 photographic lineup that was shown to you by Detective Garland
21 Major for you to pick out the person who you saw on June 30th,
22 1999 at the pay phone?

23 A. Right.

24 Q. And were you able to select anyone out of that
25 picture -- of this picture?

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

- 1 A. Not positively.
- 2 Q. Okay. Not positively. And what do you mean by
- 3 that?
- 4 A. I mean, one of them jumped out at me.
- 5 Q. Okay. And which one?
- 6 A. Number 3.
- 7 Q. Number 3 jumped out at you.
- 8 A. But I was not 100 percent sure that that's who I
- 9 saw.
- 10 Q. Okay. And why did number 3 jump out at you?
- 11 A. Just the glasses. He had -- the guy I saw that day
- 12 had, like, a real big neck, just a big guy.
- 13 Q. So number 3 jumped out at you but you couldn't be
- 14 100 percent positive?
- 15 A. Right.
- 16 Q. Mr. Anderson, if you'll come step down over here.
- 17 I'm going to put State's Exhibit 25 up.
- 18 A. (The witness stepped down from the witness stand).
- 19 Q. Is this the kind of car that you saw?
- 20 A. It is.
- 21 Q. That day, at the pay phone?
- 22 A. Right.
- 23 Q. Okay. And then you saw this same car, a white
- 24 Toyota RAV4, leaving the pay phone --
- 25 A. I did.

JOSHUA ANDERSON - DIRECT BY MS. HOGAN

1 Q. -- heading down Liberty Highway heading toward

2 Anderson? Okay.

3 If you stay right there for me. I'm going to show
4 you State's Exhibit 28. Do you recognize that?

5 A. I do.

6 Q. And what is that?

7 A. That's the pay phone that's at the bottom of the
8 parking lot.

9 Q. And is that the pay phone that they were --

10 A. It is.

11 Q. The male and female were on? Okay.

12 And what, if anything, is this a picture of?

13 A. That's the parking lot mainly where the employees
14 park.

15 Q. And do you remember where this white Toyota RAV4 was
16 parked?

17 A. Around over in here (indicated).

18 Q. And where was your dad's car?

19 A. He usually parks just about right in front of the
20 telephone (indicated).

21 Q. Right in front of the pay phone. So you were pretty
22 close to the RAV4?

23 A. Right.

24 Q. And the pay phone?

25 A. Right.

JOSHUA ANDERSON - CROSS BY MR. PRUITT

1 Q. Thank you very much. And, I'm sorry, that was
2 State's Exhibit 30.

3 (The witness returned to the witness stand.)

4 MS. HOGAN:--Nothing further from the State at this
5 time, Your Honor.

6 THE COURT: All right. Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. PRUITT:

9 Q. Now, Mr. Anderson, do you agree that it was at least
10 -- that it was after Josh Addis -- and you were here when he
11 testified, weren't you?

12 A. I was.

13 Q. Just a few minutes ago?

14 A. Right.

15 Q. You agree that you all went outside after he came to
16 work?

17 A. I can't recall exactly.

18 Q. Well, you don't remember one way or the other?

19 A. I just know we went out to the car together. I
20 don't know if he met me coming across the parking lot or what,
21 but I don't remember exactly how it was.

22 Q. So you don't remember where he'd been prior to going
23 out to the parking lot to help you?

24 A. I know he had clocked in to work.

25 Q. Okay.

JOSHUA ANDERSON - CROSS BY MR. PRUITT

1 A. I think I was actually already outside. I passed
2 him as he was coming in and he came back out to help me. My
3 dad sent him out there to help me.

4 Q. Now, the last time that we had a little discussion
5 about some of these things you told me that you believe that,
6 you were outside about 10 minutes?

7 A. Approximately.

8 Q. Well, 10 to 15 minutes?

9 A. I would say approximately 10 minutes.

10 Q. Okay. Now, do you agree with Josh Addis that the
11 woman that you saw was late 30's or early 40's?

12 A. No. I thought she was a little bit older than that.

13 Q. Do you agree with his assessment of the weight, 145
14 pounds to 175?

15 A. I would say it would be close.

16 Q. Okay. Now, if I understand what you testified to
17 earlier, you were still outside when this vehicle left?

18 A. Right.

19 Q. Had Josh already gone back inside?

20 A. He had.

21 Q. Josh Addis?

22 A. He had.

23 Q. Now, these pictures that Ms. Hogan showed you of the
24 station, State's 28, 30, 31 and 29, indicate that they were
25 taken on May 8th, 2009?

JOSHUA ANDERSON - CROSS BY MR. FRUITT

1 A. Right.

2 Q. They weren't taken back at the time of the scene,
3 back at the date of the crime?

4 A. Okay.

5 Q. Anderson Meats is not there anymore, is it?

6 A. No, it's not.

7 Q. And there's no -- I don't think that facility out
8 there sells gas anymore, does it?

9 A. It does not.

10 Q. And as a matter of fact, there's no pay phone there
11 anymore, is there?

12 A. I have no idea.

13 Q. Well, do you see a pay phone?

14 A. No. It's just the box.

15 Q. Now, you testified that Josh Addis had said

16 something to you about the white car having followed him
17 closely?

18 A. Yes, sir.

19 Q. All right. Did you make any notes about anything
20 special of the car, get the tag number?

21 A. No, I didn't see any reason to.

22 Q. Now, if you were out there -- how long were you
23 observing these people on the pay phone?

24 A. I was out there maybe 10 minutes, because I had
25 stayed out there with my dad talking to him.

JOSHUA ANDERSON - CROSS BY MR. PRUITT

1 Q. And when you were observing them on the pay phone
2 was one or the other of them on the pay phone the whole time?

3 A. The only one that I saw was on the pay phone was the
4 lady.

5 Q. Okay.

6 A. The man was standing up against the pay phone. He
7 was leaning up against it.

8 Q. Well, was the lady on the pay phone the whole time
9 that you were watching them?

10 A. From what I saw, yes.

11 Q. Okay. So during the whole time that they were there
12 it's your testimony that they were using the pay phone?

13 A. Right.

14 Q. Now, Mr. Anderson, I believe you are related to
15 Mr. Bradley, aren't you?

16 A. I am.

17 Q. And that's the prosecutor here?

18 A. Yes, sir.

19 Q. With the short haircut?

20 A. Yes, sir.

21 Q. And how are you related to him?

22 A. He married my niece.

23 MR. PRUITT: That's all I got.

24 THE COURT: All right. Yes, sir.

25 CROSS-EXAMINATION

JOSHUA ANDERSON - CROSS BY MR. GAMBLE

1 BY MR. GAMBLE:

2 Q. What indicated to you that the man was upset?

3 A. Just his reaction.

4 Q. What was his reaction that you saw?

5 A. He was arguing with the lady that was on the phone.

6 Q. He was talking with the lady?

7 A. He was arguing with her.

8 Q. What was he saying to her?

9 A. I don't know.

10 Q. You weren't close enough to here, were you?

11 A. I was within 10 feet of them but I really was not
12 paying attention.

13 Q. You didn't hear what they were saying?

14 A. It wasn't none of my business what they were saying.

15 Q. You didn't hear what they were saying, did you?

16 A. No.

17 Q. And what was he wearing?

18 A. I don't recall.

19 Q. You indicated in your statement of July the 5th,
20 1999 he was wearing a scraggly shirt. What is a scraggly
21 shirt?

22 A. I guess one that's wore out.

23 Q. What kind of shirt?

24 A. A t-shirt.

25 Q. What color?

JOSHUA ANDERSON - CROSS BY MR. GAMBLE

1 A. I don't remember.

2 Q. Well, was it a t-shirt or an old shirt or what?

3 A. An old t-shirt.

4 Q. You don't know, do you?

5 A. This was 10 years ago.

6 Q. I know but now my question is you don't know, do

7 you?

8 A. No.

9 Q. Okay. Was he wearing glasses or not wearing
10 glasses? Be careful, now. Josh Addis has already put in what
11 he was wearing.

12 A. I know Josh Addis said he did not wear glasses.

13 Q. Yeah.

14 A. But from what I remember he was.

15 Q. What kind?

16 A. Just --

17 Q. By that I mean shades, or sunglasses, or dark
18 glasses, or what kind of glasses?

19 A. They were glasses, just eyeglasses.

20 Q. Like mine?

21 A. Somewhat.

22 Q. Okay. Now, if he was so upset did you consider it
23 strange that when he's upset he's leaning against the pole?

24 A. Yeah. I mean, the whole time he was making motions
25 with his other arm and just hollering at her.

JOSHUA ANDERSON - CROSS BY MR. GAMBLE

1 Q. You don't know what he was saying to her though?

2 A. No, I don't.

3 Q. So the hollering wasn't that loud, was it, if you
4 were 10 feet away?

5 A. I just wasn't paying attention to what he was
6 saying. I mean, it is fairly loud but --

7 Q. Really didn't care, did you?

8 A. No, I didn't.

9 Q. Your father owns Anderson Meats, or owned Anderson
10 Meats --

11 A. Yes, sir.

12 Q. -- at that time?

13 Which pole was he leaning on?

14 A. Looking at the telephone he was leaning on the left
15 hand -- on the right-hand side.

16 Q. Which is the tall pole?

17 A. It wasn't necessarily -- it wasn't a pole. It's the
18 box that the telephone was in.

19 Q. Oh, the telephone box?

20 A. Right.

21 Q. He was leaning on it?

22 A. Right.

23 Q. Okay. And making hand gestures and so forth?

24 A. Yes, sir.

25 Q. And saying something we don't know what and we don't

JOSHUA ANDERSON - REDIRECT BY MS. HOGAN

1 know to whom?

2 A. Right.

3 MR. GAMBLE: Okay. I don't have anything further.

4 THE COURT: Any redirect?

5 MS. HOGAN: Yes, sir, Your Honor. Just a few.

6 REDIRECT EXAMINATION

7 BY MS. HOGAN:

8 Q. Mr. Anderson, when you were looking at the pictures
9 of the old Anderson Meat Market is it essentially the same as
10 it was about 10 years ago?

11 A. It is.

12 Q. And how long did you work there?

13 A. I was at that location from '98 to 2004, I believe.

14 Q. So you were there for a while, real familiar with
15 it?

16 A. Right.

17 Q. It's essentially the same?

18 A. Yes.

19 Q. As to my co-counsel here, Mr. Bradley. Did you know
20 him back in 1999?

21 A. I did not.

22 Q. Okay. You did not. Has your statement changed
23 since you gave your statement and looked at the photo lineup
24 since 1999?

25 A. It has not.

1 MS. HOGAN: Nothing further from the State at this
2 time, Your Honor.

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

4 Ladies and gentlemen, as I said, I need to send you
5 out. I need to take up a few matters before we bring you back
6 in. It's probably going to take 15 or 20 minutes.

7 So if they want to walk around a little bit, as long
8 as somebody is with them that's okay, outside.

9 Don't discuss the case. We'll bring you back in as
10 soon as we're ready.

11 (WHEREUPON, the jury leaves the courtroom at
12 approximately 5:02 p.m.)

13 MS. HOGAN: May that witness be excused, Your Honor?

14 THE COURT: Yeah. I assume no objection?

15 MR. PRUITT: No objection.

16 MR. GAMBLE: No objection.

17 All right. What do we got next? Obviously,
18 yesterday I wasn't quite sure what these people were going to
19 testify to. What is it exactly?

20 MR. BRADLEY: Your Honor, they are going to testify
21 to the fact that on different occasions -- there's 3 different
22 witnesses and they are going to testify that they all 3 heard
23 the same exact thing from the victim on different occasions;
24 that he was afraid of the victim and that if he ever was found
25 shot in the head and his car burned to have Frances Moore

1 investigated.

2 And according to State vs. Garcia, witnesses are
3 allowed to testify under the hearsay exception rule to then
4 existing mental condition, mental state.

5 THE COURT: Of 803(3)?

6 MR. BRADLEY: Pardon?

7 THE COURT: That's 803(3)?

8 MR. BRADLEY: Yes, Your Honor. And allowed to
9 testify to that fact. We are proffering the testimony that
10 what the fear was, of being found shot in the head and the car
11 burned. That was the fear. That's not the why he was afraid.
12 That was his fear.

13 State vs. Garcia is the lead case in the State and
14 it says that they are allowed to testify to the fear, just not
15 get into circumstances of why they are afraid of the person,
16 because they used to beat them up or they actually assaulted
17 them on a prior occasion. You just can't get into any of
18 those circumstances, and we're not going to get into any like
19 that, just the fact that what his fear was and he was afraid,
20 Your Honor. And the 3 witnesses are going to say the same
21 exact thing. So essentially only 1 would have to testify if
22 you want to hear the actual testimony.

23 THE COURT: Well, I think that's what the case says
24 but I do think that case is sort of confusing but --

25 MR. PRUITT: Your Honor, I don't think that's what

1 the case says at all. In fact, it was reversed. The only
2 thing that I got out of that case was -- and it's also
3 different because in that case the defendant admitted to the
4 shooting. He was trying to lay the shooting off on some
5 accident.

6 THE COURT: Right. That was his wife.

7 MR. PRUITT: Okay. Well, that makes it a different
8 case scenario. It specifically says that they couldn't
9 testify why he was afraid, which would be exactly what they
10 are proffering the proof of why he was afraid, that if he
11 turned up shot with the car burned. And in any event, Your
12 Honor, it's still hearsay.

13 About the only thing would be possible, if he said
14 it, would be that he was afraid. And that would be about it.
15 Anything more than afraid would be number one, against the
16 holding in Garcia because he wants to say why he was afraid;
17 and number two, it's hearsay within hearsay because they're
18 trying to say that -- implicate the Defendant Moore in some
19 other crime, him saying that she got away with some other
20 crime in the same way; and number three, as a general rule
21 it's so bad that the chance of prejudice would greatly
22 outweigh it's probative value and we have no way whatsoever to
23 confront what the deceased said.

24 MR. BRADLEY: Your Honor, may I respond to that?

25 THE COURT: Sure.

1 MR. BRADLEY: As far as getting into the actual why
2 that he was afraid, he had this particular fear, Mr. Pruitt
3 didn't touch on the fact that these witnesses have been told
4 by the victim that she had gotten away with a similar crime.
5 That's what the victim had told these witnesses.

6 But obviously, we were not going to plan on offering
7 that. We just plan on offering the actual fear, was that he
8 was going to be shot in the head and his car burned and that
9 she would be the one responsible. That's what he told these
10 witnesses on several occasions. Not just one but several
11 occasions, weeks and months leading up to his death, and that
12 would be the fear, not the why.

13 A similar case which is very on point, Your Honor,
14 in North Carolina dealing with the same exact hearsay
15 exception of the then existing mental state, the fact pattern
16 exactly the same, a wife -- and I do have a copy of that, I
17 believe. Maybe not. I'm sorry. But this is State of North
18 Carolina vs. William Robert Gray. The fact pattern was that a
19 wife had told to several witnesses on multiple occasions that
20 she was afraid of her husband and that if she was ever found
21 dead to have her husband investigated because he would have
22 been the one to have done it.

23 The State of North Carolina did allow that testimony
24 to come in. And their exact ruling was victim's statements
25 that she was afraid for her life and factual circumstances

1 surrounding such statements were admissible under the state of
2 mind exception to the hearsay rule.

3 And so the jury was allowed to hear the fact that if
4 I'm found dead and police don't know who did it have my
5 husband investigated because he would have been the one to
6 have done it. That's exactly what they are going to testify
7 to here, Your Honor. And I can give you that case, if you'd
8 like it.

9 THE COURT: No. I mean, look, I think Garcia is a
10 confusing case because I think I'm not sure I understand the
11 rationale of letting in the fact that they are afraid but not
12 telling the jury why, but I think Garcia allows it to come in.

13 MR. PRUITT: Your Honor, I don't know that I'm
14 arguing that if he said it that they couldn't say that he was
15 afraid. But if you look at Garcia it's Iva Hopper, Holly's
16 grandmother, testified that the appellant had kicked her,
17 okay. Well, that statement didn't get to come in. I mean, it
18 came in but it was reversed.

19 Lisa Estes says that the appellant stated if she
20 ever left him he would kill her and his family. That didn't
21 come in. I mean, it did come in but was reversed.

22 So if you look at 803, 803 is a statement of present
23 mind conditions, statement of mind, emotional and physical
24 condition, okay. Statement of mind; I'm tired. Statement of
25 emotion; I'm afraid. Statement of physical condition; I'm

1 cold. So the condition is only to be afraid. The reason why
2 they are afraid is the part that can't come in.

3 THE COURT: And you are saying that the reason why
4 he's afraid is because he was afraid he was going to get shot
5 in the head and burned up?

6 MR. PRUITT: That's the reason why he's afraid, and
7 that's the part that can't come in. He can say he's afraid,
8 if he said that. I don't know. I don't know exactly what
9 these witnesses are going to say he said, but if he said I'm
10 afraid, because they can testify that he said I'm afraid, but
11 not because. The reason why is a confrontation clause.

12 We've got no way to fight what he may have said. He
13 may have been telling an untruth about the reason. And the
14 rule, the exception to hearsay only covers the emotion, the
15 present state of mind, which is a feeling and not a reason,
16 and that's what Garcia says.

17 THE COURT: All right. Yes, sir?

18 MR. BRADLEY: Again, Your Honor, my argument is the
19 fact that what he told these witnesses was the actual fear,
20 not the reasons why he had that fear.

21 Again, the reasons why he had that fear were his
22 belief that this defendant had gotten away with a similar type
23 crime. That was his belief, and that's why he was afraid.
24 We're not trying to proffer that testimony. We're trying to
25 proffer the testimony of what the fear was.

1 I'll refer you to page 5 and 6 of my copy. I guess
2 it would be page 4 of the opinion, but at the bottom of the
3 first paragraph it's -- I'm referring to this, Your Honor.

4 THE COURT: Yeah, I got you.

5 MR. BRADLEY: Okay. It says must be understood to
6 narrowly limit those admissible statements to declarations of
7 conditions; I'm scared, and not belief. I'm scared because
8 someone threatened me was the example they used.

9 Again, that goes to his fear was he was going to be
10 found shot in the head and his car burned. Not I'm afraid I'm
11 going to be shot in the head and my car burned because I
12 believe she got away with a similar type crime and she might
13 do it to me. We're not trying to get that in. We're trying
14 to get that fear in, that statement of fear.

15 MR. PRUITT: Well, I just don't know how much
16 clearer you can get but the state of mind exception does not
17 permit the witness to relay any of the declarant's statement
18 as to why he may have held this particular state of mind or
19 what he might have believed would have induced that state of
20 mind.

21 THE COURT: Well, I mean, it's sort of a chicken and
22 egg thing. The question is what was the reason and what was
23 the fear. Why don't I do this. Let me hear exactly what he
24 said. I think it's going to come down to that.

25 MR. BRADLEY: State calls Ken Erwin.

KENNETH ERWIN (IC) - DIRECT BY MR. BRADLEY

1 KENNETH ERWIN, after having been duly sworn,
2 testified as follows:

3 THE CLERK OF COURT: Go around and have a seat in
4 the witness chair.

5 (The witness was seated in the witness stand.)

6 THE CLERK OF COURT: State your full name and spell
7 your last name for the record.

8 THE WITNESS: It's Kenneth Grover Erwin, and it's
9 E-r-w-i-n.

10 DIRECT EXAMINATION

11 BY MR. BRADLEY:

12 Q. Mr. Erwin, how did you know Paul Stephens?

13 A. Through my wife.

14 Q. And what was your relationship with Mr. Stephens?

15 A. He was like a brother to me.

16 Q. And how did your wife know him?

17 A. He was her first cousin.

18 Q. Did he ever live with you?

19 A. Yes, he did.

20 Q. And how long had you known him prior to him coming
21 to live with you?

22 A. Twenty something years.

23 Q. And when was it that he moved in with you?

24 A. It was about six months before he got killed.

25 Q. Okay. And for how long did he stay with you?

KENNETH ERWIN (IC) - DIRECT BY MR. BRADLEY

1 A. About five months.

2 Q. Okay. And what was the reason for him coming to
3 stay with you?

4 A. He didn't -- I guess he no longer could live with
5 Debra.

6 Q. And do you know the defendant, Frances Moore?

7 A. Yes, I do.

8 Q. How do you know her?

9 A. She's his mother-in-law.

10 Q. And what was her relationship to the victim, Paul
11 Stephens?

12 A. He was married to her daughter.

13 Q. Okay. And how would you have described their
14 relationship?

15 A. Wasn't too good.

16 Q. And what, if anything, did Paul tell you about
17 Frances Moore prior to his death?

18 A. He told me if he was ever found shot and his car
19 caught on fire to have his mother-in-law investigated.

20 Q. Okay. And did he say this to you more than once?

21 A. Yes, he did.

22 Q. How many times?

23 A. I'd say more than 12?

24 Q. And how long was it before Paul's death that he said
25 this to you about Frances Moore?

KENNETH ERWIN (IC) - DIRECT BY MR. BRADLEY

1 A. A month prior to his death.

2 MR. BRADLEY: Okay. And that's all the testimony
3 that I'm going to solicit, Your Honor, regarding that
4 circumstance. And the other two are going to testify to the
5 exact same statement.

6 THE COURT: So what he said was if you find me shot
7 investigate my mother-in-law. He didn't say I'm afraid.
8 That's the problem.

9 MR. BRADLEY: Okay.

10 BY MR. BRADLEY:

11 Q. Mr. Erwin, did he ever generate to you a statement
12 of that I am afraid?

13 MR. PRUITT: Objection. That's a leading question.

14 THE COURT: Yeah, don't lead him. Go ahead and ask
15 the question. Sustained.

16 Q. What exactly did this victim, Paul Stephens, say to
17 you prior to his death about Frances Moore?

18 MR. PRUITT: Objection, Your Honor. It's already
19 been asked and answered.

20 THE COURT: Yeah, I understand. Overruled.

21 Go ahead. He can answer it.

22 BY MR. BRADLEY:

23 Q. Again, what, if anything, did he say to you?

24 A. He didn't have a good relationship with Frances from
25 previous stuff that went on. I think that Debra had overheard

KENNETH ERWIN (IC) - DIRECT BY MR. BRADLEY

1 him talking about getting his son and taking off with his son,
2 and I think that it wasn't a very good relationship with him
3 and her.

4 Q. Okay. But as far as specifically towards Frances
5 Moore, what did he say his feelings toward her were?

6 A. I'm not understanding what you're asking me.

7 Q. What, if anything, did Mr. Stephens tell you about
8 Frances Moore and his relationship with Frances Moore prior to
9 his death?

10 A. That it wasn't a good relationship. I mean, they
11 wasn't getting along.

12 Q. When he would talk to you about Frances Moore how
13 was his demeanor? How would he act?

14 A. He was scared of her, man.

15 Q. And when he was actually scared of her what would he
16 say about her exactly?

17 A. That she was capable of doing things that other
18 people didn't understand that she could do to him.

19 Q. Your testimony earlier was the fact that if he was
20 found shot and his car burned to have her investigated?

21 A. That's exactly right. That's straight out of his
22 mouth, man. I have no reason to say nothing that wasn't the
23 truth. That's exactly what he told me.

24 MR. PRUITT: Your Honor, I object. His previous
25 testimony was that his -- verbatim, if he was ever found dead

KENNETH ERWIN (IC) - CROSS BY MR. PRUITT

1 have his mother-in-law investigated. And this is an attempt
2 to try to rehabilitate his own witness, and we object.

3 THE COURT: Okay. All right. Overruled. Do you
4 want to go ahead and cross him?

5 CROSS-EXAMINATION

6 BY MR. PRUITT:

7 Q. Now, Mr. Erwin, you testified just a minute ago that
8 Paul told you sometime in the six months prior to his death,
9 maybe more than once, if he was ever found dead have his
10 mother-in-law investigated; is that right?

11 A. Well, I said it wrong. He said shot.

12 Q. Okay. If he was ever found shot?

13 A. And his car caught on fire, is exact words he said
14 to me.

15 MR. PRUITT: That's all I have.

16 THE COURT: All right. Mr. Gamble?

17 CROSS-EXAMINATION

18 BY MR. GAMBLE:

19 Q. Paul talked with you about a man that was found shot
20 in his van set on fire and he was missing a gold Rolex watch
21 and \$10,000 cash; who was that man?

22 A. He told me I think it was Debra and some guy Debra
23 talked to in the past. I'm not sure who the fellow was.

24 Q. What did he tell you with regard to Garvin Duvall?

25 A. He's the godparent of his son. That's what he's --

KENNETH ERWIN (IC) - CROSS BY MR. GAMBLE

1 Q. Skylar.

2 A. Yeah.

3 Q. Yeah. What did he say about him?

4 A. That's about all he's ever said to me about him.

5 Q. Okay. So apparently he's evidently gotten along
6 with Garvin Duvall because he was Skylar's godfather?

7 A. I guess he did.

8 Q. In your statement you said he was going to give you
9 money for letting him stay at your house when he got the money
10 from a settlement. Did you know that he already got the
11 settlement?

12 A. He moved back home.

13 Q. Didn't give you any money?

14 A. (Shook head).

15 MR. GAMBLE: All right.

16 THE COURT: Any redirect?

17 MR. BRADLEY: No, Your Honor.

18 THE COURT: All right, sir.

19 MR. GAMBLE: I object to the hearsay, Your Honor, as
20 to Garvin Duvall because none of it involves him and it was
21 out of his presence, and it is total hearsay with regard to
22 Garvin Duvall.

23 THE COURT: Yes, sir?

24 MR. BRADLEY: Your Honor, as far as that goes, the
25 law under the joinder rules, it says that evidence could be

1 admitted as to one defendant in joint trial and does not have
2 to be admitted to the other one, and Your Honor can give an
3 instruction to the jury as to that, that evidence can be
4 admitted to one defendant and not the other.

5 MR. GAMBLE: Prejudicial effect far outweighs the
6 probative in this situation.

7 THE COURT: I mean, this is the problem doing them
8 together. You know, a jury instruction telling them to
9 disregard the testimony as to one defendant I have a lot of
10 concern with.

11 All right. What I'm going to do -- and let me just
12 point out that what I'm really looking for here is some
13 guidance from the Supreme Court on whether or not the
14 testimony can be that he was afraid of being shot and burned,
15 and whether or not that is a fear or that's a reason for fear.

16 ~~And just to let you know, there is a case, The State~~
17 vs. Weston, which was heard in 2006. It's 625 S.E.2d 641,
18 that deals with Garcia and whether the colloquy was a little
19 bit more than just I'm afraid.

20 So what I'm going to do is I'm going to let him
21 testify. I'm going to let him testify as to the fear and the
22 fear of being shot and burned. Nothing further. I understand
23 that that's the kind of thing that the Supreme Court look at
24 it and say that I've gone too far by four words, but based
25 upon The State vs. Weston it looks like they've allowed people

1 to testify more than just he's afraid, and to go into some of
2 the actual fears they have.

3 All right. Let's take a break and we'll come back.

4 As far as Mr. Gamble, I'll give a curative
5 instruction but I think we're skating pretty close to some
6 cumulative problems here.

7 MR. GAMBLE: You're trying to strain buttermilk
8 after there's something happened to it.

9 THE COURT: I agree with you. I think I'm the
10 strainer, too.

11 MR. GAMBLE: Yes, sir. Yes, sir.

12 THE COURT: All right. Take a break.

13 (WHEREUPON, a brief recess was taken.)

14 THE COURT: You can bring them in.

15 (WHEREUPON, the jury enters the courtroom at
16 approximately 5:52 p.m.)

17 THE COURT: Thank you, ladies and gentlemen.

18 You can call your next witness.

19 MR. BRADLEY: Thank you, Your Honor. May it please
20 the Court. The State calls Kenny Erwin.

21 KENNETH ERWIN, after having been duly sworn,
22 testified as follows:

23 THE CLERK OF COURT: If you'll go around and have a
24 seat in the witness chair, please.

25 (The witness was seated in the witness stand.)

KENNETH ERWIN - DIRECT BY MR. BRADLEY

1 THE CLERK OF COURT: Mr. Erwin, if you'd state your
2 full name and spell your last name for the record.

3 THE WITNESS: It's Kenneth Grover Erwin, E-r-w-i-n.

4 DIRECT EXAMINATION

5 BY MR. BRADLEY:

6 Q. Good evening, Mr. Erwin. Did you know Robert Paul
7 Stephens?

8 A. Yes, sir.

9 Q. How did you know him?

10 A. Through my wife.

11 Q. How does she know him?

12 A. It's her first cousin.

13 Q. And how would you describe your relationship with
14 him?

15 A. It was good. He was like a brother to me.

16 Q. Okay. And how long had you known him?

17 A. Twenty something years.

18 Q. Did he ever come live with you?

19 A. Yes, sir.

20 Q. And when was that?

21 A. He lived with me for about five months prior to his
22 death.

23 Q. Okay. And why did he come live with you?

24 A. Him and his wife had broke up.

25 Q. Okay. When you say his wife, who is that?

KENNETH ERWIN - DIRECT BY MR. BRADLEY

- 1 A. Debra.
- 2 Q. What was Debra's last name?
- 3 A. Debra Stephens. She was a Moore.
- 4 Q. And do you know the defendant, Frances Moore?
- 5 A. Yes, sir.
- 6 Q. How do you know her?
- 7 A. It was his mother-in-law.
- 8 Q. Okay. And what was her relationship with the
- 9 victim, Paul Stephens?
- 10 A. Do what now?
- 11 Q. What was her relationship?
- 12 A. That was his mother-in-law.
- 13 Q. And how would you have described their relationship?
- 14 A. It wasn't too good of a relationship.
- 15 Q. Okay. And what, if anything, did Paul tell you
- 16 about Frances Moore prior to his death?
- 17 A. If he was ever found shot and his car caught on fire
- 18 to have his mother-in-law investigated.
- 19 Q. And how would he act when he would say this to you?
- 20 A. He was afraid. Like he was afraid.
- 21 Q. Did he say this to you more than once?
- 22 A. Yes, sir.
- 23 Q. How many times?
- 24 A. Probably 12 or more times.
- 25 Q. And when was this when he told you?

KENNETH ERWIN - DIRECT BY MR. BRADLEY

1 A. It was up to about a month before he got killed.

2 Q. On occasions?

3 A. Yes, sir.

4 Q. Okay and did Paul stop living with you prior to his
5 death?

6 A. Yes, sir.

7 Q. And when was that?

8 A. It was like a month before.

9 Q. Okay. Where did he go?

10 A. He went back home.

11 Q. And why did he go back home?

12 A. I guess try to work it out with his wife.

13 Q. Okay. And what was Paul's relationship with his
14 son?

15 A. It was good.

16 Q. Do you know the defendant, Garvin Duvall?

17 A. Yes, sir.

18 Q. How do you know him?

19 A. Through a birthday party, and he was the godparent
20 of Paul's son.

21 Q. And how did he and Paul get along?

22 A. I guess well, as far as I know of.

23 Q. Okay. What about Frances Moore and Garvin Duvall,
24 did they have a relationship that you knew of?

25 A. I've seen them talk. You know, I don't know about

KENNETH ERWIN - CROSS BY MR. PRUITT

1 their relationship.

2 Q. But were they friends?

3 A. Yes, sir.

4 MR. BRADLEY: No further questions at this time,
5 Your Honor.

6 THE COURT: All right. Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. PRUITT:

9 Q. Now, Mr. Erwin, you testified that shortly before
10 Paul Stevens was killed that he moved back in with his wife
11 Debra; is that right?

12 A. Yes, sir.

13 Q. Now, it's true, isn't it, that Debra lives right
14 next to Frances?

15 A. Yes, sir.

16 Q. And, as a matter of fact, that Debra's mobile home
17 is probably only 20 feet from Frances' house?

18 A. That's right, sir.

19 Q. And it's also true that they all share and use the
20 driveway that's behind Frances' house to access both of the
21 residences?

22 A. Now, Paul and them used his driveway and Frances and
23 them used theirs, as far as I know of.

24 Q. So it's your testimony that he moved back in 20 feet
25 from his mother-in-law a month before he died?

KENNETH ERWIN - CROSS BY MR. PRUITT

1 A. That's right.

2 Q. And lived there until his death?

3 A. Yes, sir.

4 MR. PRUITT: That's all I got.

5 THE COURT: Yes, sir?

6 MR. GAMBLE: No questions, Your Honor, but I ask for
7 an instruction with regard to that testimony as to my client,
8 Garvin Duvall.

9 THE COURT: All right.

10 MR. BRADLEY: Your Honor, there's no objection to
11 the instruction.

12 THE COURT: All right. You all stand over here.
13 Come over here a moment.

14 (WHEREUPON, a bench conference was had.)

15 THE COURT: All right. You can step down.

16 Ladies and gentlemen, I want to give you what's
17 legally called a limited instruction. The testimony that you
18 just heard and the testimony that you're going to hear from
19 the next two witnesses is admitted in the State's case against
20 Frances Moore but not in their case against Garvin Duvall.
21 Again, I'm going to tell you that after each witness, but
22 please keep that in mind.

23 Okay. You can call your next witness.

24 MR. BRADLEY: The State calls Elaine Erwin.

25 NELLIE ELAINE ERWIN, after having been duly

NELLIE ELAINE ERWIN - DIRECT BY MR. BRADLEY

1 sworn, testified as follows:

2 THE CLERK OF COURT: If you'd go up and have a seat
3 in the witness chair, please.

4 ~~... (The witness was seated in the witness stand.)~~

5 THE CLERK OF COURT: If you'll state your full name
6 and spell your last name for the record.

7 THE WITNESS: Nellie Elaine Erwin, E-r-w-i-n.

8 DIRECT EXAMINATION

9 BY MR. BRADLEY:

10 Q. Good evening, Ms. Erwin. Did you know Robert Paul
11 Stephens?

12 A. Yes, I did.

13 Q. How did you know him?

14 A. He was my first cousin.

15 Q. And are you married to Kenny Erwin?

16 A. Yes, I am.

17 Q. And how would you describe your relationship with
18 Paul Stephens?

19 A. He was just like a brother to me.

20 Q. Did he ever come to live with you?

21 A. Yes, he did.

22 Q. And when was that?

23 A. He lived with me for like five months.

24 Q. Okay. Prior to his death?

25 A. Yes.

NELLIE ELAINE ERWIN - DIRECT BY MR. BRADLEY

1 Q. And did you know the defendant, Frances Moore?

2 A. I knowed her through his wife, Debra.

3 Q. And what was her relationship like with Paul?

4 A. I don't think they got along that much. I think he
5 was kind of afraid of her.

6 Q. What, if anything, did he say to you about Frances
7 Moore?

8 A. He told me and my husband if he was ever found, been
9 shot or his car been caught on fire to have her investigated,
10 Frances.

11 Q. How would he act when he was telling you this?

12 A. Very afraid.

13 Q. Did he say this -- how many times did he say this to
14 you?

15 A. Several times.

16 Q. And when was this?

17 A. It was from the time he moved in with us, really.

18 Q. Up until?

19 A. Up until his death.

20 Q. And so when he left your home where did he go?

21 A. He went back to live with Debra at her home.

22 Q. And did you know the reason why he went back to live
23 with her?

24 A. He said he wanted -- he told me he wanted to be with
25 his son.

NELLIE ELAINE ERWIN - CROSS BY MR. PRUITT

1 Q. And what was his relationship like with his son?

2 A. He loved him more than anything.

3 Q. And do you know the defendant, Garvin Duvall?

4 A. I do not know him but I've seen him at birthday
5 parties, at one of Skylar's birthday parties when he was
6 little.

7 Q. What was his relationship like with Paul?

8 A. As far as I know they were friends, I guess.

9 Q. Okay. And what about the relationship between
10 Garvin Duvall and Frances Moore?

11 A. They were very close from what I seen.

12 MR. BRADLEY: Nothing further at this time, Your
13 Honor.

14 THE COURT: All right. Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. PRUITT:

17 Q. Now, Ms. Erwin, you know that Paul Stephens, despite
18 these statements that you claim to have heard him make, moved
19 back into Debra's trailer?

20 A. Uh-huh.

21 Q. And is it true that that trailer is some 20 feet
22 from Frances Moore's house?

23 A. Yes, sir, it is.

24 Q. Now, it's also true that Frances -- you talked to
25 Frances after Paul's death and she told you about she had been

NELLIE ELAINE ERWIN - CROSS BY MR. PRUITT

1 at the Sav-a-Lot store?

2 A. She said she had got some meat where you save a lot
3 of money at a meat place.

4 Q. She bought some meat at the Sav-a-Lot or a place
5 where you could save money?

6 A. Where you could save money at a meat place.

7 Q. Well, let me show you the statement that you gave to
8 the police investigators, and tell me if you recognize your
9 signature.

10 A. I do.

11 Q. Do you see the last sentence there --

12 A. Uh-huh.

13 Q. -- where you wrote and signed that she went to the
14 Sav-a-Lot?

15 A. It says at a meat shop. I don't see where it says
16 Sav-a-Lot.

17 Q. (Indicated).

18 A. Oh. She said something about Sav-a-Lot it said, but
19 she told me she went to a meat place. It didn't say a
20 Sav-a-Lot store.

21 Q. Well, she said she went to the Sav-a-Lot store,
22 didn't she?

23 A. She said she went to a meat store where you could
24 save a lot of money on her meat.

25 Q. Did Paul Stephens live in close proximity to Frances

NELLIE ELAINE ERWIN - CROSS BY MR. PRUITT

1 Moore for the last 30 days of his life?

2 A. Yes, he did.

3 Q. And after he moved out of your house and went back

4 home to his wife and son right next door to his

5 mother-in-law's you never talked to him again, did you?

6 A. Yes, I did.

7 MR. PRUITT: That's all the questions I have.

8 THE COURT: Any questions?

9 MR. GAMBLE: No questions.

10 THE COURT: All right. Thank you, ma'am. You can
11 step down.

12 As I told you, ladies and gentlemen, that witness'
13 testimony was introduced in the State's case versus Frances
14 Moore but not Garvin Duvall.

15 MR. BRADLEY: Your Honor, I believe I failed to ask,
16 but may these past two witnesses be excused?

17 THE COURT: Any objection?

18 MR. PRUITT: No objection.

19 MR. GAMBLE: No objection.

20 THE COURT: All right. Without objection, you may
21 be excused.

22 MR. BRADLEY: The State calls Rita Woods.

23 RITA WOODS, after having been duly sworn,
24 testified as follows:

25 THE CLERK OF COURT: Go and have a seat in the

RITA WOODS - DIRECT BY MR. BRADLEY

1 witness chair.

2 (The witness was seated in the witness stand.)

3 THE CLERK OF COURT: If you'd state your full name
4 and spell your last name for the record, please.

5 THE WITNESS: Rita Renae Woods, W-o-o-d-s.

6 DIRECT EXAMINATION

7 BY MR. BRADLEY:

8 Q. Good evening, Ms. Woods. Did you know Robert Paul
9 Stephens?

10 A. Yes.

11 Q. How did you know him?

12 A. I met him at a club when he was with Kenny and
13 Elaine Erwin.

14 Q. And when was this?

15 A. I'd say three months before he was dead, before he
16 was killed.

17 Q. Okay. And how would you describe your relationship
18 with him?

19 A. It was good. We got along really good. He was a
20 nice person.

21 Q. And you met him a few months prior to his death?

22 A. Excuse me?

23 Q. You met him a few months prior to --

24 A. Yes. Yes.

25 Q. Did you know about his ex-wife, Debra Stephens?

RITA WOODS - DIRECT BY MR. BRADLEY

1 A. Yes, I did. Uh-huh.

2 Q. And what was Paul's relationship like with Debra?

3 A. They argued. It wasn't very good. There was a lot
4 of hostility there.

5 Q. And do you know the defendant, Frances Moore?

6 A. Yes.

7 Q. How do you know her?

8 A. Through Paul. We went and picked up Skylar at the
9 home, and I met her when we went and picked up him. I met her
10 through Paul.

11 Q. How many times were you around Frances Moore?

12 A. About three or four times.

13 Q. Okay. Did you know the relationship between Paul
14 and Frances Moore?

15 A. It wasn't very good. It was -- he was -- mention of
16 her name he just shook. She upset him. She was very
17 dominated, like she had more control over Skylar than he or
18 Debra had.

19 Q. From what you observed how would you have described
20 their relationship when he talked about her, when he referred
21 to her?

22 A. It was like a nightmare to him, he wanted to get
23 away from. He wanted his son. He wanted to get his son away
24 from the whole situation. As a matter of fact, one time I was
25 stayed over with Paul and we woke up one morning and she was

RITA WOODS - DIRECT BY MR. BRADLEY

1 standing over us. And he's a big guy, and he just jumped, and
2 asked her what she was doing there. She said, you know how
3 easy it would have been for me to kill both of you.

4 MR. PRUITT: Objection, Your Honor.

5 THE COURT: Yeah. Sustained.

6 BY MR. BRADLEY:

7 Q. What, if anything, did Paul Stephens tell you
8 directly regarding Frances Moore?

9 A. He told me he was scared of her, always afraid of
10 her. You know, just anything could happen. She was capable
11 of anything, and that if he was ever -- he was ever found
12 dead, shot, shot in the head and his car was burned that she
13 had something -- that she did it, she had something to do with
14 it.

15 Q. How would he act when he would tell you this?

16 A. He was very shaky, very nervous, and trying to make
17 sure that what he was saying that I was believing him, that it
18 was so, it was true. He said she was capable of doing that.

19 Q. Did he say this to you more than once?

20 A. Uh-huh.

21 Q. How many times?

22 A. A lot because they were getting in the arguments,
23 you know, on the phone or whatever, and he would say, Oh, my
24 God. And he would, like, look out the window, she might be
25 out the window. It was just -- it was unnatural.

RITA WOODS - CROSS BY MR. PRUITT

1 Q. How long was it before Paul's death that he said
2 this to you about Frances Moore?

3 A. Like I said, I knew him about three months -- I met
4 him three months before, and it was like at least two -- maybe
5 one, two times a week when I would talk to him or see him.

6 Q. And when was the last time that you saw Paul
7 Stephens prior to his death?

8 A. It was about a week and a half before.

9 Q. Did you talk to him?

10 A. I talked to him on the phone.

11 Q. And when was the last time you talked to him on the
12 phone?

13 A. Excuse me? I'm sorry.

14 Q. When was the last time you talked to him on the
15 phone prior to his death?

16 A. It was about a week and a half before.

17 MR. BRADLEY: Nothing further at this time, Your
18 Honor.

19 THE COURT: All right. Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. PRUITT:

22 Q. Now, Rita, you met Paul, you say, some three months
23 before he died?

24 A. Something around there, yes. Yes, I did.

25 Q. And you all became boyfriend and girlfriend, didn't

RITA WOODS - CROSS BY MR. PRUITT

1 you?

2 A. Yes, we did.

3 Q. And you were married at that time?

4 A. I was legally divorced. I mean, legally separated.

5 Excuse me.

6 Q. But you weren't divorced?

7 A. No.

8 Q. And he was married at that time?

9 A. He was divorcing, uh-huh.

10 Q. He wasn't divorced either, was he?

11 A. Not at the time that we met, no.

12 Q. Wasn't divorced at the time he died, was he?

13 A. As far as my knowledge, I thought he was divorced,
14 yes.

15 Q. Well, you know that a month before he died he moved

16 right back in with Debra, about 20 feet from his

17 mother-in-law's house?

18 A. Uh-huh. Yes, I do.

19 Q. And stayed there for a month?

20 A. Yes, sir.

21 MR. PRUITT: That's all I got.

22 THE COURT: All right. Thank you, ma'am. You can
23 step down.

24 MR. BRADLEY: May this witness be excused, Your
25 Honor?

1 MR. PRUITT: No objection.

2 THE COURT: Without objection.

3 Ladies and gentlemen, as I said, in keeping with the
4 testimony of the previous two witnesses, that testimony was
5 introduced in the State's case versus Frances Moore, not
6 Mr. Duvall.

7 MR. BRADLEY: May we approach, Your Honor?

8 THE COURT: Yeah.

9 (WHEREUPON, a bench conference was had.)

10 THE COURT: Ladies and gentlemen, we have one more
11 witness, and I know you're tired. I have to send you back for
12 about five minutes. I'll bring you back in and we'll take one
13 more witness, and then we'll leave. I'm doing my best to
14 compress this and push everybody so that we can get through.
15 I'm sorry for it.

16 If anybody needs to smoke this will be your last
17 chance to do it. It will take us ten minutes to get through
18 this. So don't discuss the case.

19 (WHEREUPON, the jury leaves the courtroom at
20 approximately 6:18 p.m.)

21 THE COURT: All right. My understanding is the next
22 witness you might elicit testimony that you think potentially
23 may be a problem or it may raise objections.

24 MR. BRADLEY: That's correct, Your Honor. Officer
25 Greg Hawkins will testify to the fact that the date of the

1 death of Paul Stephens, that morning, Frances Moore and her
2 daughter were in his office. He was interviewing the
3 daughter, Debra Stephens, on an unrelated crime, unrelated
4 matter, and at some point Ms. Stephens confessed to the crimes
5 and Ms. Moore became visibly upset and stated in front of
6 Officer Hawkins that she was going to kill that S-O-B, and he
7 will testify to that fact.

8 THE COURT: All right.

9 MR. BRADLEY: Referring to the victim.

10 THE COURT: Yes, sir?

11 MR. PRUITT: Your Honor, we'd object on the grounds
12 that the probative value is not outweighed by the prejudicial
13 effect. While we've got the jury out I want the Court to note
14 that my objections continued to the previous three witnesses
15 pursuant to our previous proffer of testimony as to these last
16 three.

17 THE COURT: Yeah, and just for the record,
18 Mr. Pruitt objected to the testimony of the three previous
19 witnesses based on his argument that Garcia and its related
20 cases would not have allowed it, and I should not have allowed
21 any of them to testify as to anything other than that he was
22 afraid of them. And I overruled that, and you're protected
23 for the record. I just want to make sure it's clear.

24 Okay. And you don't have an opinion about this one,
25 right, Officer Hawkins?

1 MR. GAMBLE: Well --

2 THE COURT: Or one that you have to share with us?

3 MR. GAMBLE: I think it indicates guilt by
4 association, but if you think you can strain the buttermilk,
5 let's strain the buttermilk.

6 THE COURT: I'm doing the best I can. I'm starting
7 to wonder. Okay. All right. Those are overruled, and
8 assuming that that's what the Officer Hawkins testifies to
9 I'll let it in. As soon as they get back we'll get started,
10 then finish up.

11 How many witnesses we have tomorrow? You got two
12 from Columbia?

13 MR. BRADLEY: We have eight, Your Honor.

14 THE COURT: All right. As soon as they get back
15 I'll come in and we'll get it done.

16 (WHEREUPON, a brief recess was taken.)

17 THE COURT: All right. Everybody ready?

18 MR. BRADLEY: Yes, Your Honor.

19 THE COURT: You can bring them in.

20 (WHEREUPON, the jury enters the courtroom at
21 approximately 6:32 p.m.)

22 THE COURT: All right. Ladies and gentlemen, we
23 have one more witness and then we'll break for the evening.
24 Thanks for your patience.

25 You can call your next witness.

GREG HAWKINS - DIRECT BY MR. BRADLEY

1 MR. BRADLEY: Thank you, Your Honor. May it please
2 the Court. The State calls Lieutenant Greg Hawkins.

3 GREG HAWKINS, after having been duly sworn,
4 testified as follows:

5 THE CLERK OF COURT: If you'll go around, please,
6 Officer, and have a seat in the witness chair.

7 (The witness was seated in the witness stand.)

8 THE CLERK OF COURT: If you'll please state your
9 full name and spell your last for the record.

10 THE WITNESS: Lieutenant Greg Hawkins,
11 H-a-w-k-i-n-s.

12 DIRECT EXAMINATION

13 BY MR. BRADLEY:

14 Q. Lieutenant Hawkins, where do you work?

15 A. I work for the Anderson Police Department.

16 Q. And what is your title there?

17 A. I'm a lieutenant, patrol division.

18 Q. And what are some of your duties?

19 A. Currently I supervise a shift of two sergeants and
20 seven officers. We're responsible for day-to-day operations,
21 answering calls for service, handling any complaints
22 throughout the city.

23 Q. How long have you been in law enforcement?

24 A. Twenty-one years.

25 Q. Were you in the same position back in 1999?

GREG HAWKINS - DIRECT BY MR. BRADLEY

1 A. No, I wasn't.

2 Q. What capacity were you working in law enforcement
3 then?

4 A. I was a sergeant in the detective division at that
5 time.

6 Q. Okay. Specifically, June 30th, 1999?

7 A. Yes, sir.

8 Q. And that day did you have reason to come in to
9 contact with the defendant, Frances Moore?

10 A. I did.

11 Q. And what was that reason?

12 A. I was interviewing her daughter, Debra Stephens.

13 Q. And what was the reason you were interviewing Debra
14 Stephens?

15 A. She was a suspect in some forgery cases I was
16 investigating.

17 Q. And was Frances Moore present during the interview?

18 A. Yes, she was.

19 Q. How long did the interview last?

20 A. About 2 hours.

21 Q. When did it start and when did it end?

22 A. It started somewhere around 10 o'clock. It
23 concluded shortly after 12:00.

24 Q. And what was the outcome of the interview?

25 A. Debra Stephens confessed to forging 3 checks in the

GREG HAWKINS - DIRECT BY MR. BRADLEY

1 city that had been given. She told me they had been given to
2 her by her husband, Paul Stephens.

3 Q. And when this occurred how was Frances Moore acting?

4 A. She was pretty upset when Debra confessed to these
5 and said why she did the forgeries.

6 Q. And at that point what, if anything, did Frances
7 Moore say?

8 A. Right when Debra confessed -- Debra, she started the
9 interview. She was denying having any knowledge or
10 participating in these crimes, but when she finally admitted
11 to what she did her mother asked her why did you do that, and
12 she said something to the effect -- I can't quote her exact
13 words, but something to the effect of Paul made me do it or
14 Paul told me to do it, something like that, and at that time
15 Ms. Moore, she appeared to me that she was angry. She said
16 something to the effect of I'm going to kill that son of a
17 bitch.

18 Q. So she said this in front of you?

19 A. Yes, sir.

20 Q. And with this being 10 years ago how can you
21 remember this so vividly?

22 A. Because the next morning when I came into work I got
23 a paper and saw that Paul Stephens had been shot and killed.

24 MR. BRADLEY: Nothing further, Your Honor.

25 THE COURT: Yes, sir.

GREG HAWKINS - CROSS BY MR. PRUITT

1 CROSS-EXAMINATION

2 BY MR. PRUITT:

3 Q. Now, Lieutenant Hawkins, do you recall providing any
4 handwriting exemplars or obtaining handwriting samples from
5 Debra Stephens that day?

6 A. No, sir. I didn't take any because she admitted to
7 writing the checks.

8 Q. Well, it sounds like to me, you just got through
9 testifying when she first got there she denied everything.

10 A. That's correct.

11 Q. So you didn't administer any handwriting exemplars?

12 A. No, not at that time. I hadn't completed my
13 interview. I don't stop the interview just because they deny
14 it, if they are agreeing to be interviewed. After I talked to
15 her a little while she finally admitted to it.

16 Q. I see you got some papers there with you. Is that
17 your records from this event?

18 A. Yeah. I have her statement and my incident report.

19 Q. Now, at the conclusion of this interview that you
20 had it was in the neighborhood, according to your testimony,
21 of 12 o'clock p.m.?

22 A. She signed the statement some time just after 12:00.
23 I have the statement here. I can give you the exact time if
24 you'd like.

25 Q. Go ahead and give us the time.

GREG HAWKINS - CROSS BY MR. FRUITT

1 A. 12:07 p.m. was the time of the statement.

2 Q. And after they signed this statement how long was it
3 before they left?

4 A. After she completed her statement I'm not certain
5 how long they were there after that. She didn't sign the
6 statement and they got up and headed to the door. I mean, I
7 would guess she was probably still there probably 10 or 15
8 minutes longer than that.

9 Q. Now, did you have any plans to talk to Paul Stephens
10 that day or to have any communication with him?

11 A. I was going to try to find him and interview him as
12 well. I'd asked Debra and her mother because she was in there
13 during the interview if they knew where Paul was and they told
14 me, both of them, that they had no idea where he was. I had
15 no leads where to locate him but I was going to try to because
16 I intended on signing warrants on him as well, but I didn't
17 know where to start looking. They told me they didn't know
18 where he was.

19 Q. Did you make any arrangements to come up and check
20 Debra's trailer or check Ms. Moore's residence to see if he
21 was around?

22 A. I don't remember exactly what kind of arrangements I
23 made with them as far as that went. I had been to the trailer
24 there probably about 2 or 3 times before I ever talked to
25 Debra trying to locate both of them.

GREG HAWKINS - CROSS BY MR. PRUITT

1 Q. All right. Isn't it true that you made arrangements
2 to try to come up that very day and find him at about
3 6 o'clock and you were going to park in Frances' driveway?

4 A. I don't remember---recall anything like that.

5 Q. But you were looking for him?

6 A. Yeah, I was.

7 Q. And you were looking for him for the purpose of
8 arresting him?

9 A. Well, I was going --

10 Q. Interviewing him?

11 A. Yeah. Eventually I would have arrested him just
12 based on Debra Stephens' statement and other factors.

13 Q. Did you know this Paul Stephens?

14 A. No, sir, I did not.

15 Q. Had you ever met him?

16 A. No. I'd never met him, no, sir.

17 Q. So it's your best estimate that they were there 10
18 or 15 minutes after the statement was signed at 12:07 on June
19 30th?

20 A. It was probably about that time. It could have been
21 shorter. It could have been a longer period of time. I know
22 what I would have normally talked with them about after that
23 statement. I didn't intend on arresting Debra Stephens on
24 that day. You know, it's possible that we discussed making
25 arrangements for her to turn herself in at a later time. I

GREG HAWKINS - CROSS BY MR. PRUITT

1 don't know.

2 Q. Now, the records that you have there, have you
3 turned those over to the solicitor's office prior to today?

4 A. I understand that they have copies of the statement
5 that I took from Debra. But, no, they haven't asked me for
6 anything out of this case file.

7 MR. PRUITT: That's all I have.

8 MR. GAMBLE: As to Mr. Duvall, Your Honor, I object
9 to the entire line of questioning by both the State and by
10 co-counsel -- defense counsel at the table and request a
11 curative instruction from the bench.

12 THE COURT: Any objection?

13 MR. BRADLEY: No objection, Your Honor.

14 THE COURT: All right. Thank you, sir. You can
15 step down. I appreciate it.

16 MR. BRADLEY: May this witness be excused, Your
17 Honor?

18 THE COURT: Without objection?

19 MR. GAMBLE: No objection.

20 THE COURT: Ladies and gentlemen, as I said earlier,
21 this witness testimony was introduced in the State's case
22 against Frances Moore but not Garvin Duvall.

23 All right. Ladies and gentlemen, I know you've had
24 a long day. That's all we're going to do today. Tomorrow
25 we'll, I have a feeling, be forced to make some decisions

1 about how long we're going to go this week.

2 Just so you'll understand the problem I'm facing, I
3 have to be in another court next week, which means that we're
4 looking at a potential weekend, and I apologize for that. I
5 didn't expect that when I came in here Tuesday but it looks
6 like that's where we're headed. I don't know that for sure.
7 I think I'll have a better idea tomorrow.

8 Several years ago the clerk, Cathy Phillips, and I
9 left the courthouse at 4:30 in the morning after a jury came
10 back. So it's not real unusual, but that's not going to
11 happen this time. We'll break it up a little more.

12 Anyway, we'll start at 10:00 tomorrow morning. I'll
13 start a little bit later. Be in the jury room by 10:00. I'm
14 assuming that there is no publicity or that you are not
15 reading or watching or listening to any publicity. Please
16 don't do that. Please don't look on the internet.

17 And as hard as it is not to talk to your family
18 members, you shouldn't answer questions by your family
19 members. Inadvertently, they can tell you something or make a
20 suggestion that could influence you, and it is very important
21 that you be influenced by only what you hear in this
22 courtroom.

23 I know I'm putting a lot on you. I know that you've
24 been here all day. I do appreciate it. See you at 10:00.

25 (WHEREUPON, the jury leaves the courtroom at

1 approximately 6:46 p.m.)

2 THE COURT: Okay. I suspect tomorrow is going to be
3 a fairly eventful day; is that right?

4 MR. BRADLEY: Yes, Your Honor. We still have 8-
5 witnesses.

6 THE COURT: Ten o'clock.

7 MR. GAMBLE: A long day, too.

8 THE COURT: Yep. Ten o'clock. See you then.

9 (WHEREUPON, the trial of this case was recessed for
10 the day.)

11 ** END OF VOLUME I **

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1 C E R T I F I C A T E

2

3

I, Sharon L. Vizer-Hanks, Official Court Reporter

4

for the 10th Judicial Circuit of the State of South Carolina,

5

do hereby certify that the foregoing is a true, accurate and

6

complete transcript of record of all the proceedings had and

7

the evidence introduced in the trial of the captioned case in

8

Circuit Court on the 12th and 13th day of May 2009.

9

I do further certify that I am neither of kin,

10

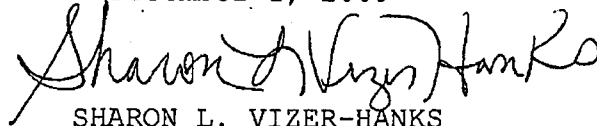
counsel nor have an interest to any party hereto.

11

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December 1, 2009

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SHARON L. VIZER-HANKS

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CIRCUIT COURT REPORTER

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON) 10TH JUDICIAL CIRCUIT

THE STATE) TRANSCRIPT OF RECORD

-VS-) ** VOLUME II **

GARVIN DUVALL,) 2007-GS-04-1218 & 1219

AND FRANCES MOORE,) 2007-GS-04-1342 & 1343

DEFENDANTS.)

MAY 14 & 15, 2009 & JUNE 16, 2009

ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JUDGE; AND A JURY

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

T. MATTHEW BRADLEY, ASSISTANT SOLICITOR

LAUREN S. HOGAN, ASSISTANT SOLICITOR

ATTORNEYS FOR THE STATE

ROBERT GAMBLE, PUBLIC DEFENDER

MATTHEW PERKINS, ASSISTANT PUBLIC DEFENDER

ATTORNEYS FOR DEFENDANT DUVALL

CALHOUN PRUITT, ESQUIRE

ATTORNEY FOR DEFENDANT MOORE

SHARON L. VIZER-HANKS - CIRCUIT COURT REPORTER

I N D E X

(SW) - DENOTES STATE'S WITNESS

(DDW) - DENOTES DEFENDANT DUVALL WITNESS

(DMW) - DENOTES DEFENDANT MOORE WITNESS

(IC) - DENOTES IN CAMERA

PAGE

** VOLUME I **

TUESDAY, MAY 12, 2009

JURY QUALIFICATIONS	--12
PRETRIAL MOTIONS	--23
JURY SELECTION	--42

WITNESSES(SW) JOSHUA GEORGE ANDERSON - (IC):

DIRECT EXAMINATION BY MS. HOGAN	--70
CROSS-EXAMINATION BY MR. PRUITT	--76
CROSS-EXAMINATION BY MR. GAMBLE	--79
REDIRECT EXAMINATION BY MS. HOGAN	--80
RECROSS-EXAMINATION BY MR. PRUITT	--81

(SW) LIEUTENANT GARLAND JAMES MAJOR, JR. (IC):

DIRECT EXAMINATION BY MS. BRADLEY	--82
CROSS-EXAMINATION BY MR. PRUITT	--91
CROSS-EXAMINATION BY MR. GAMBLE	--92

WEDNESDAY, MAY 13, 2009(SW) LIEUTENANT GARLAND JAMES MAJOR, JR. (IC):

DIRECT EXAMINATION BY MR. GAMBLE	-102

I N D E X

	PAGE
OPENING STATEMENT BY MS. HOGAN	-112
OPENING STATEMENT BY MR. PRUITT	-115
OPENING STATEMENT BY MR. GAMBLE	-118

WITNESSES(SW) AARON JAMES POWERS:

DIRECT EXAMINATION BY MS. HOGAN	-120
CROSS-EXAMINATION BY MR. PRUITT	-124
CROSS-EXAMINATION BY MR. GAMBLE	-126
REDIRECT EXAMINATION BY MS. HOGAN	-130

(SW) PETER ROGERS:

DIRECT EXAMINATION BY MS. HOGAN	-132
CROSS-EXAMINATION BY MR. PRUITT	-136
CROSS-EXAMINATION BY MR. GAMBLE	-139
REDIRECT EXAMINATION BY MS. HOGAN	-143

(SW) ROBERT MULLIKIN:

DIRECT EXAMINATION BY MS. HOGAN	-144
CROSS-EXAMINATION BY MR. PRUITT	-149
CROSS-EXAMINATION BY MR. GAMBLE	-149

(SW) PELHAM M. MEDLOCK, JR.:

DIRECT EXAMINATION BY MS. HOGAN	-152
CROSS-EXAMINATION BY MR. PRUITT	-186
CROSS-EXAMINATION BY MR. GAMBLE	-187
REDIRECT EXAMINATION BY MS. HOGAN	-191

I N D E X

PAGE

(SW) DEPUTY ROBERT WARREN MILLER:

DIRECT EXAMINATION BY MS. HOGAN -197

CROSS-EXAMINATION BY MR. GAMBLE -200

REDIRECT EXAMINATION BY MS. HOGAN -204

(SW) KENNETH WAYNE BLAKELY:

DIRECT EXAMINATION BY MS. HOGAN -206

CROSS-EXAMINATION BY MR. PRUITT -218

CROSS-EXAMINATION BY MR. GAMBLE -219

REDIRECT EXAMINATION BY MS. HOGAN -224

(SW) JOSHUA ROYCE ADDIS:

DIRECT EXAMINATION BY MS. HOGAN -225

CROSS-EXAMINATION BY MR. PRUITT -240

CROSS-EXAMINATION BY MR. GAMBLE -248

REDIRECT EXAMINATION BY MS. HOGAN -253

(SW) JOSHUA GEORGE ANDERSON:

DIRECT EXAMINATION BY MS. HOGAN -256

CROSS-EXAMINATION BY MR. PRUITT -271

CROSS-EXAMINATION BY MR. GAMBLE -275

REDIRECT EXAMINATION BY MS. HOGAN -278

(SW) KENNETH ERWIN (IC):

DIRECT EXAMINATION BY MR. BRADLEY -286

CROSS-EXAMINATION BY MR. PRUITT -290

CROSS-EXAMINATION BY MR. GAMBLE -290

I N D E X

PAGE

(SW) KENNETH ERWIN:

DIRECT EXAMINATION BY MR. BRADLEY -294

CROSS-EXAMINATION BY MR. PRUITT -297

(SW) NELLIE ELAINE ERWIN:

DIRECT EXAMINATION BY MR. BRADLEY -299

CROSS-EXAMINATION BY MR. PRUITT -301

(SW) RITA WOODS:

DIRECT EXAMINATION BY MR. BRADLEY -304

CROSS-EXAMINATION BY MR. PRUITT -307

(SW) LIEUTENANT GREG HAWKINS:

DIRECT EXAMINATION BY MR. BRADLEY -312

CROSS-EXAMINATION BY MR. PRUITT -315

** VOLUME II **THURSDAY, MAY 14, 2009

MOTIONS IN REFERENCE TO WITNESS JOHN STANSELL -333

(SW) LIEUTENANT GARLAND JAMES MAJOR, JR.:

DIRECT EXAMINATION BY MR. BRADLEY -341

CROSS-EXAMINATION BY MR. PRUITT -359

CROSS-EXAMINATION BY MR. GAMBLE -365

REDIRECT EXAMINATION BY MR. BRADLEY -379

RENEWAL OF MOTIONS REGARDING WITNESS JOHN STANSELL -380

I N D E X

	PAGE
<u>(SW) JOHN W. STANSELL:</u>	
DIRECT EXAMINATION BY MS. HOGAN	-382
CROSS-EXAMINATION BY MR. GAMBLE	-408
CROSS-EXAMINATION BY MR. PRUITT	-455
REDIRECT EXAMINATION BY MS. HOGAN	-459
<u>(SW) KENNETH H. WHITLER:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-468
CROSS-EXAMINATION BY MR. GAMBLE	-472
<u>(SW) GEORGE EDWARD NICHOLSON:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-474
CROSS-EXAMINATION BY MR. PRUITT	-481
<u>(SW) RUSTY GARRETT:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-482
CROSS-EXAMINATION BY MR. PRUITT	-491
CROSS-EXAMINATION BY MR. GAMBLE	-493
REDIRECT EXAMINATION BY MR. BRADLEY	-494
<u>(SW) JOSEPHINE WRIGHT:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-495
CROSS-EXAMINATION BY MR. PRUITT	-504
<u>(SW) JANE KIMBERLY MILLER:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-508
CROSS-EXAMINATION BY MR. GAMBLE	-516

I N D E X

	PAGE
<u>(SW) DR. BRETT WOODARD:</u>	
DIRECT EXAMINATION BY MR. BRADLEY	-518
CROSS-EXAMINATION BY MR. PRUITT	-525
CROSS-EXAMINATION BY MR. GAMBLE	-526
<u>FRIDAY, MAY 15, 2009</u>	
MOTIONS AFTER THE RESTING OF THE STATE'S CASE	-530
<u>(DDW) KIMBERLY DAWN HENDRIX:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-533
CROSS EXAMINATION BY MR. BRADLEY	-536
REDIRECT EXAMINATION BY MR. GAMBLE	-539
<u>(DDW) SAMUEL LEE HENDRIX:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-540
CROSS EXAMINATION BY MR. BRADLEY	-545
<u>(DDW) BILLY RALPH STANSELL:</u>	
DIRECT EXAMINATION BY MR. GAMBLE	-549
CROSS EXAMINATION BY MS. HOGAN	-553
REDIRECT EXAMINATION BY MR. GAMBLE	-557
<u>(DMW) NATHAN EDDIE MOORE:</u>	
DIRECT EXAMINATION BY MR. PRUITT	-560
CROSS EXAMINATION BY MR. BRADLEY	-568
<u>(DMW) SHIRLEY WRENN:</u>	
DIRECT EXAMINATION BY MR. PRUITT	-576
CROSS EXAMINATION BY MS. HOGAN	-579

I N D E X(DMW) KACIE CHRISTINA WHITFIELD:

DIRECT EXAMINATION BY MR. PRUITT -582

CROSS EXAMINATION BY MS. HOGAN -584

(DMW) DEBRA STEPHENS:

DIRECT EXAMINATION BY MR. PRUITT -585

CROSS EXAMINATION BY MR. BRADLEY -605

REDIRECT EXAMINATION BY MR. PRUITT -621

(SW) JANET ELAINE STANSELL:

DIRECT EXAMINATION BY MS. HOGAN -627

CROSS-EXAMINATION BY MR. GAMBLE -628

CROSS-EXAMINATION BY MR. PRUITT -629

REDIRECT EXAMINATION BY MS. HOGAN -631

(SW) RUSTY GARRETT:

DIRECT EXAMINATION BY MR. BRADLEY -632

CROSS-EXAMINATION BY MR. PRUITT -634

CLOSING ARGUMENT BY MR. PRUITT -639

CLOSING ARGUMENT BY MR. GAMBLE -652

CLOSING ARGUMENT BY MR. BRADLEY -656

JURY CHARGE -680

VERDICT -709

SENTENCING -711

TUESDAY, JUNE 16, 2009

POST-TRIAL MOTIONS -716

CERTIFICATE OF REPORTER -727

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE COURT:</u>			
1	- NOTE FROM THE JURY 5/14/09	-465	
2	- NOTE FROM THE JURY 5/15/09	-704	
3	- NOTE FROM THE JURY 5/15/09	-706	
4	- NOTE FROM THE JURY 5/15/09	-707	
<u>FOR THE STATE:</u>			
1	- PHOTO LINEUP PERTAINING TO DEFENDANT MOORE	--69	-351
2	- AFFIDAVIT BY JOSH ANDERSON	--69	-351
3	- PHOTO LINEUP PERTAINING TO DEFENDANT DUVALL	--69	-358
4	- PHOTOGRAPH OF CRIME SCENE AND CARS		-166
5	- PHOTOGRAPH OF CRIME SCENE AND WOODS		-166
6	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
7	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
8	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
9	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
10	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
11	- PHOTOGRAPH OF CRIME SCENE AND BURNT CAR		-166
12	- PHOTOGRAPH OF CRIME SCENE, CAR AND WOODS		-166
13	- PHOTOGRAPH OF CRIME SCENE AND CAR		-166
14	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
15	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
16	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
17	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
18	- PHOTOGRAPH OF CRIME SCENE AND INSIDE OF CAR		-166
19	- PHOTOGRAPH OF CRIME SCENE AND STEERING IGNITION		-166
20	- PHOTOGRAPH OF CRIME SCENE AND WOODS		-166
21	- PHOTOGRAPH OF BULLET ON BLUE BACKGROUND		-213
22	- PHOTOGRAPH OF BULLET, SIDE VIEW		-213
23	- PHOTOGRAPH OF BULLET, TOP VIEW		-213
24	- PHOTOGRAPH OF FRONT OF DEFENDANT MOORE'S CAR		-216
25	- PHOTOGRAPH OF SIDE OF DEFENDANT MOORE'S CAR		-216
26	- PHOTOGRAPH OF BACK OF DEFENDANT MOORE'S CAR		-216
27	- PHOTOGRAPH OF DEFENDANT MOORE'S CAR, WINDOW AND SERIAL NUMBER		-216
28	- PHOTOGRAPH OF PAY PHONE		-231
29	- PHOTOGRAPH OF PAY PHONE		-231
30	- PHOTOGRAPH OF PAY PHONE AND PARKING LOT		-231
31	- PHOTOGRAPH OF PAY PHONE AND PARKING LOT		-231
32	- LARGE MAP		-121
33	- PHOTO ALBUM		-387
34	- CAR REGISTRATION INFORMATION		-345
35	- PHONE RECORDS FOR DEBRA STEPHENS		-477

EXHIBITS

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
36	- PHONE RECORDS FOR FRANCES MOORE		-477
37	- PROPERTY REPORT		
38	- SHELL CASING		-471
39	- BULLET NUMBER 1		-471
40	- BULLET NUMBER 2		-471
41	- APPLICATION POLICY		-499
42	- LIFE INSURANCE POLICY ON ROBERT PAUL STEPHENS		-499
43	- SETTLEMENT AGREEMENT		-499
44	- EMPLOYEE ATTENDANCE DOCUMENT		-512
45	- PUNCH DETAIL DOCUMENT		-512
46	- EMPLOYEE HISTORY DOCUMENT (2 PAGES)		-512
47	- EMPLOYEE STATUS DOCUMENT		-512
<u>FOR DEFENDANT MOORE:</u>			
1	- RECEIPT FROM SAV-A-LOT		-598
2	- INSURANCE POLICIES		-602
<u>FOR DEFENDANT DUVALL:</u>			
1	- HANDMADE CARD IN ENVELOPE		-425

** COURT REPORTER'S NOTE - ALL EXHIBITS WERE PREMARKED FOR IDENTIFICATION, UNLESS OTHERWISE INDICATED.

1 Thursday, May 14, 2009

2 THE COURT: Everybody ready?

3 MR. BRADLEY: Yes, Your Honor.

4 THE COURT: Who have you got today?

5 MS. HOGAN: We are starting out with Mr. Stansell
6 first, Your Honor, and then he will be followed by the
7 investigators in the case.

8 THE COURT: All right.

9 MS. HOGAN: We have a motion to make before the jury
10 comes in, Your Honor.

11 THE COURT: All right. Yes.

12 MS. HOGAN: There is a birthday card that Mr. Gamble
13 wants to get into on cross-examination of Mr. Stansell that we
14 wanted to make a motion in limine to exclude before we get
15 there.

16 THE COURT: Who's the birthday card to or from?

17 MS. HOGAN: The birthday card is from Mr. Stansell
18 to Mr. Duvall on his 40th birthday, and it's a little risqué.
19 We believe it is way more prejudicial than probative, Your
20 Honor. He will admit that he made the birthday card. He's
21 not denying that it wasn't made, and we don't believe that
22 Mr. Gamble should be able to get into introducing it to the
23 jury if Mr. Stansell admits that he made it.

24 THE COURT: But your witness sent it to the
25 defendant?

1 MS. HOGAN: Yes. Four months before this murder
2 happened, Your Honor.

3 THE COURT: And it would come in, you're afraid, on
4 the cross of --

5 MS. HOGAN: Yes, sir. You might want to see a copy
6 of it.

7 THE COURT: You got a copy?

8 MS. HOGAN: Or see the actual -- I have a copy. I
9 do not have the actual birthday card.

10 THE COURT: I'm not sure the probative value is a
11 problem since he's a witness. If it was a defendant it would
12 be an issue.

13 MS. HOGAN: It's highly prejudicial.

14 MR. GAMBLE: I intend for it to be, Your Honor.

15 MS. HOGAN: Your Honor, it would be highly
16 prejudicial. It's just going to be to disgust the jurors,
17 kind of shock them by looking at it. It has nothing to do
18 with his truthfulness or untruthfulness, Your Honor. He will
19 admit that he made it.

20 THE COURT: All right. Well, let me look at it.

21 [PAUSE]

22 THE COURT: I don't need to look any further.

23 Okay. All right. Mr. Gamble, what's your position?

24 MR. GAMBLE: In an earlier statement made by the
25 Reverend Dr. John Wilton Stansell, Junior, he claims that he

1 was distancing himself from Garvin Duvall. That card there
2 was given to Mr. Duvall in March of 1999. This incident
3 arose, as you well know, in June of 1999.

4 In that card, also, he shows the definite disdain
5 for my client in that on about the last page he says that he
6 is the Ryobi queer. My client at that time was working at
7 Ryobi. And it goes to his character, I think, as a reverend,
8 as a doctor, if that be the case, and as an ecclesiastical
9 preacher.

10 I think I have a right to go into his character.
11 It's on the stand, and I think that card accurately depicts
12 the character of this man. He did it. He gave it to him, and
13 it says from Sweet Daddy J, and he's known as Sweet Daddy J
14 because I have another card from him, from a year before that
15 wherein he signed his name as J. W. Stansell, and he did on
16 that card, too.

17 THE COURT: Well, I understand why you'd want to
18 keep it out but I think that the only person that would be
19 concerned about -- be worried about the prejudicial value
20 would be one of the defendants.

21 I don't think the fact that something is prejudicial
22 against a witness, who is your witness, even though it is
23 offensive, and, I mean, it is offensive, I think it's
24 available for cross. I mean, I understand why you'd want it
25 out. I just don't know any reason why you could or how you

1 could.

2 MS. HOGAN: Okay. Yes, sir, Your Honor.

3 THE COURT: I understand. Okay.

4 MR. PRUITT: ~~Your Honor, I don't have a position on~~
5 that particular thing. At the start of this trial we made a
6 motion in limine to cut out all of the testimony of
7 Mr. Stansell and Your Honor ruled that the State wouldn't be
8 allowed to put in that portion of Mr. Stansell's statement
9 through his testimony that occurred after the crime, but you
10 had a different ruling to that portion as it would relate to
11 Frances Moore before the crime.

12 And that particular part was let in -- was
13 presumably going to be let in on the basis it was part of the
14 conspiracy before the crime. I'd renew my objection in limine
15 to that part coming in before the crime because there has been
16 no independent evidence of a conspiracy produced in this trial
17 yet. So without some evidence already of the conspiracy that
18 particular statement should not be allowed to come in against
19 my client.

20 THE COURT: All right. What about that? I mean,
21 there's got to be some independent evidence of a conspiracy,
22 and the only testimony has been that these two people may have
23 been at a pay phone. I don't think that's enough. What have
24 you got?

25 MS. HOGAN: We just believe that the corroborating

1 evidence that's been put up in testimony, that she was picked
2 out of a photographic lineup at Anderson Meat Market two miles
3 from the crime scene. We will have testimony that
4 Mr. Stephens was killed around 3:15, that her car was seen
5 leaving the crime scene, you know, 20 minutes before he was
6 killed. I mean, we believe that all that evidence
7 corroborates the conspiracy of the two of them together before
8 they killed Paul.

9 THE COURT: Well, let me ask you, that would
10 indicate that she was there but what about Mr. Duvall? I
11 haven't heard anything that he was there.

12 MS. HOGAN: Well, that's what Mr. Stansell is going
13 to testify about, is that Mr. Duvall confessed to him or told
14 him that he was planning on killing Paul Stephens, and then
15 afterwards that he did kill Paul Stephens. That is the
16 testimony we're putting up, and the testimony that he and
17 Frances were planning on doing it, Frances was willing to pay
18 \$2,000 to have it done. That's the testimony that -- all that
19 testimony is going to come in next, Your Honor.

20 MR. PRUITT: Your Honor, that's all well and good
21 but there's got to be some -- there's testimony in the record
22 that Mrs. Moore was identified at the pay phone and the
23 various other things, but Mr. Garvin Duvall has not been
24 identified as the person who was at the pay phone with her.
25 So there's no testimony in the record, as of yet, to link him

1 to the conspiracy. So, you know, there's got to be some
2 independent evidence of that before that first part of the
3 statement could come in.

4 THE COURT: Yes, sir?

5 MR. GAMBLE: Me?

6 THE COURT: Yeah.

7 MR. GAMBLE: I ain't got a dog in that fight.

8 MS. HOGAN: Your Honor, if it pleases the Court.

9 Although Josh Anderson was not able to pick Mr. Duvall out of
10 the lineup he strongly -- I mean, the jury doesn't know this
11 but the person that popped out at him was Garvin Duvall. So
12 when the investigators testify that will be tying Garvin
13 Duvall to Frances Moore at the pay phone.

14 I mean, they are going to be able to weigh the
15 credibility of Josh Anderson in that photo lineup, him picking
16 out Garvin Duvall. So that's the link between the two at the
17 pay phone, and we are going to put up testimony that Garvin
18 Duvall was trying to pay somebody for Frances Moore to kill
19 Paul Stephens.

20 THE COURT: Well, I think Mr. Pruitt's position,
21 though, is that I ruled that the first part of that statement
22 could come in, assuming there would be some independent
23 evidence of conspiracy, which I think is what the cases
24 require. And what you're telling me is that there will be
25 independent evidence of a conspiracy after he testifies,

1 right?

2 MS. HOGAN: Right, that Garland Major is going to be
3 able to tie in that Garvin Duvall was the one that popped out
4 of the photo lineup for Josh Anderson. I mean, if we need to
5 we can put up the investigator first.

6 THE COURT: Yeah, I think you probably need to.

7 MS. HOGAN: And then --

8 THE COURT: And then that will solve his objection.
9 It may not to his mind but to mine. The point is that there's
10 no independent --

11 MS. HOGAN: Okay. We can do that. We'll switch the
12 order of the witnesses, yes, sir.

13 MR. PRUITT: Your Honor, while the jury is out,
14 because of the problem that I foresee in Mr. Stansell's
15 testimony, I feel like I've got to be very careful in any

16 cross-examination of him because I don't want to elicit
17 something that I didn't want to come in.

18 THE COURT: Right.

19 MR. PRUITT: So I'm going to ask the Court to allow
20 me to defer my cross-examination of him until after
21 Mr. Gamble's, and if I feel like I need to pick on a few
22 little points I will but whatever he says won't bind my
23 client.

24 THE COURT: Any objection to that?

25 MR. GAMBLE: I'm happy.

1 THE COURT: Okay. All right. You can bring them
2 in.

3 (WHEREUPON, the jury enters the courtroom at
4 approximately 10:45 a.m.)

5 THE COURT: Ladies and gentlemen, again, thank you
6 for your patience. The problem this morning was mine. I've
7 been handling some matters that I couldn't take up in your
8 presence, but it took a little longer than I wanted to.

9 I'm just going to tell you today is going to be a
10 long day. Maybe not time-wise but it's just going to be a
11 fairly difficult day. I suspect you're going to be in and out
12 of the courtroom a lot, just to get you prepared for it. So
13 thank you again for your patience.

14 Call your next witness.

15 MR. BRADLEY: Thank you, Your Honor. May it please
16 the Court. The State calls Detective Garland Major.

17 GARLAND JAMES MAJOR, JR., after having been
18 duly sworn, testified as follows:

19 THE CLERK OF COURT: Go up and have a seat in the
20 witness chair.

21 (The witness was seated in the witness stand.)

22 THE CLERK OF COURT: If you'll please state your
23 full name and spell your last name for the record.

24 THE WITNESS: Full name is Garland James Major, Jr.
25 The spelling is M-a-j-o-r.

DIRECT EXAMINATION

2 BY MR. BRADLEY:

3 Q. Morning, Detective Major. Where do you work?

4 A. I work for the Anderson County Sheriff's Office.

5 Q. How long have you been in law enforcement?

6 A. Twenty-three years.

7 Q. All of that with the Anderson County Sheriff's

8 Office?

9 A. No, sir. I've been with Anderson County 11 and a
10 half.

11 Q. Okay. And what is your current rank?

12 A. I'm the lieutenant over the criminal investigation
13 division.

14 Q. In that such position what are your duties?

15 A. I supervise the other detectives.

16 Q. Okay. And what capacity were you working in June,
17 July of 1999?

18 A. I was an investigator.

19 Q. And specifically on June 30th of 1999 did you become
20 involved in the investigation of the murder of Robert Paul
21 Stephens on Baugh Road?

22 A. Yes, I did.

23 Q. And is Baugh Road in Anderson County?

24 A. Yes, sir, it is.

25 Q. And how did you become involved?

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 A. I was out working cases and I heard the traffic on
2 the radio, the police radio, and I rode up to that location to
3 see if I could be of some assistance.

4 Q. And what did you do to investigate this matter?

5 A. When I got there other investigators had already
6 arrived. I just kind of picked up. I interviewed and took
7 written statements from individuals who had seen the fire and
8 called 911, and also from some of the first firemen on the
9 scene.

10 Q. Anything else?

11 A. That day, I believe that's the only thing I did. We
12 tried to look around for some neighbors to do a canvas.

13 Q. Did you canvas the area any further?

14 A. Yes. Like I said, we started that day trying to
15 find people that were home. Afterwards, the few days, we went
16 back to that area trying to get people at the house. We
17 didn't concentrate on just that road. We expanded it out a
18 couple miles to see if anyone saw or heard anything.

19 We eventually went up the road to Anderson Meats.
20 We learned that Josh Addis and Josh Anderson, both employees
21 of Anderson Meats, had seen a car that day, a white Toyota
22 RAV4 that was leaving the area of Baugh Road right where the
23 shooting took place and headed up to Anderson Meats, and that
24 they were at a pay phone.

25 So we were talking to them and trying to get any

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 information, and we got descriptions from both of the two
2 fellows. We also had them do a sketch, composite, not a
3 free-hand composite sketch but one on the computer, which kind
4 of matches it up the best that it could. It's not a hundred
5 percent accurate.

6 And we started looking at phone records. We did
7 search warrants for Debra Stephens' house and the defendant,
8 Frances Moore's house. We knew that Paul, our victim, had
9 been living at Debra's house, and we'd go back and try to
10 track and get the history on these people.

11 We noticed that three phone calls were made around
12 three o'clock, somewhere in there, from Anderson Meats, the
13 pay phone in the parking lot, which you all saw a picture of
14 it yesterday, that were made to Debra Stephens' house, and
15 this was at the same time that the two people were on a pay
16 phone in a white RAV4. And we also learned that Frances Moore
17 had a white Toyota RAV4. And we are able, like I said, to
18 confirm that the calls, three calls were made from the pay
19 phone to Debra Stephens' house.

20 With this information -- well, we had already been
21 talking to some associates of both -- of Defendant Moore's,
22 and we learned that she was an acquaintance of Defendant
23 Duvall, and he matched the description provided by the two
24 males. So we had photo lineups made of both of them.

25 A photo lineup is -- I guess it's six pictures. One

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 of the images will be of a certain person, the suspect or
2 person of interest, however you want to phrase it. We let
3 them look at it to see if they recognize anybody, and we
4 showed the lineups to the boys?

5 Q. Going back a little bit, talking about the Toyota
6 white RAV4 that you discovered Frances Moore was driving, I'm
7 going to show you what's been marked as State's Exhibit Number
8 34. I'd like for you to take a look at it and see if you
9 recognize it.

10 A. Yes, I do.

11 Q. How do you recognize it?

12 A. This is a computer printout, N. C. I. C. printout of
13 a Department of Motor Vehicle inquiry from our agency on the
14 white RAV4, the tag number. And it's got V-23, which would be
15 the unit number of one of the investigators working the case
16 at the time.

17 Q. Okay. And does this form accurately represent the
18 information contained on it?

19 A. Yes, sir.

20 Q. Has it been altered or edited in any way?

21 A. No, sir, it has not.

22 Q. And what is this document?

23 A. It is an N. C. I. C., National Crime Information
24 Center printout of a South Carolina Department of Motor
25 Vehicle inquiry on the tag number 732EZL.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. And whose car does that belong to?

2 A. It's Frances Moore's. It's registered to a 1997
3 Toyota 4-door.

4 MR. BRADLEY: Your Honor, at this time, the State
5 would move to have this exhibit moved into evidence.

6 THE COURT: Any objection?

7 MR. PRUITT: No objection.

8 THE COURT: Mr. Gamble, any objection?

9 MR. GAMBLE: No, sir.

10 THE COURT: All right. Without objection.

11 (WHEREUPON, State's Exhibit Number 34, a Document,
12 was admitted into evidence.)

13 MR. BRADLEY: Permission to publish, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. BRADLEY:

16 Q. Next, Detective Major, I'm going to refer you to
17 what has already been admitted into evidence, State's Exhibit
18 Numbers 27, 26, 25 and 24. If you'll take a look at these and
19 see if you recognize them.

20 A. Yes, sir, I do. These are the pictures of the white
21 Toyota RAV4 registered to the defendant, Frances Moore.

22 Q. Okay. If you'll refer to the last one. I believe
23 it's number 27.

24 A. Okay.

25 Q. If you'll step down, Detective Major, and bring that

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 with you.

2 A. (The witness complied).

3 Q. If you'll just underneath this overhead compare the
4 information on this document to the VIN number on that picture
5 of the Toyota white RAV4 and see if they match.

6 A. Yes, sir, they do exact match.

7 Q. Okay. Thank you.

8 (The witness returned to the witness stand.)

9 Q. Detective, you testified that once you discovered
10 Frances Moore drove a vehicle similar to the one seen by Josh
11 Addis and Josh Anderson you prepared photo lineups in this
12 case, correct?

13 A. They were prepared, yes, sir.

14 Q. And how many were conducted?

15 A. Two.

16 Q. And did you put together the photo lineups?

17 A. No, sir, I did not.

18 Q. Who did?

19 A. The South Carolina Law Enforcement Division, known
20 as SLED.

21 Q. How many photographs were displayed in these
22 lineups?

23 A. Six.

24 Q. And were the defendants, Frances Moore and Garvin
25 Duvall, included in these lineups?

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 A. Yes, sir, they were.

2 Q. Detective, I'd like to start with the photo lineup
3 that included Frances Moore.

4 A. All right.

5 Q. Were the other five persons in the lineup with her
6 all similar in physical description to the defendant, Frances
7 Moore?

8 A. Yes, they were.

9 Q. How so?

10 A. We used several parameters to get someone similar.
11 We don't want identical twins but similar in race, sex, hair
12 color, eye color, if possible, height, weight. You don't want
13 real big people if you're looking at a smaller person.

14 Q. Okay. And who did you show this lineup to?

15 A. Josh Anderson and Josh Addis.

16 Q. Who did you show it to first?

17 A. Josh Anderson.

18 Q. And when was this?

19 A. July 13th of 1999.

20 Q. And where did this take place?

21 A. At Anderson Meats, the place of employment.

22 Q. Was anyone else with you?

23 A. Yes, sir, Investigator Jim Crawford.

24 Q. And how did you present the lineup to Mr. Anderson?

25 A. The way I present a lineup, it's a page that has six

1 different images on it. I hand it to the person and ask them
2 to look at all the pictures carefully and let me know if they
3 recognize anyone.

4 Q. ~~And did you tell Mr. Anderson that the white female~~
5 who he had seen at the pay phone and driving the white RAV4
6 that day at Anderson Meats was definitely in the lineup?

7 A. No, sir, I did not.

8 Q. Did you lead Mr. Anderson to believe that he had to
9 or should pick someone out of the lineup?

10 A. No, sir.

11 Q. Did you exert any pressure on Mr. Anderson in
12 selecting a photograph out of the lineup?

13 A. Not at all.

14 Q. Did you suggest in any way to the witness which
15 photograph to select?

16 A. No, sir.

17 Q. Did Mr. Anderson select the photograph of the white
18 female he saw using the pay phone and driving the Toyota white
19 RAV4 that day at Anderson Meats?

20 A. Yes, sir, he did.

21 Q. Whose photograph was selected?

22 A. The defendant, Frances Moore.

23 Q. And how certain and confident did he appear to you
24 when he made the selection?

25 A. He was very confident.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. Did you ask him to make any marks to indicate his
2 choice?

3 A. After I displayed the photo lineup, if they tell me
4 they recognize someone I ask them how they recognize them. In
5 this case he told me that she was the person that he saw
6 driving the white RAV4 or with the white RAV4. I asked him to
7 circle the number underneath the image that he chose and to
8 sign his name, and that's what he did.

9 Q. Did you have him do anything else to indicate his
10 choice?

11 A. We have an affidavit, a photo identification that's
12 filled out that explains how they recognize that person, and I
13 got him to sign that.

14 Q. Okay. Detective, I'm showing you what is State's
15 Exhibit Numbers 1 and Number 2. If you'd take a look at these
16 and see if you recognize them.

17 A. Yes, sir. Exhibit Number 1 would be the photo
18 lineup that I showed Mr. Anderson, Mr. Addis; and Exhibit
19 Number 2 would be the affidavit of photo identification
20 completed by Josh Anderson.

21 Q. And how do you recognize them?

22 A. Both of them bear my signature.

23 Q. Is the lineup and the affidavit in substantially the
24 same condition as it was in June of 1999 -- July of 1999?

25 A. Yes, sir, they are.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. Do you see any changes, or additions, or deletions?

2 A. None whatsoever.

3 Q. Will you point out --

4 A. (Indicated).

5 MR. BRADLEY: Your Honor, at this time, the State
6 would move to have these exhibits admitted into evidence.

7 THE COURT: Any objection?

8 MR. PRUITT: Your Honor, we'd object to Number 2.

9 Mr. Anderson testified from the stand as to what he did and
10 said. The document that he signed is not admissible as
11 hearsay. That's proposed Exhibit Number 2. I think the
12 proper foundation has been laid for Number 1, so I have no
13 objection as to that.

14 THE COURT: All right. What's your position on
15 that?

16 That's the affidavit?

17 THE WITNESS: Yes, Your Honor.

18 MR. BRADLEY: Yes, Your Honor. Could I go into a
19 little more testimony with the detective?

20 THE COURT: Sure.

21 BY MR. BRADLEY:

22 Q. Detective, this affidavit that you have signed, is
23 it a form that you complete in the ordinary course of business
24 when you usually conduct photo lineups?

25 A. Yes, sir, it is.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. And this was obtained at the same time they make
2 their selection on the photo lineup?

3 A. Yes, sir.

4 MR. BRADLEY: Your Honor, State would move to have
5 the photo lineup admitted in the regular business exceptions
6 hearsay rule.

7 THE COURT: Subject to the same objection, I assume?
8 Any objection, Mr. Gamble, to this?

9 MR. GAMBLE: I don't believe I have a ground to
10 object on that.

11 THE COURT: All right. Subject to the exception.
12 It's admitted.

13 (WHEREUPON, State's Exhibit Numbers 1 and 2,
14 Documents, were admitted into evidence.)

15 MR. BRADLEY: Permission to publish to the jury?

16 THE COURT: Yes, sir.

17 BY MR. BRADLEY:

18 Q. Detective Major, will you please step down again.

19 A. (The witness complied).

20 Q. First I'm going to show you State's Exhibit Number
21 1. If you'll point out on this exhibit the photograph that
22 Josh Anderson selected that day.

23 A. Image number 5, photograph number 5.

24 Q. Whose photograph is that?

25 A. The defendant, Frances Moore.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. Will you show the identifying marks that he made to
2 select this choice.

3 A. This is the circle that he circled, the number, and
4 that would be his signature.

5 Q. And also shows --

6 A. The time and the date that he made the
7 identification.

8 Q. And will you point out the identifying marks where
9 you made on here.

10 A. Yes, sir. I wrote the word witness and I signed it
11 there, and Investigator Crawford, who was with me, signed it
12 right below my name.

13 Q. Okay. I'm showing you State's Exhibit Number 2 now.
14 If you'll just point out the information that you testified to
15 regarding this form.

16 A. Yes, sir. Again, the time and date stamp that
17 matches the lineup, time and date on that. That would be the
18 signature of Mr. Anderson, and that would be my signature
19 along with Investigator Crawford underneath (indicated).

20 Q. Okay, Detective. You may return to the stand.

21 A. (The witness complied).

22 Q. Detective, did any other witness ever select a
23 photograph of another white female who he had seen at Anderson
24 Meats using the pay phone and driving a Toyota white RAV4 that
25 day?

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 A. No, they did not.

2 Q. Did Mr. Anderson, did he ever select anyone else?

3 A. No, he didn't.

4 Q. Okay. Did you show this photographic lineup to
5 anyone else in the case?

6 A. Josh Addis.

7 Q. Did you follow the same procedure we just went over
8 when you showed it to him?

9 A. Yes, sir, I did.

10 Q. Did you tell Mr. Addis that the white female who he
11 had seen using the pay phone and driving the Toyota white RAV4
12 was definitely in the lineup?

13 A. No, sir, I do not.

14 Q. Did you exert any pressure on Mr. Addis in picking
15 someone out of the lineup?

16 A. No, sir.

17 Q. Was Mr. Addis able to select anyone out of the
18 lineup?

19 A. No, sir, he was not. He was unable to be certain.

20 Q. All right. Detective Major, I'd like to turn your
21 attention to the photo lineup pertaining to Defendant Garvin
22 Duvall. Why was Garvin Duvall selected to be in the photo
23 lineup?

24 A. We were talking to people, associates of Defendant
25 Moore and trying to find out who she would be connected with,

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 since she drove the white RAV4. And some names were brought
2 up and we are were told that the Defendant Duvall --

3 MR. GAMBLE: Objection, Your Honor.

4 THE COURT: Yes, sir?

5 MR. GAMBLE: He's going into hearsay now.

6 THE COURT: Sustained.

7 A. In addition to that we had seen Garvin Duvall, other
8 investigators had, and he fit the description that we --

9 MR. GAMBLE: Objection, Your Honor. He said there
10 are other investigators had seen Garvin Duvall. That's a
11 hearsay statement, too.

12 THE COURT: Sustained. He can only tell what he
13 knows and not what other people told him.

14 BY MR. BRADLEY:

15 Q. Okay, Detective. Let's just move on to the actual
16 photo lineup. Did you put together the lineup?

17 A. No, sir, SLED did.

18 Q. Okay. And what photograph of Duvall was used?

19 A. His driver's license photos, an older driver's
20 license photo.

21 Q. How many other photographs were displayed in the
22 lineup?

23 A. Five.

24 Q. And were the rest of the people in the lineup, were
25 they all similar in physical description to the defendant?

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 A. Yes, sir.

2 Q. In what way?

3 A. The same parameters that were used; height, weight,
4 sex, race, facial hair if any, glasses if any.

5 Q. And did you ever present the lineup with Duvall's
6 picture in it to any witnesses in this case?

7 A. Yes, I did.

8 Q. Who did you present it to?

9 A. Josh Anderson and Josh Addis.

10 Q. On what day?

11 A. The same day, the 13th of July 1999.

12 Q. And where did this take place?

13 A. Anderson Meats.

14 Q. And what procedure did you follow in presenting the
15 lineup to these witnesses?

16 A. The same procedure. I would show them the sheet
17 with the photos on it, ask them to look at them carefully and
18 let me know if they recognized anyone.

19 Q. Did you tell either witness that the white male that
20 they had seen that day at the pay phone and in the white
21 Toyota RAV4 was definitely in the lineup?

22 A. No, I did not.

23 Q. Did you lead either witness to believe that they had
24 to or should pick someone out of the lineup?

25 A. No, sir.

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 Q. When you presented the photo lineup to Josh Anderson
2 was he able to select anyone as the white male he had seen
3 that day?

4 A. He was unable to be certain. He did, however, stop
5 at one and say that it jumped out at him.

6 MR. GAMBLE: Objection to what he would say, Your
7 Honor. Without him present it would be hearsay.

8 THE COURT: What's your position on that?

9 MR. BRADLEY: Your Honor, the declarant has already
10 testified and he was able to be cross-examined yesterday when
11 he testified in the same manner.

12 MR. GAMBLE: Then his testimony stands. He can't go
13 back into hearsay.

14 THE COURT: Yeah, sustained. He can't testify about
15 what he said yesterday since he's already testified.

16 BY MR. BRADLEY:

17 Q. Detective, I'm going to show you what has been
18 marked State's Exhibit Number 3. Take a look at that and see
19 if you recognize it.

20 A. Yes, sir. This is the photo lineup that was
21 compiled using the image of Defendant Garvin Duvall.

22 Q. And when you presented this lineup to Mr. Anderson
23 did he make any choices on this lineup?

24 A. He did not positively identify anyone.

25 Q. Detective, if there was testimony in this case

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 yesterday from Josh Anderson that he had said number three in
2 the photographic lineup jumped out at him --

3 MR. PRUITT: I object, Your Honor. And I'd like to
4 be heard on this outside the presence of the jury. --

5 THE COURT: All right. I'll go with the ruling
6 yesterday, but you're protected for the record.

7 Go ahead. You can ask the question.

8 BY MR. BRADLEY:

9 Q. Who was identified in number three?

10 A. Who --

11 MR. GAMBLE: Objection, Your Honor. That's a
12 leading question. He said who identified number three.

13 THE COURT: Sustained.

14 MR. GAMBLE: Nobody identified number 3. That was
15 the testimony yesterday --

16 THE COURT: I got it. It's sustained. Leading.

17 MR. BRADLEY: I apologize, Your Honor.

18 THE COURT: That's all right.

19 MR. BRADLEY: Yes, Your Honor.

20 BY MR. BRADLEY:

21 Q. The question is who is number three in that
22 photograph?

23 A. This will be Defendant Garvin Duvall.

24 Q. And is that lineup in substantially the same
25 condition as it was when you used it in July of 1999?

GARLAND MAJOR - DIRECT BY MR. BRADLEY

1 A. Yes, it is.

2 Q. Do you see any changes or deletions to it?

3 A. No, sir.

4 MR. BRADLEY: At this time, Your Honor, the State

5 would move to have this admitted into evidence.

6 THE COURT: Subject to the same objection?

7 MR. PRUITT: Yes, sir, Your Honor.

8 THE COURT: Okay. Any objection to it? Same

9 objection?

10 MR. GAMBLE: Yes, sir.

11 THE COURT: Okay. All right. You're protected for

12 the record. It's admitted.

13 MR. BRADLEY: Permission to publish, Your Honor?

14 THE COURT: Sure.

15 (WHEREUPON, State's Exhibit Number 3, a Photographic

16 Lineup, was admitted into evidence.)

17 BY MR. BRADLEY:

18 Q. If you'll step down, Detective.

19 A. (The witness complied).

20 Q. If you'll just point out the photograph of Garvin

21 Duvall.

22 A. The photograph of Garvin Duvall is right above the

23 number 3.

24 Q. Thank you, Detective.

25 (The witness returned to the witness stand.)

1 Q. Detective, did you do anything else to investigate
2 this matter?

3 A. I worked closely with Investigator Rusty Garrett.
4 We did several interviews together.

5 Q. Okay. And as lead investigator on this case, items
6 that had been collected by the forensic officers and sent to
7 SLED for testing, they would have been returned to you and you
8 would have known the results; is that correct?

9 A. That is correct.

10 Q. Specifically referring to the G. S. R. kit that was
11 sent to SLED and analyzed, what were the results on that?

12 A. On the G. S. R., the gunshot residue test, the
13 results were negative. There was no gunpowder residue on the
14 hands of the victim, Paul Stephens.

15 Q. Then what about the white powder that was collected
16 by the forensics officers and sent to SLED for testing?

17 A. We don't know exactly what that is. We know it is
18 not any type of drug. It came back negative for controlled
19 substance.

20 MR. BRADLEY: Thank you, Detective. Nothing further
21 at this time.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. PRUITT:

25 Q. Now, Mr. Major, I believe you testified that you

GARLAND MAJOR - CROSS BY MR. PRUITT

1 subpoenaed telephone records that showed 3 calls from Anderson
2 Meats at about 3 o'clock?

3 A. Yes, sir. If I used the word subpoenaed, I'm sorry.

4 ~~What we did, we actually got a search warrant, but the same~~
5 effect, I guess.

6 Q. All right. And to be exact, I believe the calls
7 were at 2:52, 2:53 and 2:57; is that right?

8 A. Best of my knowledge, yeah, my memory, yes, sir,
9 that is correct.

10 Q. And you got a search warrant for all the calls at
11 that coin telephone, didn't you?

12 A. No, sir.

13 Q. I mean, all the calls of that day?

14 A. Oh, all the calls to and from Debra's house at that
15 day, yes, sir.

16 Q. Well, did you get all the calls from the pay
17 telephone for that day?

18 A. No, sir, did not.

19 Q. Now, the telephone calls that were made from that
20 pay phone to Debra's house, Debra Stephens' house?

21 A. That's correct.

22 Q. And that's where Paul Stephens was living at the
23 time shortly before the crime, right?

24 A. Right.

25 Q. Okay. All those calls were very short, weren't

GARLAND MAJOR - CROSS BY MR. PRUITT

1 they?

2 A. Yes, sir, they were real short.

3 Q. Like 15, 20 seconds to a half a minute, minute and a
4 half?

5 A. Yes.

6 Q. Now, tell me, you got this information from the
7 National Crime Institute or something on this Toyota RAV4.
8 You didn't -- nobody at Anderson Meats was able to give you a
9 tag number of the Toyota RAV4, were they?

10 A. No, they were not.

11 Q. And you didn't get the tag number that you just
12 testified about until after you impounded Ms. Moore's car?

13 A. No, sir, that's incorrect.

14 Q. Okay. Well, how did you get the tag number? You
15 went to her house and wrote it down?

16 A. Yes, exactly.

17 Q. So you had no information to link any tag number to
18 Anderson Meats, did you?

19 A. No, sir.

20 Q. Okay. Now, as long as you were checking the records
21 of the National Crime Institute and the records of the South
22 Carolina Motor Vehicle Department, is that part of it, too?

23 A. No, sir. I tried to explain it so you all would
24 understand instead of me just using letters. N. C. I. C. is a
25 terminal set up. It's National Crime Information Center.

GARLAND MAJOR - CROSS BY MR. PRUITT

1 That is the way we access. We have to go through the
2 N. C. I. C. system to access Department of Motor Vehicle
3 system, or information. And, yes, sir, that's what we did.
4 After we obtained the tag number displayed on the white Toyota
5 RAV4 that was at her residence we inquired and got back the
6 information.

7 Q. All right. Now, you didn't find out how many white
8 Toyota RAV4's similar to hers are registered in S. C., did
9 you?

10 A. No, sir. I don't believe we did.

11 Q. Don't you think that's important?

12 A. It's something, you know, I guess we should have
13 checked, yes, sir.

14 Q. And you would have needed to do that back in 1999
15 because that was when it would be relevant.

16 A. But we -- I don't think we went on to do that
17 because she was picked out of a lineup as driving that white
18 RAV4 that was seen there.

19 Q. Well, you didn't answer my question. You didn't
20 check to see how many white Toyota RAV4's of a similar make
21 were registered in South Carolina in 1999, did you?

22 A. No, sir.

23 Q. Now, it's true that Josh Addis was unable to
24 positively identify anybody from your photo lineups?

25 A. You are correct.

GARLAND MAJOR - CROSS BY MR. PRUITT

1 Q. It's also true that--did your investigation reveal a
2 timecard where Josh Addis clocked into work?

3 A. Yes, sir.

4 Q. And I believe that timecard was like his testimony
5 yesterday that showed he clocked in at 2:54?

6 A. Yes, sir.

7 Q. Now, have you -- I'm sure you've been out to the
8 crime scene and Anderson Meats. Have you been to the house
9 that's occupied by Frances Moore?

10 A. Yes, sir, I have.

11 Q. And have you been to the mobile home that's right
12 next to her house that was occupied by Debra Stephens and the
13 deceased, Paul Stephens, at the time of his death?

14 A. Yes.

15 Q. All right. And would you agree with me that those
16 houses are very close together?

17 A. As was stated yesterday, 20 feet maybe, yes, sir.

18 Q. Now, is it true that Paul Stephens was a big man,
19 about 6-8, 275 pounds?

20 A. Yes, sir. He was a very large man.

21 Q. Now, in regard to Ms. Moore and Mr. Stephens'
22 location, that's just outside of Liberty, South Carolina?

23 A. Yes, sir.

24 Q. And you heard Officer Hawkins testify yesterday that
25 Frances Moore and Debra Stephens were with him when

GARLAND MAJOR - CROSS BY MR. PRUITT

1 Ms. Stephens signed some paper at 12:07 there at the Anderson
2 City Police Department?

3 A. Yes, sir, I heard that.

4 Q. And have you measured the distance between the
5 Anderson City Police Department and the residence of Frances
6 Moore and Paul Stephens?

7 A. I did not, no, sir.

8 Q. Would you agree with me that between the center of
9 Anderson to almost to Liberty would take at least 30 minutes
10 driving the normal speed?

11 A. At least, yes, sir.

12 Q. Now, have you measured the distance from Frances
13 Moore, and Debra Stephens and Paul Stephens' house to Baugh
14 Road?

15 A. No, sir, I have not.

16 Q. Okay. Well, would you agree with me that that --
17 have you driven that route?

18 A. Ten years ago I have, yes, sir.

19 Q. Okay. Would you agree with me that that's a
20 15-minute ride?

21 A. I can't agree. Ten years ago, I don't remember,
22 sir.

23 Q. Now, were you part of the team that searched Frances
24 Moore's house?

25 A. Yes, sir.

1 Q. And were you part of the team or did you assist in
2 the search and examination of the RAV4?

3 A. I was at the house. I don't remember the RAV4. We
4 had numerous investigators working on it at the time, but I do
5 know I was at the residence.

6 Q. Now, were any forensic tests done of anything that
7 was found in the car, to your knowledge?

8 A. Not to my knowledge.

9 Q. Were any forensic tests done of anything that was
10 found in her house?

11 A. Not to my knowledge.

12 Q. And there's no fingerprints, D. N. A., no other
13 direct evidence in this case, is there?

14 A. No, sir.

15 MR. PRUITT: That's all.

16 CROSS-EXAMINATION

17 BY MR. GAMBLE:

18 Q. In making your composite that was not identified of
19 these men I noted all of them have on glasses. Why? What
20 description did you get to put glasses on those men?

21 A. I can't remember. I'm sure I've talked with the
22 investigator that met him but I don't know if that's hearsay
23 so I'm afraid to really go into that.

24 Q. Did you listen to Josh Addis yesterday when he
25 testified? You were sitting right there.

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. Yes, sir, I heard him testify.

2 Q. Did you hear Josh Addis say that the gentleman that
3 was using the telephone did not have on glasses?

4 A. Yes, sir. I heard him say that.

5 Q. So you took the word of one witness over the word of
6 another witness, didn't you?

7 A. No, sir. Sometimes people wear them and sometimes
8 people take them off.

9 Q. You took the word of one witness over another
10 witness, didn't you?

11 A. No, sir. I was going by facial -- the facial
12 recognition, not just the glasses.

13 Q. Well, why didn't you have SLED put glasses on
14 everyone on there?

15 A. Because I didn't want to single the defendant out.
16 I don't want 1 person with glasses and 5 without. That was
17 the only image we had of him.

18 Q. All right. So the last call was made at 2:57, from
19 that pay phone?

20 A. Yes, sir.

21 Q. And that's on the record?

22 A. Yes, sir.

23 Q. And Addis signed in at 2:54?

24 A. Yes, sir.

25 Q. So in 3 minutes was his look-and-see time?

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. According to the time stamp, yes, sir.

2 Q. And Josh Anderson and Josh Addis came out of the
3 store, by both their testimonies, at somewhat a little after
4 3 o'clock?

5 A. Yes, sir.

6 Q. And they observed someone talking on that pay phone
7 from 3:00 until 3:10?

8 A. Yes, sir.

9 Q. But there wasn't anything used on that pay phone
10 from 3:00 until 3:10, was there?

11 A. I don't know, sir. I'm testifying from the
12 information gleaned from the search of Debra Stephens' phone
13 records not the store pay phone records. I don't know what
14 other calls were placed.

15 Q. Did you look at the store pay phone records?

16 A. No, sir, they were not looked at.

17 Q. Did you subpoena the store pay phone records?

18 A. No, sir.

19 Q. So you don't know what was made from the store pay
20 phone records, do you?

21 A. No, sir, I do not.

22 Q. Now, how heavy did you tell SLED to make this person
23 that you were getting a picture of?

24 A. We asked them to -- we didn't ask them. What they
25 usually do, their procedure is to go into their information,

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 you know, where you got to put your height, weight. Everybody
2 has to do that when they get their driver's license. But they
3 look at that information to determine -- to choose others
4 within that parameter.

5 Q. All right. That's what I'm asking. Josh Addis told
6 you that the person was between 225 and 255 pounds, right?

7 A. Right.

8 Q. Josh Addis told you he had a 2 to 3 day beard growth
9 and light brown hair that was ruffled.

10 A. Right.

11 Q. Did you pass that on to SLED when you got this
12 composite picture made?

13 A. No, sir.

14 Q. So you weren't trying to look for people that looked
15 similar, were you?

16 A. Yes, sir, I was.

17 Q. But you didn't pass the information on.

18 A. But there's no -- at that time, we didn't have a
19 system set up where we can tell them choose somebody with 3 or
20 4 days growth of beard. We gave them the name and they looked
21 at the height and weight, and they looked at the picture and
22 then they would choose the other 5 based on the person doing
23 the lineup, his interpretation.

24 Q. When was that picture made of Garvin Duvall? What
25 year was it made?

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. I don't know, sir.

2 Q. You don't have access to that?

3 A. I don't know, sir. I know I've got access but I
4 don't know what it is.

5 Q. You didn't check?

6 A. I'm not the one that requested the lineup. So, no,
7 sir, I did not look at that information.

8 Q. Who requested the information?

9 A. I don't know.

10 Q. Did they request it at your indication or your say
11 so?

12 A. As I said, we had several working together, you
13 know, working independently. I don't know which one actually
14 requested it from SLED.

15 Q. Were you the chief investigating officer on this
16 matter?

17 A. At one point, yes, sir.

18 Q. Well, in 1999 were you the chief investigating
19 officer?

20 A. Yes, sir, I was. In 1999 at one point I was chief
21 investigating officer.

22 Q. So did you direct the underlying officers to do
23 certain things?

24 A. No -- well, yes, sir, I did.

25 Q. But you did not direct for that lineup to be made?

1 A. I wasn't the chief investigating officer at that
2 point.

3 Q. Who was?

4 A. Jim Crawford. Detective Jim Crawford.

5 Q. All right. When you would talk to certain
6 eyewitnesses that were at the scene there you had an occasion
7 to talk with Pete Rogers, Peter Rogers at that time who was
8 with the Pickens County Sheriff's Office Dispatch, didn't you?

9 A. I believe I did. If I wrote in the statement -- if
10 you've got a copy of the statement, if I wrote it then I did
11 talk to him.

12 Q. Okay. And he gave you a description of someone that
13 was running from the scene, didn't he?

14 A. Yes, he did.

15 Q. And that person jumped in a white Dodge pick-up
16 truck, medium size with someone else driving; isn't that what
17 he told you?

18 A. Yes, sir, it is.

19 Q. What in the world did you do with that information?
20 Did you look for a Dodge truck?

21 A. Yes, sir.

22 Q. Did you find the Dodge truck?

23 A. No, sir.

24 Q. Did you look for the scruffy person with the cut-off
25 t-shirt that weighed about 200 pounds and was 6 feet tall?

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. Yes, sir.

2 Q. Did you find that person?

3 A. No, sir.

4 Q. Did you cease looking for any of that, the Dodge and
5 the 6-foot man and the 200 pounder running from the scene?

6 A. Yes, sir.

7 Q. You stopped looking?

8 A. Yes, sir.

9 Q. Dead end?

10 A. Yes, sir.

11 Q. Did you ask Aaron Powers about that Dodge truck and
12 the man running from the scene?

13 A. I'm not quite sure what he put in his statement. I
14 asked him to tell me what he saw. If he put it in there then
15 we talked about it. I'm not trying to --

16 Q. It's not in there.

17 A. Okay. Well, no, sir. I did not specifically ask
18 him.

19 Q. Now, you know I'm not going to trick you like that.
20 That's fine.

21 All right. So that wasn't followed up on, the man
22 running from the scene getting in the Dodge truck?

23 A. We looked but we couldn't find anything, and after
24 we couldn't find anything, like you said, it was a dead end.

25 Q. When did you first talk with the Reverend Dr. John

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 W. Stansell?

2 A. The day that he provided a written statement for us.

3 Q. That was October 6th.

4 A. I don't recall the date.

5 Q. You didn't talk with him on August the 4th of 2006?

6 A. No, sir.

7 Q. Excuse me, August 14th, 2006?

8 A. I'm not sure.

9 Q. I'm not going --

10 A. I know that. I'm just saying I'm not --

11 Q. Is that you?

12 A. No, sir, that's not me.

13 Q. Huh?

14 A. No, sir. I just spoke with him that one day, the
15 day that I typed his statement. That's not my handwriting.

16 Q. Who did that?

17 A. That appears to be Inspector Bill Graham's
18 handwriting.

19 Q. Bill Graham?

20 A. Yes, sir.

21 Q. Is he still with your force?

22 A. Yes, sir, he is.

23 Q. Is he here today?

24 A. No, sir, I do not see him.

25 Q. And you weren't present on August the 14th when they

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 interviewed Reverend Dr. Stansell?

2 A. No, sir, I was not.

3 Q. Only Bill Graham was there?

4 A. I'm not sure, sir.

5 Q. All right. On the 4th of October of '06, did you
6 participate in that interview of the Reverend Dr. John
7 Stansell?/

8 A. Yes, sir.

9 Q. And this was almost 7 years -- well, it was 7 years
10 from the date.

11 A. Yes, sir.

12 Q. And so on the 4th of October you participated in
13 that questioning of him, of the Reverend Dr. Stansell, and
14 then you met him again on the 6th of October.

15 A. Okay. I'm sorry. I got my dates confused. I only
16 met with him 1 time.

17 Q. The 6th of October?

18 A. Right. Yes, sir.

19 Q. The typed statement?

20 A. The typed statement. That's the only --

21 Q. This written one isn't you either?

22 A. No, sir.

23 Q. Who is it?

24 A. It appears to be Bill Graham's handwriting.

25 Q. Same Bill Graham?

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. Yes, sir, it is.

2 Q. Okay. Thank you. Now, the only statement Josh
3 Anderson said about that lineup was that number 3 kind of
4 jumped-out at him?

5 A. Yes, sir.

6 Q. But that's all?

7 A. He was asking what way, and I remember him talking
8 about his neck and being a bigger guy.

9 Q. Bigger?

10 A. Bigger, big. Kind of big.

11 Q. I don't understand.

12 A. Maybe a broader shoulder big.

13 Q. Oh. Josh was telling you, Josh Anderson was telling
14 you that the person he saw was a bigger person?

15 A. Right.

16 Q. Than that picture?

17 A. No. He said it jumped out at me. The question was
18 why, and then he went in to describe that he was kind of big.
19 It wasn't a smaller person he saw. It was a bigger person as
20 in the picture. The similarities of the person he saw based
21 on the picture were the neck, and I guess the broad shoulders.

22 Q. So he was saying that the man in the picture was a
23 big person?

24 A. Like the one he saw, yes, sir.

25 Q. Yeah. But he couldn't identify anybody?

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 A. Correct.

2 Q. And didn't identify anybody?

3 A. He did not.

4 Q. To your knowledge as working with the Anderson
5 County Sheriff's Office a lot of times you have the deal with
6 pretty unsavory people, don't you?

7 A. Occasionally, yes, sir.

8 Q. And some of those are involved in crime, aren't
9 they?

10 A. Yes, sir.

11 Q. And some of them are known as rats?

12 A. Yes, sir.

13 Q. And a rat is really a C. I., confidential informant;
14 isn't that right?

15 A. Some are confidential informants and some just
16 like --

17 Q. Are rats?

18 A. They give information without being confidential.

19 Q. Right. To your knowledge, has Paul Stephens ever
20 given information to the Anderson County Sheriff's Office or
21 any other sheriff's office relating to a crime?

22 A. Not me personally. I've heard that he has.

23 Q. You don't know?

24 A. I don't know.

25 Q. Did you have a SLED report from that sample of

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 powder that was sent down? I don't have it. That's why I'm
2 asking.

3 A. I saw it yesterday. It's at the State's table.

4 Q. But it wasn't anything?

5 A. No. They didn't specify what it was. It just said
6 no controlled substance, no drugs. We just don't know what it
7 is.

8 Q. What was it in?

9 A. I'm not real sure, sir.

10 Q. Well, the burned out cushion looked like a bucket
11 was on top of it.

12 A. I did not go to the car. I was interviewing people,
13 the firemen and people calling 911. I didn't walk to the car.
14 So I don't know what it was in.

15 Q. Who got it out of the car?

16 A. I don't know.

17 Q. Bill Graham? You don't know?

18 A. It would either be Pelham Medlock, the investigator
19 for arson, or Ken Blakely, who did the forensics collection
20 for us.

21 Q. But Ken said he didn't.

22 A. I don't know.

23 Q. All right. Did you take a statement from Brenda
24 Duvall in 1999, in July, roughly the 17th of 1999?

25 A. I believe I did, yes, sir.

GARLAND MAJOR - CROSS BY MR. GAMBLE

1 Q. And she at that time was the wife of Garvin Duvall?

2 A. Yes, sir.

3 Q. And to your knowledge is she dead?

4 A. Yes, sir.

5 Q. Died in '06?

6 A. I believe that's correct.

7 Q. As a result of the statement you got from her did

8 you take another statement from Ralph Stegal Stansell, Roy

9 Ralph Stansell, her father?

10 A. I don't believe I did.

11 Q. Did anybody?

12 A. I don't believe they did.

13 Q. Didn't follow up on what Brenda Duvall told you?

14 A. I believe he was talked with but I don't think any

15 written statement was ever obtained.

16 Q. Ralph, Roy Ralph Stansell?

17 A. Right. Ralph, yes, sir.

18 Q. Father-in-law of Garvin Duvall?

19 A. Right. I believe -- like I said, I believe he was

20 spoken to but nothing was written down.

21 Q. You are talking about Josh Anderson picked out this

22 person that he said jumped out at him. You can't see in that

23 photograph any size, can you?

24 A. Could I see the photograph, please.

25 Q. Yeah.

GARLAND MAJOR - CROSS BY MR. GAMELE

1 A. With me, I could discern by the way the body comes
2 down here that the shoulders are broad, but as far as anything
3 past right in here, no, sir (indicated).

4 Q. You can't tell really what size those people are?

5 A. Correct. I can't tell whether he's 6 foot tall or 3
6 foot tall.

7 Q. Or weighs 300 pounds or weighs 250 pounds?

8 A. To me, with the neck, it looks like it would be more
9 than 250, but 275, 300, no, sir, I couldn't.

10 Q. Was number 3 the only one that had a deep dimple in
11 his chin?

12 A. Yes, sir, he is.

13 Q. Hmm. Interesting. On the third interview that you
14 had with Reverend Dr. Stansell, that was in the presence of
15 you and Tommy Williams, wasn't it?

16 A. Bill Graham was there for the majority of it. I
17 don't know whether Tommy Williams was there. I know that Bill
18 Graham was in my office.

19 Q. The reason I asked is Tommy Williams signed as a
20 witness on this statement.

21 A. Like I said, he may have come in to witness his
22 signature but I don't know if he was in there for the
23 interview or not. He may have been there when the statement
24 was read and he signed it.

25 Q. All right. Do you recall Tommy asking any questions

GARLAND MAJOR - REDIRECT BY MR. BRADLEY

1 about it, or anything that was said in 19 -- 2006?

2 A. I don't recall anything.

3 Q. Just 3 short years ago.

4 A. Yes, sir.

5 MR. GAMBLE: All right. That's all I have.

6 THE COURT: All right. Any redirect?

7 MR. BRADLEY: Yes, Your Honor, just a few.

8 REDIRECT EXAMINATION

9 BY MR. BRADLEY:

10 Q. Detective Major, on cross you were asked if you had
11 any information of Paul Stephens being used as an informant
12 and I believe you testified you personally didn't use him as
13 an informant. Would you have any information as to any other
14 agencies using him as an informant?

15 A. I had heard -- I had information that he had been
16 working with Pickens County, but as far as what type I don't
17 know.

18 Q. Okay. And there was a lot of mention about Bill
19 Graham being involved in this investigation in 2006, that time
20 frame. Why was he the investigator at this time?

21 A. He worked on our cold cases, cases where we had run
22 out of information, kind of stale. He would pick it up, he'd
23 go out and re-interview and try to glean additional
24 information.

25 MR. BRADLEY: That's all, Your Honor.

1 THE COURT: All right. Thank you, sir. You can
2 step down.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Let me give the jury a short break then
5 we'll -- ladies and gentlemen, I'm going to give you a break.
6 Please don't discuss the case. We'll call you back in, in a
7 few minutes, then the next break we take will be for lunch.
8 Don't discuss it.

9 (WHEREUPON, the jury leaves the courtroom at
10 approximately 11:45 a.m.)

11 THE COURT: Okay. You all take a break. We'll be
12 back.

13 (WHEREUPON, a brief recess was taken.)

14 THE COURT: All right. Who is your next witness?

15 MS. HOGAN: Mr. J. W. Stansell, Your Honor.

16 THE COURT: Okay. Yes, sir, any motions or
17 anything?

18 MR. PRUITT: Your Honor, I'd like to renew the
19 motion I made before we had Garland Major testify. There's
20 still no evidence in the record of any conspiracy. I would
21 point out and I'd like this for the record, too, that when
22 Josh Anderson testified yesterday in the presence of the jury
23 he didn't say anything about jumped out. The only time he
24 said anything about jumped out was when he testified in camera
25 the day before.

1 But in any event, jumped out is still all they've
2 got and there's no positive I. D; therefore there's no
3 independent evidence of a conspiracy with Garvin Duvall in the
4 first part of Mr. Stansell's testimony, I believe should be
5 excluded.

6 THE COURT: You don't have a position on that; is
7 that correct?

8 MR. GAMBLE: No, sir.

9 THE COURT: All right. I understand your objection
10 and, you know, I've read all of these cases. Obviously, it's
11 a pretty close call. I think that there is a case, State vs.
12 Sullivan, from 1981, that it's fairly dispositive. All they
13 have to make is a prima facie case or evidence of a conspiracy
14 and then the rest of it is going to be a factual decision for
15 the jury. But, again, I understand your objection and you're
16 protected for that.

17 Okay. You can call your witness.

18 Bring them back.

19 (WHEREUPON, the jury enters the courtroom at
20 approximately 12:08 p.m.)

21 THE COURT: All right. Ladies and gentlemen, thank
22 you very much. We are going to go for about an hour then
23 we'll take a break and get back to it.

24 You can call your next witness.

25 MS. HOGAN: Your Honor, if it pleases the Court.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 The State calls Mr. J. W. Stansell.

2 JOHN WILTON STANSELL, JR., after having been
3 duly sworn, testified as follows:

4 THE CLERK OF COURT: Go up and have a seat in the
5 witness chair, please.

6 (The witness was seated in the witness stand.)

7 THE CLERK OF COURT: If you'll please state your
8 full name and spell your last name for the record.

9 THE WITNESS: John Wilton Stansell, Junior,
10 S-t-a-n-s-e-l-l.

11 DIRECT EXAMINATION

12 BY MS. HOGAN:

13 Q. Mr. Stansell, are you married?

14 A. Yes, ma'am.

15 Q. Okay. And how many children do you have?

16 A. One.

17 Q. Okay. And what is your occupation?

18 A. I'm a minister.

19 Q. And where are you a minister?

20 A. I am the president of Gospel Lighthouse Prison
21 Evangelism, Incorporated.

22 Q. Okay. And can you tell me a little bit about that,
23 what you do.

24 A. Yes, ma'am. Our ministry here in the State of South
25 Carolina, we go into the state prisons and minister, including

JOHN STANSELL - DIRECT BY MS. HOGAN

1 death row, and we send out free literature around the United
2 States. And we also have a youth division where we actually
3 go and try to work with young people to keep them off of
4 drugs, out of gangs, out of, you know, hate groups and things
5 like, that and off of drugs and alcohol.

6 Q. How long have you been with the Gospel Lighthouse
7 Prison Ministry?

8 A. Well, Gospel Lighthouse Prison Evangelism was
9 incorporated in 2002. In 1998 is kind of when it sort of got
10 started but at that time all it was doing was we had got a
11 name and was sending free Bibles and literature out around. I
12 really got dedicated and serious and started going into
13 prisons around 2000.

14 Q. And how long have you been in ministry?

15 A. Well, except for a brief period where I got involved
16 in some things I shouldn't, I was first called to the ministry
17 in August of 1980.

18 Q. Okay. Do you know either of the defendants in this
19 case?

20 A. Well, I know Garvin Duvall very well, and through
21 Garvin I know Frances Moore.

22 Q. Okay. And how do you know Garvin?

23 A. Garvin and I first met in the summer of 1983. My
24 father and his mother were dating and, in fact, later lived
25 together for a while and he and I became very, very close

JOHN STANSELL - DIRECT BY MS. HOGAN

1 friends. I looked to him like the brother I never had.

2 Q. So you've known him for a really long time?

3 A. Yes, ma'am.

4 Q. And can you tell me a little bit about the

5 relationship you've had over the years with Garvin.

6 A. Yes, ma'am. I had a part when he and Brenda were
7 married. I had a part in their wedding ceremony. I also
8 preached his wife's funeral. But Garvin and I have been just
9 very close, I mean, like family. And even in times of -- bad
10 times. We were close enough that we could joke and do
11 probably in ways we shouldn't have, and we didn't get mad
12 because we were just that close.

13 Q. Okay. Now, how were you involved with this case?

14 A. In June 27th of 1999 I was doing -- at one time I
15 was doing some --

16 Q. Well, let's back up a little bit.

17 A. Yes.

18 Q. Will you tell me how you became involved with the
19 investigation of this case, more specifically, approaching law
20 enforcement.

21 A. Okay. It was in 2006. I think it was sometime in
22 August that actually I made a phone call to, at that time,
23 Captain Tommy Williams with the Anderson County Sheriff's
24 Department and told him we needed to talk. He set me up with
25 Inspector Graham and then --

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Q. And you told them that you needed to talk to them
2 about what?

3 A. A cold case.

4 Q. Okay. And involving who?

5 A. With Paul Stephens.

6 Q. Okay. Okay. And so Tommy Williams put you in
7 contact with?

8 A. Bill Graham.

9 Q. Okay. And then what, if anything, did you do with
10 Bill Graham?

11 A. Bill Graham called me on the phone and we talked
12 just briefly. He just asked me a couple of general questions
13 and asked where he could meet with me at, and we met in
14 Pickens. He came up and talked with me, I don't know, a good
15 while the first time.

16 And then -- I don't know exactly how long after
17 that, but it was still in August I got another phone call that
18 they needed to see me again, and he and Tommy Williams came up
19 and talked with me.

20 And then there was one other time now. It was
21 getting on in October now, Inspector Graham saying he'd meet
22 with me one last time, and he did. And then they, you know,
23 asked me to come down and make a statement, which was, I
24 believe on the 16th of October, I believe, or the 6th. I've
25 got it in my statement. I can't remember. But anyway, they

JOHN STANSELL - DIRECT BY MS. HOGAN

1 asked me to come down and to make a statement, and I did.

2 When I got there, before I made the statement I was
3 talked with by -- of course, Inspector Graham was there,
4 Mr. Williams was there, and Mr. Majors was there, and one or
5 two other policemen. Tommy Williams was kind of in and out.
6 But we talked, went to lunch, came back and I gave my official
7 statement to Officer -- Detective Garland Majors.

8 Q. So let's go back to what you were starting to say
9 about June 27th of 1990.

10 A. Yes, ma'am.

11 Q. What, if anything, happened that day?

12 A. Garvin and Brenda had asked me to do a magic show,
13 because I used to do some stage magic, for a child that they
14 had helped raise and was babysitting. His name was Brandon.
15 And I told them I would, and we met at the -- there at a park
16 in Easley where they had, I guess rented one of the sheds, and
17 I did a magic show for Brandon.

18 It was mostly women and children there, although
19 there were a couple of grown men or teenage guys besides me
20 and Garvin, not many. And after I got through with my part I
21 was bored and Garvin --

22 Q. I'm going to stop you right there for a second. How
23 did you know it was June 27th of 1999?

24 A. Because we had taken pictures of the event and I
25 dated all my pictures.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Q. I'm going to show you what has been marked as
2 State's Exhibit Number 33. Will you take a look at that?

3 A. Yes, ma'am.

4 [PAUSE]

5 Q. Do you recognize them?

6 A. Yes, I do.

7 Q. And how do you recognize them?

8 A. Because this is my photo album that I kept some of
9 my magic show photos in and I recognize that those are the
10 photos from the party and, of course, I even wrote above that
11 it was a birthday party for Brandon at the Haygood Park in
12 Easley, South Carolina on Sunday, June 27th, 1999.

13 Q. So it's a true and accurate depiction --

14 A. Yes, it is.

15 Q. -- of the birthday party then? Okay.

16 Your Honor, the State moves to have State's Exhibit
17 Number 33 moved into evidence.

18 THE COURT: Any objection?

19 MR. PRUITT: No objection.

20 THE COURT: Mr. Gamble, any objection?

21 MR. GAMBLE: No, Your Honor.

22 THE COURT: All right. Without objection.

23 (WHEREUPON, State's Exhibit Number 33, a Photo
24 Album, was admitted into evidence.)

25 MS. HOGAN: May I publish them to the jury, Your

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Honor?

2 THE COURT: Yes, ma'am.

3 BY MS. HOGAN:

4 Q. Mr. Stansell, if you'll come down here.

5 A. Sure.

6 (The witness stepped down from the witness stand.)

7 Q. I'm going to put this up. And I'm going to
8 apologize to the jury, this is an old photo album so the
9 pictures, we would rip them if we pulled them out. So we're
10 going to do it like this.

11 What, if anything, does this page and first picture
12 reflect?

13 A. Well, of course, this was the very first page that
14 we had. We started with a picture of the birthday cake to
15 happy birthday Brandon. And, of course, you can see where I
16 marked the event at the top.

17 Q. Okay. So Sunday, June 27th, 1999?

18 A. Yes, ma'am.

19 Q. And then this is you?

20 A. That's me.

21 Q. Mr. Mystic for the magic show.

22 A. Right.

23 Q. And this is a picture depicting what?

24 A. Well, we were -- the person I had taking these
25 pictures, they were getting different shots here. This is

JOHN STANSELL - DIRECT BY MS. HOGAN

1 under the shed that I was speaking of. And I know that right
2 here is Brandon and, you know, some of the other kids that
3 were at the party (indicated).

4 Q. Okay. So this is them waiting for the magic show?

5 A. Yes.

6 Q. And this is a picture depicting what?

7 A. Well, this is me and this is my magic table that I
8 used, and I'm right in the middle of a trick.

9 Q. Okay. And then who is this?

10 A. This is Garvin Duvall, and that's Brandon, and
11 that's my wife (indicated).

12 Q. Okay. You can step back up to the witness stand.
13 Thank you.

14 A. (The witness complied).

15 Q. Okay. So you're at the birthday party for Brandon
16 and you were doing your magic show?

17 A. Yes, ma'am.

18 Q. And what, if anything, happened at this birthday
19 party?

20 A. Well, when I got through doing my part we -- you
21 know, we didn't want to just up and leave right away, and my
22 wife was talking with some of the ladies that were there. And
23 I was bored, Garvin was bored. And he came up and said, Do
24 you want to go for a ride and let's just talk. And I said,
25 Sure.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 And we got in his truck and we begin to ride around,
2 and we went to a convenience store. We both went in. I think
3 he got a Sprite, I got a Coke. And I know that he was tense
4 and worried. And he said that he was in trouble, that he
5 needed to talk to me about something.

6 And he proceeded to tell me that Paul -- he called
7 Paul Anderson County's biggest rat, and said that Paul and he
8 and some other people had been involved in some different
9 criminal activity and that Paul was about to get arrested and
10 was going to turn on them, and that Frances Moore was one of
11 the ones that was involved, and that she along with some other
12 people wanted Paul dead. And Garvin went on to tell me that
13 she was going to pay him \$2,000 to kill Paul.

14 Q. Okay. What, if anything else, did he say?

15 A. He had a -- back behind his seat because we -- after
16 we -- you know, we left the convenience store and rode back.
17 And we came back to the park but we didn't pull down, you
18 know, were up at the shed. We just kind of parked up near the
19 top. And he showed me a bag that had a gun in it that had
20 been provided for him to do this murder, and he wanted me to
21 take it out and look at it. And I told him I could see it
22 real good where I was at and that, you know, I didn't want to
23 touch it, and he kind of --

24 Q. Could you tell what kind of gun it was?

25 A. You know, I'm no gun expert but I know that it

JOHN STANSELL - DIRECT BY MS. HOGAN

1 looked like an automatic to me, kind of like either a 9
2 millimeter or a 380, but, you know, I didn't take it out and
3 look real close up at it.

4 Q. Okay. And how were you able to know that it was
5 maybe a 380 or a 9 millimeter?

6 A. Well, I had seen a lot of 9 millimeters on police
7 shows, and I owned a 380 at the time. So to me they looked,
8 you know, similar.

9 Q. And what, if anything, was Garvin saying to you
10 about this gun?

11 A. Well, he said that, you know, it had been provided
12 for him to do the murder and that after the murder that he was
13 going to dispose of it at the place where he worked at, which
14 I knew that he worked in the die casting section at Ryobi.
15 I'm not sure if they still called it Piedmont Die Casting or
16 not but it was a die casting company associated with Ryobi
17 where he worked, and he was the man who attended to the
18 furnace, or that's what he had told me, you know, before.

19 And years before I worked at Imperial Die Cast many
20 years before so I was very familiar with, you know, what that
21 job entailed, and I knew that whoever fed the furnace could
22 put anything they wanted to in the furnace. And he said he
23 was going to put it in the furnace and get rid of it.

24 Q. He was going to put the gun in the furnace?

25 A. Yes, ma'am.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Q. After it was used?

2 A. After the murder.

3 Q. What, if anything, did he say after that, after you
4 were talking about the gun?

5 A. Well, you know, I sit there kind of dumbfounded, and
6 then it went from bad to worse because he looked at me and
7 just out of the clear and said do you want to do it. And I
8 said no, you know. And, you know, I told him, I said look,
9 I'm not a murderer.

10 And so then, you know, he just told me, he said,
11 It's got to be done. And I looked at him and I said, I
12 thought you and Paul were best friends. And he said, We are
13 but business is business.

14 And I said, But his son is at that party. And I
15 said, You are the godfather of that child. I said, How will
16 you ever be able to look at that kid, you know, and do that.

17 And it went on for a little while, and then he just
18 -- he starts in, Oh, you know, I'm just messing with you.
19 And, you know, Paul does need to be shut up but I was just
20 messing with you, just joking. I'm not going to do it.

21 Q. Now, I'm going to back up a little bit. Did he say
22 anything else about -- or what, if anything else, did he say
23 about how the killing would take place?

24 A. Well, he told me that he had prepared a place. At
25 that time he did not tell me where. But he said that there

JOHN STANSELL - DIRECT BY MS. HOGAN

1 was -- right near the road there's a little wooded area and he
2 said if, you know, whoever was going to do it, and he was
3 implying if I did it, I could stand there behind the bushes
4 and he would get Paul out there, and when Paul drove up I
5 could just step out, in his words, pop him. And then he said
6 that he was going to set the car on fire and was going to make
7 it look like a drug deal gone bad, that he was going to leave
8 some drugs at the scene.

9 Q. Now, then you said that Garvin asked you if you
10 wanted to do it?

11 A. Yes, ma'am.

12 Q. Why do you think he asked you that?

13 A. Well, to be perfectly honest, you know, I can't tell
14 you exactly why. I can speculate. And I think it was
15 basically --

16 MR. GAMBLE: Objection to speculation, Your Honor.

17 THE COURT: Yeah, sustained.

18 BY MS. HOGAN:

19 Q. What, if anything, happened when you got back to the
20 birthday party?

21 A. When we got back to the birthday party I got out of
22 his truck. And my son was there with my wife and I, and he
23 always helped me with setting up and taking down and
24 everything, and I just told him, I said, Let's get everything
25 together and let's get out of here.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 He looked at me and said, What's wrong. And I said,
2 We just need to leave. And I said, We'll talk about it going
3 up the road. I went over the my wife, told her the same
4 thing. She wanted to know is something wrong. And I said, We
5 just need to leave and I'll talk to you going up the road.

6 As we were -- you know, my son helped me get
7 everything packed up, put it in my car. We left and, of
8 course, the first thing as we drove out my wife wanted to know
9 what's going on. And I said, Oh, it's just Garvin up to some
10 of his stuff.

11 MR. GAMBLE: Objection, Your Honor. That would be
12 hearsay in this case. Well, what he said would not be but
13 what she said would be.

14 THE COURT: He can testify about what he said but
15 not her. Sustained.

16 BY MS. HOGAN:

17 Q. Just tell me what you told your wife when you left.

18 A. That Garvin was just up to some of his stuff and I
19 just wanted to leave.

20 Q. Mr. Stansell, now, earlier you mentioned that you
21 kind of were out of the ministry for a period of time.

22 A. Yes, ma'am.

23 Q. Can you tell me a little bit about that time?

24 A. Yes, ma'am. In 1985, I took my second pastorate. I
25 was a very young minister at the time, although I did have one

JOHN STANSELL - DIRECT BY MS. HOGAN

1 pastorate under me before that. It was a church that all the
2 older ministers knew not to take because it had a bad history,
3 but I was young and thought that I could conquer anything and
4 I took the pastorate against some better advisement.

5 After taking it I realized that those that had told
6 me different were right. My family and I went through a lot
7 of hardships and a lot of bad things happen, and I must admit,
8 I left there angry at God.

9 Because of that and some things -- you know, it
10 began a trail of things that was -- because, you know, well,
11 why did you leave that church and this, that and the other.
12 And I didn't think that I got the support from some of my
13 clergy friends that I should have, and I did a very foolish
14 thing. I mean, I got even angrier.

15 And I told my wife, I said, I'm leaving the
16 ministry. I said, you know, I'm tired of having to, you know,
17 live like we do, day-by-day by faith and, you know, you never
18 know if you're going to move from this pastorate to that one,
19 or whatever. And I said, I'm just getting out. I told her I
20 was angry at God, and.

21 I left. And I backslid and I did a lot of things
22 that nobody should do, especially a minister, but at the time
23 I was -- you know, as much as it embarrasses me and hurts me
24 because I don't want to hurt the name of the church or the
25 ministry but I did a lot of bad things that would hurt the

JOHN STANSELL - DIRECT BY MS. HOGAN

1 name of Christ.

2 One of those things was I had a friend that was in
3 an organization called the Ku Klux Klan, and he got me
4 involved in it. I didn't get involved because of the hate
5 aspect. I got involved because of political things. And I
6 was in that from probably late 80's until '93.

7 In 1993, I left and started -- even though I wasn't
8 what you would say living right I started telling people that
9 look, this is wrong and was able to actually keep 2 people
10 from joining and was able to get at least 1 person out of it.

11 And, of course, now, today, we use that -- my
12 knowledge that I gained through that to help, you know, keep
13 kids from getting involved in such. I minister to all races
14 and I have no prejudice.

15 Q. Okay. Now, we're going to go back to after the
16 birthday party.

17 A. Yes, ma'am.

18 Q. After you had left the birthday party then what, if
19 anything, happened after that?

20 A. After the birthday party. Well, that was on Sunday,
21 and on Wednesday afternoon I got word that Paul had been
22 murdered.

23 Q. Okay. Paul had been murdered?

24 A. Yes, ma'am.

25 Q. And this was on Wednesday, so 3 days after --

JOHN STANSELL - DIRECT BY MS. HOGAN

1 A. June the 30th.

2 Q. So 3 days after the birthday party?

3 A. Yes, ma'am. And then it wasn't a real long time
4 after that, sometime the best I can recall later on in July
5 Brenda, Garvin's wife, had called my wife and said that
6 Anderson County had arrested them or brought --

7 Q. Let's just go to what, if anything, did you do after
8 that? Don't say what anybody else said.

9 A. Okay. I'm sorry.

10 Q. Let's just go to --

11 A. I went to a hospital visit, and Garvin was there and
12 I told him, I said, We need to talk.

13 Q. And who was in the hospital?

14 A. His wife. And we went down to the canteen and came
15 back out at Greenville Memorial Hospital, and came back out in
16 the little opening there and sat down. And, you know, I
17 looked at him and I said, Did you do it. And he said, Yes.
18 And he --

19 Q. And when you said did you do it?

20 A. Did you kill Paul Stephens. And he told me yes, and
21 told me that he had -- on that day he had called Debra's house
22 on the phone and spoke to Paul and lured him out to Baugh
23 Road.

24 Q. On that day? Which day are you referring to?

25 A. On the 30th, the day of the murder.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Q. Okay.

2 A. He said that he had called Debra's house, talked to
3 Paul, got him to come out to Baugh Road. He didn't tell me,
4 you know, what he said or anything like that. But he said
5 when Paul got there that he got out of the car and walked
6 around behind down, he said a little trail, and that he pulled
7 the gun out and shot Paul in the back of the head.

8 Q. Okay. Now, let's take a couple steps back. When he
9 said that he had called Paul, did he tell you anything about
10 where -- if anywhere he had called from or what?

11 A. Yes, ma'am. He told me that he had called Paul from
12 the pay phone at the Anderson Meats.

13 Q. Okay.

14 A. Which to me is the old Holcomb's grocery store, 135
15 and 178.

16 Q. Okay. So he tells you that he has -- he goes to the
17 pay phone and calls Paul to come out to Baugh Road?

18 A. Yes, ma'am. He called -- from that pay phone he
19 called Debra's house, talked to Paul and somehow got him to
20 come out. He didn't tell me how, to Baugh Road.

21 Q. To Baugh Road?

22 A. When he got to Baugh Road Paul got out of the car
23 and he walked around back, and he said there was like a little
24 trail and he shot him in the back of the head and then he
25 caught the car on fire.

JOHN STANSELL - DIRECT BY MS. HOGAN

1 Q. Okay. What, if anything else, did he tell you that
2 he did after that?

3 A. One of the things, you know, he had told me on the
4 27th at the party that, you know, that he wanted Paul killed
5 in the car and he was going to catch Paul and the car on fire
6 and everything and then put some drugs around. I asked him, I
7 said, Well, you know, why didn't you do what you said.

8 He said, Well, I wanted to and Paul got out and he
9 walked down behind the car. Then he told me that he took the
10 gun and disposed of it at Ryobi.

11 Q. At --

12 A. At the die casting.

13 Q. Which is?

14 A. In Pickens.

15 Q. Okay. And that is where he said he worked?

16 A. That's where he worked.

17 Q. And his job at the die cast at Ryobi was?

18 A. I'm not sure of the official title but what we
19 always refer to where I worked at, he fed the furnace. He was
20 back there putting -- he would put things in the front of it
21 to keep the -- to keep it fed for the guys that did the
22 pouring and everything.

23 Q. And what, if anything else, did he say about trying
24 to cover his tracks that day?

25 A. He just said that, you know, that he left, that he

JOHN STANSELL -- DIRECT BY MS. HOGAN

1 thought someone saw him. And, you know, he said he went back
2 up to the meat market, but, you know, from there we just -- we
3 went back up to Brenda's room.

4 Q. Now, this happened in 1999?

5 A. Yes, ma'am.

6 Q. And you did not come forward until 2006?

7 A. That's correct.

8 Q. Why did you keep this to yourself for so long?

9 A. The day that I heard that Paul died, the day he did,
10 you know, was murdered, when I heard that he was murdered I
11 can't even begin to describe what I felt inside because I
12 thought, you know -- I honestly didn't think he was going to
13 do it after -- the way we ended our conversation on the 27th.

14 And then I felt a lot of guilt because I thought,
15 you know, if I had done something on the 27th, you know,

16 maybe, I don't know, you know, what I could have done but if I
17 had told somebody maybe they would have watched or something
18 and it wouldn't have happen.

19 I began to feel really guilty and also afraid. I
20 was afraid that, you know, if I -- how do I come forward and
21 tell the police that he told me this but I didn't believe him,
22 and then I was mainly afraid -- I mean, he had just killed his
23 best friend. I was afraid he'd come after me because he had
24 told me in time past that the best way to get someone if you
25 really want to get to them is to take their family out first,

JOHN STANSELL - DIRECT BY MS. HOGAN

1 so now it's not just me, it's my family.

2 And but when -- you know, it wasn't long after that
3 that I heard that they had -- because he even told me that
4 they had taken him down for questioning and he told me that
5 they came up and pulled hair out of his head and was doing all
6 this stuff, and I honestly thought well, you know, they've got
7 him. You know, there's no doubt about it. They have him and
8 it will be just a few days and, you now, this case will be
9 over, but it wasn't.

10 And the longer time went, you know, it went back to
11 just a couple things. You know, well, how do you come forward
12 now after all this time. And plus, still, you know, what if,
13 you know, they not arrest him with the evidence they've got.
14 If I come forward what happens if, you know, it falls through
15 and then what happens to my familiar and I.

16 Q. Between 1999 and 2006 what kind of relationship did
17 you have with Garvin?

18 A. Well, you know, I'll be honest. I mean, even though
19 I knew he had done wrong and even though I abhorred that and
20 even though there was a certain amount of fear there Garvin
21 was still like the brother I never had. I mean, to have the
22 years of friendship that we had, you know, my heart was still
23 that I wanted to at least, you know -- I mean, we were on
24 speaking terms.

25 Now, I did start a lot of things, like at one time

JOHN STANSELL - DIRECT BY MS. HOGAN

1 years previously -- of course, we had already stopped a lot of
2 it but we used to -- our families were so close we would spend
3 every weekend together, every weekend. And, you know, we were
4 eating out. We were over at their house most of the time and
5 they were over at our house a lot.

6 Q. And when was this?

7 A. Well, this was from when we met in '83 on up to
8 about '85. Then after that there was times when we would kind
9 of go separate ways and then something would kind of bring us
10 back, but after the murder I was careful. Now, if we got
11 invited, especially if Brenda invited my wife, because, see, I
12 hadn't told my wife or son. I wanted to keep them out of it,
13 and so, you know, I knew it would be suspicious to my wife if
14 we didn't go some, you know.

15 Now, I didn't go fishing with Garvin, I didn't go
16 hunting with Garvin, and wouldn't have. Of course, for the
17 record, we never did go fishing or hunting together either
18 before but, I mean, I wouldn't have went out in the woods or
19 anything with him after that. I can assure you of that.

20 Q. Okay. What finally made you come forward in 2006?

21 A. From June the 30th, 1999 until the time I came
22 forward I lived with a lot of guilt because I'd ask myself the
23 question, you know, if my dad or my son had been murdered or
24 anybody that -- you know, my wife or anyone I was close to
25 would I want to know who did it and would I want justice, and

JOHN STANSELL - DIRECT BY MS. HOGAN

1 I said yes, you know.

2 And it would tear me up because I knew that -- and
3 especially I would watch these cold case shows on TV and, you
4 know, they talk about well, there's somebody out there that
5 knows the truth, you know, and that type thing, and it made me
6 feel guilty. My health started failing, and it finally got to
7 a point where I couldn't sleep. And I just thought that the
8 right thing ought to be done.

9 MS. HOGAN: Nothing further from the State, Your
10 Honor.

11 THE COURT: All right. I'm going to break for lunch
12 now.

13 All right. Ladies and gentlemen, I'm going to send
14 you to lunch now. I'm going to ask that you come back at 2
15 o'clock rather than the normal 2:30. Please don't discuss the
16 case. I've been keeping track of if there's any publicity.
17 So far I haven't seen any, but if anybody tries to talk to
18 you, please don't listen to them or talk to them, and report
19 it to me when you get back. We'll see you at 2 o'clock, and I
20 promise you won't sit back there for an hour and a half.

21 (WHEREUPON, the jury leaves the courtroom at
22 approximately 12:43 p.m.)

23 THE COURT: All right. Since we're breaking for
24 lunch, just for the record, obviously, you can't talk to the
25 witness while you're at lunch.

1 MR. PRUITT: Your Honor, when the jury comes back
2 before we start cross-examination I think a curative
3 instruction would be in order relative to the things that have
4 been admitted against Garvin as were given yesterday.

5 THE COURT: You want the same instruction?

6 MR. PRUITT: Yes, sir.

7 THE COURT: What I need you to do, and this is the
8 problem, it's hard for me, maybe hard for anybody to
9 differentiate what's admitted for Garvin Duvall and what's
10 admitted for Moore. If you can come up with a --

11 MR. PRUITT: Your Honor, you just say that a
12 confession that Mr. Duvall made after the incident has been
13 admitted solely in the case of Duvall. That's the only way I
14 can say it.

15 THE COURT: Yeah. It's kind of hard to say. All
16 right. I'll try to fashion something and we'll do it.

17 All right. See you all at 2:00.

18 (WHEREUPON, a lunch break was taken.)

19 THE COURT: All right. Everybody ready?

20 State ready?

21 MS. HOGAN: Your Honor, we have one issue we wanted
22 to take up before the jury came back.

23 THE COURT: Okay.

24 MS. HOGAN: As to Mr. Pruitt's motion about curing
25 the jury on what was said after, the State believes that the

1 statements and acts of one co-conspirator in furtherance of
2 and during the conspiracy are admissibility against all the
3 other co-conspirators to prove the existence of the
4 conspiracy. So we have an issue as to curing it because it
5 goes directly to her conspiracy charge. So we have an issue
6 with that curing. That's State vs. Ferguson, 221 S. C. 300.
7 We believe the jury should be able to consider that, as to her
8 conspiracy charge at least.

9 THE COURT: Yes, sir?

10 I've read Ferguson and I've also read Glasser at
11 lunch.

12 Yes, sir?

13 MR. PRUITT: I thought when we left I was
14 restricting my request to that part of Mr. Stansell's
15 testimony that occurred after the crime and according with
16 Your Honor's ruling of whenever.

17 THE COURT: Tuesday. So you want the curative
18 instruction to be that the testimony of the witness regarding
19 conversations after the crime were only being introduced in
20 the State's case against Duvall.

21 MR. PRUITT: Yes, sir.

22 MS. HOGAN: We would argue that the statements that
23 were made after the murder were about the actual murder
24 following out the conspiracy in furtherance of the conspiracy.
25 I mean, even though it was after the murder he was taking

1 about the actual murder and furthering the conspiracy of
2 murdering Paul Stephens.

3 MR. PRUITT: The murder had already taken place.
4 You can't further a conspiracy after it happens unless you're
5 doing something to cover it up, and that's not the testimony.

6 THE COURT: What I'm going to do, and I understand
7 what you're asking me, but I'm going to give the limiting
8 instruction that Mr. Stansell's testimony regarding
9 conversations that occurred after the date of the crime were
10 introduced in the State's evidence against Duvall, mainly
11 because that's the only person he referred to regarding those
12 conversations, and I want to try to keep it as clean as
13 possible. I'm not sure that it matters a whole lot, but I'm
14 going to do that.

15 Any objection to that, other than the obvious
16 objection that it shouldn't come in at all?

17 MR. GAMBLE: No, sir.

18 THE COURT: Okay. All right. But you're covered
19 for the record. If I made a mistake somebody will tell me.

20 You can bring them in.

21 (WHEREUPON, the jury enters the courtroom at
22 approximately 2:10 p.m.)

23 THE COURT: First, ladies and gentlemen, I
24 understand that someone, one of you may have been approached
25 on the street by somebody not connected to this case.

1 I'm assuming, Mr. Foreman, that no one was talked to
2 about this case; is that correct?

3 THE FOREMAN: Yes, sir.

4 THE COURT: Okay. Yeah. I mean, that's a problem,
5 obviously. If it becomes more of a problem we'll send
6 somebody from now on out with you. But as long as they didn't
7 talk to them about this case I'm okay.

8 Ladies and gentlemen, let me tell you, you've heard
9 some testimony from Mr. Stansell, and also you're going to
10 hear some more, but regarding his testimony this morning
11 regarding conversations after the date of the alleged crime,
12 that evidence was admitted in the State's case against
13 Mr. Duvall only. So that would pertain to the statements made
14 after the date of the alleged crime against Duvall only, not
15 against Moore.

16 All right. Come on back up, Mr. Stansell.

17 (The witness was seated in the witness stand.)

18 THE COURT: The State was finished; is that correct?

19 MS. HOGAN: Yes, sir, Your Honor.

20 THE COURT: Okay. I just want to remind you you're
21 still under oath.

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. GAMBLE:

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. I have in my possession a document signed by you.
2 It says a statement of the Reverend Dr. John Wilton Stansell,
3 Junior; is that you?

4 A. Yes, sir.

5 Q. Where did you do your undergraduate work?

6 A. I received my Bachelor of Theology Degree from
7 Christian Bible College out of Rocky Mountain, North Carolina.

8 Q. In Rocky Mountain, North Carolina? How many years
9 did you go there?

10 A. It was -- previous to that, I took a 3-year course
11 through the Assemblies of God.

12 Q. No, sir. I asked you how many years did you go to
13 this place in North Carolina?

14 A. It was a correspondence course.

15 Q. Oh, okay. And where did you get your doctorate
16 degree?

17 A. I got my masters and my doctorate through the
18 American Institute of Biblical Studies out of Greenville,
19 South Carolina.

20 Q. All right. Is that accredited?

21 A. Yes, sir.

22 Q. With the State of South Carolina?

23 A. As a Christian School.

24 Q. Is it accredited with the State of South Carolina?

25 A. I do not know that.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. Well, I couldn't find it accredited, so is it
2 accredited that you know of?

3 A. I will take your word for it and say no.

4 Q. All right. Now, you say you went to become a pastor
5 of a church in Ware Shoals. What church was that?

6 A. First Assembly of God.

7 Q. What type of religion is that?

8 A. Pentecostal.

9 Q. Pentecostal Holiness?

10 A. Well, it's Pentecostal.

11 Q. Well, what's the full name of it? Is it Pentecostal
12 Holiness?

13 A. Assemblies of God, sir.

14 Q. Sir?

15 A. Assemblies of God.

16 Q. Okay. Then you heard -- you claim to be a good
17 friend of Garvin Duvall since the summer of 83; is that
18 correct?

19 A. That is correct.

20 Q. And you fell from grace from 1985 to 1993?

21 A. No, sir, I said that after --

22 Q. From '85, '85. Excuse me.

23 A. I said after the I left the church in '85 that some
24 things happened over the years and it was more of either '88
25 or '89, somewhere in there.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. But you came back in graces in '93?

2 A. Well, no, sir. I had said that I left an
3 organization in '93.

4 Q. What did you leave?

5 A. As I witnessed to earlier, the Klan.

6 Q. Sir?

7 A. As I witnessed -- testified to earlier, the Klan.

8 Q. The Klan? The Ku Klux Klan?

9 A. That's correct, sir.

10 Q. What was your position in the Ku Klux Klan?

11 A. At the time I left I had at one time reached the
12 height of the grand dragon of South Carolina.

13 Q. You were the grand dragon of South Carolina?

14 A. For the little order that we were in.

15 Q. Sir?

16 A. The Klan is like -- I mean, I don't mean to disgrace
17 the church.

18 Q. I'm not a member of the Klan, I don't know.

19 A. There are different factions and organizations of
20 it, sir. There are some very large groups, very small groups.

21 Q. Were you the grand collegial?

22 A. No, sir. I was not the grand collegial.

23 Q. Who was the grand collegial?

24 A. We in our group didn't have a collegial, sir.

25 Q. Was your group out of Union, South Carolina?

JOHN STANSELL - CROSS BY MR. GAMBLE

- 1 A. No, sir, it was not.
- 2 Q. Cross Anchor?
- 3 A. No, sir.
- 4 Q. Okay. Now, you were the grand dragon?
- 5 A. Yes, sir.
- 6 Q. For how many years?
- 7 A. I don't know, maybe two years.
- 8 Q. And then, I believe, led to think that you were also
- 9 in the Masons?
- 10 A. I was, sir.
- 11 Q. Were you in -- what was the name of the temple you
- 12 were in?
- 13 A. My home lodge was Keowee Lodge in Pickens.
- 14 Q. Number 79?
- 15 A. That is correct.
-
- 16 Q. And as such you proposed Garvin as a membership in
- 17 the Masons in April, or March or April of '06; isn't that
- 18 correct?
- 19 A. I don't remember the date but at the urging of
- 20 someone, yes, I did.
- 21 Q. You did?
- 22 A. Yes, sir, I did.
- 23 Q. Your friend, Garvin?
- 24 A. My friend, Garvin.
- 25 Q. Are you familiar with the Morals and Dogma of the

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Ancient and Accepted Rite of Scottish Rite, the York Temple?

2 A. Sir, I'm very familiar with that book, and it is
3 Scott Rite Masonry and has nothing to do with the Blue Lodge.

4 Q. Yes, sir, but it's Scottish Rite Masonry, isn't it?

5 A. But has nothing to do with the Blue Lodge.

6 Q. The Blue Lodge?

7 A. Which would have been Keowee Lodge Number 79.

8 Q. What's the difference in that and the regular
9 Masons?

10 A. Because a man becomes a Mason by taking the first
11 three degrees of Masonry in a Blue Lodge. Then after that it
12 is up to him whether he wants to advance in either the York
13 Rite Masonry or the Scottish Rite Masonry.

14 Q. That's correct.

15 A. And it has nothing to do with the Blue Lodge.

16 Q. That's correct, but he starts off as apprentice and
17 fellow craft, and then to the master?

18 A. That's Blue Lodge Masonry.

19 Q. Right, and that's what you were?

20 A. Well, I went through Blue Lodge Masonry but I also
21 was a 32nd Degree Scottish Rite Mason, and I went through the
22 York Rite Temple, too.

23 Q. All right. So you proposed Garvin Duvall for
24 membership in your Masonic lodge?

25 A. At the urgence of someone, yes, I did.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. In '06?

2 A. Like I said, I think that's right. I don't remember
3 the year. That sounds right.

4 Q. And you had already, according to you, heard Garvin
5 Duvall tell you that he'd killed a man?

6 A. That's right.

7 Q. And yet you proposed him into your lodge saying that
8 he was a law abiding person, didn't you?

9 A. Um --

10 Q. It's a question. Yes or no, didn't you?

11 A. I signed his petition.

12 Q. That's what I mean, and you held him out to your
13 lodge, your fellow brothers as a law abiding man in March of
14 '06?

15 A. I was --

16 Q. Yes or no, and then you can tell me what the reason
17 is.

18 A. Well, the direct answer is yes.

19 Q. Okay.

20 A. Now --

21 Q. Now you can go on and enlighten me on it, if you
22 want to.

23 A. But as I said before, it was at the urgency of
24 someone else. I did go ahead and do that for some reasons
25 that I had, and I thought that when his committee, because he

JOHN STANSELL - CROSS BY MR. GAMBLE

1 was supposed to be assigned 3 men that would check out his
2 background and things, that when they saw that he had a police
3 record that they would turn him down and wouldn't accept him.

4 Q. But you voted against him to get him out in June of
5 '06 because he had a receiving stolen goods charge on him
6 wherein he received 10 days, I think it was, public service;
7 isn't that correct?

8 A. When it came -- there was never another vote taken
9 but I would have voted him out. Yes, I would have.

10 Q. So you would have turned on him even though you
11 supported him?

12 A. Well, that's your opinion not mine, sir.

13 Q. No, that's my question.

14 A. No. I felt that to stay in good graces and to make
15 sure that everything was smooth between me and him for --

16 didn't want him -- any backlash on the other and since someone
17 was bugging me about accepting him in that I thought that, as
18 I said, that he would be turned down anyway. That was my
19 mistake, my blot against Masonry, and then I said well, I'll
20 take care of the problem.

21 Q. Do you recall when you met with Officer Bill Graham,
22 sitting over there on the front row?

23 A. Yes, sir, I do.

24 Q. On August the 4th -- 14th, 10:00 a.m.; do you recall
25 that?

JOHN STANSELL - CROSS BY MR. GAMBLE

1 A. That date sounds about right, but I do recall our
2 first meeting.

3 Q. Do you recall that he was writing down notes and --

4 A. Yes, sir.

5 Q. As you were talking to him?

6 A. Yes, I do.

7 Q. Do you recall saying that Garvin and Brenda threw a
8 party for Paul's son, Skylar, 2 months before the murder? Do
9 you recall telling him that?

10 A. No, sir. I recall telling him that they had a party
11 and that I wasn't sure of the date right then but that I had
12 it at the house, that I could get it.

13 Q. Well, now, you're talking about the party given for
14 Brandon, aren't you?

15 A. Oh, okay. I'm sorry. What did you say?

16 Q. I'm talking about the party you said was given for
17 Skylar, Paul's son. The dead man's son. Do you recall that?

18 A. No, I do not.

19 Q. Okay. So are you saying that Mr. Graham was wrong
20 when he wrote it down in his notes like that?

21 A. I'm saying that I do not recall that, sir.

22 Q. He didn't know Skylar.

23 All right. So you were in the Ku Klux Klan and the
24 Masons. You said over here on through here that you're an
25 archbishop in the Reformed Catholic Church of Charleston.

JOHN STANSELL - CROSS BY MR. GAMELE

1 A. No. I did not say of Charleston, sir.

2 Q. Diocese of South Carolina?

3 A. Diocese of South Carolina is what I said.

4 Q. Where are the headquarters?

5 A. As far as the headquarters of that church, now, I'm
6 not sure because I left it. I do not know.

7 Q. But you were an archbishop in that. Who made you an
8 archbishop?

9 A. Martin McGuire.

10 Q. Mark McGuire?

11 A. Martin McGuire.

12 Q. Martin McGuire. Were you ever associated or did you
13 know the Reverend Patrick Batuyong in Atlanta, Georgia?

14 A. If I'm not -- I don't recall the name.

15 Q. Well, he was the archbishop of Saint Michael's
16 Diocese of the Reformed Catholic Church?

17 A. Well, sir, here's what you got to understand. When
18 Martin McGuire first started what he called the Saint Philip
19 Neri Catholic Church in Lakeland, Florida it went on for, I
20 don't know, a few months, and then he was approached by -- and
21 I do not know who, but the leader of another Reformed Catholic
22 Church, and there was some legal questions and then actually a
23 third Reformed Catholic Church came into play and a man -- and
24 I do not recall his name, but he had the legal rights
25 supposedly to that name and gave it to Martin McGuire but then

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Martin McGuire went on, and some of the leadership, and said
2 to avoid problems in the future that they would refer to it as
3 the Saint Philip Neri Archdiocese.

4 Q. So you're not a member of the Saint Michael's
5 Archdiocese?

6 A. No, sir, never was.

7 Q. Which is located in the southeastern United States
8 comprised of the States of North Carolina, South Carolina,
9 Georgia, Florida, Tennessee, Virginia, Maryland and the
10 District of Columbia.

11 A. No, sir, never claimed to be.

12 Q. So you're not actually an archbishop in the Reformed
13 Catholic Church?

14 A. I was. Yes, sir, I was.

15 Q. You're not at this time, are you?

16 A. By my own choice, no.

17 Q. What's the difference in the Reformed Catholic
18 Church and the Catholic Church that's under the Pope?

19 A. You talking about the Roman Catholic Church.

20 Q. Yes, sir.

21 A. Well, there again, I can only speak with the group
22 that I was associated with. Martin McGuire, who had come out
23 of the Church of God of Prophecy, was wanting to start this
24 and it was more of instead of going back to the Roman Catholic
25 Church it was going to the time of Martin Luther and the

JOHN STANSELL - CROSS BY MR. GAMBLE

1 reformation and keeping the rituals.

2 The only tie that there was to the actual Roman
3 Catholic Church was that they did have a legitimate -- the
4 laying on of hands, you know, all the way back to Peter. I've
5 forgotten the legal term right off the hand. But when we
6 first started I was helping Martin with this, and it was
7 Martin McGuire, myself, Bill Mayo and Danny Lee Turner.

8 And at first when I had a big say so in it we had
9 agreed that the difference would be that our priesthood would
10 not hold the power of forgiveness of sins, that that only come
11 through God, and that we wouldn't pray to saints and would not
12 exalt Mary as much as the Roman Catholic Church. That did
13 change a little later, and I left.

14 Q. That church also condones self same -- same sex
15 marriages, didn't it?

16 A. I don't know what it's doing now. I know that when
17 I left there was talk of it. When I was there and Martin
18 McGuire and myself, no, sir, it did not.

19 Q. So the three of you all were the Reformed Catholic
20 Church?

21 A. Well, there was several members, sir.

22 Q. Where was it located?

23 A. At that time, the headquarters was in Lakeland,
24 Florida.

25 Q. Okay. But that's the same diocese that's covered by

JOHN STANSELL - CROSS BY MR. GAMBLE

1 this one I'm talking about. It's Florida, North Carolina,
2 South Carolina, all of the south?

3 A. It doesn't matter, sir. You're talking about one
4 branch. That would be like if you were to look up the Church
5 of God there's several different variations of the Church of
6 God, and they have churches in the same states, different
7 authority.

8 Q. You're also, I believe you claim to be ordained into
9 the Universal Life Church, or something like that, aren't you?

10 A. Well, that was something that was just a bunch that
11 was getting into it. They were taking a bunch out of that,
12 and we did, but I didn't -- I never did add any credence to
13 such a thing.

14 Q. Well, what I'm trying to get to is why in the world
15 did you require or give your statement that you gave to the
16 detectives as the title of Reverend Dr. John Wilton Stansell,
17 Junior?

18 A. I don't really -- I mean, I'm not sure that I -- I
19 don't believe that I told him to put it down that way but I
20 certainly have legal right to reverend and doctor.

21 Q. Okay. I believe now that you have a thing called
22 the Gospel Lighthouse Prison Evangelistic group?

23 A. Gospel Lighthouse Prison Evangelism, sir.

24 Q. And you're listed with the Secretary of State --

25 A. Yes, we are.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. -- as a nonprofit organization under that name?

2 A. Yes, sir.

3 Q. And what you do is travel to penitentiaries and give
4 services at the penitentiary?

5 A. That's part of it.

6 Q. All right. Does that have anything to do with your
7 ordination as a bishop in the Celtic Anabaptist Church?

8 A. No, sir, it does not.

9 Q. You list yourself as a member of the Celtic
10 Anabaptist Church.

11 A. I sure do.

12 Q. And that is one -- that church says that it is
13 necessary for you to immediately join with them and become a
14 bishop in the church with all necessary haste; isn't that
15 correct?

16 A. I don't know about that. I know this, when the
17 early days when I was in the Saint Philip Neri Reformed
18 Catholic Church because Martin McGuire had received his laying
19 on of hands from Michael Wrenn of the Celtic Anabaptist Church
20 that in the early days Martin McGuire asked that all of his
21 bishops would also do a dual membership with Michael Wrenn's
22 church, and upon his request I did that.

23 Now, later on those two churches had a falling apart
24 over some issues and the Saint Philip Neri Church issued a
25 thing of you had to come out from them, and at that time I

JOHN STANSELL - CROSS BY MR. GAMBLE

1 contacted Michael Wrenn and told him that I was tired of the
2 Reformed Catholic Church and that -- I did talk to him one
3 time about just leaving the Celtic Anabaptist Church, too.

4 And he said well, just stay and, you know, do what
5 you want to do in your ministry work as long as you're not
6 doing anything, you know, that would bring us a problem. And
7 I have ordained a few men upon Mr. Wrenn's request into the
8 ministry but other than that it's just something that hangs
9 loose, really.

10 Q. And the Celtic Anabaptist Church said don't be hasty
11 in the laying on of hands but don't do any undue delay. An
12 example of undue delay would be the requirement of four years
13 of college and a seminary degree for three years. So they
14 don't encourage you even having the degree. They want you in
15 their church right away.

16 A. I don't know for that. I have not looked in like
17 that, no.

18 Q. Well, did you look into it on the internet?

19 A. Well, when I first joined I'm not sure that that was
20 on there.

21 Q. When did you first join?

22 A. I think it would have been around 2003, 2004,
23 somewhere around there.

24 Q. All right. What is an Anabaptist church?

25 A. Well, to the best of my understanding it goes back

JOHN STANSELL - CROSS BY MR. GAMBLE

1 to the Anabaptist were in the days of the dark ages when there
2 was religious persecution among Protestants that they kind of
3 -- they were neither Protestant or Catholic, that they tried
4 to hold to the pure doctrine of the Apostles, is my clearest
5 understanding.

6 Q. Were they Mennonites, and Amish, and Protestant, and
7 Catholic?

8 A. I know that in the early days that there was a close
9 relationship with Mennonites and Amish, from what I've read in
10 the history of it.

11 Q. So you are a bishop in that church?

12 A. That's what he has me down as, yes, sir.

13 Q. Well, I ask you. Are you a bishop in the Celtic
14 Anabaptist Church?

15 A. Yes, sir. I can lay legal claim to that.

16 Q. All right. Is that why you wear the collar?

17 A. I don't wear it anymore, sir.

18 Q. When did you last wear it?

19 A. I don't remember. I guess around -- one of the last
20 times that I wore was when I did a funeral for Garvin's wife.

21 Q. I'm handing you a picture; do you recognize that?

22 A. That's me.

23 Q. Is that you doing the funeral for Garvin's wife?

24 A. That looks about like that, yes, sir.

25 Q. Was that done in --

JOHN STANSELL - CROSS BY MR. GAMBLE

1 A. 2006.

2 Q. February of 2006?

3 A. Yes, sir, it was.

4 Q. And she had died that -- a week during that week?

5 A. Yes, sir.

6 Q. You were wearing a collar and a cross. Is that the
7 cross of an archbishop?

8 A. No, sir. It was just a cross.

9 Q. So right after the funeral and after you proposed
10 him, Garvin, for membership in the Masons then you decided to
11 go and make a statement to these officers; is that correct?

12 A. It was after the membership, yes, sir.

13 Q. All right. So there was a breach or a split between
14 you and Garvin at sometime in early August of '06; is that
15 correct?

16 A. What did you call it?

17 Q. Well, I don't know but you all were close personal
18 friends in March of '06, weren't you?

19 A. I do not hold any personal malice against Garvin to
20 this day.

21 Q. Garvin turned 40 in '06?

22 A. Yes, sir.

23 Q. You gave him a card?

24 A. Yes, sir, I did.

25 Q. Is that the card you gave him and this the envelope

JOHN STANSELL - CROSS BY MR. GAMBLE

1 it was in?

2 A. This wasn't in '06.

3 Q. He turned 40 in '06 and you got in there lordy,

4 lordy, look who's 40. Is that the card you gave him?

5 A. Yes, sir.

6 Q. When he was 40?

7 A. I don't know that he was -- I remember giving him

8 this card but it wasn't in 2006.

9 Q. Look at the last page. Is that your signature right
10 at the top center, J. W. Stansell?

11 A. Yes, sir.

12 Q. And right under that's your wife's signature?

13 A. It's her signature.

14 Q. Right under that's your son's signature?

15 A. He signed it.

16 Q. You passed it around at Ryobi and got all the
17 co-workers to sign it?

18 A. I didn't pass it around. When this card was given
19 out with help from his wife through a guard at Ryobi.

20 Q. Through whose wife?

21 A. Garvin's wife.

22 Q. She wasn't alive.

23 A. When I wrote this card she was alive. This was not
24 2006.

25 Q. When was it?

JOHN STANSELL - CROSS BY MR. GAMBLE

1 A. I don't remember. It was back -- it was before --
2 it wasn't in 2006.

3 Q. But you did make this card up?

4 A. Yes, sir. In fact, when that card was made up it
5 would have been in 1999, and there is a reason I know that.

6 Q. What's the reason?

7 A. Because it would have to have been -- well, I said
8 1999. It would have had to have been '98 or '99 because I was
9 still living --

10 Q. I think you're right. You're absolutely right. It
11 was 1999, wasn't it?

12 A. It was '98 or '99.

13 MR. GAMBLE: I move to introduce this card, Your
14 Honor, in evidence as defense 1?

15 THE COURT: Any objection?

16 MS. HOGAN: We renew our objection, Your Honor.

17 THE COURT: All right. You're protected for the
18 record.

19 Any objection?

20 MR. PRUITT: No objection.

21 THE COURT: All right. It's admitted.

22 (WHEREUPON, Defendant Duvall's Exhibit Number 1, a
23 Card, was marked and admitted into evidence.)

24 A. And I would like to state that in 2000 is when I
25 really got things back serious, and that was before that time.

1 That card came as a -- of course, he liked it. He thought it
2 was hilarious. It's vulgar. I'll admit that.

3 Q. You as a member of the -- ordain member of the
4 Catholic church, the Anabaptist church --

5 A. No, sir, I was not a member at this time. No, sir.

6 Q. When did you become a member of the -- become an
7 archbishop of the Catholic church?

8 A. I've already told you one time, sir, that it was
9 either 2003 or 2004.

10 Q. When did you -- when were you in the Klan, Ku Klux
11 Klan?

12 A. I told you that I left the Klan in 1993, sir.

13 Q. And you were the grand dragon?

14 A. That's what I told you, sir.

15 Q. Now, you knew Paul Stephens, didn't you?

16 A. No, sir. I only knew him through Garvin.

17 Q. Then why at the end of this statement you wrote you
18 knew that Garvin did not approach me for absolution or
19 forgiveness for his sins. He spoke to me as an old friend and
20 him telling me of the killing of Paul Stephens was not a
21 confession.

22 A. Because Tommy Williams asked me did it in any way.
23 At that time I wasn't even in the Reformed Catholic or the
24 Anabaptist, but he asked me if Garvin had come to me as a
25 minister and in confession of some type told me what he had

JOHN STANSELL - CROSS BY MR. GAMBLE

1 done, and that was why that statement was that way.

2 Q. Why do you think that is?

3 A. Why do I think what?

4 Q. That it wasn't a confession?

5 A. Because there's a difference, sir, between just talk
6 and someone coming and saying I have something that I would
7 like to talk to you about in confidence as a minister, big
8 difference.

9 Q. In the State of South Carolina?

10 A. Well, as far as I and many other ministers are
11 concerned it would be anywhere. I mean, it's just the way it
12 is. It's sort of unwritten code, if you will.

13 Q. No, sir. There is a protocol, and I'm not so sure
14 you're familiar with it, but if a priest receives a confession
15 of a crime do you know what his first duty is?

16 A. No, sir.

17 Q. His first duty is to tell the man who confessed that
18 to him to turn himself in. His second duty, do you know what
19 that is?

20 A. To ask God for forgiveness, I would imagine.

21 Q. No, sir. The priest then goes to the bishop and
22 explains to him what he's heard; do you know that?

23 A. No, sir, but I wasn't a priest at this time anyway.

24 Q. Well, you claim to be one now.

25 A. No, sir.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. I've got you as a Reverend Dr. John Wilton Stansell.
2 Now that rings a priesthood to me.

3 A. Well, then that's just your opinion, sir.

4 Q. Did you go to any superior member of a church and
5 tell them what you had been told by Garvin Duvall, as you say?

6 A. As I have already said, when he told me that in 1999
7 I was not a member of the Reformed Catholic Church, I was not
8 a member of the Celtic Anabaptist Church. I was in no way, as
9 you call, a priest.

10 Now, I had my credentials from before as a
11 Protestant minister but at the time, as I've already said, I
12 had not gotten everything that I was comfortable with getting
13 back right with God. I was on my way by that time trying to
14 get some things, you know, my ministry and my own life back on
15 track but I was not a priest, the legal term priest at that
16 time, no.

17 Q. Was there anyone over you when you were in this
18 ministerial position?

19 A. What ministerial position are you talking about?

20 Q. I don't know. I can't figure it out, to be honest
21 with you. You got so many ministries I'm trying to figure out
22 what your ministry was in 1999.

23 A. Basically, the only ministry that -- in the early
24 part of 1999 I was still -- other than we were sending out
25 just some Bibles and literature to inmates anywhere in the

1 country that wrote for them.

2 Q. Was anybody over you?

3 A. No.

4 Q. So you were an independent evangelical minister to
5 prisons?

6 A. Well, at the time, like I said, we were basically
7 just sending out Bibles. We weren't going in preaching or
8 anything, and I began to get things turned back around in my
9 life later in '99. That's when we started going into prisons
10 preaching.

11 Q. And that's where you gave out cards telling the
12 prisoners to give them to their parents so they could send you
13 money at your post office box?

14 A. No, sir, I never did that.

15 Q. You never did that? Okay. Now, was the magic show
16 you put on, was that for Skylar or for Brandon?

17 A. It was for Brandon.

18 Q. Well, why did you tell it was for Skylar?

19 A. Then if I did at the time, which I'm not convinced I
20 did, then it was just I had the two confused.

21 Q. Okay. Was this death of Paul Stephens written up in
22 the papers?

23 A. I imagine it was. I didn't read it.

24 Q. You didn't?

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

JOHN STANSELL - CROSS BY MR. GAMELE

1 Q. Tell me once again what kind of gun were you shown,
2 according to you, by Garvin Duvall?

3 A. I said that for what I could tell I thought it was
4 an automatic, and to the best of my ability that from the look
5 I got probably a 380 or a 9 millimeter, but as I said, I'm not
6 a gun expert.

7 Q. There's a whole lot of difference between a 380 and
8 a 9 millimeter, isn't it?

9 A. I guess there is but to me they look so similar.

10 Q. All right. Now, you told the officer a while ago
11 that you went to this party at Haygood Park in Pickens County
12 and in your statement it says on July the 27th, 1999.

13 A. There's also a June the 27th in there, sir.

14 Q. Read the first line of your statement.

15 A. Yes, sir, but --

16 Q. Read the first line of your statement on that page.
17 Read it out loud.

18 A. It says park in Pickens County on July 27th, 1999.

19 Q. July 27th, 1999?

20 A. Yes, sir. That's what it says. But later on it
21 says that it was June because I had it dated in the pictures.

22 Q. When did you date the pictures?

23 A. Just as soon as I -- as soon as I got them. I have
24 the date written down on a calender at home so I know to go to
25 it.

JOHN STANSELL - CROSS BY MR. GAMELE

1 Q. But in your statement, your legal statement to the
2 investigating officers you said that this party took place on
3 July 27th, 1999; isn't that correct?

4 A. And, sir, if you'll see here on my statement --

5 Q. You answer my question first.

6 A. On that I did, sir.

7 Q. All right. You did say it was in July of '99?

8 A. That's what the statement says. I don't know that
9 if I said that or if it was a typo by the officer.

10 Q. Now, those pictures that you took that you said you
11 dated, they weren't taken with a camera that dated, stamp
12 dated the pictures, were they?

13 A. I don't know. I wasn't going by the date on the
14 picture, as far as the back of it, if there is one. As I told
15 you, they asked me to do the party. I wrote it down on the
16 calender when we would do it, and when I got the pictures back
17 I date them according to the date I had on my calender, sir.

18 Q. But then you said it was in July.

19 A. Well, like I said, I'm not so sure that it was me or
20 just a typo from the one that took the --

21 Q. Well, you read the statement before you signed it,
22 didn't you?

23 MS. HOGAN: Objection, Your Honor, asked and
24 answered.

25 THE COURT: All right. Overruled.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Go ahead. I'll let you clear it up.

2 Q. Where did you and Garvin ride to in his truck?

3 A. We rode around, and eventually stopped at a

4 convenience store, I think it was a Plez-U, and then came
5 back.

6 Q. And that's when he told you that he was going to
7 have to off Paul Stephens, or kill him?

8 A. He said that he was going to kill him, yes, sir.

9 Q. And told you all about how he was going to do it?

10 A. He told me that he was going to shoot him and that
11 he was going to set the car on fire and put some drugs around.
12 Originally he said that he was going to shoot him in the car.

13 Q. Did you make any note of this or contemporaneous
14 note of what he told you so you would have it in your records?

15 A. No, sir.

16 Q. You just did it from memory?

17 A. Yes, sir.

18 Q. And it took you 7 years to come around and tell the
19 police officers what you've told me?

20 A. I testified to that earlier, yes, sir.

21 Q. And according to what you say he was supposed to get
22 \$2,000 from Frances to off this man?

23 A. That's what he told me.

24 Q. Did he tell you he got \$2,000 from Frances Moore?

25 A. No, sir.

1 Q. Did he tell you that Frances Moore was with him?

2 MS. HOGAN: Your Honor, we object at this time.

3 THE COURT: What's your objection?

4 MS. HOGAN: We went into this with --

5 THE COURT: All right. Ladies and gentlemen, I'm
6 going to send you out for a few minutes. Please don't discuss
7 the case.

8 (WHEREUPON, the jury leaves the courtroom at
9 approximately 2:55 p.m.)

10 THE COURT: All right. Yes, ma'am, what's the
11 objection?

12 MS. HOGAN: Your Honor, if it pleases the Court. I
13 believe Mr. Gamble is going to get into the redacted version
14 as to Ms. Moore. Mr. Stansell knew that he was not supposed
15 to get into it with me and we believe that --

16 THE COURT: Thus our problem.

17 MS. HOGAN: Yes, sir.

18 THE COURT: With trying to do that.

19 MR. GAMBLE: I asked as the argument grew three
20 times when I asked was I bound by that. I was told no.

21 MR. PRUITT: And, Your Honor, I object for him
22 answering that question insofar as it implicates Ms. Moore.

23 THE COURT: See, what bothers me about this is
24 Tuesday morning we knew this was coming, and I can only hint
25 so much. Let's take a break. Let me figure out where to go.

1 You can step down.

2 Let's take a break. I'll be right back.

3 (WHEREUPON, a brief recess was taken.)

4 ~~THE COURT: Let me tell you the problem I've got.~~

5 Eventually in a case like this where you're trying two
6 defendants it's almost impossible. At some point one
7 defendant's right to confrontation is going to run-head on
8 into one defendant's right to have rules of evidence adhered
9 to in regard to hearsay, and it is a Chinese puzzle. There's
10 no way to make a decision that is a hundred percent right.

11 What is you all's position on it?

12 MS. HOGAN: Your Honor, our position is that unlike
13 Holmes in this case the State has not introduced any evidence
14 that has implicated Frances Moore in any of the statements
15 that we're talking about so far. Mr. Stansell's testimony in
16 no way has referred to her so far at that point.

17 THE COURT: But only because I've kept it out as a
18 violation of the hearsay rule.

19 MS. HOGAN: Right. Right. At the time when they
20 knew that this was going to come up they made no severance
21 motion to take care of this. If they were going to use this
22 as some type of motion to make a mistrial then they should
23 have made this motion in the beginning.

24 They knew that potentially there could have been an
25 antagonistic defenses here. They are going to be pointing

1 fingers at each other, I'm assuming. I'm not sure. These
2 antagonistic defenses aren't even enough for a severance. I
3 mean, so why would it be enough for them to be able to get a
4 mistrial at this point.

5 We feel like we've done everything to prevent a
6 mistrial, to go forward with the trial. We feel like for a
7 mistrial there has to be some kind of manifested necessity for
8 it to be done and we don't feel like that's true in this case.
9 We feel like there can be a curing instruction to the jury,
10 and we feel like we've done what we needed --

11 THE COURT: And what would the curing instruction
12 be, that Mr. Gamble is getting ready to cross-examine the
13 witness on testimony that I've ruled inadmissible in the
14 State's case, please disregard it in that vain but you may
15 take -- be cognisant of it in cross-exam?

16 MS. HOGAN: I understand the complexity of the
17 issue, Your Honor. I just don't feel like --

18 THE COURT: I don't mind complex. It's impossible
19 that I don't like. And this is why I can't figured out why
20 they are both here today.

21 MS. HOGAN: The State felt like the best way, the
22 most efficient way in justice is to do it together, Your
23 Honor, and they never made a motion to sever. I mean, the
24 State felt like this was the most appropriate way to go
25 forward and that if they -- now they are going to introduce

1 something to be able -- they are introducing something to
2 create a mistrial.

3 THE COURT: Anything? I mean, I know what I'm going
4 to do. I'll just be glad to hear from you.

5 MR. PRUITT: Your Honor, we did what we could at the
6 start of this trial to eliminate this problem. You know, it's
7 their call as to how to prosecute their case, and if they
8 wanted to put them together then they should have left this
9 testimony out.

10 THE COURT: Anything?

11 MR. GAMBLE: At the start Tuesday I said it's up to
12 them to move for a severance.

13 THE COURT: All right. Well, I mean, I'm in sort of
14 the impossible position of weighing different defendants'
15 rights, which is really where I shouldn't have to be here, but
16 I'm going to allow him to question him on it. I'm having to
17 weigh the right of confrontation against the rules of evidence
18 in regard to hearsay.

19 And I'm going to take the motion for mistrial under
20 advisement depending on what comes out in the next hour or so.
21 That literally is the only way I know to take care of it, at
22 this point. But I do think this should have been anticipated,
23 as I've said since Tuesday, because this is where everybody
24 knew we were going to be, and it's a problem.

25 All right. I'll allow you to question him on it,

JOHN STANSELL - CROSS BY MR. GAMBLE

1 I'm assuming against Mr. Pruitt's vigorous objection because
2 it violates the rule prohibiting hearsay from coming in.

3 MR. PRUITT: And that's right, Your Honor. And if
4 it comes in we'll be moving for a mistrial.

5 THE COURT: Yeah. You know, I've tried to think of
6 a curative instruction. Quite frankly, any curative
7 instruction is going to be more confusing and call attention
8 to it so I'm not going to give a curative instruction. I
9 think it would completely confuse them if I did.

10 All right. You can bring them back in.

11 (WHEREUPON, the jury enters the courtroom at
12 approximately 3:17 p.m.)

13 THE COURT: You can come back up.

14 (The witness returned to the witness stand.)

15 THE COURT: All right. You can continue.

16 You're still under oath, obviously.

17 BY MR. GAMBLE:

18 Q. Did any of this make sense to you when Garvin Duvall
19 told you he was paid \$2,000 by Frances Moore to off Paul
20 Stephens that he then said Frances Moore went with him?

21 A. When he was telling me on the 27th he did not say
22 that Frances had went with him because the murder hadn't
23 happened then.

24 Q. I'm talking about what you said telling me pay him
25 \$2,000, and then later he said she was with him. Isn't that

JOHN STANSELL - CROSS BY MR. GAMBLE

1 true, what you said? It's what you said.

2 A. Yes, sir, but listen.

3 Q. I'm listening?

4 A. He told me that she offered -- was going to pay him--

5 \$2,000 on the 27th. That's when he said that she was going to

6 pay him \$2,000 to do it. He hadn't done it yet.

7 Q. All right.

8 A. At that time.

9 Q. According to you, Garvin said he pulled a gun out

10 and shot Paul in the back of the head. Is that what he said?

11 A. Yes, sir.

12 Q. And that Frances shot Paul in the back after he was

13 down?

14 A. Yes, sir.

15 Q. And that was at close range?

16 A. All he -- I wasn't there. He told me that he shot

17 Paul in the back of the head.

18 Q. Standing right behind him?

19 A. Yes, sir, from what he said.

20 Q. Right.

21 A. And then that after he was down that Frances shot

22 him in the back.

23 Q. Standing right over him?

24 A. Well, he just told me that after he fell down that

25 Frances shot him in the back.

1 Q. You didn't ask any questions?

2 A. No, sir.

3 Q. But then Garvin attended Paul's funeral, didn't he?

4 A. He told me he did.

5 Q. You didn't preach that?

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

7 Q. Now, Brenda, according to you, was to provide an
8 alibi for Garvin. That's his wife. Is that what you said?

9 A. He told me that her mother was going to provide an
10 alibi for them.

11 Q. That was back in 1999?

12 A. Yes, sir.

13 Q. After the shooting or before the shooting?

14 A. After the shooting.

15 Q. He said that her mother would provide him an alibi?

16 A. He told me that she had provided an alibi.

17 Q. Had already provided?

18 A. When after he was talking to me, after the murder.

19 Q. Then he said that Brenda would provide him an alibi,
20 too, his wife, didn't he?

21 A. Well, I think what it was, she was going to say that
22 she was at her mother's and he came in and was there or
23 something. I never was real clear on it.

24 Q. Okay. Back where we were a while ago on what you're
25 supposed to do when you get a confession; aren't you taught in

JOHN STANSELL - CROSS BY MR. GAMBLE

1 the seminary that you're supposed to tell the person to turn
2 himself in?

3 A. I was never taught that, sir.

4 Q. Were you taught that if they did not turn himself in
5 you were to tell them you were under a duty to report it to
6 the proper authorities?

7 A. No, sir.

8 Q. You weren't taught that?

9 A. No, sir.

10 Q. In any of those schools you went to?

11 A. No, sir.

12 Q. All right. You've already been over the Anabaptist,
13 you've been over the Catholic, Reformed Catholic. What is the
14 Universal Life Church?

15 A. From what I can gather is -- well, my understanding
16 it's legal but I think it's just hogwash, really.

17 Q. Well, you are a member of it?

18 A. I don't claim membership in it no more. I know that
19 I was, yes.

20 Q. That's what I mean. You were a member of the
21 Universal --

22 A. Never denied that, sir.

23 Q. Sir?

24 A. I said I never denied that.

25 Q. All right. And all you have to do is send in an

JOHN STANSELL - CROSS BY MR. GAMBLE

1 application to somewhere in California?

2 A. California. That's about it. Real easy.

3 Q. Monroeville, California? It starts with an M

4 anyway?

5 A. Modesta, I believe. Modesta; is that right?

6 Q. Yes, Modesta.

7 A. I think so. Yes, sir.

8 Q. And all you do is send it in and you get a thing
9 like that, don't you?

10 A. Looks about like. Well, I guess it's a little newer
11 version but, yeah.

12 Q. That's what you got back, an ordination in the --

13 A. You could get your cat or dog ordained through them.

14 Q. As a matter of fact, that's ANTAC, a-K-9 is ordained
15 through that church. Isn't that what the name says?

16 A. That's what it says, sir.

17 Q. ANTAC is a dog that works for the sheriff's office;
18 did you know that?

19 A. I've never had the pleasure of meeting ANTAC.

20 Q. Okay. Well, he's an ordained minister in the
21 Universal Life Church.

22 A. Well, as I said before you said that, you could get
23 a cat or dog, horse, goat. It don't matter.

24 Q. Now, at one time you claimed to be an exorcist,
25 didn't you?

1 A. I had the -- through Bill Mayo, through the Reformed
2 Catholic Church he had a thing where that he had a school of
3 his own and he wanted to -- well, McGuire wanted the early
4 membership to take his exorcist course through it. So I took
5 it.

6 Q. Why didn't you exercise Garvin Duvall?

7 A. Well, sir, I said I took it. You know, I didn't say
8 that I really agreed with what was written in it. And there
9 again, if I had agreed with everything written in it and with
10 what you're trying to make me out to be --

11 Q. I'm not trying to make you out to be anything, sir.

12 A. Well, I feel like you're leading me, but it would
13 have been his obligation to come and ask for that to happen.
14 It couldn't be forced on him.

15 Q. All right. Do you recall in giving your statement
16 that Tommy Williams specifically stopped you and said were you
17 sure of that date of July 27, 1999? Now, let me warn you. I
18 have Tommy Williams listed as one of my witnesses in the
19 defense of this case. Do you know why?

20 A. Sir, you know, I don't care why. I'll be as honest
21 as I know how to be, whether you do or don't. I don't
22 remember. If I said July I was nervous, but I had that same
23 photo album right there in front of Tommy Williams and I
24 showed it to him and I pointed to the date in that room and
25 said this is how I know.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 And as is in -- you never did let me finish like you
2 promised you would, but there is a part in my testimony where
3 I do say June 27th.

4 Q. Say what?

5 A. Earlier you said you would let me explain if I'd
6 answer your question and you never did. There is a June 27th
7 mentioned in my statement, sir.

8 Q. All right. On direct you said that you were afraid
9 because he told you that you take the family out first. You
10 were in fear of your safety at his hands; is that right?

11 A. That if I came forward, yes.

12 Q. And you claim also that Garvin at one time had a
13 drug connection from Chicago mob?

14 A. That's what he told me.

15 Q. And had an apartment that nobody knew about in
16 Greenville where he operated his drug operation?

17 A. He told me that he had an apartment in Greenville
18 that his wife didn't know about, that he basically led another
19 life and there was drugs involved. If he didn't, that's what
20 he told me.

21 Q. Let me ask you this. On -- and you say the 27th of
22 June when you went riding around with him you -- how long were
23 you all gone from the birthday party where you were putting on
24 the mystic show?

25 A. I don't remember how long.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. Guess.

2 A. I don't know, maybe 20 minutes.

3 Q. And all this was told to you in 20 minutes over a

4 Coke and Dr. Pepper or Sprite?

5 A. I'd say 20 to 30 minutes. I'm not sure. I didn't

6 have a watch on. I wasn't timing it.

7 Q. Well, before or after they were served food?

8 A. It would have had to have been before, I'm sure,

9 because we left.

10 Q. You did not partake in the food that was offered

11 there?

12 A. I do believe that I did grab maybe a little piece of

13 cake or something.

14 Q. Did you see Mr. and Ms. Hendrix there?

15 A. Who is Mr. and Mrs. Hendrix.

16 Q. Well, they are the parents of Brandon?

17 A. Oh, Kim?

18 Q. Yeah.

19 A. I saw her, yes.

20 Q. You didn't see him?

21 A. I may have. I don't recall.

22 Q. Okay. They are also on my list you know?

23 A. Fine.

24 Q. Okay. Now, you also indicate that Garvin was going

25 to put that gun in the furnace at Ryobi; is that right?

JOHN STANSELL - CROSS BY MR. GAMBLE

- 1 A. That's right.
- 2 Q. And that furnace, to your knowledge, what's it used
- 3 to melt? Isn't it used to melt aluminum?
- 4 A. I think. Well, I know when I was working at
- 5 Imperial Die Cast that's what we used ours for?
- 6 Q. For --
- 7 A. For aluminum.
- 8 Q. For die casting aluminum?
- 9 A. Uh-huh.
- 10 Q. The melt point of aluminum you heard the other day,
- 11 the fireman testified is between a thousand and 1400 degrees;
- 12 is this correct?
- 13 A. I don't know.
- 14 Q. You didn't hear him?
- 15 A. If I did I didn't connect it.
- 16 Q. Well, he also said that the melt point of steel is
- 17 in excess of 4,000 degrees; did you hear that?
- 18 A. I wasn't paying attention.
- 19 Q. Okay. So that being the case the gun wouldn't melt,
- 20 would it, if it was a thousand to 1400?
- 21 A. I'm just telling you what he told me.
- 22 Q. Okay. But he was the furnace master at Ryobi,
- 23 wasn't he?
- 24 A. That's my understanding what he had told me, yes,
- 25 sir.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. So he would know, wouldn't he? Garvin would know
2 what that furnace would melt and what it wouldn't melt?

3 A. (There was no response).

4 Q. Okay. You don't know.

5 In your statement you say, I've kept all of this to
6 myself over these years. I knew that Garvin was a
7 cold-blooded killer.

8 For 7 years you knew that and didn't do a thing
9 about it?

10 A. That's correct.

11 Q. And you are a man of the cloth?

12 A. Well, sir, I don't think that's got anything to do
13 with it.

14 Q. You don't do things that you're supposed to do when
15 you are a man of the cloth?

16 A. Well, you know, when you're concerned about safety
17 of yourself and your family on this issue I don't see how it's
18 relevant, but that's your personal opinion, that's my personal
19 opinion. But, yes, sir, I think people -- that the man of
20 cloth should do what's right.

21 Q. But for 7 years you didn't do what was right.

22 A. That's correct.

23 Q. Well, what happened to you all between June of '06
24 and August of '06? What revelation came about in your life
25 from June of '06 when you booted him out of the Masons until

JOHN STANSELL - CROSS BY MR. GAMBLE

1 August 14th of '06 when you talked to Officer Green?

2 A. Well, there was no conflict between me and Garvin.

3 There was no fuss, if that's what you mean. It's just that,

4 as I stated earlier, my conscious had gotten to the point

5 where I couldn't take it anymore.

6 Q. So after 7 years your conscience hurt you?

7 A. As I stated in my testimony, sir, it bothered me all

8 those 7 years.

9 Q. From '99 to '06 you've testified Garvin was your

10 friend, you were on speaking terms and you spent weekends

11 together.

12 A. No, sir, that's not what I testified. I said that

13 in the early days of our friendship we spent weekends

14 together, he and his wife, my wife and I. I said that was the

15 big change. We didn't spend the time that we had before.

16 Q. What cold case show were you watching that turned

17 you on to telling this story you've told to the officers?

18 A. What I said was that I had watched a lot of those

19 type shows and that every time I watched one it bothered me.

20 There was several that I watched during that time. As you

21 testified, there was 7 years there.

22 Q. I didn't testify.

23 A. Well, as you spoke.

24 Q. Did you specifically ask to talk to Captain Tommy

25 Williams?

JOHN STANSELL - CROSS BY MR. GAMBLE

1 A. Yes, I did.

2 Q. Why?

3 A. Well, because I'm from Pickens County. I don't know
4 -- you know, if something had happened in Pickens County then
5 I'd know to go see David Stone, the sheriff. I knew him, or I
6 know him, and I know a couple of the detectives real well
7 there. So I would, you know, go talk to someone I knew.

8 I had briefly met Tommy Williams during the Masonic
9 degree work. I think it was at the Townville Lodge, and that
10 was the only contact I really had. I also met -- I mean, we
11 didn't talk but I met -- other than just saying -- introducing
12 ourselves, to Detective Majors at the same one. But I knew
13 that Tommy Williams was the captain of the detectives and I
14 figured that's who I should go to.

15 Q. And you knew -- let's go back to what you said. You
16 knew Sheriff Stone in Pickens County?

17 A. Yes, sir.

18 Q. And you had reported Garvin killed a man in Pickens
19 County to the sheriff's office up there?

20 A. No, sir, not in Pickens County.

21 Q. Greenville?

22 A. That's right.

23 Q. That nothing happened to him even after I called
24 Pickens County and told them. That's your statement.

25 A. Well, let me tell the whole statement that I made.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. Okay.

2 A. I told them that Garvin had -- I was working at a
3 convenience store, I think it was 1992. Garvin come in real
4 nervous one night at the convenience store, said that he had
5 actually killed a person over in Greenville and had thrown the
6 gun in a stream. Well, it was back over between Easley and
7 Powdersville where he said the stream was.

8 I called down to the sheriff's department, did not
9 talk to David Stone, whoever answered the phone, and I told
10 them that, you know, I wasn't sure this really happened. And
11 that's the main reason that really that when -- and since you
12 brought that up, at the party that I didn't go to the police
13 after that because I figured Garvin when he told me he was
14 joking it was just like that, that nothing was going to come
15 of it.

16 Q. So you didn't believe him when he told you that
17 because he had told you before?

18 A. When he first told me, you know, it got my attention
19 but then when he said oh, I'm just messing with you, then I
20 thought, yeah, you know, it could be, but I was torn because,
21 you know, the look in his eye was like, you know, he really
22 means business. But I wasn't going to make a fool of myself
23 again, and I didn't.

24 Q. But you still hung around with him for 7 more years.

25 A. Never denied that. I minister to murderers, to

JOHN STANSELL - CROSS BY MR. GAMBLE

1 thieves and all kind of people on a regular basis, sir.

2 Q. I wanted to ask you about this, too. You were on a
3 TV show on Channel 16 with a female evangelist and you were
4 talking about your Lighthouse Ministry; do you recall that?

5 A. Which show are you talking about?

6 Q. One of those shows on 16.

7 A. I was on Nightline one night.

8 Q. That's it, Nightline.

9 A. Yes, sir.

10 Q. On that show you said that you had had a man confess
11 to you of killing a 20 year old and could he be forgiven for
12 that; do you recall that?

13 A. I sure do.

14 Q. And was he in prison?

15 A. Yes, he was.

16 Q. Was he in there for killing the 2 year old?

17 A. I assume he was.

18 Q. You didn't ask him?

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

20 Q. Okay.

21 A. He came up during an alter call, which would be
22 official church business, and he asked me, he said -- he was
23 crying, weeping, and he said, Preacher, will God forgive a man
24 for anything he's ever done. And I said, Yes, he will. And
25 he looked --

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. Except blasphemy.

2 A. Well, I'm getting to that, sir. He looked at me
3 again and he said, But would God forgive me for anything.

4 And now I know there's something really heavy on his
5 mind. And I looked at him and I said that it was to my
6 knowledge that God would forgive any sin other than blasphemy
7 and the Holy Ghost. And I looked at him and I said, As
8 concerned as you are about your welfare with God I don't think
9 you've done that.

10 And he said, Would God forgive me for killing a 2
11 year old. I just assumed that's what he was in there for.

12 Q. All right. So what it amounts to is you talked with
13 Officer Green on 2 occasions --

14 A. Officer Green?

15 Q. August 14th and October 4?

16 A. I've not talked to an Officer Green.

17 Q. Bill Green, the man who was sitting on the front
18 row.

19 A. Bill Graham?

20 Q. Graham?

21 A. I talked to Bill Graham, yes, sir.

22 Q. Twice?

23 A. I think 3 times.

24 Q. Was he in on the 4th on the one that you signed?

25 A. He was there with me, yes, sir. Actually, that

JOHN STANSELL - CROSS BY MR. GAMBLE

1 would make it 4 times.

2 Q. What were the dates of the other 2?

3 A. Well, the very first time, the earliest date you
4 gave, the very first time he came up, as I testified to
5 earlier, by himself, to Pickens. And then he came back
6 another time with Tommy Williams. And then right before I
7 went down for the statement, a few days before he came by a
8 place I was at and talked to me a few minutes.

9 Q. Okay. What was the Christian school you worked at
10 in Piedmont? What was the name of it?

11 A. Piedmont Christian Academy, I believe.

12 Q. How long did you work there?

13 A. Just one semester.

14 Q. A couple of months?

15 A. A few -- yeah.

16 Q. What happened to that job?

17 A. I just decided it wasn't for me.

18 Q. All right.

19 A. Could I say one thing about my prison ministry?

20 Q. Yeah.

21 A. Because you've kind of made me look kind of wishy
22 washy on my legitimacy. Since 2000 I got very serious about
23 things. In 2002, we incorporated legally. We do have a very
24 reputable board of directors that I answer to, and we have our
25 501-C-3 with the IRS. We own property in the ministry name.

1 So, I mean, we are a legitimate and --

2 Q. What do you own in the ministry's name?

3 A. There's a ministry van.

4 Q. A van?

5 A. Yes, sir.

6 Q. That blue one?

7 A. Yes, sir.

8 Q. What is that, about an '84, '85?

9 A. I don't remember.

10 Q. One more thing. I'm curious, and I don't know why
11 I'm curious about it. You maintained a website on My Space
12 until June of '06 then you ceased being on there, why?

13 A. Because of finances we had to let the internet go
14 out of our home.

15 Q. Oh.

16 A. I felt I had to make some sacrifices. The internet
17 wasn't that important, and we let it go.

18 Q. Okay. Do you still order your supplies from one of
19 these United Life Church?

20 A. No, sir.

21 Q. Any of that?

22 A. No, sir.

23 Q. Huh?

24 A. No, sir. All the supplies that our ministry calls
25 for now we basically get out of Christian Bookstore in Easley.

JOHN STANSELL - CROSS BY MR. GAMBLE

1 Q. Get what?

2 A. Anything that we need to purchase, most of it comes
3 out of Christian Bookstore out of Easley. We do order some --
4 --now, we send out a correspondence course to prisons throughout
5 the United States and we order those from Michigan from a
6 Baptist church?

7 Q. Now, in your Lighthouse Gospel Evangelism you're
8 listed as Gospel J; is that what you go by?

9 A. In the prison?

10 Q. I don't know. I'm reading from your website, Gospel
11 Lighthouse Prison Evangelism, meet the workers.

12 A. Yes, sir, and it's got that to many I'm known as
13 Gospel J because in the prisons the inmates they did name me
14 Gospel J.

15 Q. Where does the money come from to run that?

16 A. Well, here lately there hadn't been a whole lot. We
17 support a lot of it ourself, but from people that want to --
18 either a church, sometimes we've had churches donate,
19 sometimes individuals.

20 Q. And I believe among other organizations that at one
21 time you were a member or the pastor for Salvation Riders, a
22 motorcycle club?

23 A. I was a chaplain for them.

24 Q. That's what I meant, but you were in a motorcycle
25 club?

JOHN STANSELL - CROSS BY MR. PRUITT

1 A. It was a Christian motorcycle ministry.

2 Q. I understand.

3 Excuse me a minute. I'll be right back. I hope
4 not, but I'll talk to my associate over here a minute.

5 [PAUSE]

6 MR. GAMBLE: That's it, Your Honor

7 CROSS-EXAMINATION

8 BY MR. PRUITT:

9 Q. Reverend, do you know Debra Stephens, the widow of
10 Paul Stephens?

11 A. Well, I know her through Garvin, and she was at the
12 party that I did for Brandon, and I've seen her a few other
13 times, but I don't know her as a personal friend.

14 Q. You don't know her personally though?

15 A. Well, I know her when I see her.

16 Q. Well, are there several pictures of her and Paul
17 Stephens' son, Skylar, in your photo album here?

18 A. I don't know how many there are but she was there.

19 Q. Okay. And Paul Stephens' son, Skylar, was also
20 there, wasn't he?

21 A. Yes, sir.

22 Q. Now, do you remember when you preached Brenda
23 Duvall's funeral that you told the congregation or the
24 assembled mourners there that Brenda had gone to a better
25 place and had left behind a good man in her husband, Garvin?

JOHN STANSELL - CROSS BY MR. PRUITT

1 A. What would you like for me to say at a funeral?

2 Q. Well, that wasn't true, was it?

3 A. I was trying to help the family relieve, and the
4 friends there.

5 Q. You seem to have a problem with speaking the truth,
6 don't you?

7 A. No, sir. No, sir.

8 Q. Well, you told everybody there something that wasn't
9 true because it suited your convenience at that time and that
10 circumstance, didn't you?

11 A. It didn't suit my convenience. It suited the
12 comforting of the family.

13 Q. And when you signed the Mason petition to get Garvin
14 in the Masonic Lodge you were untruthful then, weren't you?

15 A. I signed his petition.

16 Q. Well, just answer the question. Were you untruthful
17 or not?

18 A. I signed his petition.

19 Q. Well, does that mean that you're vouching for his
20 good character, to your knowledge?

21 A. If you remember what I testified to was that I was
22 counting on the three men to --

23 Q. Let's just break it down. You're always counting on
24 somebody else to make up for you?

25 A. No, sir.

1 Q. You were hoping that the membership committee would
2 make up for you at the Masonic Lodge. You were hoping that
3 the police department or the sheriff's department of Anderson
4 would crack this case and so you waited for seven years. You
5 tell the truth when it suits you, don't you?

6 A. No, sir.

7 Q. Now, when you were in the Ku Klux Klan did you
8 espouse their belief that people of the Caucasian race are
9 superior to people of the African American race?

10 A. Well, I imagine by my very membership in it that,
11 you know, that's what it suggested. But do I believe that?
12 No.

13 Q. So here again you --

14 A. I testified --

15 Q. You go in an organization --

16 A. I testified that I joined for --

17 THE COURT: Hold on a minute. Listen. She can only
18 take one person down. Let him finish the question, then you
19 answer.

20 THE WITNESS: I'm sorry, sir.

21 THE COURT: That's all right. Go ahead.

22 BY MR. PRUITT:

23 Q. So here again you've not told the truth when you
24 joined this organization. You joined it under false
25 pretenses.

JOHN STANSELL - CROSS BY MR. PRUITT

1 A. No, sir.

2 Q. Okay. So you joined it because you believed in the
3 tenets of the Ku Klux Klan when you joined it?

4 A. I joined mainly because of some friends and because
5 of political things.

6 Q. Okay. Well, did you believe at that time that the
7 monopolistic Jewish community was controlling the world and
8 the world's banks and finances?

9 A. I believe that there was, as I still do, I believe
10 that there is shadow government but not the Jewish bankers. I
11 believe that Israel is God's chosen people and that land is
12 special to him and that the Jewish people are very special to
13 him.

14 Q. Well, the truth of it is, is that you tell the truth
15 and when it suits you, and when it doesn't suit you, you have
16 no problem with not telling the truth.

17 A. No, sir, you're trying to twist it on me.

18 Q. Well, if sponsoring people in the Masonic Lodge when
19 you know it's not true, and telling a congregation of mourners
20 that a man is a good man in February of 2006 when you know in
21 your heart it's not true, and joining an organization that you
22 don't believe in is not telling the truth when it suits you I
23 don't know what is.

24 A. Well, sir, you're trying -- you know, sometimes just
25 yes or no when people don't understand all the facts and

JOHN STANSELL - REDIRECT BY MS. HOGAN

1 everything involved it's a whole different world, and you know
2 that. As far as the funeral, I don't feel any guilt over what
3 I said because I was trying to comfort a grieving family, and
4 it was necessary. Just like there's times that you do things
5 are necessary in your job.

6 Q. Yes, sir. Well, you know, it's real interesting
7 that you waited until after Garvin's wife, Brenda, died before
8 coming forward; is that right?

9 A. Yes, sir, I did.

10 Q. Okay. And it just so happens that you knew that she
11 was no longer available because of her death to testify in
12 Garvin's defense.

13 A. No, sir. I didn't have those kind of motives. She
14 was like a sister to me. I loved her, and she asked me on
15 more than one occasion or she made it known that if anything
16 ever happened to her that she wanted me to preach her funeral.

17 MR. PRUITT: That's all I have.

18 THE COURT: Any redirect?

19 MS. HOGAN: Just a few, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. HOGAN:

22 Q. Back to your written statement that you gave to
23 Detective Garland.

24 A. Yes, ma'am.

25 Q. I think one place says July of 1999 and one place

1 says June of 1999?

2 A. Yes, sir.

3 Q. But you are adamant that it was June of 1999?

4 A. You know, if I said July it was an accident on my
5 part, but as my statement said, I refer, I said I know this is
6 the date because I marked it in my book, and I have that very
7 photo album there and was pointing at it.

8 Q. So you were certain that the birthday party was on
9 June 27th, 1999?

10 A. Yes, ma'am.

11 Q. And going back to the birthday card. You said that
12 Brenda, Garvin's wife, helped you put it together.

13 A. Yes.

14 Q. What did you mean by that? Explain that.

15 A. You know, as I also testified to there was a time in
16 my life when I wasn't living right and that, you know, that
17 shames me and no one knows the shame, but I can't undo that
18 now. But Brenda and Garvin had a real big sense of humor.
19 I've got a real big sense of humor. With that it was too big
20 a sense of humor. That was vulgar, and I've admitted that.

21 But we had gone on a -- her daughter, and at that
22 time the gentleman she was married to, they had gone on some
23 -- I don't know if it was their first anniversary or second or
24 something and their car had broken down on them above Pigeon
25 Forge, and Brenda called and wanted to know if we wanted to go

JOHN STANSELL - REDIRECT BY MS. HOGAN

1 up there with them. And we said yes, and we rode up. They
2 borrowed a van. We went up, all of us to go get Lisa, and I
3 believe his name was Jason.

4 But when we come back down we stopped at Pigeon
5 Forge. It was late, and we went into a Krystal burger. And
6 the place was packed. And as I was putting my -- you know,
7 emptying my tray into the trash can. Where you did that at
8 was kind of a centerpiece between the ordering line and the
9 dinning room. And I got my hands full and Garvin came up and
10 he pantsed me, and I mean pantsed me all the way down to my
11 ankles, and there was a whole line of people. There was one
12 woman grabbed her little girl's eyes, and there was a dining
13 room full of people.

14 You know, it was very embarrassing. And, you know,
15 at first it kind of made me mad because of where he done it
16 at. But then, you know, we laughed. And I said, Hey, Bud,
17 you know, I don't get mad. I get even, you know.

18 And so after that it came up, I pulled a stunt on
19 Garvin. He was working third shift and Brenda came over to
20 the house one night and we were, you know, laughing, cutting
21 up, my wife and her, and myself. And I said, Hey. I said,
22 I'm ready to get even with Garvin on what he done to me up
23 there at the Krystal burger. And she said, All right, what
24 are we going to do.

25 And I went to a Winn Dixie that was open 24 hours.

JOHN STANSELL - REDIRECT BY MS. HOGAN

1 I got a balloon that said red hot lover, and got some roses
2 and a box of candy, and a card. And I knew there was a person
3 he didn't like real good, and so I put on there that, you
4 know, hey, from that person, you know, I love you, and this
5 kind of stuff. And we went to the guardhouse, and Garvin had
6 pulled some pranks on the guard because Garvin is noted for
7 pulling pranks. And he took it in there and let people see
8 it, and then we got the card signed and everything. I mean,
9 that was what it was all about.

10 Q. Okay. And this was when he turned 40, which you
11 said was in March of 1999?

12 A. That card was -- I'm not sure exactly. The best I
13 can remember, that card right there we turned -- I think maybe
14 Brenda got and took up there, but the card I'm talking about
15 was a different little card, and it was around Valentine's
16 Day.

17 Q. Okay. But this birthday card was when he turned 40,
18 which was in --

19 A. That's what they said. I don't remember. I know
20 that it couldn't have been 2006, like he originally said.

21 Q. Right. Okay. Do you remember if it was before or
22 after Paul Stephens' killing?

23 A. It was before.

24 Q. So it was before June of 1999 --

25 A. Yes, ma'am.

JOHN STANSELL - REDIRECT BY MS. HOGAN

1 Q. -- that he turned 40? Okay.

2 I know we've heard a lot about the different kinds
3 of ministries that you've been a part of but in 1999 were you
4 a part of a ministry at that point?

5 A. As I said, we were--at that time, we had developed
6 the name Gospel Lighthouse Prison Evangelism because we had
7 gotten some letters in the mail from people, inmates wanting
8 some Bibles.

9 At that time, it was the best of my knowledge from
10 Texas. So someone had gotten--because in the early 80's when
11 I was pastoring at Ware Shoals I also would go up and preach
12 some at the Perry Correctional Institution, and some of my
13 tracks and things had gotten even--I don't know how, but they
14 had gotten into some prisons in other states and things.

15 And it was amazing. We hadn't done anything like
16 that for a long time, and I went to the post office one day
17 and there was a letter from an inmate in Texas wanting a
18 Bible. We sent him one, and then all his buddies wanted one,
19 and so forth and so on.

20 I started trying to get back on track late 1999.
21 Two thousand was a very pivotal year for me. And, you know,
22 then I started going into the prisons here again, in more than
23 just one and preaching. We started out, when we first started
24 back, we were going to McCormick Correctional Institution down
25 in McCormick, then we got Perry, and one thing led to another,

JOHN STANSELL - REDIRECT BY MS. HOGAN

1 you know, different prisons.

2 But, you know, today I have -- I actually, because I

3 didn't want to be associated with some of these groups that

4 are noted mainly for internet-type thing, I went down to

5 Columbia and through a legitimate church in Columbia was

6 ordained, and that's who I claim my ordinations through.

7 MS. HOGAN: Okay. Nothing further from the State,

8 Your Honor.

9 THE COURT: All right. Thank you, sir. You can

10 step down.

11 MS. HOGAN: May this witness be excused, Your Honor?

12 THE COURT: Any objection?

13 MR. GAMBLE: No objection.

14 MR. PRUITT: No objection.

15 THE COURT: Without objection.

16 You all approach a moment and let me ask you what

17 you got.

18 (WHEREUPON, a bench conference was had.)

19 THE COURT: Ladies and gentlemen, we have a couple

20 more witnesses this afternoon. I'm going to give you a break

21 now. What I'm going to try to do is when we come back push it

22 to the end tonight. We will not go as late as we did last

23 night. We may go a little past 5:00.

24 If that's a problem, Mr. Foreman, let me know.

25 But go, and if anybody needs to smoke now may be the

1 time to smoke, and walk around. Take 15 minutes. Don't
2 discuss the case. We'll get you back in 15 minutes.

3 (WHEREUPON, the jury leaves the courtroom at
4 approximately 4:02 p.m.)

5 THE COURT: Okay. Take a break. We'll come back in
6 15 minutes.

7 (WHEREUPON, a brief recess was taken.)

8 (WHEREUPON, Court's Exhibit Number 1, a Note From
9 the Jury, was marked and made a part of the record.)

10 THE COURT: I have a question from the jury; could
11 we start earlier on Friday morning.

12 The problem is I can't, and I'll tell them that.
13 I've got an appointment at 9 o'clock, just like I did this
14 morning. I'm just going to tell them I have other matters I'm
15 taking care of other than this and start at 9:45. I think
16 I'll be back by then. Okay.

17 MR. PRUITT: Your Honor, based on Your Honor's
18 ruling in allowing the testimony to come in relative to what
19 Garvin Duvall told the preacher here, we would move for a
20 mistrial. It's against the ruling that you made at the start
21 of the case in regard to the confessions of co-defendants, and
22 we'd move for a mistrial.

23 THE COURT: All right. I'm going to deny your
24 motion. I actually didn't think that what came out--there
25 were two lines, but as I said, somebody may disagree. I'll

1 deny your motion. As I said, it's a difficult position to be
2 put in and I don't like it, but I got what I got.

3 MR. BRADLEY: Your Honor, we also have one quick
4 issue to take up, and we can go into it now while the jury is
5 out. We have the lady here from Liberty Life Insurance, which
6 is now R. B. C. Insurance. She's a business document
7 authenticator. She'll testify to the fact there was a policy.
8 The insured was the victim. Ms. Moore did own the policy, she
9 was the beneficiary. And I believe Mr. Pruitt has some type
10 of objection to that he wants you to hear at this time.

11 THE COURT: Yes, sir, is there an objection to it?

12 MR. PRUITT: Your Honor, this set of information
13 with this insurance policy was only forwarded to me by mail on
14 May 5th, 2009, and due to the shortness of time I haven't had
15 time to further investigate it. It's not just that policy,
16 it's the records of the insurance company relative to about 10
17 policies that Ms. Moore had. She was paying a debit route
18 collector on about 10 policies.

19 So it's my inability to get the records on all the
20 policies that she had during that time period in 1999, so for
21 that reason, and because of the lateness of the disclosure of
22 it we would object to its being admitted.

23 THE COURT: Yes, sir?

24 MR. BRADLEY: Your Honor, we received the documents
25 on May 4th. He received them the very next day. There's not

1 much we could have done about -- we gave them as soon as we
2 got them, and these are his client's policies. If he wanted
3 more documents about other policies he could ask his client
4 about that, but I feel that it's been -- he received them on
5 the 5th. Today is the 14th, I believe, and we've had plenty
6 enough time where he had business days to make phone calls and
7 try to get anything else he needed to get, but we feel that
8 there's been ample enough time for him having this in his
9 possession and where we could admit this in evidence.

10 MR. PRUITT: Your Honor, it was mailed on the 5th,
11 according to the affidavit of mailing. So I wouldn't have
12 received it until probably last Monday. No, that was
13 Confederate Memorial Day. No that was this week.

14 THE COURT: All right. Well, since they were your
15 client's policies I'm going deny your motion, but again,
16 you're protected for the record.

17 MR. BRADLEY: Thank you, Your Honor.

18 THE COURT: Okay. Bring them in.

19 (WHEREUPON, the jury enters the courtroom at
20 approximately 4:26 p.m.)

21 THE COURT: All right. Ladies and gentlemen, first,
22 I do have your question about we want to know if we could
23 start earlier on Friday morning. Part of the problem is I'm
24 the only judge here this week and so I'm trying to do
25 everything that has nothing to do with this case prior to you

KENNETH WHITLER - DIRECT BY MR. BRADLEY

1 getting here. My concern with starting too early is that I'm
2 not going to finish and you're going to wait.

3 Now, this morning I didn't start until 10:00 because
4 you stayed late last night. Tomorrow morning I have something
5 at 9:00. We'll start a little bit earlier tomorrow, but
6 there's a reason why we're starting later, and I'm sorry
7 because it puts us late. Nobody here likes to stay late
8 either, so I understand. I'll do the best I can.

9 Okay. You can call your next witness.

10 MR. BRADLEY: Thank you, Your Honor. May it please
11 the Court. The State calls agent Ken Whitler.

12 KENNETH H. WHITLER, after having been duly
13 sworn, testified as follows:

14 THE CLERK OF COURT: If you'll go up and have a seat
15 in the witness chair.

16 (The witness was seated in the witness stand.)

17 THE CLERK OF COURT: If you'll state your full name
18 and spell your last for the record.

19 THE WITNESS: My name is Kenneth H. Whitler, and the
20 last name is spelled W-h-i-t-l-e-r.

21 DIRECT EXAMINATION

22 BY MR. BRADLEY:

23 Q. Good afternoon, Agent Whitler. What is your
24 occupation?

25 A. I'm a firearms tool mark examiner for the South

KENNETH WHITLER - DIRECT BY MR. BRADLEY

1 Carolina Law Enforcement Division laboratory.

2 Q. How long have you been employed by SLED?

3 A. Since 1997.

4 Q. And what are your duties there?

5 A. I examine ammunition components and other objects to
6 determine if they were fired by a particular gun or fired by
7 the same gun.

8 Q. And is this what's known as firearms identification?

9 A. Yes, sir.

10 Q. And how is that possible?

11 A. It's possible because when a firearm is manufactured
12 it's -- during the manufacturing processes marks are left on
13 the firearm itself and when a bullet or cartridge case is
14 fired in the gun those materials being softer pick up those
15 marks from the barrel or the breech face of the firearm and
16 you are able to identify them back to a gun in many cases.

17 Q. What is your educational background?

18 A. I have an undergraduate and graduate degrees from
19 the University of South Carolina.

20 MR. GAMBLE: I'll stipulate, Your Honor.

21 THE COURT: To his expert --

22 MR. GAMBLE: He's an expert in firearms and --

23 MR. PRUITT: So will I.

24 MR. GAMBLE: -- guns.

25 THE COURT: All right. They are going to stipulate

KENNETH WHITLER - DIRECT BY MR. BRADLEY

1 that he's an expert in firearms and ammunition.

2 MR. BRADLEY: Thank you, Your Honor.

3 BY MR. BRADLEY:

4 Q. Have you ever testified in court before?

5 A. Yes, I have.

6 Q. How many times?

7 A. Approximately 200 times in various state, federal
8 and territorial courts.

9 Q. Okay. Agent Whitler, I'm showing you what's been
10 marked State's Exhibit 38, 39 and 40. Take a look at these
11 and see if you can identify them.

12 A. Yes, I can.

13 Q. How so?

14 A. They are still in the heat-sealed bags with my
15 initials and date on them.

16 Q. For what reason did these come in your possession?

17 A. They were sent in for examination by, I think the
18 Anderson County Sheriff's Department.

19 Q. And did you make examinations on them?

20 A. Yes, I did.

21 Q. Can you describe those.

22 A. Basically, in this case since no firearm was
23 submitted basically there was 2 bullets, 2 fired bullets and 1
24 fired cartridge case. There was nothing to compare the
25 cartridge case to. So I examined the 2 bullets and compared

KENNETH WHITLER - DIRECT BY MR. BRADLEY

1 them to each other and determined that they were both fired by
2 the same firearm barrel.

3 Q. And did you make any conclusions as to what type of
4 caliber the ammunition was?

5 A. Yes, sir. The 2 bullets were most consistent with
6 being the type of bullet that's normally loaded in a 380 auto
7 caliber cartridge.

8 Q. And, again, you testified that both of these bullets
9 were fired from the same gun?

10 A. That's correct.

11 Q. And what did you do with the evidence after you
12 finished examining them?

13 A. It was resealed and ultimately returned to the
14 contributor.

15 MR. BRADLEY: Your Honor, at this time the State
16 would move these bullets into evidence. Well, these exhibits
17 into evidence.

18 THE COURT: Any objection?

19 MR. PRUITT: No objection.

20 MR. GAMBLE: No objection.

21 THE COURT: Without objection.

22 (WHEREUPON, State's Exhibit Numbers 38, 39 and 40
23 were admitted into evidence.)

24 MR. BRADLEY: Nothing further, Your Honor.

25 THE COURT: All right. Yes, sir?

KENNETH WHITLER - CROSS BY MR. GAMBLE

1 MR. BRADLEY: I just want to make sure, Your Honor,
2 I apologize, make sure all 3 exhibits.

3 THE COURT: Yeah, without objection, all 3.

4 MR. PRUITT: I don't have any questions.

5 THE COURT: All right.

6 MR. GAMBLE: I have one.

7 CROSS-EXAMINATION

8 BY MR. GAMBLE:

9 Q. The 380 fires a 38 caliber bullet?

10 A. Yes, sir, it does.

11 Q. And which is the interchange way? The 38 will go in
12 a 380 or a 380 will go in a 38?

13 A. Well, if you're thinking of a 38 Special, the
14 traditional 38 caliber, cartridge, it can't be fired in either
15 gun. The bullet diameter of a 380, a 9 millimeter, and 38

16 Special, and a 357 are all the same within 10,000 -- a 1000ths
17 of an inch of each other of being the same diameter.

18 Generally, in some guns you can fire a 380 in a 9 millimeter,
19 although it's a shorter cartridge, but you can't fire the 9
20 millimeter in a 380 because the cartridge is too long.

21 Q. That was what I was asking. Yeah. I ran into that
22 a few cases back. But you can't say that this 380 caliber
23 cartridge case at any time ever held these 38's, can you?

24 A. No, sir, I can't. That's not an exam we do to see
25 if the bullet came from a particular cartridge case.

KENNETH WHITLER - CROSS BY MR. GAMBLE

1 Q. Right. So this cartridge could have been picked up
2 in a field where it doesn't even relate to these 38's?

3 A. Well, I don't know where they came from.

4 Q. They came from a field.

5 A. Okay.

6 Q. But it could be that it doesn't relate even to the
7 38's, couldn't it?

8 A. It's a possibility.

9 MR. GAMBLE: Yeah. Thank you. That's all I have.

10 THE COURT: Any redirect?

11 MR. BRADLEY: No, Your Honor.

12 THE COURT: Thank you, sir.

13 Can he be excused? Any objection?

14 MR. PRUITT: No objection.

15 MR. GAMBLE: Yes.

16 THE COURT: Thank you, sir.

17 MR. BRADLEY: Your Honor, the State calls George
18 Nicholson.

19 GEORGE EDWARD NICHOLSON, after having been duly
20 sworn, testified as follows:

21 THE CLERK OF COURT: You can go up and have a seat
22 in the witness chair, please, sir.

23 (The witness was seated in the witness stand.)

24 THE CLERK OF COURT: If you'll state your full name
25 and spell your last name for the record.

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 THE WITNESS: George Edward Nicholson,
2 N-i-c-h-o-l-s-o-n.

3 DIRECT EXAMINATION

4 BY MR. BRADLEY:

5 Q. Good afternoon, Mr. Nicholson. What is your
6 occupation?

7 A. I'm an asset protection manager for AT&T in South
8 Carolina.

9 Q. How long you worked there?

10 A. Since AT&T took over BellSouth. That was the end of
11 December, of December 2006, but I've been with Southern Bell,
12 BellSouth, now AT&T for 36 years.

13 Q. And that's reflected in the different name changes?

14 A. Yes, sir.

15 Q. As the corporations change their names?

16 A. Yes, sir.

17 Q. What was the name of the company in 1999?

18 A. BellSouth Telecommunications.

19 Q. And what is the nature of your business?

20 A. The telecommunications business or my part of it,
21 sir?

22 Q. Your part.

23 A. My part of it, I represent the company in court
24 appearances as a custodian of records. I also conduct
25 employee investigations and act as the liaison between law

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 enforcement and the telephone company.

2 Q. And what type of records does your company generate?

3 A. Most anything that are subpoenaed. We have
4 telephone records as far as calls to and from, subscriber
5 information, and also personnel records if they are subpoenaed
6 sometimes for divorce cases or whatever.

7 Q. And how is this information obtained?

8 A. Well, we have a subpoena compliance group. At the
9 time this was going on with BellSouth it was still a separate
10 entity. We had that group in Georgia and Atlanta, and
11 subpoena or search warrant would be transmitted then either by
12 mail or by fax specifying what records they wanted, and the
13 people in that office there would then provide those reports
14 back to the agency that did the request.

15 Q. Specifically for the records of your company, how is
16 information obtained on the records of your company?

17 A. Well, if it's telephone call records it's obtained
18 electronically at the time or very near the time the call was
19 placed.

20 Q. And is this done in the ordinary course of business?

21 A. It is.

22 Q. And do these entries on these records accurately
23 reflect the information obtained?

24 A. Yes, sir, they do.

25 Q. And what happens after they are completed?

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 A. The telephone calls?

2 Q. The records.

3 A. The record. There are different retentions periods

4 depending on which type of records you have. If it's a record

5 that supports billing that would be kept longer than a--say a

6 record of local calls, as those are not -- they have no impact

7 on the billing.

8 Q. Okay. And were documents from your company

9 subpoenaed in this case?

10 A. Yes, sir, they were.

11 Q. And what procedure was followed in responding to

12 that subpoena?

13 A. I was not personally involved with that but I --

14 from what I can see of the records they would have gone to the

15 office we had in Atlanta at the time to handle subpoena

16 compliance, and that's where the records there would have been

17 pulled by employees in that office and provided back to the

18 agency that requested it.

19 Q. And what, if anything, was produced by your company

20 in this case?

21 A. From what I've seen we had local call detail on at

22 least 2 telephone numbers, and we had subscriber information

23 showing who the subscriber or user of the service was for at

24 least 2 numbers.

25 Q. Okay. Mr. Nicholson, I'm showing you what's been

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 marked State's Exhibit 35 and 36. If you'll take a look at
2 those and see if you recognize them.

3 A. Yes, sir, I do recognize them.

4 Q. Okay. And how so?

5 A. Well, they are copies of telephone company records
6 we normally provide under search warrants or subpoena.

7 Q. Are they fairly and accurately represented?

8 A. They are accurate, yes, sir.

9 MR. BRADLEY: At this time, the State would move
10 these 2 exhibits into evidence, Your Honor.

11 THE COURT: Any objection?

12 MR. PRUITT: No objection.

13 MR. GAMBLE: No objection.

14 (WHEREUPON, State's Exhibit Numbers 35 and 36,
15 Documents, were admitted into evidence.)

16 MR. BRADLEY: Permission to publish to the jury?

17 THE COURT: Yes, sir.

18 BY MR. BRADLEY:

19 Q. Let me see those back from you and have you step
20 down.

21 A. (The witness complied).

22 Q. If you'll take a stand over here at the TV so you
23 can look at it and explain to the jury as I show it to you.
24 I'm going to direct your attention first to State's Exhibit
25 Number 35. This is a 2-page document. See if I can zoom it

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 in for you. On June 30th, 1999 whose phone number was

2 ?

3 A. Debra Stephens.

4 Q. And do we have the records for that number?

5 A. You have the subscriber information on the screen,
6 sir.

7 Q. Yes, but would you also have the records for that
8 number that I showed you earlier?

9 A. Yes.

10 Q. Okay. And that would be here on page 2.

11 A. What you have there is a call detail or record of
12 calls to and from the number you just had the subscriber
13 information for.

14 Q. Okay. And showing up here at the top it shows that
15 this is the same number, -0442.

16 A. Yes, sir.

17 Q. That belonged to Debra Stephens?

18 A. Yes, sir.

19 Q. And referring your attention to the June 30th calls
20 first look at the -- this is listed military time; is that
21 correct?

22 A. It is, like a 24-hour clock.

23 Q. Refer your attention to the 14:52. What time would
24 that be in standard time?

25 A. That would be 2:52 p.m.

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 Q. Okay. Is there a call made to Debra Stephens at
2 that time?

3 A. Yes, sir. If you go back to the top of the columns
4 you can see what the headings are. One says originating
5 number or calling number, and then the other one is the called
6 number. So it's the from and the to, but that's what we are
7 referring to down the page.

8 Q. Okay.

9 A. So Debra Stephens' number made those calls there
10 that have the brackets around them at the top there, the upper
11 level.

12 Q. But referring to the 14:52, 14:53 and 14:57, it
13 looks like an -9149 number is calling the -0442.

14 A. Right, she's receiving the call. I was looking at
15 the top bracket. You're looking at the bottom, right, this
16 one here?

17 Q. Yes.

18 A. Okay. Those were calls coming into her number, yes,
19 from -9149.

20 Q. And what do these numbers out to the side represent,
21 the 1-1 and 2?

22 A. These are duration markers. Instead of giving what
23 was basically in minutes but they are rounded to the nearest
24 minute. So a record of 1 could be anything from 1 second up
25 to a minute and 29 seconds.

GEORGE NICHOLSON - DIRECT BY MR. BRADLEY

1 Q. What about 2?

2 A. Two would be anything from a minute and 30 seconds
3 to 2 minutes and 29 seconds.

4 Q. Okay. So this same number, -9149, called Debra
5 Stephens' number 3 times back to back at 2:52, 2:53 and 2:57?

6 A. That's correct.

7 Q. Okay. Shift our focus to State's Exhibit 36.

8 Looking at that top page again, what does this represent?

9 A. This represents subscriber information for the
10 residence phone number billed in the name of
11 Frances or Mrs. Frances B. Moore.

12 Q. Okay. And on the second page, that was the records
13 for that number?

14 A. Yes, sir, it was. It should have her number at the
15 top.

16 Q. Same number?

17 A. Correct.

18 Q. Okay. I just want to refer you to a time frame on
19 this one. Were any calls made to or from Frances Moore's
20 number during the hours of 2:00 p.m. and 4:00 p.m. on June
21 30th?

22 A. No, sir. If there had been they would be in here,
23 and would be something between 14:00 and 16:00 to match up
24 with the 2:00 p.m. to 4:00 p.m.

25 Q. Okay. So nobody was at her house making a phone

GEORGE NICHOLSON - CROSS BY MR. PRUITT

1 call or receiving a phone call during that time?

2 A. No calls came in or out, sir.

3 MR. BRADLEY: Nothing further from the State, Your

4 Honor.

5 THE COURT: All right. Come on back up, sir.

6 (The witness returned to the witness stand.)

7 CROSS-EXAMINATION

8 BY MR. PRUITT:

9 Q. Directing your attention to -- you may want to step
10 back down here, the calls at 16:25 -- excuse me. I may have
11 the wrong one. Hang on a minute. Directing your attention to
12 the calls that you've previously talked about that came in at
13 14:52, 14:53 and 14:57, the one at 14:52 in ordinary time
14 would be 2:52 in the afternoon, wouldn't it?

15 A. Yes, sir.

16 Q. And it was a short call, between 1 second and up to
17 a minute and a half?

18 A. Just under a minute and a half, 1 minute 29 seconds.

19 Q. All right. The next call was at 2:53; is that
20 right?

21 A. Yes, sir.

22 Q. And the next call was at 2:57?

23 A. That's correct.

24 Q. And the last call would have been from a minute and
25 a half to 2 minutes and 29 seconds?

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 A. Yes, sir.

2 Q. Okay. All right. Go ahead and have a seat.

3 A. (The witness complied).

4 MR. PRUITT: That's all the questions I have.

5 MR. GAMBLE: No questions.

6 THE COURT: All right. Any redirect?

7 MR. BRADLEY: May he be excused, Your Honor?

8 THE COURT: Thank you, sir.

9 Any objection to him being excused?

10 MR. GAMBLE: No objection.

11 MR. PRUITT: No objection.

12 MR. BRADLEY: The State calls Rusty Garrett.

13 RUSTY GARRETT, after having been duly sworn,

14 testified as follows:

15 THE CLERK OF COURT: Have a seat in the witness

16 chair, please.

17 (The witness was seated in the witness stand.)

18 THE CLERK OF COURT: If you'll state your full name

19 and spell your last name for the record.

20 THE WITNESS: Rusty Garrett, G-a-r-r-e-t-t.

21 DIRECT EXAMINATION

22 BY MR. BRADLEY:

23 Q. Good afternoon, Rusty?

24 A. Hello.

25 Q. Where do you currently work?

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 A. I'm retired.

2 Q. And where did you work before you retired?

3 A. Anderson County Sheriff's Office.

4 Q. And how long were you in law enforcement before you
5 retired?

6 A. Eighteen and a half years.

7 Q. All of those with Anderson County?

8 A. Fifteen of them were. Three years -- my first 3
9 years were at Pickens County Sheriff's Office.

10 Q. And what capacity were you working in June of 1999?

11 A. As a detective or investigator with the Sheriff's
12 Office in Anderson.

13 Q. And did you become involved in investigation of the
14 murder of Paul Stephens?

15 A. Yes, I did.

16 Q. And that occurred in Anderson County?

17 A. Yes, it did.

18 Q. And how did you become involved?

19 A. Every morning we have a meeting between detectives
20 and investigators and information was given out about the
21 homicide that had occurred the day before, so this would
22 either have been, I guess on July the 1st the information was
23 given out to all the detectives and investigators from some of
24 the information obtained from what was gathered the day before
25 of a vehicle that was -- a vehicle of interest, which was a

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 white Toyota RAV4.

2 And also there still had to be some canvassing of
3 the neighborhoods. There was a huge area out there, kind of
4 isolated and some homes were 2 to 3 miles away from each
5 other, and we had to do that. And we kind of coordinated that
6 type of thing, that one.

7 Also, there was a suspect description of the -- not
8 of the vehicle but people within the vehicle from what they
9 were telling us that there was a white male and a white female
10 in the car, and that they were -- some investigators were
11 trying to obtain a computer composite of those two suspects.
12 And there was also other witnesses and information like that
13 that had to be obtained.

14 And from all of that we ended up getting phone
15 records, phone records from Debra Moore -- or Debra Stephens
16 and Frances Moore's residence, and that's where we found out
17 phone calls had been made to the residence of Debra Stephens
18 around 2:54, around this time frame.

19 Q. And referring to those phone records, those calls
20 made to Debra Stephens, were you able to ascertain the number
21 that was calling Debra Stephens' number?

22 A. Yes. It was the -9149, which we had already
23 obtained from the pay phone at Anderson Meats just by looking
24 at it, from the other information that 2 people had stopped
25 there. So we went ahead and got that phone number.

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 Q. So by looking at the records that you had subpoenaed
2 you determined that -- the witnesses had told you people were
3 using the pay phone -- people who were using the pay phone
4 were calling Debra Stephens' numbers; is that correct?

5 A. They were saying that 2 people were on that phone,
6 so we obtained that phone number. I had spoke to Debra
7 Stephens around that time also and she had given me
8 information that Paul Stephens had received a phone call
9 before leaving. So that's when I immediately turned around
10 and started doing a search warrant for the phone records to
11 Debra Stephens' home. And then shortly after that Frances
12 Moore was picked out of a photo lineup. So then we
13 incorporated Frances Moore's phone records into those, also.

14 Q. And what did you learn by obtaining those phone
15 records from Frances Moore?

16 A. Frances Moore, during that time frame there was no
17 phone calls made, especially between 2:30 and 4:00 p.m. There
18 was no phone calls coming in or out of her residence.

19 Q. After the phone records and the rest of the stuff
20 that you described you did in your investigation what else did
21 you do to investigate this matter?

22 A. We discovered that traveling by the home of Frances
23 Moore that Frances Moore had a white Toyota RAV4 sitting in
24 her driveway. I went into the driveway in an unmarked vehicle
25 and obtained the tag information and we ran the tag

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 information through the N. C. I. C. computer and found out
2 that the vehicle was registered to Frances Moore.

3 Q. And, again, you are referring to State's Exhibit 34
4 as the document you obtained from N. C. I. C.?

5 A. Yes, it is.

6 Q. And what is that document?

7 A. It's the vehicle registration from the N. C. I. C.
8 showing the ownership that we obtained.

9 Q. Okay. Thank you. Did you do anything else to
10 investigate this matter?

11 A. Later, a search warrant was done at the home of
12 Frances Moore, and I was there for that. We were searching
13 for any type of weapons or anything like that. None was
14 located.

15 Q. So at this point in the investigation what happened?
16 What did you all decide to do?

17 A. During that time--and I know the phrase cold case
18 has come up several times, but a case is always active. If
19 it's not an arrest has been made in any case, a case is still
20 active, and a case may sit there with no information coming
21 in. We don't have anything to investigate, the case is still
22 there and still active but no new information was coming in,
23 in this case. So the case remained active but not being
24 actively investigated, with no new information.

25 Q. And were there any other reasons for not actively

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 investigating it?

2 A. Well, you also have issues of manpower and other
3 crimes going on. During this time was almost a start of 20 to
4 30 homicides in the next 2 to 3 years between 11
5 investigators. So it's a manpower issue and other crimes
6 issue, also.

7 Q. So after that, after it became an ongoing case but
8 inactive did anybody else take up the case and start looking
9 at it again?

10 A. My understanding -- I was promoted in 2004 to
11 lieutenant in uniform patrol. At that point, I understand
12 that it went -- that there was a cold case person that kind of
13 took over the case or had access to the case and would have
14 more time to follow up on it.

15 Q. Okay. And once this happened, this person took it
16 over, did any new information come in?

17 A. From my understanding, someone became available that
18 had overheard some information.

19 Q. Is that person you're referring to John Stansell?

20 A. That's correct.

21 Q. So once John Stansell came forward with the
22 information he provided law enforcement what did you do as the
23 investigator at that stage?

24 A. At that point, with that information, and I believe
25 Lieutenant Major signed the warrants for murder, conspiracy to

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 commit murder and possession of a firearm during a violent
2 crime.

3 Q. Okay. Now, who were those obtained on?

4 A. Those were obtained on Frances Moore, the defendant;
5 and the other defendant, Duvall.

6 Q. And since that time have you done anything else to
7 further your investigation?

8 A. Also went back, which I had done during that time
9 frame at the initial investigation but because I could not
10 find my notes I went back over and went from each point, each
11 location, each home to the crime scene; from the store to the
12 crime scene, the store to the residences of the suspects and
13 got mileage and time frames.

14 Q. And where did the victim live?

15 A. The victim lived at in
16 Liberty, if you are familiar with Highway 93 between Easley
17 and Liberty.

18 Q. And did you measure the distance between the
19 victim's home and the crime scene?

20 A. Yes, I did.

21 Q. And what was that measurement?

22 A. That measurement is 7.1 miles.

23 Q. How long did that take you to measure?

24 A. Took me 11 minutes and 27 seconds.

25 Q. And how did you measure it?

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 A. By my vehicle, just the odometer.

2 Q. How fast were you going when you measured it?

3 A. Was going the speed limit, and part of that is over

4 a country road with almost no traffic and to go 35, 45 miles

5 per hour on that road was very difficult so I went slightly

6 over in those times, and the other point was 55 miles per hour

7 on Highway 178.

8 Q. So going the speed limit it took 11 minutes and 27

9 seconds to get from the victim's home to the crime scene?

10 A. That's correct.

11 Q. But if you had driven it faster you could have made

12 it quicker?

13 A. No doubt in my mind it could be made in less than 10

14 minutes.

15 Q. Okay. What about the distance and time from the

16 crime scene to Anderson Meats and Grocery?

17 A. That distance is 1.7 miles, and it took, going the

18 speed limit, 2 minutes and 36 seconds.

19 Q. Okay. And what about from the Defendant Moore's

20 residence to the crime scene?

21 A. And as it's been testified earlier, the 2 residences

22 sit side-by-side. I split the difference up, and the

23 driveways are basically feet apart, yards apart. So I kind of

24 started in the middle in the front yard of Frances Moore,

25 which would have been Paul Stephens' driveway behind me and

RUSTY GARRETT - DIRECT BY MR. BRADLEY

1 her driveway in front of me, is where I come up with the 7.1.

2 Q. Okay. Is there anything else that you looked into
3 during your investigation of this matter?

4 A. Had started looking into there was information, we
5 were getting calls from Liberty Life Insurance Company
6 questioning us on who suspects were in the death of Paul
7 Stephens.

8 Q. Okay. And what did you discover in that?

9 A. I discovered that the beneficiary to Paul -- Paul
10 Stephens had a life insurance policy, from what I understand
11 from them that I was told, a 100,00-dollar life insurance
12 policy, and the beneficiary was his mother-in-law, Frances
13 Moore.

14 Q. One more point, Detective. Going back to when you
15 first started investigating in this matter in '99, did you
16 happen to look into the vehicles that were on the scene, the
17 crime scene itself, vehicles that had came and went from the
18 crime scene?

19 A. I was not initially there at the crime scene, but
20 the following day at our meeting every vehicle was brought up
21 and assigned to someone to either locate or to determine who
22 they were, and shortly thereafter every vehicle accounted for,
23 even the white Dodge, and I believe it was -- I don't believe
24 it was associated with Mr. Powers and Mr. West. I believe one
25 of them had testified earlier that that's where that vehicle

RUSTY GARRETT - CROSS BY MR. PRUITT

1 had come from.

2 Q. And do you recall what Mr. Powers' testimony was,
3 what role he played in this?

4 A. I believe he was one of the initial people that seen
5 it. There were 2 that were there basically at the same time.
6 One come up and seen somebody running away from the car, and
7 that was him because he was calling 911 or trying to get some
8 help down there.

9 MR. BRADLEY: Okay. Nothing further at this time,
10 Your Honor.

11 CROSS-EXAMINATION

12 BY MR. PRUITT:

13 Q. Officer Garrett, I want you to do a little math for
14 me, if you would. The last call from the pay phone, according
15 to the records we just had, was at 14:57 and it lasted between
16 a minute and a half, and 2 minutes and 29 seconds. So just
17 for argument sake we'll call it 2 minutes.

18 A. Thank you for rounding.

19 Q. So if that call took --

20 (A problem with the microphone occurred.)

21 THE COURT: All right. Go ahead.

22 Q. I forget where we got to. If the last call was at
23 14:57 and lasted 2 minutes that would be 14:59, wouldn't it?

24 A. Yes.

25 Q. All right. And if the recipient of that call was

RUSTY GARRETT - CROSS BY MR. PRUITT

1 Paul Stephens at Debra Stephens' residence, like she told you,
2 and it took 11 minutes and 20 seconds, we'll just call that 11
3 minutes, to get to the crime scene, would that be 3:10?

4 A. Yes.

5 Q. Okay. And that wouldn't count for any time to back
6 up and get in position at the crime scene or anything like
7 that, would it?

8 A. That's correct.

9 Q. All right. And, if I recall, and you correct me if
10 I'm wrong, the vehicle at the crime scene was backed into the
11 little cut?

12 A. That's correct.

13 Q. So coming from Frances Moore's house that vehicle
14 would have had to of somehow or another backed in there,
15 either by going further past the cut and backing up on the
16 wrong way, or turning around in some fashion, wouldn't they?

17 A. Correct.

18 Q. Okay. Now, just a little bit more math while we're
19 on math and you're very good at it, and I don't know how long
20 you've been here today because it's been all I can do to keep
21 up with who is talking here.

22 If Josh Anderson said that the people left Anderson
23 Meats that he saw, whoever they were, at 3:10 and they were
24 driving back to Frances Moore, the victim's house, and that
25 was the last call they received, how long would it take them

RUSTY GARRETT - CROSS BY MR. GAMBLE

1 to get back to the victim's house?

2 A. If they left at 3:10?

3 Q. Yeah.

4 A. Then that would be somewhere around 3:20, 3:21.

5 MR. PRUITT: That's all I have.

6 CROSS-EXAMINATION

7 BY MR. GAMBLE:

8 Q. I might have misunderstood you but who did you say
9 had the white Dodge truck?

10 A. That would be Aaron Powers, Billy West.

11 Q. Were in a white Dodge truck?

12 A. Uh-huh.

13 Q. Which one had on the cut-off t-shirt?

14 A. I'm not sure.

15 Q. Which one was driving?

16 A. I'm not sure.

17 Q. Did you investigate it?

18 A. No. I was just making sure all the vehicles were
19 accounted for.

20 Q. I know but you didn't take a picture of Aaron Powers
21 and Bill West's pick-up truck, did you?

22 A. No, sir.

23 Q. Did you run it through N. C. I. C.?

24 A. No, sir.

25 Q. Did you do anything on that pick-up truck?

RUSTY GARRETT - REDIRECT BY MR. BRADLEY

1 A. No, sir.

2 Q. Now, Pete Rogers is the one who saw the white person
3 running with the 60 feet tall, under 200 pounds. Did you look
4 at Aaron Powers?

5 A. I don't recall Aaron Powers.

6 Q. You didn't talk with him?

7 A. No.

8 Q. Did you talk with Pete Rogers?

9 A. No.

10 Q. Well, he was at that time a dispatch for Pickens
11 County Sheriff's Office. So you didn't verify the information
12 that you were given with Pete Rogers, did you?

13 A. I was never given any information from Pete Rogers.

14 Q. But you didn't do anything with regard to that white
15 pick-up truck, did you, the Dodge truck?

16 A. As what I just did, we made sure it was accounted
17 for then as of now by Aaron Powers and Billy West.

18 MR. GAMBLE: All right.

19 THE COURT: Any redirect?

20 MR. BRADLEY: Just one, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. BRADLEY:

23 Q. When you say you didn't talk to Pete Rogers and
24 Aaron Powers, there were other detectives on this case who
25 talked to those individuals; is that correct?

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 A. That's correct, multiple detectives. That's what we
2 did the following day.

3 Q. So you didn't respond to the actual crime scene
4 itself, did you?

5 A. No, I did not.

6 Q. Was that Detective Major who was there talking to
7 them?

8 A. I believe so, yes.

9 MR. BRADLEY: Nothing further, Your Honor.

10 THE COURT: All right. You can step down. Thank
11 you.

12 MR. BRADLEY: The State calls Josie Wright.

13 JOSEPHINE WRIGHT, after having been duly sworn,
14 testified as follows:

15 THE CLERK OF COURT: If you'll go up and have a seat
16 in the witness chair, please.

17 (The witness was seated in the witness stand.)

18 THE CLERK OF COURT: If you'll state your full name
19 and spell your last name for the record, please, ma'am.

20 THE WITNESS: My full name is Josephine Wright,
21 W-r-i-g-h-t.

22 DIRECT EXAMINATION

23 BY MR. BRADLEY:

24 Q. Good afternoon, Ms. Wright.

25 A. Good afternoon.

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 Q. What is your occupation?

2 A. I'm a senior customer service representative.

3 Q. Who is your employer?

4 A. R. B. C. Insurance.

5 Q. How long have you been employed by R. B. C.
6 Insurance?

7 A. Thirty years.

8 Q. Have they always gone by the name R. B. C.
9 Insurance?

10 A. Prior to 2003, due to a corporate buyout, it was
11 Liberty Life Insurance.

12 Q. What about back in '97 through 1999, what was the
13 name then?

14 A. Liberty Life Insurance.

15 Q. What was the nature of your employer's business?

16 A. Life insurance.

17 Q. Okay. And what are your duties at R. B. C.
18 Insurance?

19 A. I review claims for payment.

20 Q. What do you mean claims for payment? What type of
21 claims?

22 A. I review death claim -- life claims, really. When
23 an applicant applies for insurance with our company and the
24 insurance is approved they are given a policy. And once --
25 upon the insured's death and then they have that policy and it

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 becomes the benefits of the beneficiary. And then we look at
2 those claims, at the time a claim is filed by the beneficiary,
3 and we look at the claims based on the policy contract and the
4 facts of the claim.

5 Q. Okay. And these records for the policies and the
6 claims, are they kept in the normal ordinary course of
7 business?

8 A. Yes.

9 Q. Okay. When is the information regarding the
10 policies and the claims, when is it obtained?

11 A. The information regarding the policy and the claims
12 are obtained at the time of deaths, when someone calls our
13 office and notifies us of a death.

14 Q. What about a policy? When a policy is issued how is
15 that information obtained?

16 A. When a policy is issued that information is obtained
17 and kept in a database there in our system, as far as the
18 application.

19 Q. So somebody has to fill out an application to get a
20 policy?

21 A. Somebody fills out an application and all the
22 information, based on the data, their history, and just the
23 age, the birth date, you know, all that, that's kept, and then
24 it's put in admin system.

25 Q. And these records that you keep, do they accurately

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 reflect the information that was given on the documents?

2 A. Yes.

3 Q. And in regards to this case, was your employer
4 subpoenaed for records recently?

5 A. Yes.

6 Q. And is that why you're here to testify today?

7 A. Correct.

8 Q. And what procedure was followed in responding to
9 that subpoena?

10 A. The procedure that was followed, the subpoena came
11 to our legal department and they produced all of the claim
12 records from that file and submitted it to where the subpoena
13 came from.

14 Q. How about the policy documents, application?

15 A. Policy documents, application and the claim records,
16 yes, sir.

17 Q. And what, if anything, do you have with you here
18 today? What documents do you have with you here today?

19 A. Okay. The documents that I have here, or what I
20 brought from the subpoena?

21 Q. Yes, ma'am. Let me show you State's Exhibit Number
22 41, 42, 43.

23 A. Okay.

24 Q. Take a look at those and see if you recognize those.

25 A. Yes, sir. I recognize all 3 documents.

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 Q. How so? How do you recognize them?

2 A. Because this is the application for insurance,
3 because that was part of the claim file, and this is the
4 settlement agreement. All these documents was part of the
5 claim file that was given, and this is the policy.

6 Q. Okay. Have these documents been altered or edited
7 in any way?

8 A. No.

9 Q. And they accurately reflect the information obtained
10 within them?

11 A. Yes, sir.

12 MR. BRADLEY: Your Honor, at this time the State
13 moves to have these exhibits admitted.

14 THE COURT: Any objection?

15 MR. PRUITT: No objection.

16 THE COURT: Without objection?

17 MR. GAMBLE: Yes.

18 THE COURT: Without objection.

19 (Whereupon, State's Exhibit Numbers 41, 42 and 43,
20 Documents, were admitted into evidence.)

21 MR. BRADLEY: Permission to publish?

22 THE COURT: Yes, sir.

23 BY MR. BRADLEY:

24 Q. Ms. Wright, if you'll step down to the TV here.

25 A. Okay.

JOSEPHINE WRIGHT - DIRECT BY MR. BRADLEY

1 Q. First, we're going to look at State's Exhibit Number
2 41. If you'll tell us what this document represents. Back it
3 out a little bit. All right.

4 A. Okay. This is the application for insurance that
5 was completed by the insured.

6 Q. And who is the insured?

7 A. The insured's name is Robert P. Stephens.

8 Q. And does this document show who the beneficiary is?

9 A. Yes. Beneficiary number 11, full name of primary
10 beneficiary, Frances B. Moore; relationship, mother-in-law.

11 Q. And what about the owner of the policy? Does this
12 document show anything about who the owner of the policy was?

13 A. Under section 16 there's a request to -- a special
14 request to please make Frances Moore owner of the policy here
15 (indicated). And there is her signature along with the Social
16 Security number.

17 Q. So she would have signed that, had knowledge that
18 she was going to be the owner of this policy?

19 A. Correct.

20 Q. Then page 2 of that is just some more paperwork
21 where the applicant filled it out?

22 A. Yes. Page 2, the top part of it gives a little
23 history about the insured. And at the bottom, this is where
24 the insured dated and signed the application (indicated).

25 Q. So when was this policy issued?