

VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Michael G. Nettles, Circuit Court Judge

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S.C. SUPREME COURT

JEFFREY MICHAELSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002373

APPENDIX

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1 Q. And was she able to give you any information to
2 help guide you to the next part of your investigation?

3 A. Yes, she was.

4 Q. And did you also after speaking with her have the
5 opportunity to speak with Jeremiah Scharer?

6 A. I did not speak to Mr. Scharer. Two of the other
7 detectives did.

8 Q. And did you also have the opportunity to speak
9 with Trey Feaster?

10 A. Yes, sir.

11 Q. And do you recall when that took place?

12 A. Yes, sir.

13 Q. And do you recall where that took place?

14 A. Yes, sir.

15 Q. Where was it?

16 A. It was at the Berkeley -- Berkeley County
17 Sheriff's Office on 223 North Live Oak Drive in the
18 interview room.

19 Q. And when did you speak with him?

20 A. That was August the 7th of 2007.

21 Q. And after speaking with Mr. Feaster did you
22 attempt to locate the defendant, Jeffrey Michaelson?

23 A. I did not.

24 Q. Were you able -- did you ever come into contact
25 with Mr. Michaelson?

1 A. Yes, sir.

2 Q. And were you able to speak with him about any --
3 any involvement he may have had into the disappearance
4 of Parrish Reeves?

5 A. Yes, sir.

6 Q. And when did that meeting take place?

7 A. On August the 7th, 2007.

8 Q. Was that before or after you had spoken with
9 Mr. Feaster?

10 A. That was after.

11 Q. And where did that take place, again?

12 A. The same location.

13 Q. Which was what location?

14 A. 223 North Live Oak Drive, interview room at the
15 sheriff's office.

16 Q. And when you first came into contact with the
17 defendant, Jeffrey Michaelson, were you advised if he
18 had been told what his rights -- Miranda rights were?

19 A. Yes, sir.

20 Q. And do you recall who had informed him of those?

21 A. Detective Michael Crumley.

22 Q. And when you spoke with Mr. Michaelson did you
23 ask him or confirm with him that he had been informed of
24 his Miranda rights?

25 A. Yes, sir.

SERGEANT FREEMAN - DIRECT BY MR. ALFARO

- 1 Q. And had he? Did he confirm that for you?
- 2 A. He did.
- 3 Q. And at any time in your conversation with him did
4 he ask to speak to a lawyer?
- 5 A. No, sir.
- 6 Q. At any time did he ask to stop the interview or
7 indicate that he did not want to speak with you?
- 8 A. No, sir.
- 9 Q. And you stated that it took place in an interview
10 room at the sheriff's office; is that correct?
- 11 A. Yes, sir.
- 12 Q. Would you describe that room for the jury,
13 please?
- 14 A. Well, it's approximately a 10-by-10 room. It has
15 tile floors. It has a table which you can write on and
16 three chairs.
- 17 Q. And is -- to your knowledge is that room equipped
18 with audio and video equipment?
- 19 A. Yes, it is.
- 20 Q. And are you able to -- are interviews able to be
21 recorded in that room?
- 22 A. Yes, sir.
- 23 Q. And to your knowledge was this -- the interview
24 with Mr. Michaelson on the 7th, was that recorded?
- 25 A. Yes, sir, it was.

1 Q. By audio and video means?

2 A. Yes, sir.

3 Q. And could you describe for us briefly what the
4 process was that day when you first met with
5 Mr. Michaelson, how you -- how the interview was
6 conducted?

7 A. Mr. Michaelson was escorted in. We confirmed
8 that he had been given his Miranda rights. We sat down
9 with him, and basically we talked to him first to get a
10 little background. You get an interview, a verbal
11 interview, and then after you get all of the facts then
12 either you let -- you ask them if they will write a
13 statement or either you offer if they will give a
14 statement, a written statement, you -- you would let
15 them write it or you offer to write it for them,
16 allowing them the time at the end to check it, make sure
17 it is correct, make any adjustments, corrections,
18 additions, you know, to make sure that all the facts are
19 there.

20 Q. And would you consider that standard practice in
21 how you conduct interviews?

22 A. Yes, sir.

23 Q. And that practice was utilized in this case with
24 Mr. Michaelson. Is that correct?

25 A. Yes, sir.

1 Q. At some point during your interview with
2 Mr. Michaelson, did you again provide him with his
3 Miranda rights?

4 A. Yes.

5 Q. And how was that done?

6 A. It was done using our standard statement form.
7 We have a preprinted approved statement form. It has
8 our basic information at the top, has the Miranda rights
9 on it, and a place for them to sign.

10 (Ms. Kennedy reviews exhibit.)

11 BY MR. ALFARO:

12 Q. I'm going to show you what was previously marked
13 as a state's exhibit at a prior hearing. Would you look
14 at that and tell us if you recognize that item?

15 A. (The witness reviews exhibit.) Yes, sir.

16 Q. And could you tell us what that item is?

17 A. It is a written defendant's statement.

18 Q. And did -- you indicated that Mr. Michaelson was
19 provided with his Miranda rights off of a standard form.
20 Is that the form that was used in this case?

21 A. Yes, it is.

22 Q. And how do you recognize that as the form that
23 was used in this case?

24 A. The initials by each, signed that -- says the
25 information, and I was there to witness.

1 Q. And could you briefly tell the jury what rights
2 were read to Mr. Michaelson at that time?

3 A. That I do have the absolute right to remain
4 silent and do not answer -- and do not have to answer
5 any questions or give a statement, this cannot be used
6 against me; that if I do answer questions or give a
7 statement, anything I say can and will be used against
8 me in a court of law; that I have the right to consult
9 with a lawyer of my choice before I answer questions or
10 give a statement and also to have him present while
11 being questioned; that if I wish to talk to a lawyer or
12 have him present but are unable to afford to hire a
13 lawyer, one will be appointed to represent me free of
14 charge; that if I decide to answer questions or give a
15 statement without a lawyer present representing me, I
16 have the absolute right during this interview to stop
17 answering questions and remain silent.

18 Q. And did it appear to you that he understood the
19 rights as they were read to him?

20 A. Yes, sir.

21 Q. Did he indicate to you whether he understood
22 those rights?

23 A. Yes, he did.

24 Q. How did he indicate that?

25 A. He initialed by each of those that I read.

1 Q. And after being provided with his rights the
2 first time by you, the second time overall, did he agree
3 to waive those rights and speak with you?

4 A. Yes, he did.

5 Q. And did he -- how did he indicate that he was
6 willing to waive those rights and speak with you?

7 A. He signed at the -- under the rights form.

8 Q. And at any time after being provided those
9 rights, did he ask for an attorney?

10 A. No.

11 Q. And did he ever ask to stop the interview?

12 A. No.

13 Q. Were you present in the room with the defendant
14 during the entire interview process on that day?

15 A. Yes, sir.

16 Q. And who else was in the room with you at that
17 time?

18 A. Detective Gerry Merrithew.

19 Q. And at any time was Detective Merrithew alone in
20 the room with Mr. Michaelson?

21 A. No.

22 Q. Were there times when it was just you and
23 Mr. Michaelson in the room?

24 A. Yes, sir.

25 MR. ALFARO: Your Honor, at this time I'd

1 like to have this exhibit remarked for purposes of the
2 trial itself.

3 THE COURT: You may.

4 MR. ALFARO: It was state's exhibit one for
5 the purposes of the *Denno* hearing.

6 THE COURT: All right. And what exhibit
7 number will it be now?

8 MR. ALFARO: Ninety-eight.

9 (State's Exhibit No. 98, defendant's written
10 statement, previously marked State's Exhibit No. 1 for
11 *Jackson v. Denno* hearing, is marked for identification.)

12 MR. ALFARO: Court's indulgence, Your Honor.

13 THE COURT: Yes, sir.

14 BY MR. ALFARO:

15 Q. And I'm showing you this exhibit, state's number
16 98. This is the -- would you look at that again and
17 tell us if that was -- if that written statement was
18 completed on August the 7th, 2007?

19 A. Yes, it was.

20 Q. And you indicated that defendants are given an
21 option of whether they write the statement or to have
22 somebody write it for them. Was he given that option in
23 this case, as well?

24 A. He was.

25 Q. And what was his decision?

1 A. He chose to write it himself.

2 Q. And there are signatures on that page. Do you
3 recognize the signatures at the bottom of each of those
4 pages?

5 A. Yes, sir.

6 Q. And whose signatures are present on state's
7 exhibit 98?

8 A. Mr. Michaelson's, Detective Merrithew's, and
9 mine.

10 MR. ALFARO: Your Honor, at this time the
11 state would ask that state's exhibit 98 be admitted into
12 evidence.

13 MS. KENNEDY: Your Honor, subject to the
14 Court's ruling in the *Jackson v. Denno* hearing.

15 THE COURT: All right. State's 98 will be
16 admitted into evidence over the objection.

17 (State's Exhibit No. 98, previously marked
18 for identification, is received in evidence.)

19 THE COURT: Ladies and gentlemen, a statement
20 alleged to have been made by the defendant will be
21 admitted into evidence in this case. While the Court
22 has determined that the statement is admissible, I
23 instruct you that you make the ultimate decision of
24 whether or not the defendant made the statement.

25 If the defendant made the statement, you must

1 determine whether the statement was made by the
2 defendant voluntarily and of his own free will. This
3 means that the statement was not caused by pressure,
4 force, fear, threats, coercion, or intimidation, or by
5 hope or a promise of leniency or reward of any kind.

6 In determining whether the statement was made
7 voluntarily, you should consider both the
8 characteristics of the defendant and the details of the
9 questioning. Some of the factors that you must consider
10 are: the age of the defendant; the defendant's
11 education or lack of education; the defendant's mental
12 ability or capacity; the defendant's IQ or intelligence;
13 the defendant's background and environment; the place
14 and length of detention; the nature of the questioning
15 and the advice or lack thereof to the defendant of his
16 constitutional rights, including but not limited to the
17 right to remain silent, that any statement could be used
18 against him in a court of law, the right to have an
19 attorney present, that if he could not afford an
20 attorney an attorney would be appointed to represent him
21 without cost, and that he could stop making a statement
22 at any time.

23 You must carefully consider all of the
24 surrounding circumstances before you give any weight to
25 an alleged statement. The state has the burden of

1 proving beyond a reasonable doubt that the alleged
2 statement was voluntary. If you determine that it was,
3 you may give the statement any further consideration
4 that you deem proper. You must decide what weight if
5 any should be given to the alleged statement. If you
6 determine the alleged statement was not the free and
7 voluntary statement of the defendant, you should not
8 consider the statement at all.

9 Mr. Alfaro.

10 MR. ALFARO: Thank you, Your Honor.

11 BY MR. ALFARO:

12 Q. Sergeant Freeman, you indicated you were in the
13 room with the defendant during the entirety of the
14 interview; is that correct?

15 A. Correct.

16 Q. And at any time in your presence was the
17 defendant threatened in any way to compel him to give
18 his statement?

19 A. No, sir.

20 Q. And you indicated that the interview was
21 videotaped or recorded on that date; is that correct?

22 A. That is correct.

23 Q. And have you had the opportunity to watch the
24 tape of that, of the interview with Jeffrey Michaelson?

25 A. Yes, sir.

1 Q. And the original version of that or -- did you
2 watch the original version of that?

3 A. Yes, sir.

4 Q. And was the entirety of the interview recorded?

5 A. Yes, sir.

6 Q. Were there any points on the tape where the
7 recording equipment in the room at the time stopped or
8 did not -- was not operating or there are spots on the
9 video that that appears to be the case?

10 A. No, sir.

11 Q. So would it be fair to say that the interview was
12 recorded from beginning to end?

13 A. Yes, sir.

14 MR. ALFARO: Can we approach, Your Honor?

15 THE COURT: You may.

16 (There was an off-the-record bench conference
17 in the presence of the jury but out of the hearing of
18 the jury.)

19 (Said bench conference being concluded, the
20 following proceedings were had:)

21 (State's Exhibit No. 99, DVD - redacted copy
22 of videotape interview of defendant, is marked for
23 identification.)

24 MR. ALFARO: Can I have this one marked, too.

25 (State's Exhibit No. 100, original videotape

1 of interview of defendant, previously marked State's
2 Exhibit No. 2 for *Jackson v. Denno* hearing, is marked
3 for identification.)

4 BY MR. ALFARO:

5 Q. I'm going to show you what has been marked as
6 state's exhibit 100 for identification, and do you
7 recognize that exhibit?

8 A. Yes, sir.

9 Q. And how do you recognize that or what do you
10 recognize it as?

11 A. It is a copy of a VH -- VHS tape for Jeffrey
12 Michaelson in reference to Parrish Reeves.

13 Q. And have you had the opportunity to review
14 state's exhibit 100?

15 A. Yes, sir.

16 Q. And have you had the opportunity to review that
17 in its entirety?

18 A. Yes.

19 Q. And is that a fair and accurate representation of
20 the interview that was conducted on August the 7th,
21 2007, with Jeffrey Michaelson by you and Detective
22 Merrithew?

23 A. Yes.

24 Q. And, again, related to those questions that I had
25 asked previously about whether the video appeared to

1 play from beginning to end without any edit, is that a
2 complete copy of -- or a complete original of the
3 interview conducted on that day?

4 A. Yes.

5 Q. And state's exhibit 100, that's the original
6 copy?

7 A. This is the original copy.

8 MR. ALFARO: Your Honor, at this time the
9 state would ask that state's exhibit 100 be admitted
10 into evidence.

11 MS. KENNEDY: Again, subject to your prior
12 ruling, Your Honor.

13 THE COURT: Subject to the prior ruling,
14 state's 100 into evidence.

15 (State's Exhibit No. 100, previously marked
16 for identification, is received in evidence.)

17 MR. ALFARO: Your Honor, at this time the
18 state would be prepared to publish state's exhibit 100
19 for the jury. I believe there are some issues we need
20 to address before we can publish it for the jury.

21 THE COURT: All right. Ladies and gentlemen,
22 there is a matter of law that I must take up outside of
23 your presence. Do not begin your deliberations. Do not
24 discuss this case amongst yourselves.

25 Detective Freeman, please remain seated.

1 Please be excused. We'll be just a few
2 moments.

3 Please rise for the jury.

4 (Whereupon, the jury goes to the jury room at
5 approximately 10:25 a.m.)

6 THE COURT: Thank you. Please be seated.

7 All right. So I understand the redaction is
8 now marked as 99 which is a DVD play. Is that correct,
9 Mr. Alfaro?

10 MR. ALFARO: That's correct, Your Honor.
11 State's exhibit 99 is the redacted copy that was
12 initially redacted by Mr. Schwacke who reviewed it, I
13 believe, and have agreed with what Mr. Schwacke has
14 recounted to us of the edits that have been made in the
15 video.

16 If Your Honor deems it appropriate, we would
17 ask that Mr. Schwacke put on the record the times
18 deleted from the original which is state's exhibit 100
19 so that we can publish the redacted copy for the jury.

20 There were some potentially prejudicial
21 comments that were made on the original video. That's
22 what Mr. Schwacke has indicated he has redacted. If
23 Mr. Schwacke would put those redactions on the record,
24 and the state would ask -- after that, we would agree to
25 play the redacted copy.

1 If there are some changes that we think need
2 to be -- that we weren't aware of or that we think we
3 need the original played for the jury, that again take
4 the opportunity to take a break and determine if those
5 would be admissible.

6 THE COURT: Mr. Schwacke.

7 MR. SCHWACKE: Thank you, Your Honor. With
8 regards to the original videotape, we were provided a
9 copy of that, and in reviewing it yesterday, I converted
10 the full videotape over to digital for purposes of the
11 DVD. I edited out from that.

12 In the early stages there is a conversation
13 going on between Detective Merrithew and our client in
14 which he recounts part of the earlier interview being
15 given by Jeremiah Scharer. His statement indicates that
16 he believes the child died for a specific reason related
17 to this case. I removed that from it.

18 There is also a comment made by Detective
19 Merrithew regarding all the other codefendants and their
20 cooperation. I removed that.

21 And then there's just a portion where there
22 is an offer on the videotape of a polygraph examination,
23 and I removed that.

24 There are also stretches of quiet where
25 Detective Merrithew has actually left the room. This

officer is present in the room with him. During one of those stages, there's absolutely no conversation back and forth between them. Her cell phone does go off at some point, and there are ring tones in there. I edited some of that out. So there will be a noticeable skip to the jury with that particular evidence because of the -- the camera is remote controlled in some fashion.

During the next break that Detective Merrithew takes from the room, there is a conversation between this officer, this detective, and our client in which she suggests that there is some information that he had previously given that's not in the statement, including going downtown about the coins, I believe I left in. I did edit out some portions from that, as well.

And then there is a conversation over the phone. I believe she went back on the phone again, and they're asking about charges and what changed -- what charges. I edited that out.

So that would be the complete edit.

And it does still show portions that I think we both agree we wanted to remove which included him initially in handcuffs and then the handcuffs being placed on him at the end.

THE COURT: All right.

1 MR. ALFARO: Your Honor, we would -- we're
2 going to try to cue up the redacted copy at the point
3 where the handcuffs are removed from Mr. Michaelson, and
4 then we will stop the tape for when he was handcuffed at
5 the end.

6 The items Mr. Schwacke has indicated he
7 edited out regarding the -- Jeremiah Scharer's -- the
8 comment about Jeremiah Scharer's child's death,
9 Detective Merrithew mentioning codefendants'
10 cooperation, and the conversation about the polygraph,
11 the state has no objection to those things being removed
12 from the copy played for the jury.

13 The only portion that we think potentially we
14 may take issue with after having the opportunity to view
15 it and while it's played may be some of the portions
16 that were removed as far as Detective Merrithew's out of
17 the room and there's no conversation at that time.
18 Those would be the -- that would be the portion that we
19 would like to reserve the option of playing, finding
20 those portions on the original and playing that for the
21 jury after if necessary.

22 THE COURT: All right. Mr. Alfaro, just so I
23 understand, you wish to play the portion -- you may wish
24 to play the portion where there is no conversation; it's
25 just Mr. Michaelson sitting in the interview room?

1 MR. ALFARO: I don't -- I don't think there
2 is -- without having had the opportunity to see that
3 portion of the copy Mr. Schwacke provided, if our
4 recollection of that portion of the video we believe
5 would be relevant and it would be -- or it would be
6 necessary for us to have the jury hear, we may at that
7 point go back and play that portion on the original, but
8 I don't think that would necessarily be the case. I
9 just don't want to close that door unless we have to.

10 THE COURT: And with that being said, do the
11 two of you wish to enter into a stipulation on the
12 record in front of the jury as to what -- what has
13 occurred as to a redaction, or do you wish for the Court
14 to give somewhat of an instruction stating that the
15 Court has reviewed the interview, some portions have
16 been removed either that would not be admissible or in
17 the interest of time have been edited out, the jury is
18 to make no -- not to guess or speculate as to why or
19 what was included?

20 MR. ALFARO: I think, Your Honor, if we could
21 just do the stipulation as to -- I think that would be
22 the most -- the best way to kind of inform the jury why
23 it's been edited, so we can alleviate any inference or
24 suspicion that it's been edited for unseemly reasons.

25 THE COURT: All right. And, Mr. Alfaro, you

1 wish to make that enter -- or make that announcement to
2 the jury as to the stipulation or Mr. Schwacke?

3 MR. ALFARO: If Your Honor just wants to, we
4 can enter into the stipulation and have Your Honor just
5 inform the jury of that.

6 (Ms. Kennedy and Mr. Schwacke confer.)

7 MR. SCHWACKE: I would agree that we could
8 enter into the stipulation that -- that what they're
9 being shown is a fair and accurate depiction of the
10 testimony by Mr. Michaelson that's been edited for
11 brevity.

12 MR. ALFARO: And evidentiary purposes.

13 MR. SCHWACKE: Yes.

14 THE COURT: All right. And do you wish to
15 enter into the -- or do you wish -- you want the Court
16 to make that announcement in front of the jury,
17 Mr. Schwacke?

18 (Mr. Schwacke and Ms. Kennedy confer.)

19 MR. SCHWACKE: I'm fine with the Court.

20 MR. ALFARO: I think we can put on the record
21 that we agreed to the stipulation, and if Your Honor
22 could just -- Your Honor addressing the jury as opposed
23 to one of us doing that.

24 THE COURT: All right.

25 MR. SCHWACKE: And they still have the

1 opportunity to fill in the gaps if they feel they need
2 to.

3 THE COURT: All right. Thank you.

4 Anything before we bring in the jury?

5 MR. ALFARO: Your Honor, if we could have a
6 moment to get the copy to the point where the handcuffs
7 are removed.

8 THE COURT: All right. We will. And we'll
9 go ahead and take our midmorning break, as well. So
10 we'll take a ten-minute recess. Please make sure that
11 that's ready to go, Mr. Alfaro.

12 MR. ALFARO: Yes, Your Honor. Thank you.

13 (A break is taken at approximately
14 10:35 a.m.)

15 (The trial reconvenes at approximately
16 10:45 a.m., the defendant being present with counsel,
17 Ms. Kennedy and Mr. Schwacke, and the following
18 proceedings were had:)

19 THE COURT: All right. Anything further
20 before we bring in the jury?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: All right. Let's bring in the
23 jury. All right. Please rise for the jury.

24 (Whereupon, the jury enters the courtroom at
25 approximately 10:50 a.m.)

1 THE COURT: Thank you. Please be seated.

2 Mr. Alfaro.

3 MR. ALFARO: Your Honor, at this point we are
4 -- at this point we're at the stage where we would ask
5 to publish the defendant's videotaped statement for the
6 jury. We need to address the issues related to the
7 redaction.

8 THE COURT: All right. Ladies and gentlemen,
9 you will now -- the state has requested to publish a
10 videotaped interview of Mr. Michaelson. The parties
11 have entered into a stipulation regarding the video
12 statement that you are about to view. A stipulation is
13 merely an agreement between the parties.

14 The Court has reviewed the videotaped
15 interview, and I have determined that certain portions
16 should be redacted. Redaction is the Court's method of
17 removing certain portions or pieces of the evidence to
18 avoid undue confusion to the jury. You are not to draw
19 any conclusion or inference or to speculate as to the
20 redacted portions of the evidence as it is presented.

21 Mr. Alfaro.

22 MR. ALFARO: Your Honor, at this time,
23 pursuant to that stipulation, the state would ask that
24 state's exhibit 99, the stipulated copy, be admitted
25 into evidence at this time.

1 MR. SCHWACKE: Without objection.

2 THE COURT: State's 99 into evidence, and you
3 may publish.

4 MR. ALFARO: Thank you, Your Honor.

5 (State's Exhibit No. 99, previously marked
6 for identification, is received in evidence.)

7 (State's Exhibit No. 99 begins playback at
8 approximately 10:53 a.m. and concludes at approximately
9 12:01 p.m.)

10 MR. ALFARO: Your Honor, may we approach?

11 THE COURT: You may.

12 (There was an off-the-record bench conference
13 in the presence of the jury but out of the hearing of
14 the jury.)

15 (Said bench conference being concluded, the
16 following proceedings were had:)

17 DIRECT EXAMINATION (CONTINUED)

18 BY MR. ALFARO:

19 Q. Detective Freeman, I just want to -- excuse me.
20 Sergeant Freeman, I just want to ask you a couple of
21 follow-up questions to the video that we just watched.
22 The defendant referenced the victim's truck in his
23 interview. Based on his statement and other information
24 you received, to your knowledge was the truck ever
25 located?

1 A. Yes.

2 Q. And are you aware of where the truck was found?

3 A. Yes.

4 Q. Where was it found?

5 A. On Fairway (phonetic) Drive in Bonneau.

6 Q. And the defendant said that the shooting took
7 place at [REDACTED] on a side road near the victim's house.

8 Were you able to locate that location?

9 A. We were able to locate it as being on McKnight
10 which is a dirt road.

11 Q. And is that located in Berkeley County?

12 A. Yes, it is.

13 Q. And back to the truck that belonged to
14 Mr. Reeves, after the truck was located what was done
15 with the truck?

16 A. The truck was towed to our forensic building, a
17 search warrant was obtained, and the truck was actually
18 searched and processed.

19 Q. And after the defendant's interview were you able
20 to -- was the barrel containing the victim's body
21 recovered?

22 A. Yes.

23 Q. And do you recall where that was recovered from?

24 A. It was recovered from the front yard of [REDACTED]
25 Starbright Lane.

1 Q. And where is Starbright Lane?

2 A. It -- in Berkeley County, as well.

3 Q. And through the course of your investigation were
4 you able -- or let me start over. The defendant
5 indicated that he at one point had lived at that
6 location; is that correct?

7 A. That is correct.

8 Q. And through the course of your investigation were
9 you able to determine if any of the other codefendants
10 had lived in that location, as well?

11 A. Yes, sir. We were able to locate that Treze
12 Feaster and Katherine Feaster had lived also at that
13 address. They lived in a trailer in the back a year or
14 two after that.

15 Q. A year or two after what?

16 A. After year 2001, the death of Mr. Parrish Reeves.

17 Q. Okay. And were you present at the -- at
18 Starbright Lane when the search for the body was
19 conducted?

20 A. Yes.

21 Q. I'm going to show you what has previously been
22 admitted into evidence as state's exhibit two and three.
23 If you could take a moment to review those photographs,
24 and I'll ask you a couple of questions about them.

25 A. (The witness reviews exhibits.)

1 Q. Do you recognize what's depicted in those
2 photographs?

3 A. Yes, sir.

4 Q. And could you tell the jury what's contained in
5 those photos?

6 A. The front yard and the double-wide mobile home at
7 [REDACTED] Starbright. Also, my vehicle in the front yard in
8 this one, and my vehicle and myself in this one.

9 Q. As soon as the projector warms back up, I'm going
10 to ask you a couple more questions about those.

11 And on the screen is state's exhibit two. And
12 that, the trailer that's in front of that next to the
13 vehicle, the police car, which trailer is that? Is that
14 "[REDACTED]" or is that the other trailer?

15 A. That's "[REDACTED]."

16 Q. And where is -- is there another area of that
17 property where the trailer where you said Mr. Feaster
18 and Katherine Feaster were living later on?

19 A. If you look in front of my vehicle, back behind
20 that -- the double-wide, there is a mobile home back
21 there.

22 Q. Is it on the same piece of property?

23 A. Yes, sir.

24 Q. And you were present when the barrel was actually
25 uncovered; is that correct?

SERGEANT FREEMAN - DIRECT BY MR. ALFARO

1 A. Yes, sir.

2 (Ms. Kennedy reviews exhibit.)

3 BY MR. ALFARO:

4 Q. I'm showing you what's previously been entered
5 into evidence as state's exhibit number 28. Do you
6 recognize the item in that photograph?

7 A. Yes.

8 Q. And could you tell us what that item is?

9 A. It is a 55-gallon drum with a rubber-type tarp
10 over the top. This would be -- this is the barrel --
11 barrel that we pulled from the ground.

12 Q. And in your interview with Mr. Michaelson, he
13 gave a description of the barrel that was used to -- or
14 that he provided to dispose of the defendant's -- or the
15 victim's remains. Is that consistent with the
16 description provided to you by Mr. Michaelson?

17 A. Yes, it is.

18 Q. And in his statement there was a reference that
19 was made to or the defendant indicated he had rented a
20 backhoe that was used to bury the body in his yard. Did
21 you attempt to -- were any attempts made to locate any
22 receipts or documentation related to that backhoe rental
23 by the defendant?

24 A. Yes, sir.

25 Q. And were you able to locate any evidence or -- or

1 documents?

2 A. No, sir. That had closed, and all of the
3 documents were unavailable concerning that.

4 Q. While you were present at the scene when the
5 barrel was recovered, was the barrel opened at that
6 location?

7 A. No, sir.

8 Q. While you were present did anyone attempt to open
9 the barrel at the scene?

10 A. No, sir.

11 Q. And during the course of the dig for the barrel,
12 was the -- any murder weapon recovered?

13 A. No, sir.

14 Q. In the defendant's statement, video statement, he
15 indicated that he had provided the gun that was used to
16 kill the victim. Were you able to locate where he
17 obtained that firearm?

18 A. No, sir.

19 Q. Did he indicate to you where the weapon had been
20 obtained from?

21 A. Yes, he did.

22 Q. And where was that?

23 A. Ms. Reeves.

24 Q. And during the course of the interview the
25 defendant acknowledged throwing the weapon out of the

- 1 vehicle. I believe he said into the Tailrace Canal. Is
2 that correct?
- 3 A. Yes, sir.
- 4 Q. And did -- were any attempts made to locate the
5 weapon in that location?
- 6 A. Yes, sir.
- 7 Q. And when were those attempts made?
- 8 A. In 2009.
- 9 Q. And could you describe how that was conducted?
- 10 A. Yes, sir. I'm also the team leader for the
11 underwater recovery team. My team went out and we
12 actually conducted an underwater line search from one
13 side to the other, and back several times. We went --
14 because there was a possibility it could have landed
15 instead of in the water on the land, we also conducted a
16 land search from the -- where the water's edge all the
17 way up the embankment up to the road.
- 18 Q. And were you successful in locating any -- any
19 weapon during that search?
- 20 A. No, sir.
- 21 Q. And there was also a mention by the defendant of
22 driving Trey Fester downtown to cash in some of the
23 victim's coins. Did you attempt to follow up on that
24 information provided to you by the defendant?
- 25 A. Yes, sir.

1 Q. And were you able to locate any coin shops
2 downtown that had any coins belonging to the victim?

3 A. We were able to locate coin shops, but they --
4 they no longer had records from that length of time.

5 Q. And regarding the trailer belonging to the
6 victim, Parrish Reeves, Mr. Michaelson indicated to you
7 that he had given the trailer to a Ryan Almers. Did you
8 attempt to speak with Mr. Almers?

9 A. Yes, sir.

10 Q. And were you able to locate him and speak with
11 him about this matter?

12 A. No, sir, I was not.

13 Q. And to your knowledge anyone from the sheriff's
14 office ever locate him?

15 A. Not from the sheriff's office, no, sir.

16 Q. And in the course of the interview and your
17 investigation, did you receive information regarding
18 items taken from the victim's safe?

19 A. Yes, sir.

20 Q. And do you recall what type of items were removed
21 from the victim's safe?

22 A. Pieces of jewelry and coins, collectible coins.

23 Q. And were any of those items ever recovered?

24 A. Yes, sir.

25 Q. Which items were recovered?

1 A. A piece of jewelry.

2 Q. Is that the item that you referred to earlier
3 from the pawnshop?

4 A. Yes, sir.

5 MR. ALFARO: Court's indulgence.

6 THE COURT: Yes, sir.

7 MR. ALFARO: Thank you, Sergeant Freeman.

8 Please answer any questions the defense has for you.

9 THE COURT: Just for scheduling purposes.

10 (There was an off-the-record bench conference
11 in the presence of the jury but out of the hearing of
12 the jury.)

13 (Said bench conference being concluded, the
14 following proceedings were had:)

15 THE COURT: Ladies and gentlemen, we're going
16 to take just a short break. I'm going to check on your
17 lunch orders. And if lunch is shortly here, then we
18 will have our lunch break and then we will continue with
19 the cross-examination of Sergeant Freeman. If lunch is
20 going to be just a little bit longer, then we're going
21 to come back in. So I'm going to take that break, but I
22 think it's also an appropriate time for us to take a
23 little comfort break.

24 Please remember my admonition. You may not
25 discuss this case amongst yourselves. You're not going

1 to be allowed to, but please do not read, watch, listen
2 to any news accounts should there be any, and please do
3 not begin your deliberation, and please do not discuss
4 any issue in this case until you have been instructed on
5 the law applicable to this case by the judge.

6 Please rise.

7 (Whereupon, the jury leaves the courtroom at
8 approximately 12:17 p.m.)

9 THE COURT: Thank you. Please be seated.

10 I have been instructed that the lunch is on
11 its -- on its way. So we'll go ahead and take our lunch
12 break.

13 And so, Detective Freeman, you may step down.
14 And, I'm sorry, is it detective or sergeant, and which
15 do you prefer?

16 THE WITNESS: Sergeant.

17 THE COURT: Sergeant. Sergeant Freeman, you
18 may step down. The rule of sequestration has been
19 invoked, and so I remind you what that means. You may
20 not discuss this case with either the state or the
21 defense attorneys or any other witnesses. All right.
22 Thank you. You may step down.

23 (The witness leaves the witness stand.)

24 THE COURT: And just for scheduling, just
25 approach for scheduling before we take our break.

SERGEANT FREEMAN - DIRECT BY MR. ALFARO

1 (There was an off-the-record bench
2 conference.)

3 (Said bench conference being concluded, the
4 following proceedings were had:)

5 THE COURT: All right. We're going to go
6 ahead and take our lunch break. The jury has been
7 provided lunch. So we'll take our lunch break, and
8 we'll resume right at 1:00. Thank you. We'll be in
9 recess.

10 (A lunch break is taken at approximately
11 12:20 p.m.)

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1 AFTERNOON SESSION

2 (The trial reconvenes at approximately
3 1:15 p.m., the defendant being present with counsel,
4 Ms. Kennedy and Mr. Schwacke, and the following
5 proceedings were had:)

6 SERGEANT DIANA FREEMAN,
7 previously duly sworn, resumes the witness stand and
8 is examined and testifies further as follows:

9 THE COURT: Thank you. Please be seated.
10 Sergeant, I remind you that you're still
11 under oath.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Anything before we bring in the
14 jury?

15 MS. WILLIAMS: Nothing from the state, Your
16 Honor.

17 THE COURT: Anything from the defendant?

18 MS. KENNEDY: No, Your Honor. Thank you.

19 THE COURT: Let's bring in the jury.

20 (Whereupon, the jury enters the courtroom at
21 approximately 1:17 p.m.)

22 THE COURT: Thank you. Please be seated.

23 Ms. Kennedy, your witness.

24 CROSS-EXAMINATION

25 BY MS. KENNEDY:

1 Q. Detective Freeman, you testified under direct
2 examination that you have had several duties as an
3 officer with the Berkeley County Sheriff's Office,
4 correct?

5 A. Yes, ma'am.

6 Q. And you also testified that one of those -- those
7 positions included the criminal investigation division?

8 A. Yes, ma'am.

9 Q. And what was your role in that department, that
10 division?

11 A. I was a sergeant mainly over property crimes but
12 any other if we had to pull a supervisor over any crime
13 that came out.

14 Q. Okay. And was that during that time frame,
15 during the time frame that we're talking about for this
16 case?

17 A. Yes, ma'am.

18 Q. So it included 2001 to 2007 I believe you said?

19 A. Yes, ma'am.

20 Q. And you indicated that you were a supervisor?

21 A. Yes, ma'am.

22 Q. Explain if you would to the jury and to me what
23 the command structure is at the Berkeley County
24 Sheriff's Office in relation to your duties and your
25 being a supervisor.

1 A. Okay. We have a captain over criminal
2 investigations. We have a lieutenant. We -- at that
3 time or during that time we actually had two
4 lieutenants. We had one that was over property crimes
5 and one that was over people crimes, and then we had
6 sergeants that fell under them. I fell under Lieutenant
7 Mason, and Lieutenant -- I mean, Sergeant Alteri fell
8 under Lieutenant Lee.

9 Q. All right. So just so I understand this, a
10 lieutenant over property crimes would have been your
11 boss?

12 A. One of them.

13 Q. And who would that be?

14 A. That would have been Lieutenant Mason.

15 Q. Lieutenant Mason. And then the supervisor or the
16 lieutenant over people crimes, as you refer to, would
17 have been who?

18 A. Lieutenant Lee.

19 Q. And then Sergeant Alteri would have worked for
20 whom?

21 A. Lieutenant Lee.

22 Q. Okay. And you then would have been with
23 Lieutenant Mason?

24 A. Normally.

25 Q. Normally. And where would -- and where would

1 Detective Merrithew have fallen in that command
2 structure?

3 A. By the time Detective Merrithew came in,
4 Lieutenant Lee was leaving. At that time we lost a
5 lieutenant slot, so Lieutenant Mason was lieutenant for
6 everyone.

7 Q. I appreciate that, but I want you if you can to
8 just try and answer my question.

9 A. Okay.

10 Q. Okay. All right. My question to you, ma'am, is
11 where would -- where would Detective Merrithew fall at
12 that point in time in the command structure? What was
13 his position, and who was his supervisor?

14 A. At that time he was in people crimes. He would
15 have fallen under Sergeant Alteri.

16 Q. Okay. So you were not his direct supervisor?

17 A. Not normally.

18 Q. At the point of time that we're talking about
19 this incident, you were not Detective Merrithew's
20 supervisor, yes or no?

21 A. That's difficult to answer because our structure
22 is a little different. We also have call. And when we
23 have call, yes, I am, or if I am assigned to the case,
24 yes, I am.

25 Q. Okay. Well, let's try it this way then. Did you

1 get involved in this case as a result of having call?

2 A. No.

3 Q. Did you get involved in this case as a result of
4 having been assigned to it?

5 A. Yes.

6 Q. Who assigned you to it?

7 A. Captain Ollic.

8 Q. Captain Ollic, okay. And when did he assign you
9 to this case?

10 A. In August of 2006 when Detective Merrithew came
11 in and was requesting assistance.

12 Q. Okay. So just so I understand this, he
13 assigned you to work with Detective Merrithew to do
14 what?

15 A. To try to get the case resolved.

16 Q. Well, you didn't know what the case was at that
17 point in time, so you had to have -- right?

18 A. Right.

19 Q. Okay. So you had to have a specific duty,
20 correct?

21 A. Detective Merrithew was new with us. We had a
22 lot of things that we did, like the pawnshop records,
23 the DMV. You're asking me -- maybe I misunderstood you,
24 and I apologize if I do, because I thought you were
25 asking me what I was doing at that time to help him.

1 Q. No. Let's -- just for clarification. I asked
2 you if you had supervising authority over Detective
3 Merrithew, yes or no?

4 A. Yes.

5 Q. But he wasn't assigned to your unit at that time
6 because you were in property crimes, yes or no?

7 A. He was not assigned to property crimes.

8 Q. If I understand correctly, Detective Merrithew,
9 based on all the other evidence that's been presented,
10 was investigating a death. Correct?

11 A. And a larceny and a burglary.

12 Q. Okay. So which is more important, the death or
13 the burglary or the larceny?

14 A. Well, at that time he was investigating a missing
15 person.

16 Q. Okay. All right. And if you're in property
17 crimes, what did you have to do with a missing person?
18 That's a people crime, correct?

19 A. Right.

20 Q. Okay. So how ---

21 A. But the report had three things in it, which it
22 also had a burglary and a larceny.

23 Q. Okay. All right. And so you indicated earlier
24 that you assisted Detective Merrithew with the pawnshop
25 records, correct?

1 A. Correct.

2 Q. Okay. During that period of time what other
3 thing did you do other than the pawnshop records in this
4 case?

5 A. Helped him locate where the Feasters were. Going
6 into the DMV records.

7 Q. But you located the Feasters in 2007, correct?

8 A. We -- after we found the item at the pawnshop.

9 Q. Right. And Detective Merrithew started working
10 on the property crime part of it in -- as you said, in
11 2006?

12 A. Correct.

13 Q. What did you do from 2006 to 2007 related to the
14 death?

15 A. Looked up people. And he had the names of
16 friends. He was still looking to try to see if he was
17 alive or not, and he would give me things to look up,
18 like DMV records so we could find addresses, trying to
19 locate these people to do interviews.

20 Q. Well, okay, but the DMV records weren't --
21 weren't looked up until August of 2007?

22 A. No, ma'am. We were looking at them periodically
23 all through that.

24 Q. Who were you looking at? Whose DMV records?

25 A. I've got some in my case. They were friends.

1 Ms. Frances had given us a list of -- and Ms. Ahrenholz
2 had given us a list of people who told them that they
3 had seen him, and we were trying to locate these people
4 to -- to try to verify whether he was still alive or
5 not.

6 Q. So it's your testimony that the list that you
7 were working from was one that Ms. Reeves and
8 Ms. Ahrenholz gave to you?

9 A. Gave to Gerry.

10 Q. Okay. And how did you get it then?

11 A. He gave them to me and asked me to look.

12 Q. At what point in time?

13 A. After he received it from them.

14 Q. Do you know when that was?

15 A. It was between 2006 and 2007.

16 Q. Okay. So as I understand it, there's nothing
17 that -- Mr. Reeves was reported missing in 2001,
18 correct?

19 A. I apologize, I don't understand.

20 Q. You're the lead -- you're here to offer the
21 sheriff's point of view on this case, correct?

22 A. Correct.

23 Q. Okay. So Mr. Reeves was reported missing in
24 2001. Correct?

25 A. Correct.

1 Q. Okay. And Detective Merrithew became involved
2 in 2006?

3 A. Correct.

4 Q. All right. And what if anything was done between
5 2001 and 2006 on this case?

6 A. Lieutenant Lee had -- and all of this is
7 documented in our file. Lieutenant Lee had actually
8 looked for people. She had taken numerous statements.
9 She had looked for the vehicle. They had run it through
10 our OTIC (phonetic), looking for addresses. They found
11 an address upper state. They sent a law enforcement
12 agency there to try to verify whether Mr. Reeves was
13 there. There's numerous things that were done according
14 to the documentation that Lieutenant Lee left.

15 Q. All right. Well, let's get to the documentation.

16 A. All right.

17 Q. Can you please -- would you be kind enough to
18 tell me what a case contact log is?

19 A. A case contact log is the document that
20 Lieutenant Lee used, and she documented just about
21 everything that she did. She was very good with her
22 records.

23 Q. Are you saying that the case contact log is a
24 document that she generates, or is that something that
25 the sheriff's office uses?

1 A. That is a document that I know Lieutenant Lee
2 used.

3 Q. Okay. And you were aware that those contact
4 sheets existed, correct?

5 A. Right.

6 Q. At what point did you read any of Detective Lee's
7 material regarding this case?

8 A. After Detective Merrithew left or right before he
9 left when a previous solicitor was discussing me
10 possibly having to take the case and be able to testify.

11 Q. So we can get the time sequence straight for the
12 jury, these folks were arrested in August of 2007.
13 Correct?

14 A. Correct.

15 Q. Detective Merrithew left somewhere in October or
16 November of 2009?

17 A. I think so. I'm not sure on the date he left.

18 Q. And so it's your testimony that you were unaware,
19 even though you were involved in the case starting in
20 2006, you were unaware of the contents of the prior
21 investigation until you started preparing this case for
22 trial?

23 A. Yes, ma'am, because I did -- I left the unit also
24 the -- December of '07.

25 Q. Well, I understand that. I'm just trying to get

1 the sequence because ---

2 A. Okay.

3 Q. So, because, as I said, 2001 he's reported
4 missing.

5 A. Right.

6 Q. 2004 and '5, Detective Lee or Lieutenant Lee does
7 extensive investigation?

8 A. Yes, ma'am.

9 Q. Part of that investigation discloses or reveals
10 that Treze Feaster was a suspect in this prior to his
11 arrest in 2007. Correct?

12 A. Yes, ma'am.

13 Q. And even in -- in her case report log it says
14 Trey Feaster called in and gave -- provided certain
15 information. Correct?

16 A. Yes, ma'am.

17 Q. And in that information also is documentation
18 that Trey Feaster had burglarized Parrish Reeves' home
19 prior to him going missing. Correct?

20 A. Yes, ma'am. I did find a report for that.

21 Q. You found a report. All after the fact, in
22 preparation for this case trial?

23 A. Yes, ma'am.

24 Q. Okay. You didn't do any investigation on your
25 own?

1 A. When?

2 Q. Well, at the time you said you got involved in
3 August of 2006. Did you follow up any of the
4 information that was in the -- in the case file?

5 A. The case file, the only thing that -- that I did,
6 I was asked to assist him and pull anything that he
7 needed pulled and assist him any way he needed to be
8 assisted.

9 Q. All right. So you were unaware that on May 15th
10 of 2000 there was a prior burglary report concerning
11 Trey Feaster?

12 A. I did find that.

13 Q. Okay. After the fact?

14 A. Correct.

15 Q. And then you're aware -- I believe you testified
16 earlier this morning that you thought that Ms. Ahrenholz
17 had reported Mr. Reeves missing, but a formal report
18 wasn't made until February of 2001. Correct?

19 A. She did -- she did call.

20 Q. What information -- where did you get that
21 information?

22 A. In our CAD system.

23 Q. In your CAD system?

24 A. Yes, ma'am.

25 Q. And was that -- was that report given to the

1 Solicitor's Office?

2 A. There was -- there was no report made. It was
3 just a call for service ---

4 Q. Well ---

5 A. --- and they went out.

6 Q. But the CAD report, did you give it to the
7 Solicitor's Office to show -- to document your testimony
8 here today?

9 A. No, ma'am. Because it's not a report.

10 Q. Okay.

11 A. It was just that someone -- he went -- they went
12 out to her house and gave her information.

13 Q. Gave who information?

14 A. Ms. Ahrenholz.

15 Q. Well, maybe I don't understand the nature of the
16 CAD report. She calls in and tells you what?

17 A. A CAD is the dispatch system.

18 Q. Right.

19 A. Where an officer is just dispatched out there.

20 Q. So somebody has to call to generate the dispatch?

21 A. Right.

22 Q. All right. So in your -- in your file there's a
23 CAD report that says she did this and an officer went
24 out there?

25 A. It's on the -- it's on the CAD system, yes,

1 ma'am. I can pull it up on my computer.

2 Q. All right. But you can't -- you can't provide it
3 to the solicitor. All right. So, and then there was a
4 subsequent report that was made in March of 2005 in
5 reference to another missing person? At that point in
6 time that's when it becomes -- it went missing person,
7 possible -- possible missing person, larceny, and in
8 2005 that's when it became the burglary. Correct?

9 A. No, ma'am.

10 Q. When did it become the burglary?

11 A. If you look at the report from February the 1st,
12 2001, it's suspicious activity. It's a burglary and
13 it's a larceny.

14 Q. I'm sorry. I stand corrected. That's when he
15 became a missing person in 2001?

16 A. Right.

17 Q. Okay.

18 A. Well, I don't know what you're -- I don't really
19 know what you're speaking of now.

20 Q. Lieutenant Lee's report.

21 A. She did ---

22 Q. She supplemented it?

23 A. She did a supplement to the original report.

24 Q. She did a supplement ---

25 A. Yes, ma'am.

1 Q. --- and at that point in time it became a missing
2 person?

3 A. Yes, ma'am, because she felt it was a missing
4 person.

5 Q. All right. So all of this other stuff with --
6 with Officer Gaffney (phonetic) and the prior burglary,
7 and Officer Phyll and the burglary and larceny, and
8 Officer Lee -- Lieutenant Lee, possible missing person,
9 you had access to that prior to August of 2006.
10 Correct?

11 A. Correct.

12 Q. And Detective Merrithew had access to it prior to
13 2006?

14 A. Correct.

15 Q. And that information would have provided you all
16 with some good investigative leads as to who really was
17 involved in this case, correct?

18 A. Correct.

19 Q. But you didn't review it until October-November
20 2009?

21 A. I had -- I had reviewed it. I didn't actually
22 have to do any leads, but I did review it prior to that.

23 Q. Okay. Well, let me ask you this. What do you
24 mean when you say you don't have to do any -- any leads?

25 A. He was -- here, again, he was working the case

1 and I ---

2 Q. He?

3 A. Detective Merrithew.

4 Q. Thank you.

5 A. And I was pulling information for him. He would
6 review things with me.

7 Q. But the information that you were pulling for him
8 consisted mostly at that point in time your explaining
9 to him how a pawnshop investigation worked. Correct?

10 A. No. I was actually pulling the information out
11 of the pawnshop records.

12 Q. But he came to you and said, Detective Freeman, I
13 need help with this, could you show me how to do it?

14 A. No. He asked me if I would do it.

15 Q. Okay. And did he explain to you why he wanted to
16 do that?

17 A. I had -- already knew why he wanted it done
18 because we had already been discussing the case.

19 Q. And when would that have been, Detective Freeman?

20 A. He had come to me when he first started working
21 with the case, and we were speaking of where we might go
22 with the case and what he might want to look for. He
23 was -- said he wanted to get Ms. Ahrenholz and
24 Ms. Reeves in and actually sit down with them and try to
25 get more information and maybe more leads from them.

1 Q. And that's when you alluded to earlier that he
2 got those lists?

3 A. Correct.

4 Q. Were you present when he did those interviews
5 with Ms. Ahrenholz and Ms. ---

6 A. No.

7 Q. Okay. So do you have any notion as we speak
8 today who was on that list?

9 A. I know that his -- he gave me the name of
10 Katherine Feaster.

11 Q. Okay. Mr. Reeves's stepdaughter?

12 A. Stepdaughter. Jerry Scharer.

13 Q. Mr. Reeves' stepson?

14 A. Correct. Treze Feaster.

15 Q. Mr. Reeves' stepson-in-law?

16 A. Right. And at that time those were the names
17 that we started with.

18 Q. No mention of Jeffrey Michaelson?

19 A. Not at that time.

20 Q. Okay. Now, you also -- so let me just ask you
21 this. Back to the command structure and everything, who
22 decides -- or what does the designation of lead
23 investigator mean?

24 A. That is the person who works the case that the
25 case is definitely assigned to. If it goes for -- if

1 they're here and it goes to prosecution, they are the
2 person that works the case and then works -- goes to
3 prosecution.

4 Q. So I take it based on that comment that if
5 they're not here it doesn't go to prosecution?

6 A. No. It does go to prosecution, but there are
7 times when other persons that worked on the case, if
8 there are any, would be able to take the case.

9 Q. "Take it" in what sense of the word, Detective
10 Freeman?

11 A. If they have the knowledge or worked enough with
12 the case that they would be able to convey to the court
13 system, to the jury, what information there was in the
14 case file.

15 Q. All right. So as I understand your testimony,
16 you're here, as you say, as the investigator in the case
17 because you after the fact reviewed the file and
18 prepared this case for trial in terms of your testimony
19 here?

20 A. No. Because I worked with Detective Merrithew
21 while he was working the case. He was the lead agent at
22 that time, and I was the supervisor assisting him and
23 worked it through that time period. Now, when he knew
24 he was going away, then he started -- we started working
25 the case together in pulling information that might be

1 needed or if that might be needed.

2 Q. And when did he know he was going away, Detective
3 Freeman? At what point in time?

4 A. He had been possibly planning several -- several
5 times. The -- the unit that he is in, they go through
6 physicals and things of that nature. So a lot of times
7 they are tested, then it takes a while before they
8 finally get the final okay.

9 Q. I understand that.

10 A. The exact time, I don't know.

11 Q. Okay. All right. Well, let me ask the question
12 this way. Maybe we can get to the time frame this way.
13 When did he come to you and say, Detective Freeman, I'm
14 going to be leaving here in a week, two weeks, a month,
15 could you possibly help me out here?

16 A. Let's see. We -- I'm trying to think of when we
17 moved from the courthouse back over there. It had to
18 have been after February of 2009.

19 Q. So February of 2009 he came to you and said ---

20 A. He -- he and Solicitor Mikell Henderson.

21 Q. Mikell Henderson. Came to you and told you what?

22 A. That there was a good chance that he was leaving.
23 They were still waiting for an answer. There was a good
24 chance he would be leaving, and we needed to start
25 reviewing the case for coming up shortly, because we

- 1 knew it was coming up shortly.
- 2 Q. But at that point in time, Detective Freeman,
3 there wasn't a trial date for this case, correct?
- 4 A. No, there wasn't.
- 5 Q. And there wasn't a trial date for this case until
6 sometime in October, correct?
- 7 A. Correct.
- 8 Q. And it was in October sometime that Detective
9 Merrithew left, correct?
- 10 A. Truthfully, I don't know when he left because I
11 wasn't -- I was on leave for three weeks.
- 12 Q. Okay. So you were -- you don't know when he
13 left. You don't know when the case was coming up for
14 trial.
- 15 A. Well, the trial, we've had several times, ma'am.
- 16 Q. I understand that. I understand that.
- 17 A. Yes, ma'am.
- 18 Q. But you just testified that you -- you were the
19 person who was designated as the fill-in for Detective
20 Merrithew?
- 21 A. Correct.
- 22 Q. Okay. And you just testified that you did that
23 in anticipation of Detective Merrithew leaving?
- 24 A. Correct.
- 25 Q. And you cannot tell me when all that transpired

1 because you don't know when Detective Merrithew left,
2 that you were on vacation while he was gone?

3 A. Well, I know he was -- I can't tell you the exact
4 date he left because I truthfully am not sure, but I
5 know that I was on leave from the 15th of October
6 through the first part of November. My father was in
7 the hospital.

8 Q. But he was gone when you got back?

9 A. He was gone when I got back.

10 Q. And you are aware before he left that he might be
11 going?

12 A. Yes.

13 Q. Okay. And you are aware and you'd been told you
14 might be required to get this thing ready for court?

15 A. Correct.

16 Q. Okay. Now, all those "mights" in there, please
17 tell me how -- how your finding and looking at the case
18 file after the fact contributed to the investigation.

19 A. By the time I got -- after, all I was doing
20 afterwards was reviewing it.

21 Q. And all you did before was help with the pawn
22 tickets, help with the DMV records, correct, and sit in
23 on some of these video and written statements?

24 A. I went with him to Anderson to pick her up.

25 Q. Yes or no, Detective Freeman?

- 1 A. No.
- 2 Q. Okay. Let's do it in sequence. You helped with
3 the pawnshop ticket?
- 4 A. Correct.
- 5 Q. That those -- that investigation, whoever did it,
6 you or Detective Merrithew determined that the pawn --
7 that the items had been pawned?
- 8 A. Correct.
- 9 Q. The items had been pawned by Katherine Feaster?
- 10 A. Correct.
- 11 Q. The items had been -- some of them recovered by
12 you or Detective Merrithew?
- 13 A. Detective Merrithew.
- 14 Q. Okay. So you weren't involved in that at all,
15 right?
- 16 A. No.
- 17 Q. And then you -- so then -- and that was like in
18 January or February of 2007?
- 19 A. Correct.
- 20 Q. Okay. Now, from January or February 2007 to
21 August of 2007 when all these persons are arrested, what
22 did you do? Is that when you pulled the DMV records?
- 23 A. No, sir -- no, ma'am. Excuse me. We were
24 pulling them all intermittently throughout.
- 25 Q. Okay. Well, what else did you do besides pull

1 the DMV records?

2 A. At that time, nothing.

3 Q. Nothing, all right. And then you -- how did you
4 develop or do you know how the lead was developed from
5 Katherine Feaster to Trey Feaster to Jeremiah Scharer if
6 you only had a pawn ticket from her?

7 A. We had the pawn ticket from her. We obtained a
8 warrant for the property. We went to Anderson, had the
9 warrant countersigned. We took her into custody. In
10 route back, she was Mirandized and we started
11 interviewing her, and the statement that she gave took
12 us down to each person.

13 Q. I understand, but -- and I'm not trying to give
14 you a hard time, but ---

15 A. Right.

16 Q. --- it would help you and me and the process go
17 faster if you would simply answer the question that I
18 ask you.

19 A. Okay. Well, I do apologize. I don't understand
20 the question.

21 Q. All right. Well, let me make it more clear. You
22 developed Katherine Feaster, you and Detective
23 Merrithew, through the pawnshop records?

24 A. Right.

25 Q. In January-February of 2007?

- 1 A. Yes.
- 2 Q. As a suspect?
- 3 A. Correct.
- 4 Q. In the burglary, larceny, whatever you want to
5 call it?
- 6 A. Right.
- 7 Q. Okay. From January or February of 2007 to August
8 of 2007...
- 9 A. Correct.
- 10 Q. --- to be specific, August the 7th, what did you
11 do in this case?
- 12 A. I didn't -- I only -- if he came to me and asked
13 questions or my opinion, I gave him that.
- 14 Q. And so when you say "he," every time you're
15 talking about "he," we're talking about who?
- 16 A. Detective Merrithew.
- 17 Q. Because he was the lead investigator?
- 18 A. Right.
- 19 Q. Okay. Now, you indicated that you -- y'all went
20 to Pelzer, Anderson, wherever, to pick up Katherine
21 Feaster. Who found out where she was living?
- 22 A. I did.
- 23 Q. How did you find that?
- 24 A. DMV records.
- 25 Q. Okay. And so you went to Detective Merrithew and

1 said, here, I think I've found our girl, you know, what
2 do we need to do?

3 A. I gave him the address because I knew he was
4 looking for it, and at that time he said, well, we'll go
5 ahead and get a warrant.

6 Q. He decided to get the warrant?

7 A. Well, the case was his to get.

8 Q. So he decided to get the warrant?

9 A. And I said that sounded like an excellent idea.
10 Because we didn't have any leads that they were actually
11 involved in the homicide, but we knew because there was
12 a time frame the gentleman came up missing, the victim
13 came up missing, and then a week or so later you had a
14 burglary. Okay?

15 Q. But you also had -- and if I understand
16 correctly, based on your prior testimony, you also had
17 all this other stuff that would suggest to you Trey
18 Feaster as a suspect. You could have -- you could do
19 DMV records then, correct?

20 A. Yes.

21 Q. Had you looked at Jean Lee's contact sheets?

22 A. Yes.

23 Q. Okay. But that was never done, right?

24 A. We had a guarantee with Katherine Feaster.

25 Q. Detective Freeman, my question to you was: You

1 had this information, you had Lieutenant Lee's contact
2 sheets, did you do anything with that information?

3 A. No.

4 Q. Did you develop Trey Feaster as a suspect from
5 that information?

6 A. That -- that was part of what when we pulled
7 Katherine Feaster and arrested her that we spoke to her
8 about when we did -- during the interview.

9 Q. You spoke to Katherine Feaster about a
10 conversation that she -- that Trey Feaster had had with
11 Jean Lee?

12 A. No, ma'am.

13 Q. Okay. Clarify it for me.

14 A. Okay. We spoke to her about the events that had
15 occurred, which developed Treze Feaster and Jeremiah
16 and ---

17 Q. But my point to you is, there was information in
18 the Berkeley County Sheriff's Office file that would
19 have indicated two years prior to what you're talking
20 about that Treze Feaster was a possible suspect in this.
21 Correct?

22 A. Right.

23 Q. And nobody did anything, correct?

24 A. Not at that time, no.

25 Q. You indicated Katherine Feaster got arrested,

1 correct?

2 A. We arrested her, yes, ma'am.

3 Q. And you went with Detective Merrithew to
4 Anderson. Part of the reason -- I understand you were
5 involved in the pawnshop stuff. But part of the reason
6 that you went is because you're a female officer,
7 correct?

8 A. Correct.

9 Q. And then it's office policy, the sheriff's office
10 policy that anytime a female is put into a police car,
11 interrogated, whatever, a female officer has to be
12 present. Correct?

13 A. Correct.

14 Q. So it just wasn't that you were involved in it.
15 You went along because you are a woman?

16 A. Yes.

17 Q. Part of the reason?

18 A. Just part, yes, ma'am.

19 Q. Okay. So how long does it take to get from
20 Pelzer or Anderson back to Moncks Corner?

21 A. Several hours.

22 Q. Okay. And you went up there and according to the
23 reports got there around noon. Correct?

24 A. Yes.

25 Q. Okay. And did you have the countersignature from

1 the magistrate at that point in time, or is that the
2 first thing that you did?

3 A. That is the first thing we did.

4 Q. Okay. And then you went to Katherine Feaster's
5 house?

6 A. We took an officer with us, yes, ma'am.

7 Q. Okay. And she was told what?

8 A. That she was under arrest for the stolen -- or
9 for the possession of stolen property.

10 Q. And you told her she -- she had to come back to
11 Moncks Corner?

12 A. Right. She was under arrest and she was coming
13 back to Moncks Corner.

14 Q. And so by this time it was, what, one o'clock,
15 1:30, whatever?

16 A. Correct.

17 Q. Okay. And so you and Detective Merrithew were
18 riding down in the police car from Pelzer to Moncks
19 Corner, and the whole time you're talking to Katherine
20 Feaster about this?

21 A. Detective Merrithew was talking to her, and I'm
22 taking notes.

23 Q. You're taking notes?

24 A. (The witness nods head up and down.)

25 Q. Okay. And you're taking notes based on her

1 response to the questions that Detective Merrithew
2 asked?

3 A. Either that or just the -- just statements that
4 she made.

5 Q. Statements that she made, all right. And then
6 you get to the detective unit, the one you testified
7 about earlier?

8 A. (The witness nods head up and down.)

9 Q. And where did she write this statement, or where
10 was the statement written?

11 A. In the same interview room that everyone else
12 wrote it in. We just ---

13 Q. The same -- sorry. Go ahead.

14 A. I apologize.

15 Q. In the same interview room?

16 A. Yes, ma'am.

17 Q. Okay. And the statement was -- according to my
18 documentation, it was taken August the 6th at 2:30?

19 A. Right.

20 Q. Okay.

21 A. That was partially in route.

22 Q. Partially?

23 A. When she wrote it, she signed the same Miranda
24 that's on there.

25 Q. Okay.

- 1 A. We got her to sign the Miranda.
- 2 Q. So she's riding in the police car, and you're
3 taking notes, and somebody -- you say, here, here's the
4 Miranda statement, here's a witness statement, we want
5 you to write this out?
- 6 A. No. Detective Merrithew had Mirandized her when
7 we first got in the vehicle.
- 8 Q. Okay. So, but she -- she was sitting in the back
9 of the vehicle?
- 10 A. No. She was in front.
- 11 Q. Okay. She was in the front seat. You were in
12 the backseat?
- 13 A. Yes, ma'am.
- 14 Q. Who gave her the witness statement to write out
15 the form?
- 16 A. I had it in my -- in my briefcase that I carry.
- 17 Q. And you handed it up to her at what point?
18 Columbia? Orangeburg? Before that?
- 19 A. When she -- the Mirandas are what she -- she
20 signed at that time.
- 21 Q. All right. So when a written -- when a statement
22 indicates that the time was 2:30, that's incorrect,
23 right, as to the whole statement?
- 24 A. No.
- 25 Q. All right.

1 A. No. Because she was giving a statement at that
2 time. She was just giving a verbal statement.

3 Q. All right. Well, perhaps I'm a little confused.
4 It says that this -- that the statement is being taken?

5 A. Correct.

6 Q. Okay. So it's your testimony that -- that the
7 statement is being taken?

8 A. Uh-huh.

9 Q. At 2:30 while you're in the car?

10 A. Right.

11 Q. Okay.

12 A. She gave first -- she was giving us a verbal
13 statement and then after -- just as we had stated
14 before, we do the verbal first and then we do a written
15 one.

16 Q. You do a verbal first?

17 A. Correct.

18 Q. So I'm just a little confused about the sequence.
19 At what point did she tell you all the stuff that's in
20 the statement?

21 A. When we were driving back she was giving us the
22 verbal statement.

23 Q. The verbal statement. Well, it says -- so the
24 verbal statement is what you say occurred at 2:30?

25 A. Well, she was signing the Miranda at that time,

1 too.

2 Q. Okay. But you wrote out the statement?

3 A. Right.

4 Q. Okay. So you were sitting in the back of the
5 car, writing out what she said?

6 A. After we did the verbal statement, then we wrote
7 the written statement. Well, I wrote it for her at her
8 permission.

9 Q. And by then what time was it?

10 A. It would have to have been within that time
11 frame. I can't tell you exact time frame.

12 Q. Well, what time frame are we talking about?

13 A. We get her into the car something like one
14 o'clock. It had to have been between, what, from 2:30
15 that she signed it or that she signed the Mirandas and
16 in route back.

17 Q. So you were in the backseat, writing out what she
18 was saying?

19 A. I was writing it on a notepad first.

20 Q. So you -- okay, notepad first. She did her
21 Miranda warnings, she executed those at 2:30, and you
22 continued to take notes?

23 A. No. No. We got her to sign -- we took the
24 information off the top.

25 Q. Right.

1 A. So we had all of her information correct. We
2 read her Mirandas off the statement, because that's at
3 the very top.

4 Q. Okay.

5 A. Okay. That way, before we started talking to
6 her, she was aware that she didn't have to talk to us.
7 Okay? And then she gave us -- she was giving us the
8 verbal statement, and then we wrote the -- I wrote the
9 statement for her at her request.

10 Q. So as I understand it, this time frame of 2:30
11 really doesn't mean anything?

12 A. That's whenever we started it and that's when she
13 was signing the Miranda.

14 Q. While in route from Pelzer to Moncks Corner?

15 A. Yes, ma'am.

16 Q. All right. And then you were busily writing out
17 everything in the backseat. Correct?

18 A. Yes, ma'am.

19 Q. Okay. And when did she have an opportunity after
20 that to read it and sign it and make sure everything was
21 correct?

22 A. In -- while we were in -- right after it was
23 written.

24 Q. Okay. So that the -- so in this instance there
25 was a verbal interrogation, a written statement prepared

1 by you, and then after that there was a video statement
2 where there was an attempt to make things -- some things
3 clear. Correct?

4 A. Yes, ma'am.

5 Q. Okay. And what time was that videotaped
6 statement finished?

7 A. When we arrived -- you mean when it was finished?

8 Q. Yes. Yeah. What time was it when you went into
9 the detective -- the detective office where the video
10 camera was?

11 A. It was -- it was late. I can't tell you the
12 exact time. I do know it was late.

13 Q. Late?

14 A. As in after nine o'clock, ten o'clock.

15 Q. That night?

16 A. Uh-huh.

17 Q. So she had been in custody eight or nine -- eight
18 or nine hours?

19 A. Including travel time, yes, ma'am.

20 Q. All right. All right. And so, and then through
21 her -- your investigation, you found out she implicated
22 her brother. Correct?

23 A. Yes, ma'am.

24 Q. And she also implicated her husband?

25 A. Yes, ma'am.

1 Q. Okay. And gave you information about their
2 involvement in this, correct?

3 A. Right.

4 Q. Okay. And do you know or can you tell me whether
5 or not there was any contact between Katherine Feaster,
6 her brother, and her husband during that time when they
7 were each brought in?

8 A. What type of contact?

9 Q. Did she call her husband?

10 A. There was ---

11 Q. Did she call her brother?

12 A. She -- she called on Detective Merrithew's phone
13 and spoke with Mr. Feaster.

14 Q. Okay. She spoke with Mr. Feaster?

15 A. Right.

16 Q. And told him she was in custody?

17 A. Correct.

18 Q. Told him why she was in custody?

19 A. She did.

20 Q. Okay. And at that point in time we're no longer
21 talking about her still receiving stolen goods?

22 A. Correct.

23 Q. But there's information that -- that through your
24 investigation that it also relates to Mr. Reeves' death,
25 correct?

- 1 A. Right.
- 2 Q. And they had an opportunity to discuss that?
- 3 A. There was -- she was just trying to get him to
4 come in.
- 5 Q. So by that time Mr. Feaster had gotten home from
6 work and he knew his wife was -- was gone?
- 7 A. Correct.
- 8 Q. All right. And she had also contacted her mother
9 or her brother to tell him to come to the police
10 station, correct?
- 11 A. Contacted her mother and asked her mother to go
12 get her brother and bring him.
- 13 Q. All right. And everybody that's involved in this
14 train right now knows exactly what's going on, moving
15 down the tracks, right?
- 16 A. Ms. Ahrenholz did not know.
- 17 Q. She did not know?
- 18 A. No. She didn't know exactly what they were being
19 arrested for.
- 20 Q. But she was just told to bring her son to the
21 police station?
- 22 A. Right.
- 23 Q. For whatever reason?
- 24 A. Correct.
- 25 Q. But he wasn't involved in the receiving stolen

1 goods charge?

2 A. No.

3 Q. So she used Detective Merrithew's phone to lure
4 her brother and her husband to the detective's office to
5 give information and statements, correct?

6 A. She asked him to come, yes.

7 Q. At whose direction, Detective Freeman?

8 A. Detective Merrithew had ---

9 Q. Detective Merrithew.

10 A. --- asked her to call and see if she could get
11 them to come in.

12 Q. Detective Merrithew what?

13 A. Asked her to call and see if she could get them
14 to come in.

15 Q. Get them to come in. And were you present to
16 hear that conversation, what she said to them to get
17 them to come in?

18 A. She -- I didn't hear all of it, no, ma'am.

19 Q. What part did you hear?

20 A. I heard when they were talking about coming in
21 and doing the right thing.

22 Q. Doing the right thing?

23 A. Yes, ma'am.

24 Q. All right. And at that point were either you or
25 Detective Merrithew aware of all of their involvement in

1 Mr. Reeves' death?

2 A. According to the statement she had given, yes,
3 ma'am.

4 Q. All right. So, and all these people are related.
5 Correct?

6 A. All but Mr. Michaelson.

7 Q. No, I'm talking -- just the people that you and I
8 are talking about right now.

9 A. Okay. Yes, ma'am.

10 Q. Mrs. Ahrenholz, Mr. Reeves' ex-wife, mother of
11 Katherine and Jeremiah?

12 A. Yes, ma'am.

13 Q. All right. We've already gone through the family
14 relationships of the other three. All right. And there
15 is also information from this investigation that you
16 were provided that each of those folks had reason to not
17 like Mr. Reeves, correct?

18 A. Yes, ma'am.

19 Q. They each had their own reason?

20 A. Yes, ma'am.

21 Q. Never had a good relationship with him?

22 A. That's what we were told.

23 Q. That's what you were told?

24 A. Uh-huh.

25 Q. By Katherine?

1 A. By Katherine.

2 Q. By Trey?

3 MR. ALFARO: Objection, Your Honor.

4 THE COURT: State your ---

5 MR. ALFARO: The whole line of questions
6 calls for hearsay on the part of the witness.

7 THE COURT: Is there an exception,
8 Ms. Kennedy?

9 MS. KENNEDY: Yes, Your Honor, I believe
10 there is.

11 THE COURT: All right. Let's approach.

12 (There was an off-the-record bench conference
13 in the presence of the jury but out of the hearing of
14 the jury.)

15 (Said bench conference being concluded, the
16 following proceedings were had:)

17 THE COURT: Sustained. Rephrase your
18 question, Ms. Kennedy.

19 MS. KENNEDY: Thank you, Your Honor.

20 BY MS. KENNEDY:

21 Q. Detective Freeman, during the course of your
22 investigation, what information did you learn about the
23 relationship that each of these people had with the
24 victim in this case?

25 MR. ALFARO: Objection. It again calls for

1 hearsay, Your Honor.

2 THE COURT: I'm going to allow that question.

3 THE WITNESS: The first part of the -- after
4 we made the arrest of Ms. Feaster, she had made
5 allegations of abuse.

6 MR. ALFARO: Objection, Your Honor. May we
7 approach?

8 THE COURT: You may.

9 (There was an off-the-record bench conference
10 in the presence of the jury but out of the hearing of
11 the jury.)

12 (Said bench conference being concluded, the
13 following proceedings were had:)

14 THE COURT: Sustained.

15 BY MS. KENNEDY:

16 Q. You mentioned in your direct testimony, Detective
17 Freeman, that there was some -- you did some --
18 attempted to do some follow up concerning the -- the
19 rental of the backhoe, correct?

20 A. Yes, ma'am.

21 Q. When was that done?

22 A. That was done -- we had started it after the
23 arrest when there was a mention of a backhoe being
24 rented from Doc's (phonetic), and it continued through
25 2009, and we were finally able to locate the owner. The

1 owner had moved out of state.

2 Q. You keep -- you keep saying "we." I assume that
3 you're talking about you and Detective Merrithew?

4 A. He had mentioned trying to look for it, and I
5 actually looked for it. I found the person out of
6 state, the previous owner. I was able to contact him by
7 telephone. They -- and tried to find the company they
8 had their software with and tried to establish that
9 record.

10 Q. And you did that when?

11 A. And that was in 2009.

12 Q. 2009. Would you be kind enough to explain to me
13 why at least according to the materials I received that
14 there is no record -- record of that part of your
15 investigation?

16 A. We were never able to -- when we finally found
17 the owner, they did send it down. The company that had
18 written their software and maintained their software was
19 also out of business, and we never were able to
20 structure it to where we could get the tapes and be able
21 to pull the information.

22 Q. No, no. I understand that. I understand why you
23 can't get it. My question to you, ma'am, is why none of
24 that is reported in the documents that we were provided
25 for this trial. Because it's important and especially

1 in a murder investigation; is it not?

2 A. Yes.

3 Q. To document everything that you do?

4 A. Because we weren't able -- we weren't successful.

5 Q. Well, I understand that you weren't successful.

6 My question to you is why wasn't that information
7 contained as part of the investigative package that was
8 put together for the prosecution of this case?

9 A. That is something I forgot to do.

10 Q. Okay. So it's not important then to find out who
11 actually rented the backhoe?

12 A. Yes, ma'am.

13 Q. It's not important to find out, according to all
14 the information that you were given, to -- to at least
15 maybe re-interview somebody about who actually rented it
16 and when it was rented and what purpose it was used for?

17 A. We had already interviewed, and we had two
18 different people that said they rented it, and both of
19 them were defendants, and we were not able to get that
20 information from documents.

21 Q. All right. Again, I understand that, but -- but
22 if you're going to be complete and thorough and do a
23 proper investigation and cross your T's and dot your
24 I's, isn't that information important?

25 A. Yes, ma'am.

1 Q. And wouldn't that -- wouldn't that information or
2 the lack of that information have been important enough
3 to you to go back and re-interview people to see if you
4 could find some additional information?

5 A. To my knowledge, there was no additional
6 information we could get.

7 Q. But you didn't try, did you?

8 A. No, ma'am, because that was -- we had the
9 information. We just couldn't go any further with it.

10 Q. Now, you indicated that same thing with trying to
11 locate Ryan Almers and this trailer that supposedly
12 disappeared sometime when the incident happened,
13 correct?

14 A. You mean ---

15 Q. Direct examination this morning, the solicitor,
16 the deputy solicitor asked you ---

17 A. Right.

18 Q. --- about your efforts to contact Ryan Almers?

19 A. Right. I had tried to call him and were not able
20 to contact him.

21 Q. Did you document that?

22 A. No, ma'am, because I wasn't able to speak with
23 him.

24 Q. So, again, there's a missing piece here? You
25 testified earlier that you went through all ---

1 A. Right. And I did.

2 Q. --- you went through all these DMV records, you
3 did all this stuff to try to find all these other
4 people. My question to you, ma'am, is why didn't you do
5 that for Ryan Almers?

6 A. I did find him in DMV, made several phone calls.
7 The only number I could get was his uncle's, left just
8 messages. When I spoke with him we were going to do the
9 documentation. We never were able to get him.

10 Q. But, again, you didn't document that in your
11 file?

12 A. No, ma'am, because I didn't talk to him.

13 Q. Okay. But you didn't document this record,
14 unlike Detective Lee in her case contact log?

15 A. No, ma'am.

16 Q. It wasn't important to you?

17 A. It was important. It was just I didn't make
18 contact with him to have anything to put into the
19 supplement.

20 Q. So it's not important to document -- to document
21 all the efforts that you made to -- to investigate in
22 this case?

23 A. When I make -- when we make an effort and we are
24 -- we have something that we can say, like we were able
25 to contact him, he came in and spoke with us, that's

1 when we do a supplement. I was not able to get him
2 because he never returned my phone calls. I left a
3 message with his uncle. He never returned the call.

4 Q. Did you make any follow-up effort to try to go
5 out to his house and talk to him about it?

6 A. There were some made, not by me.

7 Q. Okay. But that's not documented, either,
8 correct?

9 A. I didn't -- I didn't make the effort.

10 Q. And were you in charge of this investigation at
11 that point in time?

12 A. Yes.

13 Q. Okay. So you were -- then Detective Merrithew
14 had already gone?

15 A. Correct.

16 Q. Okay. So that, again, was after October 2009?

17 A. Correct.

18 Q. Okay. So you're in the process, after these
19 folks were arrested, of building a case based on
20 information the codefendants provided you, but you
21 didn't properly investigate?

22 A. I was not able to contact him. I was unable to
23 get him.

24 Q. So if you were unable, you were unable to verify
25 the information?

- 1 A. No.
- 2 Q. Just like you were unable to verify a lot of the
3 information that was provided to you by Kat Feaster and
4 Trey Feaster and Jeremiah Scharer, correct?
- 5 A. Which information are you speaking of now?
- 6 Q. I'll get to that in a minute.
- 7 A. Okay.
- 8 Q. But my point is, there's no investigation done
9 after these people were arrested that would -- that
10 would explain everything that happened that night and
11 the years that followed. Correct?
- 12 A. Detective Merrithew did continue even after I
13 left the unit.
- 14 Q. Detective Merrithew did what? I'm sorry?
- 15 A. He stated that he had continued working on
16 information that he had received.
- 17 Q. He stated that?
- 18 A. (The witness nods head up and down.)
- 19 Q. He told you that?
- 20 A. Uh-huh.
- 21 Q. Well, if you'd be kind enough then to tell me why
22 there's nothing documented in the file from Detective
23 Merrithew past August 13th, 2007?
- 24 A. I cannot answer that. I was not in the unit at
25 that time.

1 Q. But you picked it up somewhere along the way
2 because Detective -- Detective Merrithew was leaving?

3 A. I got it after. In fact, I got it after he left.
4 We had several conferences prior to him leaving, and I
5 actually got the case after he left.

6 Q. Okay. So as I understand what you're testifying
7 to now is you got it after the fact, not before ---

8 A. The case file ---

9 Q. --- not before he left?

10 A. The case file itself, yes.

11 Q. Okay. Not before he left?

12 A. We had had several conferences before where we --
13 well, information exchange.

14 Q. Information exchange?

15 A. Right.

16 Q. Which is conferences in your office?

17 A. In his office with ---

18 Q. But not with the case file?

19 A. With the case file and Mikell Henderson.

20 Q. The solicitor?

21 A. Right.

22 Q. Right. But those were just conversations. That
23 wasn't investigation. Correct?

24 A. They were just -- it was about the file, what
25 needed to be done, things of that nature, preparing for

- 1 court.
- 2 Q. Well, but we need to make a distinction ---
- 3 A. All right.
- 4 Q. --- Detective Freeman, between the investigation
5 that supposedly took place prior to their date of
6 arrest, beginning on August the 6th, 2007, and when you
7 picked up the case file to prepare it for trial in
8 October of 2009.
- 9 A. Okay.
- 10 Q. Okay?
- 11 A. Yes, ma'am.
- 12 Q. So my question, there wasn't anything done
13 between once these people got arrested, correct, other
14 than to clean up things, you know, question marks?
15 There wasn't an investigation done?
- 16 A. Not to my knowledge.
- 17 Q. Okay. And you would have been the one who was
18 responsible for it, correct?
- 19 A. After I picked the file up.
- 20 Q. Yes, ma'am. In October or November?
- 21 A. Right.
- 22 Q. Okay. And that explains how you came to be the
23 person to be in charge of the dive team where you
24 dredged the canal. Correct?
- 25 A. We did a underwater search.

1 Q. Right. But that was information that
2 Mr. Michaelson, according to his own statement, provided
3 to you all on August the 7th, correct?

4 A. Right.

5 Q. So you had that. You could have done
6 something ---

7 A. No, ma'am. No, ma'am. My team was not formed at
8 that time.

9 Q. But you had other resources and other ways that
10 you -- to achieve it, have that -- have the canal
11 dredged to check out that information two years before
12 it actually was done, correct?

13 A. I received a request from the Solicitor's Office
14 and from Mr. Mikell Henderson in -- during the summer of
15 or late in the summer of 2009.

16 Q. Right.

17 A. That's when our team had been formed, and we
18 actually had the divers, and we were able to do that.

19 Q. But SLED had a dive team, correct?

20 A. They do now.

21 Q. But my point to you, if you'd please answer yes
22 or no, the information that was available to you all to
23 do that was available in August of 2007?

24 A. Yes.

25 Q. Okay. All right. Now, you indicated also that

SERGEANT FREEMAN - CROSS BY MS. KENNEDY

1 you as to these pictures...

2 MS. KENNEDY: Your Honor, may I approach the
3 witness?

4 THE COURT: You may.

5 MS. KENNEDY: Court's indulgence.

6 THE COURT: Yes, ma'am.

7 Ladies and gentlemen, I know we had a lovely
8 lunch, but take this opportunity. You may stand in your
9 chair and stretch if you wish to take this time to move
10 about.

11 MS. KENNEDY: Your Honor, may I approach?

12 THE COURT: You may.

13 BY MS. KENNEDY:

14 Q. Detective Freeman, I'm showing you two exhibits
15 that have previously been marked as state's exhibit
16 number two and number three.

17 A. Yes, ma'am.

18 Q. And you previously identified those?

19 A. Yes, ma'am.

20 Q. And you indicated in your direct examination that
21 -- that this building behind here is the second trailer?

22 A. Yes, ma'am.

23 Q. And that was where you were made aware after the
24 fact that Trey and Kat Feaster had lived in that
25 trailer?

1 A. Yes, ma'am, correct.

2 Q. And so you were told and you received information
3 that according to your investigation that Trey and Kat
4 Feaster didn't move in there until a year or so after
5 all this happened?

6 A. Yes, ma'am.

7 Q. Okay. Could you -- would you be kind enough to
8 tell me where that information -- and that's something
9 you actually did and so you were able to find out.
10 Could you tell me why that information is not in your
11 case file?

12 A. That was during the verbal interview of one of
13 the -- I think it was -- I think it was Trey. I think,
14 I'm not sure. But it was mentioned that they had lived
15 there.

16 Q. But the codefendants' telling you that they
17 actually lived on the same property where Mr. Reeves'
18 body was buried?

19 A. At a later time, yes.

20 Q. At a later time according to Trey Feaster?

21 A. According to whichever one who said it.

22 Q. Right. Did you do anything to investigate when
23 they actually lived there?

24 A. No, ma'am.

25 Q. Did you do anything to determine under what

- 1 circumstances they came to live there?
- 2 A. No, ma'am, I didn't.
- 3 Q. Okay. But the -- but the emphasis and the focus
4 is on Mr. Michaelson because he lived at [REDACTED]
5 Starbright, and right behind that trailer is [REDACTED]
6 Starbright. Correct?
- 7 A. [REDACTED] is further over.
- 8 Q. Where Trey -- where Trey and Kat Feaster lived?
- 9 A. No. I think that's [REDACTED].
- 10 Q. Okay.
- 11 A. I believe [REDACTED] is further down the road.
- 12 Q. Okay. But they -- but they lived right behind
13 Mr. Michaelson?
- 14 A. Right. At a later time.
- 15 Q. According to what you were told, not according to
16 what you investigated?
- 17 A. According to what we investigated, at that time
18 they were living in Bonneau.
- 19 Q. I'm talking about after the fact, after
20 Mr. Reeves' body was buried there.
- 21 A. Okay. I'm not following you.
- 22 Q. Okay. Okay. As you said, the evidence shows so
23 far that Mr. Michaelson was living at [REDACTED] Starbright?
- 24 A. Right.
- 25 Q. And that according to information that you were

1 provided during your investigation, Mr. Reeves' body was
2 buried at ■■■ -- in the yard of ■■■ Starbright?

3 A. Yes, ma'am.

4 Q. And at some point after that, Mr. and Ms. Feaster
5 moved in there?

6 A. Correct.

7 Q. And the body was still there then?

8 A. Correct.

9 Q. Okay. So how is it that -- strike that. You had
10 information that they actually lived there. They, too,
11 knew where the body was. They, too, saw it every day.
12 Right? It wasn't important to you to find out exactly
13 when they moved in there?

14 A. They were not -- we had looked at it. We were
15 concerned with were they living there at that time, and
16 they weren't.

17 Q. How did you determine that? That's my question.
18 What investigation did you do to determine that they
19 were not living in that trailer at that point in time?

20 A. Well, we were told by Ms. Ahrenholz, and we had
21 been told by Ms. Reeves. We had our records from the
22 pawnshop records. Everything that we had stated that
23 they were living and their own statement said they were
24 living in Bonneau. In fact, even Mr. Michaelson's
25 statement said that they were living in Bonneau.

- 1 Q. I'm talking about when the body was buried.
- 2 A. Yes, ma'am. They were living in Bonneau.
- 3 Q. And they moved in shortly thereafter?
- 4 A. A year or so.
- 5 Q. According to whom?
- 6 A. To them.
- 7 Q. Okay.
- 8 A. Right.
- 9 Q. But that information was never verified?
- 10 A. No, because they were ---
- 11 Q. And that information was never put in any of the
12 information in your case file?
- 13 A. No.
- 14 Q. Okay. So you're testifying based on the
15 statements that they made to you?
- 16 A. Correct.
- 17 Q. That's your knowledge of where they lived?
- 18 A. Right.
- 19 MS. KENNEDY: Okay. Court's indulgence, Your
20 Honor.
- 21 THE COURT: Yes, ma'am.
- 22 BY MS. KENNEDY:
- 23 Q. Now, the sequence of the way -- the way these
24 folks got in, first it was Ms. Feaster, and then
25 Mr. Scharer was allowed to come in voluntarily?

1 A. Correct.

2 Q. And then Mr. Feaster was allowed to come in
3 voluntarily?

4 A. Correct.

5 Q. And the SWAT team was sent for Mr. Michaelson?

6 A. No, ma'am. There was no SWAT team.

7 Q. Three police cars?

8 A. Detectives.

9 Q. Right.

10 A. Unmarked vehicles.

11 Q. Right, correct. But he wasn't allowed to come in
12 voluntarily?

13 A. He was being picked up. There was a warrant
14 issued.

15 Q. And whose -- whose idea was that of picking him
16 up like that?

17 A. I don't -- don't know.

18 Q. Can we assume it was Detective Merrithew?

19 MR. ALFARO: Objection. Even with the form
20 of the question, it calls for speculation.

21 THE COURT: Sustained.

22 BY MS. KENNEDY:

23 Q. If the investigation was being done by Detective
24 Merrithew and he was the lead detective, what would be
25 the policy in terms of deciding or who decides how

SERGEANT FREEMAN - CROSS BY MS. KENNEDY

1 people -- how they would come into custody?

2 A. Usually it is the -- a supervisor, which there
3 were several supervisors that were on the scene when he
4 was taken into custody.

5 Q. Several supervisors on the scene?

6 A. Yes, ma'am.

7 Q. And who would those have been?

8 A. Sergeant Alteri. I know that Sergeant Shuler was
9 involved at a later time, and I'm not sure whether he
10 was involved at that time, also. But Sergeant Alteri
11 was there.

12 Q. You said they were involved in the investigation,
13 and you're telling me you have no personal knowledge of
14 how it was that Mr. Michaelson was picked up, right?

15 A. When Mr. Michaelson -- when they were going out
16 for Mr. Michaelson, we were having other things involved
17 that we were investigating in this case. No, ma'am, I
18 do not know right offhand who sent them.

19 Q. Okay. Now, you referenced the truck that was
20 recovered, Mr. Reeves' truck, in your testimony today.
21 Right?

22 A. Yes, ma'am.

23 Q. And that truck had actually been -- reference to
24 that truck and where it was found is in Detective Lee's
25 case log notes, correct?

1 A. Yes, ma'am.

2 Q. So that was information that you all had? That
3 was part of the investigation that she did prior to,
4 earlier?

5 A. Correct.

6 Q. So that -- and so that truck was actually taken
7 by someone else in 2004, right? Someone else assumed
8 ownership of it?

9 A. Correct.

10 Q. Okay. Did you, in your review of the case notes
11 and your file prior to this, during the course of your
12 investigation, receive any information as to how that
13 truck came to be brought on that property?

14 A. Yes, ma'am. There were statements that were
15 taken by -- I think it was Detective O'Neal (phonetic).
16 They had spoken with the Morrises.

17 Q. Who are the Morrises, so the jury will know?

18 A. The Morrises are the -- the people who owned the
19 property on Fairview where the truck was actually
20 located. It had been on that property since 2001.

21 Q. And did you receive any information about how
22 that truck came to be on that property?

23 A. They had stated in -- they -- they had written a
24 statement saying that it was left there, that Mr. Reeves
25 and Trey had brought it over.

1 Q. Trey, Treze Feaster brought the truck over?

2 A. Correct. With Mr. Reeves.

3 Q. Right. And did you -- again back to the --
4 because you indicated that you were present for
5 Mr. Feaster's interrogation, was any investigation done
6 about that part of -- of how the truck actually came to
7 be in Mr. and Ms. Morris's yard?

8 A. Yes.

9 Q. What was that?

10 A. After we had gone through DMV, trying to find the
11 chain of the actual titles and how it was converted
12 over, and we found that Mr. Morris had actually gone
13 through the magistrate and had it shown as an abandoned
14 vehicle and transferred it, also.

15 Q. I understand what happened following. My
16 question to you, Detective Freeman, is: Was there any
17 effort made to investigate any of the information
18 provided to you through Mr. and Ms. Morris about how the
19 truck actually got there, not what they did with it but
20 how it actually got there?

21 A. Okay. They stated -- and maybe I misunderstand
22 you, but they -- they stated in their statement that the
23 two brought it over there and said that they were --
24 there was a separation and they were hiding it from
25 Ms. Ahrenholz.

1 Q. But you didn't go back after you got all that
2 information to -- to do any further investigation or
3 verification of the information that you had been
4 provided by Mr. Feaster?

5 A. We verified it and spoke to Ms. Ahrenholz at that
6 time. That was part of our investigation, given the
7 information, to see if that would be true.

8 Q. My question is: Did you investigate further
9 anything in that regard about Trey Feaster taking the
10 truck over there? Yes or no?

11 A. No.

12 MS. KENNEDY: Court's indulgence.

13 THE COURT: Yes, ma'am.

14 (Ms. Kennedy and Mr. Schwacke confer.)

15 BY MS. KENNEDY:

16 Q. Hopefully one last question, Detective, and it
17 goes back to the case log that Detective Lee did. And
18 you, again, have had the opportunity to review that?

19 A. Yes, ma'am.

20 Q. And you're aware that Trey Feaster contacted her?

21 A. I am aware that they spoke.

22 Q. And he disclosed information to you that he was
23 aware of this whole ---

24 A. To Detective Lee.

25 Q. I'm sorry. To Detective Lee?

1 A. Correct.

2 Q. And that was in 2005?

3 A. Correct.

4 Q. So he had some knowledge ahead of all of this in
5 2007 that he was being looked at in some fashion as far
6 as this investigation?

7 A. I think so, yes, ma'am.

8 MS. KENNEDY: That would be all I would have,
9 Your Honor.

10 Thank you, ma'am.

11 THE COURT: Thank you.

12 Redirect.

13 MR. ALFARO: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. ALFARO:

16 Q. Sergeant Freeman, I guess the first question is,
17 and we've heard a lot of talk about Detective Merrithew
18 going away, where is Detective Merrithew?

19 A. He -- he is in Iraq, Afghanistan, somewhere
20 overseas.

21 Q. And you were asked by Ms. Kennedy what happened
22 in between August of '06 and August of 2007. Would this
23 be the only case that you and Detective Merrithew would
24 have been working at that time?

25 A. No, sir, far from it.

1 Q. And there was some discussion about a lead
2 detective. When someone is designated a lead detective,
3 do the other detectives in this division assist them
4 with their investigation?

5 A. Yes, sir.

6 Q. Or is the lead detective just pretty much left on
7 his own to do it all by himself?

8 A. If it's a major case, no. We assist them.

9 Q. And would it be your testimony that you actually
10 assisted Detective Merrithew prior to any arrests being
11 made?

12 A. Yes.

13 Q. And did you actually participate in any of the
14 interviews, or were you just merely there to watch?

15 A. I participated.

16 Q. And what was the extent of your participation?

17 A. I asked -- on the video there were questions that
18 I did ask. I took notes that when we had questions that
19 maybe needed clarification or just something that was
20 missed that we could, you know, make sure that they were
21 covered.

22 Q. And Ms. Kennedy asked you or you were asked on
23 cross-examination how you got from Katherine Feaster to
24 this defendant, Jeffrey Michaelson. I believe you said
25 that the order was that you spoke with Katherine first.

1 Is that correct?

2 A. That is correct.

3 Q. And also who else did you speak with after you
4 spoke with Katherine?

5 A. Jeremiah Scharer, then Trey Feaster, and then
6 Mr. Michaelson.

7 Q. So did you get -- get to the defendant after
8 speaking with these other people ---

9 A. Yes, sir.

10 Q. --- that were involved?

11 A. Yes, sir.

12 Q. And on cross-examination you were asked if
13 Katherine had implicated Trey Feaster and Jeremiah
14 Scharer?

15 A. Yes.

16 Q. What was your response to that?

17 A. She did.

18 Q. And did she also implicate the defendant?

19 A. Yes.

20 Q. And regarding the backhoe, you were asked if you
21 did any follow up on the documentation of who rented it
22 and things of that nature?

23 A. Yes.

24 Q. Do you recall in your interview with the
25 defendant, Jeffrey Michaelson, that we watched earlier,

1 do you recall if he indicated who rented the backhoe?

2 A. He did.

3 Q. Who did he say in his statement rented the
4 backhoe?

5 A. He said he did.

6 Q. And during the interview did he also indicate
7 that he was living on Starbright Lane?

8 A. Yes.

9 Q. And did he indicate to you that he was living at
10 Starbright Lane when the defendant -- the victim was
11 buried in his yard?

12 A. He was -- he stated he was living there when the
13 -- during 2001. But at that -- at the time of the
14 statement, he was living on Dawson (phonetic) which is
15 in Bonneau.

16 Q. But at the time the body was buried in the yard?

17 A. It was on Starbright.

18 Q. Do you recall if he said Starbright Lane where
19 the body was buried was his yard?

20 A. I think he said it was his mother's.

21 Q. Did he indicate he was living there at that time?

22 A. Yes.

23 Q. You were asked about the truck being taken to --
24 or left behind the trailer. Is that correct?

25 A. Correct.

1 Q. The victim's truck?

2 A. Right.

3 Q. Do you recall in the Defendant Jeffrey
4 Michaelson's own statement that he references what they
5 did with the truck?

6 A. He said they carried the truck out to a trailer
7 in the woods.

8 Q. And by "him," you mean that he was involved in
9 that, as well?

10 A. Correct.

11 Q. And in Mr. Michaelson's interview with you, in
12 his statement, where did he indicate he went to meet
13 with Trey and Katherine and Jeremiah?

14 A. At their home in Bonneau.

15 Q. So he indicated at the time of the shooting that
16 they were living in Bonneau?

17 A. Yes, sir.

18 MR. ALFARO: Thank you. Please answer any
19 questions the defense might have.

20 THE COURT: Ms. Kennedy.

21 MS. KENNEDY: None, Your Honor. Thank you.

22 THE COURT: Thank you. You may step down.

23 (The witness is excused from the witness
24 stand.)

25 THE COURT: Call your next witness.

1 MS. WILLIAMS: The state calls Jeremiah
2 Scharer.

3 (Mr. Scharer enters the courtroom.)

4 THE FOREPERSON: Your Honor, may we have a
5 restroom break?

6 THE COURT: You may. Please remember my
7 admonition.

8 Please rise for the jury.

9 (Whereupon, the jury goes to the jury room at
10 approximately 2:35 p.m.)

11 THE COURT: Thank you. Please be seated.

12 We'll go ahead and take our afternoon break.

13 Ten minutes. Thank you.

14 (A break is taken at approximately 2:35 p.m.)

15 (The trial reconvenes at approximately
16 2:45 p.m., the defendant being present with counsel,
17 Ms. Kennedy and Mr. Schwacke, and the following
18 proceedings were had:)

19 THE COURT: Thank you. Please be seated.

20 MS. WILLIAMS: Out of an abundance of
21 caution, we would just ask for a polite reiteration of
22 the admonishment that you gave them and just tell them
23 they can't -- the jurors, they can't communicate with
24 each other, either with notes or, you know, looking at,
25 mouthing words to each other, whatever. Because after

1 Mr. Schwacke informed us that one of the jurors might
2 have been showing someone else something, out of an
3 abundance of caution we would just ask you to remind
4 them of that. They may only see that as discussing it
5 in the jury room.

6 MR. SCHWACKE: I think that ended up being a
7 request by one juror for candy from the other juror, but
8 that's -- Mr. Shelton saw the rest of that exchange.

9 THE COURT: All right. I have -- as I
10 indicated to you at the side bar, I had been monitoring
11 the situation. I observed that. I did not feel that it
12 rose to the level of calling the jurors out during --
13 during that. I have not seen -- since the one exchange,
14 I have not seen or noticed the conversation between that
15 juror, but I will again kindly remind them that they
16 need to be paying attention. Thank you.

17 Anything further?

18 MS. WILLIAMS: Nothing from the state, Your
19 Honor.

20 THE COURT: Where is your witness?

21 MS. WILLIAMS: He's right here, somewhere.

22 THE COURT: All right. Is that your next
23 witness right there?

24 MS. WILLIAMS: No, Your Honor, he's outside.
25 He's outside.

1 THE COURT: All right. If you'll just have
2 him have a seat on the front row.

3 (Mr. Scharer enters the courtroom.)

4 THE COURT: Anything before we bring in the
5 jury?

6 MS. WILLIAMS: No, Your Honor. Thank you.

7 THE COURT: Anything from the defendant?

8 MS. KENNEDY: No, Your Honor.

9 THE COURT: Thank you.

10 All right. Let's bring in the jury.

11 (Whereupon, the jury enters the courtroom at
12 approximately 2:45 p.m.)

13 THE COURT: Thank you. Please be seated.

14 Ladies and gentlemen of the jury, I just want
15 to remind you that there can -- you cannot discuss this
16 case amongst yourselves. And while we are in the
17 courtroom, if you need anything, if you will direct it
18 to your foreperson and he will direct it to the bailiff
19 and then to me. So if there is any communication that
20 you need to get to -- to the judge, if you will handle
21 it that way, that will be the appropriate manner to
22 handle it. Let's please keep our attention. I know
23 it's getting late in the afternoon and we had a very
24 delightful lunch, but let's keep our attention focused
25 to the witness stand and to the Court. Thank you.

JEREMIAH SCHARER - DIRECT BY MS. WILLIAMS

1 Call your next witness.

2 MS. WILLIAMS: Thank you, Your Honor. The
3 state calls Jeremiah Scharer.

4 JEREMIAH SCHARER,
5 being first duly sworn by the clerk, is examined and
6 testifies as follows:

7 THE CLERK: Please be seated. State your
8 full name and spell your last name for the record.

9 THE WITNESS: Jeremiah Scharer,
10 S-C-H-A-R-E-R.

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q. Now, Jeremiah, how old are you now?

14 A. Twenty-seven.

15 Q. And how old were you back in January of 2001?

16 A. Eighteen.

17 Q. When was your birthday? How long had you
18 been 18?

19 A. Couple of months.

20 Q. And who is your mother?

21 A. Brenda Ahrenholz.

22 Q. Could you please repeat that?

23 A. Brenda Ahrenholz.

24 Q. Could you just repeat that?

25 A. Brenda Ahrenholz.

1 Q. If you will, pull that microphone down just a
2 little bit and just talk right into it. And who is your
3 sister?

4 A. Katherine Feaster.

5 Q. And who is Katherine married to?

6 A. Treze Feaster.

7 Q. Now, how many kids were in your family?

8 A. Three.

9 Q. Three? And besides you and Kat, who is that
10 third person?

11 A. My brother Dennis.

12 Q. Okay.

13 THE COURT: Mr. Scharer, I'm going to need
14 you to speak very loudly, please. Thank you.

15 BY MS. WILLIAMS:

16 Q. Okay. And how long did you live in your home?
17 At what age did you move out?

18 A. Sixteen.

19 Q. And where did you move when you were 16?

20 A. Moved to Charleston.

21 Q. Okay. And who were you living with?

22 A. Pam McVeigh (phonetic).

23 THE COURT REPORTER: Sorry, I didn't hear
24 you.

25 THE WITNESS: Pam McVeigh.

- 1 BY MS. WILLIAMS:
- 2 Q. And how did you know Pam and her family?
- 3 A. I grew up around them.
- 4 Q. Okay. So is it fair to say they took you in?
- 5 A. Yes, ma'am.
- 6 Q. And do you live with them today?
- 7 A. Yes, ma'am.
- 8 Q. And who is Parrish Reeves to you? Who was he to
- 9 you?
- 10 A. My stepfather.
- 11 Q. And where did y'all grow up, like before you
- 12 moved out when you were 16?
- 13 A. Cordesville.
- 14 Q. Did you ever live at Alan Park Lane?
- 15 A. Yes, ma'am.
- 16 Q. How often, like after you moved out, how often
- 17 would you see your sister and brother?
- 18 A. Not very often.
- 19 Q. What does that mean to you? Like, you know, how
- 20 frequently? Every couple of months? Every year?
- 21 A. Every few months.
- 22 Q. Okay. Did you talk to them on the phone some?
- 23 A. Yeah.
- 24 Q. Did you know Frances Reeves?
- 25 A. Yes, ma'am.

- 1 Q. And who was she?
- 2 A. She's my grandmother.
- 3 Q. Okay. Now, where were you living back in 2001 if
4 you remember?
- 5 A. In Walterboro.
- 6 Q. Okay. And I know this is difficult. Just try to
7 speak as much as you can into the microphone,
8 Mr. Scharer. Did you come to visit -- do you remember a
9 time in 2001 when you came to visit your sister in --
10 not in Walterboro but in this area?
- 11 A. Yes, ma'am.
- 12 Q. And where was she living at that time?
- 13 A. At Bonneau.
- 14 Q. Who was she living with?
- 15 A. Her husband, Treze.
- 16 Q. Did they have any children?
- 17 A. Yes, ma'am.
- 18 Q. Who is their child?
- 19 A. James.
- 20 Q. How old was he at that time?
- 21 A. I don't remember.
- 22 Q. Was he a baby or just...
- 23 A. He was still a baby.
- 24 Q. What did you come up for? What was the purpose
25 of the visit?

- 1 A. Just pop a visit.
- 2 Q. Okay. Did you see your momma at that time?
- 3 A. Not at the time.
- 4 Q. At some point during that whole visit?
- 5 A. Yes, ma'am.
- 6 Q. Okay. And when you got to their home, if you
7 remember, who did you talk to first?
- 8 A. I don't remember.
- 9 Q. Who was there?
- 10 A. Katherine and Trey.
- 11 Q. Okay. And did you ever see someone named Jeffrey
12 Michaelson?
- 13 A. Yes, ma'am.
- 14 Q. And do you see Mr. Michaelson here today?
- 15 A. Yes, ma'am.
- 16 Q. Can you please point him out for the jury?
- 17 A. (The witness points.)
- 18 Q. Tell us what he's wearing.
- 19 A. About the exact same tie as I got.
- 20 Q. Okay. And just describe him in general.
- 21 A. The white male with the glasses.
- 22 MS. WILLIAMS: Okay. Your Honor, please let
23 the record reflect that the witness has identified the
24 defendant, Mr. Jeffrey Michaelson.
- 25 THE COURT: It will reflect.

1 BY MS. WILLIAMS:

2 Q. Now, when you got there or at some point while
3 you were there, describe for us where Mr. Feaster, your
4 brother-in-law, and Mr. Michaelson were.

5 A. In the back room.

6 Q. Okay. And at some point did they come out of the
7 back room?

8 A. Yes, ma'am.

9 Q. And did they say anything to you?

10 A. Yes, ma'am.

11 Q. What did they say?

12 A. A comment was made about going to deal with
13 Parrish.

14 Q. Okay. Going to deal with Parrish. And at that
15 point what did the three of you do if anything?

16 A. We got up and left the house.

17 Q. Okay. And where did you -- whose vehicle did you
18 get into after -- after you left the house?

19 A. In his.

20 Q. Okay. Do you remember what kind of vehicle it
21 was?

22 A. A little red S-10.

23 Q. Okay. S-10, is that -- is that a car or truck?

24 A. Truck.

25 Q. Okay. And who was driving?

- 1 A. Trey was.
- 2 Q. Now, before we get any further, Jeremiah, you and
3 I have spoken before; is that true?
- 4 A. Yes, ma'am.
- 5 Q. And in fact we've spoken on a few different
6 occasions; is that correct?
- 7 A. Yes, ma'am.
- 8 Q. When is the first time that you and I spoke?
- 9 A. (There was no response.)
- 10 Q. If you remember. Was it back in 2007, or was it
11 this year?
- 12 A. This year.
- 13 Q. Okay. And you entered into an agreement with --
14 with the state about your testimony, didn't you?
- 15 A. Yes, ma'am.
- 16 Q. And in that agreement you agreed that you would
17 tell the truth?
- 18 A. Yes, ma'am.
- 19 Q. And you agreed that you would testify against
20 Mr. Michaelson. Is that correct?
- 21 A. Yes, ma'am.
- 22 Q. You also agreed that you would testify against
23 Mr. Feaster. Is that correct?
- 24 A. Yes, ma'am.
- 25 Q. If Mr. Feaster were sitting right over there,

1 you'd be testifying against him. Is that true?

2 A. Yes, ma'am.

3 Q. And when he is sitting over there, you're going
4 to be testifying against him. Isn't that true?

5 A. Yes, ma'am.

6 Q. And we didn't -- are giving you nothing in return
7 for that agreement to testify. You are just hoping that
8 it helps you in sentencing. Is that true?

9 A. I wasn't offered it. I just want to get it over
10 with.

11 Q. So all deals are off the table for you. Is that
12 true?

13 A. Yes, ma'am.

14 Q. And you are charged with murder. Is that true?

15 A. Yes, ma'am.

16 Q. Okay. Getting back to -- I'm sorry to sidetrack
17 you, but getting back to that night, you got into
18 Mr. Michaelson's truck and Mr. Feaster was driving.
19 Where did -- where did he take you?

20 A. To Parrish's house.

21 Q. Okay. And where were you sitting in the truck?

22 A. In the bed of the truck.

23 Q. Okay. And when you say to Parrish's house, did
24 Mr. Feaster take you up to his door?

25 A. Ma'am?

- 1 Q. Did he take you up to the door?
- 2 A. No. We got out on the road.
- 3 Q. Okay. And so Mr. Feaster is driving, and the
- 4 plan is to drop you off at the bottom of the road, and
- 5 what did they tell you your part in the plan was?
- 6 A. To knock on the door.
- 7 Q. To knock on the door?
- 8 A. Yes, ma'am.
- 9 Q. In fact, you were supposed to get your step dad
- 10 out of his house. Isn't that true?
- 11 A. Yes, ma'am.
- 12 Q. And when you were walking up the dirt road who
- 13 was with you?
- 14 A. Jeff was with me.
- 15 Q. Did he show you anything or say anything to you?
- 16 A. Yes, ma'am.
- 17 Q. What did he show you?
- 18 A. He had pulled out a gun.
- 19 Q. What did it look like?
- 20 A. A little small black pistol.
- 21 Q. Okay. And did it have anything on it?
- 22 A. Yes, ma'am.
- 23 Q. What?
- 24 A. It had a homemade silencer on there.
- 25 Q. Can you describe it for me?

1 A. It was made out of cloth and tape.

2 Q. So when you say it was made out of cloth and
3 tape, just describe what you saw. Where was it on the
4 gun?

5 A. On the end of the gun.

6 Q. And it was fastened with tape?

7 A. Yes, ma'am.

8 Q. And where did he -- where did he have the gun?

9 A. In the front of his pants.

10 Q. So after you saw the gun, after Mr. Feaster
11 dropped you off, the two of you are supposed to go and
12 get him out of the house, you knew that your step dad
13 was going to get killed, didn't you?

14 A. Yes, ma'am.

15 Q. And you went up there with that man while your
16 brother-in-law is waiting for y'all or doing whatever
17 he's doing, knowing that your step dad is going to get
18 killed with that silencer with that gun, didn't you?

19 A. (There was no response.)

20 Q. Didn't you?

21 A. Yes, ma'am.

22 Q. You didn't tell anyone, you didn't run away, you
23 didn't do anything, did you?

24 A. No, ma'am.

25 Q. Why?

1 A. I was scared.

2 Q. Are you still scared?

3 A. Yes, ma'am.

4 Q. Are you scared of Mr. Michaelson?

5 MS. KENNEDY: Your Honor, I would object.

6 Can we approach?

7 THE COURT: You may approach.

8 (There was an off-the-record bench conference
9 in the presence of the jury but out of the hearing of
10 the jury.)

11 (Said bench conference being concluded, the
12 following proceedings were had:)

13 BY MS. WILLIAMS:

14 Q. Jeremiah, how do you feel about testifying
15 against the defendant today?

16 A. Nervous.

17 Q. If you need to take a break or stop or at some
18 point, just let us know. Okay. So as you're walking up
19 the dirt road, about how long is that road?

20 A. Not long. About a two-minute walk.

21 Q. And what time of day was it?

22 A. It was after dark.

23 Q. And when you got up to the house what happened?

24 A. I knocked on the door.

25 Q. And was your step dad inside?

1 A. Yes, ma'am.

2 Q. And what did he do?

3 A. He told me to hold on.

4 Q. And then what happened next?

5 A. I walked off and waited for him to come out.

6 Q. And what was your relationship like with your
7 step dad over the years?

8 A. Not good. Off and on.

9 MS. KENNEDY: Your Honor, if I may, could the
10 witness speak up a little louder? I'm having trouble
11 hearing him.

12 THE COURT: Mr. Scharer, I'm going to need
13 you to speak as loudly as you can straight into the
14 microphone, please.

15 BY MS. WILLIAMS:

16 Q. And did your step dad eventually come out of the
17 house, Jeremiah?

18 A. Yeah.

19 Q. And then what happened?

20 A. We got in the truck and rode down the road.

21 Q. Well, did anybody tell him why, you know, he
22 needed to come out of the house? After he came out was
23 there any conversation with you or Mr. Michaelson?

24 A. Yes, ma'am.

25 Q. What was that?

- 1 A. Parrish was told that the truck was stuck, that
2 the vehicle was stuck down the road.
- 3 Q. Okay. And so whose vehicle did the three of you
4 get in next?
- 5 A. Parrish's truck.
- 6 Q. Okay. And who was driving Parrish's truck?
- 7 A. Parrish.
- 8 Q. And where was Mr. Michaelson sitting?
- 9 A. In the passenger seat.
- 10 Q. And where did you sit?
- 11 A. In the bed of the truck.
- 12 Q. And is there some kind of fence or anything that
13 you had to get through, or did you just drive somewhere?
- 14 A. Open -- a big gate you had to open.
- 15 Q. Okay. And how did y'all get in and out of the
16 gate?
- 17 A. I opened the gate before I got in the truck.
- 18 Q. And did Mr. Reeves have any pets?
- 19 A. Yes, ma'am.
- 20 Q. How many?
- 21 A. A lot.
- 22 Q. And did he bring any of his pets with him?
- 23 A. No, ma'am.
- 24 Q. Did he have a favorite dog?
- 25 A. Yes, ma'am.

1 Q. What was that dog's name?

2 A. Kippy.

3 Q. Where did Kippy sleep when Mr. Reeves was in the
4 house?

5 A. In his bed.

6 Q. I'm sorry?

7 A. In his bed.

8 Q. So if Mr. Reeves was going somewhere for a long
9 time, would he have brought the dog?

10 A. Yes, ma'am.

11 Q. What happened next while you were in the truck?

12 A. We were riding down the road, and I felt the
13 truck sway back and forth.

14 Q. What kind -- was it an automatic or a stick
15 shift?

16 A. Stick shift.

17 Q. Okay. And then what happened?

18 A. We come to the end of the road and turned onto
19 ████ and took a left on McKnight.

20 Q. Then what happened?

21 A. Then the truck came to a stop, and I went to go
22 jump out of the bed of the truck. That's when the
23 driver's side door came open.

24 Q. And did you see what was in the driver's side?

25 A. Yes, ma'am.

- 1 Q. What was it?
- 2 A. Jeff was.
- 3 Q. Okay. So Jeff is now driving?
- 4 A. Yes, ma'am.
- 5 Q. And did you see Mr. Reeves?
- 6 A. Yes, ma'am.
- 7 Q. What did you see?
- 8 A. He was slumped over on the floorboard.
- 9 Q. Did you see where -- any blood or anything else?
- 10 What exactly did you see?
- 11 A. I seen him slumped over on the floorboard.
- 12 Q. At this point what happened next?
- 13 A. I got back in the truck.
- 14 Q. What was Mr. Michaelson's demeanor at this point,
- 15 like how was he acting?
- 16 A. (There was no response.)
- 17 Q. Mr. Scharer, do you want me to repeat the
- 18 question?
- 19 A. I don't know.
- 20 Q. Do you remember how he was acting?
- 21 A. He just told me to get back in the truck.
- 22 Q. And did you get back in the truck?
- 23 A. Yes, ma'am.
- 24 Q. And then what happened?
- 25 A. We drove back to the house.

1 Q. Now, when you say we drove back to the house,
2 whose house did you drive back to?

3 A. Parrish's house.

4 Q. But that's not what you said in the beginning, is
5 it?

6 A. No, ma'am.

7 Q. Where did you tell the police that you went after
8 Parrish was shot in the beginning?

9 A. I told them I went to my brother's house.

10 Q. So you didn't tell the truth about that, did you?

11 A. No, ma'am.

12 Q. Were you trying to minimize your involvement?

13 A. No. I just couldn't remember everything at once.

14 Q. So the first time you talked to police, had it
15 been six years since it happened?

16 A. Yes, ma'am.

17 Q. And the first time you talked to police you
18 didn't even mention your brother-in-law, did you?

19 A. No, ma'am.

20 Q. When you first told the story?

21 A. No, ma'am.

22 Q. Did you correct that with them?

23 A. Yes, ma'am.

24 Q. Did you finally give all the detail?

25 A. Yes, ma'am.

1 Q. You get back to your father-in-law's (sic) house,
2 he is slumped over in the truck, what happens next?

3 A. We pulled in the yard. I grabbed the phone. I
4 called Trey to come back and pick me up.

5 Q. And did he?

6 A. No, ma'am. He had came back to the house and had
7 Jeff take me home.

8 Q. How long did it take Trey Feaster to get back to
9 that house?

10 A. Probably not even five minutes.

11 Q. So is it not even five minutes?

12 A. (There was no response.)

13 Q. And did anyone go back into Mr. Reeves' house?

14 A. I can't say for sure. My back was turned.

15 MS. KENNEDY: You Honor, I can't hear him. I
16 hate to interrupt, but I really can't hear him.

17 THE COURT: Mr. Scharer, I'm going -- one
18 more time, I'm going to need you to speak very loudly
19 into the microphone.

20 BY MS. WILLIAMS:

21 Q. Did the body get covered with anything
22 eventually, Jeremiah?

23 A. Yes, ma'am.

24 Q. What?

25 A. A comforter.

- 1 Q. And how did that comforter get on the body?
- 2 A. I seen Jeff had it in his hand.
- 3 Q. And was the comforter taken from the house?
- 4 A. Yes, ma'am.
- 5 Q. And what happened next?
- 6 A. When Trey got there, Trey started walking up to
- 7 the vehicle. He looked over at me and then looked back
- 8 at Jeff and told Jeff to take me home.
- 9 Q. And where did they take you?
- 10 A. Jeff took me back to Kat's house.
- 11 Q. Did he say anything to you?
- 12 A. Yes, ma'am. Before we pulled in the driveway.
- 13 Q. What did he say to you?
- 14 A. He told me what we did today, that made me a man.
- 15 Q. Made you a man? After you got back to your
- 16 sister's house -- where was your sister living at that
- 17 time?
- 18 A. In Bonneau.
- 19 Q. How long did it take to get back to her house?
- 20 A. I don't know. Not even ten minutes.
- 21 Q. Okay. Did you discuss what happened with her?
- 22 A. No, ma'am.
- 23 Q. Mr. Scharer, did you discuss with Kat Feaster
- 24 what had happened?
- 25 A. (There was no response.)

1 Q. Did you talk to your sister about the fact that
2 y'all had just killed ---

3 A. No, ma'am.

4 Q. --- Parrish Reeves? Did she know what happened?

5 A. (There was no response.)

6 THE COURT: Mr. Scharer, I need you to ---

7 THE WITNESS: I don't remember.

8 THE COURT: --- respond to the question.

9 BY MS. WILLIAMS:

10 Q. You don't remember if Kat Feaster knew? At some
11 point during that evening do you think she knew?

12 A. (There was no response.)

13 MS. KENNEDY: Your Honor, I would object.
14 That's based on speculation.

15 THE COURT: I sustain that.

16 BY MS. WILLIAMS:

17 Q. At some point in that evening did Mr. Trey
18 Feaster come back home?

19 A. Yes, ma'am.

20 Q. And did you hear him say anything to your sister?

21 A. No, ma'am. I think I was already -- I was
22 already heading out by the time he got there.

23 Q. And how did you leave your sister's house that
24 night?

25 A. With my mom.

1 Q. Why did your mom come over there?

2 A. Because she came home and Parrish was gone.

3 Q. And what did you do with your mom after you left
4 your sister's house?

5 A. I rode with her while she tried to look for his
6 truck and look for him.

7 Q. You rode around with your mother looking for your
8 step dad, and you knew he was dead. Is that what you
9 did?

10 A. Yes, ma'am.

11 Q. And during the six years, the six and a half
12 years he was missing, were you aware of any efforts that
13 your mother made to look to find him?

14 A. Yes, ma'am.

15 Q. Were you aware of the efforts that Ms. Frances
16 Reeves was making to find her son?

17 A. Yes, ma'am.

18 Q. And you never told them?

19 A. (There was no response.)

20 Q. Did you ever tell them?

21 A. No.

22 Q. Now, at some point did you write a letter to
23 Frances Reeves?

24 A. Yes.

25 MS. KENNEDY: Your Honor, I would object.

1 THE COURT: Basis?

2 MS. KENNEDY: Can we have a side bar, Your
3 Honor?

4 THE COURT: You may.

5 (There was an off-the-record bench conference
6 in the presence of the jury but out of the hearing of
7 the jury.)

8 (Said bench conference being concluded, the
9 following proceedings were had:)

10 THE COURT: You may continue.

11 BY MS. WILLIAMS:

12 Q. Mr. Scharer, don't tell us what was in the
13 letter, but you wrote a letter to Frances Reeves; is
14 that true?

15 A. Yes, ma'am.

16 Q. Now, at some point in time were you incarcerated?
17 Were you in jail at the same time that Mr. Michaelson
18 was in jail?

19 A. Yes, ma'am.

20 Q. And during that period of time did he ever say
21 anything about this whole situation in your presence?

22 A. Just at the very beginning.

23 Q. What did he say?

24 A. He tried to tell Trey that I was the reason that
25 we -- we were all locked up.

1 Q. So were you and Trey sitting in jail together?

2 A. Yes, ma'am.

3 Q. And Mr. Michaelson was where?

4 A. He was walking back to the phones.

5 Q. And he was addressing Mr. Feaster?

6 A. Yes, ma'am.

7 Q. And what did he say to Mr. Feaster?

8 A. That I was the reason why we were locked up.

9 Q. He said you -- he told Trey that you were the
10 reason that the two of them were locked up?

11 A. Yes, ma'am.

12 MS. WILLIAMS: Court's indulgence for just a
13 moment.

14 THE COURT: Yes, ma'am.

15 (Ms. Williams and Mr. Alfaro confer.)

16 BY MS. WILLIAMS:

17 Q. Mr. Scharer, just for clarification, when you
18 drove over to Mr. Reeves' house you said that
19 Mr. Feaster was driving Mr. Michaelson's truck. Where
20 was Mr. Michaelson sitting?

21 A. In the passenger seat.

22 Q. And who walked up to the home?

23 A. Me and Jeff.

24 Q. Just you and Jeff?

25 A. Yes, ma'am.

1 Q. And when Mr. Michaelson said we're going to deal
2 with Parrish, we're going to take care of Parrish, was
3 Mr. Feaster right there?

4 A. Yes, ma'am.

5 Q. And getting back to when you were in the bed of
6 the truck in your step dad's truck, explain to me again
7 as you were going down the road.

8 MS. WILLIAMS: And, Your Honor, if we could
9 just set up an easel, I'd like to show Mr. Scharer a
10 map. I've already shown it to defense counsel. I think
11 it might help the jury kind of picture what he's talking
12 about.

13 THE COURT: All right. Are you requesting
14 Mr. Scharer step down?

15 MS. WILLIAMS: Not at this time. I think
16 he's just going to stay and use a pointer. I think that
17 would be better.

18 If you could just put that right over...

19 MS. WILLIAMS: And Ms. Kennedy maybe can just
20 come over and look.

21 MS. KENNEDY: Your Honor, may I have
22 permission to go to look at that?

23 THE COURT: You may.

24 MS. KENNEDY: Thank you.

25 MS. WILLIAMS: Your Honor, if you could just

1 inquire whether the whole panel can see this map?

2 THE COURT: If they cannot, they will alert
3 their foreman. Thank you.

4 MS. KENNEDY: Your Honor, may I have
5 permission to stand here?

6 THE COURT: Yes, ma'am.

7 BY MS. WILLIAMS:

8 Q. All right. Jeremiah, if you just turn in your
9 seat and push this little button, as I ask you questions
10 you can show them where you went, okay? All right. So
11 can you see what that address says right there?

12 A. [REDACTED] Alan Park Lane.

13 Q. And also ---

14 THE COURT: Mr. Scharer, now you are really
15 going to have to speak loudly as you turn away from the
16 microphone so that every member of the jury may hear
17 you. So if you could speak as loudly as I am speaking,
18 that would be wonderful. Speak right into the
19 microphone.

20 BY MS. WILLIAMS:

21 Q. All right. Can you just repeat where that is,
22 where that red dot is? Please repeat what you just
23 testified to.

24 A. [REDACTED] Alan Park Lane.

25 THE COURT REPORTER: At what lane?

1 THE WITNESS: Alan Park Lane.

2 THE COURT REPORTER: Thank you.

3 BY MS. WILLIAMS:

4 Q. And who lived there?

5 A. Parrish did.

6 Q. And where were you and Mr. Michaelson dropped
7 off? If you could just show the jury with the pointer.

8 A. (The witness complies.)

9 Q. Okay. And how far of a walk would you say it is
10 from -- if you could just show them the path that you
11 walked.

12 A. It was about right there and around.

13 Q. Okay. How long would you say it took you to walk
14 up there?

15 A. Two minutes.

16 Q. Okay. And as you were driving back, you
17 testified -- could you just describe again what happened
18 in the truck as far as when you were in the bed of the
19 truck and about where it happened if you remember?

20 A. It was probably more towards this end on the
21 road, and the truck like swayed back and forth. And it
22 was like in idle, just one gear.

23 Q. Okay. Sort of back and forth, and it went what
24 did you say?

25 A. Like in idle or neutral or something.

1 Q. Okay. And show again where you think that might
2 have happened.

3 A. Right about there when it happened.

4 Q. Okay. And how long of a road is it from -- is it
5 fair to say it's about a third of a mile from there to
6 there? How long would it -- would it take you to drive
7 that distance?

8 A. Two or three, five minutes.

9 Q. Okay. And then -- and then after you felt the
10 truck swerve and go into neutral, what happened next?

11 A. It straightened up, and we got towards here and
12 stopped and took a right and then drove down McKnight
13 and stopped like right on this one.

14 Q. Were you driving fast? Were you rolling, I mean?

15 A. Just about probably 45.

16 Q. And you talked about -- you talked about that up
17 to your step dad's house how he was told that -- that
18 your vehicle was -- tell me again what he was told.

19 A. That the vehicle was stuck in the side of the
20 road in a ditch.

21 Q. Who told him that?

22 A. Jeffrey did.

23 Q. What were you doing at that time?

24 A. I went on and sat on the step.

25 Q. And after the murder took place, did you ever go

1 back to your sister and Trey's house again?

2 A. A year later.

3 Q. And were they still living in Bonneau?

4 A. No, ma'am.

5 MS. WILLIAMS: Your Honor, I'm going to show
6 defense counsel what has been previously marked and
7 admitted into evidence as state's two and three.

8 (Ms. Kennedy reviews exhibits.)

9 MS. WILLIAMS: And may I approach the
10 witness?

11 THE COURT: You may.

12 BY MS. WILLIAMS:

13 Q. Jeremiah, look at these pictures and tell me if
14 you recognize what they are pictures of.

15 A. Yes, ma'am.

16 Q. What are they pictures of?

17 A. The trailer Jeffrey used to live in and the
18 trailer behind him that Kat used to live in.

19 Q. Okay. And when you say the trailer behind him
20 that Kat used to live in, was she living there with Trey
21 at the time of the murder?

22 A. No, ma'am.

23 Q. If you know, how much after that did they move
24 into there?

25 A. I don't know.

1 Q. Is that the house you went to a year later?

2 A. Yes, ma'am.

3 Q. And what was the occasion?

4 A. Christmas.

5 Q. And at that time did Mr. Feaster or

6 Mr. Michaelson say anything to you about the murder of

7 Parrish Reeves?

8 A. A comment was made that he was -- that's where he
9 was buried at in the yard.

10 Q. And did they point to an area that he was buried
11 at?

12 A. Yes, ma'am.

13 Q. What did they say about that area?

14 A. He made a comment there was no grass growing on
15 the dirt now.

16 Q. Do you remember exactly where it was? Can you
17 point it out in the pictures?

18 MS. WILLIAMS: Can you put state's two up,
19 please.

20 BY MS. WILLIAMS:

21 Q. Jeremiah, can you tell on this picture where they
22 showed you that the body was buried if you remember?

23 A. Towards that corner of the yard where that tree
24 is.

25 Q. Can you use the pointer, please?

1 A. (The witness complies.) Over on that side.

2 Q. Okay. Thank you, Mr. Scharer.

3 MS. WILLIAMS: Court's indulgence.

4 THE COURT: Yes, ma'am.

5 (Ms. Williams and Mr. Alfaro confer.)

6 BY MS. WILLIAMS:

7 Q. Mr. Scharer, when you were testifying about after
8 the truck came to a stop and you saw your step dad's
9 body, the two of you got back in the truck and went
10 back, who drove?

11 A. Jeff.

12 Q. When you say Jeff, you're talking about
13 Mr. Michaelson?

14 A. Yes, ma'am.

15 Q. And where did you go? Where were you riding in
16 the truck?

17 A. I was still in the bed of the truck.

18 Q. And when you got back there, you said that you
19 called Trey. Whose phone did you use?

20 A. Parrish's phone.

21 MS. WILLIAMS: Please answer any questions
22 the defense might have.

23 CROSS-EXAMINATION

24 BY MS. KENNEDY:

25 Q. Mr. Scharer, good afternoon. Sir, are you ready

1 to continue on?

2 A. Yes, ma'am.

3 Q. Would you be kind enough to move the microphone
4 closer to you so everybody can hear? Now, your direct
5 examination, the assistant solicitor said that the two
6 of you had met a couple of times to discuss this case,
7 and tell me how often that was.

8 A. Not that often.

9 Q. Well, more than once?

10 A. Yes, ma'am.

11 Q. More than twice?

12 A. Yes, ma'am.

13 Q. More than three times?

14 A. Somewhere around there.

15 Q. Somewhere around there? Could it be more than
16 four times?

17 A. (There was no response.)

18 Q. Yes or no, sir?

19 A. I don't know.

20 Q. You don't know. But it's at least three,
21 correct?

22 A. Yes, ma'am.

23 Q. And when was the most recent meeting that you had
24 with the solicitor to discuss your testimony?

25 A. I think it was last week.

- 1 Q. Last week?
- 2 A. Yeah.
- 3 Q. And how long did that meeting take?
- 4 A. Not that long.
- 5 Q. Well, half hour? Hour?
- 6 A. Maybe an hour.
- 7 Q. An hour? And did you during that meeting review
- 8 all the statements -- the prior statements you had given
- 9 concerning this matter?
- 10 A. Yes, ma'am.
- 11 Q. Okay. And how many times have you been
- 12 interviewed by someone other than the assistant
- 13 solicitor in regard to this matter?
- 14 A. I don't remember.
- 15 Q. Maybe I can help you. Did you give a statement
- 16 to Detective Merrithew on the day of your arrest?
- 17 A. Yes, ma'am.
- 18 Q. And were you subsequently interviewed by a SLED
- 19 investigator?
- 20 A. I think so.
- 21 Q. And how many times were you interviewed by a SLED
- 22 investigator?
- 23 A. I think...
- 24 Q. Once? Twice?
- 25 A. I think once.

- 1 Q. You think just once? Could it have been twice?
- 2 A. I don't know.
- 3 Q. You don't know? Do you remember when it was?
- 4 A. No.
- 5 Q. How about November of 2009? Does that ring a
6 bell?
- 7 A. I don't know.
- 8 Q. Sorry, sir?
- 9 A. I don't know when it was.
- 10 Q. You don't remember? But it looks like it -- the
11 question is: Could it have been in November of 2009?
- 12 A. Yeah.
- 13 Q. Okay. All right. And when you gave your initial
14 statement to Detective Merrithew, a lot of the things
15 that you testified to today weren't in that statement,
16 correct?
- 17 A. Yes, ma'am.
- 18 Q. And were you given a copy of that statement?
- 19 A. My original?
- 20 Q. Yes, sir.
- 21 A. Yes, ma'am. Yes, ma'am.
- 22 Q. Okay. And would you be kind enough to tell the
23 ladies and gentlemen of the jury how it is you came to
24 give that first statement, under what circumstances?
- 25 A. Because I got a phone call saying that ---

1 THE COURT: Mr. Scharer, I'm going to need
2 you to speak very loudly, please.

3 THE WITNESS: Yes, ma'am.

4 MS. KENNEDY: Your Honor, may I approach the
5 witness and pull the microphone up?

6 THE COURT: You may. I think that that's
7 only part of the problem.

8 Mr. Scharer, you're going to have to speak
9 up. Thank you.

10 BY MS. KENNEDY:

11 Q. Sir, how is it that you came to give that
12 statement, under what circumstances, on August the 7th,
13 2007?

14 A. I got a phone call.

15 Q. Who did you get a phone call from?

16 A. Detective Merrithew.

17 Q. Detective Merrithew? Did you get a telephone
18 call from your sister, too?

19 A. No. He put her on the phone.

20 Q. He put her on the phone. So you talked to your
21 sister. Correct?

22 A. Yes, ma'am.

23 Q. And you were advised to come in to the Berkeley
24 County detective's office, correct?

25 A. Yes, ma'am.

1 Q. And you were in Walterboro?

2 A. Yes, ma'am.

3 Q. And who brought you over here?

4 A. My mother did.

5 Q. Okay. And about what time of day or night was
6 that, Mr. Scharer?

7 A. About eleven o'clock at night.

8 Q. Eleven o'clock at night. And you were
9 interviewed by Detective Merrithew?

10 A. Yes, ma'am.

11 Q. And in that interview you told Detective
12 Merrithew that -- that Jeff had made a comment about
13 that he was going to deal with Parrish. Correct?

14 A. I can't say I'm correct, because I don't
15 remember.

16 Q. I'm sorry, sir?

17 A. I say I can't say I'm correct, because I don't
18 remember.

19 Q. You don't remember.

20 MS. KENNEDY: Your Honor, may I approach the
21 witness?

22 THE COURT: You may.

23 BY MS. KENNEDY:

24 Q. Mr. Scharer, can you identify that document?

25 A. Yes. My statement.

1 Q. Your statement. And what's the date of it,
2 please?

3 A. August 7th.

4 Q. Sorry?

5 A. I mean -- excuse me. August 7th.

6 Q. 2007. And would you please read the first four
7 lines?

8 MS. WILLIAMS: Your Honor, objection. Can we
9 approach?

10 THE COURT: You may.

11 (There was an off-the-record bench conference
12 in the presence of the jury but out of the hearing of
13 the jury.)

14 (Said bench conference being concluded, the
15 following proceedings were had:)

16 MS. KENNEDY: Your Honor, may I continue?

17 THE COURT: You may continue. Thank you.

18 BY MS. KENNEDY:

19 Q. Mr. Scharer, can you identify this document?

20 A. Yes, ma'am.

21 Q. Would reading this document refresh your
22 recollection about the statement that you made that
23 night?

24 A. Yes, ma'am.

25 Q. Sir?

1 A. Yes, ma'am.

2 Q. Would you be kind enough to read it, please?

3 A. What part?

4 Q. Just read it so you can have all the information,
5 your entire statement.

6 A. (The witness reviews document.) Um...

7 Q. I'm sorry?

8 A. Now I see the part you're talking about.

9 MS. KENNEDY: Your Honor, would you instruct
10 the witness to read it, please?

11 THE COURT: All right. What I just heard him
12 say is that he -- that it did, in essence, refresh his
13 memory, that he saw what you were saying.

14 MS. KENNEDY: I'm sorry. Okay.

15 THE COURT: And if at any point you need to
16 go back with the statement, you may.

17 MS. KENNEDY: Thank you, Your Honor.

18 BY MS. KENNEDY:

19 Q. Mr. Scharer, did you -- was that comment made?

20 A. Yes, ma'am.

21 Q. Okay. And it was made, according to you, by
22 Mr. Michaelson?

23 A. Yes, ma'am.

24 Q. Okay. To your knowledge, did Mr. Michaelson know
25 Parrish Reeves?

- 1 A. I don't know.
- 2 Q. Sir?
- 3 A. Not to my knowledge.
- 4 Q. Not to your knowledge. So to your knowledge
5 would Mr. Michaelson have any reason to harm Mr. Reeves?
- 6 A. I don't know.
- 7 Q. And it's your testimony that Mr. Michaelson and
8 your brother-in-law were in this back room?
- 9 A. Yes, ma'am.
- 10 Q. And you had arrived there just to visit?
- 11 A. Yes, ma'am.
- 12 Q. Okay. You came from Walterboro that day?
- 13 A. Yes, ma'am.
- 14 Q. And what were you planning to do when you came
15 from Walterboro?
- 16 A. I had no plans.
- 17 Q. Sir?
- 18 A. Just come visit my sister.
- 19 Q. Come visit your sister. And how often did you do
20 that?
- 21 A. Try to get up about every few months.
- 22 Q. Every few months? And when you came how long
23 would you usually stay?
- 24 A. Like a day or two.
- 25 Q. Not a couple of weeks?

1 A. No, ma'am.

2 Q. And it's your testimony today -- well, first of
3 all, the initial statement was taken six and a half
4 years after the fact, according to the assistant
5 solicitor, right?

6 A. Can you repeat that?

7 Q. The statement that you gave Detective Merrithew
8 was taken approximately six and a half years after this
9 incident occurred?

10 A. Yes, ma'am.

11 Q. And you indicated that you didn't speak to the
12 solicitor until some time in November or some time in
13 2009. Correct?

14 A. Yes, ma'am.

15 Q. And that would have been approximately eight
16 years after this incident occurred, right?

17 A. (There was no response.)

18 Q. This happened in January of 2001 and you gave --
19 you spoke to the solicitor in 2009. That's eight years,
20 almost nine years, correct?

21 A. Yes, ma'am.

22 Q. All right. And it's your testimony ---

23 THE COURT: Mr. Scharer, what was the answer?
24 I need you to say yes or no.

25 THE WITNESS: I said yes, ma'am.

1 THE COURT: Thank you.

2 BY MS. KENNEDY:

3 Q. Okay. And it's your testimony that your
4 recollection of these events is better nine years after
5 the fact than it was six and a half years after the fact
6 when you were first arrested, correct?

7 A. Say that again?

8 Q. It's your testimony here today that your
9 recollection of these events is better almost nine years
10 after the fact than it was when you were first arrested
11 six years after the fact, six and a half years?

12 A. Yes, ma'am.

13 Q. And in that time you've been able to fill in the
14 blanks?

15 A. (There was no response.)

16 Q. Correct?

17 A. I'm remembering more.

18 Q. You're remembering more. How is it that you're
19 remembering more? What specifically are you remembering
20 more?

21 A. Just remember more about what happened.

22 Q. Okay. And is it your recollection that then that
23 -- that your brother-in-law and Mr. Michaelson hatched
24 this plan to kill Mr. Reeves?

25 A. (There was no response.)

1 Q. Sir?

2 A. I don't know.

3 Q. You don't know? Is it your recollection that
4 when all this -- when this plan was developed you just
5 kind of went along for the ride?

6 A. Yes, ma'am.

7 Q. That was your initial statement, correct?

8 A. Yes, ma'am.

9 Q. And now today you indicated to the assistant
10 solicitor that you knew that your -- that your
11 stepfather was going to be shot. Correct?

12 A. Yes.

13 Q. How did you know that, Mr. Scharer?

14 A. That comment was made before we left the house.

15 Q. The comment that was made by ---

16 A. That Parrish was going to be taken care of.

17 Q. --- Mr. Michaelson?

18 A. Yes, ma'am.

19 Q. He was going to be taken care of. Mr. Michaelson
20 who didn't know your stepfather, correct?

21 A. I don't know if he knew him or not.

22 Q. But at some point somebody said we're going to
23 shoot Mr. Reeves. Correct?

24 A. He was going to get dealt with.

25 Q. I'm sorry?

1 A. Get taken care of.

2 Q. He was going to be taken care of? Well, in your
3 -- in your interview with the SLED agent, you indicated
4 that somebody was going to shoot -- they were going to
5 go shoot Mr. Reeves. Now, which is it? Is it this plan
6 to go shoot him, or is the plan to go take care of him?

7 A. (There was no response.)

8 Q. A or B, Mr. Scharer?

9 A. You're asking the wrong person if you want to
10 know what the plan was.

11 Q. I'm asking the wrong person? Well, isn't it true
12 in your interview with the SLED agent you had indicated
13 that you knew, and in your testimony today you said you
14 knew he was going to be shot? How did you know that?

15 A. Because I seen the gun before we got there.

16 Q. You saw the gun before you got there. And where
17 were you exactly when you saw this gun that you say
18 Mr. Michaelson had?

19 A. When we was on the dirt road.

20 Q. On the dirt road. Is that before Mr. Feaster
21 dropped you off or when you and Mr. Michaelson were
22 supposedly walking up the dirt road or when you ---

23 A. Yes, ma'am, we were walking ---

24 Q. --- went to the door?

25 A. --- up the dirt road.

1 Q. Walking up the dirt road? All right. So you say
2 you saw the gun, that Mr. Michaelson had the gun and
3 you're walking up the dirt road. Didn't stop him?

4 A. Didn't stop who?

5 Q. Mr. Michaelson. Did you say, hey, man, you can't
6 do this?

7 A. No.

8 Q. Okay. And you walked up to the door, according
9 to your testimony, correct, and you lured Mr. Reeves out
10 of his house. Right?

11 A. Right.

12 Q. He came to the door. Where was Mr. Michaelson
13 standing ---

14 A. Standing?

15 Q. --- when you got Mr. Reeves out of his house?

16 A. In front of the door.

17 Q. In front of the door? Beside you?

18 A. I don't know. When he came up to the front door,
19 I had already walked back off.

20 Q. He came to the front door, and you had already
21 walked back off. All right. Let me get this -- let me
22 understand. It's your stepfather's house, correct?

23 A. Correct.

24 Q. Okay. You and Mr. Michaelson supposedly walk up
25 this road. Correct?

1 A. Yeah.

2 Q. And what was the plan?

3 A. (There was no response.)

4 Q. You say you're walking up this -- this dirt road,
5 Mr. Michaelson has a gun, and you didn't ask him why,
6 why does he have the gun?

7 A. No, ma'am, I didn't.

8 Q. You didn't?

9 A. No.

10 Q. But you continue walking?

11 A. How was I -- there was nothing else to do.

12 Q. Nothing else to do? Nothing else to do?

13 A. No, nothing else to do.

14 Q. You walked up to the door and knocked on the
15 door? You're the one who knocked on the door, correct?

16 A. Yeah.

17 Q. Mr. Reeves didn't know Mr. Michaelson, right?

18 A. I didn't say that.

19 Q. Okay. I'm asking you if you know that.

20 MS. WILLIAMS: Your Honor, this has been
21 asked and answered.

22 THE COURT: I'm going to allow it.
23 You may answer.

24 THE WITNESS: Again, I don't know.

25 BY MS. KENNEDY:

1 Q. You don't know or you don't remember?

2 A. I said I don't know.

3 Q. Okay. All right. So what did you say to
4 Mr. Reeves to get him out of the house?

5 A. I didn't say nothing to him.

6 Q. So you want this jury to believe that
7 Mr. Michaelson had all these conversations with a person
8 he didn't know and you simply walked away?

9 A. Obviously they knew each other based on they
10 indulged in conversation.

11 Q. They knew each other because they engaged in a
12 conversation?

13 A. (The witness nods head up and down.)

14 Q. What was that conversation?

15 A. That's when he made the comment about the truck
16 stuck in the ditch.

17 Q. Okay. But you were close enough to hear it?

18 A. I was like right at the porch, right there on the
19 steps.

20 Q. All right. So that was before you went off
21 someplace to smoke a cigarette where you couldn't hear
22 anything. Correct?

23 A. (There was no response.)

24 Q. Is that what happened, Mr. Scharer?

25 A. (There was no response.)

1 MS. KENNEDY: Your Honor, would you be kind
2 enough to instruct the witness to answer the question?

3 THE COURT: Mr. Scharer.

4 THE WITNESS: I done answered the question.
5 BY MS. KENNEDY:

6 Q. What was the answer?

7 A. About what happened and what was said, and I told
8 you.

9 Q. All right. You walked away to smoke a cigarette?

10 A. As I was walking away, that's when the comment
11 was made about the truck.

12 Q. About the truck. You didn't say, Mr. Reeves,
13 hey, this is my buddy, Jeff, and his truck's broke down,
14 could you help us?

15 A. No. He wasn't my buddy.

16 Q. Sir?

17 A. (There was no response.)

18 Q. So what was your explanation to your stepfather
19 about why Mr. Michaelson ---

20 A. I didn't say nothing to him.

21 Q. Sir?

22 A. I didn't say nothing to him.

23 Q. You didn't say nothing to him. And you got into
24 -- and you got into his truck. Did you say anything to
25 him when you got in the truck?

- 1 A. No, ma'am. Parrish just told me to get the gate.
- 2 Q. Get the gate?
- 3 A. Uh-huh.
- 4 Q. And Mr. Michaelson was in the front seat of
- 5 Mr. Reeves' truck?
- 6 A. Yes, ma'am.
- 7 Q. And you were in the bed of the truck why?
- 8 A. Because there wasn't any room in the truck.
- 9 Q. Okay. Why didn't you ride in the passenger seat?
- 10 A. Jeff already got in the passenger seat.
- 11 Q. Here again, you know, you say that Jeff has the
- 12 gun, but you don't do anything to stop him?
- 13 A. (The witness shakes head from side to side.)
- 14 Q. Yes or no, Mr. Scharer?
- 15 A. No, I didn't.
- 16 Q. You didn't. And then what happened after that?
- 17 A. We were riding down the road.
- 18 Q. Riding down the road. How far down the road did
- 19 you get before the truck started swaying back and forth?
- 20 A. Not far down.
- 21 Q. All right.
- 22 A. Almost towards the -- right past on the ways
- 23 toward the dumpsters.
- 24 Q. Toward the what?
- 25 A. Dumpsters.

1 Q. Okay. Is that in any information that you
2 provided in any of the statements you've given in the
3 past?

4 A. No, ma'am.

5 Q. Okay. And so, and the truck started swaying back
6 and forth. Mr. Reeves was still driving at that point,
7 correct?

8 A. I think he was.

9 Q. You think he was?

10 A. He was driving when we left that yard.

11 Q. He was driving when you left. The truck starts
12 swaying back and forth, and then what happened?

13 A. It ended up straightening back up, and we got
14 onto the ---

15 Q. Okay. It ended up -- how did it straighten,
16 straighten back up? Did you ---

17 A. I don't know.

18 Q. You don't know. So you assumed at that point in
19 time that he's already been shot?

20 MS. WILLIAMS: Objection. Calls for
21 speculation.

22 THE COURT: Rephrase your question,
23 Ms. Kennedy.

24 MS. KENNEDY: Thank you, Your Honor.

25 BY MS. KENNEDY:

1 Q. What happened after the truck started swaying
2 back and forth, Mr. Scharer?

3 A. When it straightened up, we drove to four --
4 to [REDACTED].

5 Q. It straightened up. Was Mr. Parrish -- was
6 Mr. Reeves continuing to drive?

7 A. I don't know.

8 Q. Did the truck go off the road?

9 A. No, it didn't.

10 Q. Did the truck stop so Mr. Michaelson could get
11 into the driver's seat?

12 A. No. It just coast down the road.

13 Q. It just coasted down the road? Just all by
14 itself, nobody at the wheel, or if your recollection of
15 events is correct then Mr. Reeves would have already
16 been shot, correct?

17 MS. WILLIAMS: Objection. Calls for
18 speculation.

19 THE COURT: You may answer. Mr. Scharer, you
20 may answer if you know.

21 THE WITNESS: What is the question, again?

22 THE COURT: Ms. Kennedy.

23 MS. KENNEDY: Your Honor, I'm sorry. Could
24 the court reporter read it back.

25 (Said question is read by the court

1 reporter.)

2 THE WITNESS: Yes, ma'am.

3 BY MS. KENNEDY:

4 Q. And so he's still continuing to drive this truck
5 with a bullet wound to his head according to you?

6 A. (There was no response.)

7 Q. Yes or no, Mr. Scharer?

8 A. I didn't say he was driving the truck no more.

9 Q. You didn't say he was driving the truck? Well,
10 let me ask it another way. What point did
11 Mr. Michaelson get behind the wheel of the truck?

12 A. I don't know, but I seen him when we hit the dirt
13 road get out the driver's side.

14 Q. When you hit the dirt road?

15 A. When we drove onto the dirt road.

16 Q. Was that before or after the truck -- the truck
17 started to sway?

18 A. That was after the truck swayed.

19 Q. Okay. So now it's the truck was swaying, but it
20 didn't stop, and then Mr. Michaelson jumped out of the
21 truck, got behind the -- to drive ---

22 A. No, I didn't say that.

23 Q. --- the wheel?

24 A. The truck moved forward till we turned right on
25 ████ and until the first left on McKnight. As soon as

1 the truck came to a stop there, that's when he opened
2 the driver's side door. He came out the driver's side
3 door.

4 Q. Okay.

5 A. Or he was getting out the driver's side door.

6 Q. All right. But at this point in time Mr. Reeves
7 had already been shot, right?

8 A. Yes, ma'am.

9 Q. So it's your testimony then, based on that, that
10 -- that Mr. Reeves was still driving the truck after it
11 swayed back and forth?

12 A. (There was no response.)

13 Q. Is that right, Mr. Scharer?

14 A. Is what right?

15 Q. The truck was continuing ---

16 A. How am I supposed ---

17 Q. Mr. Reeves was continuing to drive the truck,
18 according to your testimony, while he had a bullet wound
19 in his head?

20 A. (There was no response.)

21 Q. Yes or no?

22 A. How am I supposed to know who's driving? Parrish
23 was driving when we left. When that truck come to a
24 stop, Jeffrey was driving.

25 Q. So you -- so you don't know how it was the truck

1 came to a stop, Mr. Michaelson jumped out of the
2 passenger side, got into the driver's side ---

3 A. No. No, ma'am, I never ---

4 Q. --- and started driving the truck?

5 A. I never said that.

6 Q. I'm asking you. You don't know how that
7 happened?

8 A. The truck never came to a stop until we got on
9 McKnight for the -- the stop sign for to turn.

10 Q. Okay. And Mr. Michaelson was behind the wheel at
11 that point in time?

12 A. Yes, ma'am.

13 Q. And you don't know how he got there?

14 A. No, because I did not look.

15 Q. You did not look. So you were riding in this --
16 the back of this truck, the bed of the truck. The truck
17 sways. You didn't think that there was anything wrong
18 with that?

19 A. Yeah.

20 Q. You weren't -- you weren't concerned with your
21 safety?

22 A. Whenever you're going 40 miles an hour down a
23 dark country road, even doing 45 on the road, you're not
24 going to look over the top and try to -- it would be
25 either you're in the truck or out of the truck, so

1 you've got to -- you ain't going to move.

2 Q. You aren't going to move?

3 A. No. I'm in the bed of a truck.

4 Q. You're in the bed of the truck, but you don't
5 know how Mr. Michaelson got behind the wheel?

6 A. No, I don't.

7 Q. Don't know how Mr. Reeves got from the -- from
8 driving the car to the -- to the passenger side of the
9 car?

10 A. No, I don't.

11 Q. Didn't see Mr. Michaelson jump out, yell, scream,
12 any of that stuff to stop the vehicle so he could get
13 in?

14 A. No, ma'am.

15 Q. Okay. So it's your testimony that all you know
16 is that Mr. Michaelson on that day had a gun, you walked
17 up to the house, you got your stepfather outside, and
18 somewhere along the way he just went from driving the
19 car to being a passenger in the car, and Mr. Michaelson
20 was driving the car -- the truck, and somewhere along
21 the way he got shot?

22 A. Yes, ma'am.

23 Q. All right. And then you -- what happened, you
24 drove where after this was over? When did you hook up
25 with your brother-in-law?

1 A. When me and Jeffrey got to the house, Parrish's
2 house.

3 Q. You and Jeff. So, so how did you get back to --
4 to your brother-in-law's house?

5 A. I called Trey and told him to come take me home,
6 but instead he had Jeff take me home.

7 Q. So what happened to Mr. Reeves' truck?

8 A. I wasn't around for that.

9 Q. You weren't around for that, but you were around
10 -- so, well, let's back up a minute. The truck stops,
11 stops somewhere.

12 MS. KENNEDY: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 BY MS. KENNEDY:

16 Q. The truck stops somehow, mysteriously, where,
17 Mr. Scharer?

18 A. What do you mean "stop," when you say "stop"?

19 Q. Comes to a stop.

20 A. On McKnight Forest when we come to a stop.

21 Q. You came to a stop. At that point in time you
22 don't know who -- that how Mr. Michaelson started
23 driving the truck, right?

24 A. No. He was already in the driver's seat.

25 Q. Right. But you don't know how he got there?

1 A. He must have crawled over the seat.

2 Q. He crawled over the seat?

3 A. I mean, the door was never opened. He was on the
4 passenger side when the truck drove off.

5 Q. Oh. Well, that's different than what you
6 testified to a few minutes ago.

7 A. How?

8 Q. All right.

9 A. Yeah. How?

10 Q. All right. Okay. So the truck stops and then --
11 and you call your brother-in-law?

12 A. (There was no response.)

13 Q. Yes or no, Mr. Scharer?

14 A. (There was no response.)

15 Q. Do you remember?

16 A. What was your question?

17 Q. I said the truck stops, and you call your
18 brother-in-law. Correct?

19 A. When the truck -- we got back to the house, I
20 called him.

21 Q. You got back to the house. Whose house?

22 A. Parrish's house.

23 Q. Okay. So it's your testimony today that
24 Mr. Michaelson drove back to Mr. Reeves' house so you
25 could call your brother-in-law?

- 1 A. I'm not saying that's what we drove back to the
2 house for.
- 3 Q. Okay. What happened? Tell me. How did you get
4 from McKnight?
- 5 A. Jeff drove Parrish's truck back to the house.
- 6 Q. Jeff drove Parrish's truck back to the house?
- 7 A. To Parrish's house.
- 8 Q. And where was -- where was Mr. Reeves?
- 9 A. In the floorboard of the passenger side.
- 10 Q. And you're still in the bed of the truck?
- 11 A. Until we get there.
- 12 Q. Till you get there. What happens after?
- 13 A. I get out.
- 14 Q. Okay. And then what did you do?
- 15 A. I called Trey.
- 16 Q. You called Trey?
- 17 A. Yes, ma'am.
- 18 Q. And you asked Trey to come get you?
- 19 A. Yes, ma'am.
- 20 Q. And did he?
- 21 A. No, ma'am.
- 22 Q. He had -- he had Mr. Michaelson's truck, correct?
- 23 A. Yes, ma'am.
- 24 Q. Okay. And he is the one who dropped y'all off at
25 the -- at the road?

- 1 A. Yes, ma'am.
- 2 Q. And where did he go?
- 3 A. I don't know.
- 4 Q. He just disappeared?
- 5 A. (There was no response.)
- 6 Q. Yes or no?
- 7 A. He just drove off.
- 8 Q. He just drove off. And how did Jeff --
- 9 Mr. Michaelson and Mr. Feaster had this plan, but you
- 10 don't know what the plan was?
- 11 A. No, ma'am.
- 12 Q. You don't know why he left?
- 13 A. No.
- 14 Q. But he's still in Mr. Michaelson's truck?
- 15 A. Yes, ma'am.
- 16 Q. And Mr. Reeves' truck was taken back to Alan Park
- 17 Lane?
- 18 A. (There was no response.)
- 19 Q. And Mr. Feaster didn't come to pick you up?
- 20 A. He came back, but he didn't pick me up.
- 21 Q. He came back where?
- 22 A. To Parrish's house.
- 23 Q. Okay.
- 24 A. He came over there.
- 25 Q. Okay. So he -- you called him, and he did come

1 back to get you?

2 A. He came over there, but he didn't take me home.

3 Q. He came over there? And what did he do when he
4 got there?

5 A. He went up and started talking to Jeff.

6 Q. Did he say anything to you?

7 A. No, ma'am.

8 Q. Not a word?

9 A. No, ma'am. Not until he told me to go get in the
10 truck with Jeff, that Jeff was going to take me home.

11 Q. So you don't know anything about anybody going
12 into a house and getting a comforter and trying to make
13 it look like that there had been a robbery?

14 A. No, ma'am. Just the comforter was put on
15 Parrish's body.

16 Q. All you know is the comforter was put on
17 Parrish's body. And his body was still in his truck?

18 A. Yes, ma'am.

19 Q. And you and Trey and Jeffrey Michaelson all got
20 in his truck and left?

21 A. No, ma'am.

22 Q. Okay. What happened?

23 A. Jeff got into -- me and Jeff got in his truck,
24 and Jeff took me back to my sister's house.

25 Q. Okay. So where was Trey?

1 A. He was left there.

2 Q. He was left there? He was left up there at
3 Mr. Reeves' house?

4 A. (There was no response.)

5 Q. Correct?

6 A. Yes, ma'am.

7 Q. Based on what you're saying today?

8 A. Yes, ma'am.

9 Q. And prior to your testimony right now, you've
10 never shared that information with anybody, correct?

11 A. I've always said that it was just me and Jeff
12 that went back.

13 Q. You've always said it was you and -- just you and
14 Jeff going back?

15 A. That Jeff took me home.

16 Q. When in fact Trey was there, too, correct?

17 A. No.

18 Q. Well, then what ---

19 A. He showed up after I called him.

20 Q. He showed up after you called him?

21 A. At the house.

22 Q. So he was at Mr. Reeves's house?

23 A. After it was...

24 Q. After that, right, after it happened. But you
25 never told anybody that before today?

- 1 A. Yes.
- 2 Q. That Trey came back?
- 3 A. Yes.
- 4 Q. Who did you tell, Mr. Scharer?
- 5 A. I don't remember, but I remember I know I
6 mentioned it.
- 7 Q. You mentioned it to somebody?
- 8 A. (There was no response.)
- 9 Q. But you don't know who you mentioned it to?
- 10 A. No, ma'am.
- 11 Q. Okay. Now, whose idea was it to go back to
12 Mr. Reeves' house after he was shot?
- 13 A. I don't remember.
- 14 Q. You don't remember?
- 15 A. What do you mean go back to his house?
- 16 Q. Sorry?
- 17 A. What do you mean go back to his house?
- 18 Q. Well, I mean, you were down on McKnight Forest
19 Road. The car had stopped. Mr. Michaelson was,
20 according to you, driving. Whose idea was it to go back
21 to Mr. Reeves' house?
- 22 A. He just told me to jump back in the truck, get
23 back in the truck because there was a car going close.
- 24 Q. Okay. He told you to jump back -- jump back in
25 the truck?

- 1 A. Yes, ma'am.
- 2 Q. And then he just drove to Mr. ---
- 3 A. Turned back around and drove back.
- 4 Q. Okay. Back, back to Mr. Reeves' house?
- 5 A. Yes.
- 6 Q. You had no idea why he was doing it?
- 7 A. No.
- 8 Q. At what point did you decide to call your
9 brother-in-law and tell him what happened?
- 10 A. As soon as -- as soon as that truck hit the yard.
- 11 Q. Okay. Where was Mr. Reeves' phone?
- 12 A. Right there in the -- inside of the door.
- 13 Q. Inside of the door. Where was his body in
14 relation to the phone being inside of the door?
- 15 A. On the passenger side.
- 16 Q. The passenger side? So his body was on the
17 passenger side, the phone was in the passenger side,
18 even though he'd been driving the whole ---
- 19 A. No, ma'am. I didn't say the phone was ---
- 20 Q. All right. What are you saying?
- 21 A. The phone was the other side. He was in the
22 passenger side.
- 23 Q. He was in the passenger side?
- 24 A. Yes, ma'am.
- 25 Q. So you went around and got the phone out?

1 A. As soon as he -- Jeff got out of the truck,
2 that's how I seen it in the door, so I grabbed it.

3 Q. Okay. Why didn't you call the police?

4 A. That's what everybody at 18 will do?

5 Q. I'm sorry?

6 A. I said that's what everybody is going to do,
7 right?

8 Q. I don't know. I'm asking you. Why didn't you
9 call the police? Just seen your stepfather get shot in
10 the head, you're with somebody you don't even know, why
11 didn't you call the police?

12 A. (The witness shakes head from side to side.)

13 Q. Well, let me ask this. Why did you call your
14 brother-in-law?

15 A. Because I wanted to go home.

16 Q. You wanted to go home. And you were just going
17 to leave your stepfather in the truck?

18 A. (There was no response.)

19 Q. Not know what happened to him, not know what
20 anybody is going to do after that, just going to leave
21 him in the truck?

22 A. (There was no response.)

23 Q. Is that what happened?

24 A. (Crying.)

25 Q. You decided it was more important for you to go

1 home than to look after your father-in-law -- I mean,
2 your stepfather?

3 A. No. I didn't know what to do.

4 Q. You didn't know what to do. But you did
5 something, right? You called your brother-in-law.

6 A. (There was no response.)

7 Q. True?

8 A. (There was no response.)

9 Q. And he came back up to Mr. Reeves' house?

10 A. (There was no response.)

11 Q. Is that what happened? According to what you
12 testified to today, that's what happened.

13 A. (There was no response.)

14 Q. Mr. Scharer, is that what happened?

15 A. Is what happened?

16 Q. According to your testimony today, that's what
17 happened, right? You called your brother-in-law?

18 A. Yes.

19 Q. Because you wanted to go home? Leave your
20 stepfather's body in the truck?

21 A. I was scared. I didn't know what else to do.

22 Q. Okay. Why not call the police?

23 A. That's what everybody would do, right?

24 Q. What did you expect your brother-in-law to be
25 able to do?

- 1 A. (There was no response.)
- 2 Q. Did you think he might call the police?
- 3 A. (There was no response.)
- 4 Q. Nobody did that, did they?
- 5 A. No, ma'am.
- 6 Q. Were you there when Mr. Feaster went back into
7 the house and got the comforter?
- 8 A. The comforter was already put on Parrish before
9 Trey got there.
- 10 Q. The comforter was put on. Who did that?
- 11 A. Jeff did.
- 12 Q. And is that information that you previously
13 provided to anybody other than today?
- 14 A. Yes.
- 15 Q. Who did you give it to, Mr. Scharer? Somebody?
- 16 A. Yes, ma'am.
- 17 Q. Sorry?
- 18 A. Yes.
- 19 Q. Not Detective Merrithew?
- 20 A. No, ma'am.
- 21 Q. Not the SLED agent?
- 22 A. I don't know.
- 23 Q. So drove back up to the house, Mr. Michaelson
24 went in, got the comforter, covered Mr. Reeves' body
25 with the comforter?

- 1 A. Yes, ma'am.
- 2 Q. Is that what you want us to believe?
- 3 A. That's what happened.
- 4 Q. That's what happened? You never told anybody
5 that before today, correct?
- 6 A. I didn't say that.
- 7 Q. Okay. Was Mr. Reeves' body in the comforter when
8 Trey arrived?
- 9 A. Yes, ma'am.
- 10 Q. And Trey did what?
- 11 A. Told Jeff to take me home.
- 12 Q. Told Jeff to take you home. Take you home back
13 to his house?
- 14 A. Take me back, yes, ma'am.
- 15 Q. Okay. And when you got back to his house your
16 sister was there?
- 17 A. Yes, ma'am.
- 18 Q. Did you tell her what happened?
- 19 A. I don't remember.
- 20 Q. You don't remember?
- 21 A. (The witness shakes head from side to side.)
- 22 Q. When did Trey come?
- 23 A. I don't remember if he got there before I left
24 with my mom or after.
- 25 Q. You don't remember whether or not he came home

- 1 before your mother came to pick you up?
- 2 A. (There was no response.)
- 3 Q. When did you call your momma to pick you up?
- 4 A. I didn't call my mom to pick me up.
- 5 Q. Well, how did your mother know to come pick you
6 up?
- 7 A. She didn't come to pick me up for that.
- 8 Q. Okay. Why did she come to pick you up?
- 9 A. She come to pick me up to see if I would ride
10 with her to look for Parrish.
- 11 Q. All right. And what time was it when she came to
12 get you?
- 13 A. I don't remember.
- 14 Q. Well, what time was all this -- what time was it
15 when you finished all this stuff at Mr. Reeves' house?
- 16 A. I don't remember.
- 17 Q. You don't remember. You don't remember when you
18 left, what time, you don't remember ---
- 19 A. It was dark.
- 20 Q. Sorry?
- 21 A. It was dark. That's all I remember.
- 22 Q. It was dark. Dark, so evening, late at night?
- 23 A. It was dark.
- 24 Q. It was dark. Do you remember what -- don't
25 remember what time you started riding around with your

1 mother looking for Mr. Reeves?

2 A. (There was no response.)

3 Q. How was it that your mother knew that you were
4 at your sister's house to come pick you up to go look
5 for Mr. Reeves?

6 A. She come over there to talk to my sister.

7 Q. Came to talk to your sister?

8 A. (There was no response.)

9 Q. Is that when she let you all know that he was
10 missing?

11 A. Yes, ma'am.

12 Q. Okay. And she said -- she asked you to go look
13 for him?

14 A. Yes, ma'am.

15 Q. And you don't remember what time of the night
16 it was? How long did y'all ride around looking for
17 him?

18 A. I don't remember.

19 Q. Did you go back up to the house?

20 A. I don't remember where all we went that night.

21 Q. Let's start now. Go back up to the time ---

22 A. I can't start now if I don't remember.

23 Q. You don't remember. So you never talked to your
24 sister about this? Prior to being arrested?

25 A. (There was no response.)

- 1 Q. Yes or no?
- 2 A. I don't remember.
- 3 Q. You don't remember. Ever talk to your
4 brother-in-law about it?
- 5 A. I didn't hardly talk to him as it was.
- 6 Q. You didn't hardly talk to him as it was? Okay.
7 But you and some guy you didn't know and your
8 brother-in-law had pretty much together just killed
9 somebody? Y'all didn't talk about it?
- 10 A. No, ma'am, we didn't.
- 11 Q. Did you ever get together for family reunions to
12 -- holidays after that?
- 13 A. One holiday.
- 14 Q. Sorry?
- 15 A. One holiday.
- 16 Q. One holiday in ---
- 17 A. Christmas.
- 18 Q. --- in six and a half years?
- 19 A. You said how many holidays we talked about it.
- 20 Q. Yeah, in six and a half ---
- 21 A. One holiday.
- 22 Q. One holiday? Why not the next one? You gave us
23 -- you see your sister, right? You say, based on your
24 earlier testimony, that you would have seen her at least
25 every couple of months. Correct?

1 A. Yes.

2 Q. And then you want us to believe that this -- once
3 this is over and done with, you don't have any contact
4 with your sister and brother-in-law or ---

5 A. Not as much.

6 Q. --- or it's rare contact?

7 A. (There was no response.)

8 Q. Not even on the holidays?

9 A. (There was no response.)

10 Q. Correct?

11 A. Very rarely did we get together.

12 Q. After this, very rarely?

13 A. Before or after.

14 Q. Okay. All right. So before or after. So you
15 want this jury to believe that the three of you never
16 discussed what happened to your stepfather?

17 A. Why would we want to sit here and discuss about
18 what happened?

19 Q. Why wouldn't you?

20 A. Why would we?

21 Q. All right. Let me ask it another way. You were
22 aware of what happened. Trey was aware of what
23 happened. What was your sister's knowledge of what
24 happened?

25 A. Not on that, I don't know.

- 1 Q. You don't know. Still don't know?
- 2 A. (There was no response.)
- 3 Q. Mr. Scharer, you still don't? You still don't
- 4 know?
- 5 A. I can't speak for her.
- 6 Q. You can't speak for her?
- 7 A. (There was no response.)
- 8 Q. You signed a proffer agreement with the
- 9 prosecutor's office, correct?
- 10 A. Yes, ma'am.
- 11 Q. What's your understanding of that proffer
- 12 agreement, Mr. Scharer?
- 13 A. (There was no response.)
- 14 Q. You haven't been promised anything, right?
- 15 A. No, ma'am.
- 16 Q. But you're hopeful to get some benefit from this,
- 17 correct?
- 18 A. No, ma'am. Just to get it done and over with.
- 19 Q. Lesser charge, less time, those kind of things?
- 20 A. No, ma'am.
- 21 Q. You never had those discussions?
- 22 A. No, ma'am.
- 23 Q. So your testimony here today is just simply so
- 24 you can unburden yourself?
- 25 A. Just to get this over with.

1 Q. Get it over with?

2 A. Yes, ma'am.

3 Q. And you're -- as I understand it, you are asked
4 to testify against Mr. Michaelson. Correct?

5 A. Yes, ma'am.

6 Q. And you're being asked to testify against your
7 brother-in-law?

8 A. Yes, ma'am.

9 Q. Are you being asked to testify against your
10 sister?

11 A. I don't know.

12 Q. You don't know. That hasn't been discussed?

13 A. (There was no response.)

14 MS. KENNEDY: Court's indulgence.

15 (Ms. Kennedy and Mr. Schwacke confer.)

16 BY MS. KENNEDY:

17 Q. Mr. Scharer, just a few more questions. You
18 didn't have a good relationship with your stepfather,
19 did you?

20 A. No, ma'am.

21 Q. Sorry?

22 A. No, ma'am.

23 Q. And the reason for that is because of certain
24 abuse that occurred against you and your mother,
25 correct?

- 1 A. No, not correct.
- 2 Q. Okay. Why didn't you have a good relationship
3 with your stepfather?
- 4 A. It was just I was a bad kid.
- 5 Q. You were a bad kid?
- 6 A. I used to get spankings and beatings and stuff.
7 I wasn't a bad kid. I just had -- didn't listen.
- 8 Q. Do you have any knowledge that your mother was
9 being beaten by Mr. Reeves?
- 10 A. I really -- I just heard about one time,
11 something about a fence pole, that she didn't understand
12 what he was saying so he slammed her head into a fence
13 pole or something.
- 14 Q. Sorry? I can't hear you. I'm not trying to be
15 rude. I just can't hear you.
- 16 A. I guess she didn't understand one day, and he
17 slammed her head into a fence pole or something.
- 18 Q. And were you living there at the time?
- 19 A. No, ma'am.
- 20 Q. Why did you leave to go live with the people that
21 you live?
- 22 A. I don't know. I just didn't want to stay there
23 anymore.
- 24 Q. I'm sorry?
- 25 A. I didn't want to stay there anymore.

1 Q. Okay. You didn't want to stay there anymore
2 because why?

3 A. (There was no response.)

4 Q. Why did you want to leave when you were only 16?

5 A. I wanted to move out.

6 Q. You wanted to move out. Why?

7 A. Because I liked being with these other people
8 better than my family.

9 Q. And why didn't you like being with your family?

10 A. (There was no response.)

11 Q. Was it because you were being abused by
12 Mr. Reeves?

13 A. No.

14 Q. Was it because ---

15 A. I was 16.

16 Q. --- your mother was being abused by Mr. Reeves?

17 A. No. I moved out because I wanted to.

18 Q. You wanted to. And your mother let you at the
19 age of 16 just move out?

20 A. Yeah.

21 MS. KENNEDY: Your Honor, those will be all,
22 the only questions that I'd have. Thank you.

23 Thank you, Mr. Scharer.

24 THE COURT: Ms. Williams.

25 MS. WILLIAMS: Thank you.

REDIRECT EXAMINATION

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BY MS. WILLIAMS:

Q. Mr. Scharer, Ms. Kennedy asked you if you had ever told anyone else about the fact that you used Parrish's phone to call Mr. Feaster, and you said you couldn't remember. Is that true?

A. Yes, ma'am. Not off the top of my head I can't.

Q. And she also asked you if you told anyone else that Mr. Michaelson went back into the victim's house and got the comforter, and you said you couldn't remember who you told and when it was. Is that true?

A. Yes, ma'am.

MS. WILLIAMS: Your Honor, I'm going to show defense counsel one of the statements by Mr. Scharer.

(Ms. Kennedy reviews document.)

BY MS. WILLIAMS:

Q. I would like to refresh Mr. -- would it refresh your memory if you were to be able to look at your old statement? Would that help you remember when you told it?

A. Yes, ma'am.

MS. WILLIAMS: May I approach the witness, Your Honor?

THE COURT: You may.

BY MS. WILLIAMS:

1 Q. Without saying what this is, read through the
2 statement and -- actually, let me get you a copy. If
3 you would just read to yourself this paragraph and this
4 paragraph and then see if that refreshes your memory as
5 to who you told and when.

6 A. (The witness reviews document.)

7 Q. Okay. So after reading that, do you see the date
8 of that statement up at the top?

9 A. Yes, ma'am.

10 Q. What's the date?

11 A. November 6.

12 Q. And you did tell the SLED agent ---

13 A. The date ---

14 Q. --- the details she talked about, didn't she --
15 didn't you?

16 A. The date's wrong.

17 Q. That's true, that date is wrong. What does the
18 date say?

19 A. November 6, 2003.

20 Q. When was the actual date if you remember?

21 A. I guess it was November 6, but...

22 Q. Would it have been 2009?

23 A. Nine probably.

24 Q. Any case, did you in fact tell the SLED agent the
25 details that Ms. Kennedy was accusing you of just

1 remembering today?

2 A. Yes, ma'am.

3 Q. So you have told them before?

4 A. Yes, ma'am.

5 Q. In fact, when you gave a statement to the police
6 back in 2007, you pretty much always told the same
7 story, didn't you?

8 A. Yes, ma'am.

9 Q. You were minimizing your involvement, weren't
10 you, Mr. Scharer? You weren't giving all the details
11 because you didn't want to get in trouble; is that true?

12 A. At the time, yes, ma'am.

13 MS. WILLIAMS: Your Honor, I'm going to show
14 defense counsel what has been -- what I would like to
15 mark as state's 101, and this is the statement that
16 Mr. Scharer gave in 2007.

17 (Ms. Kennedy reviews document.)

18 (State's Exhibit No. 101, statement of
19 Jeremiah Scharer, is marked for identification.)

20 MS. WILLIAMS: May I approach the witness,
21 Your Honor?

22 THE COURT: You may.

23 BY MS. WILLIAMS:

24 Q. Mr. Scharer, look this over and tell me what this
25 is.

1 A. It's my statement from when I first ---

2 Q. And is that your signature there?

3 A. Yes, ma'am.

4 Q. And would you look at the first and second page
5 and tell me if that's your full statement.

6 A. (The witness further reviews exhibit.) Yes,
7 ma'am.

8 MS. WILLIAMS: Your Honor, at this time the
9 state would offer exhibit 101 into evidence.

10 MS. KENNEDY: No objection.

11 THE COURT: State's 101 into evidence without
12 objection.

13 (State's Exhibit No. 101, previously marked
14 for identification, is received in evidence.)

15 MS. WILLIAMS: May I approach again, Your
16 Honor?

17 THE COURT: You may.

18 BY MS. WILLIAMS:

19 Q. And in that statement, Mr. Scharer, what do you
20 say that Mr. Michaelson said when you were at
21 Mr. Feaster's house?

22 A. It was that he -- that he made a comment and told
23 me he was going to deal with Parrish.

24 Q. That he was going to deal with Parrish. Is that
25 what you said here today?

- 1 A. (There was no response.)
- 2 Q. Is that the same thing you're saying here today?
- 3 A. Yes, ma'am.
- 4 Q. And in that statement do you also talk about who
5 walked up the dirt road with you?
- 6 A. Yes, ma'am.
- 7 Q. And who was that?
- 8 A. It was Jeff.
- 9 Q. And do you also implicate Mr. Feaster just like
10 you're doing today?
- 11 A. Yes, ma'am.
- 12 Q. Do you say that Mr. Feaster dropped you off?
- 13 A. Yes, ma'am.
- 14 Q. And do you say that it was your job to go to the
15 front door and get him out?
- 16 A. Yes, ma'am.
- 17 Q. And that was your job, wasn't it? It was your
18 job to lure him out of the house, wasn't it?
- 19 A. Yes, ma'am.
- 20 Q. That's why you were there, wasn't it?
- 21 A. (There was no response.)
- 22 Q. Because he trusted you. They knew he'd come to
23 the door for you. Isn't that true?
- 24 A. (There was no response.)
- 25 Q. Mr. Scharer, isn't that true?

1 A. Yes, ma'am.

2 Q. And in this same statement you gave in 2007 do
3 you talk about the truck swerving back and forth?

4 A. Yes, ma'am.

5 Q. And do you talk about seeing your step dad's body
6 when the truck stopped?

7 A. I don't know ---

8 Q. When you got out?

9 A. I don't know if I said that or not, no, ma'am.

10 Q. Well, look at your statement. Look at the second
11 page, the very end.

12 A. (The witness further reviews exhibit.) Yes,
13 ma'am.

14 Q. Now, when you were in the back of the truck and
15 you felt the truck swerve, could you see in the truck?

16 A. No, ma'am.

17 Q. So you don't know exactly when Parrish Reeves was
18 shot, do you?

19 A. No, ma'am.

20 Q. And you don't know when Mr. Michaelson
21 straightened up the wheel or leaned over or got into the
22 -- the driver's side, do you?

23 A. No, ma'am.

24 Q. You're just here to tell what you know and what
25 you saw; is that true?

1 A. Yes, ma'am.

2 Q. Now, Ms. Kennedy asked you about the gun, and you
3 said that there was a silencer on the gun. Describe
4 that silencer to me, please.

5 A. It was a cloth material wrapped with tape.

6 MS. KENNEDY: Your Honor, I object. Can we
7 have a side bar, please?

8 THE COURT: You may.

9 (There was an off-the-record bench conference
10 in the presence of the jury but out of the hearing of
11 the jury.)

12 (Said bench conference being concluded, the
13 following proceedings were had:)

14 THE COURT: You may continue.

15 MS. WILLIAMS: Thank you, Your Honor.

16 BY MS. WILLIAMS:

17 Q. I'm sorry, Mr. Scharer, I think I got lost. Can
18 you just describe the silencer?

19 A. A cloth material wrapped with tape.

20 Q. And what did this gun -- how big was the gun?

21 A. It was a small handgun.

22 Q. Pardon me?

23 A. A small handgun.

24 Q. What color was it?

25 A. I think it was black.

1 Q. And Ms. Kennedy asked you why you didn't do
2 anything on the dark dirt road with Mr. Michaelson after
3 he showed you the gun. Why didn't you do anything at
4 that point? What were the reasons why?

5 A. Because I was scared.

6 Q. Was there anybody else around?

7 A. No, ma'am.

8 Q. Were you maybe afraid ---

9 MS. KENNEDY: Your Honor.

10 BY MS. WILLIAMS:

11 Q. --- that he could have shot you?

12 MS. KENNEDY: Leading.

13 THE COURT: Ms. Williams, please rephrase
14 your question.

15 BY MS. WILLIAMS:

16 Q. What were you afraid of?

17 A. I didn't know what he was capable of.

18 Q. And Ms. Kennedy was asking you about whether you
19 knew what the plan was. You know that Mr. Michaelson --
20 well, what did Mr. Michaelson say when -- when you were
21 at the trailer?

22 A. That he was going to deal with Parrish.

23 Q. He was going to deal with Parrish. And what was
24 your job to do that night? What were you supposed to
25 do?

1 A. Knock on the door.

2 Q. You were supposed to get him out of the house,
3 weren't you?

4 A. Yes, ma'am.

5 Q. And you drove over there in whose truck?

6 A. In Jeff's truck.

7 MS. KENNEDY: Your Honor, that's been asked
8 and answered. I would object.

9 MS. WILLIAMS: Judge, this goes to the plan.

10 THE COURT: Counsel.

11 You may answer.

12 Overruled.

13 BY MS. WILLIAMS:

14 Q. Whose truck was it?

15 A. It was in Jeff's truck.

16 Q. And who drove?

17 A. Trey did.

18 Q. Because who was supposed to get out of the truck?

19 A. Me and Jeff.

20 Q. And you and Jeff were supposed to go where?

21 A. To Parrish's house.

22 Q. And when you called Mr. Feaster, how long did it
23 take him to get back to Parrish's house?

24 A. Not even five minutes.

25 Q. Not even five minutes. Ms. Kennedy asked you if

1 you called -- why you didn't call the police or that you
2 didn't call the police. Did Mr. Feaster call the
3 police?

4 A. No, ma'am.

5 Q. Did Mr. Michaelson call the police?

6 A. No, ma'am.

7 MS. WILLIAMS: Court's indulgence for just a
8 second.

9 THE COURT: Yes, ma'am.

10 MS. WILLIAMS: Your Honor, we have moved
11 state's exhibit 101 into evidence?

12 THE COURT: Yes, ma'am.

13 MS. WILLIAMS: Thank you.

14 THE COURT: Ms. Kennedy.

15 RECROSS-EXAMINATION

16 BY MS. KENNEDY:

17 Q. Mr. Scharer, you've had an opportunity to look at
18 your statement, correct?

19 A. Yes, ma'am.

20 Q. And it's in front of you, correct?

21 A. Yes, ma'am.

22 Q. Okay. Would you be kind enough, sir, to pick it
23 up?

24 A. (The witness complies.)

25 Q. Would you be kind enough to count the number of

1 lines on that statement?

2 MS. KENNEDY: Your Honor, may I approach the
3 witness?

4 THE COURT: You may.

5 BY MS. KENNEDY:

6 Q. Sir, if you start -- start here where the
7 statement begins and count the number of lines going
8 from that page to the next page all the way to the end.

9 A. (The witness complies.)

10 Q. How many, Mr. Scharer?

11 A. Twenty-two.

12 Q. Twenty-two. Twenty-two lines that relate to what
13 you say happened that night. Correct?

14 A. Yes, ma'am.

15 Q. Most of which in the statement doesn't contain a
16 lot of the information that you testified here today to,
17 correct?

18 A. Yes, ma'am.

19 Q. Not included, the very first statement that you
20 gave, right?

21 A. Yes, ma'am.

22 Q. All right. And you -- I think the solicitor used
23 the phrase "you told the same story a number of times."
24 Right?

25 A. (There was no response.)

1 Q. Conversation with Detective Merrithew,
2 conversation with the SLED investigator, conversation --
3 at least three with the Solicitor's Office. You told
4 the same story over and over, right?

5 A. What do you mean the same story?

6 Q. The same story. The solicitor said you told the
7 same story every time.

8 A. (There was no response.)

9 Q. The story you told today is not what's in your
10 statement, right?

11 A. No, ma'am.

12 Q. So it's not the same story, correct?

13 A. Correct.

14 Q. Okay. And you indicated upon the questioning of
15 the assistant solicitor you didn't want to get in any
16 trouble and you wanted to minimize your involvement in
17 this, correct?

18 A. Yes, ma'am.

19 Q. Okay. And the purpose of minimizing your
20 involvement in this is hoping -- one of the purposes is
21 so you can get a sweetheart deal, less -- lesser charge,
22 less time, right?

23 A. (There was no response.)

24 Q. And that's the purpose of the proffer, correct?

25 A. No, ma'am.

1 Q. Well, why would you try to minimize your
2 involvement then? What's the purpose of that?

3 A. I'm not minimizing it.

4 Q. Sir?

5 A. I haven't.

6 Q. You haven't?

7 A. At the beginning I did.

8 Q. Okay. In answer to the solicitor's question you
9 said and she said you wanted to minimize your
10 involvement. That's not true now? It's different from
11 five minutes ago?

12 A. (There was no response.)

13 Q. Yes or no, Mr. Scharer?

14 A. (There was no response.)

15 MS. KENNEDY: Your Honor, would you please
16 instruct the witness to answer my question.

17 THE COURT: Mr. Scharer, please answer all
18 questions to you. Thank you.

19 THE WITNESS: What's the question?

20 BY MS. KENNEDY:

21 Q. The question is: You wanted to minimize your
22 involvement, right?

23 A. I did at the beginning.

24 Q. You did at the beginning?

25 A. Yeah, like I answered that earlier.

1 Q. When the solicitor asked you about minimizing
2 your involvement? You said, yes, that's what I wanted
3 to do?

4 A. And I also said, yes, at the beginning I did
5 that.

6 Q. And the whole purpose of that ---

7 A. I also said ---

8 Q. Excuse me. Go ahead.

9 A. That's...

10 Q. The whole purpose of minimizing your involvement
11 is so you will look less guilty. Correct?

12 A. At the beginning I did that.

13 Q. And you're continuing to do it today?

14 A. No, I'm not. There's a lot of stuff different
15 that I said not in this statement right here.

16 Q. My point exactly, sir. Thank you.

17 THE COURT: Mr. Scharer, you may step down.

18 (The witness is excused from the witness
19 stand.)

20 THE COURT: All right. Counsel approach just
21 for scheduling.

22 (There was an off-the-record bench conference
23 in the presence of the jury but out of the hearing of
24 the jury.)

25 (Said bench conference being concluded, the

1 following proceedings were had:)

2 THE COURT: Ladies and gentlemen, we've
3 reached an appropriate stopping point for the evening.
4 Do not discuss this case amongst yourselves. Do not
5 begin your deliberations. Do not read, watch, listen to
6 any news accounts should there be any. But, ladies and
7 gentlemen, please have a restful evening and be back in
8 your jury room. We will begin promptly at 9:30.

9 Please rise for the jury.

10 (Whereupon, the jury leaves the courtroom at
11 approximately 4:37 p.m.)

12 THE COURT: Please be seated.

13 All right. Just for the record, we had a
14 matter at the side bar. I'll allow you to place that on
15 the record concerning the gun and the silencer,
16 Ms. Kennedy.

17 MS. KENNEDY: Thank you, Your Honor.

18 Your Honor, my objection was to the assistant
19 solicitor's questioning concerning the silencer and the
20 gun.

21 My cross-examination of Mr. Scharer was
22 confined to him seeing the gun and where the gun was
23 allegedly kept on Mr. Michaelson's body. I did not ask
24 for any kind of description. I did not ask for what
25 kind of gun it was. I certainly did not go into

1 anything concerning the silencer.

2 My understanding is that recross examination,
3 the scope of that is limited to issues raised on
4 cross-examination, and I would respectfully request --
5 and I had asked the Court to -- and objected on that
6 basis, and the Court overruled.

7 THE COURT: All right. And the Court stands
8 by its ruling. Based upon the testimony that occurred
9 and the fact that you had inquired as to whether or not
10 he had seen the gun, I felt that it was appropriate
11 redirect as to a description of the gun. Additionally,
12 there was testimony presented as to the redirect, so
13 based upon -- during the direct as to the description of
14 the silencer. Based upon that, the Court feels that it
15 was appropriate for redirect and there was no prejudice
16 to Mr. Michaelson.

17 As to Mr. Valbert, I have instructed that he
18 will be back in the morning. If he is not, the
19 transport -- I will hold someone in contempt if he is
20 not transported back tomorrow. So I will assume that
21 Mr. Valbert will be here when we begin promptly at 9:30.
22 So if you will relay that message.

23 Anything further before we break? I
24 understand that there may be some issue. So,
25 Ms. Williams, if you would just out of an abundance of

1 caution just give another copy of ---

2 MS. WILLIAMS: Oh, absolutely.

3 THE COURT: --- Mr. Valbert's statement to --
4 to the defense so that we will have that to begin in the
5 morning.

6 And with that, just for scheduling, how many
7 more witnesses? I will not hold you to that. Just
8 trying to schedule for the remainder of tomorrow.

9 MS. WILLIAMS: Your Honor, we have...

10 MR. ALFARO: Your Honor, there are
11 approximately eight witnesses. Most are short
12 witnesses.

13 THE COURT: Eight witnesses left?

14 MR. ALFARO: Yes, Your Honor.

15 THE COURT: All right.

16 MR. ALFARO: For scheduling purposes, you
17 mentioned earlier a possibility that you have something
18 in Charleston tomorrow?

19 THE COURT: I have cancelled that docket. I
20 had an all-day docket scheduled. So that docket has
21 been cancelled.

22 All right. So we are prepared to go forward.
23 And anything further from the state?

24 MS. WILLIAMS: Nothing further from the
25 state, Your Honor.

1 THE COURT: All right.

2 MS. WILLIAMS: Just for the record, I'm going
3 to hand Ms. Kennedy another copy of Mr. Valbert's
4 statement.

5 (Document tendered to Ms. Kennedy.)

6 THE COURT: All right. And at this time I'm
7 going to advise Mr. Michaelson of his right to testify
8 so that you will have ample opportunity to go over this
9 issue with Mr. Michaelson.

10 Please swear the defendant.

11 Whereupon,

12 JEFFREY MICHAELSON,
13 is duly sworn by the clerk.

14 THE COURT: Thank you.

15 Mr. Michaelson, at this time I'm going to
16 explain to you certain of your rights. If you do not
17 understand anything that I say, please let me know, and
18 if you need for me to explain anything to you in further
19 detail, please let me know. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Michaelson, we are going to
22 break for the evening hour, but I anticipate that at
23 some point tomorrow we will reach the stage in the trial
24 where you will present your defense. At that time --
25 and I will not ask you to give me an answer here today,

1 but I want you to be fully advised of your rights, but I
2 will ask you whether or not you intend to testify.

3 Mr. Michaelson, you have the right to claim
4 the protections given to you by the Fifth Amendment to
5 the Constitution of the United States. This amendment
6 states, in part, that no person shall be compelled in
7 any criminal case to be a witness against himself. This
8 means that you cannot be required to testify in this
9 case.

10 You do have the right to testify on your own
11 behalf. However, no one can make you testify. This is
12 a personal right, and no one can waive this right except
13 for you.

14 If you decide to testify, you will be subject
15 to the same rules that govern other witnesses, and you
16 may be examined and cross-examined on any relevant issue
17 in this case.

18 In addition, if you have any convictions
19 involving dishonesty or false statements or for crimes
20 punishable by imprisonment for more than one year and
21 the Court determines that the probative value of
22 admitting this evidence outweighs its prejudicial effect
23 to you, the solicitor will be able to introduce your
24 record to attack your credibility.

25 Ms. Williams, do you anticipate any

1 convictions of Mr. Michaelson?

2 MS. WILLIAMS: Your Honor, back in 2007 -- I
3 don't think so. We need to rerun it because he's been
4 out, but I don't -- I don't think there's anything on
5 his record.

6 THE COURT: All right. So at this time there
7 -- there would be none to attack his credibility?

8 MS. WILLIAMS: That's correct, Your Honor.

9 THE COURT: All right. Thank you.

10 If you decide to testify, Mr. Michaelson, the
11 decision on your part must be freely, voluntarily, and
12 intelligently made with the knowledge of the protections
13 given to you by the Fifth Amendment and the consequences
14 of your decision to testify.

15 If you decide not to testify, I will instruct
16 the jurors that they cannot give the fact that you did
17 not testify any consideration whatsoever and there is to
18 be absolutely no prejudice to you because you did not
19 testify.

20 It is left entirely up to you whether or not
21 you testify. You may talk with your attorney, your
22 friends, your family, or anyone else, but the final
23 decision will be left entirely up to you.

24 Do you understand what I have explained to
25 you, sir?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you have any questions for the
3 Court at this time?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Okay. And, Mr. Michaelson, when
6 we reach the appropriate point I will ask you if you've
7 had time to speak with your lawyers concerning this
8 decision and whether you wish to testify.

9 Anything further from the defendant before we
10 break for the evening?

11 MS. KENNEDY: Your Honor, just for purposes
12 of the record.

13 THE COURT: All right.

14 Mr. Michaelson, you may be seated. Thank
15 you.

16 MS. KENNEDY: As an officer of the Court, I
17 would tell you that Mr. Valbert's statement, I did not
18 receive it in the discovery material. There's a lot of
19 discovery material. I've been through it. I've
20 organized it. My -- my trial notebook is organized, and
21 actually all the statements are organized
22 alphabetically. And I appreciate the solicitor giving
23 it to me, but -- but it was not part of my discovery
24 material.

25 THE COURT: All right. And, Ms. Kennedy, we

1 are going to break for the -- for the evening hour.
2 Will there be any relief anticipated that you will be
3 requesting, other than the break to review the
4 discovery?

5 MS. KENNEDY: Not that I anticipate, Your
6 Honor. Thank you.

7 THE COURT: All right. All right. And with
8 that...

9 (Ms. Kennedy and Mr. Schwacke confer.)

10 MS. KENNEDY: I'm sorry, Your Honor. And I
11 did -- I would advise the Court that we did get a
12 criminal history of Mr. Valbert, and I would ask that --
13 because I don't know where Mr. Valbert's been, the
14 Court's indulgence to make sure...

15 THE COURT: Yes, ma'am.

16 MS. KENNEDY: --- if it would be necessary to
17 run another one. I assume not, because he's been in the
18 Department of Corrections, but that would be the only
19 thing I would anticipate that I would request to get
20 that, possibly another one of that.

21 THE COURT: All right. Could you verify that
22 Mr. Valbert has been in custody since the last rap sheet
23 was run and/or provide us a more current rap sheet than
24 this one?

25 MR. ALFARO: He has been, Your Honor. That

1 rap sheet was run, I believe, if not the day before the
2 trial started, a few days before.

3 THE COURT: Thank you, Mr. Alfaro.

4 And with that, Ms. Kennedy, anything further?

5 MS. KENNEDY: No, Your Honor. Thank you.

6 THE COURT: All right. Anything further from
7 the state?

8 MS. WILLIAMS: Not from the state, Your
9 Honor.

10 THE COURT: All right. I'll see y'all at
11 9:30 in morning. And if there is any problem with
12 Mr. Valbert being transported, please alert the Court
13 immediately. Thank you. We're in recess.

14 (Whereupon, at approximately 4:45 p.m., the
15 trial is recessed to the following day, Wednesday,
16 July 7, 2010, at 9:30 a.m.)

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1 (On Wednesday, July 7, 2010, the trial
2 reconvenes at approximately 9:30 a.m., the defendant
3 being present with counsel, Ms. Kennedy and
4 Mr. Schwacke, and the following proceedings were had:)

5 THE COURT: All right. The jurors are here.
6 Are we prepared to go forward?

7 MS. WILLIAMS: Your Honor, we are, and I
8 believe that we have come to an agreement on the
9 photographs, and we can put that on the record as to
10 which numbers were objectionable and that we don't
11 intend to introduce those.

12 THE COURT: All right. Counsel, is the -- is
13 Dr. Presnell the first witness?

14 MR. ALFARO: No, Your Honor.

15 THE COURT: Let's go ahead and call
16 Mr. Valbert so that he can be transported back.

17 MS. WILLIAMS: Thank you, Your Honor.

18 THE COURT: Thank you.

19 THE DEPUTY: Bring Mr. Valbert in?

20 THE COURT: Let's take just a minute so that
21 they can -- we can do it on the record, and they can
22 call their witness. Thank you.

23 THE DEPUTY: Oh, okay.

24 (Ms. Williams and Ms. Kennedy review
25 exhibits.)

1 THE COURT: Ms. Williams, your next witness
2 is Mr. Valbert; is that correct?

3 MS. WILLIAMS: Yes, Your Honor.

4 THE COURT: And, Ms. Kennedy, over the --
5 right before we broke for the evening hour you were
6 handed some discovery material. Are you prepared to go
7 forward on Mr. Valbert -- are you prepared to go forward
8 on Mr. Valbert at this time?

9 MS. KENNEDY: Yes, Your Honor. I do have an
10 inquiry based on the NCIC I was provided.

11 THE COURT REPORTER: I'm sorry, I can't hear
12 you.

13 MS. KENNEDY: I'm sorry.

14 I do have -- and perhaps it will be addressed
15 in direct examination, since his -- Mr. Valbert's rap
16 sheet reflects that he was taken into custody on June
17 12, 2002 on a conviction for committing a lewd act on a
18 minor and he was then sentenced to a term of...

19 THE COURT REPORTER: I can't hear you,
20 Ms. Kennedy.

21 MS. KENNEDY: He was convicted of committing
22 a lewd act on a minor, a child under the age of 16. He
23 received a 12-year sentence. He obviously was in -- in
24 our jail in 2008, and I just would make an inquiry as to
25 whether or not the solicitor knows why he was there.

1 MS. WILLIAMS: I do, Your Honor. Mr. Valbert
2 was noted by the Sexually Violent Predator Act. So he
3 was here awaiting his civil process for that, you know,
4 the whole civil trial so that he could be committed to
5 -- you know, as a sexually violent predator, and that's
6 where he is at.

7 THE COURT: Thank you.

8 Does that answer your question, Ms. Kennedy?

9 MS. KENNEDY: Yes, Your Honor. And I think
10 it would be appropriate cross-examination. Thank you.

11 THE COURT: All right. And with that, we are
12 prepared to call Mr. Valbert?

13 MS. KENNEDY: Yes, Your Honor.

14 THE COURT: All right.

15 MS. WILLIAMS: Yes, Your Honor.

16 THE COURT: All right. Any objection to just
17 having Mr. Valbert since he is in shackles placed in the
18 witness stand at this time?

19 MS. WILLIAMS: No, Your Honor. That's what
20 we prefer.

21 THE COURT: All right. And, Ms. Kennedy, any
22 objection to already having him placed?

23 MS. KENNEDY: No, Your Honor.

24 THE COURT: Thank you.

25 Let's go ahead and bring Mr. Valbert in and

1 have him seated, and then we'll bring the jury in.

2 (Mr. Valbert enters the courtroom and goes to
3 the witness stand.)

4 THE COURT: All right. Mr. Valbert, we're
5 going to bring in the jury, so I need you to remain
6 seated while they come in. All right?

7 MR. VALBERT: Yes, ma'am.

8 THE COURT: Thank you.

9 Let's bring in the jury.

10 All right. Please be seated. We're waiting
11 on the jury.

12 (Mr. Valbert complies.)

13 THE COURT: Please rise for the jury.

14 (Whereupon, the jury enters the courtroom at
15 approximately 9:40 a.m.)

16 THE COURT: Thank you. Please be seated.

17 Please swear Mr. Valbert.

18 BRIAN VALBERT,

19 being first duly sworn by the clerk, is examined and
20 testifies as follows:

21 THE CLERK: Please state your full name and
22 spell your last name for the record.

23 THE WITNESS: Brian Ellis Valbert, V as in
24 Victor, A-L, B as in Boy, E-R-T.

25 THE COURT: Ms. Williams.

1

DIRECT EXAMINATION

2

BY MS. WILLIAMS:

3

Q. Thank you, Mr. Valbert. Mr. Valbert, have we spoken before?

4

5

A. Briefly, yes.

6

Q. And how many times have you and I spoken about this case?

7

8

A. About this case? Just one time.

9

Q. And where were you when we spoke about it?

10

A. The Department of Mental Health.

11

Q. And is that where you are now?

12

A. Yes.

13

Q. And can you please explain why you are there?

14

A. I'm there under a civil commitment under the Sexually Violent Predator Act.

15

16

Q. So what were you convicted of initially before you got to that process?

17

18

A. I was convicted of two lewd acts on a minor.

19

Q. And then after you served that sentence what procedure did you go through?

20

21

A. I came back to the county jail and sat in the county jail awaiting a civil commitment hearing.

22

23

Q. And is that pursuant to the Sexually Violent Predator Act?

24

25

A. Yes, it is.

1 Q. And while you were here awaiting that hearing,
2 did you -- where were you housed?

3 A. I was housed in several rooms, beginning in B-14
4 and then I went to B-9, and then I went to -- I believe
5 it was B-21 and then 26.

6 Q. And when we're talking about those cell numbers,
7 where are those cells? What jail?

8 A. B-Pod, Berkeley County B-Pod.

9 Q. So right here in Berkeley County?

10 A. Yes.

11 Q. Is that the Hill Finklea Detention Center?

12 A. Yes.

13 Q. Okay. And have I offered you anything to testify
14 today?

15 A. Absolutely not.

16 Q. In fact, is there anything I could do to help you
17 at this point?

18 A. There is nothing you can do.

19 Q. Who decides when you get out?

20 A. That would be up to a jury of my peers.

21 Q. And while you were in the Hill Finklea Detention
22 Center, roughly what time was that if you remember, like
23 what -- what date?

24 A. I was there from February 29th through November
25 10th.

1 Q. And what year was that?

2 A. Of 2008.

3 Q. Okay. And while you were there did you encounter
4 Jeffrey Michaelson?

5 A. I did.

6 Q. And did he ever talk to you or did you ever hear
7 him say anything about why he was there?

8 A. I heard him speaking of why he was there.

9 Q. And what did he say?

10 A. I was talking to somebody else, and I overheard
11 him speaking to somebody kind of in a bragging manner,
12 you know. For whatever reason, he was saying that he
13 had murdered somebody.

14 Q. And did he give you any details about that
15 murder, or did you hear any details about that murder?

16 A. The detail that I remember is that the body had
17 been placed in a barrel and buried.

18 Q. Do you remember if he said where he buried it?

19 A. I believe that was in his front yard where he was
20 living. I don't know exactly where that was at.

21 Q. And without telling us what this individual said,
22 did you also encounter Trey Feaster?

23 A. I did.

24 Q. And did -- without telling us what he said, did
25 Mr. Feaster also tell you things, incriminating things

1 about the -- about the murder?

2 A. He did.

3 Q. And are you sure it was Jeffrey Michaelson that
4 you heard saying those things?

5 A. Yes, ma'am, I'm sure.

6 Q. About bragging about the murder?

7 A. I am positive.

8 MS. WILLIAMS: Court's indulgence for just
9 one second.

10 THE COURT: Yes, ma'am.

11 MS. WILLIAMS: Thank you, Mr. Valbert.

12 Please answer any questions the defense might have.

13 THE COURT: Ms. Kennedy.

14 MS. KENNEDY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. KENNEDY:

17 Q. Mr. Valbert, you have said you're in the
18 Department of Mental Health?

19 A. Yes.

20 Q. But you're in the Department of Mental Health at
21 the Broad River Correctional Institute; are you not?

22 A. That is correct.

23 Q. So you are confined in prison?

24 A. No, ma'am. I am -- I am a resident of the

25 Department of Mental Health although being housed in the

1 prison setting.

2 Q. You are a resident of the prison. Correct?

3 A. According to the courts, no.

4 Q. Okay. But according to the law you are? That's
5 why they have a uniform, right?

6 A. Well, the Department of Mental Health has
7 uniforms for all of their ---

8 Q. Right. But you ---

9 A. --- facilities.

10 Q. Well, let me ask it another way just so we're
11 clear. Broad River Correctional facility is a prison,
12 right?

13 A. Yes, it is, but ---

14 Q. You can't come and go as you want?

15 A. No.

16 Q. Okay. So you are confined in that facility in a
17 special unit of that facility; are you not?

18 A. Correct.

19 Q. Because you are a convicted child molester?

20 A. Correct.

21 Q. Okay. And you indicated that you had some
22 contact with Trey Feaster and you -- without saying what
23 he said, you -- you got the story about -- or what his
24 side of the story was about what happened here,
25 correct?

1 A. That is correct.

2 Q. Before you ever heard of Jeffrey Michaelson?

3 A. No.

4 Q. Before you ---

5 A. No. That was after the fact.

6 Q. After the fact?

7 A. Yes, ma'am.

8 MS. KENNEDY: Your Honor, may I approach the
9 witness?

10 THE COURT: You may.

11 MS. WILLIAMS: May I just see what she has?

12 (Ms. Williams reviews document.)

13 BY MS. KENNEDY:

14 Q. Mr. Valbert, would you be kind enough to be able
15 to identify that for me?

16 A. (The witness reviews document.) Yes. This is
17 what I wrote.

18 Q. Okay. And would you be kind enough to read it so
19 we can talk some more about your recollection?

20 A. You want me to read the whole thing?

21 Q. Read it to yourself.

22 A. (The witness further reviews document.)

23 Q. Thank you. And you gave this statement when,
24 Mr. Valbert?

25 A. I didn't even look at that.

1 MS. KENNEDY: Okay. Your Honor, may I
2 approach?

3 THE COURT: Yes, ma'am.

4 BY MS. KENNEDY:

5 Q. (Goes to witness and points to area on the
6 document.)

7 A. On July 1st.

8 Q. July 1st. By that point in time, given the dates
9 that you just testified to, you had been in custody from
10 February 29th till July 1st. Correct?

11 A. Correct.

12 Q. And you had been moved around in what we call
13 several pods at the jail?

14 A. Correct.

15 Q. And just so the jury understands, the way people
16 are housed at the jail they are in different units,
17 A-Pod, B-Pod, C-Pod, and D-Pod?

18 A. Correct.

19 Q. And people are moved constantly?

20 A. Yes.

21 Q. Based on overcrowding? Based on your charges?

22 A. That's correct.

23 Q. Based on how well folks are getting along or not
24 getting along, right?

25 A. That's correct.

1 Q. So how is it that you got moved one, two, three,
2 four times?

3 A. I was moved from -- I originally got into the
4 county jail, I was put in the cell B-14. From B-14 I
5 went to A-10 because I had a staph infection. I was
6 there for seven days. From A-10 I moved to B-9. From
7 B-9 that's whenever I moved up to B-21. And from B-21
8 I was made a trustee over B-Pod, where I would clean up
9 after meals, and I was housed then -- housed in B-26.

10 Q. You were made a trustee?

11 A. Yes.

12 Q. Okay. What does it mean to be a trustee?

13 A. It just means I'd come out and clean up the pod
14 for them and, you know, do runaround stuff for the rest
15 of the inmates.

16 Q. Even though you're a convicted child molester?

17 A. That's correct.

18 Q. Now, how is it that you came to give this
19 statement on July 1st, 2008?

20 A. Voluntarily.

21 Q. Who did you contact?

22 A. One of the -- one of the guards in the jail.

23 Q. And told them what or heard what?

24 A. I told them I needed to speak to a detective.

25 Q. Okay. Did you tell them why?

1 A. Briefly, yeah.

2 Q. Okay. And this is before you had your trial and
3 your civil process that had you committed, correct?

4 A. Correct.

5 Q. Okay. And this was before everything that
6 happened to you that caused you to have to go back to
7 Broad River, correct?

8 A. Correct.

9 Q. Okay. And in the initial part of your statement,
10 you -- you indicate that you were there in mid-May 2008
11 when you came across Trey Feaster?

12 A. Right.

13 Q. Okay. Now, tell me exactly when it was that you
14 came across Mr. Michaelson.

15 A. That there was approximately the first part of
16 May, because I was -- I was in B-21 -- or in B-9, and
17 from B-9 I moved to B-21. Whenever I was in B-9 is
18 whenever I ran across Mr. Michaelson.

19 Q. Well, tell me why it is that you got to
20 Mr. Michaelson first and then Mr. Feaster second, why
21 you only wanted to confide in the police about what --
22 what Mr. Michaelson allegedly did.

23 A. I believe I confided in them on both in that
24 statement; did I not?

25 Q. Well, did you?

1 A. I believe I did.

2 Q. But you gave information in your statement that
3 was helpful to Mr. Feaster, correct?

4 A. Could be, yes.

5 Q. Could be. All right.

6 MS. KENNEDY: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 BY MS. KENNEDY:

10 Q. All right. Read the first paragraph down again.

11 A. To myself?

12 Q. Yes.

13 A. (The witness reviews document.) That's correct.

14 Q. Okay. That was correct that you gave information
15 that's helpful to Mr. Feaster?

16 A. Yeah.

17 Q. All right. But not to Mr. Michaelson?

18 A. Right.

19 Q. How did you choose between the two?

20 A. One of them appeared to be remorseful about the
21 events, and the other one appeared to be bragging about
22 it.

23 Q. Based on what you overheard, according to your
24 testimony, correct?

25 A. Correct.

1 Q. That's your impression?

2 A. Yes.

3 Q. And that's what you think?

4 A. That's what I think.

5 MS. KENNEDY: Court's indulgence.

6 THE COURT: Yes, ma'am.

7 (Ms. Kennedy and Mr. Schwacke confer.)

8 BY MS. KENNEDY:

9 Q. So let me just ask you a couple more questions.
10 You seem to be able to remember a whole lot of things.
11 Who did you -- do you remember who it is you overheard
12 Mr. Michaelson talk to?

13 A. All I can remember is somebody that goes by the
14 name of Foot.

15 Q. Foot?

16 A. Yes.

17 Q. Okay. Morning? Afternoon? Evening?

18 A. This here would have been around the evening
19 time, evening rec, because I was waiting to take a
20 shower.

21 Q. Evening rec?

22 A. Yes.

23 Q. Okay. Meaning after bond hearing?

24 A. After 6:00 p.m., I believe it was.

25 Q. After bond hearing?

1 A. Right.

2 Q. So this -- you go to bond hearings and then
3 you've got evening rec and then -- then it switches back
4 and forth, right?

5 A. Right.

6 Q. Okay. So it was evening rec. Were you on the
7 first shift, or are you on the second shift for evening
8 rec?

9 A. I don't recall that.

10 Q. How close were you to Mr. Michaelson?

11 A. I was no further away than I am from you right
12 now.

13 Q. Okay. But where was the person that you
14 overheard him bragging to about what he supposedly had
15 done?

16 A. He was right there beside him.

17 Q. Beside him?

18 A. Yeah.

19 Q. Okay. It's real noisy at the jail; is it not?

20 A. It can be, yes.

21 Q. Especially at rec time?

22 A. Yes.

23 Q. TV's on?

24 A. Uh-huh.

25 Q. People are talking?

1 A. Right.

2 Q. Free to move about?

3 A. Uh-huh.

4 Q. Free to yell and scream?

5 A. Correct.

6 Q. Free to do pretty much anything they want to as
7 long as they're in that room?

8 A. Right.

9 Q. Right. A big room, right?

10 A. Uh-huh.

11 Q. So there are lots of other people around?

12 A. Right.

13 Q. How is it that you're the only one who heard
14 this?

15 A. I can't answer that.

16 MS. KENNEDY: Excuse me, Your Honor.

17 (Ms. Kennedy and Mr. Schwacke confer.)

18 BY MS. KENNEDY:

19 Q. Now, you were -- just so I get this straight.
20 You've gone through all the pods that you were in, and
21 you indicated that you -- you were housed with Trey
22 Feaster, right?

23 A. I was.

24 Q. For how long?

25 A. Approximately 60 or 90 days.

1 Q. Okay. And this conversation that you overheard
2 was in the open area, right?

3 A. That's correct.

4 Q. You were not housed with Jeffrey Michaelson?

5 A. No.

6 Q. Ever?

7 A. No.

8 Q. No? Okay. Thank you.

9 THE COURT: Redirect.

10 MS. WILLIAMS: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q. Mr. Valbert, Ms. Kennedy asked you since you have
14 such a good memory if you remember who it was he was
15 talking to. I'm going to show you your statement. Is
16 it fair to say that this statement, your memory was
17 better than it is today?

18 A. Yes.

19 MS. WILLIAMS: May I approach, Your Honor?

20 THE COURT: You may.

21 MS. WILLIAMS: Ms. Kennedy, I'll show it to
22 you.

23 (Ms. Kennedy reviews document.)

24 MS. KENNEDY: Okay.

25 BY MS. WILLIAMS:

1 Q. In fact, you do remember who he was talking to.
2 Read the last part of your statement and tell me if it
3 gives the name of the person he was talking to, that it
4 was right there.

5 A. (The witness reviews document.) That's correct.

6 Q. And what was the name?

7 A. Foot.

8 Q. And do you actually say his name in the
9 statement?

10 A. No. That's somebody else.

11 Q. Okay. So you say Foot?

12 A. Right.

13 Q. A person that's known by. So people go by
14 nicknames in the jail?

15 A. All the time, right.

16 Q. And you didn't know Mr. Feaster or Mr. Michaelson
17 before you went into jail, did you?

18 A. No, I did not.

19 Q. Any contact with them afterward?

20 A. No.

21 Q. And the -- you wrote in this statement just as
22 much about Mr. Feaster as you did about Mr. Michaelson.
23 Isn't that true?

24 A. I did.

25 Q. And it doesn't help Mr. Feaster much, does it?

1 A. No, it doesn't.

2 Q. Does it put him smack in the middle of the
3 murder?

4 A. Right in it.

5 Q. And at the time that you gave this statement,
6 you'd already been sentenced for your crimes. Isn't
7 that true?

8 A. I had already done my full sentence for my
9 crime. I had already paid my debt to society at that
10 point.

11 MS. WILLIAMS: Also, if I could approach
12 again, Your Honor?

13 THE COURT: You may.

14 BY MS. WILLIAMS:

15 Q. Who are the two detectives that you give your
16 statement to?

17 A. (The witness further reviews document.)

18 MS. KENNEDY: Your Honor, I would object.

19 THE COURT: You may approach.

20 (There was an off-the-record bench conference
21 in the presence of the jury but out of the hearing of
22 the jury.)

23 (Said bench conference being concluded, the
24 following proceedings were had:)

25 THE COURT: You may answer, Mr. Valbert.

1 Ms. Williams, you may need to ask your
2 question again.

3 BY MS. WILLIAMS:

4 Q. Do you remember the previous question that I
5 asked you?

6 A. I do. You asked me what the detectives' names
7 were?

8 Q. Yeah. If you could just -- does that refresh
9 your memory as to who -- which detectives you spoke
10 with?

11 A. Yes. Corporal McKelvey and McElveen.

12 Q. Not Gerry Merrithew?

13 A. No.

14 MS. WILLIAMS: Thank you, Mr. Valbert.

15 MS. KENNEDY: Your Honor, may I?

16 THE COURT: Yes, ma'am, Ms. Kennedy.

17 RECROSS-EXAMINATION

18 BY MS. KENNEDY:

19 Q. Mr. Valbert, you indicated that you were in the
20 same cell pod with Trey Feaster for 90 days?

21 A. Yes, ma'am.

22 Q. Had time to get to know him?

23 A. To a degree, yes.

24 Q. To a degree. Had the time to have a lot of
25 conversations with him?

- 1 A. Had the time, yes.
- 2 Q. And this statement that you provided, giving the
3 information about what -- about Trey Feaster, is not as
4 damaging to Mr. Feaster as it is to Mr. Michaelson, is
5 it?
- 6 A. Well, it could be, yes.
- 7 Q. It could be?
- 8 A. It could be.
- 9 Q. Do you want to read it again for me, sir?
- 10 A. Well, I've read it.
- 11 Q. Okay. So you provided -- he gave you -- you had
12 conversations with him?
- 13 A. I did.
- 14 Q. And he told you what his involvement was in this
15 -- in this case?
- 16 A. Correct.
- 17 Q. Had lots of time to discuss it?
- 18 A. (The witness nods head up and down.)
- 19 Q. But you only saw Mr. Michaelson one time?
- 20 A. (The witness nods head up and down.)
- 21 Q. And observed Mr. Michaelson talking to someone
22 named Foot. Correct?
- 23 A. Correct.
- 24 Q. While you were talking to somebody else named
25 Doug Steen (phonetic)?

1 A. That is correct.

2 Q. And you overheard all of this?

3 A. Uh-huh.

4 Q. And your impression based on where you were, who
5 you talked to, and what you know, is that Mr. Michaelson
6 was bragging?

7 A. That's correct.

8 MS. KENNEDY: Court's indulgence, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. KENNEDY: That would be all I'd have,
11 Your Honor.

12 THE COURT: Mr. Valbert, you may step down.

13 THE WITNESS: Thank you.

14 THE COURT: You may be excused.

15 (The witness is excused from the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MR. ALFARO: The state calls Vicki Hallman.

19 (Ms. Hallman enters the courtroom.)

20 VICKI HALLMAN,

21 being first duly sworn by the clerk, is examined and
22 testifies as follows:

23 THE CLERK: Thank you. Be seated. State
24 your full name and spell your last name for the record.

25 THE WITNESS: Vicki Hallman, H-A-L-L-M-A-N.

1 DIRECT EXAMINATION

2 BY MR. ALFARO:

3 Q. Good morning.

4 A. Good morning.

5 Q. Would you please tell the jury where you
6 currently work?

7 A. I am employed with the South Carolina Law
8 Enforcement Division which is also known as SLED.

9 Q. How long have you been with SLED?

10 A. Six years.

11 Q. What's your current position, and what are your
12 current duties?

13 A. I'm a special agent assigned to the latent prints
14 crime scene unit.

15 Q. And could you describe for the jury what type of
16 training or certifications or educational background you
17 have in that field?

18 A. I'm a certified law enforcement officer. I
19 received my certification in 1992. Before SLED I was
20 employed at the Lexington County Sheriff's Office. I
21 spent nine years on the road there, and I spent four
22 years in their crime scene unit before I came in SLED.
23 I received specialized training in the area of crime
24 scene processing, latent print processing and
25 comparison, footwear and tire tread comparison,

1 bloodstain pattern analysis, and crime scene
2 reconstruction.

3 Q. And as part of your duties with SLED do you on
4 occasion assist local law enforcement agencies with
5 investigations?

6 A. Yes, sir, we do.

7 Q. And did you have the opportunity to assist the
8 Berkeley County Sheriff's Office with a death
9 investigation in August of 2007?

10 A. Yes, sir, we did.

11 Q. And could you tell the jury what assistance you
12 provided or what you did in that investigation?

13 A. I actually received a call on August the 7th from
14 Captain Ollic here in Berkeley County in reference to a
15 cold case missing person. They believed that they had
16 discovered the location that the body had been left at,
17 and we were asked to come down and help to do an
18 excavation or a recovery of the body that had been
19 buried.

20 Q. And when did you assist in that excavation?

21 A. We actually met early morning of August the 8th
22 because that was the summer, kind of like this summer
23 that it was about a hundred degrees. So we actually met
24 at about 7:30 in the morning here in Berkeley, and we
25 all went together over to the location off Starbright.

1 Q. And do you recall what time you arrived at
2 Starbright Lane?

3 A. Probably between 8:00 and 8:30.

4 Q. And could you tell the jury what you did at the
5 scene of the dig on Starbright?

6 A. One of the main things that we were there for
7 were documentation purposes. We actually documented the
8 scene and the entire dig with photographs. We collected
9 evidence, and I actually followed the -- the container
10 that the body was in to the Medical University for
11 autopsy and confirm that the body was actually in the
12 barrel.

13 Q. I'm going to show you what has been previously
14 entered into evidence as state's exhibits one through
15 and including 29. Would you look at those, and I'll ask
16 you a couple questions after you have a chance to review
17 them.

18 A. (The witness reviews exhibits.)

19 Q. And after reviewing those photographs do they --
20 do you recognize what's contained in the photographs?

21 A. Yes, sir. These are photographs that we took the
22 morning that we did the recovery.

23 Q. And do each of the photographs fairly and
24 accurately depict the scene as you saw it on August the
25 8th, 2007?

1 A. Yes, sir, it does.

2 Q. I'm going to show you state's exhibit 17, 18, 19,
3 and 20.

4 (Ms. Kennedy, Mr. Schwacke, and the defendant
5 review exhibits.)

6 BY MR. ALFARO:

7 Q. And put state's exhibit 17 on the screen. And is
8 that you digging?

9 A. Yes, sir, it is.

10 Q. At the digging?

11 A. Yes, sir.

12 Q. And state's exhibit 18. Similar photograph?

13 A. Yes.

14 Q. And on state's exhibit 20, do you recognize
15 what's in that photograph?

16 A. Yes, sir, I do.

17 Q. What is that?

18 A. That would be the barrel that contained the body
19 of Mr. Reeves.

20 Q. And state's exhibit 24 and 25...

21 (Ms. Kennedy, Mr. Schwacke, and the defendant
22 review exhibits.)

23 BY MR. ALFARO:

24 Q. State's exhibit 24, could you tell the jury what
25 is depicted in that photograph?

1 A. What we basically did, the white ruler that you
2 see is set up at ground level. And the yellow rulers,
3 they're approximately three feet each, and we actually
4 -- actually taped a couple of those together so that you
5 could see the depth. The bottom of the barrel to
6 basically ground level was a little over -- I think a
7 little over four feet. So the barrel, the bottom of the
8 barrel was approximately four feet down in the ground.

9 Q. All right. Thank you. And when you were present
10 at the scene, did you or any of the other officers at
11 the scene attempt to open that barrel?

12 A. No, sir, we did not.

13 Q. And after the barrel was removed, what was done
14 with the barrel?

15 A. It was actually covered with a bio trash bag, and
16 it was placed in the back of a pickup truck that was
17 used by Berkeley County narcotic. And myself and my
18 partner who was down here with me, we actually followed
19 the vehicle all the way to the Medical University for
20 autopsy.

21 Q. And were you present at MUSC for the autopsy when
22 the barrel was opened?

23 A. Yes, sir, I was.

24 Q. And did you witness the contents of the barrel
25 being removed?

1 A. Yes, sir.

2 Q. And after that, what did you -- did you do
3 anything else to assist in the investigation?

4 A. Myself and my partner who were down here --
5 somebody from the Berkeley County Sheriff's Office
6 stayed for the entire autopsy. We had been asked to
7 also process a little white pickup truck that I believe
8 at some point in time had belonged to Mr. Reeves to see
9 if there was any type of evidence that had been left
10 behind in that vehicle.

11 Q. Do you recall when that was done?

12 A. It was the same afternoon, and I think we got
13 back to Berkeley County about one o'clock in the
14 afternoon to start that.

15 Q. And do you recall where the truck was processed?

16 A. We actually processed it in a little facility
17 that Berkeley County forensics has here in town.

18 (Ms. Kennedy, Mr. Schwacke, and the defendant
19 review exhibits.)

20 BY MR. ALFARO:

21 Q. I'm going to show you what's previously been
22 admitted into evidence as state's exhibits 30, 31, 32,
23 and 81. If you could review those photographs.

24 A. (The witness reviews exhibits.)

25 Q. Do you recognize what's contained in that --

1 those photographs?

2 A. That would be the pickup truck that we processed.

3 Q. And exhibit -- and that's the vehicle that was
4 processed?

5 A. Yes, sir, it is.

6 Q. And is that the location where the vehicle was
7 processed?

8 A. Yes.

9 Q. And that was at the sheriff's office?

10 A. I believe it's like a little forensics shed that
11 -- or someplace that forensics has to store evidence and
12 vehicles.

13 Q. And could you describe what type of evidence
14 processing you did on that vehicle?

15 A. The main thing that we were looking for in the
16 vehicle -- we had been told that Mr. Reeves was in the
17 vehicle when he had been shot. So the main thing that
18 we were looking for was to see if any type or any amount
19 of blood had been left behind in the vehicle even after
20 the amount of time that the -- the six years had passed.

21 Q. And what type of steps did you take to attempt to
22 locate that type of evidence?

23 A. First we would do a visual exam with the naked
24 eye. A lot of times we use flashlights for a lot of
25 things just because it helps to illuminate things. We

1 also use forensic light sources with different --
2 different types of filters which usually help us to spot
3 blood or biological fluids easier.

4 Q. And were you able to locate any blood or
5 biological evidence during that process?

6 A. No, sir, we did not.

7 Q. Did you process just the inside of the truck, or
8 did you also attempt to process the outside?

9 A. We actually looked over the entire vehicle. We
10 actually even removed the seat covers to see if by
11 chance something had soaked through and was no
12 longer ---

13 MR. SCHWACKE: Your Honor.

14 THE COURT: Hold on one second, Agent.

15 MR. SCHWACKE: May we approach?

16 THE COURT: You may.

17 (There was an off-the-record bench conference
18 in the presence of the jury but out of the hearing of
19 the jury.)

20 (Said bench conference being concluded, the
21 following proceedings were had:)

22 THE COURT: You may continue.

23 Agent Hallman, you're going to need to -- I
24 interrupted you. I interrupted you in mid-question,
25 so you're going to need to start over with your

VICKI HALLMAN - DIRECT BY MR. ALFARO

1 response.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Thank you.

4 BY MR. ALFARO:

5 Q. And you testified there was no evidence found
6 inside or outside the truck?

7 A. No, sir.

8 Q. And in addition to assisting in processing the
9 vehicle and assisting at the dig, did you have the
10 opportunity to come into contact with any physical
11 evidence related to this investigation?

12 A. Yes, sir, I did.

13 Q. And do you recall what items you came in contact
14 with?

15 A. I actually took custody of the bullet that had
16 been retrieved from Mr. Reeves during autopsy. And the
17 Berkeley County Sheriff's Office had also collected DNA
18 standards from Mr. Reeves' mother, and I took custody of
19 those and took those back to SLED, also.

20 Q. We will start with the buccal swab standard you
21 just mentioned.

22 (Ms. Kennedy and Mr. Schwacke review
23 exhibit.)

24 BY MR. ALFARO:

25 Q. I'm going to show you what has been marked as

1 state's exhibit 96 for identification. If you could
2 review that item.

3 A. (The witness reviews exhibit.)

4 Q. Do you recognize that item?

5 A. Yes, sir, I do.

6 Q. And what do you recognize that item as?

7 A. I recognize it as the buccal swabs that I
8 received from the Berkeley County Sheriff's Office, and
9 they were marked with the complainant name of Parrish
10 Reeves by Berkeley County. I recognize my initials and
11 the date on the back of the heat-sealed -- or on the
12 back of the sealed envelope and also my initials and my
13 name on the actual heat-sealed package.

14 Q. And when did you receive -- do you recall when
15 you received those items from the sheriff's office?

16 A. It would have been the afternoon of the 8th when
17 we were down here during that process.

18 Q. And could you describe for the jury how that item
19 was packaged when you received it on that -- that
20 evening?

21 A. It would have been packaged in this envelope here
22 that I received.

23 Q. And would that envelope have been sealed when you
24 received it?

25 A. I don't honestly recall whether or not it was

VICKI HALLMAN - DIRECT BY MR. ALFARO

1 sealed when I received it, but after I received it I did
2 seal it myself.

3 Q. And what did you do with that item after you
4 received it from the sheriff's office?

5 A. I took it back to SLED, and it was stored
6 overnight in one of our laboratories, and I actually
7 logged it in to the forensic lab the next morning and
8 delivered it to the appropriate department for
9 analysis.

10 Q. And could you describe for us how that item was
11 secured overnight?

12 A. We have -- in the forensics building each
13 department has their own basically a hall with offices.
14 In the crime scene and the latent prints unit, we
15 actually have two to three laboratories or work areas.
16 To get onto the hall after hours, you have to have
17 basically like a passkey that you swipe, and you also
18 have to unlock a door. The people assigned to that unit
19 are the only people who have a key to that floor. And
20 for laboratories, you actually have to make it through
21 two more locked doors before you can get into the
22 laboratory itself.

23 Q. And you said you -- what did you do with the
24 items the next morning?

25 A. I logged them in through the computer system

1 which we call the beast, and they were distributed to
2 the department they needed to go to for analysis.

3 Q. And is there a reason why you did that that
4 morning as opposed to doing it that evening when you got
5 back to Columbia?

6 A. Well, it was kind of late in the afternoon, it
7 was basically after hours, and I could not -- could not
8 have delivered it to anybody after hours, and it was
9 just a little bit more convenient for me since I had
10 been out all day and I'd worked like a 14-hour day just
11 to do it the next morning.

12 Q. And were the items -- what did you do with the
13 items after you got to Columbia before logging in?

14 A. They were -- like I said before, they were --
15 they were locked up in the laboratory.

16 Q. Did you change the packaging or put them in
17 another container in any way?

18 A. No, sir.

19 Q. And at the time you logged them in on the morning
20 of August the 9th, was the packaging in the same
21 condition as when you had received them or when you took
22 custody of them from the sheriff's office?

23 A. Yes, sir.

24 Q. Did it appear to have been tampered with in any
25 way?

VICKI HALLMAN - DIRECT BY MR. ALFARO

1 A. No, sir.

2 MR. ALFARO: Your Honor, at this time the
3 state would ask -- ask that state's exhibit 96 be
4 admitted into evidence.

5 THE COURT: Any objection?

6 MS. KENNEDY: No, Your Honor.

7 THE COURT: State's 96 into evidence without
8 objection.

9 (State's Exhibit No. 96, previously marked
10 for identification, is received in evidence.)

11 (Ms. Kennedy reviews exhibit.)

12 BY MR. ALFARO:

13 Q. And I'm going to show you what has been
14 previously marked as state's exhibit 95 for
15 identification. If you could review that item and then
16 tell us if you recognize what it is.

17 A. It is a heat-sealed pouch that contains SLED item
18 three, item number three, which I believe is the bullet
19 from Mr. Parrish -- Mr. Reeves.

20 Q. And when did you come into contact with that
21 item?

22 A. I also received it on the afternoon of the 8th
23 before I left Berkeley County.

24 Q. And was it packaged when you received it and took
25 custody of it?

1 A. Yes, sir, it was.

2 Q. And do you recall how it was packaged?

3 A. Most things that -- and I don't recall
4 specifically, but most things that we receive from
5 autopsy is usually in a heat-sealed pouch, and there
6 would have been no reason for me to open it, so it would
7 have stayed in the heat-sealed pouch.

8 Q. And did you submit that to the log-in procedure
9 the same time you did the buccal swabs?

10 A. Yes, sir. I logged in all the evidence I had at
11 the same time.

12 Q. And was it secured in the same manner as the
13 buccal swabs overnight?

14 A. Yes, sir.

15 Q. When you turned the items in to log-in the next
16 morning, did you change the packaging or put it in any
17 -- any additional type of packaging?

18 A. The only thing that I would have done is -- SLED
19 actually has these heat-sealed envelopes. I would have
20 put whatever -- the package that I originally received
21 would have been put in a heat-sealed container. And as
22 you can tell, I actually signed it and dated it, and
23 then I heat-sealed it, and I put the date and my
24 initials at the top of that. That would have been the
25 only change that I would have made to -- would have been

1 basically to put it in another container.

2 Q. And did you tamper with that projectile in any
3 way when it was in your custody?

4 A. No, sir.

5 MR. ALFARO: Thank you. Please answer any
6 questions defense has.

7 THE COURT: Mr. Schwacke.

8 MR. SCHWACKE: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. SCHWACKE:

11 Q. So the two pieces of evidence that we're talking
12 about here, the buccal swabs and the bullet fragment,
13 those actually were in SLED's possession but not logged
14 technically into SLED's possession until the next
15 morning?

16 A. They were actually transferred into my custody on
17 a -- what we call a paper chain. There was -- there is
18 paperwork that shows when the specific date and time
19 that I took custody of it, and then the next morning I
20 actually logged it into the laboratory.

21 Q. Specifically, again, where was it from
22 approximately five o'clock the evening before until you
23 logged it in on the computer?

24 A. It was logged in the forensics lab in the crime
25 scene unit.

1 Q. And on -- in the desk or where? On your desk or
2 where?

3 A. In one of the laboratories that we have.

4 Q. Just out in the open?

5 A. No, sir. It was put in a -- we actually have
6 areas that we work in. It would have been placed in one
7 of those areas. It had like a hood on it, and I would
8 have stuck a sign on it that said "evidence, do not
9 tamper," and that would have been placed into evidence,
10 and I would have logged it in the next morning when I
11 came in.

12 Q. A number of the SLED technicians testified that
13 items were placed into refrigeration after they were in
14 contact of it. Were the buccal swabs under the same --
15 were they refrigerated over that night or...

16 A. No, sir. I did not refrigerate them.

17 Q. I'm curious about the vehicle.

18 MR. SCHWACKE: May I approach?

19 THE COURT: You may.

20 MR. SCHWACKE: Those are in? I believe that
21 numbers 30 and 31, 32 are in?

22 (Mr. Alfaro nods head up and down.)

23 BY MR. SCHWACKE:

24 Q. You testified you were familiar with this
25 vehicle?

1 A. Yes, sir.

2 Q. And, again, what did you do as far as this
3 vehicle is concerned?

4 A. We basically processed it to see if there -- any
5 blood evidence had been left behind.

6 Q. And you did that because you had been told that
7 the shooting had occurred inside the vehicle?

8 A. Yes, sir.

9 Q. And you were looking for evidence of blood or any
10 other type of evidence?

11 A. Yes, sir.

12 Q. Didn't find any blood?

13 A. No, sir.

14 Q. What kind of vehicle is it? What's the
15 transmission type of this vehicle?

16 A. I don't have any idea about the transmission,
17 sir.

18 Q. You don't know whether it was automatic? Five
19 speed?

20 A. I don't recall.

21 Q. You don't know if someone -- you didn't take any
22 photographs of the interior of the vehicle?

23 A. I believe there were some taken of the interior
24 of the vehicle. They're just not included in what was
25 presented. We would have documented the vehicle with

1 photographs both inside and out when we processed it.

2 MR. SCHWACKE: One moment, Your Honor.

3 THE COURT: Yes, sir.

4 (Mr. Schwacke and Ms. Kennedy confer.)

5 BY MR. SCHWACKE:

6 Q. So you had been told the shooting occurred inside
7 the vehicle. Correct?

8 A. Yes, sir.

9 Q. And we have four photographs that you testified
10 to that don't -- don't show the interior of the vehicle?

11 A. That is correct.

12 MR. SCHWACKE: That's all the questions I
13 have.

14 THE COURT: Mr. Alfaro.

15 MR. ALFARO: Briefly, Your Honor.

16 Actually, I have no questions.

17 THE COURT: All right. Agent Hallman, you
18 may step down.

19 (The witness is excused from the witness
20 stand.)

21 THE COURT: Are we ready for a midmorning
22 break?

23 THE FOREMAN: Yes.

24 THE COURT: All right. We're going to go
25 ahead and take our midmorning break. Please remember my

1 admonition.

2 Please rise for the jury.

3 (Whereupon, the jury goes to the jury room at
4 approximately 10:30 a.m.)

5 THE COURT: Thank you. Be seated.

6 I just want to put on the record the two side
7 bars, Ms. Kennedy. The first one was Mr. Valbert was
8 testifying and you objected during redirect as to
9 Ms. Williams' questioning Mr. Valbert as to what are the
10 detectives' names. I'll allow you to articulate that on
11 the record.

12 MS. KENNEDY: Thank you, Your Honor. And
13 here again, just as you ---

14 THE COURT REPORTER: I'm sorry. I can't hear
15 you. Please speak up.

16 MS. KENNEDY: I'm sorry, Madam Court
17 Reporter.

18 THE COURT: Ms. Cooley, is there something
19 that we can do other than just yell? It seems like I
20 can hear Ms. Kennedy.

21 (There was off-the-record discussion
22 regarding the microphones.)

23 THE COURT: Ms. Kennedy, and again I
24 apologize, if we could start from the beginning. You
25 had indicated -- or you're discussing the side bar.

1 MS. KENNEDY: Yes, Your Honor, the side bar
2 conference, that if the Court would note that I made an
3 objection to the line of questions by the assistant
4 solicitor because redirect examination is limited to
5 those matters raised on cross-examination, and my
6 objection was based on the fact that -- that those --
7 that line -- certain lines of questions in redirect
8 exceeded the scope of cross-examination. Your Honor
9 sustained (sic) that objection, but it's a continuing
10 objection, Your Honor.

11 THE COURT: I actually overruled your
12 objection and ---

13 MS. KENNEDY: I'm sorry.

14 THE COURT: --- and allowed Ms. Williams to
15 ask Mr. Valbert. And the basis -- I agree that redirect
16 should be limited to the scope of cross. What I had
17 heard and what I based my ruling upon was -- a question
18 to Mr. Valbert was and his response was he contacted the
19 jailer who then contacted the detective. I thought that
20 it was an appropriate redirect to allow Mr. Valbert to
21 indicate who he spoke with concerning the detective.

22 Your objection is noted for the record and I
23 believe fully articulated. Is there anything else
24 regarding that matter?

25 MS. KENNEDY: Yes, Your Honor. Because it

1 goes -- just very briefly, and I feel like sometimes I'm
2 beating a dead horse, but the -- one of the reasons for
3 the continuing objection is based on also my continuing
4 request that this -- this matter be continued.

5 It's been my position and our position all
6 along that Detective Merrithew was an essential witness
7 for our defense, and the assistant solicitor made
8 reference to Detective Merrithew not being here and
9 asked Mr. Valbert that question.

10 And again -- and I probably should have done
11 this before we started. My, you know, request is for an
12 order of continuance continuing based on all the
13 testimony that we have heard so far, based on the
14 information provided by Detective Freeman yesterday
15 which is -- it contradicts, again, what Detective
16 Merrithew -- some of which contradicts, again, what
17 Detective Merrithew testified to at the preliminary
18 hearing, her testimony that -- that, you know, she did a
19 number of things after the fact, after these folks had
20 been arrested, and there is no opportunity to explore
21 all the issues and the matters that led up to
22 Mr. Michaelson being arrested and goes to the heart of
23 -- of what my defense or our defense would be.

24 Thank you, Your Honor.

25 THE COURT: Thank you. And then the other

1 side bar that we had, had to deal with Mr. Schwacke
2 approached and made an objection as to Agent Hallman
3 testifying and as to whether or not she was qualified or
4 should be qualified as an expert, and I'll allow you to
5 fully articulate that on the record.

6 MR. SCHWACKE: Your Honor, at the time I made
7 the objection her previous testimony indicated that she
8 had had some specialized training, including crime scene
9 reconstruction. At the point of the question, I thought
10 that had already been covered. It ended up the state
11 just not -- it ended by the fact that nothing of
12 evidentiary value was recovered, so there's no need to
13 further address my -- my objection.

14 THE COURT: All right. Thank you.

15 And with that, is there anything further we
16 need to put on the record before we take our midmorning
17 break?

18 MS. WILLIAMS: Nothing from the state, Your
19 Honor.

20 THE COURT: Ms. Kennedy.

21 MS. KENNEDY: Nothing, Your Honor.

22 THE COURT: All right. And just again for
23 scheduling, who will be -- who's your next witness?

24 MS. WILLIAMS: The next witness is Katie
25 Shuler, Your Honor.

1 THE COURT: All right. And then you still
2 have -- with Ms. Shuler, you're going to have five
3 additional witnesses?

4 MS. WILLIAMS: Yes, there's five with
5 Ms. Shuler. So there's four after her.

6 THE COURT: All right. Thank you.

7 MS. KENNEDY: And, Your Honor, just in
8 regards to Ms. Shuler and what I believe that the state
9 is intending to do, would be to offer an audio recording
10 of the jail conversation between my client and one of
11 the potential witnesses, I would have an objection to
12 the admissibility of that evidence.

13 THE COURT: All right. Then we will address
14 that.

15 That's your next witness, Ms. Williams?

16 MS. WILLIAMS: Your Honor, Ms. Shuler is one
17 of the witnesses that lays the foundation for us to
18 authenticate the tape. We are not introducing the tape
19 during her testimony.

20 MS. KENNEDY: Your Honor, my objection is to
21 the contents of the tape. And if they want to examine
22 the witness today, is that -- and his relationship --
23 her name is Christine Thomas. She is Mr. Michaelson's
24 girlfriend, alleged girlfriend. She is the mother of
25 his children.

1 In that tape there are conversations and as
2 part of the conversation where she specifically says I
3 don't know why you did that.

4 And it's my position that it's speculative,
5 it's a due process comment on his guilt or innocence,
6 and it's highly prejudicial, and its prejudicial -- its
7 probative value is far outweighed by the prejudice. And
8 they can examine her about anything they want to. But I
9 think it's absolutely improper.

10 THE COURT: How long is the audiotape?

11 MS. WILLIAMS: Maybe three or four minutes.

12 THE COURT: And, Ms. Kennedy, just -- just so
13 I'm clear, you're not objecting to Ms. Shuler as laying
14 the foundation for the tape; you're objecting to the
15 contents of the tape?

16 MS. KENNEDY: Your Honor, and the whole --
17 the whole tape is 15 -- over 15 minutes long.

18 MS. WILLIAMS: I can look and find out the
19 exact. There's -- we actually have like 17 different
20 tapes.

21 THE COURT: All right. Let me ask you this.
22 So you're planning to call Katie Shuler and Christine
23 Thomas?

24 MS. WILLIAMS: Yes, Your Honor.

25 THE COURT: All right. Are there witnesses

1 that there are no evidentiary objections that we could
2 call before our lunch break?

3 MS. WILLIAMS: Yes, Your Honor. We could do
4 that.

5 THE COURT: All right. Let's do that. And
6 then we will address this matter so that we can go ahead
7 and take -- and send the jury out. I had not -- I
8 didn't realize that there were any evidentiary issues
9 that were ---

10 MS. WILLIAMS: Neither did we until today.

11 THE COURT: --- that were coming up. So...

12 MS. WILLIAMS: Your Honor, I think we'd like
13 to do anything we can to accommodate the Court and the
14 jury, but at this point I think the way that we're
15 presenting our case is becoming so convoluted based on
16 some of the unusual events that have transpired
17 procedurally, and so we would just, you know, ask that
18 if there are some other evidentiary issues that
19 Ms. Kennedy has. We're just trying to present the
20 evidence. And part of the strategy, you know, and the
21 way that the evidence unfolds is important to the way
22 they're going to hear it.

23 THE COURT: All right. And, Ms. Williams, we
24 will have witnesses after our -- our break, correct?

25 MS. WILLIAMS: Yes, Your Honor.

1 THE COURT: All right. And then we will take
2 -- and after those witnesses, close to the lunch hour we
3 will hear the evidentiary matters, because I'm -- what
4 I'm hearing is that I'm going to have to hear those
5 15-minute tapes.

6 MS. WILLIAMS: We are happy to provide the
7 original copy of the tape to Your Honor if you would
8 like to listen to it during the lunch hour.

9 THE COURT: All right.

10 MS. WILLIAMS: But just so I'm clear,
11 Ms. Kennedy isn't saying that she objects to the witness
12 testifying what's on the tape, but she objects to the
13 playing of the tape. To me, the tape is the best
14 evidence. And I'm not sure I understand. If you have
15 an objection to the content, she just doesn't want them
16 to hear him say it.

17 THE COURT: All right. We'll address those
18 matters. Then with that, Ms. Williams, we're going to
19 take a ten-minute recess. Make sure you have witnesses.
20 Thank you.

21 (A break is taken at approximately
22 10:40 a.m.)

23 (The trial reconvenes at approximately
24 10:50 a.m., the defendant being present with counsel,
25 Ms. Kennedy and Mr. Schwacke, and the following

1 proceedings were had:)

2 THE COURT: All right. Let's bring in the
3 jury.

4 (Whereupon, the jury enters the courtroom at
5 approximately 10:50 a.m.)

6 THE COURT: Thank you. Please be seated.
7 Call your next witness.

8 MR. ALFARO: Thank you, Your Honor. The
9 state calls Frank Drennon, recalls Frank Drennon.

10 (Corporal Drennon enters the courtroom.)

11 CORPORAL BOBBY FRANK DRENNON,
12 being first duly sworn by the clerk, resumes the
13 witness stand and is examined and testifies further as
14 follows:

15 THE CLERK: Please be seated. State your
16 full name and spell your last name for the record.

17 THE WITNESS: Frank Drennon, last name
18 D-R-E-N-N-O-N.

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q. Corporal Drennon, you testified earlier in this
22 trial about some chain of evidence things. Could you
23 briefly tell the jury just to remind them where you work
24 and how long you've been there?

25 A. I presently work for the Berkeley County

1 Sheriff's Office in the patrol division. Prior to that
2 I worked with the City of Goose Creek.

3 Q. And you had the opportunity to assist in the
4 investigation into the disappearance and death of
5 Parrish Reeves; is that correct?

6 A. That's correct.

7 Q. And did you have the opportunity to come into
8 contact with a pickup truck that had belonged to the
9 victim?

10 A. Yes, I did.

11 Q. Do you recall when that was?

12 A. That was August the 7th, 2007.

13 Q. And do you recall where you came in contact with
14 that vehicle?

15 A. I came in contact with it at [REDACTED] Fairlane Lane --
16 or Fairway Lane in -- in Bonneau.

17 Q. And what did you do with the truck after you
18 located it?

19 A. After I located it, I called a wrecker service.
20 They responded to the scene and towed the vehicle to the
21 forensics lab.

22 Q. And did you search the inside of that vehicle
23 prior to towing it?

24 A. No, I didn't.

25 Q. And where did you say it was towed to?

1 A. It was towed to the forensics lab right here at
2 the sheriff's office.

3 Q. And did you go to the forensic lab behind the
4 vehicle?

5 A. I followed the tow truck to the lab, yes.

6 Q. Did you assist in the processing of the vehicle
7 in any way?

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

9 MR. ALFARO: Thank you. Please answer any
10 questions the defense has for you.

11 MR. SCHWACKE: One moment, Your Honor.

12 THE COURT: Yes, sir.

13 (Mr. Schwacke and Ms. Kennedy confer.)

14 CROSS-EXAMINATION

15 BY MR. SCHWACKE:

16 Q. Officer Drennon, you didn't actually -- you
17 weren't the one who actually located where the vehicle
18 was, correct?

19 A. I was advised of where it was at, yes.

20 Q. You were told to go to a location?

21 A. Yes, I was.

22 Q. And who told you that?

23 A. One of the investigators that was working the
24 case.

25 Q. Would that have been Detective Merrithew?

1 A. Yes, I believe it was.

2 Q. And you and another officer then went to that
3 location?

4 A. Yes, sir.

5 Q. And as far as it went from that point, you had a
6 tow truck come, they hooked it up to the truck, and they
7 brought it over here, and you had nothing else to do
8 with the truck; is that correct?

9 A. That's correct.

10 Q. You never went inside of it?

11 A. No, sir.

12 MR. SCHWACKE: One moment, Your Honor.

13 THE COURT: Yes, sir.

14 (Mr. Schwacke and Ms. Kennedy confer.)

15 MR. SCHWACKE: Thank you. That's all the
16 questions I have.

17 THE COURT: Mr. Alfaro.

18 MR. ALFARO: No further questions.

19 THE COURT: You may step down. Thank you.

20 (The witness is excused from the witness
21 stand.)

22 MR. ALFARO: The state calls Dean Kokinda.

23 (Lieutenant Kokinda enters the courtroom.)

24 LIEUTENANT DEAN KOKINDA,

25 being first duly sworn by the clerk, is examined and

1 testifies as follows:

2 THE CLERK: Please be seated. State your
3 full name and spell your last name for the record.

4 THE WITNESS: Dean Robert Kokinda, spelling
5 of the last name, K-O-K-I-N-D-A.

6 THE COURT: Mr. Alfaro.

7 MR. ALFARO: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. ALFARO:

10 Q. Could you please tell the jury where you're
11 currently employed?

12 A. I'm employed with the Berkeley County Sheriff's
13 Office.

14 Q. And how long have you been with the sheriff's
15 office?

16 A. Going on 21 years.

17 Q. What do you do over there now?

18 A. I'm a lieutenant over the forensic services
19 division.

20 Q. And how long have you been in forensics?

21 A. Since 1990.

22 Q. And were you working in forensics in August of
23 2007?

24 A. Yes, sir, I was.

25 Q. And did you have the opportunity to assist in the

1 investigation into the disappearance and death of
2 Parrish Reeves?

3 A. Yes, sir.

4 Q. And as part of that investigation did you have
5 the opportunity to go to an excavation at [REDACTED]
6 Starbright Lane on August the 8th, 2007?

7 A. Yes, sir, I did.

8 Q. And do you recall what was done at that location?

9 A. Yes, sir. A search warrant was executed, and a
10 barrel was dug up in the front yard.

11 Q. And did you assist in the dig that day?

12 A. Yes, sir. I assisted SLED.

13 Q. And were you present when the barrel was
14 uncovered or dug up?

15 A. Yes, sir.

16 Q. And do you recall if any other items of
17 evidentiary value were recovered during that dig?

18 A. Along with the barrel there were several items,
19 trash, like paper cups, a battery, things that were
20 found amongst the dirt during the dig.

21 Q. And do you recall if a weapon of any sort was
22 recovered?

23 A. No, sir.

24 Q. And when you were at the scene when the barrel
25 was located, did you or anybody else in your presence

1 attempt to open the barrel at that time?

2 A. No, sir.

3 Q. Others have testified that the barrel was taken
4 to MUSC. Did you actually go down to MUSC with the
5 barrel, as well?

6 A. No, sir, I did not.

7 Q. And did you have any other involvement or contact
8 with the barrel after it was taken from the scene?

9 A. No, sir.

10 Q. And did you have the opportunity to assist in the
11 processing of the victim's pickup truck?

12 A. Yes, sir. Later on that evening.

13 Q. That was the same day as the dig?

14 A. Yes, sir.

15 Q. And what role did you play in that process?

16 A. Again, I was in an assisting role with SLED.

17 Q. Did you actually do any of the hands on
18 processing?

19 A. Just assisted them, whatever they needed. You
20 know, hand them something.

21 Q. And do you recall if any indications of blood or
22 blood spatter were recovered during the process or
23 located during the process?

24 A. There was no indication, no, sir.

25 Q. And as part of this investigation -- strike that.

1 I'm going to show you what has previously been admitted
2 into evidence as state's -- state's exhibit 97. Do you
3 recognize that item?

4 A. Yes, sir. This is the teeth that I picked up
5 from MUSC on August the 10th from Eowyn Corcrain.

6 Q. And who is -- you said you picked that up from
7 Eowyn Corcrain?

8 A. Yes, sir.

9 Q. Where does she work?

10 A. The Medical University of South Carolina.

11 Q. And can you tell the jury what that item is, how
12 many items there are in that package?

13 A. Three teeth from the victim from the autopsy.

14 Q. And did you actually witness her remove the
15 teeth?

16 A. No, sir.

17 Q. And were they packaged when you took custody of
18 them?

19 A. Yes, sir.

20 Q. And you got them directly from her?

21 A. Yes, sir.

22 Q. And did you tamper with the packaging in any way
23 after it was turned over to you?

24 A. No, sir.

25 Q. And what did you do with that item when you

1 received it from her?

2 A. I submitted it to the evidence room of our
3 agency.

4 Q. Do you recall when you did that?

5 A. That very same day.

6 Q. And did you -- after receiving them from her and
7 prior to logging them in to the sheriff's office, did
8 you tamper with the item in any way?

9 A. No, sir.

10 MR. ALFARO: Would you please answer any
11 questions the defense may have for you.

12 THE COURT: Ms. Kennedy.

13 MS. KENNEDY: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. KENNEDY:

16 Q. Good morning, Lieutenant Kokinda.

17 A. Good morning.

18 Q. How are you doing?

19 A. Good.

20 Q. You testified that you assisted in the processing
21 of the truck?

22 A. Yes, ma'am.

23 Q. Tell me how that's done. Tell me exactly what
24 you did.

25 A. Just whenever they needed me to hand them

1 something, just manpower.

2 Q. And that was the exterior of the truck and the
3 interior of the truck, also?

4 A. Yes.

5 Q. Take any pictures?

6 A. I did not, no.

7 Q. Do you happen to recall whether the truck was a
8 standard or automatic or five speed?

9 A. I don't recall off the top of my head, no.

10 MS. KENNEDY: Okay. That would be all, Your
11 Honor. Thank you.

12 MR. ALFARO: No questions.

13 THE COURT: Lieutenant, you may step down.
14 Thank you.

15 (The witness is excused from the witness
16 stand.)

17 THE COURT: All right. Counsel, just for
18 scheduling, you may approach.

19 (There was an off-the-record bench conference
20 in the presence of the jury but out of the hearing of
21 the jury.)

22 (Said bench conference being concluded, the
23 following proceedings were had:)

24 THE COURT: Ladies and gentlemen, there are
25 some matters that I must take up outside of your

1 presence. Do not begin your deliberations. Do not
2 discuss this case amongst yourselves. We are going to
3 take our lunch break, and you need to be back in your
4 jury room at 1:00 p.m. As such, please do not read,
5 watch, listen to any news accounts regarding this case
6 should there be any. Please be back in your jury room
7 and we will begin at 1:00 p.m. Thank you.

8 Please rise for the jury.

9 (Whereupon, the jury leaves the courtroom at
10 approximately 11:05 a.m.)

11 THE COURT: All right. Please be seated.

12 I believe that there is an objection, and has
13 the jail -- proposed jail tape been marked as an
14 exhibit?

15 MS. WILLIAMS: It has not been marked yet,
16 Your Honor, but we could do that. I'll mark it as a
17 Court's exhibit. Ms. Kennedy has been provided this,
18 and I think I even pointed out which track it was and
19 which date and which phone number last week sometime.
20 We'll mark it as Court's exhibit four.

21 (Court's Exhibit No. 4, CD audio of jail
22 telephone conversation of defendant and Christine
23 Thomas, is marked for identification.)

24 THE COURT: And, Counsel, if you could play
25 the tape -- the track that you anticipate playing.

1 And before we cue that, Ms. Kennedy, just so
2 I understand, what is the basis of your objection?

3 MS. KENNEDY: There are a couple of them,
4 Your Honor.

5 One of them is, what the tape reflects, Your
6 Honor, is a conversation between Mr. Michaelson and the
7 mother of his children. It lasts about 15, almost 16
8 minutes. They talk about what's going on at the jail,
9 talk about, you know, his relationship with his
10 daughter, talks about how -- how hard it is at the jail.

11 There are two parts that I think are
12 objectionable because they're prejudicial. One is
13 during the course of the conversation Ms. Thomas, who I
14 anticipate being a witness, makes the comment, quote, I
15 don't know why you did it. And she also makes the
16 comment, you know, she wishes it didn't happen.

17 Further along in the tape, this conversation
18 goes on and she asks Mr. Michaelson about whether or not
19 he has had or has contact with Jeremiah Scharer and Trey
20 Feaster at the jail, and he indicates he tries to stay
21 away from them and not talk to them. And then there's a
22 comment that he -- that he makes, saying something along
23 the lines of I didn't do it, that's what I'm saying, and
24 that's my story and I'm sticking to it.

25 And, Your Honor, first as to the comments

1 made by Ms. Thomas, it's an improper -- it's prejudicial
2 because it's an improper comment on, you know, what the
3 jury is ultimately supposed to decide. As to the
4 comments made by Mr. Feaster in terms of, you know --
5 it's speculative, also, because she doesn't really know
6 what -- what -- what he did. The conversation, I
7 believe, took place on August the 15th, and by then
8 she ---

9 THE COURT: In what year is this?

10 MS. KENNEDY: I'm sorry?

11 THE COURT: What year?

12 MS. KENNEDY: Oh. '07. It's shortly after
13 he was placed in jail.

14 And then as to Mr. -- Mr. Michaelson's
15 comment about that's my story and I'm sticking to it or
16 that's what I'm telling everybody, it improperly
17 suggests that he is trying to minimize or -- or not take
18 responsibility for his participation in that.

19 Your Honor, the jury saw an audio and a
20 videotape wherein Mr. Michaelson told Detective
21 Merrithew everything he did. It was there for them to
22 see.

23 This is just, in my view, piling it on, and I
24 know that's not a standard legal objection, but it's --
25 it's prejudicial. Its probative value is far -- the

1 prejudicial value far -- far outweighs its probative
2 value. And so I believe for all the reasons that I
3 described, Your Honor, it's an improper comment on his
4 guilt or innocence. And also, I mean, they've got the
5 best evidence. They saw Mr. Michaelson say exactly what
6 he did and when he did it.

7 THE COURT: All right. Let's hear the tape.
8 I'll hear arguments after I hear it. Thank you. I want
9 the statements in context. Thank you.

10 (Court's Exhibit No. 4 is played.)

11 MS. WILLIAMS: Your Honor, that's that track.

12 THE COURT: All right. Ms. Williams, is
13 there any way -- usually you're more able to hear and
14 decipher. That tape, to me, was very unintelligible.

15 MS. WILLIAMS: Your Honor, if it were
16 completely unintelligible, Ms. Kennedy would not be
17 arguing to keep it out. I understand what the Court is
18 saying, I completely understand that, but it is what it
19 is, and the jury can understand that Mr. -- that
20 Mr. Michaelson calls his girlfriend and that at one
21 point she says something like I wish you never did this,
22 and he says nothing. I wish this never happened, I wish
23 you never did this. Silence. Then after that, a couple
24 of lines later he says I'm sticking with I didn't do it.

25 And Ms. Kennedy's argument seems to be that

1 although the audiotape is admissible, the audiotape -- I
2 mean, the -- the videotape of the whole interview of her
3 client, that's admissible, so she doesn't object to that
4 based on 901 or any rule of evidence. This is
5 objectionable because it's so damaging to her client.

6 And we would just offer the Court
7 *State v. Aragon* which is directly on point. And I have
8 a copy for the Court. I apologize, there's a small
9 piece of another case on top which I crossed through.
10 I'm giving a copy to Ms. Kennedy. And it's almost
11 exactly the same facts. And in that case, the sheriff's
12 department had the victim call the defendant, and the
13 court goes into a very articulate explanation of why
14 they let the tape in.

15 We can authenticate this tape through Rule
16 901 that it's authenticated. It's highly relevant.
17 It's a statement against interest by the defendant.
18 And, yes, they got to see the tape where he talked to
19 detectives, but that's his version. This is him talking
20 off the cuff, it's a statement against interest, and
21 it's him with his guard down.

22 Clearly, there's no right to privacy because
23 there's a recording before the tape starts that says
24 it's being recorded.

25 Now, I understand the Court's concern

1 completely that there are portions of the tape that are
2 very staticy, but you can hear the portion where he says
3 I'm sticking to I didn't do it, and then she says is
4 that what you're telling everybody.

5 And I would suggest that that is highly
6 probative to this case because the whole defense is
7 based on the fact that he didn't do anything, that he
8 was, I guess, lassoed into this whole thing by Trey
9 Feaster, her client has no motive, he's just being
10 honest that he went along with the ride. And this tape
11 is very important to the state's theory of the case
12 which is that he was in it with Trey Feaster. And this
13 shows that he's admitting to her that he's not telling
14 the truth: I'm sticking with I didn't do it.

15 THE COURT: All right. Ms. Kennedy.

16 MS. KENNEDY: Your Honor, I haven't had an
17 opportunity to review the case, so -- and to be able to
18 respond that it's, you know, almost on point.

19 THE COURT: All right.

20 MS. KENNEDY: What I would ---

21 THE COURT: Let me ask you this, Ms. Kennedy.
22 Any question that the tape cannot be authenticated?

23 MS. KENNEDY: Your Honor, I don't think we
24 need to get to the authentication part if it's
25 inadmissible.

1 The problem is -- and I understand what
2 Ms. Williams is saying, but we can't get around the fact
3 that it's hearsay. You can't get around the fact that
4 we don't ---

5 THE COURT: Well, I disagree. And I'm coming
6 at this at a different point. If we can't authenticate
7 the tape, then it doesn't matter what's on the tape. So
8 I am making -- let's get over that hurdle first. Do you
9 believe that the state can authenticate this tape?

10 MS. KENNEDY: Yes, Your Honor.

11 THE COURT: All right.

12 MS. KENNEDY: I believe they can.

13 THE COURT: All right. Then with that being
14 said, I believe that that's the -- I believe, according
15 to my research, that that's a hurdle that we -- we need
16 to overcome. So we've overcome that.

17 MS. KENNEDY: Yes, Your Honor.

18 THE COURT: Now I am making my analysis of
19 what is contained in the tape. I will be happy to hear
20 from you. You believe that it is speculative, that it's
21 more prejudicial than probative, and it's an improper
22 comment on your client's guilt or innocence; is that
23 correct?

24 MS. KENNEDY: In addition to that, Your
25 Honor, it is absolute hearsay. It is -- even according

1 to the state's argument, it is being offered to prove
2 the truth of the matter asserted. It's being offered to
3 prove that Jeffrey Michaelson did all these things.

4 And, Your Honor, they -- the jury saw
5 yesterday a videotaped statement that was admitted, by
6 the way, over my objection, to his participation and
7 what he did, what he says he did.

8 The comments, we have no idea when Ms. Thomas
9 starts talking whether or not she's talking about stuff
10 that she read in the newspaper, talking about stuff that
11 she -- she saw on television, talking -- she makes
12 reference at one point to some guy named Charles.
13 Charles is saying that he did all this stuff. I don't
14 know who Charles is. And he is simply responding to the
15 things that she is asking him, you know. And to suggest
16 that his assertion is, you know, I didn't do it, I'm
17 sticking to it, is somehow a proper comment on the
18 evidence based on what this audio -- audiotape ---

19 THE COURT: All right. But --

20 MS. KENNEDY: --- is rank hearsay, Your
21 Honor.

22 THE COURT: Ms. Kennedy, would it not be not
23 hearsay under 801(d)(2)?

24 MS. KENNEDY: 801...

25 THE COURT: An admission by -- by your

1 client?

2 MS. KENNEDY: But he's not admitting anything
3 here, Your Honor. He did it on the video. He said this
4 is my story and I'm sticking to it.

5 THE COURT: All right.

6 MS. KENNEDY: He didn't say what he did.

7 THE COURT: But then, Ms. Kennedy, if you
8 believe that it's not, not hearsay, then do you believe
9 that there's not an exception under statement against
10 interest?

11 MS. KENNEDY: No, Your Honor, because you
12 can't get -- you can't get past the statement because
13 the best evidence -- and then this is what we have to go
14 by. The best evidence is what the jury has already
15 seen. The best evidence is what he -- where they
16 observed him telling Detective Merrithew exactly what he
17 did.

18 An off-the -- off-the-cuff comment in a
19 telephone conversation concerning, you know, "that's my
20 story and I'm sticking to it" is -- is hearsay. It's
21 being offered for the truth of the matter asserted.

22 She -- the assistant solicitor comments on
23 the fact that, you know, the whole defense is this, the
24 whole defense is that. Well, Your Honor, I would
25 respectfully say I haven't been able to put up a

1 defense. My -- I am able to through cross-examination
2 to present my theory of the case, and -- and it does not
3 include their ability to allow or ask that something be
4 admitted because it's hearsay.

5 There is no exception. If the state can
6 articulate one, I'll be happy to hear it, but it -- and
7 the state clearly says it's being offered to show that
8 that's his story and he did -- he's sticking to it, and
9 that's an admission of his guilt. He already did that.
10 We already saw that.

11 It's duplicative, it's cumulative, it's
12 prejudicial, it's hearsay, all of those things, Your
13 Honor. It doesn't meet a single exception.

14 THE COURT: All right. Ms. Kennedy, wouldn't
15 you agree that the statements contained on the audiotape
16 are different from the statements that your client made
17 on the videotape and in the written confession, written
18 statement?

19 MS. KENNEDY: No, Your Honor, I wouldn't
20 agree with that at all. He's making an offhand comment.
21 He's saying this is my story and I'm sticking to it.

22 And he hasn't wavered. The written statement
23 that he gave, the video statement that he gave, he
24 hasn't wavered. And all of that, coincidentally, was in
25 place prior to him making this comment on an audiotape.

1 THE COURT: Anything further, Ms. Kennedy?

2 MS. KENNEDY: Your Honor, if I could, I just
3 would like an opportunity to read this case and...

4 THE COURT: Yes, ma'am.

5 MS. KENNEDY: Thank you.

6 (Ms. Kennedy reviews document.)

7 MS. KENNEDY: Your Honor.

8 THE COURT: Yes, ma'am.

9 MS. KENNEDY: If I may just briefly. This
10 issue -- addresses only the issue of authentication, and
11 the case clearly states that the telephone contact was
12 done at the request of an investigating officer, not as
13 a casual conversation, because at that point in time, as
14 I read the case, the defendant was being seduced into
15 making a statement as part of the investigation.

16 All the evidence supports, Your Honor, that
17 at that point in time when this call was made, given the
18 fact that there's no further investigation by anybody in
19 the sheriff's office past August 13th which is the date
20 of the last report, that the information was already
21 there.

22 This is being offered for the truth of the
23 matter asserted. It's not a statement against interest,
24 Your Honor. It's consistent. He's already said what he
25 did. As I said, the -- the jury had an opportunity to

1 see him. The jury has a copy -- will have a copy of his
2 statement. This adds nothing other than prejudice to
3 Mr. Michaelson.

4 THE COURT: Anything further, Ms. Williams?

5 MS. WILLIAMS: That clearly this is an
6 exception to hearsay under 801(d)(2), comments about
7 evidence, and I don't think you can argue that a
8 separate piece of evidence is the best evidence for this
9 tape. Clearly, it's a completely different statement.
10 It's admissible, and we would just argue that it is more
11 probative than prejudicial, Your Honor, under 403.

12 THE COURT: And, again, Ms. Williams, what is
13 it probative of?

14 MS. WILLIAMS: It's probative of the fact
15 that he is telling a story and that it's not true. He
16 says I'm sticking with I didn't do it. He doesn't say I
17 didn't do it. He says I'm sticking with I didn't do it.
18 And he doesn't say anything like that, obviously, in the
19 videotape of his confession.

20 This is a critical piece of evidence for the
21 state. They've had this evidence for a long time. We
22 even told them what track we were going to play.
23 There's lots of different tracks that are ---

24 THE COURT: I'm not concerned about the
25 discovery issues at this point. I'm concerned --

1 concerned with its admissibility.

2 MS. WILLIAMS: I understand, Your Honor.

3 THE COURT: What hearsay exception, or do you
4 believe that it's even hearsay?

5 MS. WILLIAMS: Your Honor, I think it falls
6 under 801(d)(2), an admission by a party opponent.
7 Clearly, Mr. Michaelson is a party opponent, and it's
8 an -- it's an admission because he's saying -- she
9 says I wish this never happened, I wish you didn't do
10 this. And he just doesn't say anything for a long
11 period of time, and then he says I'm sticking with I
12 didn't do it.

13 It's not -- it's not even an exception. It's
14 non-hearsay under 801(d)(2). It's the defendant's own
15 voice saying that, and that's why it's the best
16 evidence.

17 THE COURT: All right. I'm going to take
18 that video -- or the audio, and I'm going to listen to
19 it. Tell me what track it is.

20 MS. WILLIAMS: Actually, Your Honor, this is
21 just ---

22 THE COURT: Is it the only -- is it the only
23 track?

24 MS. WILLIAMS: This only has the one track.

25 THE COURT: All right. Ms. Kennedy, any

1 objection to the Court reviewing that ---

2 MS. KENNEDY: No, Your Honor.

3 THE COURT: --- in chambers so that I can
4 listen to it clearly?

5 MS. KENNEDY: No, Your Honor. I just would
6 have one further comment to the contents of the tape.

7 THE COURT: All right. I'll be happy to hear
8 from you.

9 MS. KENNEDY: Thank you.

10 THE COURT: No, I'll be happy to hear from
11 your final statement.

12 MS. KENNEDY: Your Honor, he also says I
13 didn't do it. So it is not an admission against a third
14 party. He says I didn't do it, I'm not the animal the
15 papers make me out to be. That is not an admission and
16 that in addition to saying, you know, that I'm sticking
17 to it, he also says I didn't do it.

18 And, again, Your Honor, the jury had the
19 benefit of the videotaped statement. So that is the
20 best evidence. What he said that was filmed, that they
21 could see his demeanor, they could see how he answered
22 the questions, that's the best evidence.

23 This is -- this is hearsay. It's not -- it's
24 not an admission by a party opponent. Because if you
25 can isolate the things that the state wants you to

1 isolate and have those be admissible, you know, then how
2 do you explain when he said I'm not the person, the
3 monster that the paper -- the monster that the papers
4 make me out to be, I didn't do it. And he clearly says
5 both of those.

6 THE COURT: All right. I'm going to listen
7 to the track. And just so -- is that the only copy you
8 have of that?

9 MS. WILLIAMS: This is the original, Your
10 Honor. This is the one that Katie Shuler can identify
11 that she downloaded from the system and that the other
12 witness listened to that she can authenticate her voice
13 and the defendant's voice, and it is Court's exhibit
14 four.

15 THE COURT: All right. Thank you.

16 All right. We're going to go ahead and take
17 our lunch break. I'll be back at 1:00 p.m. Take a
18 break till 1:00 p.m. for lunch. I'll have my ruling.

19 Ms. Williams, please make sure all of your
20 witnesses are here. Thank you.

21 (A lunch recess is taken at approximately
22 11:40 a.m.)

23

24

25

1 AFTERNOON SESSION

2 (The trial reconvenes at approximately
3 1:00 p.m., the defendant being present with counsel,
4 Ms. Kennedy and Mr. Schwacke, and the following
5 proceedings were had:)

6 THE COURT: Thank you. Be seated.

7 Counsel, if you'll give me just a few
8 moments. Every time I move from chambers to here, I
9 have to restart my computer.

10 All right. Very briefly if there's anything,
11 Ms. Kennedy, I'll be happy to hear from you.

12 MS. KENNEDY: Well, Your Honor, argument on
13 the tape?

14 THE COURT: Yes, ma'am.

15 MS. KENNEDY: I think I've pretty much stated
16 my position, Your Honor. Thank you.

17 THE COURT: Anything further, Ms. Williams?

18 MS. WILLIAMS: No, Your Honor.

19 THE COURT: Counsel, I have taken the
20 opportunity over the lunch break to listen to the DVD
21 which is Court's four.

22 Counsel has stipulated to the authenticity of
23 the phone call. So the Court's next determination is to
24 determine whether or not the statements are relevant, if
25 they're prejudicial, if they're probative, and finally

1 whether or not if they are hearsay, and if they are
2 hearsay is there an exception for their admissibility.

3 Based upon my review of the entire tape or
4 the phone call, and I'll call it a tape just as a
5 general -- probably pretty much showing my age than
6 anything else, to the tape of the phone call, I find
7 that they are probative and should be presented to the
8 jury to aid in the determination of the defendant's
9 guilt. The Court reviewed the statements -- the entire
10 tape. Based upon my review of the tape as well as case
11 law, I do not find that the statements are hearsay under
12 801(d)(2)(a). As such, the tape, the entirety of the
13 phone call is admissible.

14 I'll note your exception for the record,
15 Ms. Kennedy.

16 Are we prepared to begin?

17 MS. WILLIAMS: Yes, Your Honor. The state is
18 ready.

19 THE COURT: And, Ms. Kennedy, anything
20 further before we bring in the jury?

21 MS. KENNEDY: No, Your Honor. Just, again,
22 note my exception for the record.

23 THE COURT: Yes, ma'am.

24 All right. Let's bring in the jury.

25 MS. KENNEDY: Your Honor.

1 THE COURT: Hold on just one a second.

2 MS. KENNEDY: Just to make sure, the entire
3 tape is going to be played?

4 THE COURT: Well, I believe that in its
5 entirety the tape should be played and -- because I
6 viewed the statements. I viewed everything.

7 MS. KENNEDY: That's fine, Your Honor.

8 THE COURT: No, that's fine. I appreciate
9 you clarifying the ruling before we brought the jury.

10 My understanding is that Ms. Williams had
11 only anticipated playing a small segment, and I
12 believe it starts at about 3:56 into the track and ends
13 about 4:15 into the track. My understanding is that's
14 what she had -- was attempting to introduce at that
15 time.

16 Based upon my review, I believe that the --
17 that the phone call makes sense, and without those --
18 without the entire phone conversation being played, the
19 statements do not make sense out of context. And so I
20 believe that -- or my ruling is that based on its
21 entirety the phone call, the phone tape, is admissible.

22 I know Ms. Williams wanted to play the
23 segment, and I'm assuming, Ms. Kennedy, that you're
24 going to then request that the entire phone call be
25 played if she's going to play ---

1 MS. KENNEDY: Yes, Your Honor. That's why I
2 wanted clarification. If it's admissible, I want the
3 whole thing played.

4 THE COURT: All right. And, Ms. Williams,
5 you will play the entire phone call?

6 MS. WILLIAMS: Yes, Your Honor, we will.

7 THE COURT: All right. Thank you.

8 And that, again, is Court's four for
9 identification.

10 And based upon that, we'll bring in the jury.

11 MS. WILLIAMS: Yes, Your Honor.

12 THE COURT: All right. Thank you.

13 (Whereupon, the jury enters the courtroom at
14 approximately 1:10 p.m.)

15 THE COURT: Thank you. Please be seated.

16 Call your next witness.

17 MS. WILLIAMS: The state calls Katie Shuler.

18 (Ms. Shuler enters the courtroom.)

19 KATIE SHULER,

20 being first duly sworn by the clerk, is examined and
21 testifies as follows:

22 THE CLERK: Please be seated. State your
23 full name and spell your last name for the record.

24 THE WITNESS: Katie Denise Shuler. That's
25 S-H-U-L-E-R.

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DIRECT EXAMINATION

BY MS. WILLIAMS:

Q. Good afternoon, Ms. Shuler. Where do you work?

A. I work at Hill Finklea Detention Center.

Q. And is that the Berkeley County sheriff's department?

A. Yes, ma'am.

Q. And how long have you worked there?

A. October will be four years.

Q. Okay. What are your duties there?

A. I process all money, phone records, for the inmates, any requests that they need.

Q. Okay. And as far as phone records, how does the phone system work for the inmates?

A. Each inmate as a pin number which is their -- their month and the date and the last four of their Social, and that's how they, you know, use the phone. And that's how we link the pin numbers to the actual inmate's name, is through their, you know, month, date, and the last four of their Social.

Q. Okay. And if you were to try to identify a particular inmate's phone call, how would you do it?

A. I would look it up either by their pin number or either by their name.

Q. And then how would you -- how is it recorded? Or

KATIE SHULER - DIRECT BY MS. WILLIAMS

1 actually, are the calls recorded?

2 A. Yes, they are recorded. They are recorded by the
3 program, by Evercom, and they are backed up onto a tape.
4 And whenever, you know, like for anybody that needs a
5 recording or needs something like that, we just take
6 them off the computer and burn them on a disk.

7 Q. Okay. And did you retrieve some phone calls for
8 this case?

9 A. Yes, ma'am.

10 Q. And how many individuals' calls did you retrieve?

11 A. I'm not exactly sure the amount, but I think it
12 was several, like six or seven, I think, or -- I'm
13 really not exactly sure the number of them.

14 Q. Several?

15 A. Yes, ma'am.

16 Q. And do you remember which inmates' calls you
17 retrieved?

18 A. I know that it was Mr. Michaelson, I think Treze
19 Feaster, Katherine Feaster, and one other individual.

20 Q. Could it be Jeremiah Scharer?

21 A. Yes, ma'am.

22 Q. And how -- are you aware of inmates ever trading
23 numbers?

24 A. They do do that. Some trade for, you know, their
25 food or, you know, they just make deals, and they do

1 trade their pin numbers, but they -- the inmates are
2 also available to change their pin number. They just
3 have to write out a request for it.

4 Q. So you can tell that a phone -- that a phone call
5 is connected to an inmate's number; but unless you could
6 know that person or identify the voice, you can just say
7 it's that number, right?

8 A. Yes, ma'am.

9 Q. Okay. As far as the Evercom System, when you
10 download a phone call onto a tape is there any way to
11 edit the tape, take things out, put things in?

12 A. No, ma'am. The only thing that I can do is pull
13 that particular call up or -- or, you know, a call
14 that's made by that pin number, and the only thing I can
15 do is just record them. I can't edit them or anything.

16 Q. So even if you wanted to, you couldn't alter the
17 phone call?

18 A. No, ma'am.

19 MS. WILLIAMS: Your Honor, I'm going to show
20 defense counsel what's been previously marked as Court's
21 exhibit four, and I'm going to mark it as state's
22 exhibit 102.

23 (State's Exhibit No. 102, CD recording of
24 jail telephone conversation of defendant and Christine
25 Thomas, previously marked Court's Exhibit No. 4, is

1 marked for identification.)

2 (Ms. Kennedy reviews exhibit.)

3 MS. WILLIAMS: May I approach the witness?

4 THE COURT: You may.

5 BY MS. WILLIAMS:

6 Q. Ms. Shuler, do you recognize that?

7 A. Yes, ma'am.

8 Q. Okay. And how do you recognize it?

9 A. That's my handwriting.

10 Q. Okay. Is that your initials right there?

11 A. Yes.

12 Q. And what is this a tape of?

13 A. That's a tape of a phone call that you asked me
14 to record.

15 Q. And who is it or what number -- whose inmate
16 number is it connected to?

17 A. Michaelson -- I'm sorry. Jeffrey Michaelson.
18 Sorry.

19 Q. And aside from downloading tapes of inmates'
20 calls, did you do anything else with regard to this
21 case?

22 A. No, ma'am. The only thing that I've done is just
23 record phone calls for you.

24 MS. WILLIAMS: Okay. Court's indulgence.

25 THE COURT: Yes, ma'am.

1 MS. WILLIAMS: Please answer any questions
2 defense has.

3 CROSS-EXAMINATION

4 BY MS. KENNEDY:

5 Q. Hey, Ms. Shuler. How are you doing?

6 A. I'm doing good. How are you?

7 Q. Forgive me if some questions I call you Katie. I
8 apologize.

9 A. That will be fine.

10 Q. You indicated that you, I guess, downloaded a
11 number of tapes. You did that for the Solicitor's
12 Office?

13 A. Yes, ma'am.

14 Q. You did that per their request or under subpoena?

15 A. Under subpoena.

16 Q. And you -- do you recall you indicated that you
17 downloaded conversations from Mr. Michaelson and Trey
18 Feaster and Kat Feaster and, I believe, Jeremiah
19 Scharer? Correct?

20 A. Yes, ma'am.

21 Q. Have any idea how many hours' worth of tapes
22 there were?

23 A. I'm really not exactly sure. It's been, you
24 know, several months since I've done it. I can pull up
25 my records and go back and show exactly what I've -- you

KATIE SHULER - CROSS BY MS. KENNEDY

1 know, how much it was, but I'm really not exactly sure.

2 Q. Do you recall how many weeks it took you to do
3 all this?

4 A. It just took me several days. Most of the time,
5 you know, it just takes a day or two to -- to get them
6 backed -- you know, off the backup disk and...

7 Q. Do you recall in what order you were asked to
8 record the tapes?

9 A. I was just given, you know, the dates that I was
10 supposed -- you know, the time frame and just the four
11 individuals' names.

12 Q. All right. But, so there was no, like, a date
13 for Mr. Feaster, a date for Ms. Feaster, a date for
14 Jeremiah Scharer, and a date for Mr. Michaelson?

15 A. It was just a particular time frame. I think it
16 was like the first couple of weeks that they were there
17 at the -- you know, at the jail. That was your
18 question?

19 Q. Well, I'm just trying to figure out if you're --
20 when you're asked to record the -- or to download those
21 tapes, were you given specific information about the
22 order in which they wanted it, or did they want
23 Mr. Michaelson first or -- or was it just random?

24 A. They -- they just gave me the four individuals'
25 names, and as -- as I recorded them, I called them and

1 let them know that -- that I did have them done.

2 Q. Okay.

3 A. Because it was several, you know, several people
4 I had to do.

5 Q. Okay. And when you say -- just so the jury
6 understands about the pin number, the inmates can, you
7 know, buy a card, right?

8 A. No, ma'am. We do not do phone cards.

9 Q. Okay.

10 A. The only thing that we do are -- they're called
11 inmate pin numbers.

12 Q. Right, right..

13 A. And that is the month and the date that they were
14 born and the last four of their Social.

15 Q. But they can buy time ---

16 A. Yes, ma'am. They ---

17 Q. --- on those cards?

18 A. They -- well, they purchase -- how it is, is they
19 have a commissary account, and then they request phone
20 time, you know, five dollars, ten dollars, however much
21 they prefer, and then I take that out of the commissary
22 system and apply it to that actual pin number which is
23 for the phone.

24 Q. So if they -- and then can they designate whether
25 they want -- when you say commissary time, you're

KATIE SHULER - CROSS BY MS. KENNEDY

- 1 talking about they can buy stuff from the canteen?
- 2 A. Yes, ma'am. That's just our -- their whole
3 canteen.
- 4 Q. Right. So, but they can buy stuff from the
5 canteen, snacks, aspirin if they need it?
- 6 A. Yes, ma'am.
- 7 Q. Coca-Cola, anything that the jail can't provide?
- 8 A. Yes, ma'am.
- 9 Q. Or is not required to provide?
- 10 A. Yes, ma'am.
- 11 Q. And they can designate what part of that money
12 goes to their canteen versus what part of that money
13 should be on their, for purposes of our conversation,
14 phone card?
- 15 A. Yes, ma'am. Well, everything stays in their
16 commissary account until they request phone time.
- 17 Q. And so in Mr. Michaelson's case he had -- I think
18 you referred to it as a pin number?
- 19 A. Yes, ma'am.
- 20 Q. And when they dial out, when somebody dials out,
21 do they -- how is that recorded?
- 22 A. It goes -- it goes through the Evercom System.
23 That's secure as technology provides for us.
- 24 Q. All right.
- 25 A. And how it is, is once they set up, once the

1 inmates come in for the first time then they -- and I
2 cut their pin number on, it automatically prompts them
3 to -- you know, it'll say this is a recording from Hill
4 Finklea Detention Center, do you accept this call from,
5 and it'll state the inmate's name. Some -- they --
6 there is a choice that they can -- you know, they can
7 put their name on it. They don't have to.

8 Q. But, and all that's done automatically?

9 A. Yes, ma'am.

10 Q. Okay. And y'all have some way to -- when you go
11 into the Evercom System, you have some way to identify
12 that pin number?

13 A. Yes, ma'am. In the system you can do a search by
14 either the inmate's name or either by the inmate's pin
15 number.

16 Q. And you -- and, again, when were you asked to
17 download all these tapes?

18 A. I'm not sure of the date, the exact date, but it
19 was a couple of months ago.

20 Q. Do you recall having a conversation with me
21 wherein you said that you thought they had taken you a
22 couple of weeks to do all that?

23 A. Well, it would have -- it could have -- I think
24 we had to knock the time frame down to -- to the first
25 couple of weeks because it could have taken a long time.

1 Our -- our system is a little not up to date, so it does
2 come to that.

3 Q. And I assume that in order to accommodate the
4 solicitor's request that you had to take time away from
5 your normal course of duties?

6 A. Yes, ma'am.

7 Q. This is not your usual request?

8 A. No, ma'am.

9 MS. KENNEDY: Court's indulgence.

10 THE COURT: Yes, ma'am.

11 MS. KENNEDY: That's all I would have.

12 Thank you.

13 MS. WILLIAMS: Nothing else further, Your
14 Honor.

15 THE COURT: Ms. Shuler, you may step down.

16 Thank you.

17 THE WITNESS: Thank you.

18 (The witness is excused from the witness
19 stand.)

20 THE COURT: Call your next witness.

21 MS. WILLIAMS: Christine Thomas.

22 (Ms. Thomas enters the courtroom.)

23 CHRISTINE THOMAS,

24 being first duly sworn by the clerk, is examined and
25 testifies as follows:

1 THE CLERK: Please be seated. State your
2 full name and spell your last name for the record.

3 THE WITNESS: Christine Thomas, T-H-O-M-A-S.

4 THE COURT: Ms. Williams.

5 MS. WILLIAMS: Thank you.

6 DIRECT EXAMINATION

7 BY MS. WILLIAMS:

8 Q. Ms. Thomas, first of all, you were subpoenaed to
9 be here; is that true?

10 A. Yes, ma'am.

11 Q. So you have to be here to testify?

12 A. Yes.

13 Q. And where do you live now?

14 A. I live at [REDACTED] Carolina Drive.

15 Q. And how long have you lived in the Berkeley
16 County area?

17 A. All my life, 27 years.

18 THE COURT: Ms. Thomas, could you speak into
19 the microphone, please?

20 THE WITNESS: Yes.

21 THE COURT: Thank you.

22 BY MS. WILLIAMS:

23 Q. Who is Jeffery Michaelson to you?

24 A. He's the kids' father.

25 Q. Okay. How many children do you have with

1 Mr. Michaelson?
2 A. Two.
3 Q. And do you see Mr. Michaelson here today?
4 A. Yes.
5 Q. Can you please point him out?
6 A. (The witness points.)
7 Q. What is he wearing?
8 A. Blue tie and a shirt.
9 Q. Okay. Is he...
10 A. In the middle.
11 Q. In the middle? Okay.
12 A. Uh-huh.
13 MS. WILLIAMS: Your Honor, please let the
14 record reflect that the witness has identified the
15 defendant, Mr. Michaelson.
16 THE COURT: It will.
17 BY MS. WILLIAMS:
18 Q. How long did you know -- have you known
19 Mr. Michaelson? When did y'all first meet?
20 A. Back in 2000.
21 Q. And did you ever live with Mr. Michaelson?
22 A. I have.
23 Q. And did you ever live with him at [REDACTED]
24 Starbright Lane?
25 A. Yes, ma'am.

1 Q. And when did you move in to that address?

2 A. In 2001.

3 Q. Okay. Do you remember about what month?

4 A. January.

5 Q. And at any time when you were living at [REDACTED]
6 Starbright Lane, did Trey and Kat Feaster move into the
7 trailer behind you?

8 A. Yes, ma'am.

9 Q. And how long after January of 2001 did they move
10 in?

11 A. It was probably six months after I moved in
12 there.

13 MS. WILLIAMS: Court's indulgence for just a
14 second.

15 THE COURT: Yes, ma'am.

16 MS. WILLIAMS: I'm going to show defense
17 counsel what was previously marked and entered into
18 evidence as state's three and two.

19 (Ms. Kennedy reviews exhibits.)

20 MS. WILLIAMS: May I approach the witness?

21 THE COURT: You may.

22 BY MS. WILLIAMS:

23 Q. Ms. Thomas, tell me, if you will, if you
24 recognize what these are pictures of.

25 A. Where Jeffrey and I stayed at.

1 Q. And is that ■ Starbright Lane?

2 A. Yes, ma'am.

3 Q. Is that in Moncks Corner?

4 A. Yes, ma'am.

5 MS. WILLIAMS: If you can put up state's
6 three.

7 BY MS. WILLIAMS:

8 Q. Okay. If you could use this pointer, just push
9 this little button and then point to the picture. Just
10 briefly show us what trailer you and Jeff lived in.

11 A. This one (pointing).

12 Q. Okay. And where did the Feasters move into nine
13 months later -- or six months later?

14 A. That one (pointing).

15 Q. Okay. And during that period of time -- so it
16 would have been like July or August of 2001?

17 A. Yes, ma'am.

18 Q. Did you have an opportunity to observe
19 Mr. Michaelson and Mr. Feaster together?

20 A. Yes.

21 Q. What was their relationship like?

22 A. Good friends.

23 Q. Did Mr. Michaelson try to avoid Mr. Feaster?

24 A. No.

25 Q. Now, during the period of time that you lived

1 with Mr. Michaelson, did he ever collect coins?

2 A. No, not collect. He had some.

3 Q. Okay. Did he have like certificates of
4 authenticity and collect rare coins and...

5 A. No.

6 MS. KENNEDY: Your Honor, if I may. She's
7 leading the witness.

8 THE COURT: All right. Ms. Williams,
9 please ---

10 MS. WILLIAMS: I will.

11 THE COURT: --- rephrase your question.

12 MS. WILLIAMS: I will, Your Honor.

13 THE COURT: Thank you.

14 BY MS. WILLIAMS:

15 Q. What was your financial situation like when you
16 lived with Mr. Michaelson?

17 A. It was rough.

18 Q. Was it -- did you have extra money? Was it hand
19 to mouth? What was it?

20 A. Well, yeah, it was pretty much hand to mouth.

21 Q. And during that period of time did you have an
22 opportunity to get acquainted with his habits and the
23 places he went and the things that he did?

24 A. Yes, ma'am.

25 Q. And did he ever go to or have any connection with

1 the flea market?

2 A. Yes, ma'am.

3 Q. What was that?

4 A. He worked at the flea market every Saturday and
5 Sunday.

6 Q. And did you know if Parrish Reeves, the victim,
7 acquainted that flea market?

8 A. No, ma'am.

9 Q. Did you ever hear that he did later?

10 A. Yes, ma'am.

11 Q. And at the flea market did Mr. Michaelson ever
12 buy coins or collect coins?

13 MS. KENNEDY: Your Honor, could we have a
14 side bar, please?

15 THE COURT: Sure.

16 (There was an off-the-record bench conference
17 in the presence of the jury but out of the hearing of
18 the jury.)

19 (Said bench conference being concluded, the
20 following proceedings were had:)

21 BY MS. WILLIAMS:

22 Q. When you were at the flea market did you see him
23 ever at the coin booths buying coins, investing in
24 coins, anything like that?

25 A. No, ma'am.

1 Q. Have you ever met Jeremiah Scharer?

2 A. I've seen him once or twice.

3 Q. And what was your relationship like with
4 Mr. Michaelson in 2007, given you had six years?

5 A. We were off and on. So it was on good terms/bad
6 terms.

7 Q. Okay. And about when did you move out of [REDACTED]
8 Starbright Lane?

9 A. Probably a year after that, 2002.

10 Q. Okay. And during the time that you were there,
11 did you ever see Mr. Michaelson with any kind of
12 trailer?

13 A. Yes, ma'am.

14 Q. Can you describe that trailer?

15 A. It was a white, enclosed, small trailer.

16 Q. And what happened to that trailer?

17 A. It went to the paint and body shop on 17-A.

18 Q. Who brought it to the paint and body shop?

19 A. B.R. (phonetic) and him.

20 Q. What was Mr. Michaelson's role in that?

21 A. He rode with B.R. up there to take it over there.

22 Q. And what was his goal? What did he want to
23 happen to the trailer?

24 A. They got it painted.

25 Q. And then did he bring the trailer back to [REDACTED]

1 Starbright Lane or did ---

2 A. No, ma'am. I never -- I didn't know anything
3 else about that.

4 Q. You never saw the trailer again?

5 A. No, ma'am.

6 Q. Where is that body shop, if you could just
7 explain?

8 A. On 17-A where the -- the transmission shop is.
9 It's right out in front of that on Horseshoe (phonetic)
10 Road.

11 Q. Now, you moved out, you said, in 2002. Is that
12 correct?

13 A. Yes, ma'am.

14 Q. And in 2007, you described your relationship as?

15 A. Ups and downs.

16 THE COURT REPORTER: Pardon me?

17 THE WITNESS: It was ups and downs.

18 BY MS. WILLIAMS:

19 Q. Were you present when Mr. Michaelson was
20 arrested?

21 A. I was at my mom's house when it took place.

22 Q. And what was your role, if any, in that arrest?

23 A. I set Mr. Michaelson up.

24 Q. Tell me how that happened.

25 A. The police department called my mom and wanted to

1 know have I talked to him or have I seen him. And I
2 said, no, I haven't seen him, but I do talk to him.
3 They asked could I pretty much help them out on getting
4 him over to my mother's house, and I said yes.

5 I texted Mr. Michaelson's phone and asked him --
6 well, I told him he had mail over at the house and that
7 our four-year-old-now wanted to see him.

8 So they pretty much -- he came into the
9 neighborhood, and they did what they had to do at that
10 point.

11 Q. And then after that time, while Mr. Michaelson
12 was in jail did you all resume your relationship?

13 A. Yes, ma'am.

14 Q. And what about when he got out of jail?

15 A. Yes, ma'am.

16 Q. Now, at some point -- let me ask you this. Did
17 you have a storage unit anywhere in Berkeley County?

18 A. I did.

19 Q. And who did you share the storage unit with?

20 A. Mr. Michaelson.

21 Q. And at some point were you approached to sign a
22 consent to search?

23 A. Yes, ma'am.

24 MS. WILLIAMS: Court's indulgence for just a
25 moment.

1 THE COURT: Yes, ma'am.

2 MS. WILLIAMS: I'm going to show counsel
3 what's been marked as state's 93 and 94.

4 (Ms. Kennedy reviews exhibits.)

5 MS. WILLIAMS: May I approach?

6 THE COURT: You may.

7 BY MS. WILLIAMS:

8 Q. Tell me, if you will, what -- what that is,
9 Ms. Thomas.

10 A. It's a consent to search the storage unit and the
11 vehicle.

12 Q. And whose signature is that?

13 A. Mine.

14 Q. And who had access to that storage unit?

15 A. Jeffrey and I did.

16 MS. WILLIAMS: Your Honor, I'm going to show
17 defense counsel what's been marked as 46, 47, 45, 40,
18 37, 36, 38, 41, 42, and 48.

19 (Ms. Kennedy reviews exhibits.)

20 THE COURT: Hold on one second, Ms. Williams.
21 Mr. Schwacke.

22 (Ms. Kennedy and Mr. Schwacke review
23 exhibits.)

24 MS. WILLIAMS: May I approach?

25 THE COURT: You may.

1 BY MS. WILLIAMS:

2 Q. If you wouldn't mind looking through these photos
3 and telling me if you recognize them.

4 A. Yes.

5 Q. Look through all of them and tell me.

6 A. (The witness reviews exhibits.) Yes.

7 Q. And are these items that were in your storage
8 unit?

9 A. Yes, ma'am.

10 Q. And pictures of your storage unit? And are these
11 items ones that you had seen in your home before?

12 A. Yes, ma'am.

13 Q. Were they yours?

14 A. No, ma'am. They were Mr. Michaelson's.

15 MS. KENNEDY: Your Honor, I'm sorry, I didn't
16 hear the response to the last question.

17 THE COURT: Could you repeat what you just
18 said, Ms. Thomas?

19 THE WITNESS: They were Mr. Michaelson's.

20 THE COURT: Thank you.

21 BY MS. WILLIAMS:

22 Q. Anybody else have access to that storage unit?

23 A. No, ma'am. Just me and Mr. Michaelson.

24 Q. Those are the coins I just showed you?

25 A. Yes, ma'am.

1 Q. Forty-one. Forty. And you didn't put any of
2 these items in the storage unit; is that correct?

3 A. No, ma'am.

4 Q. Thirty-eight. And those are the items that you
5 just identified as being in the unit?

6 A. Yes, ma'am.

7 Q. Now, while Mr. Michaelson was in jail did you
8 ever talk to him on the phone?

9 A. I did.

10 Q. How many times would you say?

11 A. Pretty much five to six times an evening. Well,
12 he called every night.

13 Q. And would you recognize his voice when you hear
14 it?

15 A. Yes, ma'am.

16 MS. WILLIAMS: I'm going to show defense
17 counsel what's been marked as state's 102.

18 (Ms. Kennedy reviews exhibit.)

19 MS. WILLIAMS: May I approach?

20 THE COURT: You may.

21 BY MS. WILLIAMS:

22 Q. Ms. Thomas, tell me if you've ever seen this
23 before.

24 A. Yes, ma'am.

25 Q. And whose number is that on there?

1 A. My mom.

2 Q. And were you living there at the time?

3 A. Yes, ma'am.

4 Q. And have you listened to this tape from beginning
5 to end?

6 A. Yes, ma'am.

7 Q. And whose voice is on this tape?

8 A. Mine and Mr. Michaelson's and my mother's.

9 Q. Is your mother on there just briefly?

10 A. Yes, ma'am.

11 Q. And is this an accurate recording of the
12 conversation that you had with Mr. Michaelson?

13 A. Yes, ma'am.

14 MS. WILLIAMS: Your Honor, at this time we
15 would offer state's 102 into evidence and request
16 permission to publish.

17 THE COURT: Subject to my previous ruling.

18 MS. KENNEDY: Yes, Your Honor, and subject to
19 the prior objection.

20 THE COURT: And you -- state's 102 into
21 evidence. You may publish.

22 (State's Exhibit No. 102, previously marked
23 for identification, is received in evidence.)

24 MS. WILLIAMS: May I have permission to sit
25 at defense counsel table?

CHRISTINE THOMAS - DIRECT BY MS. WILLIAMS

1 THE COURT: You may.

2 MS. WILLIAMS: Thank you.

3 (State's Exhibit No. 102 is played.)

4 BY MS. WILLIAMS:

5 Q. Ms. Thomas, that is your voice on the ---

6 A. Yes, ma'am.

7 Q. --- on the telephone with Mr. Michaelson? And
8 part of that discussion is about money and about you
9 having to turn the car in. Is that because that he's
10 gone and there's not even enough money to make an extra
11 payment on the car?

12 A. Correct.

13 Q. And what does he say to you about the murder?

14 A. I'm sticking with I didn't do it.

15 THE COURT REPORTER: I'm sorry, I didn't hear
16 your answer.

17 THE WITNESS: I'm sticking with I didn't do
18 it.

19 BY MS. WILLIAMS:

20 Q. I'm sticking with I didn't do it?

21 A. Yes, ma'am.

22 MS. KENNEDY: Object, Your Honor -- it's too
23 late for my objection. I apologize.

24 MS. WILLIAMS: Court's indulgence.

25 THE COURT: Yes, ma'am.

1 MS. WILLIAMS: Please answer any questions
2 the defense may have.

3 THE COURT: Ms. Kennedy.

4 MS. KENNEDY: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. KENNEDY:

7 Q. Ms. Thomas, good afternoon. How are you?

8 A. Good. How are you?

9 Q. Fine. Let me just -- you indicated -- let me
10 just ask you. Let's start with, to use your phrase, you
11 set him up. How did all that come about?

12 A. I was in cosmetology school and ---

13 Q. You were in cosmetology school?

14 A. Yes, ma'am, at the time. And Berkeley County had
15 come to my house. My mom was there with my daughter.

16 Q. Okay. They came to your house. Do you know what
17 time Berkeley County came to your house?

18 A. I don't remember.

19 Q. And when they came to your house they talked to
20 your mother?

21 A. Yes, ma'am.

22 Q. And then your mother got in touch with you?

23 A. Yes, ma'am.

24 Q. Gave you information to contact whom?

25 A. Her -- my mom called me and -- Shuler, Officer

1 Shuler.

2 Q. Officer Shuler. Left a message for you to call
3 Officer Shuler?

4 A. Yes, ma'am.

5 Q. All right. And when you called Officer Shuler,
6 what were you told?

7 A. Basically, they were looking for Mr. Michaelson.

8 Q. Did they tell you why?

9 A. No, ma'am. At the time they didn't.

10 Q. Okay, at the time they didn't. Did they -- and
11 they asked you to help set him up?

12 A. Yes, ma'am.

13 Q. Okay. How did they ask you to do that?

14 A. I told them pretty much I'd come back to the
15 house and get in touch -- in touch with him.

16 Q. So you immediately agreed to -- to set him up and
17 participate with the police in ---

18 A. Yes, ma'am.

19 Q. --- in getting him there? All right. Was that
20 -- do you remember what time of day this was?

21 A. No.

22 Q. Was it before or -- well, let me ask you this
23 way. Do you recall giving a statement to the police, a
24 written statement to the police?

25 A. Yes, ma'am.

1 Q. Do you recall what date you gave that statement?

2 A. No, ma'am.

3 MS. KENNEDY: Your Honor, may I approach the
4 witness?

5 THE COURT: You may.

6 BY MS. KENNEDY:

7 Q. Ms. Thomas, would you kind of look at the
8 statement at the bottom and see what date that was?

9 A. Yes, ma'am.

10 Q. What date was it?

11 A. August 7th.

12 Q. All right. That was the same day that
13 Mr. Michaelson was arrested?

14 A. Yes, ma'am.

15 Q. That was the same day you gave the consent to
16 search the storage shed?

17 A. Yes, ma'am.

18 Q. Okay. So, just so we have the time line
19 straight, you -- you set him up to get him to come to
20 your house?

21 A. (The witness nods head up and down.)

22 Q. And when did you go to the sheriff's office to
23 give a statement?

24 A. After they picked Mr. Michaelson up.

25 Q. Okay. And when did you give the consent to

1 search for the storage utility unit?

2 A. When we were at the sheriff's department or
3 wherever they took me, the headquarters.

4 Q. Okay. So did you disclose to them that you all
5 shared a utility unit?

6 A. Yes, ma'am.

7 Q. Okay. And that's how that information came to
8 be?

9 A. Yes, ma'am.

10 Q. All right. All right. And so you gave them the
11 consent to search. Did you go with them to do that?

12 A. Yes, ma'am.

13 Q. Okay. You opened it up for them?

14 A. At the time we -- I had the key, but we didn't
15 make a payment on it, so they put a lock on it.

16 Q. All right. So the sheriff's office opened it up?

17 A. Yes, ma'am.

18 Q. And in that facility, that storage -- I would
19 call it a shed -- had a lot of your stuff in it, too,
20 correct?

21 A. Yes, ma'am.

22 Q. All right. Now, you indicated that you moved in
23 to the address at Starbright in January 2001?

24 A. Yes, ma'am.

25 Q. And you and Mr. Michaelson were living together?

1 A. Yes, ma'am.

2 Q. And you continued to live at that residence, I
3 believe you indicated, I think, until 2002?

4 A. It was about that time.

5 MS. KENNEDY: Okay. Your Honor, may I
6 approach the...

7 THE COURT: You may.

8 MS. KENNEDY: --- witness?

9 BY MS. KENNEDY:

10 Q. Well, let me ask you this. Did you -- did you
11 and Mr. Michaelson ever live anyplace else?

12 A. No, ma'am.

13 Q. Okay. Would you be kind enough to look at that
14 and tell me what you told the police that day, when you
15 moved out of that house, what year?

16 A. (The witness reviews document.) 2004.

17 Q. 2004, not 2002. Correct?

18 A. Yes, ma'am.

19 Q. All right. And you indicated that Trey and Kat
20 Feaster moved in, you believe, in the trailer right
21 behind you all mid-2001?

22 A. Yes, ma'am.

23 Q. How long did they continue to live there?

24 A. Probably a year or two years. I don't remember.

25 Q. Okay. Do you recall under what circumstances

1 they moved out?

2 A. No, ma'am.

3 Q. Don't remember that they got evicted?

4 A. They did get evicted, but I don't know when
5 about.

6 Q. Okay. But as a result of being evicted they had
7 to move out?

8 A. Yes, ma'am.

9 Q. And you were still living at Starbright when they
10 moved out?

11 A. Yes.

12 Q. Okay. And they -- they left some things in their
13 trailer; did they not?

14 A. Yes, ma'am.

15 Q. And the stuff that was left in the trailer, you
16 and Mr. Michaelson's sister moved into your trailer.
17 Correct?

18 A. Yes, ma'am.

19 Q. And that's part of the -- that that -- those
20 items that are in the utility shed are -- contain items
21 that were in Trey and Kat Feaster's trailer?

22 A. I don't remember.

23 Q. You don't remember?

24 A. No, ma'am.

25 Q. Okay. But you did move all of their stuff into

1 your trailer?

2 A. Yes, ma'am.

3 Q. All right. Well, do you know what happened to
4 their stuff when you moved out?

5 A. No, ma'am.

6 Q. Okay. Is it fair to say when you moved out and
7 you got the storage shed that everything went into this
8 storage shed?

9 A. Yes, ma'am.

10 Q. Now, I heard you say that you and Mr. Michaelson
11 worked at the -- at the flea market. It was really you
12 and Mr. Michaelson's mother, right?

13 A. Yes.

14 Q. Okay.

15 A. All three of us.

16 Q. All three of you?

17 A. Yes, ma'am.

18 MS. KENNEDY: Your Honor, may I approach the
19 witness again?

20 THE COURT: You may.

21 BY MS. KENNEDY:

22 Q. Would you read the top -- to yourself,
23 Ms. Thomas, the top of your statement. In your
24 statement where does it reflect -- strike that.

25 A. Coastal Carolina Flea Market.

- 1 Q. And who was working there?
- 2 A. At the time, me and Jeff and his mother.
- 3 Q. Does your statement include Mr. Michaelson?
- 4 A. No.
- 5 Q. Thank you. So the two of you have two children?
- 6 A. Yes, ma'am.
- 7 Q. Haley is four?
- 8 A. Yes, ma'am.
- 9 Q. Hannah is one?
- 10 A. She's eleven months old.
- 11 Q. Soon to be one?
- 12 A. Yes, ma'am.
- 13 Q. All right. And so you moved out from
- 14 Mr. Michaelson in 2004, and at some point the two of you
- 15 got back together?
- 16 A. Yes, ma'am.
- 17 Q. And where were you living then?
- 18 A. At what time? When we got back together or...
- 19 Q. Yes.
- 20 A. With my mom.
- 21 Q. With your mom. And did you see -- let me -- you
- 22 indicated that you -- that Mr. Michaelson and Trey had a
- 23 good relationship?
- 24 A. Yes, ma'am.
- 25 Q. You and Kat had a good relationship?

- 1 A. Yes, ma'am.
- 2 Q. The two of you did things together all the time?
- 3 A. Yes, ma'am.
- 4 Q. She had a child?
- 5 A. Yes, ma'am.
- 6 Q. You had a child?
- 7 A. At the time, no.
- 8 Q. Okay. But -- but y'all did things together?
- 9 A. Yes, ma'am.
- 10 Q. All right. Friends?
- 11 A. Yes, ma'am.
- 12 Q. Okay. So were you friendly with her the way you
- 13 say Mr. Michaelson was friendly with Mr. Feaster?
- 14 A. Yes, ma'am.
- 15 Q. Ever come a time when the -- when the two of you
- 16 or the four of you had a falling out?
- 17 A. No, ma'am.
- 18 Q. Never?
- 19 A. No.
- 20 Q. Never had a fall out with Kat?
- 21 A. No, ma'am.
- 22 Q. Who rented the storage unit?
- 23 A. The Ladson storage unit?
- 24 Q. Yes.
- 25 A. It was in my name.

1 Q. It was in your name?
2 A. Yes, ma'am.
3 Q. And you rented it because you were moving out?
4 A. Yes, ma'am.
5 Q. And that was in 2004?
6 A. I don't recall.
7 Q. Okay. According to your statement ---
8 A. Right.
9 Q. --- it was 2004. All right. And those items
10 continued to stay in the storage unit?
11 A. Yes, ma'am.
12 Q. And nobody bothered them?
13 A. No, ma'am.
14 Q. Nobody tried to sell them?
15 A. No, ma'am.
16 Q. And you -- can you tell today which items
17 belonged to the Feasters as opposed to the items that
18 belonged to you and Mr. Michaelson?
19 A. No, ma'am, I couldn't.
20 MS. KENNEDY: Court's indulgence.
21 THE COURT: Yes, ma'am.
22 MS. KENNEDY: Your Honor, that would be all I
23 have. Thank you.
24 THE COURT: Ms. Williams.
25 MS. WILLIAMS: Nothing further, Your Honor.

1 THE COURT: Ms. Thomas, you may step down.
2 (The witness is excused from the witness
3 stand.)

4 THE COURT: Call your next witness.

5 MS. WILLIAMS: The state calls Dr. Erin
6 Presnell.

7 (Dr. Presnell enters the courtroom.)

8 ERIN SUSAN PRESNELL, M.D.,
9 being first duly sworn by the clerk, is examined and
10 testifies as follows:

11 THE CLERK: Please be seated. State your
12 full name and spell your last name for the record.

13 THE WITNESS: Erin Susan Presnell,
14 P-R-E-S-N-E-L-L.

15 MS. WILLIAMS: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. WILLIAMS:

18 Q. Dr. Presnell, where do you work?

19 A. I work for the Medical University of South
20 Carolina in Charleston as a forensics pathologist.

21 Q. And are you a licensed physician?

22 A. Yes. I'm licensed to practice medicine in South
23 Carolina.

24 Q. How long have you been licensed in your
25 profession?

1 A. Well, I -- the permanent license I guess would be
2 1995, but I'll kind of back up and give you credentials.

3 To become a forensic pathologist, you get your
4 bachelor's in college, and then you go to four years of
5 med school, and then at that point you pick your
6 speciality. So I chose pathology. At that point it's
7 five years. And then I did a subspecialty training in
8 forensic pathology.

9 So that's fourteen years you end up going, and
10 during that time I took the boards, the national
11 American -- or the national boards for pathology,
12 general pathology and forensic pathology. So I'm board
13 certified in general pathology and forensic pathology
14 and licensed to practice medicine.

15 Q. And I don't know if you've already covered this
16 by that answer, but what are the requirements for
17 certification by the American Board of Pathology?

18 A. Well, it's successful completion of residency.
19 And you asked about time. I finished all that, obtained
20 final certification in 1999.

21 Q. And as part of your duties as a pathologist at
22 the Medical University, do you perform autopsies?

23 A. Yes. I'm in -- I'm doing the forensic pathology,
24 specifically with autopsy and education.

25 Q. And, roughly, in your career how many autopsies

1 would you say you've performed?

2 A. I have done approximately around 2000.

3 Q. And have you been qualified as an expert in the
4 field of pathology in the past?

5 A. Yes.

6 Q. Roughly how many times?

7 A. Seventy-five, 80 maybe.

8 MS. WILLIAMS: Your Honor, at this time the
9 state would move to have Dr. Presnell qualified as an
10 expert in the field of pathology.

11 MR. SCHWACKE: No objection.

12 THE COURT: This witness will be qualified in
13 the area of pathology as an expert.

14 Ms. Williams.

15 MS. WILLIAMS: Thank you, Your Honor.

16 BY MS. WILLIAMS:

17 Q. During August of 2007 were you working at MUSC?

18 A. Yes. I started at MUSC once I got -- I became
19 faculty in 1999, all the way including to right now.
20 So, yes, I was there on August 8th, 2007.

21 Q. And did you participate in the autopsy of the
22 victim, Parrish Reeves, on that date?

23 A. Yes. I performed the autopsy.

24 Q. And what was your role in the autopsy?

25 A. I was the forensic pathologist.

1 Q. So you're pretty much the head person ---

2 A. Yes.

3 Q. --- and you call the shots?

4 A. Yes.

5 Q. And about how long would you say the autopsy
6 took?

7 A. Well, something to keep in mind is when we do an
8 autopsy it's not just on that first day. We take
9 samples so that later on under the microscope we look at
10 -- and we take samples for toxicology at the time of the
11 autopsy, and so all that stuff comes back later. So
12 it's kind of an ongoing process, but I would imagine our
13 time in the autopsy room initially was probably three,
14 three hours or so.

15 Q. And in this case was the body delivered in a
16 typical fashion?

17 A. Well, this was a different case for us.
18 Mr. Reeves arrived to us, and he was referred to us by
19 the coroner or, of course, coroner's case. So a
20 coroner's case.

21 He was brought to us in an oil barrel type of big
22 round drum, an oil drum that was covered in a kind of a
23 rubber-like tarp which was duct taped around the -- the
24 top surface.

25 Mr. Reeves was inside with his head down with his

1 knees bent up towards his chest. So kind of his -- his
2 buttock -- buttock and then feet were sticking up
3 towards the opening.

4 He apparently had been uncovered -- or had been
5 unburied. He'd been buried I guess under the ground for
6 several -- for many years, for several years, and so
7 when we got him he had undergone a certain amount of
8 decomposition.

9 Now, it was not the normal decomposition that we
10 see. Actually, it's a decomposition called adipocere.
11 And adipocere develops when in a wet, cool environment,
12 and certainly grave-like conditions would be wet and
13 cool. It's certainly wet in South Carolina, the
14 lowcountry, and then deep -- buried deep where down in
15 the ground would be cool.

16 And so what happens in that, in that -- those
17 instances is the tissue doesn't actually go away. A
18 bacteria in those kinds of conditions will start to
19 convert the soft tissues of the body into a waxy-like
20 substance called adipocere. And so the tissue's there,
21 but it's real crumbly.

22 And so, for instance, most of his outer body had
23 been converted to adipocere, and then a lot of the
24 adipocere had crumbled off the -- the arms and legs,
25 lower legs. So, so that was the condition that he

1 arrived to us.

2 Q. And when you received the -- as you describe it,
3 the oil barrel, was it opened at MUSC?

4 A. Yes, we opened it.

5 Q. And were there certain officers from SLED or the
6 Berkeley County sheriff's department maybe not present
7 in the room but there after they delivered...

8 A. There was -- let's see. Officer Christal Diess
9 (phonetic) from the Berkeley County Sheriff's Office.
10 And then also Detective Drennon. He was also present at
11 the autopsy.

12 Q. Are you aware of a SLED agent named Agent Hallman
13 also there? Do you have any notes about that?

14 A. I didn't document that.

15 Q. Okay. What items, if any, were present with the
16 body?

17 A. Well, he was clothed. So he had on jeans -- he
18 had on two black shoes, a green short-sleeved shirt, and
19 some dark jeans, and some underwear. He also had a
20 beaded necklace that was around his neck.

21 Also in the barrel was a little stuffed animal,
22 one of these little Taz dolls, and a purple dog collar.

23 Also recovered from him, from his jeans, was
24 several or lots of, actually, dollar bills and -- and a
25 dime.

1 And he had some grass in the barrel and some pet
2 hair. That had come up and been put into the liquid
3 that was still in the barrel.

4 Q. And were those items transferred from you to a
5 law enforcement agency?

6 A. Yes, ma'am. We transferred those to Detective
7 Drennon.

8 Q. And was there anything retrieved from inside the
9 body?

10 A. Well, as we go on and discuss what the cause of
11 death was, it would be -- it's going to be a gunshot
12 wound, and we recovered a bullet from his body.

13 Q. And was that item also transferred to law
14 enforcement?

15 A. Yes.

16 MS. WILLIAMS: Your Honor, may we approach?

17 THE COURT: Yes, ma'am.

18 (There was an off-the-record bench conference
19 in the presence of the jury but out of the hearing of
20 the jury.)

21 (Said bench conference being concluded, the
22 following proceedings were had:)

23 THE COURT: All right. Ladies and gentlemen,
24 there is a matter of law that I must take up outside of
25 your presence. It's also a good time for us to take --

1 take our break. Do not begin your deliberations. Do
2 not discuss this case amongst yourselves.

3 Dr. Presnell, please remain seated.

4 Please rise for the jury.

5 (Whereupon, the jury goes to the jury room at
6 approximately 2:15 p.m.)

7 THE COURT: Thank you. Be seated.

8 You wish to address the Court.

9 MS. WILLIAMS: If we could address -- it's
10 only one picture, Your Honor. It's not going to take
11 very long. We went through all of the photographs.

12 THE COURT: And, Ms. Williams, if you'll hand
13 me the photographs that there are no objections to.

14 MS. WILLIAMS: These are the ones that
15 defense did not have an objection to.

16 THE COURT: Those, again, Ms. Williams, the
17 ones you just placed are no objection?

18 MS. WILLIAMS: No objection.

19 THE COURT: State's 74, 80, 49, 75, no
20 objection.

21 MS. WILLIAMS: And, Your Honor, these are all
22 of the photographs that the defense does have an
23 objection to. The only one that -- I'm going to give
24 those to you and then make my argument.

25 THE COURT: And then, again, another stack

1 that the defense has no objection to: 68, 64, 61, 60,
2 63, 62, 79, 59, 65, 55, 58, 56, 57, 73, 70, 77, 76, 71,
3 66, 72, 78, 51, 50, 52, 53, and 54.

4 MR. SCHWACKE: Your Honor, I'm not sure which
5 ones she has objected to. Can I -- may I see them?

6 THE COURT: You may.

7 MS. WILLIAMS: I haven't even told the Court
8 yet which ones ---

9 THE COURT: Right.

10 MS. WILLIAMS: --- that we ---

11 THE COURT: These are the ones that she's
12 indicated, Mr. Schwacke, that you have no objection to.

13 MR. SCHWACKE: That's correct.

14 THE COURT: The ones that I just read.

15 Then this appears to be the stack that you do
16 have an objection to.

17 And Ms. Williams.

18 MS. WILLIAMS: Just number 84 that we would
19 -- that we would want to put in out of the stack that
20 they -- they find objectionable, Your Honor.

21 THE COURT: All right. I'll be happy to hear
22 from you as to 84.

23 MS. WILLIAMS: Your Honor, we have agreed not
24 to put in any of the other pictures that, you know, they
25 are very gruesome, but 84 is the only picture I'm aware

1 that actually shows the -- the direction that the bullet
2 wound, the trajectory of the bullet. And you can see
3 that the rod is there to show how the bullet entered the
4 skull and then where the -- you know, the exit wound or
5 the ricochet wound is. And that's the only reason we
6 would ask that that picture be introduced.

7 THE COURT: Mr. Schwacke.

8 MR. SCHWACKE: Your Honor, first off, we
9 would state that that particular photograph is
10 cumulative of the ones that we have agreed should come
11 into evidence.

12 It's a little bit, I believe -- and we've got
13 the witness on the stand. So I'm not sure, but I think
14 it's a little bit wrong to mischaracterize the wound to
15 the side -- to the left side of the skull as an exit
16 wound because it's the ricochet point which causes
17 damage to the skull but doesn't exit.

18 I believe the witness is fully capable of
19 using the exhibits that are -- that we agree should come
20 into evidence to testify as to the angle of the gunshot;
21 that it is inflammatory, the particular photograph,
22 because -- and the pictures that we objected to of the
23 skull. And I believe, for the record, there's
24 approximately five or six pictures that we did agree to
25 come in of the skull.

1 And that particular photograph, there had
2 been the -- I believe, the process of removing the upper
3 and lower jaws, where there are cuts across bone, and I
4 just feel like that that would be inflammatory and
5 cumulative and that the prejudicial effect of that
6 outweighs whatever probative value it has, particularly
7 in view of the other photographs that we have agreed to
8 come in.

9 THE COURT: All right. Final word,
10 Ms. Williams.

11 MS. WILLIAMS: I just don't -- I don't know
12 of any other picture, in fact, that really illustrates
13 the direction of the bullet except that one. That's the
14 reason that we want to introduce it.

15 THE COURT: Ms. Williams, would it be
16 possible while your witness is on the stand -- for
17 example, those state's 50 and 51 which are the X-rays of
18 the skull which shows one entry wound and then the exit
19 wound, would it be possible for her to testify to those,
20 to the exit and entry from those, from those
21 photographs?

22 MS. WILLIAMS: No, Your Honor, because the
23 way that the entrance wound comes into the skull
24 actually on the side of the head, and those are front
25 only. And it's just -- you can see where the bullet is

1 lodged, but it doesn't really show the direction. She
2 can describe it, but that's the only picture I know of
3 that really illustrates it, and that's why the rod is in
4 the picture so that they can show that.

5 MR. SCHWACKE: Your Honor, there are other
6 ways of showing the angle of trajectory, not from the
7 photograph.

8 We have a copy of the autopsy report. As
9 part of that report there is always a head diagram
10 included which I believe that the state could use to
11 explain what they're trying to explain, the angle.

12 And I have heard Dr. Presnell testify before,
13 Your Honor. There is no doubt in my mind that she is
14 going to be able to adequately explain from those charts
15 or illustrations the angle of the wound without having
16 to put in a cumulative photograph that shows further
17 damage to the skull.

18 I believe that just inflames the jury against
19 the client, and its -- its probative value is outweighed
20 by that prejudice.

21 THE COURT: All right. I agree the state's
22 exhibit 84 is not admissible. And with that, it's
23 state's 84, 88, 87, 86, 90, and 89. All other, there is
24 no objection to those, Mr. Schwacke?

25 MR. SCHWACKE: That's correct, Your Honor.

1 THE COURT: All right. Anything further?

2 MS. WILLIAMS: No, Your Honor. May I
3 approach?

4 THE COURT: You may. And here are the ones
5 that are not admissible.

6 All right. Anything before we take our
7 break?

8 MR. SCHWACKE: No, Your Honor.

9 MS. WILLIAMS: Nothing from the state.

10 THE COURT: All right. We'll take a
11 ten-minute break.

12 Dr. Presnell, the rule of sequestration has
13 been invoked, so I ask that -- you're free to remain in
14 that witness chair, but if you do step down you may not
15 discuss your testimony with the state or with the
16 defense attorneys.

17 THE WITNESS: Okay. Thank you.

18 THE COURT: Thank you.

19 (A break is taken at approximately 2:25 p.m.)

20 (The trial reconvenes at approximately
21 2:35 p.m., the defendant being present with counsel,
22 Ms. Kennedy and Mr. Schwacke, and the following
23 proceedings were had:)

24 THE COURT: Thank you. Please be seated.

25 MR. SCHWACKE: Your Honor, there is one

1 photograph that we...

2 MS. WILLIAMS: I believe we handed it up.
3 It's either photograph number 68 or photograph 69. I
4 thought we had an agreement on it. Mr. Schwacke and
5 Ms. Kennedy are objecting to it. It is the only
6 photograph that we have that shows that there is
7 actually a body in the comforter. And out of all the
8 photographs that we agreed to, this one is not gruesome.
9 It doesn't show as much of his body. You can just tell
10 that there is a body. And we would say that that is
11 very probative of what happened when they emptied the
12 barrel out. Otherwise, they don't get that there's --
13 there was actually a body in the comforter.

14 THE COURT: Mr. Schwacke.

15 MR. SCHWACKE: Your Honor, again, I believe
16 there's approximately four other photographs that show
17 the actual process of -- or not the process but a
18 progression of photographs that show the removal of the
19 victim's body from the barrel. All of them indicate --
20 you can see the skull, you can see the comforter, and
21 it's my understanding that the state wanted that to go
22 in to show that full picture.

23 Your Honor, I believe it's depicted
24 sufficiently in other photographs. I don't know how you
25 don't describe that as somewhat gruesome, that

1 particular photograph; but because it is adequately
2 reflected in other photographs which we have not
3 objected to, I would ask that you not allow that
4 photograph to be published to the jury or admitted into
5 evidence on the basis of its prejudicial nature and the
6 probative value is present in other photographs.

7 THE COURT: All right. I disagree. I find
8 that state's exhibit 68, based upon what I believe
9 Dr. Presnell will testify to and has testified to up to
10 this time, I do not find that it is prejudicial. I
11 believe it is material and relevant and necessary to
12 present to the jury a complete picture of what and how
13 the body was found outside of the barrel.

14 MR. SCHWACKE: Thank you, Your Honor.

15 THE COURT: Note your objection, and that's
16 state's 68.

17 MS. WILLIAMS: Thank you, Your Honor.

18 THE COURT: All right. And with that, is
19 there anything, anything further?

20 MS. WILLIAMS: Nothing from the state, Your
21 Honor.

22 THE COURT: Mr. Schwacke, anything before we
23 bring in the jury?

24 MR. SCHWACKE: No, Your Honor.

25 THE COURT: All right. Let's bring in the

DR. PRESNELL - DIRECT BY MS. WILLIAMS

1 jury.

2 And, Dr. Presnell, if you'll remain seated.

3 (Whereupon, the jury enters the courtroom at
4 approximately 2:40 p.m.)

5 THE COURT: Thank you. Please be seated.

6 Ms. Williams, your witness.

7 MS. WILLIAMS: Thank you, Your Honor.

8 DIRECT EXAMINATION (CONTINUED)

9 BY MS. WILLIAMS:

10 Q. Now, based on your autopsy of Mr. Reeves' body
11 and to a reasonable degree of medical certainty, did you
12 determine a cause of death?

13 A. Yes. It was due by -- by a single gunshot wound
14 to the head. I believe we'll see illustrations perhaps
15 in a moment, but I'll just describe its path.

16 The bullet entered into the skull right behind
17 the right ear. It traveled across the skull to
18 approximately on this side of the head, on the left side
19 of the head. It hit the skull there and actually caused
20 the skull to move back and kind of fracture there, and
21 it ricocheted back to the right side of the head which
22 we'll possibly see illustrated in a minute. That is
23 where the bullet came to rest, on the right side of the
24 head in the brain, and that's what we recovered at
25 autopsy.

1 Q. And were you able to determine the range?

2 A. No, we were not, because of the state of
3 decomposition.

4 If you'd like me to expound a little bit, the --
5 in forensic pathology, there -- we can classify our
6 gunshot wounds as three different range of fires or how
7 far away the gun was from the victim or the target. One
8 is contact, when -- when the gun is right up against the
9 skin; one is close range, when it's close to the victim;
10 and then one is a distant, when it's further away.

11 And what we're looking for is -- well, not only
12 -- backing up a little, not only does the bullet come
13 out the end of the gun; but also some soot comes out and
14 also some gunpowder particles. They look like little
15 particles of sand almost. That's used to, you know,
16 propel the bullet down the gun barrel.

17 When the -- when the gun is actually against the
18 skin, so a contact gunshot wound. Once after it's
19 fired, we will see a ring of soot around that entrance
20 wound.

21 When you start to pull that gun away, then the
22 soot may or may not make it to the skin, but if those
23 little sandy particles or little gunpowder particles
24 will make it to the skin and strike it all around the
25 entrance wound and cause actual scratches -- and it will

1 -- it looks like little pinpoint pricks, and that's
2 called stippling, and that -- that also indicates it's a
3 close range gunshot wound.

4 So contact, close, and then once you go far
5 enough away the soot is not going to reach nor will
6 those gunpowder particles reach, and all we'll see is an
7 entrance wound with no soot, no -- no stippling around
8 it.

9 In this case, because of the state of
10 decomposition, all the surface tissue was disturbed. So
11 we couldn't -- we couldn't tell if there was soot or if
12 there had been stippling around the top. So this was
13 actually left as an indeterminate range. We didn't know
14 how far away. It could have been any of the three.
15 Indeterminate range gunshot wound.

16 Q. And that was primarily because of the state of
17 the body?

18 A. Yes.

19 Q. And you did generate a report as a result of the
20 autopsy; is that true?

21 A. Yes.

22 Q. Is there -- are there any mistakes or typos in
23 the report?

24 A. When you pointed out -- we got this new computer
25 system several years ago, and it -- when you enter or

1 log in a case, you punch in that information, and then
2 that appears -- every time you print the report out that
3 appears at the top. Now, when you're working on the
4 case, you don't see that in the computer.

5 So when we first received this person, we weren't
6 sure -- we weren't definitely sure, we had an idea who
7 it was, but we didn't know the birth date. So you enter
8 some strange birth date, say like January 1st, 1901, and
9 so that's what he got entered as. So I believe now he
10 is up to 106 years of age on our -- on the autopsy
11 report up in the corner, but we correctly describe that
12 in my -- in the body of the report.

13 Q. So it just shows the victim's age as 106?

14 A. Right. When we entered it originally at the time
15 of the case and we didn't know a birth date, we entered
16 in just a real old birth date.

17 Q. Clearly, he was not 106?

18 A. Right. He was much younger.

19 MS. WILLIAMS: Your Honor, I'm going to show
20 defense counsel state's exhibit 50 through 73 and then
21 76 through 79. I'm also showing defense counsel state's
22 exhibit 69 which is also -- already been entered into
23 evidence.

24 (Mr. Schwacke reviews exhibits.)

25 MS. WILLIAMS: May I approach, Your Honor?

DR. PRESNELL - DIRECT BY MS. WILLIAMS

1 THE COURT: You may.

2 BY MS. WILLIAMS:

3 Q. Dr. Presnell, if you would just look through this
4 stack of photos and tell me if you recognize what those
5 are.

6 A. Okay. Let's see. So far these are all photos
7 taken at the time of autopsy. (The witness further
8 reviews exhibits.) Those are photos taken at the time
9 of autopsy.

10 Q. And do they fairly and accurately depict the
11 items at the time of autopsy when you saw them?

12 A. Yes. Some of them are a little blurry, but, yes,
13 they do.

14 MS. WILLIAMS: Your Honor, at this time we
15 would offer state's 50 through 74 -- I mean, I'm sorry,
16 50 through 73 and 76 through 79 into evidence.

17 MR. SCHWACKE: No objection, subject to our
18 previous objection.

19 THE COURT: All right. So state's 50 through
20 73, Ms. Williams?

21 MS. WILLIAMS: Yes, Your Honor.

22 THE COURT: Inclusive?

23 MS. WILLIAMS: Inclusive, 50, 51, all the way
24 to 73.

25 THE COURT: And 76 through 79?

1 MS. WILLIAMS: Correct.

2 THE COURT: No objection, Mr. Schwacke?

3 MR. SCHWACKE: Except as -- except as
4 previously stated.

5 THE COURT: Those photographs are into
6 evidence.

7 Ms. Williams, you may publish.

8 MS! WILLIAMS: Thank you, Your Honor.

9 (State's Exhibits No. 50 through 73,
10 previously marked for identification, are received in
11 evidence.)

12 (State's Exhibits No. 76, 77, 78, and 79,
13 previously marked for identification, are received in
14 evidence.)

15 BY MS. WILLIAMS:

16 Q. And, Dr. Presnell, if you could just tell the
17 jury what that is.

18 A. That is the barrel that we received at autopsy,
19 sitting on one of our gurney tables, and it has that
20 black tarp rubbery on -- on the top and it's secured by
21 duct tape around the edges.

22 Q. Okay. This is a pointer if you -- it might be
23 helpful.

24 A. That's upside down. See, there's a -- there's a
25 head right there. That should be at the top of that.

1 There's somebody, a live person's head right there.

2 MR. SCHWACKE: Your Honor, which number is
3 this?

4 MS. WILLIAMS: This is -- I'm sorry. This is
5 number 63.

6 THE COURT: Thank you.

7 BY MS. WILLIAMS:

8 Q. Okay.

9 A. So, yeah, this is where we're trying to figure
10 out how -- we're looking at the front of the barrel. So
11 at this point we've taken the tarp off, and we've tipped
12 the barrel over and we're pulling out the -- Mr. Reeves.
13 One thing I didn't mention before is he was also wrapped
14 in a comforter. So that's basically what you're seeing,
15 a lot of the comforter material around him.

16 Q. Sixty-four. And, again, what is this?

17 A. This is the side of the barrel here with some of
18 that comforter. And there is some body part right
19 there. I don't remember exactly what that is. That's
20 looking down into the barrel.

21 Q. Sixty-one.

22 A. A similar picture, the body wrapped in the
23 comforter, coming out and extracting from the barrel.

24 Q. Sixty-nine.

25 A. This is he's been removed from the barrel and

1 placed on the autopsy table. Here is that comforter,
2 and he -- he's inside that.

3 This is the other side. That one picture was one
4 side, and then this is the other side. Again, wrapped
5 in the comforter on the autopsy table.

6 And a photograph of his shoes.

7 Q. State's 70.

8 A. A photograph of his jeans. This has a lot of
9 liquid and some of that waxy substance that we're
10 talking about, the adipocere, adhering to it.

11 Q. Seventy-one.

12 A. His shirt with the same type of material adhering
13 to it.

14 Let's see. Those are the shoes. That's the
15 stuffed animal. That's the beaded necklace. And
16 probably his underwear. It's hard to tell. It looks
17 like that's his underwear.

18 Q. Now, Dr. Presnell, as part of your report, are
19 there illustrations of -- that help you explain where an
20 entrance wound is and the path of the bullet?

21 A. Well, during the autopsy we're going to do
22 diagrams and also photographs to help us explain or --
23 and notate the case, put it all together.

24 MS. WILLIAMS: Your Honor, just for
25 demonstrative purposes, I'm going to show this to

1 defense counsel. It is a portion of Dr. Presnell's
2 report.

3 (Ms. Kennedy reviews document.)

4 MS. WILLIAMS: May I approach?

5 THE COURT: You may.

6 BY MS. WILLIAMS:

7 Q. Dr. Presnell, what is this?

8 A. All right. It's a copy of one of the diagrams
9 that we did at autopsy.

10 Q. Would this assist you in explaining to the jury
11 the path of the bullet?

12 A. Yes. It'll show the -- it'll illustrate what I
13 was trying to explain before.

14 Q. Okay.

15 A. We cut -- we can -- we try to draw a hole here,
16 but really the skull diagram will illustrate it the
17 best, because, you know, his skin wasn't really -- you
18 can only evaluate it.

19 Well, but here is the right side of the head.
20 There's that what we call the mastoid process, that kind
21 of bony part right behind your ear, and that's the
22 entrance wound right there.

23 And then like I said, it traveled through the
24 skull, hit his brain and -- and hit the skull right in
25 this area, again, causing it to poof out, and then the

1 bullet ricocheted back towards the right side of the
2 head.

3 Q. So it ricocheted off the left and then back?

4 A. Right. It enters on the right, hits the left
5 side of the head, and ricochets back to the right.

6 Q. And you're pointing to behind your ear?

7 A. Yes. So the mastoid process is the bony part
8 behind the right ear. Heads to the left side of the
9 head, kind of around the ear area, and then back to the
10 top of the right head area. And we'll see that with
11 X-rays.

12 Q. And with this type of injury, are you able to
13 tell us if there was any blood at the time of the
14 gunshot wound?

15 A. No, not -- no. Although he did have that single
16 entrance wound, it may have bled; it may not have bled
17 very much at all.

18 Q. So it's possible that he could have sustained
19 this wound and died and there be no blood?

20 A. Probably very -- I mean, you could get -- you'd
21 probably get some blood, but it might -- you might get
22 very little blood, yes.

23 Q. And when you're talking about a ricochet wound,
24 does that mean it just goes back in? It doesn't exit
25 the body?

1 A. Well, it means -- ricochet means it bounced. So
2 it went -- and this bullet did not exit the body. It
3 hit the left side of the skull and bounced back to the
4 inside of the right side of the head, never leaving the
5 body.

6 Q. That's state's 62. Can you explain to the jury
7 what that's a picture of?

8 A. Well, this is -- what we've done is we've
9 reflected the scalp off the skull, so this is actually
10 the underlying skull.

11 This is the first hole that we found when we were
12 examining him. The entrance wound is actually like much
13 deeper into the mastoid process area.

14 So this is the left side of the head. We were
15 able to reflect it from "A" and down at first. And this
16 is after the exit wound -- excuse me. I take that back.
17 Not an exit wound. This is where the bullet after it
18 entered the right side of the head struck the left side
19 of the head and caused that -- that pouch, that little
20 fractured circular area there before it bounced back to
21 the right side of the head.

22 Q. And this is state's 50. And can you explain to
23 the jury what this is?

24 A. Okay. Well, this is an X-ray of his head. This
25 dark -- or, excuse me -- the light area right here,

1 that's the bullet. So it's like we're looking at him
2 and he's looking at us. The entrance wound would be on
3 the right which is over here. It traveled over to here,
4 bounced, caused that little fracture that we saw on that
5 last picture, and then ricocheted back to here.

6 Now, you see it's a little bit off because right
7 here is the brain. You know, it should fill the whole
8 skull, but since it started -- you know, since it's
9 decomposing, it all kind of collapsed. So really that's
10 almost the -- almost the very top of the right side of
11 his brain.

12 So, again, from here down over to here, it
13 bounced and then back to the right side of the head,
14 ricocheted back.

15 Q. State's 61, please?

16 A. That is just a side view X-ray. Again, for
17 illustrating the bullet and its location in the brain.

18 Q. And...

19 A. There is the bullet that we recovered.

20 Q. And are those photographs consistent with your
21 finding that -- that Mr. Reeves died from a single
22 bullet wound to the head?

23 A. Yes.

24 MS. WILLIAMS: Court's indulgence for just a
25 second.

DR. PRESNELL - DIRECT BY MS. WILLIAMS

1 THE COURT: Yes, Ms. Williams.

2 MS. WILLIAMS: I'm going to show counsel
3 what's been previously marked as state's exhibit 95.

4 (Mr. Schwacke reviews exhibit.)

5 MS. WILLIAMS: May I approach?

6 THE COURT: You may.

7 BY MS. WILLIAMS:

8 Q. Dr. Presnell, would you just open this up and
9 tell us what that is?

10 A. (The witness attempts to open exhibit.)

11 Q. Is it zip-locked?

12 A. I don't know. Do you want me to tear it open?

13 Q. You could do -- if you can just recognize what it
14 is based on the initials, that's fine.

15 A. All right. This, it appears to be a container
16 with Mr. Reeves' -- the autopsy label that we made at
17 the time of his autopsy with the autopsy number and with
18 my handwriting that says "bullet" on it. And then
19 outside the container, there actually is the bullet that
20 you just saw in the photograph that was recovered at
21 autopsy.

22 Q. And can you tell them that where -- where it went
23 after it was in your possession?

24 A. We transferred it to Detective Drennon of the
25 Berkeley County Sheriff's Office.

1 MS. WILLIAMS: Your Honor, at this time the
2 state would move state's 95 into evidence.

3 THE COURT: Any objection?

4 MR. SCHWACKE: No objection.

5 THE COURT: State's 95 into evidence without
6 objection.

7 (State's Exhibit No. 95, previously marked
8 for identification, is received in evidence.)

9 MS. WILLIAMS: Court's indulgence for just a
10 second.

11 THE COURT: Yes, ma'am.

12 MS. WILLIAMS: Please answer any questions
13 defense counsel might have.

14 THE COURT: Mr. Schwacke, your witness.

15 MR. SCHWACKE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SCHWACKE:

18 Q. Hey, Dr. Presnell.

19 A. Hey.

20 Q. We've met but not discussed this case before; is
21 that right?

22 A. Correct.

23 Q. When you're asked to perform an autopsy, your
24 goal is to determine a cause and manner of death?

25 A. That and oftentimes interpret types of injuries.

- 1 Q. And to be aware of how injuries might result in a
2 death, you have to know a lot about different aspects of
3 body functions, organs, and those types of things; is
4 that right?
- 5 A. Yes.
- 6 Q. And in this case you determined this to be a
7 homicide based on a single gunshot wound to the head?
- 8 A. Correct.
- 9 Q. None of that tells you who did anything?
- 10 A. No.
- 11 Q. In terms of when you went through the items that
12 were found in the barrel, you went through the victim's
13 clothing; is that correct?
- 14 A. Yes, we did.
- 15 Q. And one of the things that we haven't testified
16 to or haven't had any testimony about here is he had a
17 large amount of cash on him?
- 18 A. Yes, he did.
- 19 Q. Almost over \$1400?
- 20 A. Yes. He -- he had \$410 in his right jeans pocket
21 and a thousand dollars in his left jeans pocket.
- 22 Q. And then add a dime to that that was found
23 someplace else?
- 24 A. And a dime. And a dime.
- 25 Q. And there were other items in the barrel, as

1 well, besides just his body, the comforter, and the
2 clothing he had on?

3 A. Right. There was the stuffed animal, the purple
4 dog collar, and a canvas bag. Now, of course, that had
5 hair which belonged to him originally. And some grass,
6 grass and contaminants in the -- in the barrel.

7 Q. Was anything in the canvas bag?

8 A. No. I don't describe anything, so it must have
9 been empty.

10 Q. The Taz stuffed animal, what are we talking
11 about?

12 A. I'm not sure. I would describe Taz as the
13 Tasmanian devil stuff. Personally, I don't know. The
14 Disney character or it could be like a brand name.

15 Q. The Warner Brothers?

16 A. Warner Brothers' type.

17 Q. Tasmanian devil ---

18 A. Right.

19 Q. --- that spins around?

20 A. Right.

21 Q. And whereabouts in the barrel was that?

22 A. You know, we pulled the whole thing out like kind
23 of in one big mass, you know, with the comforter. So I
24 don't know exactly how it was positioned in there nor --
25 nor really the -- the dog collar.

1 Q. And the dog collar was in there. Did the dog
2 collar have any kind of tag on it or it was just a...

3 A. No. It was a plain dog collar.

4 Q. You talked a little bit about the gunshot range,
5 and you just simply because of the condition of the body
6 weren't able to make a determination as to how far away
7 the barrel of the gun was that delivered the bullet?

8 A. Correct.

9 Q. It could have been a contact gunshot wound; it
10 could have been a lot farther away than that?

11 A. Correct.

12 Q. But no question that the gunshot wound, it enters
13 from the victim's right-hand side?

14 A. On his right-hand side, yes.

15 Q. Goes across to the left-hand side?

16 A. Yes.

17 Q. Ricochets and comes back up to the right-hand
18 side near the top?

19 A. Yes.

20 Q. With a gunshot wound of that type, how long,
21 based upon your experience and your medical training and
22 expertise, would you expect a person to live?

23 A. He may have lived for a little while, but he
24 probably would have been immediately incapacitated, in
25 fact, from his injury.

1 Q. And that's because in the track of the gunshot
2 wound one of the things that is involved is the
3 cerebellum?

4 A. Right. The -- so when I was describing it went
5 through the brain, I did not talk about the different
6 parts, but it goes through the cerebellum which is at
7 the base of the brain, part of -- one part of the brain.
8 Also, there is the brainstem which controls -- you know,
9 which transmits all your brain functions to the rest of
10 your body.

11 And so the bullet traveled right through the
12 cerebellum and right by that and then back up into the
13 main brain substance. So that you can -- it kind of hit
14 or, you know, hit the major parts, the significant parts
15 of the brain. And, again, as we were saying, it
16 probably would have incapacitated him pretty quickly.

17 Q. Almost immediately?

18 A. Immediately.

19 Q. The cerebellum, Latin for little brain?

20 A. You know, I don't know. I could have taken
21 Latin, but I didn't.

22 Q. And it controls voluntary muscle control? That's
23 why it ---

24 A. Yes. And movement, motion, our balance.

25 Q. And that's why it would have that

DR. PRESNELL - CROSS BY MR. SCHWACKE

1 incapacitating effect if you ---

2 A. Well, I would say more of the brainstem than
3 anything else. You know, when I -- when I say
4 incapacitated, I mean out, not just paralyzed but, you
5 know, unconscious.

6 Q. Would somebody have been able to continue to
7 operate a motor vehicle after that?

8 A. No.

9 MR. SCHWACKE: No further questions.

10 MS. WILLIAMS: Nothing further, Your Honor.

11 THE COURT: Dr. Presnell, you may step down.

12 THE WITNESS: Thank you very much.

13 (The witness is excused from the witness
14 stand.)

15 THE COURT: Call your next witness.

16 MS. WILLIAMS: Your Honor, at this time the
17 state rests.

18 (The state rests.)

19 THE COURT: All right. Ladies and gentlemen,
20 that signifies to the Court there is a matter of law
21 that I must take up outside of your presence. Do not
22 begin your deliberations. Do not discuss this case
23 amongst yourselves.

24 Please rise for the jury.

25 (Whereupon, the jury goes to the jury room at

1 approximately 3:05 p.m.)

2 THE COURT: Thank you. Please be seated.

3 Ms. Kennedy, you have some matters?

4 MS. KENNEDY: Your Honor.

5 (Ms. Kennedy and Mr. Schwacke confer.)

6 MS. KENNEDY: Your Honor, I would just renew
7 all the objections and motions that we've made prior to
8 the call and during the course of the trial, continuing
9 request -- continuing request for a continuance based on
10 Detective Merrithew's voluntary absence from the
11 jurisdiction and continuing objection based upon the
12 evidence that was presented.

13 And, Your Honor, we would also ask for a
14 directed verdict on the charge of the burglary. There's
15 no evidence been submitted to connect Mr. Michaelson to
16 the burglary.

17 He made a mention in the video statement that
18 he helped and took Mr. Feaster to Charleston so that
19 they could cash in to get some money from the coins, but
20 there's no evidence that was submitted that
21 Mr. Michaelson entered that house at all.

22 There's no evidence that he participated in
23 the burglary, and there's really no evidence as to when
24 the burglary occurred. I think it was Ms. Ahrenholz's
25 testimony that when she arrived -- arrived home that

1 night and discovered that he was missing, everything in
2 the house was still intact.

3 So at best, Your Honor, we have a receiving
4 or a possession of stolen goods. And, again, there's no
5 evidence to the burglary.

6 Had Mr. Feaster been able to testify, he --
7 he would have made reference to the fact but not --
8 Detective Freeman could not offer any evidence on that.
9 None of the officers who testified could offer any
10 evidence to that.

11 As a matter of fact, Ms. Thomas when she
12 testified said she didn't know, you know, which of the
13 items that were in the storage shed actually belonged to
14 Mr. Michaelson or -- or to the Feasters or which
15 belonged to the Feasters.

16 So given the totality of the circumstances,
17 Your Honor, we respectfully request a directed verdict
18 on the issue of burglary second.

19 THE COURT: Thank you. And, Ms. Kennedy, do
20 you believe that the state has met its burden on the
21 murder charge?

22 MS. KENNEDY: No, Your Honor. I just thought
23 you might want to do them one at a time.

24 THE COURT: If we could go ahead and do it,
25 I'm going to...

1 MS. KENNEDY: Your Honor, given the totality,
2 again, the totality of these circumstances, as to the
3 murder charge we respectfully request a directed
4 verdict.

5 I think the evidence supports the fact that
6 my -- that Mr. Michaelson's involvement was -- is
7 limited to an accessory after the fact. There is
8 insufficient evidence to show that he was -- that he was
9 in fact the shooter. All we have is Mr. Scharer's
10 testimony and even that was inconsistent that -- that he
11 was the one that actually committed the murder. Again,
12 mere presence at a crime scene is not sufficient to
13 establish his culpability, Your Honor.

14 THE COURT: Anything further, Ms. Kennedy?

15 MS. KENNEDY: No, Your Honor. Thank you.

16 THE COURT: Mr. Alfaro, I'll be happy to hear
17 from you. And if you would please articulate and in no
18 particular order, Mr. Alfaro, the elements of each of
19 the indictments and what testimony you believe has been
20 presented that substantiates and shows that you have
21 proven those elements at the directed verdict stage.

22 MR. ALFARO: Yes, Your Honor.

23 Regarding the murder indictment, viewing the
24 light -- the evidence in the light most favorable to the
25 state, the defendant's own statement he acknowledges,

1 admits bringing, providing the weapon that was used.
2 The testimony -- he admits being present at the time of
3 the victim was shot. And he also admits to being
4 present, as Ms. Kennedy said, to the extent that he's
5 clearly an accessory after. Based on his statement
6 alone, we believe that he is established as being a
7 principal to the murder based on being an accessory
8 before and after the fact.

9 We also factor in the testimony of Jeremiah
10 Scharer who implicates the defendant as being present in
11 the planning stages of the murder as well as being
12 present, walking up to the scene with him as part of the
13 plan that was put into place. Additionally, he also
14 says that this defendant is the one that actually pulled
15 the trigger.

16 Based on that testimony and the evidence
17 presented, we believe that we have clearly met the --
18 provided enough evidence for the Court to deny the
19 motion for a directed verdict related to the murder
20 charge, that he did in fact unlawfully kill with malice
21 aforethought the victim, Parrish Reeves.

22 Regarding the burglary indictment, Your
23 Honor, again looking at the evidence in the light most
24 favorable to the state, including also direct and
25 circumstantial evidence, there was testimony provided to

1 the Court that coins as well as jewelry belonging to the
2 victim were stolen. Ms. Ahrenholz did identify a
3 necklace that was stolen which she said belonged to her
4 that was pawned by one of the codefendants. In
5 addition, there was a coin that was identified by
6 Ms. Ahrenholz as being -- she knows being in possession
7 of the victim prior to the murder. That coin was
8 located along with some other coins which would be
9 circumstantial evidence along with the direct evidence
10 that Mr. Michaelson had those items in his possession in
11 the storage shed. Those items were clearly taken from
12 the victim after the murder.

13 We believe that, again, in viewing the light
14 most -- the evidence in the light most favorable to the
15 state that we have met the burden for both murder as
16 well as the burglary charge.

17 THE COURT: And your response, Ms. Kennedy?

18 MS. KENNEDY: Your Honor, I would just
19 reiterate my prior argument in terms of the assertion
20 that Mr. Scharer made as to that he was involved in the
21 planning stages. His testimony was at best inconsistent
22 with -- inconsistent in that regard.

23 As to the burglary issue, there's still no
24 evidence as to when Mr. Michaelson may have entered the
25 residence. There's still no evidence as to -- in the

1 statement, again, to assert that -- that those items
2 were clearly taken from Mr. Reeves, because there are
3 only two things that were identified as having been, the
4 necklace that was recovered at the pawnshop that
5 Mr. Michaelson obviously had nothing to do with and then
6 the coin that was part of the items -- the items that
7 were recovered from the storage shed.

8 And, again, it goes back to the testimony of
9 Ms. Thomas that those items -- that she couldn't
10 differentiate between what items were taken once the
11 Feasters had been evicted and their -- their contents of
12 their trailer had been moved into Mr. Michaelson's
13 trailer and then to the storage shed. There's no
14 evidence whatsoever to support that Mr. Michaelson had
15 anything to do with that other than the fact that he may
16 be guilty of receiving or possessing stolen goods.
17 That's two of the two items that were put into evidence.

18 THE COURT: All right. When the Court is
19 reviewing the evidence at the directed verdict stage, I
20 am concerned with not the weight of the evidence but the
21 existence or nonexistence of the evidence.

22 Based upon the testimony that has been
23 presented throughout this trial, I am denying your
24 motion for a directed verdict as to both indictments.

25 The Court has heard testimony that and

1 according to Mr. Michaelson's own statement that he
2 provided the weapon. He testified to being present at
3 the time that the victim was shot and to participating
4 in the burial.

5 There was also testimony of Mr. Scharer as to
6 the defendant's presence in the planning stage and as to
7 Mr. Michaelson's presence, being in the truck at the
8 time the defendant (sic) was -- was shot.

9 Based upon that, the Court feels that the
10 evidence in the light most favorable to the state has
11 been presented and that that indictment should be
12 permitted and submitted to the jury.

13 As to the burglary in the second degree,
14 again, the Court is not concerned with the weight but as
15 to the existence or nonexistence of the -- the evidence.

16 There has been testimony that -- from
17 Mr. Scharer, again, that the defendant went into the
18 home, took the comforter at the time that Mr. Reeves was
19 in the home, and there has been testimony as to the
20 coins.

21 Based upon that, again, the Court feels that
22 the state has met its burden and will be submitting --
23 and feels that there is sufficient evidence to submit
24 the case to the jury.

25 Note your exception to the Court's ruling as

1 to both of those motions for directed verdict as to
2 those two indictments.

3 As to the remaining motions, particularly the
4 motion for a continuance, again, Ms. Kennedy, is there
5 any indication that the state has caused Detective --
6 former Detective Merrithew to be absented from this
7 jurisdiction?

8 MS. KENNEDY: No, Your Honor.

9 THE COURT: All right.

10 MS. KENNEDY: Not at this time.

11 THE COURT: And, Ms. Kennedy, pursuant -- we
12 have now been in trial, I've lost count of the exact
13 number of days, but -- and we've had several days' break
14 for the holiday and for other reasons. Has there been
15 any attempt on behalf of your office on behalf of
16 Mr. Michaelson to contact Detective -- former Detective
17 Merrithew?

18 MS. KENNEDY: No, Your Honor, because he is
19 beyond the subpoena power of the Court.

20 THE COURT: All right. And ---

21 MS. KENNEDY: The Court's jurisdiction.

22 THE COURT: And he was -- you have been
23 provided an e-mail address to -- to Mr. Merrithew?

24 MS. KENNEDY: Yes, Your Honor, but an e-mail
25 address is insufficient to compel someone to attend,

1 attend a court proceeding.

2 THE COURT: All right.

3 THE COURT REPORTER: Please repeat.

4 MS. KENNEDY: An e-mail address is
5 insufficient to compel a witness's attendance and
6 participation in a -- in a court proceeding.

7 THE COURT: All right. For all the reasons
8 articulated in my previous order dated April 23rd, as
9 well as for the reasons articulated at the beginning of
10 the trial and throughout this trial, I am denying your
11 motion for continuance.

12 With that being said, are there any other
13 motions or matters? Ms. Kennedy?

14 MS. KENNEDY: No, Your Honor, other than my
15 client.

16 THE COURT: All right. And so at that point
17 we have reached the stage -- Mr. Michaelson, please
18 stand.

19 (The defendant complies.)

20 THE COURT: Mr. Michaelson, I had placed you
21 under oath yesterday before we broke for the evening
22 hour and advised you of your right to testify or not
23 testify. Have you had an opportunity to go over all of
24 that information that I indicated to you before the
25 evening hour?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And did you have an opportunity
3 to speak with Ms. Kennedy and Mr. Schwacke concerning
4 your right to testify?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And do you need any additional
7 time to meet with either Ms. Kennedy, Mr. Schwacke, or
8 both of them at this time?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Have you made a decision on
11 whether or not you would testify?

12 THE DEFENDANT: Yes, ma'am. I decided not
13 to.

14 THE COURT: All right. Thank you. Thank
15 you, Mr. Michaelson.

16 And, Ms. Kennedy, with that, would the
17 defendant have any further witnesses?

18 MS. KENNEDY: No, Your Honor. We rest.

19 THE COURT: And so the defense rests at this
20 time?

21 MS. KENNEDY: Yes, Your Honor.

22 THE COURT: All right. And with that, then
23 what I will do, due to the lateness of the hour, we will
24 bring the jury in, and we will begin closing arguments
25 and instructions in the morning at 9:00 a.m. Is that --

1 9:00 a sufficient time?

2 MS. WILLIAMS: Yes, Your Honor. Thank you.

3 THE COURT: Ms. Kennedy.

4 MS. KENNEDY: Yes, Your Honor. I assume that
5 we're going to be able to just briefly discuss jury
6 charges?

7 THE COURT: Yes, ma'am. I'm going to allow
8 you to rest in front of the jury, and then I'm going to
9 release the jury for the evening hour, instruct them
10 that we will have reached the stage that we will come
11 back in the morning and -- and closing arguments and
12 instructions.

13 All right. Anything before we bring in the
14 jury?

15 MS. WILLIAMS: Nothing from the state, Your
16 Honor.

17 MS. KENNEDY: Nothing from the defendant,
18 Your Honor.

19 THE COURT: Thank you.

20 Please rise.

21 (Whereupon, the jury enters the courtroom at
22 approximately 3:20 p.m.)

23 THE COURT: Thank you. Please be seated.
24 Ms. Kennedy.

25 MS. KENNEDY: Your Honor, the defense rests.

1 (The defense rests.)

2 THE COURT: Thank you.

3 Ladies and gentlemen of the jury, that
4 signifies to the Court that you have heard all of the
5 testimony in this case and received into evidence all
6 exhibits that will be made a part of the record of this
7 case. What remains, as I instructed you last week, is
8 the closing arguments of counsel as well as the
9 instruction on the law by the Court.

10 Ladies and gentlemen, due to the -- it is
11 approximately 3:30, and so due to that, I'm going to --
12 we're going to recess for the afternoon. We will begin
13 at 9:00 a.m. in the morning. You will hear closing
14 arguments from counsel and receive the instruction on
15 the law by the Court.

16 Again, please remember my admonition. Please
17 do not discuss this case amongst yourselves. You have
18 not received the instruction on the law by the Court, so
19 do not begin your deliberations. Do not read, watch,
20 listen to any news accounts regarding this case should
21 there be any.

22 Please have a wonderful afternoon. I will
23 see you back in your jury room at 9:00 a.m. Thank you.

24 (Whereupon, the jury leaves the courtroom at
25 approximately 3:30 p.m.)

1 THE COURT: Thank you. Be seated.

2 All right. We wish to have a charge
3 conference at this time?

4 MS. WILLIAMS: Your Honor, could we just have
5 ten minutes to go pull some things from downstairs? We
6 would be prepared to have that.

7 THE COURT: All right. Are you prepared to
8 go forward on your charge conference at this -- at this
9 time, Ms. Kennedy?

10 MS. KENNEDY: Your Honor, I just simply was
11 going to request my charges. I assume from what the
12 assistant solicitor is saying that she's going to object
13 and she needs time to look up case law.

14 MS. WILLIAMS: It's just downstairs.

15 THE COURT: I don't know what she needs, but
16 we'll go ahead and take just a few minutes. I need to
17 discuss with the one juror -- if you will recall, in
18 chambers I had indicated she has an orientation at the
19 College of Charleston beginning tomorrow, and I need to
20 let her know that she needs to remain with us, and so I
21 need to let her know that. So we will take a short
22 break to allow everyone to get ready for the charge
23 conference. Thank you.

24 (A break is taken at approximately 3:30 p.m.)

25 (The trial reconvenes at approximately

1 3:40 p.m., the defendant being present with counsel,
2 Ms. Kennedy and Mr. Schwacke, and the following
3 proceedings were had:)

4 THE COURT: Thank you. Be seated.

5 All right. Mr. Alfaro, any objection to
6 going forward at this time? All right.

7 Ms. Kennedy, I understand more likely you're
8 going to request a lesser included?

9 MS. KENNEDY: Yes, Your Honor.

10 THE COURT: All right. I'll be happy to hear
11 from you as to which lesser included.

12 MS. KENNEDY: Your Honor, we would be
13 requesting a lesser included accessory after the fact of
14 murder and also receiving and/or possessing stolen
15 goods.

16 THE COURT: And with that, as to any other
17 special charges or anything?

18 MS. KENNEDY: Mere presence, Your Honor. I
19 assume you do the regular due to a reasonable doubt and
20 no inference from Mr. Michaelson not having testified,
21 the usual ones that we all are aware of, but those three
22 in particular.

23 THE COURT: And, Counsel, I have prepared the
24 verdict forms. If you'll just take a look and make sure
25 that there are no objections to the verdict forms.

1 (Mr. Alfaro and Ms. Kennedy review verdict
2 forms.)

3 THE COURT: All right. So no objection to
4 the verdict forms?

5 MS. KENNEDY: No, Your Honor.

6 MR. ALFARO: No, Your Honor.

7 THE COURT: And, of course, that is subject
8 to my ruling as to the lesser included.

9 MS. KENNEDY: Thank you, Your Honor.

10 THE COURT: Thank you.

11 Ms. Williams, as to the lesser included
12 accessory after the fact of murder and receiving stolen
13 goods or possessing stolen goods as a lesser included of
14 burglary?

15 MS. WILLIAMS: Your Honor, accessory after
16 the fact is not a lesser of murder, and there is a case
17 I've handed defense counsel, *State v. Hooks*.

18 THE COURT: I have a copy, Ms. Williams.
19 Thank you.

20 MS. WILLIAMS: Okay.

21 THE COURT: And as to receiving stolen goods
22 as to burglary?

23 MS. WILLIAMS: Court's indulgence for just a
24 second.

25 THE COURT: Yes, ma'am.

1 (Ms. Williams and Mr. Alfaro confer.)

2 MS. WILLIAMS: We don't have a problem with
3 it. We just don't know if -- if there is -- if it's a
4 lesser included. There's cases that have -- have had
5 that issue come up. So that is the reason for the
6 reluctance, Your Honor. We don't have a problem with
7 instructing the jury on receiving stolen goods. We're
8 just -- I haven't researched to see if that actually is
9 a lesser included, and we're going through the elements
10 right now trying to figure out if -- I don't think it
11 is, but maybe Ms. Kennedy has some case law.

12 THE COURT: All right.

13 MS. KENNEDY: No, Your Honor. Maybe it's a
14 mischaracterization to refer to it as accessory after as
15 a lesser included offense.

16 Back to Your Honor's ruling about -- on the
17 directed verdict, Your Honor stated it goes to the --
18 the existence of the evidence, not the weight of the
19 evidence. And the evidence exists in the proceedings
20 that we -- we would argue that there was a felony
21 committed, as to the accessory after the fact, that the
22 defendant had knowledge of the -- that the principal
23 committed a felony and that the defendant must harbor or
24 aid or abet the principal with the intention of aiding
25 the principal to escape detection. There is in

1 Mr. Michaelson's own testimony what he did to -- in
2 regard to this whole incident to -- to help and assist
3 Mr. -- Mr. Feaster with this.

4 In regard to receiving or possessing stolen
5 goods, Your Honor, we're back to where I was on the
6 motion for a directed verdict.

7 There is -- the indictment states that these
8 -- that offense occurred between July 17th -- I mean,
9 January 17th and February 1st. There's no evidence in
10 the record that Mr. Michaelson went into that house to
11 take any of those items during that time frame.

12 There is evidence in the record to show that
13 he had possession of some of those items that were found
14 in his storage shed, but possession is not evidence of a
15 burglary, and that's the reason for the request for
16 receiving or possessing stolen goods.

17 And that was the underlying reason, as I just
18 said, to the accessory after the fact of murder.
19 There's just as much evidence to support either theory
20 of that case. It just -- it depends, quite frankly, on
21 who the jury believes and what version the jury
22 believes. And that's their province. They get to
23 decide whether or not my client is guilty of murder or
24 if he's merely guilty of accessory after the fact.

25 THE COURT: But, Ms. Kennedy, isn't it my

1 role to include only lesser includeds and not to
2 include, in essence, a new offense?

3 MS. KENNEDY: Well, Your Honor, then -- then
4 I apologize, Your Honor, in not -- you know, the issue
5 that I've been laboring under this whole time, I believe
6 if the evidence characterizes it as a lesser included
7 offense then the evidence supports those two charges.

8 THE COURT: And, Ms. Kennedy, have you had
9 an opportunity to review *State v. Hooks* or *Hooks v.*
10 *State*?

11 MS. KENNEDY: No, Your Honor. I don't -- I
12 haven't had an opportunity nor -- nor have I had any
13 opportunity to find case law that might rebut some of
14 this.

15 THE COURT: All right. Here's what I'm
16 inclined to do, to allow you an opportunity to research
17 the matter of *Hooks* which clearly, in this Court's
18 reading and opinion, indicates that accessory after the
19 fact is not a lesser included of murder, and I have been
20 unable to find any case law that says that receiving or
21 possessing stolen goods is or is not a lesser included.
22 So I'm inclined to indicate that I would not charge
23 either accessory after the fact of murder or possession
24 of stolen goods because the Court, based upon my review
25 of the case law and my understanding that a -- whether

1 or not a particular crime is a lesser included offense
2 of the crime charged is whether the greater of the two
3 offenses includes all of the elements. And based upon
4 my review of receiving or possessing stolen goods, I do
5 not believe that it contains all of the elements of the
6 lesser, that the burglary second contains all of the
7 offenses. I believe that there are -- there are
8 distinctions as the burglary is an entering into with
9 intent to commit a crime therein and then the possession
10 is the possessing or receiving the stolen good.

11 So I have been -- I will allow you the
12 opportunity over the evening hour to review and present
13 to the Court whether or not you can find any case law
14 that -- that indicates that it is a lesser included.

15 MS. KENNEDY: Thank you, Your Honor.

16 THE COURT: And just, Ms. Williams, your
17 position is that you have no objection to including
18 receiving or possessing stolen goods as a lesser
19 included?

20 MS. WILLIAMS: If they are lessers. We don't
21 believe that they are lesser included. I was kind of
22 taken by surprise by that request. I don't think that
23 the South Carolina law supports that that is a lesser.
24 And so I would say that, no, you know, that we -- that
25 we object to it because it's not a lesser included. I

1 mean, it either is or it isn't, and I don't think it is
2 in this case.

3 THE COURT: All right. So with that being
4 said, we'll be in recess, and but if -- Ms. Kennedy, I
5 will hear you at five till 9:00, and we'll go and take
6 as much time as we need to articulate on the record the
7 inclusion of the lesser includeds as to the accessory
8 after the fact and possession of stolen goods.

9 MS. KENNEDY: Thank you, Your Honor.

10 THE COURT: Thank you.

11 I will be including mere presence, hand of
12 one, and failure of defendant to testify, as well as
13 expert. If there's anything unusual that any -- that
14 the state feels that I may have left out or the
15 defendant feels I may have left out or want to make
16 sure, please, we'll address that matter in the morning,
17 as well. And with that, we're in recess. Thank you.

18 (Whereupon, at approximately 3:50 p.m., the
19 trial is recessed to the following day, July 8, 2010, at
20 8:55 a.m.)

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1 (On Thursday, July 8, 2010, the trial
2 reconvenes at approximately 9:30 a.m., the defendant
3 being present with counsel, Ms. Kennedy and
4 Mr. Schwacke, and the following proceedings were had:)

5 THE COURT: Ms. Kennedy, at the break
6 yesterday I indicated that we would take a break to
7 allow you to present any case law that would indicate to
8 the Court that accessory after the fact was a lesser
9 included of murder.

10 MS. KENNEDY: Yes, Your Honor. And we did
11 some research on that, and it is not a lesser included
12 offense, perhaps separate. My prior experience is that
13 -- is that some members of the judiciary that would
14 include charges that in some way would support the
15 charge that has been a lesser included. Thank you.

16 THE COURT: And as to receiving or possessing
17 stolen goods, were any -- were you able to find any case
18 law that would justify it as a lesser included, that as
19 to burglary it is a lesser included?

20 MS. KENNEDY: No, Your Honor. Again, except
21 as to prior experience.

22 THE COURT: All right. Thank you.

23 All right. With that, is there anything
24 before we bring in the jury for closing argument?

25 MS. WILLIAMS: Yeah. Your Honor, I know that

1 we went through the charges that you intended to charge,
2 hand of one, mere presence. We would ask for a felony
3 murder charge.

4 And we also just have one issue with regard
5 to close. I don't think it's an issue, but I would like
6 to mention it since we can't unring a bell. We would
7 just ask that defense not argue an unindicted charge
8 such as accessory after the fact.

9 THE COURT: I am certain that both the state
10 and the defendant are well aware of what you can and
11 cannot do, and so if it becomes an issue, I will --
12 hopefully, you will follow the rules, and so I am not
13 going to indicate what you can and cannot do. Please
14 make sure that you follow the boundaries of the rules,
15 and if it becomes an issue we will indicate such.

16 MS. WILLIAMS: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MS. WILLIAMS: If you could just advise us,
19 Your Honor, which charges you are planning to charge the
20 jury.

21 THE COURT: And as to felony murder?

22 (Ms. Kennedy and Mr. Schwacke confer.)

23 MS. KENNEDY: Your Honor, would you be kind
24 enough, before we make that decision, to -- to inform us
25 of what your charge actually says?

1 THE COURT: As to which particular?

2 MS. KENNEDY: As to felony murder, Your
3 Honor.

4 THE COURT: I have not included felony
5 murder.

6 MS. KENNEDY: Well, then it's -- it's
7 difficult for -- for me to make an adequate response if
8 we don't know what the charge -- what the charge would
9 be.

10 THE COURT: Ms. Williams, do you have a
11 proposed charge as to that?

12 MS. WILLIAMS: Yes. Yes, Your Honor. Just
13 the standard charge if one intentionally kills another
14 during the commission of a felony the inference of
15 malice may arise if facts are proved beyond a reasonable
16 doubt. I think that's the standard jury instruction for
17 a felony murder inference.

18 In this case, even the defendant's own story,
19 he says he went up to the home of the victim to lure him
20 out with Jeremiah Scharer to then deliver him to Trey
21 Feaster who had a gun with a silencer. And even if we
22 were to believe that he was delivering him there so they
23 could beat him up, that would be lynching, not to
24 mention the fact that he's also charged with burglary.

25 THE COURT: Ms. Kennedy.

1 MS. KENNEDY: Your Honor, there are a couple
2 of things. First of all, I don't know what case that
3 charge is based on. Secondly, he wasn't indicted for
4 lynching. And so, again, going to the assistant
5 solicitor's request about, you know, us -- us not
6 arguing particular things, I think that argument in
7 terms of the lynching has no merit. And, again, I don't
8 know what the case -- what cite -- cite the assistant
9 solicitor is relying on to -- to include that charge.

10 THE COURT: Is it your position, Ms. Kennedy,
11 that a felony murder charge should not be included?

12 MS. KENNEDY: At this point in time, yes,
13 Your Honor, based on what I just said.

14 THE COURT: Ms. Williams.

15 MS. WILLIAMS: The case is *State v. North*,
16 285 S.C. 86, 328 S.E.2d 239. It's a 1985 case. And
17 that states that for a felony murder charge that he has
18 to be charged with whatever the felony is he's trying to
19 accomplish. In addition to that, there is a burglary
20 charge, and that is a felony.

21 THE COURT: Ms. Williams, is it your position
22 that -- that the burglary -- that a murder was
23 accomplished as a result of the burglary?

24 MS. WILLIAMS: It is my position that it was
25 a foreseeable result of their plan, which is if they're

1 going to commit either a burglary or a lynching and you
2 bring a gun with a silencer, and he -- evidence shows
3 that he had the gun with the silencer. His own
4 statement says that he gave a gun and saw the silencer
5 on it to his codefendant. And the codefendant dropped
6 him off. And his job, according to him, was to bring
7 the victim to the guy who had the gun. So they're
8 either going to rob him or they're going to beat him up.
9 We think they're just going to kill him. But if they
10 believe the alternate version which is the defendant's
11 own version of the facts, we believe that that is --
12 that's felony murder.

13 MS. KENNEDY: Your Honor, again, briefly.
14 There's no -- first of all, in terms of the evidence,
15 there's no concrete evidence as to when this burglary
16 actually occurred, and even the indictment just reflects
17 that -- that it occurred sometime between January 17th
18 and February the 1st, and -- and all the evidence so far
19 would indicate that Mr. Reeves died on the evening of
20 the 17th of January.

21 You know, again, he's not been indicted for
22 lynching, and to inject that into the argument at this
23 point in time and effectively say it's a felony murder
24 charge is just simply not appropriate because there's no
25 evidence to show the linkage between the burglary and --

1 and the murder, and there's certainly no linkage in
2 terms of a lynching.

3 THE COURT: I agree. I will not be charging
4 felony murder at this time. The record, I believe, is
5 clear.

6 MS. WILLIAMS: Yes, Your Honor. Just if I
7 might just explain to you?

8 THE COURT: Yes, ma'am.

9 MS. WILLIAMS: Just as characteristic with
10 this case, something unusual happened. Mr. Harocoat
11 (phonetic) suddenly got ill and left. And pursuant to
12 your ruling, I have to have him just delete the felony
13 murder charge from my close. And so everything else is
14 ready to go. I didn't expect this to happen. He just
15 came over and whispered it to me about three minutes
16 ago. Mr. Alfaro just left the courtroom to go get him.
17 And I beg the Court's indulgence just to get him or
18 somebody else that can just do that so that we don't
19 inappropriately argue something that the Court has ruled
20 is not going to be charged.

21 THE COURT: Why don't we take that moment to
22 go ahead and assemble the evidence ---

23 MS. WILLIAMS: Yes, Your Honor.

24 THE COURT: --- so that we'll get that, see
25 what has been admitted and not admitted, and we'll take

1 that moment just out of an abundance of caution.

2 And, Ms. Kennedy, did you have ----

3 MS. KENNEDY: Yes, Your Honor, I do. Thank
4 you.

5 THE COURT: And so let's take that moment.

6 (Counsel review exhibits.)

7 (A break is taken at approximately 9:45 a.m.)

8 (The trial reconvenes at approximately
9 9:50 a.m., the defendant being present with counsel,
10 Ms. Kennedy and Mr. Schwacke, and the following
11 proceedings were had:)

12 THE COURT: All right. Is the state ready?

13 MS. WILLIAMS: Yes, Your Honor, the state is
14 ready.

15 THE COURT: Are you taking over?

16 MS. WILLIAMS: Just in case.

17 MR. ALFARO: In case of emergency.

18 MS. WILLIAMS: If he falls out, Your Honor,
19 because he's not feeling well, we thought we would have
20 her so we could continue and plug her into the system.

21 THE COURT: All right. Thank you so much.

22 And Ms. Kennedy?

23 MS. KENNEDY: Yes, Your Honor, we're ready.

24 THE COURT: All right. Thank you.

25 All right. Let's bring in the jury.

1 (Whereupon, the jury enters the courtroom at
2 approximately 9:50 a.m.)

3 THE COURT: Thank you. Please be seated.

4 Good morning, ladies and gentlemen. As I
5 indicated to you last evening, we have reached the stage
6 of the trial where you will hear closing arguments on
7 behalf of the parties. Just as I indicated to you the
8 opening statements are not to be considered evidence,
9 neither are the closing arguments. After we have heard
10 closing arguments from both parties, I will instruct you
11 on the law applicable to this case.

12 Ms. Williams.

13 MS. WILLIAMS: Thank you, Your Honor. May it
14 please the Court. Counsel.

15 Good morning.

16 (Members of the jury reply good morning.)

17 CLOSING ARGUMENT

18 BY MS. WILLIAMS:

19 First of all, I want to thank you for your
20 patience. It has been an unusual couple of weeks, and
21 you've been very patient with some very tedious
22 evidence. There's been some unexplained breaks that
23 were, you know, no fault of your own, and you've been
24 here a long time, and I thank you for your patience.

25 During the course of this case, even though

1 it's State versus Michaelson, you've heard a lot about
2 Trey Feaster. Mr. Feaster will have his day in court.
3 It is not today.

4 During the testimony that you've heard,
5 during cross-examination Ms. Kennedy was cross-examining
6 Detective Freeman, and Detective Freeman told you that
7 Trey Feaster says that Mr. Michaelson shot the victim.
8 Mr. Michaelson says Trey Feaster shot the victim. This
9 is what they're doing. They're pointing to each other.

10 Now, this is my opportunity to go through an
11 explanation of the law and review the facts with you,
12 and after I'm done Ms. Kennedy will do that, and I'm
13 going to try to be brief because I know it's been a long
14 couple of weeks.

15 I want to tell you before I go through it
16 that regardless of what I say, if I say something
17 different than what the judge says, always defer to her.
18 I am going to try to summarize the law, but she is the
19 authority on the law. And whatever she tells you,
20 that's what the law is.

21 And one of the things that Ms. Kennedy
22 discussed in opening was reasonable doubt. Now,
23 Ms. Kennedy's explanation of reasonable doubt would be
24 impossible to overcome. She explained reasonable doubt
25 as if you have a parent that is going to have an

1 operation if you would pause. Well, we would all pause
2 for that.

3 Reasonable doubt is not all doubt. And the
4 judge is going to read you an instruction, and she's
5 going to tell you that. There's nothing that we know
6 with absolute certainty. Reasonable doubt is proof that
7 leaves you firmly convinced. And when she reads you
8 that instruction, you will see what reasonable doubt
9 truly is.

10 In addition to -- in addition to reasonable
11 doubt, the judge is going to talk to you about the hand
12 of one, and I alluded to that in my opening. The hand
13 of one is the hand of all, and the hand of one is why
14 they don't get away with it when each of them points to
15 each other. Because if you plan something with another
16 person and the two of you go through with the plan and
17 you execute some of it and then you cover it up
18 together, the hand of one, only one person can pull a
19 trigger, but they're both guilty of murder. Jeremiah
20 Scharer is guilty of murder. All three of them carried
21 out this plan, a horrible plan.

22 So when the judge talks to you about hand of
23 one, listen to what she explains. They are all
24 criminally responsible for the things done by the other
25 person if they're in it together. And, really, when you

1 think about it, it's just common sense. Why should one
2 person get away with it just because they say someone
3 else actually pulled the trigger?

4 Another thing the judge is going to talk
5 about is direct and circumstantial evidence. Now, this
6 is another commonsense thing, direct evidence. If I go
7 over there and steal Mr. Alfaro's wallet and everybody
8 in the courtroom sees it, obviously that's direct
9 evidence that I took his stuff; but if I take his wallet
10 and nobody sees it, but he reports it stolen and I'm
11 caught downstairs with his wallet and I have no
12 explanation as to how I got it, that's circumstantial
13 evidence that I took his wallet. It's the same thing if
14 you look out the window and it's raining, you know it's
15 raining; but if the blinds are closed and somebody comes
16 in shaking water off their coat and folding up an
17 umbrella, that's circumstantial evidence that it's
18 raining outside. So as the judge reads you these
19 instructions, use your common sense and apply them to
20 this case.

21 She's also going to give you an instruction
22 about mere presence. Mere presence, just being at the
23 crime scene is not necessarily an indication that you're
24 guilty of a crime. I think the evidence in this case is
25 clear in Mr. Michaelson's statement that it wasn't just

1 that he happened to be there. He planned to be there.
2 They took his truck. He let the other guy drive his
3 truck specifically so that he'd drop them off, lure the
4 victim back into the victim's truck so they could kill
5 him. He also admitted to having the gun, getting the
6 gun on the street and, in his story, giving it to Trey
7 Feaster and knowing it had a silencer on it. Obviously,
8 that's more than mere presence. He also buries the body
9 in his yard. So there's a little bit more than mere
10 presence here with regard to these facts.

11 Now, when we began this process, I talked to
12 you a little bit about the law that we had to prove,
13 because we have the burden of proof.

14 I talked about murder. Murder is the killing
15 of any person with malice aforethought either express or
16 implied. This man shot Parrish Reeves in cold blood,
17 and that's malice. He dumped his body into a barrel
18 like a piece of trash and buried it in his yard. That's
19 malice.

20 Burglary in the second degree. A person is
21 guilty of burglary in the second degree if a person
22 enters a dwelling without consent and with the intent to
23 commit a crime. This one is a little bit more
24 complicated. There's two facts -- two sets of facts in
25 this case that would suggest that Mr. Michaelson is

1 guilty of burglary.

2 First of all, he goes into the home to get
3 the comforter to cover the body. That's part of the
4 crime, enters that house without permission and yanks
5 the comforter off the bed and uses it to cover the body.

6 The second one is another commonsense thing.
7 He admits that he takes Trey Feaster downtown to sell
8 those coins that Trey Feaster stole from the victim.
9 But, of course, Trey Feaster has done everything, not --
10 not the defendant, and now yet he admits that he was the
11 one that got the money from the pawnshop. They didn't
12 pay Trey Feaster because Trey Feaster didn't have I.D.
13 I suggest to you that the reason that he admits that he
14 got the money from the pawnshop is because at the time
15 of his interview he doesn't know what evidence they
16 have. For all he knows, they might have the pawn
17 ticket. It turns out because the crime was so long ago
18 they weren't able to get that pawn ticket. But he
19 admits that he took him down there and that he got the
20 money for the victim's stuff. That's the first piece of
21 circumstantial evidence that he was the one that
22 committed the burglary.

23 The second set of facts that suggest that
24 Mr. Michaelson is guilty of the burglary is he's got the
25 victim's stuff in his storage unit.

1 Now, Brenda Ahrenholz, the wife of the
2 victim, testified that she really didn't know a lot
3 about coins so she couldn't identify all of those coins,
4 but she could thankfully identify one coin because she
5 happened to be there when the victim purchased it. And
6 you saw that coin. It is a painted coin that the victim
7 bought because he collected different kinds of coins.
8 It's right here. It's state's '92. And she thought it
9 was in the victim's truck. That item was found in the
10 defendant's storage unit.

11 And I would suggest to you that all the other
12 coins that were there, that nobody except the victim
13 could identify -- obviously, he can't do that --
14 belonged to the victim, and the defendant stole them and
15 that's why they were in his storage unit.

16 These are not just ordinary coins. If you
17 look through the photographs of what was gotten out of
18 that storage unit, there's certificates of authenticity.
19 They're in plastic sleeves. These are collector's
20 coins.

21 And Christine Thomas told you from the stand
22 he didn't collect coins. He had a few coins, but he is
23 not a coin collector.

24 Now, he knew the differences, though, because
25 they were both over at that flea market. The mother of

1 the victim testified that Parrish would get his coins at
2 that flea market.

3 So when you look through those photographs,
4 you are going to see coins, you're going to see a safe,
5 and you're going to see that specific coin that Brenda
6 Ahrenholz identified, and that is the evidence for the
7 burglary.

8 Now, you are the sole judges of the
9 credibility. You watched people testify from this
10 chair, and it is up to you to decide which one you
11 believe or not. You also watched the defendant's tape
12 of his interview. Look at his demeanor, look at his
13 credibility, because you're the ones that will decide.
14 You don't have to believe what everybody says.

15 We're going to talk a little bit about each
16 witness, but one of the things I want you to keep in
17 mind about one of the witnesses is Jeremiah Scharer, the
18 codefendant.

19 Now, Jeremiah Scharer is a punk. Despicable
20 what he did. He lured his father-in-law out of that
21 house, knowing he was going to get shot. It was
22 horrible. And that's why he's guilty of murder, too.
23 He's hoping that because he cooperated he'll get a break
24 in sentencing. I don't know if he will or not. That's
25 up to the judge.

1 But when you evaluate his testimony, I want
2 you to think about something. His statement is in
3 evidence. It's state's 101. Jeremiah Scharer only
4 completed the eighth grade. He has obvious problems
5 with communication. He is not -- he's not your ordinary
6 witness. He's got issues. So when you evaluate his
7 evidence, think about his education level and his mental
8 capacity.

9 In addition to that, look at his statement.
10 Ms. Kennedy made a big point of the fact that we
11 actually met with our witnesses beforehand. That's just
12 part of being a good attorney. But Mr. Scharer in 2007
13 wrote a statement before the Solicitor's Office ever
14 talked to him. And when you read that statement, you
15 will see it's pretty much what he said on the stand.
16 He's been consistent. Did he put all the facts in? No.
17 Does he minimize his involvement? He does. That's what
18 people do when they get caught.

19 Use your common experience. Children are an
20 example of this when they get caught doing something.
21 They may admit a little bit and then they always blame
22 somebody else, somebody else helped them do it, someone
23 else made them do it.

24 Jeremiah Scharer is definitely minimizing his
25 involvement, but his story has really never changed, and

1 I suggest that you can look at his statement and make
2 your own mind up.

3 Now, as we go through each witness, Frances
4 Reeves, she's the mother of the victim. And thank
5 goodness for Frances Reeves. Because if it were not for
6 her, this case might have never ever been solved. She
7 kept a cold case alive. She put up fliers, she talked
8 to detectives, she talked to -- she called television,
9 newspapers.

10 She also told you that Parrish collected
11 coins. That was one of his hobbies. And I think that's
12 important as you evaluate the evidence in this case and
13 what was found in the defendant's storage unit.

14 Parrish let Kippy sleep in the bed with him.
15 Why is that even important? Kippy is his dog. He loved
16 dogs. Because Mr. Schwacke kept asking witnesses about
17 this dog collar and this little Tasmanian devil toy.
18 It's a dog toy. And while Mr. Michaelson went back in
19 the house and grabbed that comforter, they were probably
20 just stuck in the comforter and he didn't even know it.
21 So not a whole lot of significance with that.

22 Parrish worked six days a week. You know,
23 the victim in this case has been attacked. It's been
24 suggested that he was a wife beater, that he wasn't good
25 to his step kids. I don't know. I don't know if that's

1 true. But did he really deserve to be killed and
2 stuffed in a barrel? Did his family deserve to not know
3 what happened to him for six and a half years? Does it
4 really matter? He was a hard working man who worked six
5 days a week as a carpenter so he could buy coins and
6 collect things. Take his valuables and escape, these
7 people after they killed him go into his home and take
8 his stuff.

9 We talked about the flea market.

10 Brenda Ahrenholz, the wife of the defendant.
11 She testified that she last saw him at 6:30 in the
12 evening. The codefendant testified that it was dark
13 when they went up there. It was January. It probably
14 would have been dark sometime around 7:00. She also
15 testified she didn't get home till 9:30.

16 She testified the safe was stolen a few days
17 later. There is a safe in the pictures of the
18 defendant's storage unit. Did not know which coins
19 Parrish kept in the safe. She kept jewelry in the safe.
20 The only piece of jewelry that she could identify was
21 one that belonged to her. So she testified that she
22 really didn't know what pieces of jewelry and which
23 coins he left in the safe. She was able to identify her
24 piece of jewelry and the coin that we just discussed.

25 She also identified the comforter that her

1 husband was wrapped up in before he was dumped in that
2 barrel. And you're going to have access to all these
3 pictures back there, but this picture shows -- I showed
4 you this picture, and this will all go back.

5 She also identified the truck that
6 Mr. Michaelson in his own statement says that they drove
7 the truck behind a trailer in Bonneau, and then the
8 police officer testified that they found the truck
9 there. She identified that as her husband's truck,
10 which is consistent with the story that Jeremiah Scharer
11 -- not -- actually, not what Jeremiah Scharer tells,
12 because he wasn't part of that, but what the defendant,
13 Mr. Michaelson, said about how they got rid of the
14 victim's truck.

15 All right. Sergeant Freeman. The main
16 thrust of Sergeant Freeman's testimony was the taking of
17 the defendant's statement. And I want you to really
18 think about some of the things the defendant said. The
19 tape, the quality of the tape is not great. And if you
20 need to re-listen to any testimony, you can always ask
21 to do that if you have any questions. But what was on
22 the tape, just in summary, is -- it's interesting when
23 Mr. Michaelson first goes into the room and pretends he
24 doesn't even know who Parrish Reeves is. And I think
25 Ms. Kennedy suggested in her opening my client didn't

1 even know Mr. Reeves. That's ridiculous. In fact,
2 later in the interview, he -- when he's telling his
3 story, he points to him and he says something about
4 Parrish or something about him. So he sort of trips up
5 there and shows that he does recognize who Parrish
6 Reeves is.

7 He is the last one arrested. A big deal was
8 made of that. He's the last one arrested. Everyone
9 else was arrested a day before. You know what? He had
10 six and a half years to be the first one to come
11 forward, and he didn't. That was his choice.

12 He was Mirandized twice. One of the
13 interesting questions that comes out in the very
14 beginning of the interview is Detective Merrithew says
15 why did he have to be shot, and the defendant says it
16 wasn't my idea. He doesn't say I didn't shoot him. He
17 just says it wasn't my idea.

18 The defendant admits to getting the gun used
19 to murder Parrish Reeves. He says that he bought it on
20 the street, he fired it twice, and then he either gave
21 it or sold it to Trey Feaster.

22 I think it's interesting that he says that he
23 fired it twice. Again, I don't think the defendant
24 knows what evidence they have and what evidence they
25 don't have. If they had the gun, he might have been

1 concerned his prints were on the gun. So it goes in
2 that he fired it twice.

3 He also described the silencer on the end of
4 the gun which is very significant because the defendant
5 says that they're just going over to Mr. Reeves' house
6 to beat him up, but who brings a gun with a silencer to
7 a house unless you're intending to kill someone?

8 He describes the silencer. Of course, he
9 says that Mr. Feaster has the gun, but he knows
10 Mr. Feaster had a gun with a silencer. And he describes
11 it exactly the same way that Jeremiah Scharer described
12 it, cloth and it's wrapped with some kind of electrical
13 tape.

14 He essentially tells the same story as
15 Jeremiah Scharer. We're going to go through the
16 difference between what we think the case and evidence
17 lays out and the defendant's story, and I think you're
18 going to see that the defendant's story is very similar
19 to everyone else's story, very few differences between
20 what Jeremiah Scharer says happened and what the
21 defendant says happened.

22 This is something I really want you to think
23 about. The defendant says that they get to the bottom
24 of the road and Trey Feaster jumps from the bushes and
25 leans in the passenger side and shoots the victim.

1 Now, what did Dr. Presnell tell you? The
2 bullet enters back behind the ear and goes up this way
3 (indicating). So that means the gun had to be right up
4 here. Now, how is Trey Feaster going to lean all the
5 way in the passenger side and get the gun underneath his
6 ear so that the path of the bullet is as how she
7 described it? Now, it may not be impossible, but it
8 certainly isn't probable.

9 Why do you think he has to say that Trey
10 Feaster leaned in the passenger side? Because he knows
11 that he was shot on that side of the head, because he
12 shot him. So he has to say that the bullet came from
13 that side.

14 But just think about the mechanics of that.
15 And the victim would have to be sitting there, waiting
16 to be shot as Trey Feaster leans in the passenger side,
17 across the stick shift, and then puts the gun somehow to
18 try to get the bullet in right behind the ear like this.

19 Part of the interview, one of the detectives
20 says, you know, everyone else says that you shot him.
21 If you remember the demeanor of the defendant, he
22 doesn't even seem to be surprised about that. He just
23 -- you know, he doesn't react. He doesn't say "what?"
24 And he just -- he doesn't react at all, and that's very
25 telling.

1 Another interesting thing that comes out
2 during the defendant's statement is that somehow the
3 murder weapon winds up in his truck. He didn't shoot
4 him, Trey Feaster shot him, but Trey Feaster doesn't
5 take the gun with him. He just leaves it in his truck.

6 He admits to getting rid of the murder
7 weapon. We don't know if he's telling the truth about
8 where he got rid of it, but he admits he's the one that
9 disposed of the murder weapon.

10 He also admits to getting rid of the trailer.
11 And that is corroborated by Christine Thomas, the mother
12 of his children, which was the trailer -- he'd taken it
13 somewhere to get it painted and then get disposed of.

14 Another part of his interview, they first
15 asked him about how much -- how much were the tools
16 worth that were in the trailer. First he says a
17 thousand dollars. They were about a thousand dollars.
18 Then later in the interview he kind of catches himself
19 and he says, oh, I don't know, I never even looked
20 inside, never looked at the tools.

21 He admits, as we -- as we discussed before,
22 that he took Trey Feaster downtown to pawn the victim's
23 coins, but because Trey did not have I.D. he had to get
24 the cash. They had to pay him for the coins. Now,
25 think about that. Why would he get the money if he

1 wasn't the one that stole the coins or at least help
2 steal the coins?

3 He describes the barrel exactly. The barrel
4 is a 50-gallon drum with a rubber tarp and it's tied.

5 He admits to renting the backhoe.

6 Now, another interesting statement you should
7 look at is Mr. Michaelson's statement. Not only does
8 Trey shoot the victim, he forces Mr. Michaelson to rent
9 the backhoe, makes -- even though they don't rent the
10 backhoe till one or two days later. Did he go to the
11 police that night? No. He's still so afraid of Trey
12 Feaster, the very next day or two days later Trey
13 Feaster, and his statement says, makes him rent a
14 backhoe. So he is the one that does that.

15 He admits to burying the body in his yard.
16 Trey Feaster made him do that, too.

17 He says that he was trying to distance
18 himself from Trey Feaster. He said that a couple of
19 times in his interview. And yet nine months or six
20 months after, he lets Trey Feaster and his family move
21 into a trailer on his mother's property right behind his
22 own trailer.

23 And what does Christine Thomas tell you about
24 that relationship? They were friends.

25 He was not scared of Trey Feaster. And,

1 really, no matter how scared you are of a person, how
2 can someone make you bury a body in your yard if you're
3 not somehow responsible for that and trying to cover it
4 up?

5 When you were watching the video, I'm hoping
6 that you were watching the demeanor of the defendant and
7 also the demeanor of the detective. There is no
8 collusion going on. He's given water. He's given ice.
9 At the end of his interview, he's writing the statement.
10 They're reading it back to him, trying to make sure that
11 it's what he intends to be in there.

12 I think there's one part where Detective
13 Freeman says, well, you didn't put anything in about
14 burying the barrel. And he starts telling her what his
15 role was. And she says, look, whatever you did, put it
16 in there.

17 So it's great that we actually have a video
18 of the whole interview because you can judge whether
19 that is his true statement or not. I suspect that he is
20 leaving out lots and lots of facts, but you can tell
21 that he is not coerced in any way.

22 All right. Jeremiah Scharer. He -- you can
23 tell by his demeanor on the stand that there's a lot of
24 shame in what he did, and understandably so. He's also
25 trying to minimize his involvement, and he's trying to

1 get in less trouble. I mean, I think that's obvious.
2 Does he answer questions easily? He's obviously very
3 emotional.

4 Again, I would suggest that you look at the
5 statement of 2007. His statement is very consistent in
6 2007 with what he said here.

7 And one of the eerie things about what
8 Jeremiah says happened is it is very, very similar to
9 what Mr. Michaelson said. All the facts are the same
10 except for who the shooter is.

11 When they're at the house, they tell Jeremiah
12 Jeff is going to deal with Parrish. That's exactly what
13 he said in 2007.

14 Feaster and Michaelson need Jeremiah because
15 they're afraid that Parrish won't come out of the house
16 if it's just Trey or if it's just Michaelson.

17 Trey drives Jeff's truck over there, not
18 Jeff. Jeff doesn't drive his own truck. Trey drives it
19 because he's got to drop them off at the end of the
20 road.

21 Then the victim comes to the door. They lie
22 to him and say that their truck was stuck in a ditch or
23 something like that.

24 And Jeremiah explains that he feels the truck
25 swerve and then it kind of goes into neutral. He says

1 at one point that the truck was going about 45 miles an
2 hour, but then he says it kind of rolls to a stop.

3 Now, there's been some questions that would
4 suggest that we're somehow implying that the victim
5 drove his truck after he was shot in the head. That's
6 ridiculous. No one is suggesting that.

7 And nobody really knows exactly when Parrish
8 Reeves was shot. Jeremiah Scharer just tells you what
9 he knows. He's in the truck. He's in the bed of the
10 truck. He's probably crying in the bed of the truck.
11 He feels it swerve. He feels it kind of go into
12 neutral.

13 Somehow Mr. Michaelson is able to grab the
14 wheel and get to the brake, and the truck rolls to a
15 stop. And we know we know that, because Jeremiah said
16 that Mr. Michaelson is the one that gets out of the
17 driver's side. He sees the body slumped over in the
18 passenger floorboard. So the victim, after he's shot,
19 probably did slump over and had to be pushed over so he
20 could get to the wheel.

21 They get back to the house. Michaelson goes
22 inside the victim's house and gets the comforter.
23 Mr. Michaelson also says that they go back to the house
24 and that Trey comes back to the house. Notice Trey is
25 -- he's there within five minutes, because he's waiting.

1 Mr. Michaelson drives Mr. Scharer home, and
2 he said something to him. He says, what happened
3 tonight, you're a man now.

4 What does that tell you about Mr. Michaelson?
5 What a horrible thing to say, especially if you're a kid
6 who just turned 18 and obviously is a little bit
7 challenged.

8 Again, look at the statement. You can see at
9 the top that Mr. Scharer did complete the eighth grade,
10 and consider the fact that he -- he was 18 at the time
11 of this event.

12 Another horrible thing that Mr. Scharer tells
13 you is he sees his family like a year later. He is not
14 close with his family. He moved out when he was 16. So
15 he sees them from time to time. He goes to visit them
16 at Christmastime.

17 And Mr. Michaelson and Mr. Feaster were
18 joking, joking about where the body was, and they say
19 something like grass never grows on that spot, and they
20 showed him where they buried him.

21 Where Jeremiah showed you where they buried
22 him is exactly where the dig was. And nobody suggests
23 that Jeremiah was involved in burying the victim. The
24 defendant doesn't even suggest that. The defendant's
25 story is consistent with Mr. Scharer that after the

1 murder they get rid of him. The coverup is Mr. Feaster
2 and Mr. Michaelson.

3 Mr. Scharer also tells you that while he's in
4 jail he's sitting somewhere near Mr. Feaster and
5 Mr. Michaelson comes up and says he is the reason that
6 we're in jail.

7 Think about this, too, as you evaluate
8 Mr. Scharer. He's not doing Mr. Feaster any favors.
9 This notion that they're all in cahoots together in a
10 conspiracy against Mr. Michaelson, it just doesn't hold
11 water because Mr. Scharer finks Trey Feaster just as
12 much as he does Mr. Michaelson. And I keep telling you
13 Mr. Feaster is going to have his day in court.
14 Mr. Scharer is going to testify against him, too. So he
15 -- he's damaging to both of them equally.

16 Christine Thomas. Two children with the
17 defendant, obviously doesn't want to testify here
18 against the man that -- that she has children with, but
19 she came. She was subpoenaed, and she told the truth.

20 She tells you that she moved in
21 Mr. Michaelson's home at [REDACTED] Starbright Lane, where
22 the body was found, sometime around January 2001 and
23 that the Feasters moved in behind them on a piece of
24 property owned by the defendant's mother roughly six
25 months later.

1 And she described the relationship as
2 friendly. Ms. Kennedy tried to get her to say that
3 there was some kind of bad blood between them, but she
4 said that wasn't the case.

5 She and the defendant had access to the
6 storage unit. Money was tight. I think it was obvious
7 during the playing of the audiotape which I know that
8 was a terrible quality of tape to play. It is what it
9 is. But during that tape they talk a lot about, you
10 know, just giving the car back, we don't have money for
11 the payment. And she basically said they were living
12 hand to mouth. They needed money. She talked about him
13 going to the flea market.

14 She saw Michaelson get rid of the victim's
15 trailer, that he attempted to get it painted and he got
16 rid of it.

17 He didn't collect coins. So why does he have
18 all those coins and certificates of authenticity in his
19 storage unit?

20 During the tape there's a really dramatic
21 part in the tape if you can hear it -- and, again, you
22 can request to listen to any piece of evidence again --
23 where she says I wish this never happened, I don't know
24 why you did it.

25 And after that, he says nothing. Not I

1 didn't do it. Just he says nothing on the tape. Then a
2 few lines later he says I'm sticking with I didn't do
3 it.

4 And you heard from Frank Drennon with the
5 Berkeley County Sheriff's Office and Investigator
6 Hallman from SLED. They basically tell you that after
7 the barrel was removed from the property they follow it
8 to the autopsy room, and nobody tampers with it, and
9 they watch as the contents of the body are removed. And
10 there you have the victim's remains, the comforter,
11 Kippy's dog collar, and a toy.

12 They then locate the truck in the woods, and
13 they process the truck. They process the truck six
14 years later. Now, I know when you watch television and
15 you see "CSI" they're able to find amazing pieces of
16 evidence after many years, but the reality is that
17 that's not always the case. And if a truck sits out in
18 the weather and it's owned by other people, it is hard
19 to find evidence. In addition to that, Dr. Presnell
20 told you that that kind of wound would produce very
21 little blood. So it's really not very surprising that
22 they didn't find blood in the truck. And both the
23 defendant and Jeremiah Scharer state the murder took
24 place in the truck.

25 Detective Crumley. He is the one that

1 initially read the defendant his rights. He searched
2 the defendant's storage unit. And, again, you can look
3 through the pictures as they go back. That's part of
4 the evidence. Found the certificates and other coin
5 collection items, and he found the safe.

6 Catherine Leisy. She was the analyst from
7 SLED, that basically because his body was so
8 deteriorated it was not identifiable. So they took a
9 buccal swab from the victim's mother, and they compared
10 her DNA with the DNA that they got from the tooth from
11 the body. And what were the results? That that was her
12 son.

13 Suzanne Cromer identified the projectile as a
14 .25 caliber bullet. And those of you that know anything
15 about guns know that that's -- that's a very small gun,
16 a .25 caliber bullet. And Jeremiah Scharer describes
17 the gun that Mr. Michaelson showed him as a small
18 handgun.

19 Brian Valbert. That was the guy, the
20 sexually violent predator, who was transported down and
21 happened to be in jail with the defendant and
22 Mr. Feaster. And I think Mr. Valbert's testimony is
23 very interesting because he has no dog in this fight.
24 He didn't know either of them before. He didn't stay in
25 touch with either of them afterwards. He tells you that

1 he hears the defendant bragging about killing a man and
2 burying him in his front yard in jail.

3 And as much as Ms. Kennedy tried to get him
4 to say that he was somehow part of the Trey Feaster
5 conspiracy because he was housed with him at one point,
6 he stuck to the truth. He gave a statement. And
7 although we're not able to tell you what he said about
8 Trey Feaster because this is not his trial, his
9 statement against Trey is just as damaging as his
10 statement against the defendant. It's the truth. He
11 has nothing to gain.

12 Dr. Erin Presnell. She talks about the
13 remains in the barrel. She confirms that he died from a
14 single shot to the head.

15 And there's also money in the victim's
16 pocket, a lot of money. Why did they not take the money
17 out of his pocket? Who knows. Maybe they panicked.
18 Maybe it just was distasteful for them to go through the
19 pockets of the guy they just killed. I don't know.

20 She talks about the direction of the bullet
21 and the location of the entrance wound. And that is a
22 fact that we already discussed, and I really want you to
23 think about that in terms of how the defendant said this
24 crime goes down.

25 Think about the bullet wound right here at

1 the base of the head behind the ear, traveling up and
2 ricocheting back. And a ricochet wound is one there
3 isn't a lot of blood in this kind of injury.

4 He was wrapped in a comforter that Brenda
5 described on her bed. And I apologize that you had to
6 look at some very disturbing pictures, but aside from
7 this picture there is a picture where you can actually
8 see a little bit of the body wrapped in that comforter.

9 Now, the burglary. This is a circumstantial
10 case. This is a case that's going to require just
11 everyday common sense. He goes in the house to get the
12 comforter. That's one -- that is one basis for the
13 burglary. If you believe he went into that man's house
14 without permission and took his things for whatever
15 reason, for an illegal purpose, he stole the comforter
16 so he could cover the body, he's guilty of burglary.

17 In addition to that, there's a circumstantial
18 case that he took all the coins. The victim's
19 belongings are found in the defendant's storage unit.
20 He admits that he pawned the victim's coins and he
21 received money for the coins. He gets rid of the
22 trailer and the tools.

23 The fact that he says that he took the money
24 from the pawnshop owner and gave it to Trey because Trey
25 didn't have I.D., you don't have to believe that. In

1 fact, it really doesn't make any sense. You are the
2 judges of credibility.

3 Motive. I suspect that when Ms. Kennedy gets
4 up here she's going to make a whole lot about motive.
5 We don't have to prove motive. The state does not have
6 to prove motive.

7 What is the motive here? Is it money? Is it
8 just helping his friends? Did they bring the gun -- the
9 gun along, and then the defendant or the victim got
10 angry and they got into an argument? We don't know. We
11 may never know.

12 On television there's always a very clever
13 motive and it all ties together and it all makes sense
14 at the end of the episode. The truth of the matter is
15 we're not dealing with criminal geniuses here. They
16 buried the body in his own yard. And it really doesn't
17 make any sense, and sometimes we don't know what the
18 motive is. And quite frankly, the fact that we don't
19 know what the motive is, there might not be a logical
20 motive, and that's almost more disturbing, that this man
21 died for nothing,

22 The hand of one. We talked a little bit
23 about the hand of one. And, again, the judge is going
24 to instruct you about this. But if you believe that
25 they started out at Mr. Feaster's house, they planned to

1 deal with Parrish, to take care of Parrish, and either
2 Mr. Michaelson had the gun with the silencer or
3 Mr. Feaster had the gun that Mr. Michaelson provided him
4 with the silencer, that's part of hand of one.

5 He also lets Trey Feaster drive his truck to
6 take them to drop them off. That shows that there's a
7 plan.

8 They take Jeremiah with them so that they
9 could get him to go up and get the step dad out of the
10 house. Part of the plan.

11 They're dropped off at the end of the road.
12 At this point Mr. Scharer tells you that he sees the gun
13 with the silencer in Mr. Michelson's hands.

14 They lie to the victim. They get him out of
15 the house. He's shot in the head. They go back to the
16 victim's house where the third person in the plan comes
17 up and helps cover it up.

18 Who pulled the trigger? As far as hand of
19 one, as you analyze this crime, he pulled the trigger;
20 but even if you believe his story that Mr. Feaster
21 pulled the trigger, he's still guilty under the hand of
22 one. He provided the gun, he knew it had a silencer, he
23 executed the plan that they planned together, and then
24 covered up the crime. He was there before, during, and
25 after. And to suggest that he just thought Mr. Feaster

1 was going to beat him up, after he gave him a gun with a
2 silencer on it, is ridiculous.

3 I just want to point out somewhat very
4 briefly, and I've already done this a little bit, there
5 are so many things in Mr. Michaelson's story that just
6 don't make any sense, and this is on his own interview
7 that's on the videotape.

8 The first thing is just the first thing that
9 I said in my opening. He buried the body in his yard.
10 Who could make you bury a dead body in your yard if you
11 weren't the one that killed him?

12 Then he explains that by saying he was
13 terrified of Mr. Feaster, he made him bury the body in
14 his yard, but he lets Mr. Feaster move in six months
15 later. How terrified could he have been? Christine
16 Thomas says they were friends the whole time.

17 The way Mr. Michaelson says the shooting
18 occurred, and I went over this, it just doesn't make any
19 sense the fact that Mr. Feaster is able to lean into the
20 passenger side of the door and get the bullet where it
21 winds up.

22 Then afterwards Mr. Feaster -- and this is in
23 his written statement. You can just look at the written
24 statement that Mr. Michaelson gave. He says Trey made
25 me rent a backhoe. So Trey is still making him do

1 things.

2 Then he says that Mr. Feaster robbed the
3 victim by himself but that he is the one that takes him
4 to the pawnshop and he is the one that gets the money.
5 Trey Feaster robbed the victim alone, but Mr. Michaelson
6 somehow winds up with his property in his storage unit.
7 These things just don't make any sense.

8 Then Michaelson says he didn't shoot the
9 victim. But he admits to providing the gun, disposing
10 of the gun, disposing of the trailer, the tools, and he
11 buries the victim in his front yard.

12 Again, the story that he thought Parrish was
13 just going to get beat up makes no sense because even by
14 his own version he provided a gun with a silencer.

15 Now, just to make it clearer, I've said that
16 what the evidence shows and Mr. Michaelson's story are
17 almost identical, and I want to just go through that a
18 little bit with you.

19 The evidence shows he obtained the gun and
20 knew the gun had a silencer. His story, he obtained the
21 gun and knew the gun had a silencer. He describes the
22 silencer in this case.

23 He discussed the plan at the house before
24 getting into his car. That's what we think the evidence
25 shows. What does Mr. Michaelson say? He discussed the

1 plan at the house, Mr. Feaster's house, before getting
2 into the car.

3 He let Trey Feaster drive his vehicle in
4 order to get dropped off with Jeremiah. Mr. Michaelson
5 says the same thing. He let Trey Feaster drive his
6 vehicle in order to get dropped off.

7 He showed Jeremiah the gun with the silencer.
8 The state presented evidence that he showed a third
9 codefendant the weapon. This is this one area that we
10 differ. Mr. Michaelson says he provided the gun, he
11 knew it had a silencer, but he gave it to Trey Feaster
12 to shoot the victim.

13 He says he walked up to the house. We say he
14 walked up to the house. Got into the truck with the
15 victim. He says exactly the same thing. We think the
16 evidence shows that he shot the victim. He says he
17 watched the victim get shot. They go back to the house
18 and get the comforter to cover the body. He says the
19 same thing.

20 He says Jeremiah was not involved in the
21 burial. We agree. The evidence does not show that
22 Jeremiah was involved in the burial.

23 Helped dispose of the truck. He admits he
24 helped dispose of the truck. Got rid of the gun, got
25 rid of trailer, helped bury the body in his own yard,

1 helps pawn items that he helped Trey Feaster steal from
2 the house.

3 All of this and the state's evidence is
4 exactly what the defendant said. There's only two
5 differences. He says the shooter is a different guy.
6 But you know what? Whether you believe the state's
7 presentation and our theory of the case, he's guilty.
8 If you believe what Mr. Michaelson says happened, he's
9 still guilty under the hand of one. So it just doesn't
10 matter.

11 I'm sticking with I didn't do it. I'm
12 sticking with I didn't do it. He did do it. He killed
13 that man, dumped his body in a barrel, and buried him
14 like a piece of trash. He killed him.

15 And it has taken a long time for justice to
16 be served in this case, and I'm asking that you do what
17 you need to do. This is a search for the truth. I am
18 asking you to be just and fair and find this man guilty
19 of murder and burglary. Thank you.

20 THE COURT: Ms. Kennedy.

21 MS. KENNEDY: Thank you, Your Honor.

22 Prosecution.

23 Good morning, ladies and gentlemen of the
24 jury.

25 (Members of the jury reply good morning.)

CLOSING ARGUMENT

1
2 BY MS. KENNEDY:

3 As I'm sure you know, this is my opportunity
4 or our opportunity to -- to present to you what we
5 believe happened and our opportunity to talk to you
6 before you begin your deliberation.

7 And before I get into the argument, I want to
8 thank you very much for your patience and your
9 attention. I know that there's some things that
10 happened during this trial that caused us to go a long
11 -- a lot longer than -- than our usual trials do, and I
12 apologize for that inconvenience. And, again, I thank
13 you for your patience.

14 And what I've also noticed over the past four
15 or five days, five or six days, whatever we happen to be
16 at right now, is that you have been extraordinarily
17 attentive and extraordinarily conscientious, and above
18 everything else we appreciate that.

19 Now, and I think you can understand and you
20 do appreciate the magnitude of this case. The state
21 deserves justice, Parrish Reeves certainly deserves
22 justice, and on this day in your hands Jeffrey
23 Michaelson deserves justice.

24 Now, ladies and gentlemen, the way you -- you
25 defend a case like this is you defend on the facts, and

1 the facts demonstrate unequivocally that Jeffrey
2 Michaelson did not kill Parrish Reeves. The facts
3 demonstrate unequivocally that Parrish Reeves --
4 Mr. Michaelson didn't know Parrish Reeves, not at all.

5 Now, the assistant solicitor has made a big
6 deal about, you know, that the taped interview that you
7 all had the opportunity to see, the taped interview
8 where Detective Merrithew, not Detective Freeman,
9 Detective Merrithew says -- pulls out a piece of paper,
10 do you know this man, do you know this man, do you know
11 that man.

12 He says, no, he doesn't know him. He doesn't
13 know him at all, never met him, had no history with him,
14 and certainly absolutely had no reason to harm him.

15 You're right, the assistant solicitor is
16 right, you saw the video, Mr. Michaelson's statement.
17 Polite, answers the questions yes or no. So when
18 Detective Merrithew suggests things to him, he explains
19 what happened. He explains how he got involved in it,
20 he explains why he got involved in it, explains how and
21 why he helped bury the burn barrel that so sadly has
22 Parrish Reeves' body in it.

23 Now, I make no representation to you that
24 what happened to Mr. Reeves is the right thing. I make
25 no representation to you that what happened in terms of

1 him being put in the burn barrel and being buried in
2 somebody's yard is not hideous, because it is. I will
3 tell you, and it's common sense, human nature to be
4 revulsed by that, but I ask you, ladies and gentlemen,
5 not to let that revulsion of the circumstances influence
6 your judgment. We're here because Jeffrey Michaelson
7 has been charged with murder. We're not here because of
8 the way the body was disposed of, and I'm not going to
9 say that you shouldn't consider it, but it's not part of
10 your deliberations, your determination of whether or not
11 he shot Parrish Reeves.

12 And say what you will about the video
13 statement, interpret it however you want it, interpret
14 it in the light the assistant solicitor says you should
15 interpret it, it is what you saw.

16 What you saw is a man who had been arrested
17 after his three other codefendants had been arrested.
18 What you saw is a man being interrogated by Detective
19 Merrithew based on information that had already been
20 provided by Kat Feaster, Trey Feaster, Jeremiah Scharer;
21 stepdaughter-in-law -- sorry -- stepdaughter,
22 stepson-in-law, stepson.

23 And what he also says in the video is, you
24 know, he threatened to kill me. The assistant solicitor
25 is correct. Detective Freeman said put that, put in the

1 part about the burn barrel. But she also, and Detective
2 Merrithew, too, said put in the part where he threatened
3 to kill you, put in the part where he threatened to kill
4 you, because that's important.

5 You all can see it's common sense. If one
6 person is shot in the head and that person says to you
7 I'm going to kill you if you tell anybody or I'm going
8 to hurt you if you tell anybody, what reason would you
9 have to believe otherwise that he wasn't capable of
10 doing it? Surely, if you see it, you believe it. You
11 know that there is a good possibility that that's what's
12 going to happen to you.

13 By contrast, the state would have you believe
14 that and think that just for no apparent reason, just
15 because he got a wild hair one day, that he would
16 suddenly decide to kill the person, a person, again that
17 he wasn't related to, had no relationship with, did not
18 know the man at all.

19 The other people in this case, the other
20 codefendants, that the assistant solicitor told you
21 they'll get their day in court, they all had a beef with
22 him. There's evidence to show that Mr. Scharer was
23 abused by Mr. Reeves. There's evidence that -- Jeremiah
24 Scharer testified Mr. Reeves beat his mother with a
25 fence post. There's evidence that shows through

1 information in the Berkeley County sheriff's file that
2 Detective Freeman had that shows that there is reason to
3 believe that Mr. Reeves made improper -- had made
4 improper sexual advances toward Kat Feaster which, of
5 course, is only going to inflame her husband, Trey
6 Feaster.

7 Now, I ask you to consider that. Is it
8 credible, is it believable that the one person, the one
9 person who doesn't know Mr. Reeves, the one person who
10 didn't think of him as some sort of devil is the one
11 person who's going to say, hey, let's go over to Alan
12 Park Road and let's kill Parrish Reeves? What's in it
13 for him? What's in it for him?

14 And the state would have you believe based on
15 all that's been presented that he is the most culpable,
16 he is the one that decided I'm going to get Parrish.
17 Well, ask yourself why. What reason would he have to
18 get Parrish? There's no evidence to support any kind of
19 motive for him to even be around Mr. Reeves' house,
20 none; and yet the state in its presentation throughout
21 this trial and throughout the closing today is trying
22 to, wanting to, make you believe that he is the most
23 culpable here.

24 Now, I will tell you we don't deny that he
25 was there. We don't deny, based on the -- that he

1 should have come forward; or, better yet, in his
2 statement he knew exactly what he could and should have
3 done, which is get in his car and leave. We do deny
4 that he shot him.

5 And I can certainly understand, given
6 everything that you've -- you've seen and heard, that
7 you can think he's a bad person for having been there,
8 and you can think he's a bad person for having assisted
9 Trey Feaster in burying the body, and you can think he's
10 a bad person for doing all those things, but that
11 doesn't make him guilty of a murder.

12 Now, let me tell you what we do deny. We
13 deny that Mr. Michaelson was ever involved in a
14 burglary.

15 And you will get in the jury room the
16 indictments. The indictments, Her Honor will tell you,
17 are merely pieces of paper. They lay out the charges.
18 They lay out the substance of the allegations for murder
19 and burglary. That's all it is. It's up to you to
20 decide based on the evidence what you think.

21 But let me tell you, that indictment has two
22 dates. It says on or about January -- sometime between
23 January 17th and February the 1st this burglary
24 supposedly occurred. Now, the reason those dates are
25 important is because these are two dates that you can

1 actually hang your hat on and know -- and know the time
2 sequence.

3 We know from Brenda Ahrenholz's testimony
4 that Mr. Reeves went missing on January 17th. We know
5 from -- again, from Ms. Ahrenholz and also from
6 Detective Freeman that Ms. Ahrenholz reported that
7 Mr. Reeves was missing and that there was a possible
8 burglary at that time. That's what's in the report.
9 There's no evidence, none, that Mr. Michaelson ever went
10 into that house and took anything.

11 Now, there's a big deal that's been made
12 about the coins and the storage unit and all of those
13 things. Well, let me suggest to you a couple of things
14 about that. One is, no one other than as the assistant
15 solicitor indicated was able to identify anything in
16 that storage shed as belonging to Mr. Reeves other than
17 this one coin. No one. Secondly, in terms of the safe,
18 which you'll have pictures of the storage unit, no one
19 ever said that that was the safe, could identify that
20 that was the safe that was actually in Mr. Reeves'
21 house.

22 And the thing about the storage unit and
23 Ms. Thomas's recollection and her recitation of what
24 happened, the other thing that came out during my
25 cross-examination of her is that -- that Kat and Trey

1 Feaster who the state pound and pound that they lived
2 behind Mr. Michaelson, that they got evicted and when
3 they got evicted all the property in their trailer --
4 and she said it -- came over to their trailer, got put
5 in their trailer and then was put in the storage unit.
6 So even she said that there could have been no way to
7 identify what was in that storage shed, no way to
8 differentiate what belonged to them, meaning
9 Mr. Michaelson and Ms. Thomas, and what belonged to the
10 Feasters.

11 Now, ladies and gentlemen, I ask you to
12 remember this, the part of Detective Freeman's testimony
13 where she said, made you aware, that the Berkeley County
14 Sheriff's Office had knowledge that Trey Feaster had
15 broken into Mr. Reeves' trailer before, had knowledge
16 that he had taken a bunch of stuff. Do you know what
17 that tells me? That tells me that he knew how to get
18 into it, he knew what to do, he knew what was in there.

19 But there's no proof, no proof, no proof that
20 that's -- there's a lot of stuff, I'll say that.
21 There's a whole lot of stuff in there, but there's no
22 proof that ties any of that stuff to Mr. Michaelson much
23 less any of that stuff to any kind of burglary.

24 Now, and -- and here's the thing, too. If
25 Mr. Michaelson was so hard up for money and they are

1 living hand to mouth and the point of this is to get
2 some money, then why is the \$1400 still in Mr. Reeves'
3 pocket when his body is recovered when Dr. Presnell is
4 doing the autopsy? Hand to mouth? Maybe. But if your
5 -- if your intention is to get money, you don't leave
6 \$1400 in somebody's pocket. And you certainly do not
7 have -- you're going to get rid of the stuff. If it's
8 valuable, you're going to take it someplace. You're
9 going to sell it. You're going to pawn it.

10 Now, speaking of the pawn issue,
11 Mr. Michaelson says he takes Trey down to Charleston to
12 let him pawn the coin. He gets the money because
13 Mr. Feaster has no I.D. Well, I'm a public defender,
14 obviously. It is not uncommon for us to have cases
15 where one person because he has no I.D. will ask another
16 person to pawn something so they can get the money. The
17 Solicitor's Office prosecutes those cases all the time.
18 Every day. Every day. So that might sound like
19 something unusual to you, but in what we do for a living
20 it's common course. It happens every day.

21 Now, I'm not -- unlike the assistant
22 solicitor, I'm not going to go through each of the
23 witnesses and say what they said or didn't say. You
24 have your recollection. You were here, and you heard it
25 all. And I'm not going to suggest to you in any way how

1 you should interpret what you heard. I'm just asking
2 you in your deliberation to be cognizant of the fact
3 that what was presented and put into evidence and
4 cognizant of the fact that we have challenged the
5 state's case.

6 And it's not merely what I say that the
7 evidence has shown. It's your responsibility to figure
8 it out. And you, after all, are the judges of the
9 facts. You, after all, are the people who get to judge
10 the credibility of what you heard. You get to decide
11 who is telling the truth. You get to decide who you
12 don't believe. That's your job. And it's an important
13 job because it deals with that issue, that commonsense
14 issue of burden of proof.

15 Burden of proof, the state has the
16 responsibility to prove each and every element of the
17 charges beyond a reasonable doubt. And that's an
18 enormous responsibility that you have because you and
19 only you stand as the buffer, and without that kind of
20 buffer all of us would be in trouble. Our system of
21 justice simply would not work. And that burden and that
22 conscientiousness and that attention to that burden is
23 especially important in hearing a case like this one.
24 It deserves your steadfast dedication and diligence, and
25 you need to always keep in mind reasonable doubt.

1 Now, I will, as I said, not go through each
2 of the witnesses as the assistant solicitor did, but
3 I've highlighted a few, and we'll start with Detective
4 Freeman.

5 Notwithstanding all of the noble efforts to
6 convince you otherwise, Detective Freeman didn't
7 investigate this case. She wasn't involved until
8 afterwards. She was able to tell you all the things
9 that she did after Jeffrey Michaelson got arrested, and
10 I would submit to you that all the things that she did
11 after Jeffrey Michaelson got arrested are all the things
12 that put these pieces of puzzle together in the way that
13 the state wants you to think all of this happened.

14 But think about this. Mr. Reeves goes
15 missing in 2001. There's some information in the file,
16 again, in 2005 that Trey Feaster had some contact with
17 Lieutenant P.J. Lee of the Berkeley County Sheriff's
18 Office. And Trey Feaster purposely lied, purposely
19 lied, to Detective Lee about his participation in this,
20 his knowledge of where Mr. Reeves was, his knowledge of
21 how the truck disappeared.

22 Now, Mr. Michaelson, he's done some awful
23 things. I already told you. I would agree with you in
24 that assessment, but this -- who did -- who was worse?

25 This man's father-in-law has been missing.

1 Ms. Reeves has been searching for, at that point in
2 time, four years. He knows where he is. He could have
3 told her. He could have come forward.

4 As a matter of fact, anybody in that family
5 could have come forward. Kat could have come forward.
6 Jeremiah could have come forward. Trey could have come
7 forward. Nobody did.

8 Instead, Mr. Feaster says, you know, I think
9 he left because I think he was with another woman. We
10 took the car down to Bonneau because he had IRS problems
11 or because he was trying to keep the truck from his wife
12 because they were going through a divorce.

13 Now, I would submit to you, ladies and
14 gentlemen, that just perhaps think about this. Perhaps
15 if at that point in time or when Detective Merrithew got
16 a cold case or even when Detective Freeman picked it up,
17 if they had paid a little more attention to what
18 Mr. Feaster said and what Mr. Feaster did, there --
19 there would have been less of an opportunity for Kat
20 Feaster and Trey Feaster and Jeremiah Scharer to get
21 together and come up with a story that no matter what
22 they did and how they did it blame it all on Jeffrey
23 Michaelson, blame it all on him.

24 Now, Brian Valbert. I'm -- I'm a little
25 confused about Brian Valbert because I would find it

1 suspicious that the state would have to rely on a
2 convicted child molester to prove a part of its case.
3 Now, I made a big deal about that, right? Mr. Valbert
4 says I was with Trey Feaster in A-Pod or B-Pod,
5 whichever pod he was in for 90 days. For 90 days he had
6 an opportunity to talk with Mr. Feaster, hear
7 Mr. Feaster's side of the story, 90 days. And
8 coincidentally, on the one day that he happens to be
9 standing he says with somebody named Foot, he hears
10 Jeffrey Michaelson brag, brag, said he shot -- said he
11 shot Mr. Reeves. Now, is that credible? Is that
12 believable?

13 And what's he saying to you? He said on the
14 stand it's my opinion. Well, I would submit to you,
15 ladies and gentlemen, his opinion doesn't count. His
16 version of the story doesn't count, because it's simply
17 not true. And it's your job to decide who you believe,
18 and when you decide that, then you need to consider,
19 again, that Mr. Valbert is a convicted child molester.

20 Now, the state would have you believe that he
21 is just in it for the goodness of his heart, he gets no
22 benefit from it whatsoever. Well, you saw him testify.
23 You saw his demeanor. I think he had trouble even
24 acknowledging that he's a convicted child molester. So,
25 again, look at all the facts.

1 And that now brings us to Jeremiah Scharer.
2 Jeremiah Scharer did a proffer. A proffer is nothing
3 more than another piece of paper that says I'm going to
4 cooperate with the State of South Carolina in the
5 prosecution of this case. He says he's going to
6 cooperate and testify against Mr. Michaelson, he is
7 going to testify if he needs to against Trey Feaster,
8 but you notice he never said anything about testifying
9 against his sister. He didn't answer that question at
10 all.

11 And the fundamental issue in a proffer is
12 that you're saying I'm going to tell the truth, I'm
13 going to tell the truth, Madam Solicitor, because when I
14 tell the truth then I expect that I'm going to get some
15 benefit from it.

16 The benefit could be, usually, a lesser
17 charge. It could be lesser -- less time. And it's a
18 misstatement of the law for the assistant solicitor to
19 tell you that that's all up to the judge, because it's
20 not. They get to make a recommendation, they get to
21 decide the value of his testimony, and they get to tell
22 the judge what they think his punishment should be.

23 Now, we're here talking about Jeremiah
24 Scharer, Jeremiah Scharer who got on the witness stand,
25 wiggled back and forth, had to be directed to answer

1 questions, had to be directed to pull the mike forward,
2 had to be told to do all of those things. You saw him
3 hang his head. You saw him refuse to answer. You saw
4 him. And all those things that help him, he could say,
5 yeah, this is what happened, yeah, this is what we did,
6 yeah, this is my involvement. But when it came time to
7 challenge him on those things and his recollection, he
8 couldn't answer. He refused to answer. And I would
9 submit to you, ladies and gentlemen, at some point
10 during his examination he was absolutely defiant.

11 Now, the state would have you believe -- and
12 you'll have Jeremiah Scharer's statement back there --
13 that his statement from 2007 is the product of a person
14 who only has an eighth-grade education, who only, as the
15 solicitor suggested, has some competency issues.

16 Now, think about that. Competency issues.
17 It goes back to his testimony. The things he wants to
18 remember and provide great detail to, he can. The
19 things that he doesn't want to remember, he simply
20 doesn't know, he can't say, he refuses to answer.

21 But let's look at what the "truth" (indicates
22 quotation marks) is as Jeremiah Scharer told you from
23 the witness stand, but in order to do that, you have to
24 kind of look at all the stories that he says.

25 First he says I didn't know anything about

1 it, I was at my sister and brother-in-law's house, had
2 just come to visit, which we know isn't true because his
3 mother already testified by the time this incident
4 happened on January 17th he'd already been at their
5 house for three weeks. Three weeks, not one night,
6 according to his mother who obviously he has a close
7 relationship with or he wouldn't have been riding around
8 with her the night he disappeared, knowing that Parrish
9 Reeves was dead.

10 Then he says I didn't know what they were
11 going to do. All I heard was they were going to take
12 care of Parrish, going to take care of Parrish. Why?
13 He doesn't know, just that Jeffrey Michaelson -- there's
14 no -- think about this, too. There's no evidence that
15 there is any kind of close relationship with Jeremiah
16 Scharer, but he wants you to believe that he just
17 happened to be there, that he was with his
18 brother-in-law and sister and Jeffrey Michaelson just
19 got a wild hair that he was going to kill Parrish
20 Reeves.

21 Then he says he's part of the plan. He was
22 the one who's supposed to go up and knock on the door
23 and lure Mr. Reeves out. Because after all, as
24 Ms. Ahrenholz said, nobody could get in that yard with
25 all of those dogs unless it was a family member, unless

1 it was somebody that the dogs knew. Mr. Michaelson
2 doesn't fit that bill. He doesn't fill that role.

3 And then he says somewhere along the dirt
4 road he saw the gun and he knew right at that point in
5 time that that's when Mr. Reeves was going to get shot.
6 So think about that. He knows his stepfather --
7 stepfather is going to get shot. He knows somebody has
8 a gun. He still walks up to the door to lure him out.
9 Does that make sense to you? Is that credible? Is that
10 believable? Could it possibly be true? I think not.

11 Then he says -- he makes some reference to
12 the gun about the silencer. Now, if you remember
13 Jeffrey Michaelson's videotape -- and, again, y'all will
14 have it to look at -- he says he gave the gun to Trey a
15 couple of weeks before. There is not that linkage that
16 the state would want you to make that there was some
17 plan ahead of time so that Mr. Michaelson gave
18 Mr. Feaster the gun and then at that point in time so
19 they could go all over there that night and kill
20 Mr. Reeves. That linkage simply doesn't exist.

21 Now, in every version he tells, he's always
22 quick to say I was in the bed of the truck, I didn't
23 know what was going on. Does it make sense to you,
24 ladies and gentlemen, if Mr. Reeves doesn't know
25 Mr. Michaelson and Mr. Michaelson doesn't know

1 Mr. Reeves that Mr. Michaelson would be the one to get
2 in the front seat of the truck, the one who rides beside
3 Parrish Reeves? I think not. It just doesn't -- life,
4 it doesn't happen like that in life.

5 And he's always -- she's right. The
6 assistant solicitor is right. He's always consistent in
7 that, always says this is the little part that I did and
8 I didn't do anything else.

9 Now, he also says that the truck -- he
10 doesn't really -- the truck swayed back and forth. He
11 doesn't know what happened.

12 Now, I believe in the solicitor's argument
13 she said the truck sort of -- the truck stopped.
14 Mr. Scharer, my recollection, didn't testify to that,
15 about that. What he testified to is it swerved back and
16 forth and somehow, he doesn't know how, Mr. Michaelson
17 was able to get control of the truck, drive the truck,
18 and they continued down the dirt road.

19 Now, you will have the pictures of the truck.
20 And the state has submitted, let's see, one, two, three,
21 four, four pictures of the truck. But please notice,
22 ladies and gentlemen, that the pictures of the truck are
23 all of the exterior.

24 You heard Agent Hallman testify that in the
25 processing of the truck they always take pictures of

1 everything. They always take pictures of the interior
2 and the exterior, every part of it.

3 So the point is here that one of the pieces
4 of evidence that you could have had, that you could have
5 used to analyze the truthfulness, the veracity of what
6 Jeremiah Scharer was saying, is withheld from you.
7 You've got no pictures of the interior of the truck. So
8 we don't know. We don't know whether or not it was
9 possible, although I think it's highly improbable, for
10 the events to unfold the way Jeremiah Scharer says they
11 did.

12 And today, quite frankly, is the first time
13 that I've ever heard -- because remember we asked the
14 question was it a five speed, was it an automatic, was
15 it a stick shift. Today the assistant solicitor in her
16 presentation to you says it's a five speed. There's no
17 evidence of that. None whatsoever.

18 But in the grand scheme of things, I would
19 submit to you, ladies and gentlemen, that that probably
20 isn't all that important. The thing that's the most
21 important is simply this: Dr. Presnell testified about
22 the entrance of the bullet in Mr. Reeves' brain. Now,
23 she couldn't say, because of the decomposition of the
24 body, what -- how close in range the bullet was fired.
25 What she could say, which is not -- and she is the

1 state's expert. What she couldn't say -- or what she
2 did say was that Mr. Reeves would have been totally
3 incapacitated at that point, at that point in time that
4 he was shot. Totally incapacitated.

5 The car, truck, if you are to believe
6 Jeremiah Scharer, would have been -- have run off the
7 road, had to have stopped somewhere. None of this
8 swerving back and forth and all of a sudden it rights
9 itself and Mr. Michaelson is behind the wheel.

10 Now, the last thing I would say to you is
11 this, that found in the burn barrel was a Tasmanian
12 devil doll. Right? The state would suggest to you that
13 that doll was somehow wrapped up in the comforter that
14 was placed over Mr. Reeves. I would suggest to you,
15 ladies and gentlemen, that that doll was purposely put
16 there, that that doll represents some personal
17 animosity, some vengeance toward the victim.

18 And if you believe that to be true or even if
19 you just consider it, then you have to know and have to
20 realize that Jeffrey Michaelson's version of the events
21 is true. You know, he tells you on the video this is
22 how it happened, this is what I did, again, calmly in
23 response to the detective's questions.

24 I admit that in the conversation that he had
25 with Christine Thomas, if you just focus on the words

1 "that's my story and I'm sticking to it," you don't --
2 she says I don't know why you did it. Now, that's --
3 that's supposed to be important because he didn't deny
4 it? He's in jail. He knows his -- his phone
5 conversations are being taped.

6 The other part of that tape is: I'm not the
7 person the papers make me out to be. I didn't do it.
8 And, ladies and gentlemen, I would submit to you that
9 that's the truth in this case. Thank you.

10 JURY CHARGE

11 THE COURT: All right. Ladies and gentlemen,
12 we have reached the stage of the trial in which I will
13 instruct you on the law applicable to this case.

14 I remind you that during this trial you and I
15 have had certain duties to perform. As the trial judge
16 it is my responsibility to preside over the trial, and I
17 have the duty to rule on the admissibility of the
18 evidence that is offered during the trial.

19 You are to consider only the competent
20 evidence before you. If there was any testimony that
21 was ordered stricken from the record, you must disregard
22 that testimony. You are to consider only the testimony
23 that has been presented from this witness stand, the
24 exhibits that have been made part of the record in the
25 case, and any stipulations of counsel.

1 I have the additional duty to charge you on
2 the law applicable to this case. As the presiding
3 judge, I am the sole judge of the law in this case, and
4 it is your duty as jurors to accept the law and apply
5 the law as I state it to you now. If you already have
6 any idea as to what the law is or what the law ought to
7 be and it does not agree with what I am about to tell
8 you, you must disregard your own idea because you have
9 taken an oath to accept the law and apply the law as I
10 state it to you now.

11 In every case tried in this court before a
12 jury, the jury becomes the sole and exclusive judge of
13 the facts in the case. The trial judge cannot make any
14 comment on or make any statements to you concerning the
15 facts in this case.

16 Since you, the jury, are the sole judge of
17 the facts in this case, you are not -- are not to infer
18 from anything that I have said during the progress of
19 the trial or anything that I say now during the course
20 of these instructions to you that I have any opinion
21 about the facts in this case. The law simply does not
22 allow me to have an opinion regarding the facts in this
23 case. This is a matter solely for you, the jury, to
24 determine. As jurors it becomes your duty to determine
25 the effect, the value, and the weight to be given to the

1 evidence that has been presented during this trial.

2 The indictment charges the defendant with
3 murder and burglary in the second degree. I remind you
4 the fact that the defendant was arrested, charged, and
5 indicted in this case is not evidence in this case and
6 cannot be considered by you in any way as evidence of
7 guilt in this case nor does it create any presumption or
8 inference of guilt. The documents are simply the formal
9 written instrument which contain the charges made
10 against the defendant. It is the formal document by
11 which this case is brought into the court.

12 The indictments in this case allege two
13 different offenses against the defendant. The charges
14 are, indictment number one, murder; indictment number
15 two, burglary in the second degree. Each indictment
16 contains a separate and distinct charge. You must
17 decide each indictment separately on the evidence and
18 the law applicable to it, uninfluenced by your decision
19 as to the other indictment. The defendant may be
20 convicted or acquitted on any or all of the offenses
21 charged. You will be asked to write a separate verdict
22 of guilty or not guilty for each indictment.

23 The defendant has pled not guilty to each
24 indictment, and that plea puts the burden on the state
25 to prove the defendant guilty. A person charged with

1 committing a criminal offense in South Carolina is never
2 required to prove himself innocent.

3 I charge you that it is an important rule of
4 law that the defendant in a criminal trial, no matter
5 what the seriousness of the charge may be, will always
6 be presumed to be innocent of the crime for which the
7 indictment was issued unless guilt has been proven by
8 evidence satisfying you of that guilt beyond a
9 reasonable doubt.

10 The presumption of innocence does not begin
11 when you -- does not end when you begin your
12 deliberation, but it accompanies the defendant
13 throughout the trial until you reach a verdict of guilt
14 based upon evidence satisfying you of that guilt beyond
15 a reasonable doubt.

16 The presumption of innocence is like a robe
17 of righteousness placed around the shoulders of the
18 defendant which remains with the defendant until it has
19 been stripped from the defendant by evidence satisfying
20 you of the defendant's guilt beyond a reasonable doubt.

21 This presumption of innocence is not mere
22 legal theory. It is not just a legal phrase. It is a
23 procedural right to which every defendant is entitled
24 unless you, the jury, are satisfied from the evidence of
25 the defendant's guilt beyond a reasonable doubt.

1 The state has the burden of proving the
2 defendant guilty beyond a reasonable doubt. Some of you
3 may have served as jurors before in civil cases in which
4 you were told it is only necessary to prove that a fact
5 is more likely true than not true, such as by a greater
6 weight or preponderance of the evidence. In criminal
7 cases, the state's burden of proof must be more powerful
8 than that. It must be beyond a reasonable doubt.

9 Proof beyond a reasonable doubt is proof that
10 leaves you firmly convinced of the defendant's guilt.
11 There are very few things in this world that you and I
12 know with absolute certainty, and in criminal cases the
13 law does not require proof that overcomes every possible
14 doubt. If based upon your consideration of the evidence
15 you are firmly convinced that the defendant is guilty as
16 to the crime charged, you must find the defendant
17 guilty. If, on the other hand, you think there is a
18 real possibility that the defendant is not guilty, you
19 must give the defendant the benefit of the doubt and
20 find him not guilty.

21 There are two types of evidence which are
22 generally presented during a trial, direct evidence and
23 circumstantial evidence.

24 Direct evidence is the testimony of a person
25 who claims to have actual knowledge of the facts, such

1 as an eyewitness. It is evidence that immediately
2 establishes the main facts to be proved.

3 Circumstantial evidence is proof of a chain
4 of facts and circumstances indicating the existence of a
5 fact. It is evidence which immediately establishes
6 collateral facts from which the main fact may be
7 inferred. Circumstantial evidence is based on inference
8 and not on personal knowledge or observation.

9 The law makes absolutely no distinction
10 between the weight or value to be given either direct or
11 circumstantial evidence nor is a greater degree of
12 certainty required of circumstantial evidence than that
13 of direct evidence.

14 You should weigh all of the evidence in this
15 case, and after weighing all the evidence if you are not
16 convinced of the guilt of the defendant beyond a
17 reasonable doubt you must find the defendant not guilty.

18 Necessarily, you must determine the
19 credibility of witnesses who have testified in this
20 case. Credibility simply means believability. It
21 becomes your duty as jurors to analyze and to evaluate
22 the evidence and determine which evidence convinces you
23 of its truth.

24 In determining the believability of witnesses
25 who have testified in this case, you may believe one

1 witness over several witnesses or several witnesses over
2 one witness. You may believe a part of the testimony of
3 a witness and reject the remaining part of the testimony
4 of that same witness. You may believe the testimony of
5 a witness in its entirety or reject the testimony of a
6 witness in its entirety. You may consider whether any
7 witness has exhibited to you any interest, bias,
8 prejudice, or other motive in this case. You may also
9 consider the appearance and manner of a witness while on
10 the witness stand.

11 The rules of evidence ordinarily do not
12 permit witnesses to testify to opinions or to
13 conclusions. An exception to this rule exists for
14 witnesses we call expert witnesses. A witness who by
15 education and experience has become expert in some art,
16 science, or professional calling may state an opinion as
17 to relevant and material matters in which the witness
18 claims to be an expert and may also give and state the
19 reason for that opinion.

20 You should consider any expert opinion
21 received in evidence in this case and like any other
22 evidence give it the weight you think it deserves. If
23 you decide that the opinion of an expert witness is not
24 based on sufficient education or experience or if you
25 conclude that the reasons given in support of the

1 opinion are not sound or the opinion is outweighed by
2 other evidence, you may disregard the opinion entirely.
3 An expert witness's testimony is to be given no greater
4 weight than that of other witnesses simply because the
5 witness is an expert. Further, you are not required to
6 accept an expert's opinion even though it is not
7 contradicted.

8 I instruct you and emphasize that the fact
9 the defendant did not testify is not a fact to be
10 considered by you in any way in your deliberation and
11 consideration of the question of the guilt of the
12 defendant. It must not be considered by you in any
13 manner whatsoever. A defendant has a constitutional
14 right to remain silent, and the assertion of this right
15 must not be considered by you in your deliberation.

16 I repeat: Under your oath you are to draw no
17 conclusion whatsoever from the fact that the defendant
18 in this case did not testify. The fact that the
19 defendant did not testify should not even be discussed
20 in the jury room. The burden of proof, as I have stated
21 to you, is on the state. The defendant is not required
22 to prove his innocence. The burden of proof remains on
23 the state to prove guilt beyond a reasonable doubt.

24 In order to establish criminal liability,
25 criminal intent is required. For example, the mental

1 state required to be proven by the state for a
2 particular crime might be purpose, intent, knowledge,
3 recklessness, or criminal negligence. Criminal intent
4 must be proven by the state beyond a reasonable doubt.

5 Criminal intent is always a matter that must
6 be determined by the jury from the circumstances
7 surrounding the situation. There is no way to prove
8 intent to a mathematical certainty. There is no way
9 medical science can dissect a person's brain and
10 determine what the person had in mind. So the law says
11 that criminal intent may be inferred from the
12 circumstances shown to have existed. This is how you
13 make a determination of whether or not the element
14 requiring intent was present.

15 It is not necessary to establish intent by
16 direct and positive evidence, but intent may be
17 established by inference in the same way as any other
18 fact by taking into consideration the acts of the
19 parties and all the facts and circumstances of the case.

20 Criminal intent is a mental state, a
21 conscious wrongdoing. It is up to you to determine what
22 the defendant intended to do based upon the
23 circumstances shown to have existed. Criminal intent
24 can arise from action or a failure to act and may arise
25 from negligence, recklessness, or an indifference to

1 duty or to consequences. This is considered by the law
2 to be the equivalent of criminal intent.

3 A statement alleged to have been made by the
4 defendant has been admitted into evidence in this case.
5 While the Court has determined that the statement is
6 admissible, I instruct you that you make the ultimate
7 decision of whether or not the defendant made the
8 statement.

9 If the defendant did make the statement, you
10 must determine whether the statement was made by the
11 defendant voluntarily and of his own free will. This
12 means that the statement was not caused by pressure,
13 force, fear, threats, coercion, or intimidation, or by
14 hope or a promise of leniency or reward of any kind.

15 In determining whether the statement was
16 voluntary, you should consider both the characteristics
17 of the defendant as well as the details of the
18 questioning. Some of the factors that you must consider
19 are: the age of the defendant; the defendant's
20 education or lack of education; the defendant's mental
21 ability or capacity; the defendant's IQ or intelligence;
22 the defendant's background and environment; the place
23 and length of detention; the nature of the questioning;
24 the advice or lack thereof to the defendant of his
25 constitutional rights, including but not limited to the

1 right to remain silent, that the statement could be used
2 against him in a court of law, the right to have a
3 lawyer present, that if he could not afford a lawyer a
4 lawyer would be appointed to represent him without any
5 cost, and that he could stop making a statement at any
6 time. You must carefully consider all of the
7 surrounding circumstances before you give any weight to
8 an alleged statement.

9 The state has the burden of proving beyond a
10 reasonable doubt that the alleged statement was
11 voluntary. If you determine that it was, you may give
12 the statement any further consideration that you deem
13 proper. You must decide what weight, if any, should be
14 given to the alleged statement. If you determine that
15 the alleged statement was not the free and voluntary
16 statement of the defendant, you should not consider the
17 statement at all.

18 If a crime is committed by two or more people
19 who are acting together in committing a crime, the act
20 of one is the act of all. A person who joins with
21 another to commit an unlawful act is criminally
22 responsible for everything done by the other person
23 which happens as a probable or natural consequence of
24 the act done in carrying out the common plan and
25 purpose. If two or more people are acting together --

1 acting together, assisting each other in committing the
2 offense, the act of one is the act of all, or as it is
3 sometimes said, the hand of one is the hand of all.

4 Prior knowledge that a crime is going to be
5 committed, without more, is not sufficient to make a
6 person guilty of that crime. Mere knowledge that
7 another person is going to commit a crime, even if the
8 defendant is present when the crime is committed, is not
9 sufficient to convict a defendant as a principal.

10 Guilt as a principal is shown by actual or
11 constructive presence at the scene as a result of a
12 prior arrangement. Therefore, a finding of a prior
13 arranged plan or some common scheme is necessary for a
14 finding of guilt as a principal.

15 The state must prove beyond a reasonable
16 doubt by competent evidence their theory of the hand of
17 one is the hand of all. A principal in a crime is one
18 who either actually commits the crime or who is present,
19 aiding, abetting, and assisting in committing a crime.

20 When a person does an act in the presence of
21 and with the assistance of another, the act is done by
22 both. When two or more acting in a common plan or
23 intent are present at the commission of a crime, it does
24 not matter who actually commits the crime. All are
25 guilty. The hand of one is the hand of all.

1 Present at the time of the commission of a
2 crime means to be sufficiently near to aid and abet and
3 assist in the commission of the crime. However, mere
4 presence at the scene of a crime is not sufficient to
5 convict one as a principal under the theory of aiding
6 and abetting.

7 Intent is also a necessary element, for there
8 must have been a common design or intent to commit a
9 crime and the crime must have been committed pursuant
10 thereto with the person aiding and abetting by some
11 overt act. Intent means intending the result which
12 actually occurred, not accidentally or involuntarily.
13 Intent may be shown by acts or conduct of the defendant
14 and other circumstances from which you may naturally and
15 reasonably infer intent. The state must prove these
16 elements beyond a reasonable doubt.

17 The defendant is charged with murder. The
18 state must prove beyond a reasonable doubt that the
19 defendant killed another person with malice
20 aforethought.

21 Malice is hatred, ill will, or hostility
22 towards another person. It is an intentional doing of a
23 wrongful act without just cause or excuse and with the
24 intent to inflict an injury or under circumstances that
25 the law will infer an evil intent.

1 Malice aforethought does not require that
2 malice exist for any particular time before the act is
3 committed, but malice must exist in the mind of the
4 defendant just before and at the time the act is
5 committed. Therefore, there must be a combination of a
6 previous evil intent and the act.

7 Malice aforethought may be express or
8 inferred. These terms "express" or "inferred" do not
9 mean different kinds of malice but merely the manner in
10 which malice may be shown to exist; that is, either by
11 direct evidence or by inference from the facts and
12 circumstances which are proved.

13 Express malice is shown when a person speaks
14 words or expresses hatred or ill will for another person
15 or when a person is prepared to do an act and then the
16 act is later accomplished. Malice may be inferred from
17 conduct showing a total disregard for human life.

18 Inferred malice may also arise when the deed
19 is performed with a deadly weapon. A deadly weapon is
20 any article, instrument, or substance which is likely to
21 cause death or great bodily harm. Whether an instrument
22 has been used as a deadly weapon depends upon the facts
23 and circumstances of the case.

24 If the facts are proved beyond a reasonable
25 doubt sufficient to raise an inference of malice to your

1 satisfaction, this inference would simply be an
2 evidentiary fact to be taken into consideration by you,
3 the jury, along with other evidence in this case, and
4 you may give it such weight as you determine it should
5 receive.

6 The defendant has also been charged with
7 burglary in the second degree. To prove burglary in the
8 second degree the state must first prove beyond a
9 reasonable doubt that the defendant entered a dwelling
10 without consent.

11 A dwelling is a building or portion of a
12 building in which a person ordinarily lives. A building
13 constructed as a dwelling but has never been occupied
14 cannot be considered a dwelling for purposes of
15 burglary, but a -- but a building is a dwelling even if
16 the resident is temporarily absent from the building.

17 In order to prove that the defendant entered
18 the dwelling, the state does not have to show that the
19 defendant's entire body entered the dwelling. The
20 smallest entry is sufficient. It may be any part of the
21 body such as a hand, foot, or even an instrument such as
22 a hook or other instrument.

23 In addition, the state does not have to prove
24 that force was used to gain entry. If a person enters a
25 dwelling by using deception, artifice, thrift, or

1 misrepresentation to get consent to enter, this is an
2 entry without consent.

3 Next, the state must prove beyond a
4 reasonable doubt that the defendant intended to commit
5 either a felony or a misdemeanor crime at the time of
6 the entry to be guilty of burglary.

7 The mere entering into a dwelling without
8 consent is not burglary. If the intent to commit a
9 crime is formed after the entry, it is not burglary. On
10 the other hand, if the defendant intended to commit a
11 crime at the time of the entry, it is a burglary even if
12 the intent was abandoned after the entry. It does not
13 matter that the intended crime was not completed.
14 Intent may be shown by acts or conduct of the defendant
15 and other circumstances from which you may naturally and
16 reasonably infer intent.

17 The state alleges that the defendant intended
18 to commit a larceny when he allegedly entered into the
19 dwelling. A larceny is the taking and carrying away of
20 the property of another against the will or without the
21 consent of the other person with the intent to
22 permanently deprive the owner of the property. If you
23 find that the defendant did not intend to commit the
24 crime of larceny when he allegedly entered the dwelling,
25 you must find the defendant not guilty of burglary in

1 the second degree.

2 Mere presence at the scene is not sufficient
3 to prove someone guilty of a crime. A defendant's
4 presence where a crime is being committed or mere
5 association with a person who commits a crime does not
6 make a defendant an accomplice or an aider and abettor
7 of the person committing the crime.

8 The burden is on the state to prove every
9 element of the crime charged. If you find after
10 reviewing all the evidence that the state has proved
11 that the defendant was only present at the scene of the
12 crime and that they have not proved beyond a reasonable
13 doubt any other participation in the crime, then you
14 must find the defendant not guilty. The law is that
15 proof of at the scene of a crime is not sufficient to
16 find someone guilty.

17 Ladies and gentlemen, you will have two
18 verdict forms.

19 And, Mr. Foreman, it is your responsibility
20 to sign and date the verdict form. As I indicated
21 before, there will be two verdict forms, and you have to
22 sign each verdict independently of the other.

23 In no particular significance, one simply
24 must go first: Docket number 2008-GS-08-1669, State of
25 South Carolina vs. Jeffrey Michaelson, number one, we

1 the jury find the defendant not guilty or, number two,
2 we the jury find the defendant guilty of burglary in the
3 second degree.

4 You must certify that the decision is the
5 unanimous decision. All twelve of you must agree on
6 your decision. Mr. Foreman, you will sign the verdict
7 form and date it.

8 Again, with no particular significance:
9 2009-GS-08-2295, The State of South Carolina vs. Jeffrey
10 Michaelson, verdict, we the jury find the defendant not
11 guilty or we the jury find the defendant guilty of
12 murder.

13 Again, you will sign the verdict form,
14 indicating it is the unanimous decision of the jury and
15 date it.

16 Ladies and gentlemen, this will be the last
17 time I make this comment to you. Do not begin your
18 deliberations. Do not discuss this case amongst
19 yourselves. We will be gathering the evidence that will
20 go back to the jury room with you, and until you are
21 told to begin your deliberations do not do so.

22 Mr. Alternate, you will remain in a separate
23 room until I give you further instructions.

24 And so until then, do not discuss this case
25 amongst yourselves. Do not begin deciding any issue in

1 this case until you are told to do so.

2 Please rise for the jury.

3 (Whereupon, the jury leaves the courtroom at
4 approximately 11:40 a.m.)

5 THE COURT: Thank you. Be seated.

6 Any objections to the charge from the state?

7 MS. WILLIAMS: None from the state, Your
8 Honor.

9 MS. KENNEDY: None from the defense, Your
10 Honor.

11 THE COURT: All right. And we have agreed on
12 the exhibits that go back. Is that correct?

13 MS. WILLIAMS: It is, Your Honor.

14 THE COURT: And does the state have any
15 position as to the indictments going back?

16 MS. WILLIAMS: I do request that they do go
17 back, Your Honor.

18 THE COURT: Ms. Kennedy.

19 (Ms. Kennedy and Mr. Schwacke confer.)

20 MS. KENNEDY: Your Honor, given your charges,
21 I really don't think that they -- that they need the
22 indictments. So that would be my objection.

23 MS. WILLIAMS: That's fine with us, Your
24 Honor. It's not that important of an issue.

25 THE COURT: All right. So the verdict forms

1 will go back. And I believe both the state and the
2 defendant have had an opportunity to review the verdict
3 forms yesterday?

4 MR. ALFARO: Yes, Your Honor.

5 THE COURT: They have not changed, and so
6 with that, the verdict forms and the evidence will go
7 back.

8 Anything further from the state?

9 MS. WILLIAMS: Nothing further from the
10 state, Your Honor.

11 THE COURT: Anything further from the
12 defendant?

13 MS. KENNEDY: Not at this time, Your Honor.

14 THE COURT: The state's position as to
15 allowing Mr. Michaelson to remain on bond?

16 MS. WILLIAMS: That's fine, Your Honor. Just
17 our position would still be the same. Initially when we
18 -- we articulated our position that we thought that he
19 should not remain on bond, but we respect the Court's
20 decision and think it's consistent to -- to remain
21 throughout this process, as well.

22 THE COURT: Mr. Michaelson, please rise.

23 (The defendant stands at counsel table.)

24 THE COURT: We are now awaiting the verdict
25 of the jury. I will allow you to remain out on your

1 current bond. You may continue as far as custody. As
2 far as the likelihood of some other matter occurring, I
3 ask that you remain in close proximity to the courtroom
4 so that you may be present if there is any question from
5 the jury or any other procedural matter.

6 THE DEFENDANT: I will.

7 THE COURT: Thank you.

8 With that, we will be at ease awaiting a note
9 or a verdict. Thank you.

10 (Whereupon, the jury begins deliberation at
11 approximately 11:45 a.m.)

12 (The trial reconvenes at approximately
13 12:40 p.m., the defendant being present with counsel,
14 Ms. Kennedy and Mr. Schwacke, and the following
15 proceedings were had:)

16 THE COURT: I've received a note requesting
17 the definition of second degree burglary and a
18 transcript of the wife's testimony. I've indicated to
19 the jury that we will bring them back, and I assume
20 that's Ms. Thomas's testimony, and we'll bring them back
21 in and play Ms. Thomas's testimony.

22 MS. WILLIAMS: There's two wives.

23 THE COURT: All right. We will -- I'll
24 ask the foreperson. It may be Ms. Ahrenholz. I
25 apologize.

1 All right. Anything before we bring in the
2 jury?

3 MS. WILLIAMS: Nothing from the state, Your
4 Honor.

5 MS. KENNEDY: Nothing further. Thank you.

6 THE COURT: The note will be marked as
7 Court's five. I have sent back the definition part only
8 of the second-degree burglary that I read to the jury
9 and that will be marked as Court's six.

10 Please bring in the jury.

11 (Court's Exhibit No. 5, note from the jury,
12 is marked for identification.)

13 (Whereupon, the jury enters at approximately
14 12:55 p.m.)

15 THE COURT: Thank you. Be seated.

16 Ladies and gentlemen of the jury, I received
17 your note. It has been marked Court's exhibit five for
18 the record. I have sent back to you the definition of
19 second-degree burglary. And we will be playing the
20 testimony, the audio testimony of Ms. Ahrenholz.

21 (The testimony of Brenda Ahrenholz begins
22 playback at approximately 12:58 p.m.)

23 (The testimony of Brenda Ahrenholz stops
24 playback at approximately 1:28 p.m., and the following
25 proceedings are had:)

1 THE COURT: I have received a note from the
2 jury you heard the part of the testimony that you
3 needed.

4 Any objection to excusing the jury at this
5 time?

6 MS. WILLIAMS: None from the state.

7 THE COURT: From the defense?

8 MS. KENNEDY: No, ma'am.

9 THE COURT: Thank you.

10 This will be Court's exhibit seven.

11 You are excused to continue your
12 deliberation.

13 Please rise for the jury.

14 (Whereupon, the jury goes to the jury room at
15 approximately 1:30 p.m.)

16 (Court's Exhibit No. 7, note from the jury,
17 is marked for identification.)

18 THE COURT: Thank you. Be seated. We're at
19 ease.

20 (The trial is in recess at approximately
21 1:30 p.m.)

22 (The trial reconvenes at approximately
23 1:43 p.m., the defendant being present with counsel,
24 Ms. Kennedy and Mr. Schwacke, and the following
25 proceedings were had:)

1 THE COURT: Thank you. Please be seated.
2 All right. I understand we have a verdict.
3 Anything before we bring in the jury?

4 MS. WILLIAMS: Nothing from the state, Your
5 Honor.

6 THE COURT: Ms. Kennedy.

7 MS. KENNEDY: No, Your Honor.

8 THE COURT: All right. Let's bring in the
9 jury.

10 (Whereupon, the jury enters the courtroom at
11 approximately 1:45 p.m.)

12 THE COURT: Thank you. Please be seated.
13 I understand you have reached a verdict. If
14 you'll please hand the verdict forms to the bailiff.

15 (The foreman complies.)

16 (The verdict forms tendered to the Court.)

17 THE COURT: Will the defendant please rise.

18 (The defendant, Ms. Kennedy, and Mr. Schwacke
19 stand at counsel table.)

20 THE COURT: Madam Clerk.

21 THE CLERK: State of South Carolina
22 vs. Jeffrey A. Michaelson, indictment number
23 2008-GS-08-1669, we the -- we the jury find the
24 defendant not guilty. Signed by the foreperson,
25 Mr. Scarborough.

1 State of South Carolina, Jeremy (sic)
2 A. Michaelson, indictment number 2009-GS-08-2295, we the
3 jury find the defendant guilty of murder. Signed by the
4 foreperson, Malcolm Scarborough.

5 If this is your verdict, please signify by
6 raising up your right hand at this time.

7 (Whereupon, each member of the jury raises
8 their right hand.)

9 THE CLERK: Thank you.

10 THE COURT: Anything further required of the
11 jury from the defendant?

12 MS. KENNEDY: Your Honor, we'd respectfully
13 request that you poll the jury.

14 THE COURT: All right. Madam Clerk, please
15 poll the jury.

16 THE CLERK: Juror 156 ---

17 MR. SCARBOROUGH: Yes.

18 THE CLERK: --- Malcolm Scarborough, is this
19 your verdict?

20 MR. SCARBOROUGH: Yes, ma'am.

21 THE CLERK: Is it still your verdict?

22 MR. SCARBOROUGH: Yes, ma'am.

23 THE CLERK: Juror 173, Christina Tebben.

24 MS. TEBBEN: Yes, ma'am.

25 THE CLERK: Is this your verdict?

1 MS. TEBBEN: Yes, ma'am.
2 THE CLERK: Is it still your verdict?
3 MS. TEBBEN: Yes, ma'am.
4 THE CLERK: Juror 33, Denise Chandler.
5 MS. CHANDLER: Yes, ma'am.
6 THE CLERK: Is this your verdict?
7 MS. CHANDLER: Yes, ma'am.
8 THE CLERK: Is it still your verdict?
9 MS. CHANDLER: Yes, ma'am.
10 THE CLERK: Juror number five, Brian A.
11 Allison, is this your verdict?
12 MR. ALLISON: Yes.
13 THE CLERK: Is it still your verdict?
14 MR. ALLISON: Yes.
15 THE CLERK: Juror 90, Brenda Johnson.
16 MS. JOHNSON: Yes.
17 THE CLERK: Is this your verdict?
18 MS. JOHNSON: Yes.
19 THE CLERK: Is it still your verdict?
20 MS. JOHNSON: Yes.
21 THE CLERK: Juror 57, Eric Gabriel.
22 MR. GABRIEL: Yes.
23 THE CLERK: Is this your verdict?
24 MR. GABRIEL: Yes, ma'am.
25 THE CLERK: Is it still your verdict?

1 MR. GABRIEL: Yes, ma'am.
2 THE CLERK: Juror 145, Soni Ring.
3 MS. RING: Yes.
4 THE CLERK: Is this your verdict?
5 MS. RING: Yes, ma'am.
6 THE CLERK: Is it still your verdict?
7 MS. RING: Yes, ma'am.
8 THE CLERK: Juror 112, Debra Mallard.
9 MS. MALLARD: Yes.
10 THE CLERK: Is this your verdict?
11 MS. MALLARD: Yes.
12 THE CLERK: Is it still your verdict?
13 MS. MALLARD: Yes.
14 THE CLERK: Juror 97, Rhonda Key.
15 MS. KEY: Yes.
16 THE CLERK: Is this your verdict?
17 MS. KEY: Yes.
18 THE CLERK: Is it still your verdict?
19 MS. KEY: Yes.
20 THE CLERK: Juror 40, Debra Davis.
21 MS. DAVIS: Yes.
22 THE CLERK: Is this your verdict?
23 MS. DAVIS: Yes.
24 THE CLERK: Is it still your verdict?
25 MS. DAVIS: Yes.

1 THE CLERK: Juror 138, Shanara Pou.
2 MS. POU: Yes.
3 THE CLERK: Is this your verdict?
4 MS. POU: Yes, ma'am.
5 THE CLERK: Is it still your verdict?
6 MS. POU: Yes, ma'am.
7 THE CLERK: Juror 64, Carlese Golden.
8 MS. GOLDEN: Yes.
9 THE CLERK: Is this your verdict?
10 MS. GOLDEN: Yes, ma'am.
11 THE CLERK: Is it still your verdict?
12 MS. GOLDEN: Yes, ma'am.
13 THE CLERK: Your Honor, I have polled the
14 jury, and the verdict stands.
15 THE COURT: Thank you.
16 Anything further?
17 MS. KENNEDY: No, Your Honor. Thank you.
18 THE COURT: Thank you.
19 Anything further from the state?
20 MS. WILLIAMS: Not at this time, Your Honor.
21 THE COURT: Ladies and gentlemen of the jury,
22 this concludes your service to this matter. If you
23 would please wait in the jury room, and I will be in
24 just -- in just a few moments to excuse you.
25 Please rise for the jury.

1 (Whereupon, the jury goes to the jury room at
2 approximately 1:47 p.m.)

3 THE COURT: Thank you. Please be seated.

4 Outside of the presence of the jury, anything
5 further from the state?

6 MS. WILLIAMS: No, Your Honor. We would just
7 ask for a couple of minutes before sentencing.

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

10 MS. KENNEDY: Yes, Your Honor.

11 Just for purposes of the record, Your Honor,
12 I would renew all motions and objections made during the
13 course of the proceedings. I would also ask for a
14 motion for acquittal notwithstanding the verdict.

15 And, Your Honor, I would also renew my motion
16 for -- my continuing motion for a continuance based on
17 the -- my inability or our inability of presenting a
18 defense due to Detective Merrithew's voluntary absence
19 from the jurisdiction and -- and because of that, our
20 belief and concern is that the proceedings have been
21 inherently prejudicial to Mr. Michaelson.

22 THE COURT: All right. The Court stands by
23 all of the previous rulings. Further, based upon the
24 testimony that has been presented, my observation of the
25 jury, I deny your motion notwithstanding the verdict at

1 this time.

2 MS. KENNEDY: Thank you, Your Honor.

3 THE COURT: Ms. Kennedy, are you prepared for
4 sentencing at this time?

5 MS. KENNEDY: Yes, Your Honor.

6 THE COURT: All right. We'll take just a few
7 moments. I'm going to release the jury, and take just a
8 few moments to prepare the sentencing sheet. Thank you.

9 (Court's Exhibit No. 6, definition of
10 burglary second degree, is marked for identification.)

11 (A break is taken at approximately 1:50 p.m.)

12 (The trial reconvenes at approximately
13 2:00 p.m., the defendant being present with counsel,
14 Ms. Kennedy and Mr. Schwacke, and the following
15 proceedings were had:)

16 THE COURT: Thank you. Be seated.

17 All right. On behalf of the state, I have
18 heard all the testimony. Is there anything additional?

19 MS. WILLIAMS: Your Honor, the mother of the
20 victim, Frances Reeves, would like to address the Court.
21 As Your Honor knows, there's a minimum of thirty years.
22 She is going to ask the Court to give Mr. Michaelson
23 life. Considering the brutality of the crime and the
24 malice involved in burying his body in his yard and
25 letting the family suffer for six and a half years, we

1 can't disagree with her position.

2 And, Your Honor, I know that you can't
3 sentence people differently just because, you know, they
4 had a trial. The trial does give you an opportunity to
5 hear details that you might not hear in a plea, and we
6 would just ask you to take into consideration all of the
7 gruesome details and the horrible nature of this cold
8 blooded murder.

9 And Frances Reeves would like to address the
10 Court, Your Honor. I think she has something that she
11 wants to hand up, as well. She is handing up a letter
12 that she wrote to her son.

13 (Document tendered to the Court.)

14 THE COURT: All right. Ms. Reeves, I'll be
15 happy to hear from you.

16 MS. REEVES: Okay. My name is Frances
17 Reeves. And since this happened on 19 -- 2001, January
18 the 19th, I have not been able to eat, I don't sleep
19 good without a pill, and I've been in the hospital twice
20 because of this. And I'm still not in good condition,
21 and I've lost from 138 to 116, and they had to give me
22 four bags of blood to keep me going. And I'm -- I'll
23 still suffer, no matter what.

24 I went around to all the places that I know
25 to get help. We checked out, I know, the FBI, "Unsolved

1 Mysteries," John Walsh. I've done talked to all of them
2 for help to get to find my son, and that's when I wrote
3 that there because I was feeling depressed.

4 And I took a petition up and got a lot of
5 signatures of giving him life without parole. I beg you
6 to have life without parole for what he done. And
7 everyone read everything before they even signed it,
8 everyone that put their signature on this paper.

9 So I would appreciate if I could in some way
10 know that he got life for what he done to my son. I
11 mean, he wasn't garbage. He was a young man, and he
12 didn't deserve this.

13 The Ten Commandments, I do not kill. I do
14 not. You know, it's in the -- it's in there. Thou
15 shalt not kill. And it was done, and it was wrong. He
16 took something away, and he ruined my life. And he
17 ruined my daughter-in-law's life, too. He messed up
18 everything by doing this.

19 And I appreciate whatever you can do. I
20 thank you for that.

21 THE COURT: Thank you, Ms. Reeves, and I'm
22 sorry for your loss. Thank you.

23 Anything further from the state?

24 MS. WILLIAMS: Nothing further from the
25 state, Your Honor.

1 THE COURT: And, Ms. Williams, I understand
2 Mr. Michaelson does not have any convictions, prior
3 convictions. Is that correct?

4 MS. WILLIAMS: No, Your Honor, he does not.

5 THE COURT: All right. Thank you.

6 Ms. Kennedy, I'll be happy to hear from
7 anyone regarding sentencing.

8 MS. KENNEDY: Your Honor, I -- we all --
9 obviously, we all sympathize with Ms. Reeves and the
10 position that she's in.

11 I think the Court heard all -- all the
12 various witnesses in terms -- and the solicitor's own
13 acknowledgment that Jeremiah Feaster and Trey Feaster
14 are also guilty of murder. I understand the gruesome
15 nature of what occurred after the event, but I would
16 emphasize to the Court that it's -- the malice as -- as
17 reflected in the jury verdict was because of the murder
18 only, and I believe he was convicted based on the theory
19 that the hand of one is the hand of all. What we don't
20 know at this point, in fairness to Mr. Michaelson, is
21 how the other people who are, I hope, soon to be tried
22 are going to be treated.

23 In fairness to Mr. Michaelson, I respectfully
24 request that you impose the minimum sentence. He will
25 be 31 years of age in December. He has two small

1 children. Given the fact that this sentence, that it's
2 a thirty year day-for-day, that obviously means that he
3 will be 61 years old or close to it by the time he would
4 be released. Your Honor, I would submit to you under
5 these circumstances that is -- that that is a life
6 sentence and respectfully request that you sentence him
7 accordingly.

8 THE COURT: Anyone else wish to address the
9 Court, Ms. Kennedy?

10 MS. KENNEDY: No, Your Honor. Thank you.

11 THE COURT: All right. And, Ms. Kennedy,
12 have you advised Mr. Michaelson that this is classified
13 as a violent and a most serious offense?

14 MS. KENNEDY: Yes, Your Honor. He
15 understands it's non-parolable.

16 THE COURT: And, Ms. Kennedy, have you also
17 advised Mr. Michaelson of his appellate rights?

18 MS. KENNEDY: Yes, Your Honor, and including
19 his right to file an action for postconviction relief.

20 THE COURT: All right. Thank you.

21 Mr. Michaelson, please rise.

22 (The defendant, Ms. Kennedy, and Mr. Schwacke
23 stand at counsel table.)

24 THE COURT: Mr. Michaelson, sentencing is one
25 of the toughest things that I do in my job as a judge.

1 I have listened attentively to the facts as presented.
2 I have observed you. I have listened to the testimony.
3 I have heard from Ms. Reeves and how the death of her
4 son has impacted her and her family. I have also
5 observed your behavior throughout the trial, and I have
6 taken into consideration when I have crafted my sentence
7 that you have not -- you did not at the time of the
8 murder nor have you had since any convictions.

9 So it is the order of the Court,
10 Mr. Michaelson, that you be committed to the State
11 Department of Corrections for a term of forty-five
12 years. Good luck to you, sir.

13 Anything further?

14 MS. WILLIAMS: Nothing from the state, Your
15 Honor.

16 THE COURT: Anything further, Ms. Kennedy?

17 MS. KENNEDY: No, Your Honor. Thank you.

18 THE COURT: Thank you.

19 MR. ALFARO: Thank you, Your Honor.

20 THE COURT: We're in recess, and with that,
21 that closes out our term of court. Thank you.

22 (Court's Exhibit No. 8, mother's letter to
23 son, is marked for identification.)

24 (Whereupon, the trial concludes at
25 approximately 2:05 p.m.)


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CERTIFICATE OF THE COURT REPORTER

I, the undersigned, Brenda Cooley, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true and accurate transcript of record of the proceedings had and the evidence introduced in the hearing of the captioned case, Volume II of II, pages 472 through 940, inclusive, relative to appeal, in the Court of General Sessions for Berkeley County, Moncks Corner, South Carolina, on the 6th, 7th, and 8th days of July 2010.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 18, 2010



Brenda Cooley
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF BERKELEY COURT OF GENERAL SESSIONS
WARRANT NO. I727695
3 STATE OF SOUTH CAROLINA,)
4 Plaintiff,)
5 vs.) PRELIMINARY HEARING
6 JEFFERY MICHAELSON,)
7 Defendant.)
8 _____)
9 STATE OF SOUTH CAROLINA,) WARRANT NO. I72763
10 Plaintiff,)
11 -vs-)
12 KATHERINE FEASTER,)
13 Defendant.)
14 _____)
15
16 DATE: December 7, 2007
17 TIME: 11:15 am.
18 LOCATION: 300-B California Avenue
Moncks Corner, South Carolina
19
20 REPORTER: Norma T. Evans
21 _____
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A-P-P-E-A-R-A-N-C-E-S

For the Plaintiff: State of South Carolina
 By: Jennifer C. Porter, Esq.
 300-B California Avenue
 Moncks Corner, SC 29461

For the Defendant: Berkeley County Pubic Def.
 Michaelson By: Patricia Kennedy, Esquire
 219 N. Highway 52
 Suite 1
 Moncks Corner, SC 29461

For the Defendant: Feldman Law Firm
 Feaster By: Stanley Feldman, Esquire
 3 Wesley Drive
 Charleston, SC 29407

I-N-D-E-X

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1 P-R-O-C-E-E-D-I-N-G-S

2 (Detective Merrithew, having been duly sworn,
3 testified as follows:)

4 THE COURT: My understanding is that both
5 defendants want to have their preliminary hearing
6 together?

7 MS. KENNEDY: Yes, Your honor.

8 THE COURT: And you are okay over here?

9 MR. FELDMAN: Yes, very much so Your Honor.

10 THE COURT: Okay. And will you please state your
11 name for the record.

12 MRS. FEASTER: Katherine Feaster.

13 THE COURT: Mrs. Feaster, you are charged with
14 arrest warrant I72763, accessory after the fact of
15 murder. K082289, receiving stolen goods. Do you
16 understand the charges and waive the reading of the
17 warrants?

18 MR. FELDMAN: We would waive the reading, Your
19 Honor.

20 THE COURT: Thank you very much. Please state
21 your name for the record.

22 MR. MICHAELSON: Jeffery Michaelson.

23 THE COURT: Mr. Michaelson you are charged with
24 warrant I727695, the charge is murder, do you
25 understand the charge and do you waive reading of the

1 warrant?

2 MS. KENNEDY: Yes, Your Honor, we do.

3 THE COURT: Thank you very much. The witness has
4 been sworn, if the State would like to proceed.

5 DIRECT EXAMINATION

6 BY MS. PORTER:

7 Q Thank you very much, Your Honor, if it please
8 the Court. Detective Merrithew, or Detective Sgt.
9 Merrithew, if you could just briefly describe for the
10 Court what facts and circumstances gave rise to
11 establish probable cause initially for the accessory
12 after the fact for murder in the case of Katherine
13 Feaster. And the receiving stolen goods.

14 A On January -- correction February 2nd, 2001 a
15 police report was filed for the residence of [REDACTED] Allen
16 Park Lane. In this particular police report, it listed
17 burglary and also that -- they called it suspicious
18 activity in the report, but the person was missing from
19 that location. They did some investigation on the
20 case, back in that time, and the case went cold.

21 In 2006, I was assigned the case. I contacted the
22 missing person's mother, in this case whose name was
23 Francis Reeves, who is also the owner of the house in
24 which the goods was stolen. I asked her for a list of
25 names of family members that lived in the area, and

1 friends during that period of time. I got that list of
2 names from her and I ran it through the pawn shop list,
3 for that time frame, 2001. And armed with a list of
4 stuff that was missing, a name popped up as pawning the
5 same list that was provided to me, listed as being
6 missing from the residence at that time that the
7 burglary took place and the individual turned up
8 missing.

9 The individual that pawned these items was in fact
10 his step-daughter who is the Defendant here today, Mrs.
11 Feaster. Katherine Feaster. I went back through the
12 pawn records and they had sold some of the jewelry. I
13 found a piece of the jewelry in possession of an
14 individual in Greenville, South Carolina. Made contact
15 with him. He mailed the jewelry to me. I presented
16 the jewelry which is a unique piece of jewelry, it had
17 been described perfectly by Ms. Reeves, his
18 common-law-wife. Also Mrs. Feaster's mother. I
19 presented that to her and also Ms. Francis Reeves,
20 which is the victim's mother. And they identified that
21 piece of jewelry as being one of the pieces of jewelry
22 that was stolen.

23 I also noted that the list that they gave me also
24 matched the list of items that were pawned. Some of
25 those items could not be recovered because they were

1 sold by cash, so I couldn't run those items down. I
2 issued a warrant for Mrs. Feaster for possession of
3 stolen goods. We traveled -- put her in NCIC.
4 Traveled to the county in which she lived, had it
5 counter signed. Went by her residence, we went to her
6 residence and placed her under arrest. She was read
7 her rights, made arrangements for her, we allowed her
8 to change clothes, make arrangements for her kids,
9 transported her back down to Berkeley County. At which
10 time, she told us that, you know, we told her what her
11 charge was and what we told her -- we knew that she had
12 been involved in the disappearance of her step-father,
13 at which time she told us that she knew what happened
14 and she named people involved, which would be her
15 husband, her brother and their friend, which is also in
16 the courtroom, and a Defendant today, Mr. Michaelson.
17 And she also said that she did pawn the jewelry.

18 From there we called in the Defendants, one by
19 one. Her husband -- or her brother, I should say came
20 in. He also was Mirandized and confessed that he was
21 at the scene when the victim was murdered. And next
22 Mr. Feaster came in, which is Mrs. Feaster's husband.
23 He also confessed that he knew about the murder and he
24 knew where the body was buried. We also located Mr.
25 Michaelson, brought him in, read him his rights, which

1 he confessed that he was on the scene, when the murder
2 happened and he knew where the body was.

3 Consequently from there, we contacted Mr.
4 Michaelson's girlfriend, I guess you would say
5 basically his common-law wife, they had a storage area
6 together. We got a consent to search from his
7 common-law wife, searched the storage facility in which
8 case we found some more of the stolen goods that was
9 taken from the victim's residence, at the time of the
10 burglary and the time he had been missing.

11 We also did a search warrant at a former residence
12 of Mr. Michaelson as well as Mr. Feaster and found the
13 body of the victim buried in a 55 gallon drum in the
14 front yard of the Defendants residence.

15 Consequently, all were charged. Mrs. Feaster
16 having knowledge of it after it took place, by her
17 husband telling her when he got home, was charged with
18 accessory after, and Mr. Michaelson confessing that he
19 was on the scene and also the two other defendants in
20 the case, Mr. Feaster and Jeremiah. Also placing Mr.
21 Michaelson on the scene and he confessed to being on
22 the scene, therefore he was charged with murder as well
23 as Mr. Feaster and Jeremiah.

24 Q Okay. And did Mr. Michaelson or Mr. Feaster
25 or the -- excuse me, Mrs. Feaster's brother admit to

1 pulling the trigger?

2 A Mr. Jeremiah said that Mr. Michaelson was in
3 the cab, the pickup with the victim. And that he felt
4 the vehicle jerk and he heard a pop, and they came to a
5 stop and Mr. Reeves was dead with a gun shot wound to
6 the head. Mr. Feaster said that when he met with Mr.
7 Jeremiah and Mr. Michaelson at the end of the road,
8 that Mr. Reeves was already dead with a gun shot wound
9 in the head. When we spoke to Mr. Michaelson, he
10 stated that Mr. Feaster shot Mr. Reeves in the head.
11 So basically -- and he said that he was in the back of
12 the truck, the same as Jeremiah said, they each said
13 they were in the back of the truck when the gun shot
14 took place.

15 Q And what did Mrs. Feaster say as to her
16 knowledge of who shot Mr. Reeves?

17 A Mrs. Feaster said that her husband informed
18 her and also her brother later did, that Mr. Michaelson
19 had shot the victim, Mr. Reeves, in the head.

20 Q Okay. So that leads us to Mr. Michaelson's
21 charges?

22 A That is correct.

23 Q So based upon those statements is why you
24 charged Mr. Michaelson with murder?

25 A That is correct.

1 Q Please answer any questions that whoever
2 wants to start, either Ms. Kennedy or Mr. Feldman has
3 for you.

4 MS. KENNEDY: It would be easier, Your Honor.

5 CROSS EXAMINATION

6 BY MS. KENNEDY:

7 Q Good morning Detective, how are you?

8 A Fine.

9 Q I just have a couple of questions in terms of
10 the sequence of when the statements were given. When
11 Mrs. Feaster gave her written statement, where was she?

12 A When she gave her written statement, she was
13 at the Berkeley County Sheriff's Office.

14 Q Okay. And the statement indicates that she
15 -- that that was given at 2:30 p.m. on August the 6th.

16 A Yes, ma'am.

17 Q When did you first meet with her in Pelzer,
18 what date was that?

19 A Same date.

20 Q So you went to her house on the morning of
21 August the 6th and brought her down?

22 A That is correct.

23 Q Okay. And as to her brother, and her
24 husband, I believe according to the statements, her
25 brother gave a statement at 8:27 the following morning.

1 And then her husband at 11:39 the following morning.

2 Where was Mr. Sherrer(sic) when he gave his statement?

3 A Berkeley County Sheriff's Office.

4 Q And you contacted him when to come in and
5 give his statement?

6 A It would have been about -- well, probably a
7 little before -- we spoke to Katherine, we called him.
8 It was some time after Katherine's statement, I don't
9 know exactly when. But he was all the way in
10 Cottageville and he had to find a ride and a couple of
11 other things, so it took him a while to get there.

12 Q So after you took Mrs. Feaster's statement,
13 you contacted Mr. Sherrer and I guess he made
14 arrangements to come in and meet with you the next
15 morning?

16 A No, ma'am. All of this was the sequence of
17 events that was still ongoing. After Mrs. Feaster's
18 statement, we did some follow up stuff, and then we
19 waited, we never went home. We waited until he came
20 in, that was -- he came in after 12:00 the morning of
21 the 7th. We stayed from the 6th right through.

22 Q I'm sorry, I stand corrected, so it was 1:00
23 in the morning.

24 A Yes, ma'am.

25 Q So by that time she had been in custody --

1 well, with the ride from Pelzer, I am guessing probably
2 20 hours?

3 A Without adding it up, you are probably right.
4 Somewhere in there, yes, ma'am.

5 Q And then he came in and he was the second
6 individual to give a statement, correct?

7 A That would be Mr. Sherrer, yes, ma'am.

8 Q And then the third person was Mrs. Feaster's
9 husband who came in, where was he when you took her
10 into custody?

11 A He was at work, somewhere in the Pelzer area,
12 which is way up there in Greenville County.

13 Q I am familiar with Pelzer. So was he -- when
14 you were talking with her, and you took her into
15 custody and you made all of these arrangements or
16 allowed her to make all of these arrangements for the
17 children, do you know whether or not there was any
18 contact between Mr. and Mrs. Feaster?

19 A No, there was no contact between those two.

20 Q Okay. And you initiated contact with Mr.
21 Feaster I assume at his home later that night?

22 A No, ma'am, actually one of the family
23 members, when they found out what was going on, they
24 had us contact him. We spoke to him and he came down.
25 He was actually up there in Greenville and he drove

1 down here and basically turned himself in basically.

2 Q And when he was in custody he gave a written
3 statement?

4 A Yes, ma'am.

5 Q And as I understand the sequence, it was not
6 until later, like 24 hours later that you contacted Mr.
7 Michaelson and obtained his statement from him?

8 A Let me check real quick to make sure I am
9 right when I say that. Actually, we spoke with him the
10 same day that we spoke to Mr. Feaster. We spoke to Mr.
11 Feaster in the morning hours, around 11:00. And we
12 spoke to Mr. Michaelson at about 4:10, somewhere along
13 in there.

14 Q By that time Mrs. Feaster is already in
15 custody, Mr. Sherrer is already in custody, Mr. Feaster
16 was already in custody.

17 A Correct.

18 Q And each of them had given a statement that
19 in someway implicated Mr. Michaelson and this murder?

20 A That is correct.

21 Q But those statements aren't necessarily
22 consistent, are they?

23 A In what form?

24 Q In terms of how it all came about. The plan
25 to kill Mr. Reeves.

1 A Oh, no.

2 Q So you will acknowledge that there are some
3 inconsistencies?

4 A Correct, yes, ma'am.

5 Q And do you have any -- based on your
6 investigation, do you have any knowledge that Mr.
7 Michaelson knew anything about Mr. Reeves?

8 A No, ma'am.

9 Q Ever had any contact with him whatsoever
10 prior to this incident?

11 A No, ma'am.

12 Q And he is in no way unlike all the other
13 suspects, related to Mr. Reeves, correct?

14 A Not that I know of.

15 Q Okay. And he has no personal animosity
16 towards Mr. Reeves as was reflected in these statements
17 of the other individuals?

18 A No, ma'am.

19 Q Okay. Now, you indicated that you -- I think
20 the first statement is they sold some of the items, who
21 is they?

22 A Where are you looking at, so I know what you
23 are talking about.

24 Q Your first statement in response to a
25 question from Ms. Porter was that you had gone to the

1 pawn shops, it was a cold case, you discovered that
2 they had sold some of the items. Would you be kind
3 enough to identify who they are?

4 A Yeah, I did. That was Mrs. Feaster.

5 Q Mrs. Feaster was the only they?

6 A Well, the they was the list, I got a list of
7 names, and they was one of the person off of the list
8 and that would be Mrs. Feaster.

9 Q So Mrs. Feaster is the only person that had
10 disposed of any of the items at the pawn shop?

11 A Yes, ma'am. Your particular client had some
12 at his storage area.

13 Q I understand that, but we are talking about
14 the beginning of the investigation.

15 A Yes, ma'am.

16 Q Okay. How long had Mrs. Feaster been in
17 custody when she gave you this written confession?

18 A When she gave us the written confession, we
19 picked her up that morning I guess probably around
20 12:00. So she had been in custody probably a couple of
21 hours.

22 Q And that was on the possession of the stolen
23 goods charge, correct?

24 A Correct.

25 Q At what point did she become aware, when you

1 picked her up early in the morning until the time she
2 gave her statement at 2:30 in the afternoon.

3 A About ten minutes into it.

4 Q Into?

5 A The ride down.

6 Q Into the ride down?

7 A Yes, ma'am.

8 Q And did y'all discuss the case and the
9 particulars of it on the ride down?

10 A Yeah, we talked, she told me what happened,
11 we just got it in writing when we got back.

12 Q Okay. So all of the interrogation took place
13 in the police car on the ride down from Pelzer to
14 Berkeley, and it was memorialized in a statement at
15 4:00?

16 A Yes, ma'am.

17 Q Okay. All right. Do you have any knowledge
18 whatsoever that Mrs. Feaster had an opportunity to talk
19 to her husband or her brother about what she told you
20 in her written statement?

21 A No, there was no chance of that.

22 Q Please tell me why there is no chance of
23 that?

24 A I knew where she was, the whole time.

25 Q So she never had an opportunity to use the

1 phone?

2 A She was with us the whole time.

3 Q Okay.

4 A Because we wanted to make sure that that
5 didn't happen.

6 Q I understand that. And was there ever an
7 opportunity when Mr. Feaster and Mr. Sherrer came in,
8 was there ever an opportunity for them to talk to her
9 when they got to Berkeley County?

10 A Prior to their statements?

11 Q Yes, sir.

12 A No, ma'am.

13 Q Okay. And as I understand it or surmise what
14 happened is you had her statement, then you used that
15 statement as a basis to interview Mr. Sherrer and Mr.
16 Feaster?

17 A Correct.

18 Q And then they were allowed to fill in the
19 details as they might?

20 A I don't understand that part.

21 Q Well, because you already acknowledge that
22 there were inconsistencies in the statements, in terms
23 of who did what and who was where. And one thing that
24 we know for sure is that they are all implicating Mr.
25 Michaelson.

1 A And themselves.

2 Q I understand that. But I don't represent
3 them. I represent him. Okay. So what I am asking you
4 about in terms of you already acknowledge that there
5 were inconsistencies in the statements, so to me that
6 means that they are allowed to fill in the details
7 however, based on your questions.

8 A Well, I don't know quite what you meant or
9 what they told me is the only thing I can get from
10 them. I couldn't tell them what to say, but that is
11 what they asked me and that is what we wrote down.

12 Q I just want to make sure, because in one
13 statement it says that Mr. Michaelson was upset because
14 his grandmother died. And he felt like killing
15 somebody and they all say let's go kill Parish. And he
16 doesn't even know Parish, is that right?

17 A As far as I know, yes, ma'am.

18 Q That is reflected in the statements?

19 A Yes, ma'am.

20 Q And then another statement --

21 MS. PORTER: Your Honor, if we can ask questions,
22 that would be more appropriate.

23 Q I did say correct at the end of it, Your
24 Honor.

25 THE COURT: Go ahead.

1 Q And Mr. Sherrer had something else to say
2 entirely, correct?

3 A You know, I don't know about entirely. They
4 all basically say that Parish Reeves is dead, due to a
5 gun shot from Mr. Michaelson.

6 Q Well, okay.

7 A Except for Mr. Michaelson.

8 Q Mr. Sherrer says that Mr. Michaelson says he
9 is going to deal with Mr. Reeves, correct?

10 A Yes, ma'am.

11 Q But no explanation as to why since Mr.
12 Michaelson doesn't even know Mr. Reeves, correct?

13 A I guess the only way he would know anything
14 about Mr. Reeves is he would have got it from the
15 Feasters. And Mr. Jeremiah, yes, ma'am.

16 Q All of whom are related to the victim?

17 A That is correct.

18 Q Okay. And the comment about you know, Mr.
19 Michaelson's grandmother being dead and he felt bad
20 about it, that came from Mr. Feaster, correct?

21 A If my memory serves me correctly, yes, ma'am.

22 Q Okay.

23 A I can look that up and verify it if you want
24 me to.

25 Q That is okay, I have it right here. Thank

1 you. Do you have -- let me ask you this, in terms of
2 did you have a search warrant for the storage facility?

3 A No, ma'am, that was consent to search from
4 Mr. Michaelson's common law.

5 Q Mr. Michaelson's common-law?

6 A Yes, ma'am.

7 Q What interest did she have in the storage
8 facility?

9 A They have stuff in there together.

10 Q Was it hers, or I mean who had rented it,
11 whose name was it in?

12 A I don't know that.

13 Q All right. Do you have a written consent to
14 search form signed by his common-law wife?

15 A Yes, ma'am.

16 Q Okay. Would you be kind enough to provide
17 that to me or the solicitor at some point so I can get
18 it.

19 A I'm sorry, I didn't realize you didn't have
20 it. Yes, ma'am, I will.

21 Q All right. Now, as to the way the body was
22 disposed of, do you have -- who rented the bush hog?

23 A It appears at this point that Mr. Feaster
24 rented it. The business is actually out of business,
25 and we spoke -- the guy that owned it actually died.

1 So we spoke to a family member who said that she found
2 -- that she had found I guess for lack of better term
3 she found some documentation that showed that. And she
4 is going to provide us, she is trying to find the
5 actual receipt where the thing was signed and all of
6 that, and as soon as she does that, she will provide it
7 to us.

8 Q But based on your investigation to this
9 point, it appears that Mr. Feaster was actually the one
10 who did that.

11 A Yes, ma'am, I think he told me he did it
12 also.

13 Q Okay. Court's indulgence. No further
14 questions, Your Honor.

15 CROSS EXAMINATION

16 BY MR. FELDMAN:

17 Q Thank you very much, Your Honor, may it
18 please the Court. Detective Sgt. Merrithew.

19 A Yes, sir.

20 Q Counsel asked you a question to which you
21 responded yes, about inconsistent plans. And not
22 inconsistent statements, but inconsistent plans. And I
23 was unclear about what counsel was asking and I was
24 wondering if you could enlighten me on what
25 inconsistent plans she was asking about or what that

1 meant to you when you heard the question.

2 A Well, basically I wasn't real sure what she
3 was asking me, but I think I know, so I am going to
4 tell you what I believe.

5 Q Okay.

6 A One of the statements says that Mrs. Feaster
7 came in because she went to borrow money and that the
8 victim in this particular case made some sexual
9 advances towards her. I am paraphrasing. If you want
10 me to I can read it word for word. That she told her
11 husband and the three individuals that are accused of
12 murder in this case, Mr. Michaelson, her husband and
13 her brother, all left the residence to go deal with Mr.
14 Reeves. I believe her brother said he didn't really
15 know why they left. But he said that they got up and
16 left and him being young, went with them. I believe
17 that Mr. Feaster said that they were going to go over
18 there basically and tell him to leave the wife alone or
19 to beat him up, somewhere along those lines. And that
20 Mr. Michaelson said that he was I guess for lack of a
21 better term in some type of mental distress about a
22 family member dying and that he felt like killing
23 someone. And that the only one that indicated -- and
24 Mr. Jeremiah also said that Mr. Michaelson said that he
25 was going to kill him or he found out later he was

1 going to kill him. So I am assuming that is what she
2 is talking about. About the initial what made them go
3 over there.

4 Q And those statements aside, does it still
5 appear to you that it was a robbery? I mean things
6 were taken like a robbery?

7 A Yes, sir.

8 Q You don't have any information that would
9 suggest that Katherine Feaster had advance knowledge of
10 this murder, do you?

11 A No, sir.

12 Q That is what confused me. The robbery was
13 inconsistent, yet still with some of the plans or
14 theories?

15 A Yes, sir.

16 Q And you may have said this, what is
17 Michaelson's common-law wife's name?

18 A Christine Thomas.

19 Q And Detective, you don't need to go over
20 this, do you have -- because I will get it, but do you
21 have an inventory or whatever it was that you got from
22 the pawn shop with respect to these things that were
23 pawned?

24 A Yes, sir.

25 Q And I will get that. Thank you very much for

1 answering my questions.

2 THE COURT: Anything further from the State?

3 MS. PORTER: No questions, Your Honor.

4 THE COURT: Okay. Motions.

5 MS. KENNEDY: We reserve all motions, Your Honor.

6 MR. FELDMAN: No motions, Your Honor.

7 MS. PORTER: Just ask that they bounded over for
8 trial.

9 THE COURT: Motion is granted.

10 (Whereupon, the hearing ended at 11:40 a.m.)

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1 STATE OF SOUTH CAROLINA)
) C-E-R-T-I-F-I-C-A-T-E
 2 COUNTY OF CHARLESTON)

3 I, Norma T. Evans, Notary Public, certify
 4 that I did have Detective Merrithew to appear before me
 5 at 11:15 o'clock a.m. on Friday, December 7, 2007, at
 6 Berkeley County Courthouse, Preliminary Hearing Court,
 7 at 300-B California Avenue, Moncks Corner, South
 8 Carolina; that the witness was duly sworn and cautioned
 9 to tell the truth, the whole truth and nothing but the
 10 truth; that the foregoing pages constitute a true and
 11 accurate transcript of her testimony given at that time
 12 and place.

13 I further certify that I am not of counsel or
 14 kin to any of the parties to this cause of action, nor
 15 am I interested in any manner in its outcome.

16 IN WITNESS WHEREOF I have hereunto set my
 17 hand and seal this the 17th day of December, 2007.

18
 19 
 20 _____
 Notary Public for South Carolina
 My Commission Expires November 3, 2015

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF CHARLESTON) 2008-GS-08-1669

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,) TRANSCRIPT OF RECORD
)
 VS.) April 16, 2010
)
 JEFFREY MICHAELSON,) Moncks Corner, South Carolina
)
 DEFENDANT.)
 _____)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, Judge

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

Anne Williams, Esquire
Attorney for the State

Patricia Kennedy, Esquire
Attorney for the Defendant Jeffrey Michaelson

Lisa Gay, Esquire
Attorney for Defendant Treze Feaster

VIVIAN CROSS
Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
MOTION HEARING	4			
CERTIFICATE OF REPORTER	36			

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
NO EXHIBITS PRESENTED DURING HEARING			

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1 P R O C E E D I N G S

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3 (Whereupon, Court convened with all parties present
4 when the following matters were had:)

5 THE COURT: All right. This is Jeffrey
6 Michaelson; is that correct?

7 MS. WILLIAMS: Yes, Your Honor.

8 THE COURT: And, Ms. Gay, you represent?

9 MS. GAY: Treze Feaster, Your Honor.

10 THE COURT: And you have filed a motion for
11 continuance as well?

12 MS. GAY: Well, Your Honor, she filed a motion
13 for a continuance. I filed a motion to join her motion
14 because it was filed late yesterday.

15 THE COURT: Do you have a copy of your motion,
16 Ms. Gay?

17 MS. GAY: I gave a copy to the State, Your Honor.
18 And I think I left it in my car this morning because I had
19 it from when I filed it yesterday.

20 So, Anne, do you have your copy?

21 MS. WILLIAMS: I don't.

22 MS. GAY: It was just a short paragraph. I can
23 get it to the Court right after we do this, Your Honor.

24 MS. WILLIAMS: They were both filed close to 5:00
25 yesterday and I have a copy of Ms. Kennedy's, but not Ms.

1 Gay's.

2 THE COURT: And, Ms. Williams, just procedurally,
3 just to bring the Court back up to speed as to where we
4 are?

5 MS. WILLIAMS: Yes, Your Honor.

6 Procedurally this case was set for trial previously on
7 October 12th, November 2nd, and November 30th. During the
8 last setting on November 24th that was Judge Dennis' term of
9 Court. On November 24th Ms. Kennedy filed a motion for
10 continuance and there was a meeting in Judge Dennis'
11 chambers with Brian Alfaro, Patti Kennedy, and David
12 Schwacke.

13 During the meeting Mr. Alfaro reiterated the fact that
14 we would not be calling Detective Merrithew as a witness
15 because the basis of Ms. Kennedy's motion was that
16 Detective Merrithew was absent. Judge Dennis continued the
17 trial for that term of court.

18 Then we set the status conference for this case on
19 March 23rd 2010. On March 22nd Ms. Kennedy presented Judge
20 Dennis with an order to memorialize the November 30th
21 continuance. The original order that was submitted had
22 that it would be continued until Detective Merrithew was
23 available.

24 Judge, we objected to that language because that's not
25 what he said. He agreed and had her change the language to

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1 reflect that the case was only continued for the November
2 term of court.

3 So, here we are again. A new motion has been filed.
4 To our knowledge there has never been any statements under
5 oath in accordance with Rule 7(b) regarding absentee
6 witnesses. And so that is primarily the purposes of this
7 hearing, to have her motion heard and I think the Court has
8 our response.

9 THE COURT: And, Ms. Williams, just so I'm clear,
10 basically a non-argumentative statement of the facts and
11 your -- what you believe that Judge Merri -- or excuse me
12 -- Gerald Merrithew would testify to.

13 MS. WILLIAMS: Your Honor, the facts are as
14 follows. On January 17th 2001 the victim, Mr. Parrish
15 Reeves, was reported missing. The case basically went cold
16 until August of 2007 when some jewelry owned by the
17 Defendant was recovered from a pawn shop tied to the
18 victim's stepdaughter, Katherine Feaster.

19 Ultimately Ms. Feaster confessed knowing about the
20 murder of Parrish Reeves, which she said occurred in
21 January of 2001. Her brother, Jeremiah Scharer, her
22 husband, Treze Feaster, and Treze Feaster's friend, Jeffrey
23 Michaelson, were charged with murder on August 7th 2007.
24 And police were led to the body which was buried in Mr.
25 Michaelson's front yard.

1 We do not -- We know of no information that Detective
2 Merrithew has independent of anybody else at the Berkeley
3 County Sheriff's Department. He interviewed three
4 witnesses on videotape and he was accompanied by a Berkeley
5 County Sheriff's Department either detective or deputy for
6 each one of the interviews. They are videotaped and they
7 are recorded. He collected no evidence outside the company
8 of another deputy.

9 We are not aware of anything that he could testify to
10 that someone else couldn't testify to. And that is why we
11 are prepared to go forward without him.

12 THE COURT: Thank you.

13 Ms. Kennedy, I'll be happy to hear from you.

14 MS. KENNEDY: Thank you, Your Honor. May it
15 please the Court? And I'll try to be brief, but it's going
16 to be difficult under the circumstances.

17 Your Honor, at the November 30th conference with Judge
18 Dennis the determination was made that at that point in
19 time, notwithstanding the same assertion made by the
20 assistant solicitor that this Detective, Gerald Merrithew,
21 would be a material witness in my case. The case was
22 continued for the November 30th term. My position on that
23 has not changed.

24 I was called -- I don't remember what -- if I -- And
25 also during that conference Judge Dennis made a couple of

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1 suggestions about how, you know, the dilemma of Detective
2 Merrithew could be resolved. One of which was to find out
3 when he's coming back. There was a suggestion made about
4 doing a deposition, which is not allowed by the rules or
5 the case law. There was a suggestion made, you know, given
6 the high-tech world that we live in that we could maybe do
7 some videotaped deposition. I found nothing in the rules
8 or the case law, given Judge Dennis' comments at that point
9 in time, that would support that.

10 And the case law is to the contrary quite frankly.
11 Our case law says that you can't -- deposition and
12 affidavit testimony is not admissible in a criminal case.
13 I would cite to the Court Logan v. Gatti, 288 SC 546, 347
14 S.E.2d 506. It's a Court of -- That's the most recent
15 case, a Court of Appeals case, 1986.

16 When I was contacted about setting up a status
17 conference before Your Honor on March 26th, the e-mail I
18 received and the information that I received from the
19 assistant solicitor was that we were going to -- it was a
20 scheduling conference, essentially a scheduling conference,
21 which then led me to assume, given the conversations and
22 discussions we had on November -- on the 5th with Judge
23 Dennis that some arrangements had been made to secure
24 Detective Merrithew's presence for the trial.

25 When Assistant Solicitor Williams advised Your Honor

1 that they don't know when he's coming back, that he's, you
2 know, he's on an unpredictable schedule, you know, and
3 asserted her theory that I didn't need him because they
4 didn't need to call him, then we went from, which is the
5 basis of the motion here today, we went from a Rule 7(b) of
6 criminal procedure motion to a motion that involves
7 critical and fundamental constitutional issues.

8 Your Honor, the sixth amendment to the constitution
9 says, In all criminal prosecutions the accused shall have
10 -- enjoy the right to a speedy and public trial, by an
11 impartial jury of the State and district wherein the crime
12 shall have been committed, which district shall have been
13 previously ascertained by law, and to be informed of the
14 nature and cause of the accusation; to be confronted with
15 the witnesses against him; to have compulsory process for
16 the obtaining of witnesses in his favor; and to have the
17 assistance of counsel for his defense.

18 Your Honor, I've submitted to the Court the seminal
19 case that addressed this issue. It's Washington versus
20 Texas. The cite is 388 U.S. 14, 87, Supreme Court, 1920,
21 18 L.Ed.2d 1019. And it goes through, Your Honor, a
22 lengthy discussion of the evolution of the sixth amendment,
23 the right to a speedy and public trial, impartial jury.
24 And there have been some -- All along in legal history
25 there have been cases which address each of those

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1 particular provisions of -- of the -- of the amendment.
2 You know, public trial, impartial jury, that has been
3 amended to include a Defendant's right to have a bench
4 trial.

5 The right to be confronted with witnesses, Your Honor,
6 that's why we're here today. The assistance of counsel for
7 his defense, that was resolved in Gideon v. Wainwright,
8 further modified by Shelton v. Alabama. I mention all of
9 those, Your Honor, because as I said, the sixth amendment
10 is an evolution of law.

11 THE COURT: Right.

12 MS. KENNEDY: So we address the issue of
13 compulsory process as outlined in that case and as
14 addressed in the issue that we are here today.

15 My client, through me, has a right to offer testimony
16 of any witness and compel that witness' attendance and a
17 right to present a defense. And I can present any defense
18 I want.

19 And my position right now is that Lieutenant -- I mean
20 Detective Merrithew would be a hostile witness that I would
21 have a right to call given his involvement in this case.

22 Your Honor, if you look at it and you think of it as a
23 triangle. And you divide it -- Or a pyramid. You divide
24 it up. There are four basic parts. The foundation is that
25 Mr. Reeves was reported missing in January of 2001.

1 There's some modification. There's a supplemental report
2 in 2005. Detective Gene Lee had that case. All right?
3 There was some investigation done on that. And then we --
4 So we're -- That's layer one, layer two.

5 Then we get to layer three, which is Detective
6 Merrithew. They're a known -- Layer four is when all these
7 folks were arrested.

8 I have a right to examine Detective Merrithew on the
9 process of his investigation on whenever he got it in 2006.
10 I believe I heard the assistant solicitor argue that, you
11 know, the case, they didn't pick up on the case until 2007,
12 there's nothing that Detective Merrithew didn't do unless
13 he did it in the presence of other people.

14 The case was supposed to go to trial in November. I
15 was provided with additional discovery materials on January
16 8th, a stack of which is -- Well, I'll just use this; this
17 is about right. That thick. (indicated) Okay? Which she
18 had additional information in it that had not previously
19 been provided to me in the discovery, which indicates that
20 there was a substantial amount of disc -- discovery --
21 discovery and investigation done by Detective Lee.

22 I have no idea and I won't have the opportunity to
23 know how that relates to what Detective Merrithew did. If
24 Detective Merrithew picked up this case sometime, my
25 information from the Sheriff's Office is in 2006, that that

1 may not -- they can't verify it. So we have a whole --
2 Just given, we'll just say it's mid-2006, there's a whole
3 year of investigation that went on from 2006 to August of
4 2007 when these folks were arrested.

5 The comment was made in November that it's the State's
6 position that this case started, the investigation started
7 with the arrest of these folks.

8 Your Honor, before that, before the date of that
9 arrest, Detective Merrithew had information that -- that
10 Ms. Feaster, the decedent's stepdaughter had pawned
11 jewelry. He followed up on that. He followed up on that
12 lead. He followed pawn tickets. He did a whole bunch of
13 preliminary investigation prior to the time that these
14 folks were taken into custody.

15 I believe it's the State's position -- And Ms. Feaster
16 was living in, I believe it was Pelzer. Detective
17 Merrithew went to Pelzer, South Carolina, to pick Ms.
18 Feaster up and -- with -- with a female deputy because
19 that's the policy, that's what's required. He can't
20 transport a female dep -- a female defendant without having
21 another officer there.

22 The sequence then is they pick up Ms. Feaster. Ms.
23 Feaster gives a statement implicating her brother and her
24 husband. Her husband gets picked up. The next day Mr.
25 Scharer turns, voluntarily turns himself in. My client is

1 the last one that they pick up. All right?

2 So there's a whole series of events that led them to
3 -- led Detective Merrithew to the point that he was at in
4 terms of the investigation that I have a right to cross
5 examine him on.

6 The jury has -- In order for my client to have a fair
7 trial, the jury has to hear both sides of it.

8 You know, they have a right to present their case; I
9 have a right to present mine. They don't have a right to
10 dictate what witnesses I get to call and how I get to
11 present it. The fundamental issue is my being able, in my
12 client's defense, to present the case that I believe that I
13 can present so that he can have a fair trial.

14 And we -- So we're way beyond the -- the -- the
15 criminal procedure Rule 7. The case law supports that.
16 There's some -- And assuming that the judge, Your Honor,
17 disagrees with me, there are fundamental rules of evidence
18 that we -- the admission of which we can't address in a
19 suppression hearing without Detective Merrithew. So, --
20 And we aren't even to that point yet.

21 There's evidence -- And again the information that was
22 provided to me in January that Travis Feaster had burglarized
23 -- burglarized Mr. Reeves' home prior to this incident.
24 That's certainly fodder for cross examination or, again, if
25 I call him as a hostile witness. Because either he did

1 something with that information or he didn't do something
2 with that information, which all goes to the quality of the
3 investigation, which I have every right to cross examine
4 him on.

5 THE COURT: All right. Ms. Kennedy, could you
6 indicate to the Court the -- It is your opinion that the
7 testimony of Detective Merrithew is material to your -- to
8 the defense of your client?

9 MS. KENNEDY: Yes, Your Honor. And it's just --
10 Just so we won't get into issues that because, as I said,
11 the comments Ms. Williams made in the status conference has
12 elevated this beyond a Rule -- a criminal-procedure rule.
13 It is -- We are now discussing constitutional issues and
14 process issues which supersede -- that supersede the rule.

15 Now, he's material for the reasons I've just stated.
16 He -- He was the person who did the investigation from 2006
17 on until 2007. In addition to which, Your Honor, he made
18 representations at a preliminary hearing that occurred on
19 December 7th 2007 about other investigative matters that
20 were being pursued at that time, which would be material to
21 my defense. And as far as I know, based on the discovery
22 that I've received, those haven't been followed up on. So
23 I have a right to cross examine those.

24 Your Honor, we're not in a situation where there's
25 grand jury testimony where it can be offered. You know,

1 there's not sworn testimony. Ms. Williams is right. And
2 that's the jest of what we're here about. I have the right
3 to offer sworn testimony.

4 THE COURT: And, Ms. Kennedy, what have you done
5 to attempt to procure the testimony of this witness?

6 MS. KENNEDY: Your Honor, I've -- First of all,
7 he's outside of the jurisdiction of the Court. He's
8 outside of the Country. If he were in the Country I would
9 follow the proper procedures, which is to contact him, get
10 a subpoena through our Clerk of Court, send it to wherever
11 it was so it could be served on him.

12 I -- There is no rule that I can determine that gives
13 me authority to attempt to serve him in Afghanistan.
14 There's no legal recourse if I were to be able to do that
15 to require him to come back. The reason that this came up
16 in the fashion that it did is that the case -- my case was
17 called -- the case was called for November 30th.

18 I learned quite by accident the -- the week or the
19 Friday before Thanksgiving that Detective Merrithew was in
20 -- in Afghanistan. That information came from an informal
21 conversation with one of the officers involved in the case
22 who -- at a preliminary hearing.

23 As soon as I learned that information I attempted to
24 subpoena Mr. -- Detective Merrithew. The Sheriff's Office
25 refused the service of the subpoena. What I have been able

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1 to determine, Your Honor, is that Detective Merrithew ---

2 THE COURT: Repeat that one more -- Who refused
3 the subpoena?

4 MS. KENNEDY: Detective Ollic in his capacity as
5 chief of the detective unit.

6 And we attempted to do that. What I -- What I've been
7 able to learn through Human Resources of Berkeley County is
8 that Detective -- Detective Merrithew gave his notice on
9 October the 16th. He was in this Country through November
10 the 7th. And so, -- And I -- I don't know when the
11 Solicitor's Office became aware of it.

12 I -- That was the official notification. I've learned
13 from other sources that it had been Detective Merrithew's
14 intention for quite some time to -- to obtain that
15 position. There were several, as I understand, steps that
16 he had to follow in terms of security clearances and all
17 those things, which he would have been required to do prior
18 to his hiring and obviously prior to him giving notice.

19 So, -- And I would submit to the Court, Your Honor,
20 that -- that Detective Merrithew, that this case is -- My
21 client was arrested in August of 2007. Putting aside the
22 fact that it's just through January through when the case
23 was supposed to be called or initially called in November.
24 Putting aside the -- I mean giving the time to investigate
25 the case, put the case on the trial docket, there were 32

1 terms of court that we had from August -- Well from
2 January, starting in January 2008 until the case was called
3 or scheduled for trial in November 2009 that this case
4 could have been called.

5 There's nothing really complicated about it in terms
6 of the forensics because it's not a situation where we had
7 to wait for SLED results because the information they have,
8 quite frankly, that -- is it -- it doesn't help or hurt
9 anybody. So we didn't have the issue of, that we usually
10 do, in terms of forensics and waiting for chemical analysis
11 or any of those things.

12 There were 32 terms of court that this case could have
13 been called. And it's odd to me that it gets put on the
14 docket at or around that time when we know or I've
15 discovered that Jerry Merrithew is no longer available.

16 Now, as I said, we are well beyond the South Carolina
17 Rules of Criminal Procedure. We argued constitutional
18 issues. My client has a right to compulsory process. We
19 have a right to present our case. And his absence
20 significantly impairs my ability to do that.

21 THE COURT: Okay. And, Ms. Kennedy, you have
22 couched your motion in terms of a motion for a continuance.
23 So, in the Court's view I must get over the hurdle as to a
24 motion for continuance first.

25 MS. KENNEDY: Okay.

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1 THE COURT: So I must address the following
2 issues. You have stated to me that you do feel that the
3 witness' testimony, Detective Merrithew's, is material to
4 the defense of your client and is it your testimony or
5 statement to the Court here today as an officer of the
6 Court that you cannot safely go to trial without his
7 testimony?

8 MS. KENNEDY: Your Honor, I cannot do that
9 without jeopardizing my client's right to a fair trial.
10 It's a fundamental issue of due process.

11 THE COURT: And, Ms. Kennedy, you have enumerated
12 what you have done, or what you believe can and cannot be
13 done, and do you believe that you have used due diligence
14 to -- to procure Detective Merrithew's testimony?

15 MS. KENNEDY: Within the limitations of the
16 jurisdictional issues, yes, Your Honor, I have.

17 And I'll advise the Court of this too. Detective
18 Merrithew came back to this Country some time early in
19 March. I was able to verify that he was at the, it was
20 either March the 2nd or March the 7th that he was at the
21 Sheriff's Office with his wife who was getting
22 fingerprinted for her employment at -- at Berkeley County.
23 We were aware of this problem in November.

24 I -- I -- That would have been, I believe, the perfect
25 opportunity for all of us to get together, ask Detective

1 Merrithew when he was coming back, and schedule this trial
2 accordingly. I -- I -- In fairness I don't know whether
3 the prosecutor's office was aware of that or not. But --
4 But their resources are greater than mine and I was able to
5 discover it. Had I known that he was here I certainly
6 would have talked to him about it on my own to determine
7 when he would be here and under what circumstances so that
8 we could -- so we could review an appropriate schedule.

9 THE COURT: And, Ms. Kennedy, what -- what
10 statements can you make to the Court to assure the Court
11 and satisfy the Court this is not intended for delay?

12 MS. KENNEDY: Your Honor, without giving away the
13 entire theory of my defense I would just tell you this. I
14 would treat Detective Merrithew as a hostile witness. I
15 would attack his investigation. I would attempt to
16 ascertain all the things that he did in relation to leading
17 up to these arrests.

18 There are some issues related to the search warrant
19 and him having shown jewelry to certain witnesses that may
20 or may not be able to be linked to my client because one of
21 the charges that my client has is a burglary charge in
22 relation to this whole incident. And that would be at a
23 minimum, Your Honor.

24 There are other things. He's the one that -- They
25 took video statements. I know another detective was