

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM MARLBORO COUNTY

Howard P. King, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOHN L. HOGAN,

APPELLANT

APPELLATE CASE NO. 2012-208526

RECORD ON APPEAL

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INDEX

INDEX.....	i,ii,iii
HEARING ON ADMISSIBILITY OF EXPERT TESTIMONY	
TRANSCRIPT DATED DECEMBER 9, 2011	1
TESTIMONY	
WILLIAM ALEXANDER MORTON JR.	
Direct Examination by Mr. Blake.....	4
Cross Examination by Mr. Daniel	10
RULING BY THE COURT	76
HEARING ON ADMISSIBILITY OF PRIOR CONVICTIONS AND MOTION FOR	
RECONSIDERATION TRANSCRIPT DATED JANUARY 10, 2012	80
TRIAL TRANSCRIPT DATED FEBRUARY 6-8, 2012	97
OPENING STATEMENT BY MR. DANIEL	98
OPENING STATEMENT BY MR. BLAKE.....	100
TESTIMONY	
QUEEN TURNER	
Direct Examination by Ms. Johnson-Lee	105
Cross Examination by Mr. Blake.....	109
LARRY TURNER	
Direct Examination by Ms. Johnson-Lee	111
Cross- Examination by Mr. Blake	130
Redirect Examination by Ms. Johnson-Lee.....	140
Recross Examination by Mr. Blake	141
SHAWN FELDNER	
Direct Examination by Mr. Daniel.....	142
Cross Examination by Mr. Blake.....	163
SUSAN ERIN PRESNELL	
Voir Dire Examination by Ms. Johnson-Lee.....	169
Direct Examination by Ms. Johnson-Lee.....	172
Direct Examination by Ms. Johnson-Lee resumes	186

Cross Examination by Mr. Daniel	190
PAUL C. LAROSA, III	
Voir Dire Examination by Mr. Daniel	197
Voir Dire Examination by Mr. Blake	201
Direct Examination by Mr. Daniel.....	203
Cross Examination by Mr. Blake.....	226
Redirect Examination by Mr. Daniel.....	229
Recross Examination by Mr. Blake	230
CASEY MCCALL	
Direct Examination by Mr. Blake.....	232
Cross Examination by Mr. Daniel	245
Redirect Examination by Mr. Blake	247
CHARLES S. MCPHERSON	
Direct Examination by Mr. Blake.....	249
Cross Examination by Mr. Daniel	254
ZANE ARP	
Direct Examination by Mr. Blake.....	263
Cross Examination by Mr. Daniel	267
Redirect Examination by Mr. Blake	269
SHAWN FELDNER	
Direct Examination by Mr. Blake.....	270
LARRY TURNER	
Direct Examination by Mr. Blake.....	271
JESSICA S. HOGAN	
Direct Examination by Mr. Blake.....	273
Cross Examination by Mr. Daniel	287
Redirect Examination by Mr. Blake	288
JOHN LEE HOGAN	
Direct Examination by Mr. Blake.....	290
Cross Examination by Mr. Daniel	370
CLOSING STATEMENT BY MR. BLAKE.....	372
CLOSING STATEMENT BY MR. DANIEL	382
CHARGE ON THE LAW.....	401

VERDICT	422
INDICTMENT	424
SENTENCING	426
DEFENDANT’S EXHIBIT #1 (CURRICULUM VITAE)	427
DEFENDANT’S EXHIBIT #2A- 2J (MISCELLANEOUS DOCUMENTS)	459
ORDER FILED DECEMBER 22, 2011	469
DEFENDANT’S MOTION FOR RECONSIDERATION FILED JANUARY 3, 2012	475
CERTIFICATE OF COUNSEL	479

State of South Carolina) In the Court of General Sessions
) Fourth Judicial Circuit
 County of Marlboro) 2010-GS-34-0696

State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 John L. Hogan,)
)
 Defendant.)
)
)

December 9, 2011
 Bishopville, South Carolina

B e f o r e:

The Honorable Howard P. King, Judge

A p p e a r a n c e s:

Mary T. Johnson-Lee, Esquire
 W. Shipp Daniel IV, Esquire
 Attorneys for the Plaintiff

Daniel L. Blake, Esquire
 Attorney for the Defendant

Bonnie H. Kelly
 Circuit Court Reporter

1 THE COURT: All right. All right. Counsel, in order
2 to expedite the matter, because we are running late and of
3 course, it's not the fault of anyone here in the courtroom.
4 Ms. Kelly was gracious enough to get ready and come over
5 here and serve as the court reporter because of a
6 miscommunication between Court Administration and the
7 person that was assigned. And we are ready to go forward.

8 We can address some of the issues that need to be
9 addressed probably afterwards. And probably the most
10 important thing that we need to do today is to address the
11 matter of the admissibility of the expert witness that the
12 State wishes to call, the -- both the qualifications and
13 admissibility of that witness's testimony.

14 Just for the record, I'll state that I do have a term
15 of court scheduled in Marlboro County in January. And then
16 I believe this matter is set for the February term in
17 Marlboro County. But if we have any loose ends that we
18 need to address in January, we can address them when I go
19 to Bennettsville.

20 But having said that, the Court now needs to make a
21 determination regarding the admissibility of the expert
22 testimony. And Mr. Blake, I'll allow you to make your
23 proffer.

24 MR. BLAKE: Your Honor, I'll call William Alexander
25 Morton to the stand.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 7

1 THE COURT: All right. Come around, please, sir.

2 (The witness complies.)

3 WILLIAM ALEXANDER MORTON, having been first duly
4 sworn, testifies as follows:

5 THE WITNESS: Good afternoon, Your Honor.

6 THE COURT: Good afternoon. I'm sorry to hold you up.

7 THE WITNESS: Oh, that's okay. I understand.

8 COURT CLERK: State your -- state your full name for
9 the record.

10 THE WITNESS: My full name is William Alexander
11 Morton, Jr., M-o-r-t-o-n.

12 MR. BLAKE: Judge, I have his curriculum vitae, which
13 I've marked as Court's Exhibit 1. I'd like to hand that up
14 to you.

15 THE COURT: Well, he's got it -- you can -- I'll let
16 you introduce -- for purposes of this hearing, I'll let you
17 introduce it into evidence. And make sure that Ms.
18 Johnson-Lee has a copy of it.

19 (To Ms. Lee) Have you received a copy of it? All
20 right.

21 And then if there's anything you want to offer in
22 addition to that, we can -- to what's on there, then you
23 can ask him questions about that. But that'll be admitted
24 into evidence as Defense Exhibit No. 1.

25 (Defendant's Exhibit No. 1, curriculum vitae document,

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 8

1 in evidence.)

2 DIRECT EXAMINATION BY MR. BLAKE:

3 Q Dr. Morton, how would you describe your profession?

4 A I am a psychopharmacologist and have practiced for the
5 last 35 years in this area in a number of different
6 situations.

7 Q Okay. And could you be specific as to some of those
8 areas in which you have practiced?

9 A Yes. I've practiced primarily at the Medical
10 University of South Carolina, where I am currently
11 professor emeritus of -- of pharmacy and associate clinical
12 professor of psychiatry and behavioral sciences.

13 I am formally retired from there, but still consult
14 there. But I was active there full-time for about 28 years
15 and practiced in inpatient and outpatient areas -- numerous
16 areas. I actually gave -- I think I gave you a diagram
17 that kind of showed that. I -- I could go over that. But
18 I can also list those without going over it too.

19 THE COURT REPORTER: I'm sorry. What?

20 THE WITNESS: A -- a diagram.

21 THE COURT REPORTER: You said "list" something.

22 THE WITNESS: I could list the practice areas, if
23 you'd like for me to.

24 Q We can get into that in a minute. Taking a step
25 backwards, would you tell us a little bit about your

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 9

1 education.

2 A Yes. I received my B.S. in pharmacy from the
3 University of North Carolina in 1972. I received my Doctor
4 of Pharmacy from the University of Tennessee in 1975, and
5 completed a residency in -- in pharmacy practice at the
6 University of California, 1976.

7 Q And what would you say your area of specialty is?

8 A My area of specialty is psychopharmacology, which
9 involves study and applicability of three primary
10 substances. And that would be substances that are legal,
11 like -- like Prozac, Ativan, Oxycontin, Valium, Haldol;
12 drugs that are not considered drugs but are drugs, which
13 would include alcohol and nicotine; and then drugs that are
14 illegal in -- in our country, which would include drugs
15 like cocaine, methamphetamine, heroin, LSD.

16 And -- and primarily, what I would do is -- is study
17 how these drugs work, where they work, the doses that are
18 usually used, what the indications are, what the
19 precautions are, what the contraindications are, what the
20 warnings are; the -- the likelihood of producing addiction,
21 the likelihood of these drugs affecting different factors
22 that affect addiction, side effects, adverse reactions, how
23 these drugs are eliminated from the body, how they're
24 absorbed, drug interactions, the toxicity of the drug, and
25 the availability of the drug.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 10

1 So there are numerous factors on each of those drugs
2 that I would address. But for the most part, I would
3 address it in -- in clinical settings in humans, and not so
4 much -- some people might address those in animals. But
5 I've always addressed those in practice with mostly adults;
6 sometimes children and adolescents, but mostly adults in a
7 formal setting, such as the Medical University of South
8 Carolina, where I was -- practiced for about 28 years.

9 Q And that involved interviewing patients, discussing
10 their case histories?

11 A Yes. I would routinely be involved in collecting data
12 from patients, assessing what they were taking, and
13 rendering opinions, both on an inpatient and outpatient
14 basis.

15 On an inpatient basis, for probably all of my 28
16 years, I would practice on an inpatient service and be
17 involved in making rounds, which included sit-down rounds,
18 where we would discuss the patients; and then walk rounds,
19 where we would see the patients.

20 And sometimes I would be asked to -- to make a
21 discussion and recommendation on sit-down rounds as well as
22 in walk rounds. The -- the team leader, whoever that might
23 be, would say, "Dr. Morton, would you -- would you ask this
24 patient about his withdrawal symptoms?" or "Would you ask
25 this patient about how he responded to lithium?"

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 11

1 And so I might do that on my rounds, at the same time,
2 teaching about why I ask what I ask, what additional I
3 would ask, because we would have -- we might have between 6
4 and 10 people, a lot of trainees, with us -- trainee
5 psychiatrists, trainee students.

6 Q Psychiatric interns and who else?

7 A Psychiatric interns, psychiatric residents, pharmacy
8 interns, pharmacy residents, medical students, pharmacy
9 students, one of each sometimes. A -- a Ph.D. candidate
10 for psychology might be there doing their internship.

11 I was in both the College of Medicine and the College
12 of Pharmacy, so I had a joint appointment. So I was
13 actually involved teaching medical students and medical
14 residents about specific areas of psychopharmacology, such
15 as how to interview patients, how to -- what to expect from
16 an interview, how to assess various drug interactions, how
17 to assess if the drug is working/not working. And that
18 would often be while I was seeing patients at the same
19 time.

20 Sometimes it would be a discreet lecture in -- in a
21 classroom, where I might do lectures, as many as 90 to 100
22 lectures a year. Now I probably lecture one or two times a
23 year, and they call me since I've -- I've -- I live a
24 little bit further away than I used to -- I've moved. And
25 so a lot of times, it would be on phone calls that someone

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 12

1 might consult with me.

2 For instance, someone might say, "We have a patient
3 that's taken 300 milligrams of Valium. How should we detox
4 them?" And they might want to know about that, because I'm
5 -- I have areas of specific expertise in those.

6 Q Could you explain ---

7 THE COURT: Hold on just ---

8 Q --- to us, ---

9 THE COURT: --- just a minute. Yes, sir, Mr. Daniels?

10 MR. DANIEL: Judge, I just want to say: For purposes
11 of this hearing right now, we don't have any objection to
12 the -- to Mr. Morton being declared an expert in these --
13 in these fields where he has apparently testified several
14 times. We take Mr. Morton's word ---

15 THE COURT: All right. So -- so there's two parts to
16 the normal admissibility of expert testimony: One is in
17 the fields of qualifications, and the other is in the field
18 -- the actual content of the proffered expert's testimony;
19 that is, the admissibility of the offered testimony.

20 So what you're saying is that you don't object to his
21 qualifications as an expert in the field of pharmacology.

22 MR. DANIEL: That's correct. Certainly, we would have
23 an objection to the relevance of this and the admissibility
24 of this at trial. But we don't have any objections -- I --
25 I firmly believe that Mr. Morton is an expert in what he

CROSS-EXAMINATION BY MR. DANIEL - WILLIAM ALEXANDER MORTON 13

1 claims to be an expert in.

2 I would like to ask him two very simple questions at
3 the appropriate time.

4 THE COURT: All right. Well, let me ask you: Mr.
5 Blake, exactly what do you proffer him as an expert in what
6 field? And state that for the record.

7 MR. BLAKE: Expert in addictions and
8 psychopharmacology.

9 THE COURT: Psychopharmacology?

10 MR. BLAKE: Yes, Your Honor.

11 THE COURT: And ask him to define that for me, please.

12 THE WITNESS: Psychopharmacology would be the study
13 and utilization of medicines that affect the brain so that
14 they would affect a person's thinking, behavior, and mood.

15 THE COURT: All right. Now, as I understand it, Mr.
16 Daniel, then, you do not object to his qualification in the
17 field of addiction and psychopharmacology.

18 MR. DANIEL: That's correct.

19 THE COURT: Okay. All right. Now, you say you have a
20 couple questions. Do they deal with that qualification?
21 Since you are not objecting to that, I assume they don't --
22 don't ---

23 MR. DANIEL: They do ---

24 THE COURT: --- apply?

25 MR. DANIEL: --- go to that. But -- but it -- it's

CROSS-EXAMINATION BY MR. DANIEL - WILLIAM ALEXANDER MORTON 14

1 just -- just that I'm curious. If I may, at the very ---

2 THE COURT: Yes, sir. Go ahead. We can ---

3 CROSS-EXAMINATION BY MR. DANIEL:

4 Q Have you been to medical school? Are you a doctor?

5 A I am a doctor, but I'm not a doctor of medicine. I am
6 not a physician or a psychologist. I'm -- I have my doctor
7 in pharmacy. And I've taught in medical school, but I did
8 not attend medical school.

9 Q Okay. And I -- I'm certainly not -- I -- I mean no
10 disrespect. I'm not trying to lessen your -- your area of
11 expertise at all. I'm just -- I'm trying to figure out
12 exactly how to encapsulate this.

13 Would it be fair to say that you are, in part, a -- a
14 -- a pharmacist like we would see at -- at a drugstore,
15 with additional training in the fields of addictions?

16 A That would be one way to look at it. I -- I could
17 possibly work in a drugstore and practice as a pharmacist.
18 I've not chosen to do that. I've -- I've maybe done that
19 eight or ten days in my life. I -- I've -- I've done that
20 at -- at times. I -- I have the ability to do that.

21 I am more certified -- I'm -- I'm board-certified in
22 psychiatric pharmacy practice, of which there are about 553
23 people this -- this year, in the world. So I -- I -- I'm
24 more involved in research, teaching, and actual service to
25 patients.

1 MR. DANIEL: Thank you. That ---

2 THE WITNESS: Sure.

3 MR. DANIEL: --- did it. Thank you.

4 THE COURT: All right. So the State has stipulated to
5 the qualifications of -- and I assume, Dr. Morton, to a
6 degree, you list on your C.V. as being a doctor of
7 pharmacy. Is that Ph.D.? Is that what it's actually
8 considered?

9 THE WITNESS: It's considered a Pharm.D., P-h-a-r-m,
10 period, D, period ---

11 THE COURT: All right.

12 THE WITNESS: --- Pharm.D.

13 THE COURT: All right. And the State has -- has
14 stipulated as to his qualifications in the field as -- as
15 an expert in the field of addiction and psychopharmacology.
16 And so the Court will accept that.

17 Now, the next issue that we need to go to is to the
18 testimony that you would be -- expect this witness to
19 testify to. And then we can get into the questions of
20 whether or not that testimony is admissible.

21 Of course, the State would have the right to cross-
22 examine on that. But you may -- you may proffer of the
23 content of the statement -- content of the witness's
24 testimony at this time, Mr. Blake.

25 MR. BLAKE: Okay. Judge, I'd -- if I could clarify,

1 you want to know the general content of what he would be
2 testifying to?

3 THE COURT: Yes, sir. He's -- I don't want to know
4 the general content. I want to know the exact content.
5 Because under *State v. Council*, when admitting scientific
6 evidence under Rule 701 of the South Carolina Rules of
7 Evidence, the trial judge has got to make a determination
8 that the evidence will satisfy or assist the trier of fact
9 -- and of course, that would be the jury -- that the expert
10 is -- is qualified and underlying science is relied. At
11 this point, the only one of those three factors that has
12 been met is that the expert witness is qualified, and
13 that's by stipulation.

14 But it's up to me to apply the *Jones* factors to
15 determine reliability. And then once I make a
16 determination of admissibility under Rule 702 of the rules
17 of evidence, then I need to make a determination under Rule
18 403 of the rules of evidence as to whether the probative
19 value is outweighed by the prejudicial effect.

20 So it's up to you to meet the other requirements, in
21 addition to qualifications, which is just one of the three
22 things that is required by *Council*.

23 Yes, sir.

24 MR. DANIEL: And the State, Your Honor, is going -- is
25 prepared to argue that we would get to that point; that

1 based on case law that we have prepared, that -- that ---

2 THE COURT: Well, I'm ---

3 MR. DANIEL: --- none of this ---

4 THE COURT: --- going to let him make his proffer, and
5 then you ask your questions and we'll get into the
6 arguments later. But I'm going to let him make his proffer
7 of whatever he wants to -- to state at this time. Go
8 ahead, Mr. Blake.

9 MR. BLAKE: Judge, you're first concerned ---

10 THE COURT: It's up to him -- it's up to Mr. Blake to
11 -- to establish the admissibility of the testimony under
12 Rule 702.

13 THE COURT REPORTER: (To the Court) 70 -- I'm sorry.
14 Rule 70 -- Rule 70 what?

15 THE COURT: Well, it's 702 and -- 701, 702, and 703.
16 It's all under -- specifically under 702.

17 THE COURT REPORTER: Thank you.

18 MR. BLAKE: So, Judge, your -- you said one of the
19 concerns you have is the reliability of the evidence?

20 THE COURT: I'm not going to tell you how to do it,
21 Mr. Blake. That's up to you.

22 MR. BLAKE: All right. Well, under 702, of course,
23 the issue, as I understand it, is whether or not the
24 testimony offered by the expert will assist the trier of
25 fact to understand the evidence or to determine a fact in

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 18

1 issue. And certainly, one of the facts in issue here --
2 the whole trial is based on whether or not it is voluntary
3 manslaughter or murder. And we're dealing, of course,
4 within his -- client's state of mind.

5 DIRECT EXAMINATION BY MR. BLAKE:

6 Q Dr. Morton, you have testified previously in trials?

7 A Yes, sir, I have.

8 Q Okay. And you've testified to these very issues
9 related to cocaine use and its effect on one's cognitive
10 abilities?

11 A Numerous times. Yes.

12 Q Okay. I know that you prepared some charts for me,
13 and I believe defense counsel has copies of those. You
14 have a copy for yourself?

15 A Yes, I do.

16 Q Of course, the first one on that chart simply lists
17 your experience that's been stipulated to.

18 A Yes, sir. Just as prosecution was not sure what I
19 actually did, this -- this -- whether I worked in a
20 pharmacy or what I would do in -- at the hospital, this
21 lays out what I did over 28 years on one piece of paper.

22 The darker areas, which is hard to see in this
23 particular copy, signifies work on an inpatient unit. And
24 the blank white signifies an outpatient unit. So I might -
25 - in a week, I might be working in three or four different

1 areas that -- that week.

2 THE COURT: Okay. What is this that's been given to
3 me?

4 MR. BLAKE: I have not introduced it, Judge. It's ---

5 THE COURT: All right. Well, I'm going to look at it
6 again.

7 MR. BLAKE: Okay. (To Mr. Daniel) Do you have any
8 objection to -- to -- that you've already seen this?
9 Court's Exhibit No. 2?

10 (Counsel confer.)

11 MR. DANIEL: No objection.

12 MR. BLAKE: All right. That'll be ---

13 THE COURT REPORTER: What -- Your Honor, you wanted me
14 to mark it as a defense exhibit. Now they're talking about
15 ---

16 THE COURT: Yeah. Offered by the defense. What
17 difference does it make? I'm going to -- we'll mark it as
18 a defense exhibit. It's not my exhibit. It's not
19 something the Court would read. It's a defendant's
20 exhibit. It would be -- any objection, Mr. Daniel?

21 MR. DANIEL: No objection. Is this for purposes of
22 this hearing or just ---

23 THE COURT: That's right.

24 MR. DANIEL: No objection, Your Honor.

25 THE COURT: Defendant's Exhibit 2.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 20

1 (Mr. Blake confers with the court reporter.)

2 THE COURT: None of the rulings today will affect the
3 -- well, they might later on; they would affect the matter
4 of trial. But just -- just because they're admitted for
5 today does not make them admissible at trial time.

6 (Brief pause as exhibits are marked.)

7 (Defense Exhibits 2(A) through 2(J) are marked.)

8 THE COURT: All right. Defense Nos. 2 through what?

9 MR. BLAKE: Judge, it's 2A through 2J --

10 THE COURT: All right.

11 MR. BLAKE: -- "J" as in John.

12 THE COURT: All right. All right. Proceed.

13 DIRECT EXAMINATION BY MR. BLAKE (CONTINUES):

14 Q Dr. Morton, go ahead.

15 A The first page, called "Time Line for W. Alexander
16 Morton, Pharm.D.," looks at, again, my whole career at the
17 Medical University and what I might have been involved in.

18 The -- towards the top that is outpatient settings,
19 where I work at the V.A. psychiatric unit, the inpatient
20 unit at MUSC, consulting at the Charleston County
21 psychiatric unit, which was a eight-bed county hospital
22 unit. And then, when we opened our center for drug and
23 alcohol programs -- program there, which was new in -- in
24 '90/'91, I started working there on the inpatient unit.

25 And at the Medical University, we would think about if

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 21

1 you were there, you were there 100 percent of the time.

2 And on -- going on the left, it would -- it would signify
3 how much of my time was spent in those areas. So some
4 places I might spend 100 percent; some places I might spend
5 only 5 percent of my time.

6 Outpatient involved working in a medical screening
7 clinic, working in the -- of the V.A. mental health clinic,
8 where I had a -- a -- a population of patients that I was
9 their primary practitioner of providing care for about 126
10 patients. These were patients that required only
11 medication. So I'm practicing under a plan where a
12 psychiatrist is my superior, and I -- I consult with them.
13 But I basically am the patient's primary care clinician.

14 So I -- I've done that in a number of settings, but
15 mainly the V.A. mental health clinic, the MUSC
16 psychopharmacology clinic; and then, in -- in the clinical
17 research section, where I worked for about 17 years in
18 various capacities, where I was seeing patients,
19 individually, providing care in a clinical research
20 setting, so maybe looking at new antidepressants. We -- we
21 were using Prozac right when it was first coming out, but
22 also studying if Paxil was useful in various types of
23 anxiety disorders; if medicines were useful for various
24 manic-depressive disorders; if medicines were useful to
25 help treating alcoholism; if medicines were useful to help

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 22

1 decrease craving for cocaine. Those were some of the 63
2 clinical research studies that I was involved with in the
3 clinical research section.

4 Also, in the MUSC psychopharmacology clinic, I would
5 be supervising residents -- third-year psychiatric
6 residents. They have to go four years after they get their
7 M.D. degree before they can practice. I would supervise
8 them, and they would see outpatients. I would hear what --
9 how they presented the patient, and then I would make
10 recommendations.

11 I would probably then see the patient for 30 seconds
12 to 2 minutes and say, "We're not going to start medication
13 today, sir or ma'am, but we'll probably start it next week;
14 we want to get more of a history before we start you on a
15 medicine for your depression." And then I would walk out
16 the door. And -- and the main practitioner for them would
17 then go on and explain kind of what I had just said in --
18 in -- in more detail.

19 So I did that for approximately -- about 16 to 17
20 years, supervising patients. And at our largest, we had
21 about 260 patients that we were seeing on a regular basis:
22 weekly or monthly or every-three-month basis.

23 The clinical research section, I probably worked with
24 about -- about 700 individual patients. But I did a large
25 number of screening of larger patients to see if they could

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 23

1 fit into clinical research.

2 In our particular research section, if you had
3 addictive disorder or were using drugs, you could not
4 participate, because those people's brain chemistry is
5 different than people that have not been using drugs.

6 So if you had panic attacks and it was secondary to
7 cocaine, you could not be in a panic-attack study. If you
8 were depressed and had panic attacks, you could not be in
9 that panic-attack study, because those people's
10 biochemistry is different.

11 That's -- I also work on the inpatient-consult
12 service. So if someone maybe had a -- a burn and became
13 suicidal, the burn doctors would consult with our consult
14 service to -- for us to see them to see if a antidepressant
15 was indicated. It might be, if someone was on the
16 orthopaedic unit and starting to act psychotic, we might --
17 they -- and -- and they were taking a large amount of -- of
18 Valium before they came in and then it was stopped because
19 they were in a car wreck, we might assess them for Valium
20 withdrawal or alcohol withdrawal and recommend that we
21 start them on a withdrawal medication so they wouldn't die
22 from their withdrawal. We don't like them to do that.

23 A lot of the times, I'm involved with side effects of
24 medications. Most of the medicines we prescribe, the
25 medicines that people use, have a large potential to

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 24

1 produce problems. I'm somewhat biased that -- that our
2 medicines don't do as much as what people would like for
3 them to do. And -- both practitioners and patients expect
4 the medicines that we prescribe to produce amazing things
5 with little side effects. And I think they produce
6 moderate effects with sometimes many side effects. So a
7 lot of times I focus on how can we diminish those side
8 effects and is it even indicated for them to take that
9 medication.

10 Q The next slide there begins to talk about some of the
11 science involved here?

12 A Drugs and their effects on the brain: There -- there
13 are seldom one area of the brain that drugs work on. And
14 there are numerous parts of the brain which control various
15 functionings, either from thinking and making clear
16 decisions; to moving your body, walking in a certain way;
17 to maintaining your blood pressure, your pulse, your
18 respirations; to thinking and remembering things, recalling
19 memory; to doing things on a regular basis which involves
20 the reward circuits of -- of the brain so that a human
21 being would be able to stay alive.

22 So we do things on a regular basis, such as drink
23 fluids, water; eat food. If the human race is going to
24 continue, there would be reproduction involved. And then,
25 after the baby is born, you would want to make sure that

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 25

1 the baby's nurtured. If any one of those four things is
2 done erratically, the health and population of humans would
3 diminish fairly quickly.

4 So it's done on a regular basis. And we've found that
5 the reward circuitry in the brain is there to ensure that
6 we do these things regularly. And people feel rewarded;
7 when you hold a baby and cuddle a baby and take care of a
8 baby, you feel good.

9 Q All right. Now, you worked at MUSC for 28 years?

10 A Twenty-eight years, yes.

11 Q Essentially a research hospital?

12 A It's a teaching-research ---

13 Q Teaching ---

14 A --- hospital.

15 Q --- research ---

16 A Yes, sir.

17 Q --- hospital.

18 And what is the -- you just described a "reward
19 circuit." What is the basis of the science that -- that
20 leads you to those conclusions?

21 A The basis of the science that we talk about this has
22 been discovered over the last 30 to 40 years. Tremendous
23 advances have been -- been being made, I would say since
24 the last -- the late '50s.

25 We understand this reward circuitry. We understand

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 26

1 the brain chemicals that are involved. We understand --
2 we're understanding how medicines affect various brain
3 chemicals to either increase or various -- or -- or
4 decrease certain brain chemicals that then result in
5 various responses or side effects.

6 And this has been well defined and -- and continues to
7 get more defined, almost on an individual basis. That's
8 where we're trying to go to learn from a individual how an
9 individual respond to a medication verse 50 people would
10 respond to this medication. We're looking at that.

11 I -- I'm not involved with that as much now, looking
12 at the human genome and -- and people's individual DNA and
13 how they would respond differently. I'm -- I've been out
14 of that the last few years.

15 Q Is there anything else you want to say about Slide 2 -
16 - 2B ---

17 A Well, there -- there -- drugs will affect certain
18 areas of the brain. There's only one drug that really
19 affects every brain cell and that's ethyl alcohol. It
20 affects not only brain -- every brain cell, but every cell
21 in the body. It affects membrane permeability: what goes
22 in and what goes out. That's one of the few drugs that
23 affects every cell in the body.

24 Cocaine might just affect certain areas, as far as
25 reward, memory, blood pressure, judgment. But it may not

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 27

1 affect vision so much. It may not affect coordination,
2 except in massive amounts. It may not have much effect on
3 pain threshold, whereas -- whereas Oxycontin would
4 definitely affect the pain threshold. It may also have
5 some side effects on memory and reward. But it wouldn't
6 maybe affect people's ability to move. It may affect
7 judgment, but -- but only at higher doses.

8 So that's -- that's the point: that -- that drugs can
9 have varying effects on different parts of the brain. And
10 as -- as the doses increase, it can have -- those effects
11 can change.

12 Q You got slide 2-C there? It's the third slide for
13 you.

14 A The third slide is looking at crack cocaine's initial
15 effects. And I say "crack cocaine," as compared to a
16 powder cocaine, because crack cocaine provides effects
17 faster because you get it into a vapor, which immediately
18 goes to the brain. We're talking between a few seconds to
19 five or eight seconds, which is a dramatic time response.

20 To put definitions of how one responds, it -- it's
21 very hard to describe how I might experience pleasure, how
22 you might experience pleasure, how other people would
23 experience pleasure. But indescribable for -- for some
24 people. It's very intense, feeling wonderful, feeling of
25 ecstasy. Anything that you generally do is an -- is

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 28

1 experienced as more pleasurable when you're doing it
2 initially with cocaine.

3 For some people this may be the first time that they
4 have ever experienced a good feeling, especially someone
5 that's been depressed for a large part of -- part of their
6 life. And -- and it occurs -- this new effect might occur
7 in five to eight seconds. So it's pretty impressive.

8 Cocaine has been used in an abusive fashion for over a
9 hundred years. But as far as our awareness, probably the
10 '80s was a time where we started seeing an increase in use.
11 In mid-'80s we started seeing crack provided to people in a
12 -- in a way that was cheaper to buy and easier to use. And
13 -- and over the last 20 to 30 years, I think we've seen a
14 tremendous amount of use, maybe overshadowed by
15 methamphetamine.

16 But it depends on what county, what area of the state
17 you're in, what's available. Some people do not have
18 availability of cocaine, but they have a lot of
19 methamphetamine. Some places it might just be the reverse.

20 To some degree, I think we've gotten numb to the -- to
21 the -- these effects of -- of cocaine because we've heard
22 it so often.

23 Q Okay. What you're describing there -- you have sort
24 of a summary sheet on that slide. And could you describe
25 just how you arrived at that evidence, and what standards

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 29

1 you used, in terms of scientific community.

2 A The standards in arriving at -- at these -- what I
3 would consider facts as -- as cocaine's initial effects --
4 would come from three sources in general. One would come
5 from what is in the literature and what is reported: what
6 is in the scientific literature; what gets published in
7 various journals; if it's peer-reviewed, meaning someone
8 does a research study and they submit it to the journal and
9 before it's published, it might be sent out to three or
10 four peers. And they would read it, and they would make
11 comments. They would say: "You should add this. You
12 should subtract this. You should publish it as-is. You
13 should not publish it ever." You might have three people
14 saying, "Absolutely," and one saying, "Well, kind of," and
15 then you're asked to make changes and it's resubmitted.
16 And then the editor will decide whether they -- they
17 publish it.

18 So what appears in a reputable journal is usually
19 peer-reviewed. And -- and it's -- it meets certain
20 standards. So at least in certain journals, you would
21 expect a certain level of excellence. And -- and -- and
22 these articles that appear on cocaine over the last 20 to
23 30 years have better described it scientifically than how
24 it was described in the '40s and '50s and the '30s, when it
25 was sporadically used. So that would be one source.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 30

1 The other source would be from colleagues who have
2 practiced in the field. The other source would be from my
3 practice in the field. When I've been asked to estimate
4 how many people I've worked with, the best estimate, based
5 on how many people came into our hospital and our clinic
6 and I -- and -- and Fenwick Hall Hospital, which was a
7 private hospital that I worked in, is between four and six
8 thousand patients that I would've come in contact with,
9 with problems with cocaine. That would be an estimate.

10 And I've had to estimate from that first sheet how
11 many patients we would see per week, per year, per month.
12 And that's probably about 15,150, is my estimate that I saw
13 in my career at this facility; of those, four to six
14 thousand people had problems with cocaine. It wasn't just
15 cocaine; it might also be alcohol and Valium. It may be
16 opioids.

17 I'm not sure that I've seen -- it may be a handful of
18 people that I've seen that were only using cocaine alone.

19 Q Referring to your curriculum vitae, you list -- it
20 looks like 40 -- 46 -- 46 different publications that you
21 were involved with.

22 A Yes, sir.

23 Q Were these in peer-review journals?

24 A Yes, sir, they were.

25 Q Okay. And you also then list a number of abstracts.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 31

1 Would you explain the difference between an abstract and a
2 publication?

3 A A publication is a more complete discourse on what the
4 title reflects. And it should have references for more
5 information. And it should supply what you want to know
6 about that particular topic.

7 An abstract might be one page. And it might be
8 presented at a meeting. So if you went to a meeting, you
9 would say, "Here's a interesting talk. And they're going
10 to talk about cocaine, its use in -- in children and how it
11 affects children that were exposed to cocaine. I think I
12 would like to go to that. They've got a population of a
13 hundred kids -- or -- or maybe it's only five kids. No,
14 I'm going to skip that if it's five kids." So it tells you
15 a little bit about what the presentation is going to be
16 about.

17 And it would be published in -- in meeting records.
18 So if you went to a -- a five-day meeting or -- I -- I --
19 I've been involved in -- in doing seminars for attorneys
20 and judges. We used to do this at the Medical University
21 on a regular basis. And we would do an abstract on what we
22 were going to talk about.

23 I remember I talked about drug -- new drugs -- at the
24 time, ecstasy, Rohypnol, and G -- GHB -- which were fairly
25 new drugs to a lot of us. So it was updating what those

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 32

1 drugs were. And it -- it would -- I would say, "I will
2 discuss how ecstasy works and some of the adverse effects.
3 I'll be talking about GHB and where it came from and some
4 of the complications. And I'll also be talking about some
5 of the other newer drugs that may appear on the scene."

6 And that's all you would read. And you could decide,
7 Okay. I'll stick around for that one; or no, I'm -- I'm
8 not interested in that area. I'm more interested in
9 something else, so you can plan on what your time ---

10 Q You also mentioned paper presentations, invited
11 presentations. These are various papers you've presented
12 at symposiums, conferences?

13 A They would be symposiums, conferences, individual
14 talks, which would range from a local presentation -- say,
15 in Marlboro County to a presentation in southeastern South
16 Carolina to presentation in South Carolina. I presented at
17 the first cocaine conference in ---

18 THE COURT: I think we've -- we're talking about
19 qualifications here. We need to get on to the gist of the
20 testimony he's going to testify to. The State has already
21 stipulated as to his ---

22 THE WITNESS: Okay.

23 THE COURT: --- qualifications.

24 MR. BLAKE: Okay. Well, you're also about to find --
25 Judge, we're concerned with the *Jones* factors, in terms of

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 33

1 reliability ---

2 THE COURT: Well, that is true. That -- that's really
3 true. I agree with that. But I'm -- I'm interested in --
4 in hearing and -- and what I've got to decide, of course,
5 is the reliability under the Jones factors, and I'm going
6 to do that. But I can read his curriculum -- his C.V. and
7 see what -- what his publications and all have been, and --
8 and pretty well get that idea.

9 I guess my -- my questions -- we need to get over --
10 we need to move it along. Let's just move it along. And
11 we're not -- this is not presenting this matter as you
12 would present it to a jury, but just enough that you think
13 would be necessary to show all of the factors necessary
14 under counseling.

15 DIRECT EXAMINATION BY MR. BLAKE (CONTINUES):

16 Q We've talked about publications and peer review of
17 this information about the effects of the cocaine.

18 A Yes, sir.

19 Q Okay. And this is something that's been studied in
20 universities and something that's a -- a matter of
21 professional study. These are not just theories that
22 you've made up.

23 A No, they're not theories. I have a review article,
24 which I -- I -- you may have submitted, which looks at --
25 as -- as up to 1999, some of the psychiatric side effects

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 34

1 of cocaine, which are well documented. And you can see
2 where the sources -- where I got that information, if you
3 need to check those numbers that I've put in there. That
4 is the way scientific publications are. You say: "This
5 occurred 10 percent."

6 "And where did that number come from, Dr. Morton?"

7 "It came from Study A, B, and C."

8 And then, you could check it if you didn't believe it.

9 (Mr. Blake confers with opposing counsel.)

10 THE COURT: I can't hear you.

11 MR. BLAKE: I asked him if he had objection -- well,
12 sorry, Judge. That's your role.

13 Judge, we do have an article by Dr. Morton on cocaine
14 and psychiatric symptoms, published in the "Journal of
15 Clinical Psychiatry" in 1999. I have presented a copy of
16 that to the State. We would move to enter it in as
17 Defendant's Exhibit 3.

18 THE COURT: All right.

19 MR. DANIEL: No objection.

20 THE COURT: All right. Admitted into evidence as
21 Defendant's Exhibit 3.

22 (Marked Defendant's Exhibit 3, peer-review article.)

23 DIRECT EXAMINATION BY MR. BLAKE (CONTINUES):

24 Q I'm sorry to interrupt you. Go ahead. This article
25 was published in 1999?

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 35

1 A Yes. And for the most part, it reviewed what you see
2 when someone is using cocaine; what you see when someone
3 has stopped using cocaine; how long these symptoms might
4 last; and how to treat it and how to address it. It's
5 something that was painfully obvious to me, working in --
6 in -- on the unit, that a lot of students, a lot -- and
7 residents and some practitioners did not know this cold.
8 It did not -- it didn't come up that they knew it.

9 And so as an educator I wanted to contribute something
10 to the educational process. So I thought, This hasn't been
11 done lately. I will put all this information together in
12 one -- one paper, rather than have to look at 40 papers.

13 Q And this was the "Journal of Clinical Psychiatry"; is
14 that correct?

15 A Yes, sir.

16 Q Is that a peer-reviewed journal?

17 A Yes, sir.

18 Q And there is a -- a list -- a number of references,
19 looks like about 39 references. Those were accepted
20 scientific studies?

21 A Yes, sir, they were.

22 Q Psychiatry today, of course, is mainly the treatment
23 of mental disorders with -- with medications.

24 A And -- yes, that's correct. And therapy.

25 Q Okay.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 36

1 A Some -- sometimes I'm involved in asking what medicine
2 would -- would help this particular problem. And I would
3 say, "I don't know of any medicine that would help that
4 particular problem. That's usually addressed with talk
5 therapy, behavioral therapy."

6 THE COURT REPORTER: (To the witness) And what other
7 therapy?

8 THE WITNESS: Talk therapy and behavioral therapy.

9 Q And you began your talk: "Some of the effects of
10 cocaine use." Talk about the initial effects, which is
11 described here in this Slide 2-C. You also talk about
12 cocaine dependence, paranoia and psychosis, violence. All
13 those different things described in this article are
14 connected to research -- scientific research.

15 A Yes, sir.

16 Q Okay. And these references you've described, they are
17 essentially a peer-reviewed publications.

18 A I view -- the references I -- I chose, I thought were
19 the standard cutting edge of science at that particular
20 time: articles that we had reviewed in our practice; in
21 our discussion of -- of treatment; some that -- I had -- I
22 was aware of in -- in research settings; our discussions.

23 People would come to the Medical University and
24 present their findings. So if I thought it was adequate
25 and great, I would look at their articles. And then I

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 37

1 might look at other articles that they referred to.

2 So I would -- I -- I -- I thought I chose the articles
3 that were best representative at the time.

4 Q Slide 2-D deals a little bit with some of this
5 science, which I think was fairly new when you were talking
6 about neurotransmitters?

7 A It's old and new. We've learned more about it: how
8 the brain communicates. One brain cell talks to another
9 brain cell by the release of certain chemicals, and these
10 are called "neurotransmitters."

11 (Indicates) So the cell here in this picture on the
12 left has been stimulated. And what it does is it releases
13 a brain chemical, which goes to the other brain cell and
14 stimulates it, causing an effect. This has been well known
15 since the '60s. We -- we've better defined it, as far as
16 how drugs affect these brain chemicals.

17 Drugs do not necessarily cause an effect directly, but
18 they usually cause a release of a brain chemical, or brain
19 chemicals, or block brain chemicals. And it's very seldom
20 that the actual drug effects makes the actual effect. But
21 it's a intermediary; it affects brain chemistry.

22 Q Going into slide 2-E, you talk there about these three
23 prominent neurotransmitters and essentially what effect
24 they have; is that correct?

25 A Yes. These are three prominent neurotransmitters in

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 38

1 the brain that are usually involved with cocaine, cocaine
2 use. Cocaine causes a tremendous release of all three of
3 these: dopamine, being the one that causes pleasure;
4 norepinephrine or noradrenaline, which is used to effect a
5 tension energy and anxiety and thinking; and then,
6 serotonin, more related to mood and making some stability.

7 And there's overlap. There's overlap. And you can
8 see -- I've tried to show this -- that one chemical might
9 not do all of this, but they fit together. But we
10 definitely know that cocaine causes tremendous increase in
11 -- in dopamine. And that feels good, but it also can feel
12 bad when there's too much dopamine released in certain
13 areas of the brain, which is not used to having that much
14 dopamine.

15 Q And that's the essence there of Slide 2-F.

16 Moving to Slide 2-G, which is psychiatric effects of
17 cocaine, you use there as a reference at the bottom your
18 article, which, again, your article is essentially
19 summarizing a whole field of research.

20 A With cocaine.

21 Q That's correct.

22 A With -- with cocaine. Because crack cocaine, at that
23 time, was not fully studied. And questions come up: Is
24 powder cocaine different than crack cocaine? And it is in
25 some -- some instances. Certain side effects, you'll see

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 39

1 more with crack cocaine than you will with powder cocaine
2 or IV cocaine.

3 Q Okay. So you describe several psychiatric effects
4 from cocaine and crack cocaine ---

5 A These are side effects that you see from cocaine use,
6 usually the negative side effects. It certainly makes
7 someone agitated and restless. I -- I have yet to see
8 someone that says, "When I use cocaine, I just relax and --
9 and sit back on -- on the chair."

10 But it's more moving about, restless thinking,
11 restless behavior. Agitation is motion that really doesn't
12 provide you with anything. (Indicating) It might be
13 jiggling like this or -- or doing your hair like this,
14 pulling on -- it's not helping your hair when you pull it
15 or -- or it's not -- if you're doing something with your
16 mouth -- this would be an example of mild ---

17 Q What about paranoia?

18 A Paranoia, probably 60 to 85 percent of people that use
19 cocaine, if you asked them specifically, will talk about
20 being paranoid. For instance, they're thinking that other
21 people are out to get them; that people are following them;
22 that they'll be peeking out the blinds. They'll be talking
23 about peeping, specifically.

24 Q Is this based on your personal research or is this
25 research that's been done across the country or ---

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 40

1 A It's ---

2 Q --- or the world?

3 A It's across the country with -- with that -- those
4 numbers of paranoia. I -- I do not -- I think I have not
5 ever talked to someone that has not endorsed peeping out of
6 a blind. So I would say that's a hundred percent, in my
7 experience. It's just normal. If they don't report it,
8 it's amazing to me.

9 Usually, I'll ask them about it. And they say, "Can
10 you read my mind?" No. It's just everyone I've talked to
11 before has talked about peeping out of the blind to see
12 what's out there. It's that type paranoia.

13 Q Well, just for instance, in "Paranoia and Psychosis,"
14 a portion of your article, you reference seven or so other
15 articles or studies. So this not just your individual
16 research.

17 A Oh, no, not at all. It's -- it's well established
18 that if you use cocaine, either in a controlled setting,
19 where you are administering cocaine one time to a -- a
20 known addict -- that's the only time you can use it -- if
21 someone has used it before, that they will get paranoid.

22 People that have been using paranoid will come into
23 your hospital being very paranoid if -- if they've been
24 using cocaine.

25 And also, if you're studying cocaine use, you might

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 41

1 ask them about -- if they're trying to stop cocaine on
2 their own and they haven't come into treatment, you might
3 find out that they endorse a lot of suspiciousness and
4 paranoia, and -- and some of them to the level that their
5 thinking is totally delusional.

6 Q Next category on there, you have "hallucinations" and
7 "delusions," and in your article it's "violence." And you
8 have a number of studies which you reference there. What
9 is the connection between crack cocaine and violence?

10 A That it's prominent; that there is -- crack cocaine is
11 -- more violence seen with it than with powder cocaine.
12 There is the -- varying degrees of incidence there. But in
13 general, I think about 30 to 50 percent of people that --
14 that use cocaine report violent behaviors or being involved
15 -- either having violent behaviors or -- or being around
16 violent behaviors.

17 It comes as no surprise to me that -- that that might
18 occur. One thing that we try to sensitize physicians that
19 work in emergency room is that when people come in for
20 treatment of cocaine problems, you may get attacked by the
21 patient. So -- and this occurs, that you -- you're in
22 there, trying to help people, and they might beat you up
23 because they are suddenly explosively violent. And
24 usually, there are other symptoms there too.

25 So you need to know that you would need help working

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 42

1 with that patient, rather than go in there individually..
2 alone with a patient that has had hallucinations secondary
3 to cocaine.

4 So it's -- it's something that's addressed that
5 violence occurs, is reported, and you can see it in various
6 settings. It'll range from a -- a -- a -- a -- a different
7 percentage. But it's -- it's not surprising, I think, to
8 most people that if you use cocaine, it's liable to cause
9 violence.

10 Because one of things it does is it releases
11 tremendous amount of chemicals that are used if you were in
12 a violent situation to help you either fight or run away.
13 And that term is "flight or fight."

14 And to do -- either fight or run away, you've got to
15 have all this energy; you've got to have your heart racing.
16 You shouldn't be relaxed if you're going to try to capture
17 a wild animal. So you're ready to grab that animal, that
18 sort of thing.

19 And that's -- that's where -- one of the negative
20 things occurs with -- with cocaine, is that you've got this
21 outpouring of all these chemicals, and people don't like it
22 that are using it. And they'll -- often they'll drink
23 alcohol to kind of diminish that negative
24 agitation/restlessness/irritability/aggressiveness that you
25 see with -- with cocaine, or they use opioids.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 43

1 Q To summarize there, this article of cocaine and
2 psychiatric symptoms that you published in the "Journal of
3 Clinical Psychiatry" in August of 1999, that was a peer-
4 reviewed publication.

5 A Yes, sir.

6 Q And that was a summary of research being done across
7 the country on this topic.

8 A It was -- it was on the topic that -- research being
9 done. There's so much being researched. But it was around
10 symptoms that you might see in patients that you might be
11 working with that are using cocaine..

12 So there's -- there would be research in other areas
13 that I wouldn't have even touched, such as maybe effects on
14 the baby; effects on -- on reproduction; effects on --
15 cardiovascular effects; effects on heart attacks; effects
16 on seizures.

17 I might just -- I wouldn't have addressed that,
18 because I was looking at primarily psychiatric symptoms:
19 what do you see that people -- that would -- people would
20 have typically seen in an area that's affecting their
21 thoughts, their behavior, or their feeling that might be
22 labeled a psychiatric symptom.

23 Q Now, I notice that you have a -- a list here of trials
24 that you've testified in, relative to the effects of drugs,
25 particularly cocaine sometimes that -- on behavior.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 44

1 A Yes, sir.

2 Q Okay. Were you qualified as an expert witness to do
3 that?

4 A Yes. I was qualified, I believe, 72 times.

5 MR. BLAKE: It's marked as Defendant's Exhibit 4.

6 MR. DANIEL: No objection.

7 MR. BLAKE: Entered into evidence.

8 (Defendant's Exhibit 4, list document, entered into
9 evidence.)

10 DIRECT EXAMINATION BY MR. BLAKE (CONTINUES):

11 Q I don't want to spend a long time on that, we've
12 qualified you as an expert. But this has happened a number
13 of times where science itself has been recognized. You've
14 been qualified to testify as an expert; is that correct?

15 A Yes, sir, it has. It's -- I -- I don't know that it's
16 come up as a issue. The -- the main issue that seems to
17 come up, if it's not presented at trial, then it needs to
18 be presented eight or ten years later.

19 So a lot of the times that -- in the past, drug use
20 used to be hidden; it was not accepted as a -- a valid
21 issue, as a -- a -- and so no one talked about it. And
22 then you get down the road, and -- and we -- we have
23 learned that it has -- it's important to discuss and for
24 people to know -- and this is important.

25 So here I'm -- here I'm being asked to present

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 45

1 information that occurred in 1989, and it's -- and it's
2 2005. But it wasn't -- it wasn't presented in 1989.

3 Q Now, you've had an opportunity to review material --
4 the files related to this particular case?

5 A Yes.

6 Q You've had an opportunity to speak directly with Mr.
7 Hogan?

8 A Yes. I met with Mr. Hogan for a considerable amount
9 of time, about 2 1/2 hours.

10 Q Okay. And you have reviewed the videotape of his
11 statement about this crime?

12 A Yes, I have.

13 Q So you're familiar with the facts surrounding this
14 situation.

15 A I've just recently gotten a -- some of that
16 information. It's -- it's not as many pages of information
17 as I'm used to reviewing. But I expect there'll be more as
18 -- as we get closer to trial. But I've read -- I've read
19 some.

20 And I've -- I've not talked with any of his family.
21 I've not talked with any of the witnesses. I've not talked
22 with any people that know Mr. Hogan.

23 Q And in your opinion, did his crack cocaine use have
24 any effect on his behavior?

25 A Absolutely. It would have had effect on his behavior

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 46

1 during this week of his use, which was rather a recent
2 onset. He relapsed with cocaine. He had -- he had not
3 used for approximately 2 1/2 years and then relapsed using.

4 Q So it had effect on his behavior and conduct. How
5 about his thinking processes, his cognitive function, his
6 ability to make decisions?

7 A Cocaine definitely affects people's ability to reason
8 and use logic. We're -- we're -- we're using, in this
9 courtroom, very high level of executive-functioning
10 thinking. We're -- we're -- we're making decisions; we're
11 listening to each other. We're making clear thinking here.

12 This does not occur when people are using cocaine.
13 They can't access that part of their brain. There's good
14 evidence now to show that -- that that part of the brain,
15 on brain scans, it does not get activated.

16 And that's important for me to know because I'm
17 involved in their treatment. And if I know that if I give
18 them some instructions and they look like they understand
19 them but they don't understand them, they're not going to
20 be able to participate in a treatment program.

21 So you have to know that -- that people that have been
22 using cocaine are impaired in their thinking, even up to
23 months after they're stopped.

24 Q Up to months after.

25 A It -- it stays -- it gets a little bit better, but

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 47

1 their thinking still can be impaired. While you're using,
2 not only is there impaired ability to use the frontal parts
3 of your brain, the brain that -- parts that all humans have
4 to make decisions, but it also would be affected by various
5 psychiatric symptoms that he described, such as
6 suspiciousness, such as agitation, restlessness. That
7 would impair your ability to think clearly if you're
8 boiling along with a cauldron of chemicals in your brain.

9 Q And you're aware that there are various aspects of
10 proof in this case related to both Mr. Hogan's crack
11 cocaine use as well as the victim's crack cocaine use.

12 A Yes. I'm aware that the victim, Ms. Brown, had a
13 laboratory test that showed that she had cocaine metabolite
14 in her blood, cocaine metabolite of alcohol and cocaine,
15 and that she had another drug, hydroxyzine, in her blood,
16 which ---

17 THE COURT REPORTER: (To the witness) I'm sorry.
18 That drug?

19 THE WITNESS: Hydroxyzine, h-y-d-r-o-x-y-z-i-n-e.

20 A --- which may or may not have been abusable drug. But
21 it could've been used for some other condition. But she
22 certainly had -- there's evidence there that she has -- she
23 has had cocaine recently in her blood -- or in her body.
24 It was -- it was discovered in her body tissue.

25 Q If you could go to -- it's -- I've got it as Slide 2-

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 48

1 F. It's the one on dopamine. I believe you said that was
2 one of the main neurotransmitters when you're using
3 cocaine. And if you could describe some of the effects
4 that dopamine has on -- on the brain and on the body.

5 A Well, dopamine primarily works in several areas of the
6 brain. It affects movement. If you lose all your
7 dopamine, you might develop Parkinson's disease. It
8 affects reward so that people do things regularly. It's
9 been associated with the neurotransmitter of love. When
10 you fall in love with someone and that's the only person
11 you can think of constantly, it's related to -- you -- we
12 can see that being related to a tremendous amount of -- of
13 -- of dopamine.

14 People basically fall in love with drugs at times or
15 other things, other behaviors. That's all they think about
16 constantly, and it's related to large amounts of dopamine
17 being released.

18 The brain is not designed for massive amounts of brain
19 chemicals to be released all at once. And sometimes you
20 see problems. Certainly, there's a condition called
21 "schizophrenia." And we know for sure that at certain
22 areas of the brain, too much dopamine is the main cause of
23 people having some symptoms with schizophrenia. It's not
24 that simple. There are other brain chemicals too.

25 But when we use a medicine that blocks dopamine, they

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 49

1 get better. They do get -- they don't get well, they get
2 better. So they have less delusions, less hallucinations.
3 They can start working. People with schizophrenia, a
4 lifelong disease, too much dopamine -- you see similar
5 symptoms with someone taking cocaine that releases too much
6 dopamine: hallucinations, abnormal thinking, aggression.

7 You can see this in animals, where -- where too much
8 dopamine is either released or given directly, they will
9 fight with each other. Loss of impulse control is seen
10 with too much dopamine.

11 Q What does that mean, "loss of impulse control"?

12 A Not being able to think about your behavior and the
13 consequences. Should I hit this person? No, I shouldn't.
14 I should -- I should just settle down, count to ten, and
15 then avoid him; and then maybe talk about it later.

16 So -- so rather than not even having that thought, you
17 just suddenly hit the person without any level of thinking
18 because you're just acting very spontaneously, based on a
19 thought, a -- a feeling, maybe a feeling of paranoia, maybe
20 a feeling of rage, maybe a feeling of excessive --
21 excitation.

22 I would not want my airplane pilot to be landing a
23 airplane while they were agitated on cocaine. I would want
24 them to think clearly and slowly get it down. It would be
25 dangerous for that to happen.

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 50

1 Q Is there anything else you want to tell us in terms of
2 your understanding of the effects of cocaine on both
3 conduct and thought, and how it relates to this specific
4 case, in terms of Mr. Hogan.

5 A The -- the same thing that I would -- I would talk to
6 my students about. I would say that here, that their
7 behavior is illogical. It does not make sense to me; it
8 does not make sense to people. And to try to make sense of
9 it is futile.

10 And I hear this constantly: "Why did she do that?"
11 "They did it because they were using cocaine." "Well, why
12 did they do that?" "I don't know. It's not logical, is
13 it?"

14 They have illogical thinking. It's important to know
15 that if you'll work with people that have recently used
16 drugs, their behavior is not logical. It -- they didn't
17 use a part of their brain in thinking through and planning
18 what they did. And I think that's -- I'm -- I'm seeing
19 evidence of that with Mr. Hogan.

20 Q You see any loss of impulse control there with Mr.
21 Hogan?

22 A From what I heard from him, both on the interview --

23 Q You mean the videotaped interview?

24 A -- videotaped interview, talking with him, trying to
25 make some sense. I spent a couple of hours with him,

DIRECT EXAMINATION BY MR. BLAKE - WILLIAM ALEXANDER MORTON 51

1 because I collected information in several different ways.
2 I'm -- I'm aware that he could tell his story
3 overreporting, underreporting, accurately reporting. I'm
4 aware of that. And I take that into consideration.

5 And I teach about that. I teach about what do you
6 rely upon. And so I try to cross-reference what I hear
7 from him several times. I try to cross-reference to what
8 he said before. I try to cross-reference it to what
9 investigators maybe found to come to what was probably
10 there. I was not there. No one was there except Mr.
11 Hogan.

12 So I'm aware of that, and I'm relying on that. How
13 does it fit with what's in the literature? How does it fit
14 with other people that I've seen in the hospital? How does
15 it fit with other people that I know have committed crimes?
16 Is this -- is this a pattern? Is it a possibility? What
17 is the possibility that he responded that way? Is it high
18 or is it low? Is it remote? Is it absolutely 0.001
19 percent or is it 80 percent likely?

20 So I -- I'm -- I'm trying to make assessments in that
21 area. What's the likelihood that he was acting paranoid
22 and he was aggressive and irritable and uncomfortable on
23 that night? Pretty high. Pretty high likelihood, based on
24 the amount that -- of -- of cocaine that -- that he and
25 Mrs. Brown used over that day, sharing it.

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 52

1 Q Anything else you'd like to add in terms of cocaine
2 effect in this particular case?

3 A Well, the sense of sensitization is important. Just
4 as -- just as if I got burned a lot in the sun as a child,
5 I'm more likelihood [sic] to develop malignant melanoma as
6 an adult. I -- my skin has been sensitized. And just as
7 with cocaine, it sensitizes parts of the brain the around
8 negative thoughts.

9 So if you were a little paranoid ten years ago and you
10 quit, you're going -- soon as you start using now, you're
11 going to be equally paranoid if not more, because it's
12 developed that pathway. It sensitized that pathway in the
13 brain, that thought, that feeling, maybe that behavior,
14 that it's easier to occur and set off.

15 So you see that in people that have been using
16 stimulant drugs, that their behavior worsens. It doesn't
17 necessarily plateau out or get better while they're using.
18 It can plateau out and decrease if they quit using,
19 certainly. I -- I work in this area because people get
20 better if they're treated.

21 And I find it a very gratifying area to work in,
22 because people do get better if you treat them. If you
23 treat them, they will get better. If they quit using
24 drugs, they will get better. It's not necessarily an easy
25 thing to do, but it's very predictable. I find drug abuse

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 53

1 to be predictable: what happens if you use, what happens
2 if you don't use.

3 MR. BLAKE: Thank you.

4 THE COURT: Mr. Daniel?

5 MR. DANIEL: Your Honor, at this time we don't have
6 any questions of Mr. Morton. Our -- we actually don't even
7 any objection to all the science that's he's just said.
8 That's not our point. Our argument -- and we will, of
9 course, make that at the appropriate time as to the
10 admissibility under the current case law.

11 THE COURT: All right. Doctor, I have some questions
12 regarding your testimony that I've got to satisfy myself
13 about.

14 THE WITNESS: Yes, sir.

15 DIRECT EXAMINATION BY THE COURT:

16 Q Looking at your slides and your things about crack
17 cocaine's initial effects and -- and then the psychiatric
18 effects of cocaine, first of all, the question that I have
19 is: How do you know what the effects of crack cocaine are?

20 Unlike, say, alcohol's effect on the liver -- an
21 autopsy reveals what that is -- that's -- that's an
22 objective standard, an objective finding. How -- the --
23 these are subjective. How do you -- how do you determine --
24 -- unless you have used crack cocaine, how do you determine
25 what the subjective effect is on the brain?

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 54

1 A The -- that's a good question. And there's several
2 ways you could do it. One is you could ask them to report
3 what they've had -- experience. You could ask them what is
4 it like.

5 Q I -- I understand that. And that ---

6 A Right.

7 Q That's still all subjective, is it not? There is no
8 objective way to determine what the effect of -- of crack
9 cocaine is on the brain?

10 A You can put them in a MRI scanner or a PET scanner and
11 say -- and describe to them, "What's it like to use
12 cocaine?" And you can see certain areas of the brain light
13 up. You can see -- you can see the brain change.

14 And that's different to someone that has not used
15 cocaine. And you say, "What do you think cocaine would
16 feel like?" And it doesn't light up as much. So that's
17 being looked at now, how the brain is stimulated and how it
18 changes it. So that's more objective.

19 We can't, until someone dies, do a postmortem of their
20 brain. But we can find microstrokes in the brain, where
21 people had little strokes from their cocaine use. We can
22 say that -- maybe that contributed to their behavior.

23 We can find -- we can find -- with other disorders,
24 sometimes people that have had trauma in -- in -- in the
25 war, they come back and use cocaine. We can see that their

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 55

1 brain might get smaller. We can measure areas of the
2 frontal lobe, where we -- where we do our thinking, and we
3 can see that there's smaller areas. In that area it
4 doesn't light up.

5 You can do neuropsychological tests, where you have
6 them pick certain things or -- or where you have them do
7 pencil-and-paper tests and you can see changes in that,
8 both ---

9 Q Is -- is ---

10 A --- people ---

11 Q --- there -- is there a difference between an injury
12 to the brain and a -- and damage to the brain as a result
13 of drug use?

14 A There would be differences and similarities. There's
15 close-head injuries and there's open-head injuries. And --
16 and then, there's drug use. And that is not in my area of
17 expertise to testify. It's -- it's in my area of knowledge
18 ---

19 Q All right. How ---

20 A --- that I ---

21 Q --- how ---

22 A --- I would ---

23 Q --- do you ---

24 A --- refer ---

25 Q --- distinguish ---

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 56

1 A I'm sorry.

2 Q --- between the two, the -- of damage to the brain as
3 a result of an injury, as opposed to damage to the brain as
4 a result of drug use?

5 A It would be hard to do. But it would -- it would --
6 it -- depending on what area of the brain, where the injury
7 is, what you would expect to see from a injury, such as a
8 fall or a hammer. You might see -- if it was a hammer blow
9 to the back of the head, you might find it -- you might
10 find deficits there. But it would -- it would be hard to
11 do.

12 It'd be what you would expect to see on other scans
13 and -- that have -- that have been collected. For
14 instance, alcohol neuropathy and encephalopathy and damage
15 there, there's a -- a -- a -- a small atrophy of the whole
16 brain. And we -- we -- we realize that that can be related
17 to thiamine deficiency, a vitamin, that makes the brain get
18 smaller. And that's pretty predictable with alcohol. So
19 we can say more than likely, it's alcohol-related and not
20 Alzheimer-related. That can be done.

21 But -- or it's hard -- it -- it's hard to say that --
22 that cocaine didn't do that -- didn't make the brain
23 smaller.

24 Q Well, is it your testimony that -- that cocaine use or
25 prolonged drug use, whatever it is, whether it's alcohol or

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 57

1 -- or -- or cocaine or whatever it is, basically cause --
2 it can cause a permanent injury to the brain?

3 A Yes, sir. It can -- it can cause permanent, as far as
4 we've studied it sometimes ---

5 Q Just like a physical injury could do?

6 A Yes. That's possible too. Yes, sir.

7 Q So what we're really talking about here -- well, let
8 me see if I -- I -- get my thoughts together here a little
9 bit.

10 I guess my question is: When does this physical
11 injury to the brain, be it from a -- to -- when does this
12 injury to -- this injury to the brain, whether it be a
13 physical injury or a -- a result of prolonged drug use, not
14 become a psychiatric condition that makes a person
15 incapable of knowing the difference between right and wrong
16 and the ability to distinguish between -- in other words,
17 why is it -- what you're proposing here is the effect of
18 this use of drug on this defendant here in this case, why
19 isn't that a psychiatric condition that makes him not
20 criminally responsible?

21 A Because he used it voluntarily.

22 Q Voluntary intoxication is not a defense from -- from a
23 criminal standpoint.

24 A Right. I mean, that's -- he -- he used it -- started
25 off using it voluntarily. But he has symptoms that are

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 58

1 consistent with what you see with other people. And these
2 symptoms last for days to weeks, typically: that -- that
3 the paranoia that you see with cocaine use would last for
4 easily days, if not months, but it would diminish. The
5 agitation and restlessness would last -- it -- easily for a
6 day from -- from using cocaine, if not -- if not six to
7 eight hours for sure. The ability to think clear and make
8 rational decisions -- it may take as long as 18 months to
9 start seeing some ability to make good, clear decisions.

10 Q All right. In -- in -- in determining whether this is
11 admissible for the jury, that's what I have to look at. It
12 seems like to me what we're talking about here is an area
13 between normal brain function and psychotic or psychiatric
14 brain function that makes a person incapable of knowing the
15 difference between right and wrong, and the inability --
16 and the ability to conform their conduct. Seems like to me
17 you're talking about some -- this being normal -- this
18 being the brain function down here that makes a person
19 psychotic. You're talking about something in between,
20 where they don't have that criminal responsibility.

21 A Well ---

22 Q Aren't we creating a whole new level of criminal
23 responsibility or lack of criminal responsibility ---

24 A I ---

25 Q --- between ---

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 59

1 A --- I don't -- I don't know. I do know that -- that
2 you can have one symptom that can -- it -- not -- it might
3 not make you psychotic. You may know, "I shouldn't do
4 this," but you don't even think about it; you just respond.
5 You don't ---

6 Q You're talking about -- in that situation, are you not
7 talking about an irresistible impulse?

8 A Well, using cocaine is a irresistible impulse.

9 Q No. I'm talking about the actions, not the -- the use
10 of cocaine. I'm talking about the actions of committing
11 the crime.

12 A Well, the use leads to these side effects of actions,
13 which is impulsivity, aggressiveness, hallucinations, maybe
14 hearing or seeing ---

15 Q Does not the law make a distinction between a -- a
16 crime that is committed on irresistible impulse, as opposed
17 to the -- this criminal responsibility is still there, but
18 it's the difference between malice, say, in a murder case
19 and a lack of malice in a murder case, in which it becomes
20 voluntary manslaughter situation.

21 A I don't know that people get to the point of thinking
22 that, "Okay. I'm going to do this to this person." They
23 just spontaneously would hit someone or do something, and
24 then not think -- not think about it. And -- because that
25 is the nature of what cocaine and methamphetamine and any

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 60

1 stimulant does, is it -- it just causes this impulsivity in
2 the way you perceive things and do things. And it's just
3 well documented that that's what you see with these drugs.

4 Q Is it your opinion that this impulsive behavior, as a
5 result of use of crack cocaine, relieves this defendant of
6 criminal responsibility?

7 A Not of criminal responsibility. No. I think he is --
8 I think he is responsible for what he did. And I think he
9 is justly -- he should be punished. And -- and -- but he
10 didn't think about doing it. He didn't plan it; he didn't
11 -- he didn't necessarily ---

12 Q Well, what is, I guess, the purpose of your testimony,
13 then? If you don't think it relieves him of criminal
14 responsibility, then what is the fact that you think that
15 the jury should consider, based on your testimony?

16 A That this -- here's a drug that causes incredible
17 changes in a person's perceptions, behavior, and how they -
18 - how they feel. And it -- it's well known and this should
19 -- this would help someone understand how this murder came
20 about.

21 It doesn't relieve him of the responsibility of doing
22 it, because he took the cocaine and these changes occurred.
23 But -- but he didn't plan it, per se. He didn't ---

24 Q So -- so that's what the different -- the law makes a
25 difference between malice and voluntary manslaughter.

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 61

1 That's exactly what the law does.

2 This makes a difference between malice, because he
3 didn't plan it -- or he didn't have the -- the requisite --
4 -

5 A --- capacity?

6 Q --- capacity ---

7 A I'm sorry.

8 Q --- or -- well, he -- apparently, he had requisite
9 capacity, because if he didn't have the requisite capacity
10 to know the difference between right and wrong, then he
11 wouldn't be on trial.

12 So you don't think it -- you think he had -- he knew
13 the difference between right and wrong. He knew that his
14 conduct did not conform to the standards of society.

15 So I guess what I'm having trouble with is -- is the
16 difference between a normal brain function and a person
17 that reaches that stage of brain function where they don't
18 have capacity.

19 A I -- I think he -- somewhere in his brain he knew the
20 difference between right and wrong, but it was not checked.
21 It was not assessed. It didn't -- didn't say I'm going to
22 go to the right or wrong page and see if this is right or
23 wrong.

24 I think if you ask him now, he knows it's wrong; it
25 was absolutely wrong. There's no question when I talk to

1 him, there's a tremendous amount of remorse and sadness
2 about what he did and he knows it's wrong.

3 At the moment I don't think -- at the time that it
4 occurred, he didn't ever say to himself, "Is this right or
5 wrong? Okay. It's wrong, but I'm going to do it anyway."

6 I don't think he did that. I think -- because using
7 cocaine doesn't put you in that perspective to think about
8 the consequences and should it be right or wrong. It's
9 just you do things. It -- it's like you're unleashed --
10 you've got this rage; you've got this pent-up, boiling
11 chemicals that are too much for your brain; and you're just
12 responding sporadically, erratically, illogically. I -- I
13 see that before and after. He -- he's ---

14 Q Okay. I ---

15 A --- he continues to make bad decisions after the
16 murder.

17 Q All right. I understand. Just a couple ---

18 A I -- I ---

19 Q --- more questions. Just a ---

20 A Okay.

21 Q --- couple more questions ---

22 A Yes, sir.

23 Q --- Doctor. Have you ever been asked or qualified to
24 testify on this specific issue in any other court or in --
25 or -- I -- I see your list of -- of 72 qualifications

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 63

1 dealing with various effects of -- of drugs on the brain.

2 But have you ever been qualified as an expert to
3 testify on this specific issue before?

4 A I've testified in the guilt/innocent phase, as well as
5 the mitigation phases of different trials.

6 Q And how many of these qualifications were mitigation
7 phase?

8 A I would say -- I -- I would say probably two-thirds.

9 Q Two-thirds? So about a third of them would have been
10 in the guilt or innocent phase.

11 A Yes, sir.

12 Q And some of them you would've actually -- I believe
13 one of them, I noticed on there, was actually a post-
14 conviction relief thing, as opposed to ---

15 A Yes, sir.

16 Q Okay. Now, the other thing I would say is -- and I
17 would ask you this: Have you ever not been qualified in --
18 when brought before a court for qualification as an expert?

19 A No, sir, I have not. I've been involved in one formal
20 *Daubert* case, which lasted -- before my testimony. It was
21 a hearing -- a *Daubert* hearing that lasted for about a day
22 and a half, as far as does a benzodiazepine cause people to
23 become intoxicated.

24 Q Uh-huh.

25 A And it -- I thought it was well known and it's well

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 64

1 documented. But we went through the *Daubert* procedures in
2 a federal court. And I did something similar just recently
3 ---

4 Q You went through it in federal court. What happened
5 as a result of that?

6 A I was allowed to testify. And that -- that -- that a
7 benzodiazepine does cause intoxication and there is
8 withdrawal from it. That was -- it was ---

9 Q And, I guess, the final question to that, in -- in
10 this hearing is: Why is this not a psychiatric issue,
11 rather than a pharmaceutical issue?

12 A Well, there's overlap. There's overlap. The -- the --
13 -- the pharmacological issue caused the psychiatric symptom.

14 Q Well, if he had the psychiatric symptom -- symptoms,
15 they either rise to the level of not responsible or are
16 responsible.

17 A Well, at the time -- at the time now, he's certainly
18 responsible. In -- there's no question, in my mind. I'm
19 not a expert in -- in -- in determining if he -- but I -- I
20 think he's reliable now and he understands what's going on
21 now.

22 At the time I think he did not understand some of his
23 behavior. In retrospect he tries to make sense of it.

24 Q Well, there -- there are two standards under the law.
25 One is competency to stand trial and that's now. And the

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 65

1 other is criminal responsibility at the time the act was
2 committed, and that's the ability to -- to know the
3 difference between right and wrong and the ability to
4 conform his conduct to the standards of society.

5 And if, from a psychiatric standpoint, he does not
6 meet that first -- the -- the latter one, with the
7 competencies of -- the competency, we all agree on at this
8 point -- but the criminal responsibility and the ability to
9 conform his conduct to the standards of society, then he
10 wouldn't be on trial from a psychiatric standpoint.

11 So there must be a level -- what you're saying is
12 between the -- not competent under a psychiatric standpoint
13 and a normal person under a objective standpoint.

14 A I -- I think -- if -- if he -- yes. I -- I -- my
15 opinion is that if -- if -- if he was addressed, "Did you
16 do the wrong thing?" a day after, he would've said, "Yes, I
17 did do the wrong thing. I knew I was doing the wrong
18 thing, but it just got out of hand and -- and it occurred."

19 But I don't think -- I don't think he was planning
20 this and wanting to hurt her specifically. He was just
21 using cocaine -- and in his own little world, which doesn't
22 necessarily make sense -- and his behavior was an
23 overreaction to one of Ms. Brown's behavior.

24 Q Based upon your reading and -- and having seen the
25 statements and things of that nature, you probably know

DIRECT EXAMINATION BY THE COURT - WILLIAM ALEXANDER MORTON 66

1 more about the facts of this case than I do. So I haven't
2 heard any of the facts yet.

3 A Yes, sir.

4 Q But my question, I guess, at this point -- and then
5 I'm going to stop and we'll -- we'll let you stand down --
6 I'm -- I'm going to study what you've said. Is it your
7 understanding that he was using cocaine or under the
8 influence of crack cocaine at the time of the crime, or did
9 he cease doing it and it was sometime in the past?

10 A He was under the influence of it before, during, and
11 after the crime. And ---

12 Q Okay.

13 A --- and he used it fairly soon before and fairly soon
14 during and after the crime.

15 And people use cocaine until it's gone, basically, and
16 that's what he did. And even if he wasn't actually smoking
17 it while he was -- while he was doing the crime --

18 Q It's still in his system,

19 A -- he would still have it in his system.

20 Q All right.

21 A Yes, sir.

22 Q All right. That's what I -- I don't know the facts of
23 the case, and so I ---

24 A Yes, sir.

25 Q --- was wondering.

1 THE COURT: All right, Doctor. Thank you very much.

2 THE WITNESS: Yes, sir. Thank you ---

3 THE COURT: You may ---

4 THE WITNESS: --- Your Honor.

5 THE COURT: --- step down.

6 (Whereupon, the witness exits the witness stand.)

7 THE COURT: Would you like to have this witness
8 excused, Mr. Blake? I think he's got a long ride ahead of
9 him.

10 MR. BLAKE: Yes, Your Honor. That's would be fine
11 with the State as well as yourself.

12 THE COURT: Sorry for the delay, Mr. -- Dr. Morton.
13 And -- but maybe you'll get back to Brevard before too
14 late.

15 THE WITNESS: Thank you, sir. Appreciate ---

16 THE COURT: All right.

17 THE WITNESS: --- it.

18 THE COURT: You're excused. Thank you for coming.

19 (Whereupon, the witness exits the courtroom.)

20 THE COURT: All right. Counsel, that -- I'll hear
21 from you in the way of arguments in a few minutes. But
22 let's look at a couple matters just to see if we can
23 clarify some matters before we start.

24 It was brought to my attention after the order from
25 the last hearing that maybe there were -- a -- an amendment

1 THE COURT: Oh ---

2 MR. DANIEL: It -- it ---

3 THE COURT: --- okay.

4 MR. DANIEL: --- it would be cut out to -- to just
5 what the State believes to be the stab wound. And that
6 would be the only part of that ---

7 THE COURT: Well, I think we can handle that at the
8 pretrial conference at ---

9 MR. DANIEL: Certainly.

10 THE COURT: --- the time or either in January. I
11 don't think that's something you can deal with today. I
12 think the main reason I wanted to have this hearing today
13 was to get to Mr. -- to Dr. Morton's testimony.

14 But I'm going to -- again, am going to give these back
15 and let -- and -- and we'll deal with all the photographs
16 at the -- at the appropriate time.

17 MR. DANIEL: And -- and, Your Honor, the -- the dental
18 record -- you -- I think you asked about that one in
19 particular. That one I have -- we have discussed. I -- I
20 believe that Mr. Blake is going to stipulate that the
21 remains are, in fact, the victim that we believe -- or who
22 was involved in this case.

23 However, it is, as the Court knows, a -- a tried and
24 true defense tactic to put law enforcement on trial. And
25 in this case we would like to be able to show the jury what

1 kind of lengths law enforcement went to, to make sure that
2 they had crossed their "i's" and dotted their -- whatever -
3 --

4 THE COURT: Well, I'm ---

5 MR. DANIEL: --- dotted their "i's" ---

6 THE COURT: --- not going to be able to do that until
7 I hear the testimony, so ---

8 MR. DANIEL: Right.

9 THE COURT: --- we'll just have to see.

10 All right. Let's go back to Dr. Morton's testimony.
11 I want to hear from you, Counsel. That's the main reason
12 we were over here today, was to determine the admissibility
13 of the expert testimony.

14 And now that we have heard from him and I have
15 inquired questions that I had, I do need to go ahead and
16 put on the record to make this determination. I'm not sure
17 whether I'm going to rule today, but I'll hear arguments
18 from you.

19 But what the -- the laws state, of course, is under
20 the State -- case of *the State v. Council*, that: "When
21 admitting scientific evidence under Rule 20 -- 702, the --
22 of the South Carolina Rules of Evidence, the trial judge
23 must find the evidence will assist the trier of fact" --
24 that would be the jury -- "that the expert witness is
25 qualified and the underlying science is reliable. The

1 trial court should apply the Jones factors to determine
2 reliability. And if the evidence is admissible under 702
3 of the South Carolina Rules of Evidence, the trial judge
4 should determine if its probative value is outweighed by
5 its prejudicial effect under Rule 403 of the South Carolina
6 Rules of Evidence. Once the evidence is admitted under the
7 standards, the jury may give it such weight as it deems
8 appropriate."

9 Now, based upon the notes that I have made, it appears
10 that the State does not challenge the witness's
11 qualification as a pharmacist -- pharmaceutical -- let me --
12 -- I wrote exactly what -- psychopharmacology. He's offered
13 as an expert in the field of addiction and
14 psychopharmacology, and the State indicated that they do
15 not object to that.

16 But with regard to the other matters, let me hear from
17 Mr. Daniel as to why you think the testimony is not
18 admissible; then I will allow Mr. Blake to reply.

19 MR. DANIEL: Thank you, Your Honor. If it please the
20 Court. Your Honor, this is a situation that the State
21 believes never gets to *Council*. The Court shouldn't even --
22 -- shouldn't even bother itself with that analysis because
23 of the well-settled law in South Carolina that voluntary
24 intoxication or being under -- or under the influence of
25 drugs is not a defense to a criminal act.

1 In -- in conversations with Mr. Blake, I understand
2 that he's saying we're not putting this forward as a
3 defense. But that's exactly what the defense is doing,
4 because it's saying that he's not guilty of murder because
5 he's under the influence; he's -- therefore he's guilty of
6 voluntary manslaughter and not murder. And that's his
7 whole point.

8 Well, that, by definition, is a defense to murder.
9 And so it is well settled with the *Davis* case that I have
10 for the Court, as well as the *Vaughn* case. If the -- the --
11 -- the Court in those cases said it better than I can. And
12 that is (as read): "Voluntary intoxication does not impair
13 a person's ability to act" ---

14 THE COURT REPORTER: Mr. Daniel, when you read, you
15 need ---

16 THE COURT: Slow down.

17 THE COURT REPORTER: --- to read a little bit slower.

18 MR. DANIEL: Sorry. (As read) "Voluntary intoxication
19 does not impair a person's ability to act with malice
20 aforethought so as to reduce murder to voluntary
21 manslaughter."

22 Your Honor, it doesn't get any more cut and dried than
23 that. That is the *Davis* case.

24 The *Vaughn* case echoes essentially the same thought.
25 And that is (as read): "Voluntary intoxication is never an

1 excuse for or a defense to a crime, regardless of whether
2 the intent involved be general or specific."

3 Your Honor, again, what Mr. Blake wants to do here is
4 have the jury hear all this stuff about what cocaine does
5 to you, to negate the intent required. That is a defense.

6 And as the Court said when discussing the matter with
7 the -- with Mr. Morton, they are not allowed to assert that
8 as a defense, because it was voluntary. I -- I have heard
9 no evidence that Mr. Hogan was force-fed cocaine or was
10 forced to smoke crack.

11 So, Your Honor, I've got 300 or so defendants in
12 Dillon who are praying that you rule for the defense in
13 this case. Because what a Pandora's box it opens for a
14 defense to be able to say, "Well, yeah. I may have
15 committed this crime, but I'm not as -- as culpable because
16 I was high; because I was drunk; because I was whatever."

17 There's no *McNaughton* test here. There's been no
18 issue -- no -- no psychologist or psychiatrist has -- has
19 evaluated Mr. Hogan. That is not an issue.

20 So, Your Honor, you heard the doctor say that -- that
21 this -- these drugs were used voluntarily; that they do not
22 relieve this defendant of criminal responsibility; and that
23 he knew the difference between right and wrong. I don't
24 think that this doctor -- or this person is -- this witness
25 was qualified to -- to say all those things. But this ---

1 THE COURT: Well, my purpose in that was trying to
2 draw the distinction between whether he's -- could be on
3 trial or not be on trial.

4 MR. DANIEL: Certainly. Certainly. And -- and all
5 I'm saying is from -- from an official standpoint of him
6 passing judgment on that, I don't think that he was
7 qualified ---

8 THE COURT: Well, he ---

9 MR. DANIEL: --- or -- or would be. But certainly, I
10 -- I understand why the Court was asking the question.

11 But ultimately, Judge, this is why we didn't have any
12 objection to Mr. Morton's testimony to -- or at -- at this
13 point, and to his -- to the science of what he had to say,
14 because we don't object to any of that.

15 But we don't think we ever get to the *Council* argument
16 because of the very clear case law in this state that this
17 is not allowed to be asserted as a defense when that is, in
18 fact, precisely what Mr. Blake's trying to do.

19 THE COURT: All right. So what your argument is, is
20 that the testimony of Mr. Morton is not relevant and will
21 not assist the trier of fact to determine any relevant
22 issue, because the issue of voluntary intoxication, whether
23 or not it is drugs or alcohol, is not a defense.

24 MR. DANIEL: That is absolutely what we're saying.
25 And, Your Honor, if -- if the defense would like to use

1 this in mitigation, then have at it.

2 And -- and I -- I would add that this -- these 71
3 cases, I believe, on this list that is a Court -- Court's -
4 - or Defense Exhibit 4, the list of cases that Mr. Morton
5 has testified in, I believe, all the South Carolina cases
6 are capital cases except for one. And of -- of course,
7 this is -- this is admissible in -- in -- in the penalty
8 phase of a -- of a capital trial.

9 THE COURT: Well, I asked him about that. And he
10 admitted it was two-thirds of those cases on that list he
11 testified to were in mitigation, not in -- not in -- in
12 direct testimony.

13 MR. DANIEL: Right. But I -- I would say that if --
14 if you look at the cases where he was qualified in South
15 Carolina, there is one that I see that was not a capital
16 case or a federal case.

17 And so again, we could -- we could go over that
18 another time. But again, it's still -- it's still
19 irrelevant here. The jury should never hear from this --
20 Mr. Morton, should never hear anything about cocaine.

21 And additionally, if the Court even, for some reason,
22 would see it fit to allow his testimony, the State would,
23 in the alternative, argue 403 analysis -- or make a 403
24 argument as well.

25 THE COURT: Okay.

1 MR. DANIEL: Given the adverse effects that even the
2 mention of crack cocaine and somebody being high might use
3 -- or the defense might use it in the way of jury
4 nullification.

5 THE COURT: I understand. All right, Mr. Blake. The
6 -- the State's position is twofold then. Under -- he said
7 we don't even get to *Council*. But basically, we do get to
8 *Council* because he's being offered as an expert. And
9 what's he's saying -- what Mr. Daniel is saying, that the
10 evidence is not something that would help a trier of fact
11 to determine the fact at issue, because voluntary
12 intoxication is not a defense. And then, second, the 403
13 analysis.

14 So he is basically conceding that the witness is
15 qualified and that the underlying science that he testified
16 to is reliable.

17 I'll hear from you with regard to why ---

18 MR. BLAKE: Judge, I ---

19 THE COURT: --- why you think ---

20 MR. BLAKE: --- I had not been seeing this case to
21 talking about *State v. Davis*. But first of all, he says
22 that he does not even think that cocaine use should come
23 into this trial at all. And I would say under the basic
24 idea of *res gestae*, that it is inextricably intertwined
25 with what happened.

1 THE COURT: There is no *res gestae* in our law anymore.
2 That's been replaced by 803 Subparagraph 3 for excited
3 utterances, but the -- the *res gestae* section has been
4 eliminated.

5 MR. BLAKE: I don't mean the hearsay exception, Judge.
6 I mean this -- basically quoting from *State v. Adams*, a
7 1996 case. I'm talking about just the entire events.
8 They're trying to keep out what is essentially a important
9 and a necessary aspect of this case, which is that both of
10 these people were using crack cocaine.

11 Quoting from that case (as read): "One of the
12 accepted bases for the admissibility of evidence of other
13 crimes arises when such evidence furnishes part of the
14 context of the crime or is necessary to a full presentation
15 of the case"

16 THE COURT: What's the citation for *Adams*?

17 MR. BLAKE: *Adams* is 470 S.E.2d 366, South Carolina
18 Supreme Court 1996.

19 But first of all, I think that the cocaine or crack
20 usage is, as I said, inextricably intertwined as the quote
21 in that case and several others with the actual crime
22 itself. And to take that out is simply not to speak of the
23 actual events.

24 Second, we're talking about voluntary manslaughter,
25 which obviously, an important part here is heat of passion.

1 There are facts in the case, my client being stabbed in the
2 side, which would certainly lead to that heat of passion.

3 And then, of course, there is the aspect ---

4 THE COURT: Well, that may be. But that -- that
5 doesn't have anything to do with Dr. Morton's testimony.

6 MR. BLAKE: Well, I was going to say that we're also
7 talking about whether or not the heat of passion remain. I
8 don't know that there is an issue with time or not. There
9 are two videotapes -- or there was two statements or
10 confessions. One was done at the Marlboro County Sheriff's
11 Office some 2 1/2 hours after the original ---

12 THE COURT: I -- I recall the statements. I heard the
13 testimony on that over in Marlboro County. And I recall
14 those and I've already ruled on those. Didn't I hear the
15 statements?

16 MR. BLAKE: Yes, Judge. What I'm saying is that I'm
17 not sure what's going to -- I know what my client will
18 testify to as to what was said in the Sumter interview,
19 which we do not have a tape of. I'm not sure what law
20 enforcement will be testifying to as to what my client said
21 in that interview.

22 If it's an issue of whether or not he had actually
23 cooled off, that may -- is where the effects of the cocaine
24 come in. Has to do with his cooling off period. Not --
25 not what caused him to do it in the first place there, just

1 whether or not he had actually cooled off.

2 Voluntary manslaughter, of course, is sufficient legal
3 provocation, heat of passion, and whether or not he had
4 essentially returned to reason, whether he had cooled off.

5 THE COURT: But I -- I fail to see what Dr. Morton's
6 testimony has to do with that.

7 MR. BLAKE: With the cooling-off period?

8 THE COURT: Yeah.

9 MR. BLAKE: Well, cooling off has -- well, either two
10 things: whether or not he had actually cooled off, which
11 Dr. Morton's testify -- testimony would deal with; or
12 whether sufficient time had relapsed -- had happened so
13 that he should've cooled off. So whether he actually
14 cooled off or whether he should've cooled off.

15 I think it is relevant to that aspect, because it's
16 talking about his mental state. Looking at *South Carolina*
17 *Requests to Charge* by Judge Ralph King Anderson, basically
18 says (as read): "In determining whether the act which
19 caused death was impelled by heat of passion, all
20 surrounding circumstances and conditions are to be taken
21 into consideration . . ." And it goes on. And then
22 talking about ---

23 THE COURT: That has to do with all surrounding
24 circumstances at the time of the crime. It doesn't go back
25 to whether or not he voluntarily became intoxicated either

1 by drugs or alcohol, that would mitigate his crime. So
2 voluntary intoxication is not a defense.

3 MR. BLAKE: No. I'm not saying it is a defense,
4 Judge. It goes to his mental state in determining whether
5 or not he had actually cooled off. And one of the factors
6 there is whether he actually cooled off or whether he
7 should ---

8 THE COURT: Well, if it goes to ---

9 MR. BLAKE: --- have cooled off ---

10 THE COURT: --- if it went to his mental state as to
11 whether or not he actually cooled off, then it goes to his
12 mental state as to whether or not he was able to conform
13 his conduct to the standards of society. And if a
14 psychiatrist said that he was not able to conform his
15 conduct to the standards of society, then we wouldn't be
16 here today.

17 MR. BLAKE: Well, Judge, I'm not bringing in any
18 *McNaughton* issues here. I'm saying that ---

19 THE COURT: What's the difference though? It seems
20 like you are. You're trying to do to the back door what
21 you can't do to the front -- or what you could do to the
22 front door but you don't want to.

23 In other words, isn't that right? If -- if -- if he
24 was unable to conform his conduct to the standards of
25 society, then he is not responsible for this crime. And

1 psychiatric testimony to that effect would mean that he
2 would be in the South Carolina Department of Mental Health,
3 not in the criminal justice system.

4 MR. BLAKE: I don't think it rises to that level.

5 THE COURT: So that's exactly what I asked the doctor.
6 What you're doing is interjecting another level between
7 full responsibility and no responsibility.

8 MR. BLAKE: Judge Anderson basically -- the jury
9 instruction there says (as read): "In determining whether
10 a reasonable time for cooling off had elapsed, you should
11 consider all the circumstances surrounding the event, the
12 nature of the provocation, the defendant's physical and
13 mental constitution, the defendant's condition in life, the
14 defendant's education, habits, conduct, manner, and
15 conversation throughout the entire incident, and the
16 circumstances of the relationship between the parties."

17 THE COURT REPORTER: I'm sorry. The circumstances of
18 the relationship between ...?

19 MR. BLAKE: --- "and the circumstances and
20 relationships between the parties."

21 THE COURT: Okay. I understand your argument. My
22 intention, Counsel, would be to do a little research on my
23 own on these issues and to make a ruling on it at the
24 January term of court. Now that I have the testimony and I
25 know what he's saying, I'll make a ruling at that time.

1 And that'll give everybody -- or either I'll have a written
2 ruling -- but that will give everybody ample opportunity,
3 give them a month between the time of the Court's ruling
4 and the time of trial so everybody knows where we stand.

5 Yes, sir, Mr. Daniel?

6 MR. DANIEL: Your Honor, I just want to add that just
7 a -- a matter of clarification: If I said this, I didn't
8 mean to say that crack shouldn't be mentioned at trial.
9 Mr. Blake started his argument by saying that I was saying
10 that I don't want crack mentioned.

11 Certainly that is a -- a major part of this case, and
12 that's not what the State's position is at all.

13 And secondly, I -- Mr. Blake just handed me what he
14 was reading from. And he was reading from the voluntary
15 manslaughter charge. So naturally, what he said is going
16 to be included in a voluntary manslaughter charge. And
17 obviously, the State would -- would -- would -- would admit
18 that if -- if there's evidence that comes out at trial that
19 would support a voluntary manslaughter charge, then it
20 should be charged.

21 THE COURT: Right.

22 MR. DANIEL: But Mr. Morton is still irrelevant.

23 THE COURT: I understand. Okay. I think I -- I
24 understand everybody's position on this. This is what I
25 wanted to do, is find out exactly what Mr. Morton would be

1 testifying to and to get the proffer of his testimony and
2 decide -- determine what the various positions of the State
3 were as it affects the admissibility of expert testimony
4 under *State v. Council*. And I do now understand the
5 State's position and the testimony of the witness.

6 And I understand also what Mr. Blake is -- is
7 offering. And that is that he is not responsible for
8 murder, because he was unable to form the requisite mental
9 capacity, is what he wants to get from Mr. Morton that
10 would make him liable for murder.

11 I think Mr. Morton did say he didn't think it excused
12 him from criminal responsibility. But it did -- basically,
13 what we're talking about here is the mitigation between --
14 between murder and voluntary manslaughter.

15 MR. BLAKE: And, Judge, if I could for a minute, very
16 often heat of passion is described as irresistible impulse.
17 That's what mitigates it from murder to voluntary
18 manslaughter.

19 THE COURT: No question about that.

20 All right. Thank you, Counsel. And I appreciate your
21 patience today, but I'm glad we got this done so that I can
22 make a ruling on it when I come over the second week in
23 January to -- to Bennettsville.

24 MR. DANIEL: Judge, and I have a quick question, a
25 housekeeping matter: Does the -- should we keep those

1 exhibits that were marked? Do you want us to keep them?

2 You have to ---

3 THE COURT REPORTER: That was going to be the next
4 thing I said, is: Gentlemen, I need those exhibits,
5 please.

6 THE COURT: And what she'll do is send them to the
7 clerk ---

8 THE COURT REPORTER: Uh-huh.

9 THE COURT: --- or get the clerk -- the clerk here is
10 -- will need to transmit them to the clerk in ---

11 MR. DANIEL: Okay.

12 THE COURT: --- in Bennettsville, and they'll be on
13 file in -- in the clerk's office in Bennettsville.

14 MR. DANIEL: Okay. Thank you, Judge.

15 MR. BLAKE: Thank you, Judge.

16 (Whereupon, the proceeding was concluded at 3:13 p.m.)

17 --- END OF TRANSCRIPT OF RECORD ---

18

19

State of South Carolina) In the Court of General Sessions
) Fourth Judicial Circuit
 County Of Marlboro) 2010-GS-34-0696

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 John Lee Hogan, Jr.,)
)
 Defendant.)
)
)
)
)
)

January 10, 2012
 Bennettsville, South Carolina

B E F O R E:

The Honorable Howard P. King, Judge

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

W. Shipp Daniel, III, Esquire, Assistant Solicitor
 Mary Thomas Johnson-Lee, Esquire, Assistant Solicitor
 Attorneys for the State

Daniel L. Blake, Esquire
 Attorney for the Defendant

Elizabeth B. Harris, CVR-M
 Circuit Court Reporter

1 testifies.

2 So, I will hear the state's case and then hear
3 arguments and make a decision during the course of the
4 trial on the admissibility of those prior convictions
5 because I think I've got to make findings on those five
6 factors in *Colf*, if I pronounce that case right, C-o-l-f,
7 vs. State, 337 S.C. 622, 525 S.C. 2nd 246 and the other
8 cases that have interpreted that. I've got to make
9 findings on those five factors. And I can't make those
10 until I've heard the testimony in the case and know what
11 the actual facts are that are going to be before the jury.
12 So, that will be withheld until the time of trial.

13 And now on the motion for reconsideration, I will go
14 ahead and hear arguments on that today, counselor. I will
15 tell you I'm not going to spend a lot of time on this. I
16 do have Mr. Blake's memorandum and, counsel, you each will
17 have about ten minutes. Mr. Blake, if you want to respond
18 to what the state says, reserve some of your time for that.
19 But in the meantime, I'll be glad to hear from you.

20 MR. BLAKE: You want me to start off, Judge?

21 THE COURT: Yes, sir.

22 MR. BLAKE: Judge, I tried to as clearly as possible
23 outline arguments there in that motion for reconsideration.
24 I was responding directly to your order. I can kind of
25 hit those points, but I certainly would like this not to be

1 my sole presentation. You obviously have the motion, as
2 does ---

3 THE COURT: I have your motion, and I have read it.

4 MR. BLAKE: The main point I started out by making was
5 that Rule 702 and also *State vs. Counsel* [verbatim] states
6 that basically:

7 Any scientific, technical, or other specialized
8 knowledge which will assist the trier of fact to
9 understand the evidence, or to determine a fact
10 in issue, is an important part of that first
11 prong.

12 And in your order, you of course had focused on the
13 fact in issue aspect, and I do think that there is a
14 distinction there.

15 In Rule 702, of course it doesn't say will assist the
16 trier to understand that evidence and to determine the fact
17 in issue. But it really gives those two alternatives.
18 That was the first point.

19 The second I felt that I wanted to clarify for the
20 court, what the purpose of Dr. Morton's testimony was. It
21 was not going specifically to intent. I was not concerned
22 about trying to create a sort of less than malice. Really
23 what I was speaking about, and I understand that part of
24 the problem perhaps in our hearing was we did not have a
25 full testimony or knowing what was going to actually happen

1 in trial, what facts would be brought out.

2 Of course, we're not going to know that until trial,
3 and that was one reason at the conclusion I requested that
4 we don't reach a decision today. That the court consider
5 withholding its final decision until the actual trial.
6 That's...

7 THE COURT: What part of your -- what is it you think
8 that Dr. Morton can testify to that would assist the trier
9 of fact to determine the facts in issue?

10 MR. BLAKE: Well, I do think it's, it's part and
11 parcel of the case that, in fact, there was the crack
12 cocaine use. And Dr. Morton would be testifying as to how
13 that would affect the behavior in this case. It's actually
14 the behavior of the defendant as well as the victim.

15 THE COURT: How does that impact on determining a fact
16 in issue, though? That's my question. The facts in issue
17 are whether or not -- until -- I know what you're trying to
18 establish, of course, is voluntary manslaughter as opposed
19 to murder. And voluntary manslaughter, of course, is
20 defined as the killing of another during this -- during the
21 heat of passion without adequate legal provocation.

22 Now, what are those facts that Dr. Morton can testify
23 to? What can Dr. Morton testify that will help the jury
24 decide those questions?

25 MR. BLAKE: Well, Judge, of course, if we have both

1 heat of passion and adequate provocation, as I tried to
2 point out in the memo, to me the issue in this case is
3 whether the heat of passion was continuing at the time of
4 the actual killing.

5 THE COURT: But that's a fact question, isn't it? And
6 that's a question that that -- that is based upon what's
7 happened. They have not -- based upon whether sufficient
8 time has elapsed for that heat of passion to have cooled.
9 And that's a fact issue, not something that will be -- with
10 regard to this particular defendant. It's regard to any
11 defendant whether sufficient time has elapsed. I just, I
12 just don't see where ---

13 MR. BLAKE: Well, it's not just sufficient time,
14 Judge. It's really whether heat of passion has actually
15 cooled or should have cooled, in essence.

16 THE COURT: Yeah.

17 MR. BLAKE: And I'm saying here that it can assist the
18 trier of fact in understanding how both Mr. Hogan were
19 acting, as well as the victim were acting in this case.

20 THE COURT: Okay, and did he testify to that during
21 your proffer?

22 MR. BLAKE: Did Dr. Morton testify to that?

23 THE COURT: Yes, during the proffer. That was the
24 purpose of the proffer: so I'd know what he was going to be
25 testifying to. And I don't recall him testifying to

1 anything like that.

2 MR. BLAKE: Well, the article, Judge, that was
3 presented was -- I mean, we spent a great deal of time on
4 that. That was an exhibit in the hearing itself. And that
5 had to do with a lot of research that's gone into the
6 effects, immediate effects, not long-term effects but
7 immediate effects of cocaine on human behavior.

8 THE COURT: Well, I understand on human behavior, but
9 the issues, wouldn't it be the effect on this defendant's
10 behavior?

11 MR. BLAKE: Well, I believe he testified he had --
12 also having met, having read the facts that were available,
13 and having met with my client at the jail for about two
14 hours, I believe.

15 THE COURT: And what, in summary, would you say that
16 his testimony was as it affects this defendant's behavior?
17 Refresh my memory as to what he said about that.

18 MR. BLAKE: Okay, and I'm, I'm going to try to do my
19 best there, too. Basically, he did talk about the crack
20 cocaine use increasing impulsivity, and particularly
21 impulse increasing aggressiveness, increasing paranoia.

22 THE COURT: Okay.

23 MR. BLAKE: That sort of thing.

24 THE COURT: All right, but that would be the same,
25 true -- any kind of voluntary intoxication, be it from

1 drugs or alcohol, which under the law of our state is not a
2 defense.

3 MR. BLAKE: That's correct, Judge, it's not a defense,
4 and we're not asserting it as a defense. We're asserting
5 it as something that will assist the trier of fact in
6 determining whether or not Mr. Hogan's heat of passion had
7 cooled or should have cooled, given the facts of the case
8 as they come out at trial.

9 THE COURT: All right. Okay. Thank you.

10 Mr. Daniel.

11 MR. DANIEL: Thank you, Your Honor. May it please the
12 court? Your Honor, in light of the fact that the college
13 season ended last night, I'd like to make a college
14 football analogy.

15 The 2011 NCAA Auburn Tigers used a pretty complex
16 offense with Cam Newton, and they had hundreds of different
17 formations for one or two running plays, and all that was
18 was window dressing to disguise and confuse the defense in
19 that situation.

20 Your Honor, I, with all due respect to Mr. Blake and
21 his creativity, and I think that this is window dressing
22 used to disguise the fact that he would like to use
23 voluntary intoxication as a defense in this case. It
24 doesn't matter what he calls it. What this is is a defense
25 to murder because what he's saying is we can't meet our

1 burden, we can't match every element because of sort of --
2 because he smoked crack before he killed this victim.

3 And, Your Honor, you just said it. You said it in
4 your order, and we argued it last time. It's clear that
5 the law in this state is that voluntary intoxication is not
6 used as a defense.

7 Now, Mr. Blake points out in his motion *State vs.*
8 *Crocker*, which I have a copy of if the court needs, which
9 clearly states:

10 Diminished control or capacity because of
11 voluntary drug intoxication is not sufficient to
12 reduce a murder charge to voluntary manslaughter.

13 Now, should the court allow this testimony, I think
14 that the court would be traveling down quite a slippery
15 slope. If voluntary intoxication affects the cooling off
16 period in such a way that it brings murder down to
17 voluntary manslaughter, then why not take it a step further
18 and do away with intent, which is what the court actually
19 got into a little bit at our last hearing. And if this
20 defense is allowed, then people who intend on committing
21 murder should just smoke crack periodically throughout the
22 events, and then be able to come into court and use that as
23 a mitigating factor. What sort of, what sort of precedent
24 does that set? Our rules are in place in this state for a
25 reason. We are responsible for our actions, period.

1 Now, with regard to the cooling off period in this
2 case, factually the defendant has said that he left the
3 victim tied in a bathtub. That he then walked into a
4 bedroom, sat on the bed, took a couple hits of crack,
5 walked into the kitchen, got a knife, and then went back in
6 the bathroom and proceeded to kill the victim. Now, that's
7 textbook cooling off period, but that's a jury question.
8 And obviously that's what we'll be dealing with when we're
9 here in a month for this case.

10 The state would argue, of course, and will argue that
11 that is the legally sufficient cooling off period. The
12 defense can't use the fact that Mr. Hogan smoked some crack
13 during the commission of this crime as a shield at this
14 point.

15 Now as to the expert, I don't remember any testimony
16 about how crack affects this cooling off period. In fact,
17 when I first read Mr. Blake's motion for reconsideration, I
18 thought that he had actually kind of changed his argument
19 based on what he argued before, which I don't think there's
20 any rule against that. I mean, just saying this to me was
21 new because I don't even remember hearing the words cooling
22 off period at our hearing before, and it appears that that
23 is the basis of his argument today.

24 No one has testified -- well, I don't remember the
25 expert testifying that crack affects this cooling off

1 period. That, that maybe for some reason the fact that the
2 defendant was under the influence of -- voluntarily under
3 the influence of crack had anything to do with the joining
4 of the time together of the physical altercation and the
5 murder, thus negating the in-between time when he sat on
6 the bed and decided to smoke some more crack.

7 Mr. Blake in my opinion, Your Honor, is trying to back
8 door this voluntary intoxication as a defense, and it's not
9 proper. Everybody knows that once -- judgement is affected
10 when you use crack. We don't need a, we don't need some
11 expert to tell us that in the same way that everyone knows
12 that rainwater gets you wet, but we don't bring a
13 climatologist in here to testify to that.

14 Your Honor, I believe that it would be unfair for the
15 jury to get the impression that a man who brutally beats a
16 woman, ties her up with duct tape, puts her in a bathtub,
17 goes and sits down and voluntarily smokes some crack, then
18 gets up and goes to the kitchen and gets a knife, and then
19 goes back to the tub and kills the woman is somehow not
20 guilty of murder because some scientific guy says that
21 crack causes your brain to do things that you otherwise
22 wouldn't do.

23 Again, this defense is, or this testimony would not at
24 all assist the trier of fact in understanding any of the
25 evidence. Nor would it assist the trier of fact to -- in

1 determining any fact at issue. And, Your Honor, again the
2 defense is using this as a shield, and it's not proper.

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

4 Mr. Blake.

5 MR. BLAKE: Your Honor, I would first start off with
6 responding to opposing counsel's characterization of the
7 evidence. We, of course, hadn't had any testimony of
8 trial. We do not know the actual size of the trailer we're
9 talking about. It is not a great length of time or a great
10 distance between the bedroom. In fact, this tub, which is
11 more perhaps like a hot tub than a bathtub, is right in the
12 bedroom. It's a couple of -- or several feet from where
13 the bed is and where Mr. Hogan was smoking that crack
14 cocaine. That's really again a fact issue that will come
15 out at trial.

16 And while the general public, some people --
17 especially those perhaps that have children who have been
18 involved with crack cocaine -- may have some idea of some
19 of the characteristics, Dr. Morton is providing information
20 to the jury that would not be available otherwise in terms
21 of specific characteristics that occur as a result of
22 cocaine use, and I'm talking about immediate
23 characteristics. I'm not talking about long-term use.

24 Mr. Daniel says that it would not assist the trier of
25 fact to understand the evidence. And, in fact, part of the

1 evidence is their crack cocaine use. And what I'm try to
2 do is help the jury to understand how it affects behavior.
3 I'm not trying to do an end run, end run around the
4 doctrine of defense of ---

5 THE COURT: Well, let me ask you ---

6 MR. BLAKE: --- voluntary intoxication.

7 THE COURT: Let you ask you a hypothetical, Mr. Blake.
8 Let's assume that the facts are as they say they are, but
9 let's take crack cocaine out of it for just a minute and
10 say that the victim in this case was in the tub or the hot
11 tub or whatever it was. The defendant was in the bedroom
12 and rather than smoke a couple crack, hits of crack, he
13 decided to have five or six alcoholic drinks. And then
14 after he had those alcoholic drinks, he decides to -- he --
15 we all know alcohol, of course, affects somebody's
16 judgment. And as a result of have these alcoholic drinks,
17 he goes to the kitchen and gets a knife, and he goes and
18 kills her. Are you saying that his voluntary ingestion of
19 that alcohol is enough to reduce the malice necessary or
20 the heat of passion from an argument that they previously
21 had, or whatever it might be, that would reduce that crime
22 from murder to voluntary manslaughter?

23 MR. BLAKE: Judge, I think that -- of course, the
24 statutory definition of voluntary manslaughter is without
25 malice. But when you read the case law, they clarify what

1 that actually means without malice which, as we've
2 discussed, is voluntary passion, voluntary -- heat of
3 passion, and legal provocation.

4 I'm not saying that the crack cocaine created his
5 decision to kill her. It simply did affect his judgment,
6 and that would be the same -- I mean, my expert's
7 testifying about cocaine use because that's what was going
8 here. He's not testifying particularly about alcohol,
9 although ---

10 THE COURT: What's the difference?

11 MR. BLAKE: --- I think there was actually alcohol use
12 earlier in the day.

13 THE COURT: What's the difference? I mean, it doesn't
14 matter whether it's drugs or alcohol. The point of the
15 matter is that it is a substance that affects a person's
16 judgment. And under our law, intoxication -- and I don't
17 see there's any distinction between intoxication by alcohol
18 and intoxication by drugs.

19 MR. BLAKE: No, there's no difference there.

20 THE COURT: Okay.

21 MR. BLAKE: And that's, that's very clear I think,
22 Judge. We fully expect and will ask for a jury instruction
23 on voluntary intoxication.

24 THE COURT: And you very well may be entitled to it;
25 you very well may be entitled to it. I'm just -- I don't

1 -- you know, I haven't heard the evidence there. So, based
2 upon what I've heard from the statements of counsel,
3 though, it sounds like that it does become a jury question,
4 and -- but that, that's the issue here as to whether or not
5 the testimony of the -- the proffered testimony, the
6 testimony as proffered of the expert is admissible and will
7 assist the jury to determine that question. And that's
8 what I've got to decide.

9 MR. BLAKE: Well, of course it is -- again, help them
10 to understand the evidence. The evidence does -- will
11 include the crack cocaine use and the jury -- of course,
12 it's a jury question. They will be able to weigh the
13 weight of the evidence. They will be able to take the
14 expert's testimony and use it or discard it as they choose.

15 THE COURT: If it's appropriate expert testimony.
16 That's the -- we've got to get beyond that thing first.
17 And I, of course, know how to instruct them on how to use
18 expert testimony if we get to that stage. But the issue
19 here is whether or not it will assist the trier of fact to
20 determine any fact in issue.

21 And I will tell you very frankly that while -- when
22 reviewing the cases, and I reviewed -- and the case you
23 referred to is referred to in my brief, the Crocker case,
24 and it was cited in *State vs. Davis*. And also that was the
25 case that held that voluntary intoxication does not impair

1 a person's ability to act with malice aforethought so as to
2 reduce murder to manslaughter. And then of course the
3 *Vaughn* case that was reaffirmed in *State vs. Hatfield* does
4 not destroy the ability to distinguish right from wrong.

5 And I'll tell you very frankly that when I was looking
6 at these and studying the cases, that your argument does
7 have some appeal. And Justice Rhodes, I believe it was, in
8 the, in the *Vaughn* case cited that the majority rule, as
9 set forth in CJS, that a majority of American jurisdictions
10 do permit voluntary intoxication as a defense to specific
11 intent and, consequently, the other elements of voluntary
12 manslaughter as well, such as heat of passion or -- I just
13 don't think it goes to the time to cool, though, because I
14 think that is a fact question for the jury to determine.

15 And while your argument has some appeal, to me that's
16 just not the law of this state as it stands right now. And
17 if the Supreme Court wishes to change that law, that's
18 their prerogative, but I don't have the authority to change
19 that law. I think I've got to follow the law as it is
20 written.

21 I thought that the purpose of the hearing over in
22 Bishopville was to allow Mr. Morton to -- or you to proffer
23 Mr. Morton's testimony in advance so that the decision
24 could be made as to whether it is appropriate for the jury
25 to determine to go before -- his testimony would be

1 appropriate to be admitted for the jury to hear so that we
2 would know how to proceed on this case when it's called for
3 trial. I thought that was the whole purpose of it, and
4 that's what I allowed you to do. Take as much time as you
5 wanted to proffer whatever you wanted to proffer with Dr.
6 Morton so that we wouldn't have to do that during the
7 course of the trial.

8 I agree with Mr. Daniel to some degree. It appears to
9 be a little bit of a shift in positions from what we had
10 over in Bishopville because I thought that what we were
11 talking about there was specific intent, and no issue is
12 taken that that was not what the proffer was. But now to
13 go a different step, and that is whether time has elapsed
14 in order to allow the heat of passion to have cooled.

15 MR. BLAKE: Judge.

16 THE COURT: I don't think -- no, I've heard all I need
17 to hear.

18 RULING OF THE COURT:

19 THE COURT: I don't think that that is a proper subject
20 for expert testimony, and I'm going to deny the motion for
21 reconsideration. I thought the purpose of Dr. Morton's
22 testimony and the proffer, doing it in advance, was to take
23 care of that issue before trial. And I'm, based upon what
24 he testified at the time, and based upon the facts that are
25 before the court, while I don't disagree with the logic of

1 the majority rule, I just don't think that that's the law
2 of this state. And so I'm going to deny the motion for
3 reconsideration.

4 MR. DANIEL: Thank you, Judge.

5 MR. BLAKE: Thank you.

6 MS. JOHNSON-LEE: Thank you, Your Honor.

7 --- END OF TRANSCRIPT OF RECORD ---

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 John Lee Hogan, Jr.,)
)
 Defendant.)
)
)

February 6, 7, 8, 2012
Bennettsville, South Carolina

The Honorable Howard P. King, Judge, and a jury. .

Mary Thomas Johnson-Lee, Esquire, Assistant Solicitor
W. Shipp Daniel, III, Esquire, Assistant Solicitor
Attorneys for the State

Daniel L. Blake, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M
Circuit Court Reporter

1 That foreperson will just sit in the first seat on the
2 front row. The two alternates should sit on the last seats
3 on the end, one on the first row and one on the second row.
4 Those are the only seats in the jury box that are reserved.
5 The rest of the seats are not reserved, and it does not
6 matter what order you come and go from the courtroom. I
7 would simply ask that it be a situation going all the way
8 down so that you wouldn't crawl over one another, reserving
9 the last two seats on the end of the box for the
10 alternates, one the first row and one on the second row,
11 and the first row on the -- the first seat on the front row
12 once the foreperson is selected.

13 Are there any objections to my initial remarks on
14 behalf of the state, Mr. Daniel?

15 MR. DANIEL: No, Your Honor.

16 THE COURT: On behalf of the defense, Mr. Blake?

17 MR. DANIEL: No, Your Honor.

18 THE COURT: All right. All right, the first order of
19 business, ladies and gentlemen, is the matter of opening
20 statements, and for that purpose, the state, I will
21 recognize the assistant solicitor, Mr. Daniel.

22 MR. DANIEL: Thank you, Your Honor. May it please the
23 court?

24 THE COURT: Yes, sir.

25 MR. DANIEL: Mr. Blake. Ladies and gentlemen of the

1 jury, good afternoon.

2 This is a case about nothing less than a brutal
3 murder. My name is Shipp Daniel. This is Mary Thomas
4 Johnson-Lee. As prosecutors, it is our burden, it is our
5 duty to prove to you beyond a reasonable doubt that John
6 Hogan is guilty of murder. That's a burden that we
7 welcome.

8 Now, throughout this case you're going to hear a lot
9 of evidence. One of the most important pieces of evidence
10 that you're going to hear is the confession of Mr. Hogan.
11 This is a videotaped confession, and you're going to see
12 it; you're going to watch it.

13 In that confession, Mr. Hogan tells a story about how
14 he and Monesha Brown smoked crack together, went back to
15 his house, got in the bathtub together. You're going to
16 hear from his own words how an altercation happened.

17 They got in a fight. She was beaten badly. Mr. Hogan
18 then, you'll hear him say, took a roll of duct tape, duct
19 taped her hands behind her. He walked her back to the
20 bathtub, put her back there. You're going to hear him say
21 that as she sat in the bathtub duct taped, begging for her
22 life, he went, sat on the end of the bed, hit the crack
23 pipe a couple more times. Got a message from the devil.
24 Walked into the kitchen, took a knife from a block of
25 knives, went back in the bathroom, and slit her throat,

1 killing Monesha Brown.

2 You're going to hear him say that then he took Ms.
3 Brown's body, and he put it in a 55 gallon barrel. You're
4 going to hear him say that he then took that barrel and put
5 it in the woods.

6 Ladies and gentlemen, this is not a case about who
7 committed murder. Mr. Hogan's already told us that. He
8 even took law enforcement to the body. This is not even a
9 case about how the murder occurred. He's told us all the
10 details about how it went down. This is a case primarily
11 about whether the appropriate charge here is murder or
12 manslaughter.

13 And I want to tell you, ladies and gentlemen, Mr.
14 Hogan has told us the answer to that question, too. And
15 you're going to hear about those details, the details that
16 make this case nothing less than a brutal murder. Thank
17 you for your attention.

18 THE COURT: Mr. Blake, does the defendant care to make
19 an opening statement?

20 MR. BLAKE: Yes, sir.

21 THE COURT: All right, sir.

22 MR. BLAKE: Again, what I say is not evidence. I'm
23 simply going to explain to you how some of this trial is
24 going to go to kind of give you an idea what evidence will
25 be presented. There are a couple of things that are left

1 out by the solicitor. I think they need to be -- pay
2 attention to.

3 Yes, this happened back at my client's trailer.
4 That's out by -- off of Marlboro Road on the way there to
5 Oak River, Mohawk, and it's a very small trailer. So, when
6 they're talking about going from the kitchen to the
7 bedroom, we're talking about a matter of feet, a very few
8 feet at that.

9 Just to set the scene a little bit -- and this will
10 come out later -- they both got out of the bath. My client
11 went to -- a few feet away. Went to another room and it
12 was taking a long time, so he went back into where the tub
13 was, and right near there is where he had put his wallet,
14 and he noticed that the victim was in his wallet. That his
15 wallet was actually open. She was getting ready to -- or
16 taking out some money.

17 He did at that point slap her. She proceeded to grab
18 a kitchen knife. She stuck him in the side. He did use
19 that net -- that knife to stab her. They did struggle over
20 that knife, and in the end he did slice her throat.

21 He was staying out at that trailer working for a
22 company, and he had been here about four months from Texas.

23 He does have a crack cocaine addiction. He had not
24 been using crack for two years. Within the previous year,
25 he's gotten married to a woman. She was out on vacation in

1 California, and he slipped. He drank pretty -- very
2 heavily. He went on a crack binge.

3 And so that night he went down -- that was June 5,
4 2010 -- he went from his trailer out there by Oak River.
5 He drove into town. He went to a known drug area on
6 Jennings Street. He stopped his vehicle. Immediately, two
7 individuals jumped in his truck. He had never known these
8 individuals before. He had never met them before, and they
9 were essentially facilitators for him getting crack
10 cocaine.

11 So, they got the crack. All three of them smoked the
12 crack together. At one point, the gentleman who was with
13 them, who was with Ms. Brown, Monesha Brown, Jason McCall,
14 he got out of the truck. And then he, John Hogan and
15 Monesha Brown, went back to John Hogan's trailer, and of
16 course that's where all of this occurred.

17 Initially, it was a missing person's report on Ms.
18 Brown. It took them a number of weeks to kind of put it
19 together. My client didn't run back to Texas or anything
20 like that. He was interviewed on July 23, 2010. Yes, he
21 does confess to it.

22 But what I would like to point out to you is there was
23 -- there were two interviews on that day. This is July 23,
24 2010. There was an earlier interview that had not been
25 videotaped where he did confess. And at that time -- which

1 you are not going to see it because it was not videotaped
2 -- it shows tremendous -- a great deal of remorse. He then
3 proceeded to show them where the barrel was. Of course,
4 where Ms. Brown was.

5 The interview that you will see is two and a half
6 hours later after he has initially confessed and pretty
7 much cried his guts out. Showed them where the body was,
8 and then they came back and did a second video statement
9 because the first one had not been videotaped.

10 This is absolutely an unfortunate incident. My client
11 is not here saying that he didn't do it. He's said he did
12 it. I think those facts that I laid out to you -- goes
13 down to a known crack neighborhood. Two people jump in the
14 truck. They get crack; they all three smoke it. One
15 gentleman leaves. Ms. Brown and my client go to his
16 trailer. She fumbles around in his wallet. He slaps her
17 once.

18 She had the opportunity to leave the trailer at that
19 point. She was right near the exit door, but she chose not
20 to. She went in the kitchen. She grabbed a kitchen knife;
21 she stabbed him in the side. We will have a witness to
22 tell you about those wounds, and then a struggle ensued.

23 This will be a little bit longer than a lot of trials
24 here in Marlboro county. I appreciate your attention. One
25 of the reasons that we've got twelve jurors, you got twelve

1 people listening and looking, and it's pretty hard for
2 anybody to catch everything that goes on in a trial. I
3 know when I'm taking notes, I'm struggling just to keep up.
4 So, as the judge said, you're not supposed to talk about
5 the case itself until he gives it to you to deliberate, and
6 I appreciate your attention.

7 THE COURT: Ladies and gentlemen, before I allow the
8 state to call the first witness, I want to publish to you
9 two stipulations which both the state and the defense have
10 agreed to. What stipulations are, are they are simply
11 facts that the parties have agreed, and you are to accept
12 these facts as facts in this case and to use them in your
13 deliberations.

14 The first stipulation is that, number, one, the
15 remains found in the barrel in question are those of the
16 victim, Monesha Brown. And the second stimulation --
17 stipulation is that the DNA evidence collected from the
18 home of John Hogan matches the victim, Monesha Brown.
19 Those are two stipulated facts that the parties have agreed
20 on.

21 All right, Mr. Daniel, you may call your first
22 witness.

23 MS. JOHNSON-LEE: Your Honor, the state calls Queen
24 Brown.

25 THE COURT: All right, Ms. Johnson-Lee. Come around,

Q. BROWN - DIRECT EXAMINATION BY MS. JOHNSON-LEE

68

1 please.

2 QUEEN BROWN, BEING DULY SWORN,

3 TESTIFIES AS FOLLOWS:

4 CLERK OF COURT: I need you to sit down right there,
5 and state your full name for me.

6 WITNESS: Queen Brown.

7 DIRECT EXAMINATION BY MS. JOHNSON-LEE:

8 Q. Please state your name for the record.

9 A. Queen Brown.

10 Q. Where do you live at, Ms. Brown?

11 A. I live here in Bennettsville.

12 Q. Are you related in any way to the victim in this case,
13 Monesha Brown?

14 A. Yeah. That's my daughter.

15 Q. Where were you living in June and July of 2010?

16 A. I was living at [REDACTED].

17 Q. Here in Bennettsville?

18 A. Yes.

19 Q. Who all lived with you at that time?

20 A. Me and her four boys.

21 Q. And who are her four boys?

22 A. She have a son named Devaris [phonetic], which is
23 fifteen; Travion [phonetic] is twelve; Allen is eleven; and
24 DJ is ten.

25 Q. Are those their ages now?

1 A. Yes.

2 Q. Are you still raising her four sons?

3 A. I have three of them. The oldest one live with his
4 father.

5 Q. Did you work anywhere in June 2010?

6 A. I do private duty.

7 Q. What does that mean?

8 A. I do home health.

9 Q. Now, did you know who John Hogan was in June and July
10 2010?

11 A. No, I do not.

12 Q. When did you first hear the name of John Hogan?

13 A. When I was trying to find my daughter.

14 Q. Okay. When you say you were trying to find your
15 daughter, tell us what was going on in early June of 2010.

16 A. Well, the Wednesday before, I had went to -- which was
17 the 2nd -- I had went to her house to take her dinner
18 because I always cook dinner on Wednesday for the whole
19 family and I -- and for the pastor and some of the other
20 people at the church. And I went to her house to take her
21 dinner, and she wasn't there.

22 Q. How often did you normally see your daughter?

23 A. I see her two, three times a week.

24 Q. Did you usually take her food?

25 A. I take her food, or either she'll come by the house.

Q. BROWN - DIRECT EXAMINATION BY MS. JOHNSON-LEE

70

1 Q. When was the last time you actually saw Monesha?

2 A. The last time I see Monesha was that Thursday.

3 Q. Approximately what date was that?

4 A. That was on the 3rd.

5 Q. Do you remember what she was wearing on that day?

6 A. She was wearing blue jeans and a shirt and some flip
7 flops. It was raining, and I stopped to pick her up. She
8 was going to the store, and she told me that she would
9 walk.

10 Q. Do you remember what kind of shirt it was?

11 A. I can't remember.

12 Q. Do you remember what color it was?

13 A. No.

14 Q. When did you -- did you ever go talk to the police
15 about Monesha?

16 A. Yes, I did.

17 Q. When did you do that?

18 A. I think it was the next week.

19 Q. Okay. Why did you go to the police about Monesha?

20 A. Because the following week, I went back to the house
21 again to take her some more dinner, and she wasn't there.
22 And then I had asked a friend of mine -- it's a place on
23 Jennings Street where she always hang out -- had she seen
24 her, and she told me that she hadn't seen her.

25 Q. Did you go talk to different people trying to track

Q. BROWN - DIRECT EXAMINATION BY MS. JOHNSON-LEE

71

1 your daughter down?

2 A. Yes, I did, and nobody know where she was.

3 Q. And you also made a police report?

4 A. Yes, I did.

5 Q. Did the police also search for her?

6 A. Yes.

7 Q. What kind of efforts did you and your family do to try
8 to find Monesha in addition to talking to people in the
9 area?

10 A. We went on the television. We put posters up. We
11 talked to different people. We had churches, going to
12 different churches talking to people. We went ---

13 Q. What kind of -- I'm sorry.

14 A. We went for walks in the woods. We went somewhere,
15 every place trying to find her.

16 Q. How long did those searches go on?

17 A. Until we found her.

18 Q. Which was the end of July?

19 A. Which was in July.

20 Q. Is that approximately forty-five days more or less?

21 A. Yes.

22 Q. What kind of posters did y'all put up?

23 A. We put up flyers with her pictures on it.

24 Q. How did you finally find out your daughter was
25 deceased?

Q. BROWN - CROSS-EXAMINATION BY MR. BLAKE

72

1 A. They came over to my brother house, and I was working
2 next door, and the coroner, the sheriff, and the chief, all
3 of them was there. And they tell me then that my daughter
4 was dead.

5 MS. JOHNSON-LEE: Thank you, Ms. Brown. Ms. Brown,
6 would you answer any questions Mr. Blake has for you?

7 THE COURT: Cross-examination, Mr. Blake.

8 MR. BLAKE: Thank you, Judge.

9 CROSS-EXAMINATION BY MR. BLAKE:

10 Q. Hey, Ms. Brown. I was little confused; I wanted to
11 just clear something up. You said you lived at [REDACTED]
12 [REDACTED]?

13 A. Yes, I do.

14 Q. And you had the four boys there with you at the time?

15 A. Yes, I do.

16 Q. Back then in June of 2010, you had them there with
17 you?

18 A. Yes.

19 Q. Okay, and where did Monesha live?

20 A. She live in Grace Apartments.

21 Q. Grace Apartments?

22 A. Yes.

23 Q. And where is that exactly?

24 A. It's off the bypass.

25 Q. Off the bypass, and how long had she been living

Q. BROWN - CROSS-EXAMINATION BY MR. BLAKE

73

1 there?

2 A. Guess about a year.

3 Q. And you said that you saw her a few days before back
4 in June, and that she was going to the store?

5 A. Yes.

6 Q. What store was that?

7 A. At the -- it's right there by Kentucky Fried Chicken.

8 Q. Out on the bypass?

9 A. Yes.

10 Q. And you said it was raining at that time?

11 A. It wasn't raining hard. It was kind of drizzling.

12 Q. Drizzling, and you offered to give her a ride?

13 A. Yes.

14 Q. And she declined that?

15 A. Yes.

16 Q. She said no. Would you say that your daughter had a
17 crack addition -- addiction?

18 A. I guess.

19 MR. BLAKE: No further questions.

20 THE COURT: Redirect, Ms. Johnson-Lee?

21 MS. JOHNSON-LEE: No, Your Honor.

22 THE COURT: All right, thank you, ma'am. Ms. Brown,
23 you may step down.

24 (THE WITNESS EXITS THE STAND.)

25 THE COURT: All right, you may call your next witness.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

74

1 MS. JOHNSON-LEE: Larry Turner. Somebody get him;
2 he's sequestered.

3 (A PAUSE.)

4 LARRY TURNER, BEING DULY SWORN,
5 TESTIFIES AS FOLLOWS:

6 CLERK OF COURT: Please be seated, and state your full
7 name for me.

8 WITNESS: Larry Turner, T-u-r-n-e-r.

9 DIRECT EXAMINATION BY MS. JOHNSON-LEE:

10 Q. Where are you employed?

11 A. The Bennettsville Police Department.

12 Q. What is your job there?

13 A. Lieutenant over the Investigative Division.

14 Q. How long have you been at the Bennettsville Police
15 Department?

16 A. Since 1996.

17 Q. And what type of training and background do you have
18 in law enforcement?

19 A. I've had training in criminal investigations as far as
20 murders, assaults, narcotics training, how to conduct
21 criminal investigation in narcotics. I've also had
22 training in tactical operations as far as our SWAT team.

23 Q. And any other law enforcement experience in addition
24 to all of that?

25 A. Just the numerous classes.

1 Q. Now, what was your job description in June and July of
2 2010?

3 A. Lieutenant over investigations.

4 Q. Now, how did you come to be involved in the Monesha
5 Brown matter?

6 A. I assign the cases to the investigators that are on
7 call throughout the week as the cases come in.

8 Q. What type of case came in on Monesha?

9 A. A missing person case.

10 Q. Do you remember about when that came in?

11 A. June 2nd, I think it was, of 2010..

12 Q. What did you do when you got the report for a missing
13 person?

14 A. I actually took the case and assigned it to myself.

15 Q. What did you do once you assigned that case to
16 yourself?

17 A. I spoke to some of the family members about, about Ms.
18 Brown.

19 Q. What other things did you do besides speaking to
20 family?

21 A. We -- myself, along with other investigators --
22 interviewed several people in the area which she was known
23 to frequent, trying to get information where she may be.
24 Followed up on leads that family members gave us on a
25 possible individual that could be involved in Ms. Brown's

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

76

1 being missing.

2 Q. Now, referencing that date, now was that the 2nd when
3 you actually got the report, or was that some time later?

4 A. No. The initial -- the report was filed on the 16th.
5 She actually, the last time she was seen was on the 2nd.

6 Q. Was that June 16, 2010?

7 A. Correct.

8 Q. Okay. So, a period of about two weeks?

9 A. Yes, ma'am.

10 Q. Did you determine who the last people were to see her
11 alive?

12 A. Yes, ma'am, we did.

13 Q. Did you speak to those individuals?

14 A. Yes, ma'am.

15 Q. Based on your investigation, was a composite sketch of
16 the, one of the last people to have seen her, was it
17 developed?

18 A. Yes, ma'am, it was.

19 Q. And who actually drew the composite sketch?

20 A. A forensic sketch artist from SLED.

21 Q. I'm going to show you what marked for identification
22 now State's Exhibit Number 32. Do you recognize that item?

23 A. Yes, ma'am, I do.

24 Q. And what is that?

25 A. It's a sketch of the defendant, John Hogan.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

77

1 Q. Okay. Now, once you got that composite drawing, did
2 you show it to anybody?

3 A. Yes, ma'am. I received some information from family
4 members that the suspect in question, this picture of Mr.
5 Hogan, may be living over at a trailer park out in the
6 county. I knew who actually was the overseer on the mobile
7 home park. I went and met with him and talked with him and
8 talked to him and showed him this picture.

9 Q. Okay. Now, and as a result of your investigation, did
10 you learn that that person in that sketch was John Hogan?

11 A. Yes, ma'am. That's correct.

12 MS. JOHNSON-LEE: Okay, at this time, I would move to
13 have that marked as evidence.

14 THE COURT: Any objection?

15 MR. BLAKE: Without objection.

16 THE COURT: All right, it will be marked into evidence
17 without objection. Let the court reporter take the ID off
18 of it.

19 (SKETCH MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
20 32.)

21 COURT REPORTER: State's 32.

22 BY MS. JOHNSON-LEE:

23 Q. Now, did you obtain any additional photographic
24 information regarding John Lee Hogan?

25 A. Yes, ma'am, I did through SLED and Richmond County

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

78

1 Sheriff's Office.

2 Q. Okay, I'm going to show you what's marked for
3 identification State's 33. Do you recognize that item?

4 A. Yes, ma'am. This is a photograph obtained through
5 SLED.

6 Q. Okay, and what type of photograph is that?

7 A. That's his driver's license photo from his driver's
8 license in Texas metaphor.

9 MS. JOHNSON-LEE: I'd like to have that marked as
10 evidence.

11 MR. BLAKE: I'd like to see it first.

12 THE COURT: All right.

13 (A PAUSE.)

14 MR. BLAKE: No objection.

15 THE COURT: Admitted into evidence as State's Number
16 33 without objection.

17 (COPY OF DRIVER'S LICENSE MARKED INTO EVIDENCE AS
18 STATE'S EXHIBIT NUMBER 33.)

19 BY MS. JOHNSON-LEE:

20 Q. After you obtained that driver's license photo, did
21 you further determine as part of your investigation that
22 John Lee Hogan was the person last seen with Monesha Brown?

23 A. Yes, ma'am, I did.

24 Q. And you said he lived on Mark Circle?

25 A. [REDACTED], which is located in the county.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

79

1 Q. Okay. So, that's outside the Bennettsville city
2 limits?

3 A. Yes, ma'am, correct.

4 Q. Since you determined that he was the last person to be
5 seen with her, did you interview him?

6 A. Yes, ma'am, I did.

7 Q. Where did that interview take place at?

8 A. At the Bennettsville Police Department.

9 Q. Was that on July 21st?

10 A. Yes, ma'am.

11 Q. 2010?

12 A. Yes, ma'am.

13 Q. Who was present at the interview?

14 A. Myself, along with Investigator Ira Dease.

15 Q. Now, prior to interviewing John Lee Hogan, did you
16 give him Miranda warnings?

17 A. Yes, ma'am.

18 Q. Okay. What are the Miranda warnings?

19 A. I would have to read it off of the paper to ---

20 Q. Do you ---

21 A. --- make sure it was correct.

22 Q. You would read it off the paper?

23 A. Yes, ma'am. I read it directly from the paper.

24 Q. I believe this is already in in a prior hearing; it's
25 State's Exhibit 3. Okay, do you recognize that document?

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

80

1 A. Yes, ma'am.

2 Q. And is that a Miranda warning that you read to John
3 Hogan?

4 A. Yes, ma'am, it is.

5 Q. Okay, and please read the warnings as you read them to
6 John Hogan on July 21, 2010.

7 THE COURT: All right, before you do that, let me
8 instruct the jury a little bit, please.

9 Ladies and gentlemen of the jury, there has been
10 admitted into the record of this case a statement or
11 statements alleged to have been made by the defendant.

12 Before you may consider the statement or statements as
13 evidence for any purpose, you must determine four
14 questions. First, did the defendant make the statement?
15 Second, was the defendant warned of his constitutional
16 rights? Third, did the defendant knowingly and
17 intelligently waive his constitutional rights? And fourth,
18 was the statement given voluntarily?

19 The fact that the court has admitted a statement or
20 statements into evidence should not be considered by you as
21 any evidence whatsoever that the defendant made a
22 statement, or that the required constitutional safeguards
23 were, in fact, provided and waived by the defendant, or
24 that the statement was voluntarily given because these
25 issues are for you, the jury, to determine.

1 The state must prove beyond a reasonable doubt each of
2 the four requirements that I have just stated to you before
3 you may consider the statement as evidence for any purpose
4 whatsoever.

5 Now as to the first requirement, did the defendant
6 make the statement? If you conclude the defendant did not
7 make the statement, you must then completely and totally
8 disregard the statement. If you conclude that the
9 defendant did not make the statement, you cannot and you
10 must not consider the statement as evidence in any manner
11 whatsoever, and you should completely disregard the
12 statement in its entirety and every part of it.

13 If you find the defendant did make the statement, you
14 would then next consider the second requirement. Was the
15 defendant warned of his constitutional rights? When an
16 individual is taken into custody or otherwise deprived of
17 his freedom of action in any significant way by a police or
18 law enforcement officer, he must be warned of his
19 constitutional rights prior to and before any custodial
20 interrogation can take place.

21 These rights are that he has the right to remain
22 silent. That any statement that he can -- that he does
23 make can and will be used against him in a court of law.
24 That he has the right to select a lawyer of his choice.
25 But if he does not have the money or resources to employ a

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

82

1 lawyer, the court will appoint and provide a lawyer to
2 represent him without cost or expense to him if he so
3 desires. That he has the right to consult a lawyer before
4 answering any question or making any statement. And that
5 he has the right to have the lawyer present with him at all
6 times during all interviews and all interrogations.

7 If you determine these constitutional warnings were
8 not given by the defendant prior to the interrogation in
9 the taking of any statement, or that the defendant was not
10 afforded the opportunity to exercise these rights, you must
11 completely regard any statements [verbatim]. And in that
12 event, you cannot consider the statements as evidence in
13 any manner whatsoever.

14 You would next consider did the defendant knowingly
15 and intelligently waive his constitutional rights. Well,
16 before you can consider the statement as evidence in this
17 case, the state must prove beyond a reasonable doubt that
18 the defendant, after being given his constitutional
19 warnings, knowingly and intelligently waived his
20 constitutional rights and agreed to answer questions and
21 make a statement.

22 You would then go to the fourth requirement. Was the
23 statement given voluntarily? The word voluntarily means
24 the statement was the expression of the defendant's own
25 free will and was not induced by any pressure, force, or

1 fear; or the influence or hope of promise of some benefit
2 or reward; or extracted by threats, coercion, or
3 intimidation.

4 A statement is not voluntary and may not be used
5 against the defendant unless it is the product of an
6 essentially free and the unconstrained choice by its maker.
7 The statement is voluntary if the statement -- has will to
8 make the statement. It may be used against him.

9 So, the ultimate question to be resolved by you with,
10 with regard to any alleged statements of the defendant --
11 in addition to the questions of whether the defendant, in
12 fact, made the statement; and whether or not his
13 constitutional rights were observed and knowingly and
14 intelligently waived -- the ultimate question is was the
15 statement or the expression of the defendant's own free
16 will made without compulsion or inducement, but
17 representing an essentially free and unconstrained choice
18 by the defendant? Or was it the product of the overborne
19 will of the defendant?

20 With regard to the alleged statements of the
21 defendant, the state must prove by evidence each and every
22 requirement which I have instructed you about beyond a
23 reasonable doubt before you may consider the alleged
24 statement as evidence in this case.

25 All right, Ms. Johnson-Lee, you may proceed.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

84

1 MS. JOHNSON-LEE: Thank you, Your Honor.

2 BY MS. JOHNSON-LEE:

3 Q. Lieutenant Turner, please read the Miranda rights as
4 you read, you read them to John Hogan on July 21, 2010.

5 A. I advised Mr. Hogan this was a Miranda warning by the
6 Bennettsville Police Department:

7 Number one, you have the right to remain silent.
8 Number two, anything you say can and will be used
9 against you in a court of law. Number three, you
10 have the right to talk a lawyer and have him
11 present with you while you are being questioned.
12 If you cannot afford to hire a lawyer, one will
13 be appointed to represent you before any
14 questioning if you wish. And number five, if you
15 desire to make a statement or answer questions,
16 you have the right to stop at any time.

17 After I read the Miranda warnings to him, I had him
18 also read each line and initial beside it. Then I asked
19 him was he willing to talk to us, and he said yes, and he
20 just signed it as where the defendant's name is.

21 MS. JOHNSON-LEE: And I believe that's already in
22 evidence from the prior hearing, Your Honor.

23 THE COURT: All right, in evidence already as State's
24 Number?

25 MS. JOHNSON-LEE: 3.

1 THE COURT: 3.

2 BY MS. JOHNSON-LEE:

3 Q. And the information on the bottom with his name and
4 address, who filled out that section?

5 A. I did.

6 Q. And did you receive that information from Mr. Hogan?

7 A. Yes, ma'am.

8 Q. And is that your signature on there as well as the
9 witnesses to the Miranda?

10 A. Yes, ma'am. That's correct.

11 Q. Now, was the interview videotaped?

12 A. Yes, ma'am. It was.

13 Q. Who was present for the interview?

14 A. Myself, along with Investigator Dease.

15 Q. Now, which one of you initiated and stopped the video
16 recording?

17 A. I did.

18 Q. Let me show you what was marked in a prior hearing as
19 State's Exhibit Number 1 labeled John Lee Hogan Interview,
20 721/10. Do you recognize that?

21 A. Yes, ma'am. This is a CD that actually was a taping
22 of the interview.

23 Q. Have you reviewed that video since it was made?

24 A. Yes, ma'am. I have.

25 Q. And was it altered in any way?

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

86

1 A. No, ma'am.

2 Q. Now, it was made on July 21, 2010. Did it accurately
3 depict the questioning of John Hogan on that day?

4 A. Yes, ma'am. It did.

5 MS. JOHNSON-LEE: And I believe that's already in
6 evidence, Your Honor.

7 THE COURT: All right.

8 BY MS. JOHNSON-LEE:

9 Q. Now, during that interview, did Mr. Hogan tell you
10 anything about Monesha Brown?

11 A. He let us know that he did know Ms. Brown, and he had
12 seen her before, and he had been around her the last time
13 that she was seen.

14 Q. How long did that interview take place?

15 A. It was a little over an hour.

16 Q. And during that hour interview, what was his statement,
17 to you as to where she was on July 21, 2010?

18 A. He was able to describe a location that was near,
19 would have been near KFC, which is located off of
20 Cottingham Boulevard, where he said he had dropped her off.

21 Q. When did he say he had dropped her off there?

22 A. Some time during the night. He wasn't, he wasn't
23 specific about the actual time. He could not recall,
24 recollect the actual time.

25 Q. Okay, let's be clear on the time frame. This

1 interview is taking place in July.

2 A. Correct.

3 Q. Of 2010. When did he indicate was the last time he
4 had seen her?

5 A. Weeks prior.

6 Q. Weeks as in July or June?

7 A. June.

8 Q. Okay. Did he ever admit during that interview to
9 having any involvement in her being missing or in her
10 death?

11 A. No, ma'am. He did not.

12 Q. Did you participate in any other interviews with John.
13 Hogan?

14 A. Yes, ma'am, I did.

15 Q. Where?

16 A. Sumter County..

17 Q. What was the result of the Sumter County interview?

18 A. He confessed.

19 Q. He confessed ---

20 A. To ---

21 Q. --- to what?

22 A. Confessed to killing Ms. Brown.

23 Q. And did he state where that killing took place at?

24 A. Yes, ma'am. He did. At 452 Mark Circle, which is in
25 the county of Bennettsville.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

88

1 Q. Okay.

2 A. Or Marlboro rather.

3 Q. And who was present at that Sumter interview?

4 A. Myself, along with Investigator Shawn Feldner in the
5 Marlboro County Sheriff's Office.

6 Q. And why was Officer Feldner there at that time?

7 A. Once it was determined that the actual murder took
8 place at 452 Mark Circle, that falls under the jurisdiction
9 of the sheriff's office, and Investigator Feldner is the
10 lead investigator.

11 Q. Well, let's back up just a minute, okay? Now, on July
12 21st, 22nd, the first part of 23rd, at that time did you
13 know she was murdered?

14 A. No, ma'am. We did not.

15 Q. Okay, but Officer Feldner was brought in prior to your
16 know -- being notified she was murdered?

17 A. Yes, ma'am. He was.

18 Q. Okay. John Hogan lived in the county of Marlboro?

19 A. Yes, ma'am.

20 Q. Okay.

21 A. I contacted Investigator Feldner with the sheriff's
22 office once I was able to identify Mr. Hogan as being the
23 last person with Ms. Brown.

24 Q. Now, after John Hogan confessed to killing Ms. Brown
25 in Marlboro County while at the Sumter County Sheriff's

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

89

1 Office, where did you guys go from there?

2 A. He -- we brought him back to, into Marlboro County,
3 and he actually took the -- took us to where he disposed
4 the body.

5 A. Okay. Did he take you to the actual barrel?

6 A. Yes, ma'am. He did.

7 Q. Okay. Now, who was in the vehicle?

8 A. Myself, along with Investigator Filner -- Feldner and
9 Mr. Hogan.

10 Q. Now, in the vehicle, I believe you did another Miranda
11 warning in the vehicle on July 23rd?

12 A. Yes, ma'am. That's correct.

13 Q. I'm going to show you what's already in evidence as
14 State's Exhibit 4 from a prior hearing. What is that
15 document?

16 A. A Miranda warning.

17 Q. Where did you give that Miranda warning to Mr. Hogan
18 at?

19 A. Inside the vehicle of -- Mr. Feldner's vehicle.

20 Q. Okay, and did you read the rights from that Miranda
21 warning?

22 A. Yes, ma'am. I did.

23 Q. Okay, and what were the rights was read to him at that
24 time?

25 A. Number one was:

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

90

1 You have the right to remain silent. Number two,
2 anything you say can and will be used against you
3 in court. Number three, you have the right to
4 talk to a lawyer for advice before you are --
5 before you -- you have their advice before we ask
6 you any questions, and to have him present with
7 you during the questioning. Number four, if you
8 cannot afford to hire a lawyer, the court will
9 appoint one for you before any questions if you
10 wish. Number five, if you decide to answer
11 questions now without a lawyer present, you will
12 still have the right to stop answering at any
13 time to talk to a lawyer.

14 Q. Did he sign that Miranda warning?

15 A. Yes, ma'am. He did.

16 Q. Did he also initial next to each individual warning?

17 A. No, ma'am. On this one, I did not.

18 Q. Okay. Why did he not on that particular one?

19 A. Because I had advised him his rights before, and we
20 were driving down the road. So, I just had him sign it.

21 Q. And had -- he'd been Mirandized earlier that day also?

22 A. Yes, ma'am.

23 Q. Okay. Did he sign this particular Miranda warning on
24 the way to the body?

25 A. Yes, ma'am. He did.

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

91

1 Q. Okay.

2 MS. JOHNSON-LEE: And again, Your Honor, that
3 particular document is already in evidence.

4 THE COURT: All right, it's admitted into evidence.

5 BY MS. JOHNSON-LEE:

6 Q. Now, after taking you to the body, did you and Officer
7 Feldner interview him yet another time?

8 A. Yes, ma'am, at the Marlboro County Sheriff's Office.

9 Q. And who was present at that interview?

10 A. Myself, along with Investigator Feldner and Mr. Hogan.

11 Q. And did he confess again at that interview?

12 A. Yes, ma'am.. He did.

13 Q. Was Mr. Hogan ever promised anything to get him to
14 talk?

15 A. No, ma'am.

16 Q. Was he ever denied basic human rights such as food or
17 water or going to the bathroom?

18 A. No, ma'am.

19 Q. Now, once he confessed to murdering Ms. Brown, who
20 became responsible at that point for the actual murder
21 investigation?

22 A. Marlboro County Sheriff's Office, which would have
23 been Investigator Shawn Feldner.

24 Q. All right, and just going back to one prior issue. At
25 the time of your initial interview with him July 21st when

L. TURNER - DIRECT EXAMINATION BY MS. JOHNSON-LEE

92

1 he denied any involvement in her death, did you seize his
2 vehicle at that time?

3 A. Yes, ma'am. We did.

4 Q. And did you obtain a search warrant for his vehicle?

5 A. Yes, ma'am. We did.

6 Q. I'm going to show you what's already marked as State's
7 Exhibit 5 from a prior hearing. Is that the search warrant
8 for the vehicle?

9 A. Yes, ma'am. It is.

10 Q. And who actually executed that search warrant?

11 A. Investigator Ira Dease.

12 Q. And who actually -- when I say executed the search
13 warrant, not obtained it. Who actually went to that truck
14 and searched that truck and...

15 A. Investigator Dease executed the search warrant. The
16 State Law Enforcement Division processed the crime scene
17 part of it.

18 Q. Okay, and was Paul LaRosa and Scott Hardee with State
19 Law Enforcement Division?

20 A. Yes, ma'am. That's correct.

21 Q. Okay, and the actual processing took place the
22 following day?

23 A. Yes, ma'am. That's correct.

24 Q. Now, as far as serving that search warrant on John
25 Hogan, what date was that done on?

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

93

1 A. It was served on him the 21st.

2 Q. Was that at the time of the interview?

3 A. Yes, ma'am.

4 MS. JOHNSON-LEE: And again, that document is already
5 in evidence, Your Honor.

6 THE COURT: All right.

7 MS. JOHNSON-LEE: Please answer any questions Mr.
8 Blake has for you.

9 THE COURT: Cross-examination, Mr. Blake.

10 CROSS-EXAMINATION BY MR. BLAKE:

11 Q. Handing you State's Exhibit 32. That's the composite
12 drawing.

13 A. Correct.

14 Q. You said that was done by someone from SLED?

15 A. Yes, sir, correct.

16 Q. Who was that?

17 A. Deborah Goff. Deborah Goff.

18 Q. Goff, and who did she get the information from that
19 led her to do the drawing?

20 A. Casey McCall.

21 Q. You talked about two interviews on July 23rd where my
22 client confessed.

23 A. Yes, sir.

24 Q. Did you have a signed Miranda warning from the first
25 interview?

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

94

1 A. No, sir.

2 Q. And why?

3 A. We actually thought -- we were in Sumter County. We
4 thought that the actual interview was being videotaped and
5 audiotaped, and Investigator Feldner actually Mirandized
6 him verbally while we were at Sumter County.

7 Q. So, that first interview you thought was being
8 videotaped?

9 A. Yes, sir, correct.

10 Q. But, in fact, it was not?

11 A. No, sir. It was not.

12 Q. And it was in that first interview that my client
13 confessed to the crime?

14 A. Yes, sir, correct.

15 Q. How was my client's affect and mood during that time?

16 MS. JOHNSON-LEE: Your Honor, we have a matter of law.
17 May we approach?

18 THE COURT: Yes.

19 (OFF-THE-RECORD BENCH CONFERENCE.)

20 THE COURT: Let's get this stipulation on the record.

21 (A PAUSE.)

22 THE COURT: All right, ladies and gentlemen of the
23 jury, again the parties have agreed to another stipulation
24 that I want to publish for you at this time. This is an
25 agreed fact between the state and the defense, and you may

1 consider it as a part of the evidence this case.

2 That stipulation is that John Hogan was properly
3 Mirandized at the Sumter County Sheriff's Office before
4 giving any statement on July 23, 2010. The parties have
5 agreed to that. That will be marked as Court's Exhibit
6 Number 2.

7 (STIPULATION MARKED INTO EVIDENCE AS COURT'S EXHIBIT
8 NUMBER 2.)

9 THE COURT: All right, you may continue with your
10 cross-examination, Mr. Blake.

11 BY MR. BLAKE:

12 Q. I think the question I'd asked you, Lieutenant Turner,
13 what was the mood or affect of my client during that first
14 interview?

15 A. And I -- make sure I understand it. You want my
16 opinion of how I thought he felt?

17 Q. Yeah, and any response that you might have had.

18 A. To a -- my opinion of his confession was of a man who
19 had brutally murdered someone.

20 Q. Okay. Did you say anything to him during that first
21 interview?

22 A. At Sumter County?

23 Q. Yeah.

24 A. Yes, sir. We talked during interview.

25 Q. All right. At any point, did you actually reach out

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

96

1 and grab his hand?

2 A. Yes, sir. I did.

3 Q. Did you tell him it was going to be okay?

4 A. Yes, sir. I did.

5 Q. After that interview, did you say something to the
6 effect that he was -- that you had been in law enforcement
7 some fifteen years or so, and he was more remorseful than
8 anybody you'd ever seen?

9 A. I don't recall.

10 Q. You don't recall?

11 A. No, sir.

12 Q. You do not recall, okay. Let's talk a bit about Casey
13 McCall. You know Casey McCall?

14 A. Yes, sir. I do.

15 Q. Okay. He is the man who gave you this composite
16 drawing, correct?

17 A. Yes, sir. That's correct.

18 Q. Okay, and the date on this here says July 16, 2010.

19 So, I assume that that's when the SLED artist did the
20 drawing.

21 A. Yes, sir.

22 Q. Okay. Do you recall when you first began speaking to
23 Casey McCall about this incident?

24 A. I don't remember the exact date of when I actually
25 started talking to him without going back and looking at

1 the notes.

2 Q. Well, do you have your notes?

3 A. No, sir. The solicitor has them in the Rule 5.

4 Q. Well, we can certainly make those available to you if
5 you need to refer to them.

6 MS. JOHNSON-LEE: Your Honor, I have a file with all
7 the incident reports and notes from both the sheriff's
8 office and police department I can hand up to the witness.

9 THE COURT: All right, you can hand it to the -- you
10 can hand the file.

11 MS. JOHNSON-LEE: And for the record, Mr. Blake has
12 copies of everything in that file, Your Honor.

13 THE COURT: Okay.

14 (A PAUSE.)

15 BY MR. BLAKE:

16 A. That would have been June the 19th, 2010.

17 Q. So, approximately one month before?

18 A. Correct.

19 Q. How many times did you talk to Mr. Casey McCall prior
20 to the drawing on July 16, 2010?

21 A. Several different times.

22 Q. Several?

23 A. Yes, sir.

24 Q. Would that be more than three or four?

25 A. Maybe three.

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

98

1 Q. So, he essentially was a person of interest in this
2 case?

3 A. Yes.

4 Q. You placed him in time frame somewhere close to -- you
5 didn't know when she disappeared exactly, but in that time
6 frame?

7 A. Yes, sir.

8 Q. All right. Well, obviously on July 16th, he was being
9 cooperative. You said you -- several times. Did you say
10 three or four, or what did you say? How many times did you
11 say?

12 A. I'd say three.

13 Q. Okay. On June 19, did he tell you what he knew about
14 this situation?

15 A. Yes, sir. He did.

16 Q. What did he tell you?

17 A. He told me that he knew Mr. Hogan. That him and Mr.
18 Hogan, along with Ms. Brown, had smoked crack cocaine.
19 That he had actually purchased cracked for Mr. Hogan
20 before, and that they had rode around during the month of
21 June actually smoking crack in the vehicle.

22 Q. So, that was the first time, June 19th?

23 A. Yes, sir.

24 Q. Okay, and on your other times talking to Mr. McCall,
25 how did that go?

1 A. Pretty much the same thing. His story never really
2 changed.

3 Q. But it wasn't until July 16th that you actually did
4 the composite drawing?

5 A. Correct.

6 Q. How well do you know Casey McCall?

7 A. Very well.

8 Q. When you say very well ---

9 A. He's been arrested.

10 Q. --- is that because he's done work for you?

11 A. Yes. He's also been arrested by the Bennettsville
12 Police Department.

13 Q. Arrested and convicted, correct?

14 A. Yes, sir.

15 Q. Been to prison?

16 A. I'm not sure about that, but I do, I do know arrested
17 and convicted.

18 Q. So, he worked -- well, before you were lieutenant over
19 investigations, you were sergeant over narcotics?

20 A. Yes, sir. That's correct.

21 Q. And you did that for how many years?

22 A. Eleven years probably, somewhere around eleven years.

23 Q. And did a good job at it?

24 A. I would -- I assume so. I'd say yes.

25 Q. You'd say yes. Did Casey McCall ever work for you as

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

100

1 a confidential informant in doing drug buys?

2 A. Yes, sir.

3 Q. That means you would pay him to buy drugs?

4 A. Sometimes yes. Sometimes no.

5 Q. Okay. Sometimes he just did it for free?

6 A. You can say that.

7 Q. Meaning he's working off charges?

8 A. Correct.

9 Q. Okay. People that you send in to do drug buys, I
10 assume they have to be crack users for the sellers to want
11 to sell to them?

12 A. Not necessarily.

13 Q. Not necessarily. So, you wouldn't say that Casey
14 McCall used crack?

15 A. Yeah. He admitted to using crack.

16 Q. I mean, you knew that, didn't you?

17 A. Yes, sir.

18 Q. Do you know how long that you employed him for in
19 terms of doing buys for you from people who were selling
20 crack?

21 A. I'd say probably over a eight-year period. I meant,
22 off and on. Casey was not a regular as far as, you know,
23 us using him as a CI to purchase crack. I meant, you know,
24 we may use him once, twice a year.

25 Q. You say that was over an eight-year period?

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

101

1 A. Yes, sir.

2 Q. All right, that's -- you pretty sure about that?

3 A. That's a guesstimation.

4 Q. That's a guess?

5 A. Yes, sir.

6 Q. All right, but you only used him once or twice a year.
7 Is that right?

8 A. Yeah. Some -- I mean, it -- some years it may have
9 been more. Without me actually going through my logbook, I
10 couldn't tell you a definite, exact number.

11 Q. All right. So, according to your guesstimation there,
12 the maximum times you would have used him was sixteen?

13 A. I'd say that would be fair to say. There's times it
14 would just be -- it didn't necessarily have to be buys. It
15 could have been just him supplying information.

16 Q. How often did he do that?

17 A. Casey's supplied information numerous times to us
18 where he hadn't actually do the buys. It was just
19 information.

20 Q. So, when you say supplying information, I understand
21 that's part of how you catch these people. He would be
22 somewhere, he would see crack cocaine, and he would tell
23 you about it. Is that what you're talking about?

24 A. It didn't necessarily have to be drugs. It may be
25 burglaries, stolen property.

L. TURNER - CROSS-EXAMINATION BY MR. BLAKE

102

1 Q. So, he would give you information on various crimes
2 within Bennettsville Police Department jurisdiction?

3 A. Yes, sir, correct.

4 Q. Within the City of Bennettsville?

5 A. Yes, sir.

6 Q. Do you know if he also did that for the sheriff's
7 office?

8 A. I'm not sure of it.

9 Q. Okay, and were these in exchange for favors from the
10 police department?

11 A. Sometimes yes and as -- you say favors, but it could
12 have been working off charges. It could have been just him
13 supplying information, or it could have been him getting
14 paid for it.

15 Q. You talked about after the first interview, my client
16 took you to where the barrel was.

17 A. Yes, sir.

18 Q. Did you go straight to that, or did it take some time
19 for him to kind of figure out where it was?

20 A. It took some time; we actually had to drive around for
21 him to remember exactly where at.

22 Q. And from that point on, he was completely cooperative?
23 He told you where the body burial was?

24 A. Yes, sir.

25 MR. BLAKE: One moment, please, Your Honor?

L. TURNER - REDIRECT EXAMINATION BY MS. JOHNSON-LEE

103

1 THE COURT: Yes, sir.

2 (A PAUSE.)

3 MR. BLAKE: Judge, I have no further questions.

4 THE COURT: Redirect, Ms. Johnson-Lee?

5 MS. JOHNSON-LEE: Yes, Your Honor.

6 REDIRECT EXAMINATION BY MS. JOHNSON-LEE:

7 Q. Casey McCall is the one who provided the information
8 for this sketch right here?

9 A. Yes, ma'am.

10 Q. Which led you to obtain this driver's license photo
11 right here?

12 A. Yes, ma'am.

13 Q. Does the fact that Mr. McCall was a crack user change
14 how he led you to John Hogan?

15 A. No, ma'am.

16 Q. Did the info that Casey McCall provided actually turn
17 out to be true?

18 A. It did.

19 Q. Did Casey McCall ever admit to slitting Monesha
20 Brown's throat?

21 A. No, ma'am. He did not.

22 Q. Did John Hogan ever say that Casey McCall helped him
23 duct tape Monesha's hands and slit her throat?

24 A. No, ma'am. He did not.

25 Q. In fact, did Mr. Hogan ever say he had any help

L. TURNER - RECROSS-EXAMINATION BY MR. BLAKE

104

1 murdering Monesha?

2 A. No, ma'am. He did not.

3 Q. And Casey McCall never knew the name John Lee Hogan
4 when he provided that sketch, did he?

5 A. That's correct.

6 MS. JOHNSON-LEE: Thank you.

7 THE COURT: Recross?

8 RECROSS-EXAMINATION BY MR. BLAKE:

9 Q. And Casey wasn't just a drug user. You talked about
10 him being convicted of different crimes, correct?

11 A. Yes, sir.

12 Q. And he gave you information on things that just ended
13 up going away?

14 A. Repeat that?

15 Q. Crimes that were done away with due to his
16 cooperation.

17 A. If he had a shoplifting charge, there may have been
18 times that yeah, we would help him out.

19 Q. Shoplifting?

20 A. Yes, sir.

21 MR. BLAKE: Okay. Thank you.

22 THE COURT: All right, thank you, sir. You may step
23 down.

24 WITNESS: Thank you.

25 (THE WITNESS EXITS THE STAND.)

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

120

1 TESTIFIES AS FOLLOWS:

2 CLERK OF COURT: If you'll be seated back there and
3 state your full name, please.

4 WITNESS: First name is Shawn, S-H-A-W-N. Last name
5 Feldner, F as in Frank, E-L-D-N-E-R.

6 MR. DANIEL: May it please the court?

7 THE COURT: Yes, sir.

8 MR. DANIEL: Thank you, Your Honor.

9 DIRECT EXAMINATION BY MR. DANIEL:

10 Q. Investigator Feldner, by whom are you employed?

11 A. Marlboro County Sheriff's Office.

12 Q. And what are, what are your responsibilities with the
13 Marlboro County Sheriff's Department?

14 A. Investigations, all times.

15 Q. All types. How long have you worked for the
16 department?

17 A. Several years. I actually started my career in 1992.

18 Q. And all those years have been with the sheriff's
19 department?

20 A. Or the police department.

21 Q. Let's, let's go ahead and cut right to the chase.

22 How, how did you become involved in the case involving John
23 Hogan?

24 A. I was involved July 22nd when Lieutenant Turner with
25 the Bennettsville Police Department came to us with a

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

121

1 search warrant to go out to 452 Marks Circle. And that is
2 actually, if you're going towards Society Hill and you pass
3 Sandy Ocean Bar-B-Que, instead of making the right to go to
4 Willamette, if you turn left like you're going to Oak River
5 Mills, it's about a half a mile on the right.

6 Q. Now, were you aware of any situation involving John
7 Hogan prior to the 22nd?

8 A. I was aware of a missing person, Ms. Monesha Brown,
9 and that was the reason that Lieutenant Turner had come to
10 us.

11 Q. Okay. Was your department or you personally, were,
12 were y'all involved at all in the search for Ms. Brown?

13 A. No, sir. I wasn't.

14 Q. Okay. So, you said you get a call from Mr. Turner?

15 A. Lieutenant Turner.

16 Q. Okay, and what are you going to go search?

17 A. We're actually going to the residence of John Hogan
18 and his wife.

19 Q. And that date again was?

20 A. July 22nd, if I'm not mistaken.

21 Q. Okay. I'm showing you what's been marked State's 8,
22 which is my understanding is already in evidence but if
23 not, we'll get it into evidence.

24 A. Yes, sir.

25 THE COURT: It is in evidence.

1 MR. DANIEL: Okay.

2 A. This is ---

3 Q. Tell the jury what that is.

4 A. This is a consent to search form, standard form used
5 by the Marlboro County Sheriff's Office. This is in lieu
6 of a search warrant where we actually speak with the person
7 at the residence and ask them for consent to search their
8 residence, and we specifically tell them why we're there,
9 what we're searching for. We explain to them they do not
10 have to sign this if they do not want to. That it's all
11 voluntary, and that's all this is. It was a consent to
12 search that Summer Hogan, which is the wife of John, John
13 Hogan, signed that day for us to search the residence.

14 Q. So, she said it's okay. Come in, look, look what you
15 want to look at?

16 A. Yes, sir.

17 Q. Okay. Who conducted that search?

18 A. SLED was here doing a prior search, to my
19 understanding, on Mr. Hogan's vehicle, which was a pickup
20 truck. We attended the search with him but didn't
21 participate in the search with SLED. And I think the lead
22 officer with SLED was Paul LaRosa.

23 Q. Paul LaRosa, who is a SLED agent?

24 A. Yes.

25 Q. I'm now handing you State's 7 which is also already in

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

123

1 evidence. Can you tell the jury what that is?

2 A. Yes, sir. This is a search warrant dated for July
3 23rd of 2010, which is the following day. Lieutenant Jamie
4 Seales obtained the search warrant through our local
5 magistrate's office to conduct another search of the
6 residence.

7 Q. Okay. Before we get into searches and all that, you
8 said you were called by Investigator Turner. What was the
9 first thing you did in your investigation in this case?

10 A. Actually interviewing his wife.

11 Q. Okay, and by his wife, you mean?

12 A. John Hogan's wife.

13 Q. Okay, and as a result of that interview, what did you
14 do?

15 A. As a result of the interview, we learned some very
16 interesting, interesting facts from her. And after the
17 interview, myself and Lieutenant Turner talked again, and
18 we arranged another meeting with Mr. John Hogan due to the
19 interview with the wife and my, my speaking with Larry
20 Turner.

21 Q. Okay, and obviously you can't testify as to what
22 anyone else told you.

23 A. Correct.

24 Q. Other than the defendant.

25 A. Correct.

1 Q. So, moving on from that, what was the next involvement
2 that you had in this case?

3 A. Would have been the morning of July 23rd where myself
4 and Lieutenant Turner met Mr. Hogan in Sumter at the Sumter
5 County Sheriff's Office.

6 Q. Okay, and did you interview Mr. Hogan at the Sumter
7 County Sheriff's Office?

8 A. Yes, we did. Sumter County supplied a interview room
9 with us -- or for us. Myself and Lieutenant Turner, along
10 with Mr. Hogan, were in the room. I advised him of his
11 rights and reminded him of the rights that were already
12 previously given to him, and we went straight into the
13 interview.

14 Q. Okay. Now, Investigator Feldner, I want you to tell
15 the ladies and gentlemen of this jury what Mr. Hogan told
16 you during that interview.

17 A. One of the first techniques that we do in an interview
18 is we always allow the suspect, the defendant, a person of
19 interest or whatever, to tell his story. The particular
20 story that we were interested in that morning was -- and
21 also knowing that Lieutenant Turner had told me that he had
22 already admitted being with Monesha Brown. And so we asked
23 him to go back to that day and walk us through that day in
24 as much detail as possible.

25 Q. Let me stop you right there, and I'm sorry to do this,

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

125

1 but this was what day again?

2 A. July 23rd.

3 Q. Okay, and you were aware that Mr. Hogan had been
4 interviewed on the 21st?

5 A. Yes, sir..

6 Q. And what, what did he say on the hour and a half of
7 this video?

8 A. He admits to being with Monesha Brown, but he drops
9 off on the roadway close to the bypass somewhere. Best we
10 could tell was around Jennings Street, the Kentucky Fried
11 Chicken, in that area.

12 Q. That's what he told you on the 21st?

13 A. Yes..

14 Q. Okay. So, now you're on the 23rd?

15 A. That's correct.

16 Q. And what does he say on the 23rd?

17 A. He walked us through the day. Advises us that he was
18 indeed with Monesha Brown, and that there was another
19 individual in the vehicle with them. That they drove
20 around and scored some crack cocaine and -- which they
21 drove around town locally here in Bennettsville and smoked.

22 At one point, he says, after they finished smoking,
23 one of the individuals gets out and later Monesha Brown
24 gets out, and he advises us where she gets out. We asked
25 him, you know, did they ever go back to the residence or

1 anything like that. No. And basically what we do is we
2 allow them to talk.

3 Once he told us his story, which was almost identical
4 to what he had given on the 21st, it's at that point where
5 I turn around and start asking the questions due to what I
6 already know in the case and what the other people I've
7 interviewed have told me.

8 Q. So, so far, he has on the 23rd -- he's still denying
9 any involvement in ---

10 A. He's still denying any involvement in the missing
11 person case of Monesha Brown.

12 Q. Okay.

13 A. We paused for a brief second, and I looked at Mr.
14 Hogan and advised him. I said Mr. Hogan, you and I both
15 know that this is not what happened to Monesha Brown. You
16 owe it to the family to bring closure to her and to the
17 kids, and you need to man up, and you need to tell us the
18 truth and what really happened to Monesha Brown.

19 There was a pause and a silence, and he dropped his
20 head and just paused. And then he raised his head, and he
21 looked at me and Lieutenant Turner and said she's not
22 alive. And he said that maybe a couple more times.

23 And myself and Larry Turner kind of regrouped, and I
24 said okay. Can you explain to me why you're telling me
25 that she's not alive? And he basically tells us that up to

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

127

1 the point that he tells me and Lieutenant Turner that she
2 gets out of the car, up to that point is correct. They did
3 ride around Bennettsville smoking crack cocaine. There was
4 another individual, male individual, in the vehicle.

5 Some time on the Saturday, and I believe it was June
6 5th is what we pin pointed, that he let the male individual
7 out of the vehicle somewhere around Jennings, Amelia Street
8 area, and that he and Monesha Brown went back to his
9 residence at [REDACTED].

10 He said that his intentions were to sleep with Monesha
11 Brown, and that she smelled. So, he drew a bath in the
12 bathtub, which is a garden type tub in the master bedroom.
13 Both of them got into the bathtub unclothed, and for
14 whatever reason, she wanted to get out of the bathtub. So,
15 they got out of the bathtub, and Monesha stayed in the
16 bedroom, and he walked into the kitchen to get a beer.
17 When he came back in, he saw her going through his wallet
18 and became infuriated and started fighting, beating on her
19 and fighting with her.

20 They made it from the master bedroom into the living
21 room -- and the living room and kitchen is kind of one room
22 -- where they fought some more. She was thrown into a wall
23 where there was a big hole in the wall that we visibly saw
24 with one of the searches.

25 At one point, she grabs a knife from the knife holder

1 and stabs Mr. Hogan in his side, kind of right around his
2 belt line. They fight some more, and he grabs the knife
3 and then stabs her in the neck.

4 At this point, he says that she's bleeding pretty bad,
5 and he takes a roll of duct tape and duct tapes her hands
6 behind her back and takes her back to the garden tub where
7 the water's still in it. And she's begging him for his
8 life -- for her life. Please don't kill me. If you let me
9 go, I, I won't tell anybody who you are, what your name is
10 or anything.

11 And he places her in the garden tub, and he says at
12 that point he still has some crack cocaine left, and he
13 goes and smokes more crack cocaine crack. In the
14 interview, he tells us that the knife that he stabbed her
15 with -- in the neck broke. So, after he smokes more crack
16 cocaine, he looks at me and Larry and says the Devil told
17 me I needed to finish her off. We knew that she was still
18 living because she was begging for her life when she was
19 getting in the tub.

20 He goes into the kitchen and retrieves another knife,
21 in which he goes back into the tub and slices her neck on
22 both sides. And I asked him was she still alive at this
23 time, and he says she wasn't speaking, but she was
24 breathing.

25 So, we go through the interview, and he says that.

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

129

1 after he slices her neck, he smokes more crack cocaine, and
2 he thinks about what he's going to do with the body. And
3 this has gone on into June 6th, which is a Saturday
4 morning. Hours later, he decides to place the body in the
5 barrel and go and dispose of it. And I asked him that --
6 could you take us back to where the body is, and he said I
7 -- yes, I probably can.

8 We stopped the interview at that time because in
9 Bennettsville at his residence, we had started a massive
10 search by helicopter, by horseback, by four-wheeler, so we
11 knew -- and it was really hot. So, we knew we needed to
12 get the search stopped. So, Larry Turner and I stopped the
13 interview and advised Mr. Hogan that we would be right
14 back.

15 We went out of the interview room, and there were
16 several county officers from Sumter there. I immediately
17 got on the phone with Sheriff Knight and advised him that
18 Mr. Hogan had confessed to the murder of Monesha Brown and
19 that they could stop the search. And I advised Sheriff
20 Knight to -- that he had agreed to take us to where the
21 body was, and that I would get back with him in just a
22 minute, and that we are fixing to leave Sumter County
23 Sheriff's Office to come back to Marlboro County.

24 I looked at one of the investigators with Sumter
25 County and asked him to print the recording off of -- the

1 interview off, and he advised us that it was not being
2 recorded. That they did not have a video recorder in the
3 room.

4 So, Larry Turner and I went back into the room. At
5 that point, he was placed under arrest and handcuffed, and
6 we got in our vehicle and started back to Marlboro County.

7 Q. So, the whole time that interview was taking place,
8 you thought it was being recorded?

9 A. Yes, sir. It's a common practice nowadays, even in
10 our interview room and Larry's interview room. That's the
11 first interview room that I've been in probably ten years
12 that it's not automatically recorded, both audio and video.

13 Q. So, you went and asked for a copy of the tape, and
14 they said we don't have it?

15 A. That's correct.

16 Q. Okay. So, Mr. Hogan was placed under arrest after he
17 confessed to the murder of Monesha Brown. And where do you
18 go next?

19 A. Larry Turner and I get in my vehicle, along with Mr.
20 Hogan, and we start back to Marlboro County. And I make
21 several phone calls, another one to the sheriff and another
22 one to Paul LaRosa, the SLED agent.

23 Q. And why did you call Paul LaRosa?

24 A. I called Paul to have him en route from Columbia to
25 Marlboro County because we knew now that the murder indeed

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

131

1 had been inside the residence of John Hogan. So, we asked
2 Paul to come back and redo the crime scene. There were
3 certain things that we found out that we knew that had to
4 be searched for evidence.

5 Q. And again, Mr. Hogan's house, is that in Marlboro
6 County?

7 A. Yes, it is.

8 Q. Now, you leave the Sumter County Sheriff's Office and
9 you're driving back towards Marlboro County. Who's in the
10 car with you?

11 A. Myself, Larry Turner, and John Hogan.

12 Q. All right, and where do you go?

13 A. We come into Marlboro County, and I asked the sheriff
14 and them to pull down the road, on Marlboro Road away from
15 the residence because there was media. They had caught
16 wind of us doing the search, so the media was in the area.

17 For the, for the privacy of the investigation and the
18 family, the sheriff went down the road secretively, and
19 then as I rode by, he followed in behind us. And in the
20 air, we had -- Sheriff Sam Parker was in the air in a
21 helicopter, and we proceed on the route that John Hogan
22 took us to locate the body.

23 Q. And Sam Parker is the sheriff of what county?

24 A. Chesterfield County.

25 Q. Okay, and so at this point, does Mr. Hogan, in fact,

1 take you to the body?

2 A. He takes us out to the body, and by his memory, it
3 takes us a little while to get to where the body is, but we
4 eventually get there. Walk up and we see the barrel that
5 he described to us that he had placed the body in. And
6 Larry Turner and I returned to the sheriff's office here in
7 Marlboro County.

8 Q. Okay. When you get to the sheriff's office here --
9 well, first of all, in the woods where you found the
10 barrel, what did you see exactly when you got there?

11 A. Basically, the barrel was located off of 38 South. If
12 you're traveling to the beach on 38 and there's an old
13 country store down in Brownsville on the right, and right
14 after that store, a lot of you probably know if you turn
15 right, it takes you to Highway 34. Back up just in front
16 of that store to the right, there's a paved road that
17 actually goes down to Scorpion [phonetic].

18 We traveled down that road, and maybe a quarter mile
19 on the right was a gravel road with a orange-reddish gate
20 which was open. Walked up the road and looked. Looked
21 into the woods maybe 20 yards, and there was small ravine.
22 And down in the bottom of the ravine was the barrel that
23 Mr. Hogan had described to us, along with some old, rusted
24 trash and other things.

25 Q. I'm going to show you what's been marked State's 15.

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

133

1 THE COURT: That's ID.

2 MR. DANIEL: 15 is in evidence I believe, Judge.

3 THE COURT: 15 is in? Okay.

4 BY MR. DANIEL:

5 A. This is the barrel that we found the victim, the
6 location, and the other trash around it.

7 Q. Okay. So, this is what you saw when you got to the
8 woods?

9 A. Yes.

10 Q. Okay, and I'm now handing you State's 1, 2, and 3.
11 Can you tell me what those are?

12 A. Exhibit 2 is how we packaged -- or not we, the
13 coroner's office and SLED packaged the barrel for
14 transportation to MUSC in Charleston, South Carolina, for
15 the autopsy.

16 Q. Okay, but you were there when all this happened?

17 A. This being?

18 Q. When you packaged the barrel at the scene.

19 A. Actually, Larry Turner and I had left to do something
20 else. When we came back, it was already wrapped like this
21 and fixing to be transported.

22 Q. Okay. Were you a part of the conversation when it was
23 determined that the barrel ---

24 A. Yes.

25 Q. --- would be wrapped?

1 A. Yes.

2 Q. Okay. Did, did anyone at the scene open the barrel to
3 determine what exactly was inside?

4 A. No, sir.

5 Q. Okay, and why not?

6 A. For evidence-wise. We knew that there was fluids.
7 Contamination-wise, bodily fluids, for our safety, and to
8 make sure that the -- all evidence were -- or was kept
9 intact.

10 Q. Did Mr. Hogan point out that barrel as being the one
11 that he put Monesha in?

12 A. I don't, I don't recall that.

13 Q. So, did he say this is the area, and y'all just ---

14 A. Walked up and we found the barrel.

15 Q. Okay. The other two images; what are those?

16 A. These are both images that were taken at MUSC once the
17 blue tarp and duct tape was taken off on the examination
18 table.

19 Q. Okay. Were you present at MUSC when the barrel was
20 opened?

21 A. I was.

22 Q. And can you tell the jury just briefly? What did you
23 find, and we'll get into, of course, with the pathologist,
24 but what did you find since you were there? What was
25 inside?

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

135

1 A. Inside was what appeared to be human remains.

2 Q. That's good enough. Okay, at that time, you said that
3 you and Mr. Turner went to where? You left the woods, and
4 you went where?

5 A. Right. Once, once other units arrived where the
6 barrel was found and it was left secured with them,
7 Lieutenant Turner and I, along with Mr. Hogan, returned to
8 the Marlboro County Sheriff's Office where he was put in my
9 interview room. And we went back over the same interview
10 that we did in Sumter and had it recorded, both audio and
11 video.

12 Q. Okay. So, you did a second interview with Mr. Hogan?

13 A. Yes, sir.

14 Q. And you said that was recorded?

15 A. Yes, it was.

16 Q. Now, this morning, did you see what was in that
17 envelope?

18 A. I did.

19 Q. Okay, and what was in this envelope this morning?

20 A. That was the interview that Larry Turner and I
21 conducted on July 23rd at the Marlboro County Sheriff's
22 Office.

23 Q. Did you see what I ---

24 A. Which Mr. Hogan ---

25 Q. --- did with it?

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

136

1 A. Yes. You placed it in there, and that's where it is
2 now.

3 Q. Does this appear to be the beginning of that
4 interview?

5 A. Yes, it is.

6 Q. Okay.

7 MR. DANIEL: Your Honor, at this time, I would ask
8 that this interview be published. And I will tell the
9 court for its information that this is about twenty minutes
10 long.

11 THE COURT: All right, it's State's what number?

12 MR. DANIEL: Beg the court's indulgence. The
13 sticker's on the...

14 COURT REPORTER: It's 2.

15 MR. DANIEL: 2? Thank you, State's 2.

16 THE COURT: State's Number 2, all right.

17 Ladies and gentlemen of the jury, the solicitor has
18 asked for permission to publish the interview which has
19 been recorded, and that simply means to show it to you, and
20 I have granted them that permission. That taped interview
21 is in evidence as State's Number 2. You will have a chance
22 to view it now. You will also have an opportunity, if you
23 wish, to view it as long as you would like to or as much as
24 you would like to once you retire to the jury room to
25 deliberate your verdict.

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

137

1 All right, Mr. Daniel, you may proceed.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 IS PLAYED FOR THE
3 COURT. AUDIO NOT TRANSCRIBED.)

4 BY MR. DANIEL:

5 Q. Mr. Feldner, this has already been stipulated to, but
6 was Mr. Hogan properly Mirandized before he gave this
7 statement?

8 A. Yes, sir. He was.

9 Q. Did he appear to understand his rights?

10 A. Yes.

11 Q. Was he at any time denied any basic human functions or
12 needs like water or bathroom, anything like that?

13 A. No, sir.

14 Q. You even asked him that in the end, I think?

15 A. That's correct.

16 Q. Mr. Hogan said he was stabbed. Are you aware whether
17 he received any medical attention for his injuries?

18 A. To my knowledge, he did not. They basically took care
19 of the wound themselves between him and his wife.

20 Q. And he didn't say anything about going to the
21 hospital, going to see a doctor, or anything like that?

22 A. No.

23 Q. Okay. Some of that was kind of difficult to hear, so
24 we're going to go through some of that to be clear, but
25 before we do, you said something about Hogan's wife. He

1 was married?

2 A. Yes.

3 Q. Where was his wife? Do you know through your
4 investigation? Did you find out where she was during all
5 this?

6 A. It was determined that she was in California visiting
7 family the weekend of the homicide.

8 Q. Are you aware that Mr. Hogan has any kids?

9 A. I'm not aware. They do have a child, but I don't
10 think it's his child, but it's -- he told me that he
11 considered that his child. I think it's his stepchild.

12 Q. At any point during any of these interviews, did Mr.
13 Hogan ever say anyone else was home when this happened?

14 A. No.

15 Q. All right. Towards the beginning of the confession

16 ---

17 MR. BLAKE: Judge, may we approach?

18 THE COURT: Yes, sir.

19 (OFF-THE-RECORD BENCH CONFERENCE.)

20 BY MR. DANIEL:

21 Q. Mr. Feldner, at the beginning of the interview that we
22 just saw, Mr. Hogan said he was -- what is the reason that
23 he gave for getting in the bathtub?

24 A. Because she smelled.

25 Q. And why was that a concern to him?

S. FELDNER - DIRECT EXAMINATION BY MR. DANIEL

139

1 A. His intentions were to have sex with her.

2 Q. Later on in the interview, he gives a reason for duct
3 .taping her hands behind her back.

4 A. She was still struggling.

5 Q. Let's go over very briefly what Mr. Hogan said Monesha
6 was saying when she was in the bathtub duct taped.

7 A. Please let me go. I won't tell anything. I won't
8 tell anyone your name.

9 Q. And then Mr. Hogan gets a message from the Devil.

10 A. Yes.

11 Q. And what was that?

12 A. To go ahead and finish her.

13 Q. And so at that point with Monesha in the bathtub
14 helpless, what does Mr. Hogan do?

15 A. He goes back into the kitchen and retrieves a knife
16 out of the knife set, and goes back and slashes her throat.

17 Q. Now, at any point from the time Monesha was duct taped
18 in the bathtub until the time he slit her throat, did he
19 smoke any crack?

20 A. Yes.

21 Q. Okay. Let's walk back through. That's very
22 important. Let's, let's walk back through exactly what
23 happens. She's in the bathtub duct taped?

24 A. Yes.

25 Q. What happens next?

1 A. He goes and smokes some crack cocaine, and then he
2 retrieved the knife.

3 Q. All right, and the knife he retrieved was where?

4 A. In the kitchen.

5 Q. Okay. He described actually how he cut the throat.
6 What did he say?

7 A. That he slashed her throat.

8 Q. And then again in this part, I thought, just thought
9 it was a little hard to hear. Did Mr. Hogan then say that
10 after the murder, that he then smoked more crack?

11 A. That he had a little bit left over, and he went and
12 smoked it.

13 Q. What did he say about how he cleaned up?

14 A. That it was really bad. It was a lot of blood. He
15 took towels and cleaned up the best that he could with
16 towels. That everything that he used in the cleanup
17 portion of the crime, he disposed of in a dumpster. And
18 the way he described it, it was like a local dumpster for
19 the trailer park.

20 Q. And then he took the barrel inside the home?

21 A. Yes. He retrieved the barrel from -- there was a shed
22 out back, and he retrieved the barrel from the shed that
23 they had brought from Texas. It had some items in it that
24 he emptied out. Left it the shed. Then he brought the
25 barrel into the residence.

S. FELDNER - CROSS-EXAMINATION BY MR. BLAKE

141

1 Q. And, Investigator Feldner, how many murder cases have
2 you worked approximately in your many years?

3 A. Approximately 100, 150.

4 Q. You know the difference between murder and
5 manslaughter?

6 A. Yes, I do.

7 Q. Do -- are you the one who signs the warrant, who
8 decides what the charge should be?

9 A. On this case, I would consult with the local
10 solicitor, and we together decide on the charge.

11 Q. And in this case, did you sign a warrant for
12 manslaughter, or did you sign a warrant for murder?

13 A. Murder.

14 Q. And that's what you think it is?

15 A. Yes, sir.

16 MR. DANIEL: Your Honor, I have no further questions
17 of the witness.

18 THE COURT: Cross-examination, Mr. Blake.

19 CROSS-EXAMINATION BY MR. BLAKE:

20 Q. You say you've done what, 100, 150 murder cases?

21 A. I've been directly involved with, either lead
22 investigator or assistant investigator, 100, 150 homicides,
23 yes, sir.

24 Q. And those are essentially not natural deaths?

25 A. It could be anything from a suicide to homicide.

1 Q. Okay, and did ---

2 A. Every death scene I go on is treated as a homicide
3 until I can prove or show that -- if it's something other.

4 Q. Even people dying in their sleep?

5 A. No, sir. I don't go to those, sir.

6 Q. You're talking about unnatural deaths?

7 A. Yes.

8 Q. And how many out of those, how many did you -- were
9 you involved with warrants being written?

10 A. In my career? You're asking a twenty year old
11 question. In my career, directly signed warrants ---

12 Q. What are the ---

13 A. --- probably estimation, twenty to thirty.

14 Q. How about indirectly, just cases you were involved
15 with then became part of the court process so the warrants
16 were...

17 A. That actually went to court?

18 Q. No. In other words, you signed you said what?

19 A. Twenty to thirty.

20 Q. Twenty to thirty. So, in the other cases, just how
21 many were, were -- warrants were created that you were
22 involved with? Not necessarily that you ---

23 A. Homicides, homicides where we sign warrants for
24 manslaughter or anything of that extent, probably
25 seventy-five, somewhere in that estimation.

S. FELDNER - CROSS-EXAMINATION BY MR. BLAKE

143

1 Q. And you have for an unnatural death there, you have
2 three possibilities for a warrant, correct?

3 A. In a death?

4 Q. An unnatural death.

5 A. Yes.

6 Q. And that would be murder, voluntary manslaughter, and
7 involuntary manslaughter?

8 A. Involuntary.

9 Q. Okay. So, taking that as you're saying seventy-five
10 total warrants for these unnatural deaths, how many of
11 those are where the warrant was murder?

12 A. Murder? Probably around thirty.

13 Q. Okay, and how many were involuntary manslaughter?

14 A. I've never done any involuntary manslaughter.

15 Q. Are you telling this court that you did -- or you were
16 involved with these death cases, and that forty-five of
17 them were deemed voluntary manslaughter as the warrant
18 itself?

19 A. It could have been anything from a suicide to
20 self-defense. Like I said, every, every case, death I'm
21 going to start, death case that I go on is unnatural. Is
22 treated as a homicide.

23 Q. But you don't create a warrant for a suicide. You
24 don't create a warrant ---

25 A. No, sir.

1 Q. --- for self-defense.

2 A. No, sir.

3 Q. You charge them with murder.

4 A. Either I charge them or someone else charges them,
5 yes, sir.

6 Q. As murder.

7 A. Yes, sir.

8 Q. That's what's done almost all the time. Is that not
9 true?

10 A. Most of the time, yes, sir.

11 Q. Almost all the time, and it's rare that you would ever
12 do a voluntary. Do you remember doing a voluntary
13 manslaughter ---

14 A. No, I don't.

15 Q. --- warrant on a case?

16 A. No, sir.

17 Q. You do not?

18 A. No, sir.

19 Q. You charge them with murder?

20 A. Yes, sir.

21 Q. Thank you. We just watched the second interview, and
22 you talked about the first interview which was not
23 videotaped. You thought it was, but it wasn't?

24 A. That's correct.

25 Q. It appeared in this interview that we just saw that

S. FELDNER - CROSS-EXAMINATION BY MR. BLAKE

145

1 Mr. Hogan appeared to be upset. He was sniffing. In that
2 first interview, was he crying?

3 A. He was visibly upset.

4 Q. You didn't answer my question. Was he crying in that
5 first interview?

6 A. Yes, sir.

7 Q. Was he just lightly crying, or was he heavily crying?

8 A. About the same that you just saw on the video. He was
9 crying. I don't know there was a lightly or a heavy
10 crying. He was, he was upset crying.

11 Q. You're telling me that the affect in the recorded
12 interview is the same as in the first interview?

13 A. Yes, sir. He was crying towards the end.

14 Q. Was he so upset at some point that Lieutenant Turner
15 reached out his hand and put his hand on my client's hand?

16 A. He reached out and touched his hand. Now, whether or
17 not that's because your client was so upset, I don't
18 remember him being that upset. I remember him crying and
19 showing remorse if that's what you're trying to ask me.

20 MR. BLAKE: No further questions.

21 THE COURT: Redirect?

22 MR. DANIEL: Beg the court's indulgence.

23 (A PAUSE.)

24 MR. DANIEL: Briefly.

25 REDIRECT EXAMINATION BY MR. DANIEL:

S. FELDNER - REDIRECT EXAMINATION BY MR. DANIEL

146

1 Q. Investigator Feldner, whether Mr. Hogan was weeping,
2 whether he was not crying at all, whether he was the most
3 emotional person you had ever seen, did it change his
4 confession at all?

5 A. No, sir. It did not.

6 MR. DANIEL: No further questions.

7 THE COURT: Recross?

8 MR. BLAKE: No, Your Honor.

9 THE COURT: All right. All right, thank you, sir.
10 You may step down.

11 WITNESS: Thank you, Your Honor.

12 (THE WITNESS EXITS THE STAND.)

13 THE COURT: All right, Mr. Daniel, you may call your
14 next witness.

15 MR. DANIEL: Your Honor, we just need a minute to see
16 if she's here, or to get her in here. She's our
17 pathologist from Charleston.

18 THE COURT: Okay.

19 (A PAUSE.)

20 THE COURT: All right. Let's go ahead, while we're
21 doing that, let's go ahead and take the morning break at
22 this time before we start her testimony because it will
23 probably run into the break time anyhow.

24 All right, ladies and gentlemen, I'm going to allow
25 you to go to your jury room for a few minutes and take a

S. PRESNELL - VOIR DIRE EXAMINATION BY MS. JOHNSON-LEE 148

1 THE COURT: All right, Ms. Johnson-Lee, excuse me.

2 SUSAN ERIN PRESNELL, BEING DULY

3 SWORN, TESTIFIES AS FOLLOWS:

4 CLERK OF COURT: Please be seated, and state your full
5 name for me.

6 THE COURT: Hey. My name is Susan Erin Presnell,
7 P-R-E-S-N-E-L-L.

8 VOIR DIRE EXAMINATION BY MS. JOHNSON-LEE:

9 Q. Where are you employed, Dr. Presnell?

10 A. I work as a forensic pathologist at the Medical
11 University of South Carolina, MUSC, down in Charleston.

12 Q. What is your occupation there?

13 A. I'm a forensic pathologist.

14 Q. Are you also a duly licensed physician and surgeon?

15 A. Well, I'm, I have a medical license to practice,
16 medical license, although I do not do surgery.

17 Q. And how long have you been licensed to practice as a
18 forensic pathologist?

19 A. I was board certified in forensic pathology in '99,
20 and that's when I had finished up all my training and
21 started as faculty at MUSC.

22 Q. Where did you receive that training?

23 A. At MUSC.

24 Q. What are the duties of a pathologist in South
25 Carolina?

S. PRESNELL - VOIR DIRE EXAMINATION BY MS. JOHNSON-LEE 149

1 A. Well, everybody's kind of getting familiar with
2 forensic pathology with all the TV shows and all, but if I
3 can just back up a moment? Pathology is the study of
4 disease, and most pathologists -- actually, anatomic
5 pathologists that look at tissues or body fluids to
6 diagnosis disease.

7 So, if you go to your doctor, your family doctor and
8 they do like, say, a skin biopsy or a woman needs a breast
9 biopsy, or you go to surgery and something is, is removed,
10 that tissue is sent to the pathologist. They look at it
11 grossly and also under a microscope, and they diagnose
12 what's going on. Is it cancer or not cancer? Is it
13 infection or not infection?

14 So, I'm trained in general pathology, but then I also
15 did subspecialty training in forensic pathology. And in
16 forensic pathology, we're not just looking at a piece of
17 tissue. Of course, we're looking at a whole, entire
18 individual who has, who has passed on, and we're looking
19 for a cause and manner of death ultimately through the
20 process of autopsy.

21 We also are looking for disease because a lot of
22 times, that may be what is the cause of death. But we're
23 also evaluating for trauma and how trauma might have had an
24 effect on the cause of death through the -- and like I
25 referred to that examination, it's called the autopsy.

S. PRESNELL - VOIR DIRE EXAMINATION BY MS. JOHNSON-LEE 150

1 And after we're done, we generate the autopsy report
2 with our opinion on the, the cause and manner of death.

3 Q. Dr. Presnell, are -- have you been granted the
4 certification of diploma in the American Board of
5 Pathology?

6 A. I'm, I'm board certified in anatomic and clinical
7 pathologies. That's the general pathology, and also in
8 forensic pathology.

9 Q. How many autopsies have you performed?

10 A. It would be an estimate of around 2000.

11 Q. And percentage-wise, how many of those have been done
12 where the cause of death was deemed a homicide?

13 A. Well, that would, that would be a manner of death is
14 homicide, and, oh gosh, ten, fifteen percent perhaps.

15 MS. JOHNSON-LEE: Your Honor, the state moves at this
16 time that Dr. Presnell be declared an expert in the field
17 of forensic pathology.

18 THE COURT: Voir dire with regard to qualifications,
19 Mr. Blake?

20 MR. BLAKE: No, Your Honor.

21 THE COURT: All right, the court will qualify Dr.
22 Presnell as an expert in the field of forensic pathology.
23 Ladies and gentlemen of the jury, let me tell you what that
24 means.

25 Ordinarily, a witness who is not testifying as an

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 151

1 expert, that witness's testimony is limited to those things
2 that are within the perception of the witness -- that is,
3 one of the five senses -- and do not require special
4 knowledge, skill, experience, or training.

5 However, if scientific, technical, or other
6 specialized knowledge will assist the trier of fact, and
7 that's you in this case, to understand the evidence or to
8 determine that fact in issue, then a witness qualified by
9 education, training, skill, or experience may testify in
10 the form of an opinion.

11 So, basically the difference between an expert witness
12 and a non-expert witness is that an expert witness is
13 allowed to give an opinion, and I have qualified Dr.
14 Presnell as an expert in the field of forensic pathology.

15 All right.

16 MS. JOHNSON-LEE: Thank you, Your Honor.

17 DIRECT EXAMINATION BY MS. JOHNSON-LEE:

18 Q. Dr. Presnell, did you perform an autopsy on Monesha
19 Brown?

20 A. Yes. The coroner of Marlboro County referred Ms.
21 Brown to us, and we did the autopsy on July 24, 2010.

22 Q. I'm going to show you what's already been marked as an
23 exhibit in the case. First of all, State's Exhibit 2, do
24 you recognize that?

25 A. Yes. This is a photograph of the barrel that's

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 152

1 wrapped up in a blue tarp that Ms. Brown was inside. This
2 is actually at autopsy, at the time of autopsy in the
3 autopsy room.

4 Q. Is that how that barrel came to you?

5 A. Yes.

6 Q. So, that tarp wasn't taken off until it came to the
7 autopsy room?

8 A. Well, I imagine it was put on at some place, and then
9 when, and then when it got to the autopsy room, this is how
10 it was. I don't know prior to that, but we did take it off
11 in the autopsy room.

12 Q. I'm also going to show you what's marked State's
13 Exhibits 1 and 3. Do you recognize those items?

14 A. Yes. These are photographs of the barrel at the time
15 of autopsy after we had removed the tarps.

16 Q. And what is the difference between the two?

17 A. Just two different sides, and one has got some more
18 breakdown from, like, the bodily fluids and all.

19 Q. And when you reference bodily fluids, would that be in
20 Exhibit Number 1?

21 A. Yes, ma'am.

22 Q. What would cause the bodily fluids to be more on one
23 side than the other?

24 A. Just the positioning of the barrel, gravity.

25 Q. Was the autopsy the first time you saw the remains of

1 Monesha Brown?

2 A. Yes.

3 Q. And how long did this autopsy on Monesha last?

4 A. We don't usually write down, like, when we finish
5 because it doesn't just stop when we're done with the
6 examination, which the gross examination part of the
7 autopsy is all the external exam and all the internal exam.
8 But we also wait for all the rest of the studies that we've
9 done like, say, toxicology to come back.

10 We started the autopsy at 9 and, you know, we did
11 X-rays, a number of other things. So, I, I'm not sure.
12 I'm sure it was several hours, three, four hours.

13 Q. Describe what you found when the barrel was opened.

14 A. Well, we received Ms. Brown, like I said, inside the
15 barrel. We removed the top of the barrel and, and her
16 positioning was -- and if you can kind of bear with me
17 trying to describe it.

18 The -- it -- her head was down towards the bottom of
19 the barrel. And so if you can imagine sliding somebody in,
20 the head's down to the -- towards the bottom. The height
21 of the barrel obviously isn't going to hold a whole, entire
22 person outright. So, the buttocks are up towards the top
23 of the barrel, and then the knees are bent so that the
24 knees are towards the chest. And the lower extremities,
25 the feet, are also towards the top of the barrel near the

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

154

1 buttocks.

2 Q. Now, describe what you did during the autopsy itself.

3 A. I, I guess I should continue. We -- so, at that
4 point, you know, we photographed and documented everything,
5 and then we, we pulled her out, and of course there's a
6 fair amount of decomposition, breakdown of some of the soft
7 tissues. And also at that time, we recorded that her arms
8 were secured or tied behind her with duct tape.

9 Q. And before I go on to the photographs, based on your,
10 your autopsy within the bounds of medical certainty, did
11 you form any kind of expert opinion concerning Monesha's
12 cause of death?

13 A. Well, I'll finish up with what we found at autopsy.
14 Besides the decomposition, which affected mostly the soft
15 tissues, like there was -- you could see the bones in one
16 of the, the legs and both arms, but all the internal organs
17 are there. We also had soft tissue breakdown around the
18 neck, but what was significant is that we found multiple
19 defects in the, in the neck area.

20 We had three defects. What I mean is, like, kind of
21 holes through the skin, which again the skin was real thin
22 in that area just secondary to decomposition. But three
23 over the left collarbone, one defect over the right
24 collarbone, one defect in the side of the right neck, and
25 then one gaping defect that went across the front of the

1 neck.

2 Now, all these defects communicated. Like, you know,
3 you could, you could -- if you put a probe in through one,
4 it would come out the other. However, and the, and the,
5 and the question, of course, is how much soft tissue
6 breakdown could possibly cause some of the defects.

7 Well, the large gaping defect in the front of the neck
8 is -- you really, you wouldn't just get defects right
9 across the -- a breakdown right across the front of the
10 neck. We feel that that was real, and what supported our
11 finding of that was the trachea, which the trachea has --
12 and the windpipe has cartilage in it. So, it resists
13 decomposition a lot better than some of the soft tissues.

14 The trachea actually was cut in half. A sharp-force
15 injury cut it in half, and there was also another sharp-
16 force injury, another cut basically a little bit below
17 where it was cut in half as well. So, we had evidence of
18 two cuts to the trachea.

19 Like I referred to before, the soft tissue had broken
20 down. So, as far as the body weight, had they gotten --
21 you know, had the carotid arteries or jugular veins been
22 injured, we couldn't tell at that time. But with the
23 circumstances, expected decomposition, the finding of the,
24 the neck wounds, the neck defects, and the cutting of the
25 trachea, we surmised that her cause of death was the cut,

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S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 156

1 or what we call an incise wound, to the neck, and that the
2 manner of death was homicide.

3 Q. Did you document the defects that you found on any
4 diagrams or charts?

5 A. Yes. We -- I drew them on diagrams, and of course we
6 photographed everything.

7 Q. Okay, I'm going to show you what's marked for
8 identification at this time as State's Exhibit 39. Do you
9 recognize that two-page document?

10 A. Yes. These are copies of the diagram that I did at
11 the time of autopsy.

12 MS. JOHNSON-LEE: At this time, I'd move to put that
13 into evidence.

14 THE COURT: Any objection?

15 MR. BLAKE: Judge, I'd like to see it.

16 (COUNSELORS CONFER.)

17 MR. BLAKE: Judge, I do have an objection relative
18 just to the -- there's writing in here which is not very,
19 not very clear. Obviously, she's drawn where she has seen
20 things.

21 THE COURT: Well, the witness, as I understand it,
22 prepared this exhibit; she can testify as to what's on it.
23 So, I would overrule the objection. Be admitted into
24 evidence, subject to the objection of the defendant.

25 (PATHOLOGY DIAGRAM MARKED INTO EVIDENCE AS STATE'S

1 EXHIBIT NUMBER 39.)

2 BY MS. JOHNSON-LEE:

3 Q. Okay, Dr. Presnell, would you go through page 1 and
4 just read to us what you have written, beginning at the
5 top with all the information on that first page of
6 diagrams?

7 A. Well, these are diagrams, like I said, that are --
8 they're working diagrams. But we jot down notes and
9 abbreviations and whatnot that we use to prepare our, our
10 report that's in complete sentences and fully spelled out
11 words.

12 So, I've recorded the weight of the -- when she came
13 into autopsy and the barrel and the cart. And there's
14 things like we evaluate temperature, if she's rigor mortis,
15 livor mortis, which she's not. Their hair, if she has
16 eyes, ears, nose, teeth, neck, abdomen. It's just a list
17 that we kind of checkmark to make sure that we, we don't
18 get so concentrated on one area that we overlook another.

19 And then I have some pretext that describes in my
20 abbreviated notes the extent of decomposition: where
21 there's missing tissues, where there's what we call adipose
22 formation, which is the conversion of the issues to this
23 waxy type of material. Again, just from decomposition.

24 And I also diagram -- excuse me -- diagram two scars
25 that she had over the belly and the pubis area. And I made

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 158

1 a notation that breasts were present, and that the trachea
2 was severed.

3 That's on the diagram of the whole, entire body and
4 then we have the diagram that's just the head and neck
5 area. Again diagram, diagramming the defects that I have
6 described, and that also includes some measurements that I
7 took of the defects and trying to localize it. Like how
8 far it is from the top of the head, et cetera.

9 Q. And on page 2?

10 A. That's what I just described was the head and neck
11 area. And the -- again, just diagrammed the defects and
12 some of the measurements and all.

13 Q. My question is at the bottom, you've got gaping
14 defects, and then you've got an L and a figure, and a W and
15 a figure. Please describe for the jury what those mean.

16 A. Those are the measurements of the defect across the
17 front of the neck. The length of it was 5 inches, and the
18 width is 3 inches.

19 Q. Thank you. I'm going to show you next what's marked
20 for identification as State's Exhibit 17. What is depicted
21 in that item?

22 A. This is the duct tape that ---

23 THE COURT: Wait just a minute. Just ask her if she
24 knows if she can identify it. Right now, it's just
25 identification. She can't testify as what's depicted ---

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

159

1 MS. JOHNSON-LEE: Yes, Your Honor.

2 THE COURT: --- until it's in evidence.

3 BY MS. JOHNSON-LEE:

4 Q. Do you know what's depicted in that?

5 A. Yes.

6 Q. Do you recognize that?

7 A. Yes.

8 Q. Who took that photograph?

9 A. I took this photograph.

10 Q. And does it accurately depict the item at the time the
11 photograph was taken?

12 A. Yes, it does.

13 THE COURT: Being offered into evidence?

14 MS. JOHNSON-LEE: Yes, Your Honor.

15 THE COURT: All right, any objection?

16 MR. BLAKE: Yes, there is, Judge.

17 THE COURT: What's the objection?

18 MR. BLAKE: I think that I have several issues with
19 the photograph.

20 THE COURT: What's the objection?

21 MR. BLAKE: Judge, I think that it's -- I don't see
22 how it's important to the case. I think it has a danger of
23 unfair prejudice and needless ---

24 THE COURT: So, the objection, the objection is what?
25 And legal, just the legal grounds. I don't need an

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

160

1 argument.

2 MR. BLAKE: Inappropriate.

3 THE COURT: Inappropriate? Is that the same as
4 relevance?

5 MR. BLAKE: Rule 403, Judge, in terms of ---

6 THE COURT: All right, Rule 403, relevance.

7 All right, based on the -- not -- you don't pretend
8 it's not relevant. You contend that the unfair prejudice
9 outweighs the probative value. Is that correct?

10 MR. BLAKE: That's correct, Judge.

11 THE COURT: All right, Ms. Johnson-Lee, let me see the
12 exhibit.

13 MS. JOHNSON-LEE: Judge, Mr. Hogan, the videotape that
14 was played earlier, he stated in that videotape how he duct
15 taped your hands behind her back, and that's ---

16 THE COURT: Okay.

17 MS. JOHNSON-LEE: --- the photograph of that duct
18 tape.

19 MR. BLAKE: Judge, that's ---

20 THE COURT: It's illustrative of matter and testimony,
21 corroborates testimony, and then I find that the -- it is
22 relevant under 401, and that the probative value is not
23 substantially outweighed by the danger of unfair prejudice.
24 The exhibit will be admitted over the objection of the
25 defendant.

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

161

1 MR. BLAKE: And I'd like to note my objection more
2 specifically.

3 THE COURT: You don't have to do that, Mr. Blake.
4 You've already objected, and I've overruled you. It's
5 admitted.

6 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
7 NUMBER 17.)

8 THE COURT: All right, she may testify as to the
9 exhibit now, Ms. Johnson-Lee.

10 MS. JOHNSON-LEE: Thank you, Your Honor.

11 BY MS. JOHNSON-LEE:

12 Q. Please describe what is depicted in the photograph.

13 A. This is the photograph of the duct tape that we
14 removed from around the wrists. We removed it. We were
15 able to maintain the configuration of it. So, it's on a,
16 it's on a -- we put it on a tarp, and then I've labeled the
17 tarp R and L for right and left so you could tell which one
18 came from the right wrist and which one came from the left
19 wrist.

20 Q. And were the hands duct taped in front or behind the
21 body?

22 A. Behind the body.

23 Q. I'm going to show you need what's marked for
24 identification State's Exhibit Number 18. Do you recognize
25 that photograph?

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 162

1 A. Yes.

2 Q. Who took that photograph?

3 A. I took this photograph.

4 Q. Does it accurately depict the object as it appeared on
5 the day you took the picture?

6 A. Yes.

7 Q. And what is depicted in that photograph?

8 A. This is a picture of the camisole shirt type, tank-top
9 shirt that she had on her -- which is actually -- which is
10 around her kind of chest, abdomen area. It was the back
11 side of it.

12 MS. JOHNSON-LEE: State would have -- make motion to
13 move that into evidence, Your Honor.

14 THE COURT: All right, any objection?

15 MR. BLAKE: If I could see it?

16 THE COURT: All right, sir.

17 (COUNSELORS CONFER.)

18 MR. BLAKE: Same continuing objection, Judge.

19 THE COURT: Sir?

20 MR. BLAKE: Same continuing objection.

21 THE COURT: Well, it's not a continuing objection. Do
22 you object?

23 MR. BLAKE: Rule 403, Judge.

24 THE COURT: All right, you object to this matter under
25 Rule 403. Court will find that the testimony is relevant

1 under Rule 401, and that it is corroborative of previous
2 testimony. Therefore, it is admissible. I find that the
3 probative value is not substantially outweighed by the
4 danger of unfair prejudice because it is corroborative of
5 earlier testimony. It's not gruesome or prejudicial. It
6 would be admitted subject to the objection of the
7 defendant.

8 MS. JOHNSON-LEE: Thank you, Your Honor.

9 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
10 NUMBER 18.)

11 BY MS. JOHNSON-LEE:

12 Q. Okay, you state that the photograph depicted, Exhibit
13 18, shows the camisole that was removed from the victim's
14 body?

15 A. Yes. It's the back side of the camisole, and it
16 demonstrates several defects in the, in the, in the cloth.

17 Q. Do you have any opinion as to what would have caused
18 that defect in the shirt?

19 A. No, I, I can't. It doesn't necessarily correspond to
20 any injuries on -- it's on the back side where we didn't
21 find any obvious injuries. So, I wouldn't be able to say
22 what caused those defects.

23 Q. Next I'm going to show you what marked for
24 identification State's Exhibit 27. Do you recognize that
25 item?

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

164

1 A. Excuse me?

2 Q. Do you recognize that item?

3 A. Yes.

4 Q. Who took that photograph.

5 Q. I took this photograph.

6 Q. Was that taken during the autopsy of Monesha Brown?

7 A. Yes, it was.

8 Q. What does that photograph ---

9 THE COURT: No, no. Show it to Mr. ---

10 MS. JOHNSON-LEE: Yes, Your Honor.

11 (COUNSELORS CONFER.)

12 MR. BLAKE: Judge, you just used the word gruesome. I
13 think this is to inflame ---

14 THE COURT: All right. Well, we'll ---

15 MR. BLAKE: --- the prejudice of the jury.

16 THE COURT: Well, let me take this up.

17 Ladies and gentlemen, I need to take up a matter of
18 law outside the presence, outside of your presence. I'm
19 going to ask you to go to your jury room for just a few
20 minutes while the state -- while we consider this matter,
21 evidentiary matter.

22 (THE JURY EXITS AT 11:46 A.M.)

23 THE COURT: All right, Ms. Johnson-Lee, you may make
24 your proffer, and then I will let Mr. Blake make his
25 objections.

1 MS. JOHNSON-LEE: Thank you, Your Honor.

2 BY MS. JOHNSON-LEE:

3 Q. Dr. Presnell, I'm going to rehand you what's now
4 marked as State's Exhibits 27 and 29 which are now into
5 evidence. Would you please describe what is depicted in
6 Number 27?

7 A. Exhibit 27 is a photograph of the trachea which shows
8 where it's transacted or severed, and also an additional
9 cut below that second of severing as well.

10 Q. Now, when you say severed, does that mean a cut
11 completely through the trach?

12 A. Yes.

13 Q. And the other cut is directly below the complete
14 severing?

15 A. Correct.

16 Q. So, that's the two cuts to the trach itself?

17 A. Yes.

18 Q. And Exhibit Number 29, please tell the jury what's
19 depicted in that photograph.

20 A. 29 shows some of the defects along the left
21 collarbone, the skin defects that I was describing before.

22 Q. How many defects are in that photograph?

23 A. Well, it's kind of pieced together. I described three
24 distinct defects. You still have some of the, like, blood
25 vessel type tissue and whatnot. But there's kind of three

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 175

1 and a half, three, three ones that are clearly identified,
2 and one that's kind of just some wispy tissue.

3 Q. Now, could those defects be consistent with having
4 been cut with a knife?

5 A. Again, that's interpreting, and in light of the
6 decomposition, they certainly could have been created by a
7 knife. They could also be from some of the, the tissue
8 breakdown.

9 Q. So, it could be natural, or it could be consistent
10 with another cut of the knife?

11 A. Correct.

12 Q. Now, the location of that by the -- I believe you said
13 the clavicle?

14 A. Right.

15 Q. What was the distance between that and the actual cut
16 or severing of the trachea?

17 A. All right, I don't have a distance. The collarbone,
18 you know, again, that's -- you can feel it on yourself.
19 It's right here, and your trachea is midline. So, it's
20 relative -- it's close proximity.

21 Q. In close proximity?

22 A. Yes.

23 Q. Okay. Now, I believe you described earlier with the
24 diagram of a defect on the side of the neck also. Do you
25 recall which side that was on?

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE 176

1 A. Yes. She has a defect on the right side of the neck,
2 and of course the larger defect across the front of the
3 neck.

4 Q. Now, the defect on the right side of the neck, what
5 size is that, would you say?

6 A. Again, a lot of the measurements are going to be
7 distorted by the decomposition and the softening of the
8 tissue, but we measured that at 2 and a half times 1 inch.

9 Q. And could that also be consistent with a knife wound?

10 A. Yes, it could.

11 Q. The tank top and the duct tape that were removed from
12 the body, what did you do with those?

13 A. Well, we took them off, and then we photographed them,
14 and then we transferred them as evidence, and I will tell
15 you to who in a moment. I -- we transferred them to
16 Special Agent Paul LaRosa with SLED.

17 Q. And on what date did you transfer that to Paul LaRosa
18 at SLED?

19 A. July 29, 2010.

20 Q. Now, did you also prepare a written report regarding
21 the autopsy and your findings?

22 A. Yes.

23 Q. I'm going to show you what's for identification
24 State's Number 35. Do you recognize that?

25 A. Yes. This a copy of the autopsy report that we

S. PRESNELL - DIRECT EXAMINATION BY MS. JOHNSON-LEE

177

1 prepared, or I prepared.

2 MS. JOHNSON-LEE: I'd move to have the autopsy report
3 into evidence.

4 THE COURT: I believe it is in evidence, isn't it?
5 It's not?

6 MS. JOHNSON-LEE: It's marked for identification only,
7 Your Honor, at this time.

8 THE COURT: All right, show it to Mr. Blake.

9 MS. JOHNSON-LEE: Yes, Your Honor.

10 (COUNSELORS CONFER.)

11 MR. BLAKE: Without objection.

12 THE COURT: All right, State's Exhibit Number 35
13 admitted into evidence without objection.

14 (AUTOPSY REPORT MARKED INTO EVIDENCE AS STATE'S
15 EXHIBIT NUMBER OF 35.)

16 BY MS. JOHNSON-LEE:

17 Q. Is your signature on this report, Dr. Presnell?

18 A. My electronic signature is.

19 Q. And is that defined as the same as physically signing
20 with a pen?

21 A. Yes. It's a, it's a computer system, so you have to,
22 quote, verify or finalize the report. You have to type in
23 your password and be logged in under your name for it to,
24 to work, and that's what I did with this case.

25 Q. Thank you. Now, how were these remains identified as

1 Monesha Brown's?

2 A. Well, we identify them actually at autopsy or the
3 process of a autopsy through dental records. In addition
4 to that, I believe the coroner sent, coroner and SLED or
5 coroner and the sheriff's office sent -- we provided them
6 with bone with DNA to be analyzed. And she was matched
7 positively through DNA as well.

8 Again, that was -- we provided the sample, but that's
9 the extent that we were involved in the DNA matching,
10 although we did, like I said, identify, scientifically
11 identify her through dental records as well.

12 MS. JOHNSON-LEE: Thank you, Dr. Presnell. Answer any
13 questions that Mr. Blake might have.

14 THE COURT: Cross-examination, Mr. Blake.

15 (TOXICOLOGY REPORT MARKED AS DEFENDANT'S EXHIBIT
16 NUMBER 6 FOR IDENTIFICATION.)

17 COURT REPORTER: Defendant's 6 for identification.

18 CROSS-EXAMINATION BY MR. BLAKE:

19 Q. So, it's not too unusual to get decomposition cases
20 here in South Carolina?

21 A. No, that is not unusual.

22 Q. You've done a number of autopsies with decomposition?

23 A. Yes.

24 Q. I think you said when we spoke briefly that you
25 recently had a barrel case?

S. PRESNELL - CROSS-EXAMINATION BY MR. BLAKE

179

1 A. It's been a couple years. We don't have that many,
2 but this was my second one.

3 Q. And you used the word defects a number of times. I
4 think you clarified that by saying that in this situation,
5 because of the decomposition, you really couldn't say with
6 exactitude what caused those defects?

7 A. Right. I, I cannot definitively say the etiology of
8 the defects in the skin.

9 Q. And there was a fair amount of decomposition in the
10 neck area?

11 A. Correct. Yes.

12 Q. And you said that you sent some samples off for DNA.
13 You also sent some stuff off to a lab, is that correct, NMS
14 Labs?

15 A. Right. We perform toxicol -- toxicology studies on
16 our, our forensic cases. And in this case, we sent samples
17 of liver because there was no body -- the blood loss. We
18 sent samples of liver to the NMS Labs, which is a forensic
19 lab, for toxicologic testing. And she showed
20 benzolyecgonine, and I'll go back and explain what each of
21 these are in just a moment, cocaethylene, caffeine,
22 nicotine, a nicotine metabolite, hydroxyzine, which is a
23 antihistamine.

24 So, first of all benzolyecgonine, that is a cocaine
25 breakdown product.

S. PRESNELL - CROSS-EXAMINATION BY MR. BLAKE

180

1 MS. JOHNSON-LEE: Your Honor, if I may, we don't have
2 any objection to this coming into evidence, but I don't
3 think it's in yet, and I ---

4 THE COURT: That's the report?

5 MS. JOHNSON-LEE: Yes. That's the tox, I believe.

6 THE COURT: That's what?

7 MS. JOHNSON-LEE: I believe it's the tox screen.

8 MR. BLAKE: Toxicology report, Judge.

9 THE COURT: Oh. All right. Well, she can't testify
10 to the contents of the toxicology unless it's into
11 evidence. You ---

12 MR. BLAKE: Move it into evidence.

13 THE COURT: All right.

14 WITNESS: And it's in my autopsy report.

15 THE COURT: All right, wait just a moment.

16 MR. BLAKE: It's part of your autopsy report?

17 WITNESS: Yes.

18 MS. JOHNSON-LEE: I don't think it was attached to the
19 one that was marked.

20 THE COURT: All right, it was not. Will be marked in
21 evidence as Defense Number 6. In evidence is the
22 toxicology screen.

23 All right, now it may be ---

24 MR. DANIEL: Can we see it?

25 THE COURT: --- may be used as testimony.

S. PRESNELL - CROSS-EXAMINATION BY MR. BLAKE

181

1 MR. DANIEL: Can we look at it?

2 THE COURT: Yeah.

3 MR. BLAKE: You have it. Well, actually ---

4 THE COURT: Wait just a minute. Let him see it.

5 (A PAUSE.)

6 MR. DANIEL: Your Honor, we don't need any objections
7 other than ---

8 THE COURT: Now, wait just a minute. You sit down,
9 Mr. Daniel. This is Ms. Johnson-Lee. She's the one who's
10 already said that she had no objection to it coming into
11 evidence.

12 MS. JOHNSON-LEE: No objection to the court, Your
13 Honor, but this particular copy, somebody had written on
14 here and marked it out, and that's not on the original.
15 We'd just ask that that be substituted.

16 THE COURT: Before that goes to the jury, that will be
17 redacted, all right? Now, you give the witness the
18 exhibit, and let her testify from the exhibit.

19 MR. BLAKE: Could I ask a question of her first,
20 Judge, to compare what we have gotten with her original to
21 see that hers is -- that what we have is actually the ---

22 THE COURT: That's what you offered. That's what
23 she's going to testify to; she's not going to testify to
24 anything else. Give her that one and let her testify to
25 it. That's the one that you offered, and that's the one

S. PRESNELL - CROSS-EXAMINATION BY MR. BLAKE

182

1 that's been admitted into evidence.

2 (TOXICOLOGY REPORT MARKED INTO EVIDENCE AS DEFENDANT'S
3 EXHIBIT NUMBER 6.)

4 BY MR. BLAKE:

5 Q. So, this was attached as actually a part of your
6 original autopsy report, correct?

7 A. This is additional -- this isn't actually -- when we
8 print out the autopsy report, you don't typically print off
9 the other reports received from elsewhere. And what I was
10 originally referring to was in my case summary and my
11 autopsy report. It has a listing of toxicologic findings.
12 I'm also certainly happy to go back to the original source,
13 which is the laboratory report from NMS Laboratories.

14 Q. Go ahead. You were beginning to talk about some of
15 the metabolites you found.

16 A. Okay.

17 Q. Or that were found.

18 A. Right. So, findings in Ms. Brown's blood were
19 caffeine, nicotine. One of the nicotine breakdown products
20 -- when the body metabolizes, it breaks down drugs that --
21 nicotine breakdown product is called cotinine.
22 Benzoylecgonine, which is a breakdown product of cocaine.
23 Hydroxyzine is antihistamine. And also cocaethylene.

24 Now, cocaethylene is a product that is formed when the
25 body's exposed to cocaine and alcohol at the same time.

S. PRESNELL - CROSS-EXAMINATION BY MR. BLAKE

183

1 They form a cocaine-alcoholic compound. So, that was there
2 as well.

3 Now, liver alcohol itself was negative. So, basically
4 what we have is Ms. Brown was under the effects of
5 caffeine, nicotine, potentially cocaethylene, and then
6 benzoylecgonine, which is, again, it's the breakdown
7 product of cocaine. It's not actually an active product.

8 Q. Could I see the exhibit? You mentioned one was an
9 antihistamine?

10 A. Right. The hydroxyzine is an antihistamine.

11 Q. And that's often combined with cocaine?

12 A. Occasionally you can see it cut with cocaine, and
13 so it will show up in somebody that's using illicit
14 cocaine.

15 Q. And I notice that your results have -- some say
16 positive. Some have numbers.

17 A. The tox goes back to the toxicolo -- yeah, toxicologic
18 analysis. What they'll do is a screen and see what's
19 screening positive, and then they'll actually quantitate
20 certain of those drugs that are found.

21 So, nicotine, its metabolite cotinine and caffeine are
22 not quantitated. They don't actually measure the levels,
23 but they did actually quantitate the levels of
24 benzoylecgonine, cocaethylene, and the hydroxyzine.

25 Q. How much did the decomposition and/or the passage of

1 time affect those results?

2 A. Well, decomposition can cause breakdown of a
3 substance. So, in fact, there could have been active
4 cocaine at the time of death, and it just broke down over
5 time during the postmortem period.

6 Q. The State's Exhibit 29 in particular shows this, you
7 call it, I think, communication between the defects?

8 A. Correct. So, if you put a probe through one of the
9 defects, you could, you would connect to the next defect to
10 the next defect, et cetera.

11 Q. Well, does that mean anything to you? Is it part of
12 decomposition?

13 A. It, it's -- what it means to me is it could be a part
14 of decomposition, or it could be that if it was a sharp-
15 force injury and knife injury, that the direction was
16 similar and that it communicated with the same cavity that
17 the knife created.

18 Q. So, it's really possible it's a combination of perhaps
19 a knife and decomposition? It's hard to sort out exact
20 causes?

21 A. Correct. Yes.

22 MR. BLAKE: No further questions.

23 THE COURT: Redirect?

24 MS. JOHNSON-LEE: No, Your Honor.

25 THE COURT: All right, make sure all the exhibits get

1 court found that the probative value of the evidence of
2 those two photographs outweighed the prejudicial effect and
3 admitted the photographs.

4 Now, I understand the witness is present, Mr. Daniel.

5 MR. DANIEL: He is.

6 THE COURT: All right. Bring the jury in, please.

7 (THE JURY ENTERS AT 12:33 P.M.)

8 THE COURT: All right, thank you, ladies and
9 gentlemen, and we have resolved the legal issues that we
10 had to deal with, and also the witness who is coming in
11 from out of town. And we are now ready to proceed.

12 Mr. Daniel.

13 MR. DANIEL: Thank you, Your Honor. If it pleases the
14 court? State calls Paul LaRosa.

15 PAUL C. LAROSA, III, BEING DULY SWORN,
16 TESTIFIES AS FOLLOWS:

17 CLERK OF COURT: Please be seated, and state your full
18 name.

19 WITNESS: My name is Paul Charles LaRosa, III. The
20 last name is spelled L-A capital R O-S-A.

21 MR. DANIEL: May it please the court?

22 THE COURT: Yes, sir.

23 MR. DANIEL: Thank you, Your Honor.

24 VOIR DIRE EXAMINATION BY MR. DANIEL:

25 Q. Mr. LaRosa, by whom are you employed?

1 A. I'm employed with the State Law Enforcement Division,
2 better known as SLED.

3 Q. And in what capacity are you so employed?

4 A. I am assigned to the Behavioral Science Unit, better
5 known as criminal profiling.

6 Q. So, that means you do what?

7 A. On a day-to-day basis, we analyze violent crime. We
8 analyze threatening communication, equivocal death
9 investigation. We do all manner of what, what typically is
10 seen in the television shows *Criminal Minds* and stuff.
11 Analyze violent crime.

12 Q. Interesting that you mention TV shows. How often is
13 real life like the TV shows you mentioned?

14 A. I've never seen it where it is exactly like TV. You
15 know, that's for entertainment. It's solved within forty
16 minutes minus the commercials, and it's never as glamorous
17 as what they a show on TV.

18 Q. How long have you been employed with SLED?

19 A. I've been a special agent with SLED for seventeen
20 years.

21 Q. And what did you do before that?

22 A. I started my career as a crime scene agent assigned to
23 the forensic laboratory, and I did that for six years.
24 Then I did the bloodhound SWAT team for five years, and
25 then did a stint in general investigations. And then due

P. LAROSA - VOIR DIRE EXAMINATION BY MR. DANIEL

189

1 to a budget crunch, I got reassigned to crime scene to help
2 train up some of the new agents that we had just hired, and
3 that's where I was employed when this incident occurred.
4 And then since that time, they, they transferred me to the
5 Behavioral Science Unit where I've been employed for
6 approximately a year and a half, two years.

7 Q. So, in the summer of 2010, you were employed as a
8 crime scene investigator with SLED?

9 A. Yes, sir. That is correct.

10 Q. And what does a crime scene investigator with SLED do?

11 A. The Crime Scene Unit is the major crime scene response
12 for the State of South Carolina. South Carolina is a very
13 rural state. You get outside Richland County, Charleston,
14 Greenville, maybe Spartanburg, the counties within the
15 state lack the resources and the employees to respond to
16 violent crime.

17 And so SLED, in agreement that the counties, will
18 offer our services to respond to death investigations
19 throughout the state to work along side the local agency,
20 the investigators and detectives and working together to,
21 to complete the crime scene. Collect evidence, bring it
22 back to the laboratory, submit it to the different units.
23 The real forensic science, the hard science like DNA,
24 toxicology, and so forth.

25 Q. Now, as a crime scene investigator specifically, what

1 sort of training do you have?

2 A. When I started my career at SLED, I was trained in all
3 areas of the impression evidence, from latent prints to
4 footwear, tire tread, blood spatter, crime scene
5 reconstruction, crime scene analysis, and photography. And
6 the training program lasted approximately two years. And I
7 was sent throughout the southeast, and even all the way up
8 to Boston to attend seminars and training courses offered
9 by respected experts to get the knowledge that they had in
10 the areas -- blood spatter, crime scene, and so forth --
11 and come back and apply it to, to real-world situations,
12 which we responded to approximately -- I average about
13 forty to fifty death investigations a year. And that could
14 be suicide, homicide, or an accident.

15 And you go and assist the local agency. And, and
16 during my time in crime scene, I approximately worked about
17 200 to 250 death investigations where I was the crime scene
18 agent on the ground.

19 Q. Have you ever been declared an expert in criminal
20 courts in South Carolina before in crime scene
21 investigation?

22 A. Yes, sir. I have.

23 Q. Have you been declared an expert in criminal courts
24 before in blood spatter?

25 A. Yes, sir. I have.

P. LAROSA - VOIR DIRE EXAMINATION BY MR. BLAKE

191

1 MR. DANIEL: Your Honor, at this time, I would offer
2 Paul LaRosa as an expert both in crime scene investigations
3 and in blood spatter.

4 THE COURT: Voir dire with regard to qualifications,
5 Mr. Blake?

6 MR. BLAKE: Thank you, Your Honor.

7 VOIR DIRE EXAMINATION BY MR. BLAKE:

8 Q. You said you'd done 200 to 250 death investigations?

9 A. Yes.

10 Q. And then ---

11 A. Yes, sir, physically on the ground, that's correct.

12 Q. Yes, and how many times have you been qualified as an
13 expert in blood spatter analysis?

14 A. Approximately ten times. Just about every time that
15 I've testified specifically for crime scene, it always
16 involves some manner of blood spatter, blood spatter
17 reconstruction. But where I've testified to the actual
18 blood spatter or blood stain analysis at a crime scene,
19 it's been approximately ten.

20 Q. And where did you get your training for that?

21 A. I trained within the Metro-Dade Police Academy in
22 Miami, Florida.

23 Q. How long was that?

24 A. It was a one-week course. And then during the
25 two-year process that I was within the crime scene as a

1 understudy or a trainee, I trained underneath other SLED
2 agents who were court qualified and had to take -- passing
3 board tests that were through the association, the
4 International Association for Identification.

5 And also SLED's lab is an accredited laboratory which
6 is accredited by the National Board of Forensic Science.
7 And we would have to take yearly tests on our expertise
8 within that area.

9 Q. Within blood spatter analysis?

10 A. Specifically blood, yes, sir.

11 Q. And I believe you, you kind of made a distinction
12 between blood spatter analysis and something else which I
13 really didn't catch.

14 A. Oh. Blood spatter, there's two different
15 terminologies that mean the same thing. It's blood spatter
16 analysis. That's, that's what we -- the common term for it
17 is blood spatter, but the technical name could also be
18 blood stain analysis. It's the same thing; it's just two
19 different terms for the same science.

20 MR. BLAKE: No objections, Your Honor.

21 THE COURT: All right, the witness will be qualified
22 as an expert in the field of criminal -- crime scene
23 investigations and blood spatter analysis.

24 Again, ladies and gentlemen, you will recall I told
25 you that under our rules of evidence, a witness who is not

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

193

1 qualified as an expert, and his testimony is generally
2 limited to the matters within that witness's perception and
3 do not require special skill, experience, or training,
4 cannot testify in the form of an opinion.

5 However, a witness who is qualified by experience,
6 training, education, or otherwise, and whose testimony will
7 assist the trier of fact to determine a fact in issue --
8 and as I say, you are the trier of fact -- then that
9 witness may testify in the form of an opinion. So, I have
10 I qualified Mr. LaRosa as an expert in the field of crime
11 scene investigation or crime scene analysis and blood
12 spatter evidence.

13 All right, Mr. Daniel.

14 MR. DANIEL: Thank you, Your Honor.

15 DIRECT EXAMINATION BY MR. DANIEL:

16 Q. What's your title?

17 A. I'm a -- excuse me -- I'm a senior special agent.

18 Q. I want to call you the right name; you worked hard for
19 that title. Senior Special Agent LaRosa, how did you
20 become involved in the John Hogan case here in Marlboro
21 County?

22 A. The, the way that calls come in to SLED, the local
23 agencies call our headquarters, and they will make a
24 request. And the on-call crime scene agent will then be
25 patched through to the requesting agency. And on this

1 case, I received a phone call from Lieutenant Larry Turner.

2 Q. And what is the first thing you did in relation to
3 this case?

4 A. Well, the, the very first thing that -- when
5 Lieutenant Turner was explaining to me what the, the
6 background of the case was, a decision was made to go ahead
7 and secure the vehicle. He requested that crime scene come
8 down and look at a vehicle that was, that was possibly
9 involved in a missing person.

10 And due to the time of the day that we received the
11 call, the decision was made by me that why don't we secure
12 that vehicle. By the time -- I live in Columbia, so it
13 would have taken me two hours to get there. Why don't we
14 wait till the early morning when I can respond and get
15 there and have a full day of natural light to look at the
16 vehicle. So, the decision was made by Lieutenant Turner
17 that he was going to secure the car at the fire department.

18 Q. I'm going to show you what's been marked State's 14,
19 and this is already in evidence. Can you tell the jury
20 what that photo depicts?

21 A. Yes, sir. This was the, the F-150 Ford truck that was
22 secured at the fire department when we, when we arrived at
23 the fire department.

24 Q. Who owns that truck?

25 A. I believe the defendant does.

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

195

1 Q. And this is the truck that you searched?

2 A. Yes, sir.

3 Q. Did you find anything in it, anything of note when it
4 comes to this crime?

5 A. When we got the call, we really weren't sure what we
6 were looking for. When, when we got a phone call that we
7 have a missing person, it could have been any number of
8 reasons why the individual was missing. We, we go into it
9 looking for, of course, a worse-case scenario: violent
10 crime death occurred in the car.

11 So, we went there and looked, looked it over, and we
12 found some duct tape, some other things that on the surface
13 may have absolutely nothing to do with anything. We
14 weren't sure, but to be on the safe side, we went ahead and
15 secured some -- the duct tape, and it had a pink fiber on
16 it, and collected that.

17 Q. Speaking of the duct tape found in the truck and the
18 piece of pink fiber found on it, were you ever able to
19 determine at any point what that pink fiber was?

20 A. Not to my knowledge. That's an area that isn't my
21 area of expertise, trace analysis. But I would have
22 submitted it to our Forensic Trace Department. They would
23 have done any physical composition, and they would have
24 done the, you know, physical composition: what it is, what
25 it was made of.

1 Q. Okay. So, you searched the truck?

2 A. Yes, sir.

3 Q. What's the next thing you do?

4 A. After we, we left the truck, there was no indication
5 -- we -- there was nothing there that we could, could help
6 assist their investigators do. We advised them to call us
7 if anything else developed. And actually, while we were
8 there, a decision was made that after processing the truck,
9 SLED Crime Scene Unit responded to the suspect's residence.

10 MR. DANIEL: Beg the court's indulgence.

11 THE COURT: Yes, sir.

12 (COUNSELORS CONFER.)

13 MR. DANIEL: Judge, by agreement of parties, exhibits,
14 State's Exhibits 12 and 13 are photos that are duplicative.
15 They are just of the truck, and we at this time wish to
16 remove those. They don't add anything.

17 THE COURT: All right. So, you want to withdraw
18 State's 12 and 13?

19 MR. DANIEL: Right.

20 THE COURT: All right. Any objection, Mr. Blake?

21 MR. BLAKE: No, Your Honor.

22 THE COURT: All right.

23 MR. DANIEL: Okay. Thank you.

24 THE COURT: Motion granted.

25 MR. DANIEL: I'm sorry. That's something,

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

197

1 housekeeping we had to take care of with Senior Special
2 Agent LaRosa.

3 BY MR. DANIEL:

4 Q. Now, can you tell us? When you went to the house,
5 that's whose home?

6 A. That, that was the defendant's home at 452 Monks -- or
7 Marks Circle, Bennettsville, South Carolina.

8 Q. All right. I'm showing what's already in evidence as
9 State's 4. Can you tell the jury what that is?

10 A. Yes, sir. This is the trailer that we would have
11 searched on the 22nd.

12 Q. Okay, and that is the home of Mr. Hogan?

13 A. Yes, sir.

14 Q. Okay. Now, was there a search warrant?

15 A. Yes. Yes, sir. The search warrant was obtained for
16 the residence.

17 Q. Okay, and when you first walked into the residence,
18 what is it that you're looking for? What is that you're
19 doing?

20 A. Once again, this is one, this is one of those
21 situations where we really don't know what we're looking
22 for because all we have at this point is a missing person.
23 So, it could have been any manner of death that, that we're
24 looking at. The worst case scenario is what, in my mind,
25 I'm looking for because we want to find every bit of

1 forensic evidence that is possible.

2 When we walked in, we were looking for obvious signs
3 of blood or obvious signs of foul play. Broken furniture,
4 you know, anything that would resemble female clothing that
5 was, was not the, the suspect's wife's in this case.

6 Q. Okay, and when you, in fact, went inside the house and
7 were looking for things, what's the first thing you
8 noticed?

9 A. Well, one of the things that we noticed, the -- after
10 we documented the scene with a photographer, because we
11 wanted to make sure it was all photographed and documented
12 as we found it, we found two areas that were in the den
13 area that appeared to be blood. And so what we did was we
14 documented it and collected that.

15 Q. All right. I'm going to show you what's been marked
16 State's 9, and this is already in evidence. Do you recall
17 that photo?

18 A. Yes, sir.

19 Q. And tell the jury what that photo is. Is that the
20 area you were just talking about?

21 A. I believe it is, yes, sir. There were several areas
22 at a later search that were also identified as, as possible
23 blood.

24 Q. Okay, I'm going to go ahead and show you State's 5, 6,
25 7, 8, 10, and 11, and these all are already in evidence.

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

199

1 Could you tell the jury what these are?

2 A. Yes, sir. These were, were photographs that we ---

3 Q. What's State's 5?

4 A. Okay. I'm sorry. State's 5 is a picture I believe
5 -- you might have flipped it over. State's 5 is a picture
6 of a, a garden tub, jacuzzi-style tub that was in the
7 master bedroom. The, the bedroom wasn't really cordoned
8 off. It was, it was just kind of part of the larger room,
9 and it was whirlpool tub/kitchen -- I mean, bathroom area.

10 Q. Okay. Next is State's 6.

11 A. Yes, sir. State's 6 was -- once again, we're not sure
12 what's, what the manner of death is, if there is even a
13 death. At this point, it's just a missing person. But
14 when you have a, based on my experience, when you've got a
15 block of knives and have one missing, it could be involved.
16 I mean, you know, most people keep up with all of their
17 knives, and when you have one missing, it led me to believe
18 that that could have been important. We weren't sure of
19 the importance, but it was important to the case. So, we
20 documented that.

21 Q. Okay, and State's 7.

22 A. State's 7 is a, a, a, more of a wide-angle photograph
23 of the tub area that was in the -- off of the master
24 bedroom.

25 Q. Okay, State's 8.

1 A. State's 8, 8 is one of things that -- on top of the
2 area that appeared to be blood on the floor when we first
3 walked in. This was an indentation in the plaster wall of
4 the inside of the trailer. And based on my experience,
5 when I looked at it, it looked like a head or elbow or
6 something had gone through that area.

7 Q. All right, State's 10.

8 A. State's 10 is a picture, more of a wide angle to show
9 the height of it, how it was to the floor, and that -- the
10 area that it would have covered. It would have been the
11 hole in the wall that when we first walked in, it was very
12 curious to us.

13 Q. And we'll get to that one in a little while. Now,
14 approximately how many photos did you take inside the home?
15 Any idea?

16 A. Oh, I, I couldn't tell you right off the -- the, the
17 total crime scene photographs would have been around 400.

18 Q. Okay, and ---

19 A. So, that -- in, with -- inside the trailer, I'm, I'm
20 -- this is complete guesstimation on my part. Probably
21 sixty.

22 Q. Okay, but my point is I didn't just show you
23 everything you did.

24 A. Oh, no, sir. No, sir. We would have documented every
25 bit of that trailer as if it, it held a treasure trove of

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

201

1 forensic evidence when we walked in. We did not know what
2 was evidence and what wasn't because we didn't have the
3 victim to tell us what cause of death it was.

4 Q. Okay. When you are at the house this time and taking
5 all these pictures, at this point there was a missing
6 person?

7 A. Yes, sir.

8 Q. That's all you knew?

9 A. That is correct.

10 Q. Okay. Now, did you, did you draw any diagrams of
11 anything?

12 A. No, sir, because the diagram wouldn't have explained
13 to us in -- it wouldn't have been able to help document the
14 scene any better than what photography would have.

15 If the victim had been located inside the trailer, we
16 would have done a diagram to help draw some correlations
17 between where the bathroom -- where, say, the tub was where
18 the victim was laying. But the victim wasn't there. We
19 weren't even sure at that point if we even had a crime.

20 Q. Is it a common practice to photograph instead of draw
21 out the diagram?

22 A. It, it, it, it's usually at agent's discretion. And
23 based upon my experience, I felt that the photographs would
24 document it, document. The photography would always be
25 done, and a sketch would help supplement or help, you know,

1 reaffirm the diagram if the victim was found inside the
2 trailer.

3 Q. Okay. So, you complete your investigation of, of, of
4 this, which you don't even know if it's a crime scene or
5 not at this point?

6 A. That's correct.

7 Q. And then what do you do?

8 A. Then at that time, that's where we would have a
9 briefing with the sheriff's office and the city police
10 department and say call us back if anything else develops.

11 The evidence that we had didn't indicate anything to
12 us at the point -- at that point because we weren't sure --
13 I mean, there are holes in, in a lot of people's homes.
14 That's blood on carpet in a lot of people's homes. We
15 weren't sure of the significance of it, and that's where
16 the local agency would then have to take their
17 investigation and call us back when more evidence or more
18 information was developed.

19 Q. Did they call you back?

20 A. Yes, sir. They did.

21 Q. When did they call you back?

22 A. They called us back on the 23rd.

23 Q. And what did they tell you?

24 A. Received a call that the, the victim, Ms. Brown, had
25 been located.

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

203

1 Q. Okay, and so what did you do as a result?

2 A. We responded to the location that was described to us,
3 which was -- the directions, this is a very rural area,
4 even rural for Marlboro County standards. And it was -- my
5 directions that I had was Highway 38 South, Arcadia Road a
6 third of a mile/cut dirt road. That was the closest way
7 for me to figure out where I was.

8 Q. And what did you find when you got there?

9 A. We found -- it, it, it's an area that has a low
10 ravine, and there were some beer cans and other items
11 there, and there was a large barrel at the bottom of the
12 hill. And the barrel was kind of cardboard appearance on
13 the outside, and upon further review, it was metal lined on
14 the inside.

15 Q. All right, I'm going to show you what been marked
16 State's 15 already in evidence. You recognize that?

17 A. Yes, sir. This is as a photograph of the barrel as it
18 laid at the bottom of the ravine.

19 Q. So, when you arrived there, that's what you found?

20 A. That's exactly what we found, yes, sir.

21 Q. Okay, and what did you do with that?

22 A. What we, we did, we treat this just the same way we
23 would treat a residence. We, we photographed the scene.
24 We want to work ourselves from the outside in. And so we
25 documented the surrounding area, what was -- you know, the,

1 the -- how the trees were and all of that stuff. Then we
2 worked our way in closer.

3 Q. Would you have taken a lot of photos of that area?

4 A. Yes, sir. There would have been -- you know, once
5 again, even though the area would have been very small to
6 photograph, and you probably could have documented the
7 scene in ten to twelve photographs, we took close to a
8 hundred.

9 Q. So, this one photograph is not all the work you did?

10 A. That, that is correct.

11 Q. Okay. Did you open the barrel at that time?

12 A. No, sir, and this was a decision that, that we had to
13 come to because this was somewhat unique in that the --
14 what led up to where the victim was. We believed, almost a
15 hundred percent sure, that that was going to be the victim
16 inside the barrel.

17 And doing this job for as long as I have, there are
18 certain things that, that just help clarify that there was
19 a, a body inside that, that barrel or something
20 decomposing. And I was, based upon the experience that was
21 there, and there was a lot of experience law
22 enforcement-wise there, it was -- a decision was made that
23 yes, that there is a body in the barrel.

24 We picked up the barrel. We moved it around. It felt
25 consistent with a, a decomposing body inside of the barrel.

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

205

1 And we made telephone contact with, with the coroner, the
2 sheriff's office, the city police, and with SLED. We made
3 contact with MUSC and the pathologist's office, and a
4 decision was made not to open up the barrel at the scene
5 because the barrel was containing the victim.

6 And even though it was leaking in certain areas, the
7 decision was made to secure the barrel with the coroner's
8 assistance and just take the whole barrel to MUSC so that
9 when they opened it up, it was as true and real of a, of a
10 body as we could give to them because we knew that the body
11 was decomposing. It was decomposing fast, and we wanted
12 them to have the best chance to develop any forensic
13 evidence.

14 Q. And so how did you secure the barrel?

15 A. It, it went to the back, I believe, of the coroner's
16 van and was taken. I'm not sure if it was a body removal
17 company or the coroner, but I know it was under the
18 coroner's authority.

19 Q. I'm going to show you State's 2, 11, 1, and 3, and
20 they are all in evidence. Can you just identify those,
21 please?

22 A. Yes, sir. These are pictures of how the, the barrel
23 was, and it was, it was wrapped up at the scene as in
24 Number 2. And what we did was because it was leaking so
25 bad, we wanted to make sure that -- it was containing --

1 also, it's a biological, a bio hazard event, and we wanted
2 to make sure that everything was protected. And so that's
3 the way it was represented there and 1 -- 1, 3, and 11 also
4 represent the barrel.

5 Q. Okay. What did you do after the barrel was secured?

6 A. After the barrel was secured, we went back to the, to
7 the suspect residence and, and processed now that we knew
8 that we had the victim. And based on other information
9 that was shared with us by the sheriff's office, we knew
10 that the incident had occurred at the, at the trailer.

11 So, we had a better idea of what to look for, where it
12 would be located, and we went back in. Took some
13 additional photographs to the document some of the
14 evidence, and then worked the scene to collect the
15 evidence.

16 Q. Speaking of those additional photographs, I'm just
17 going to show you one that has been marked for ID but is
18 not in evidence.

19 (COUNSELORS CONFER.)

20 Q. Can you identify, please, this picture?

21 A. Yes, sir. This is ---

22 THE COURT: Wait, wait. Don't testify as to what it
23 is. He just asked if you can identify it.

24 WITNESS: Oh. Oh, yes, sir. I can identify it.

25 BY MR. DANIEL:

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL .

207

1 Q. Okay, does this accurately depict the situation you
2 found at the house?

3 A. Yes, sir.

4 MR. DANIEL: Your Honor, at this time I would ask ---

5 THE COURT: State's number what?

6 MR. DANIEL: State's 25.

7 MR. BLAKE: No objection.

8 THE COURT: For ID?

9 MR. DANIEL: For evidence.

10 MR. BLAKE: Without objection.

11 THE COURT: Without objection, admitted without
12 objection.

13 MR. DANIEL: Thank you.

14 THE COURT: All right, let her take the ID marking off
15 of it.

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
17 NUMBER 25.)

18 BY MR. DANIEL:

19 Q. All right, can you please tell the jury, and this is
20 one of how many pictures you would have taken the second
21 time you were there?

22 A. Approximately a hundred.

23 Q. Okay. Can you tell the jury what this is a picture
24 of?

25 A. This, this photograph is the, the tub, the jacuzzi

1 garden-style tub. This is the window behind the tub.

2 Q. Now, I -- there are some blue markings on the blinds.

3 What exactly would that be?

4 A. This is taking their -- we have a chemical, the
5 acronym is LCV, but it's called Leuco Crystal Violet. It's
6 a technical name for a technical chemical that basically it
7 reacts with the hemoglobins that are found in blood.

8 And what we did, because this, this area that had
9 already been tested -- we have chemicals that can test for
10 the presumption of blood. That chemical can't tell us
11 whether it's animal blood, human blood, bird blood. It
12 just says yes, this is blood.

13 So, once we knew that, we sprayed this chemical, the
14 LCV, which reacts with the hemoglobins in blood, and it
15 turns it that very -- I call it like a, like a, almost a
16 royal blue. And that allows us then to see the blood more
17 clear. And that blood that was represented on that was
18 consistent with castoff spatter, which is most consistent
19 with a stabbing wound.

20 Q. We'll get into all that in a minute. But if I prick
21 my finger and I was bleeding, and I got a drop or two of
22 the blood on the rail here and then I wipe it up, and then
23 you came and you sprayed this LCV.

24 A. Yes, sir.

25 Q. Would it, would it turn blue?

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

209

1 A. It most likely would, yes. The, the, the thing that
2 hurts blood is, is Clorox or, or Windex or any cleaning
3 material, but you can never get it all up. No matter how
4 hard you try, there's always going to be some remnants of
5 that blood left. And the human eye may not see it, but the
6 chemical does. It gets down into the nooks and crannies
7 and the cracks, and it brings it out and makes it that
8 blue.

9 Q. And this LCV spray, it's a spray, right?

10 A. Yeah, yeah. Yes, sir. It's a spray. It comes in a
11 little, little jar and you -- we put it in a sprayer which
12 you see at the hairdresser, and basically we spray it and
13 it turns it blue.

14 Q. Did you spray the whole house down?

15 A. We didn't spray the whole house down. Because we had
16 indications, we only sprayed areas that had tested positive
17 with the presumptive test.

18 Q. Okay. After you spray something, it turns this royal
19 blue color we see on these blinds. You then swab it?

20 A. We, we, we could either swab it or collect the whole
21 item. And because of the importance and the location in --
22 and what I believe happened, in my opinion, happened at
23 crime, I went ahead and collected the whole window blind so
24 that it could then be given to our DNA section for them to
25 do their, their testing.

1 Q. Do you recognize this box?

2 A. Yes, sir.

3 Q. And what, what's in here?

4 A. Could I?

5 Q. Sure.

6 (A PAUSE.)

7 A. It's got the, it's got the crime scene sticker on it,
8 and it says: One set of window blinds from near bathtub,
9 Suspect Hogan trailer. And it's got my initials.

10 Q. Okay. So, you collected this?

11 A. Yes, sir.

12 Q. And to save a lot of time, and because there could be
13 other blood and all that on this, do you know what all this
14 stuff is here?

15 A. That is the evidence that we would have collected from
16 the crime scene and brought back to our headquarters. And
17 then within our laboratory, there are numerous different
18 experts. There's hair and fibers. There's firearms.

19 There's -- so, my, part of my job and responsibility
20 at that time as crime scene agent is I bring this back and
21 basically just ship it, like a big UPS store. I secure it,
22 package it, and make sure it gets to the right units for
23 those experts to do their, their testing.

24 Q. So, are there several items in here that were tested
25 to determine whose blood that was?

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

211

1 A. Yes, sir.

2 Q. All right, I'm going to show you what's been marked as
3 State's 38. This is for ID. Do you recognize that?

4 A. Yes, sir. This is a SLED lab DNA report, serology DNA
5 report.

6 Q. Okay.

7 MR. DANIEL: And of course, Your Honor, this has been
8 stipulated to that, of course, the, all the DNA found in
9 the home was that of the victim, Monesha Brown, but this is
10 the report.

11 (COUNSELORS CONFER.)

12 MR. BLAKE: Without objection.

13 THE COURT: All right, be admitted as State's Number
14 38 without objection.

15 (SLED REPORT MARKED INTO EVIDENCE AS STATE'S EXHIBIT
16 NUMBER 38.)

17 BY MR. DANIEL:

18 Q. Okay, now that we've determined that the blood inside
19 the home found on all these items was that of Monesha
20 Brown, what else did you do, if anything, inside the home?

21 A. Well, after we collected the evidence, we would do a,
22 a walk-through with the sheriff's office and the city and
23 the agencies requesting us and give us -- give our opinion
24 as the crime scene analyst as to what happened within the
25 residence.

1 Q. Okay, and what is your opinion as to what happened
2 within the residence?

3 A. When you take the totality of, of the suspect's
4 statement, the collection of evidence, the physical
5 evidence that was there is that a, a very brutal attack
6 occurred within the, the bathtub area that was there. That
7 is, the blood spatter that was located on the windowsill,
8 the window blind is most consistent with, with a, a
9 stabbing related death or a beating death.

10 The blood is, is very unique when it comes off of an
11 object and, and leaves indications to us, what we call
12 castoff, and it is casting off. Just plain, plain as it
13 says, casting off of a weapon. And that was consistent
14 with the window blinds with -- we, we felt that it very
15 consistent with a stabbing death.

16 And then we also found on the, the -- if this is the
17 bathtub that was raised up, there was carpet, carpet that
18 went down on the, the outside of the tub and into the
19 floor. There was a large volume of pooled blood that
20 wasn't visible to the eye. It was a blue carpet, which
21 it's hard to see blue when we sprayed our LCV on that. But
22 we could tell by doing the presumptive that it was large
23 area of blood. And it was most consistent with what we
24 call pooling blood or just the free-flowing blood that was
25 coming off not necessarily -- it was such a large volume

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

213

1 that it wasn't coming off of an object. It was coming from
2 a person, almost like a bucket of blood.

3 Q. Okay. You said that in your opinion, this was a very
4 brutal attack.

5 A. Yes, sir.

6 Q. Let's talk about the blood spatter, what you found.
7 Obviously, there were -- you testified that there was blood
8 on the blinds.

9 A. Uh-huh.

10 Q. Which are up a wall.

11 A. Yes, sir.

12 Q. Let's -- tell the jury exactly how you come, you come
13 to the opinion that this is a very brutal attack when it
14 comes to blood spatter.

15 A. Well, you, you look at the volume of blood, and the,
16 the volume of castoff was, was in a moderate to high range.
17 And you can tell the volume by the number of strikes, or
18 the number of strikes tells you the volume.

19 If you have a large volume of castoff, it is most
20 consistent with -- one stab wound's going to leave a
21 certain amount of blood. Multiple stab wounds will leave
22 more blood because every time that the knife or the weapon
23 moves up, gravity pulls the blood off of the object and
24 then causes it to, to go. So, one hit, two, three. The
25 more blood you have, the more castoff, the more hits or

1 more stab wounds you typically see.

2 And then to see the volume of blood that we found, the
3 area that it covered on the outside, based upon my
4 experience as a crime scene guy, that there was -- the more
5 blood, the more violent the crime. And that is what I saw
6 here.

7 Q. Because there was a lot of blood?

8 A. There was a, a, a large area of blood for that, for
9 that small of an area.

10 Q. There was a lot of castoff?

11 A. Yes, sir.

12 Q. Okay. At the expense of this being a crude example,
13 if I'm standing against this wall, and I am stabbed and the
14 knife goes in my throat, and then it comes out and that's
15 it.

16 A. Yes.

17 Q. Is there going to be blood spatter everywhere?

18 A. You're going to see -- if you hit the jugular or hit
19 the vein, as long as you're in a standing position, that
20 blood will keep pumping out of you as long as your heart's
21 beating.

22 But I, I, I cannot recall in my career where someone
23 was stabbed one time in the jugular and just stood there in
24 the exact location and bled standing until the heart
25 stopped. Most people's reaction is to get down, get away,

P. LAROSA - DIRECT EXAMINATION BY MR. DANIEL

215

1 go to a lower area.

2 What I saw, based upon the blood spatter that was on
3 the blinds, is hit after hit or stab after stab that would
4 have caused that blood to go up against the window blind.

5 Q. So, if I were seated.

6 A. Yes, sir.

7 Q. And there would be just one stab or maybe even two
8 stabs, and all it is is a stab and out and stab and out.

9 A. Yes, sir.

10 Q. Is it going to create the kind of blood that you saw
11 in the house that day?

12 A. It, it may account for the pooling of the blood
13 because the blood has got to go somewhere. But the castoff
14 is the link in this story to say that it was a brutal
15 attack.

16 And I'm -- you know, based upon my career, I've seen a
17 lot of very violent death. This, if you consider low,
18 moderate, or high, this would be moderate to high.

19 MR. DANIEL: Beg the court's indulgence?

20 THE COURT: Yes, sir.

21 (A PAUSE.)

22 MR. DANIEL: Your Honor, I don't have any further
23 questions for the special agent.

24 THE COURT: Cross-examination, Mr. Blake?

25 MR. BLAKE: Yes.

1 CROSS-EXAMINATION BY MR. BLAKE:

2 Q. Do you have any there, or is that all?

3 A. This, this is all my, my case notes.

4 (A PAUSE.)

5 Q. State's Exhibit 9, was that identified as blood?

6 A. I believe it was. Yes, sir.

7 Q. Not sure?

8 A. I'm, I'm, I'm not quite sure because I would need the
9 photograph before that to tell exactly where the location
10 of that was.

11 Q. State's Exhibit 5, that's a picture of the tub area
12 with the blind there.

13 A. Yes, sir.

14 Q. Okay, and where did you see the pooling of the blood?

15 A. The pooling of the blood, if you see this, what
16 appears to be, like, a rust dirt color, this is what ended
17 up testing positive for, for blood, presumptive positive
18 for blood. And this is the window blind behind it. So, it
19 would have been this area where the pooling of the blood
20 would have been, and this would have been the area where
21 the blinds were.

22 Q. So, you have the pooling in front of the tub?

23 A. Yes, sir.

24 Q. You're talking about this castoff which is there, the
25 blind on the back?

P. LAROSA - CROSS-EXAMINATION BY MR. BLAKE

217

1 A. Yes, sir.

2 Q. Did you measure this tub? You know how big it is?

3 A. I did not take exact measurements. It was what I
4 would consider a standard garden tub.

5 Q. Garden tub. It was in the bedroom, was it not?

6 A. Yes, sir. It -- the master bathroom was, was, it was
7 one big, large room. It wasn't a separate area.

8 Q. Okay. How close was this tub, State's Exhibit 5, to
9 the actual bed?

10 A. Approximately 5 feet. I didn't take a measurement of
11 that.

12 Q. Pretty close, though?

13 A. Yes, sir.

14 Q. All in one area?

15 A. One, one, one large master bedroom, yes, sir.

16 Q. You said that the castoff on the blind -- looking now
17 at State's Exhibit 25 -- was, you said, moderate to heavy,
18 I think was your -- moderate to high?

19 A. Yes, sir. Moderate to high, yes, sir.

20 Q. And do you know where the actual slicing took place in
21 the tub?

22 A. Within the tub. I mean, I, I don't know if you mean
23 -- do you mean, like, the middle or the edge? I mean, the
24 tub was approximately 4 feet. It happened inside the tub.

25 Q. Okay.

1 A. I mean, I feel safe in giving that opinion, but to
2 tell whether she was in the front portion of the tub or the
3 back portion, I couldn't tell you. But it happened, it
4 occurred inside the tub.

5 Q. Okay, and you said there'd been some wiping up of
6 blood and things. How do you know? You said that you have
7 castoff and stuff. Do you know what's happened to that
8 before you got to look at it?

9 A. No, sir. The only, the only thing that gave me any
10 indication was when we first got there on the 22nd, as...

11 WITNESS: If I can beg the court's indulgence, sir?

12 (A PAUSE.)

13 A. When we got there, the detectives in the -- from the
14 city and the county were talking to the wife, who was
15 present, and stated that several items where out of place
16 when she returned from her trip, and she -- there was blood
17 on the comforter, and the wife gave us t-shirts. And the
18 wife stated that she completely cleaned the whole
19 residence, including bleach is the only statements.

20 So, I would assume that the, the area, it was, it was
21 not a fresh or a virgin area reference, the crime scene.
22 So, there had been some cleaning up that had, that had been
23 done. But like in most crime scenes, you can't see all of
24 the blood. So, she's only cleaning areas that she visually
25 saw.

P. LAROSA - REDIRECT EXAMINATION BY MR. DANIEL

219

1 MR. BLAKE: One moment, please.

2 THE COURT: All right, sir.

3 (A PAUSE.)

4 MR. BLAKE: No further questions.

5 THE COURT: Redirect?

6 MR. DANIEL: Briefly.

7 REDIRECT EXAMINATION BY MR. DANIEL:

8 Q. Special Agent LaRosa, were you aware when you went to
9 the Hogan home the second time that Mr. Hogan had already
10 confessed to cleaning up and trying to hide his crime?

11 A. Yes, sir.

12 Q. Okay, and obviously blood that's on a blind or on a
13 bathtub, anywhere, it doesn't just disappear. If, if, if
14 it's not there, it's been cleaned.

15 A. Could you...

16 Q. Blood that was there, because we know from the
17 confession.

18 A. Yes.

19 Q. And then is no longer there, somebody had to clean it
20 up.

21 A. That, that would -- blood just doesn't disappear on
22 its own. It will stay there in a controlled environment
23 for as long it can until -- I mean, months and months, I
24 mean.

25 Q. Okay. Finally, Mr. Blake asked you about the fact

P. LAROSA - REDIRECT EXAMINATION / RECROSS-EXAMINATION 220

1 there was some pooling of blood on one end of the tub, and
2 then the blinds were at the other side of the tub, and
3 there was spatter there. That fact that there was blood, a
4 pool of it on the front, and then all this spatter on the
5 -- splatter on the back, what does that indicate to you
6 about the nature of the crime?

7 A. That it was a vicious, violent attack that occurred
8 within the, the tub area. And at some point, I can say
9 that she was most likely laying across the tub, whether --
10 can't tell you why she was, whether he placed her there, or
11 her attempt to get away. But the blood from her wound
12 would have pooled out along the edge of the carpet. The
13 spatter was most consistent with numerous or multiple
14 stabbing, stab wounds or either getting hit with a blunt
15 object.

16 MR. DANIEL: Thank you. I have no further questions.

17 THE COURT: Recross?

18 CROSS-EXAMINATION BY MR. BLAKE:

19 Q. So, just to clarify. This is your analysis, correct?

20 A. That, that is correct. Yes, sir.

21 Q. And your opinion, correct?

22 A. That is, yes, sir.

23 Q. You were not there when it happened?

24 A. That is absolutely correct.

25 Q. You're taking certain variables and forming an

P. LAROSA - RECROSS-EXAMINATION BY MR. BLAKE

221

1 opinion?

2 A. That is, that is correct, and I'm taking all the
3 peripheral confessions, statements, and from my experience
4 and knowledge of, of other crime scenes, and combining it
5 to make this opinion.

6 Q. And you're saying on the blinds themselves that that
7 is a moderate to heavy amount?

8 A. That's what I would consider in my opinion to be a
9 moderate to high amount.

10 Q. And that's detailed there in the photograph of the
11 blind?

12 A. Yes, sir.

13 MR. BLAKE: Thank you.

14 THE COURT: All right, thank you, sir. You may step
15 down.

16 Would you like to have this witness excused?

17 MR. DANIEL: Please.

18 THE COURT: All right, any objection?

19 MR. BLAKE: No.

20 THE COURT: All right, you are excused. Thank you for
21 coming.

22 WITNESS: Thank you.

23 (THE WITNESS EXITS THE STAND.)

24 THE COURT: All right, before we break for lunch, let
25 me see counsel to the side just for a moment and talk about

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

242

1 All right, Mr. Daniel, state may proceed.

2 MR. DANIEL: Thank you, Your Honor. May it please the
3 court? At this time, the state respectfully rests its
4 case.

5 THE COURT: All right. All right, ladies and
6 gentlemen, you have heard to state announce they have
7 rested their case. That means the state has presented all
8 the testimony and evidence to you that they will present at
9 this time. And now the defense has the right to present
10 any testimony, evidence that they wish to present.

11 Mr. Blake.

12 MR. BLAKE: Thank you, Your Honor. We'd call Casey
13 McCall to the stand.

14 CASEY MCCALL, BEING DULY SWORN,
15 TESTIFIES AS FOLLOWS:

16 CLERK OF COURT: If you would be seated there in the
17 witness box, and state your full name for me.

18 WITNESS: Casey McCall.

19 DIRECT EXAMINATION BY MR. BLAKE:

20 Q. And how old are you, Casey?

21 A. Thirty-three.

22 Q. And where do you live?

23 A. [REDACTED] Street here in Bennettsville.

24 Q. And what was your relationship to Monesha Brown?

25 A. She was a friend.

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

243

1 Q. She was a friend?

2 A. Yes. We were at school together.

3 Q. Just somebody you went to school with?

4 A. Sir?

5 Q. Just somebody you went to school with?

6 A. No. I seen her in the neighborhood, you know? We was
7 pretty cool, but I can say we went to school together.

8 Basically grew up around each other.

9 Q. I, I'm sorry. I really didn't catch that.

10 A. I said we went to school together and basically grew
11 up around one another.

12 Q. Okay.. She a close friend?

13 A. Yes.

14 Q. Okay. Was she a sexual friend?

15 A. No.

16 Q. So, you and she did not have sexual relations?

17 A. No, sir.

18 Q. Were you saddened by her death?

19 A. Yes, I was. Still is.

20 Q. And back on July 16th, handing up State's Exhibit 32,
21 did you talk to a SLED artist?

22 A. Yes, I did.

23 Q. Okay. Is this the drawing that she made from that?

24 A. Yes.

25 Q. Okay. Did you know Mr. Hogan's name at that time?

1 A. No. I just, I seen him a couple times when he had
2 came through. You know, he was purchasing drugs, and that
3 my first time -- well, like, my second time talking to him.
4 But he had told me his name when I got in trouble with him.

5 Q. I'm sorry, he told you his name what?

6 A. When I got in trouble with him, he had told me his
7 name.

8 Q. Okay. So, you saw him in the jail or something?
9 That's where you ---

10 A. No. I seen him in the area of Main Street where he
11 was purchasing drugs. You know where I seen him at.

12 Q. Oh, oh. I see what you're saying. You're talking
13 about that night back on June 5, 2010, where you ---

14 A. I don't remember exactly what date it was, but...

15 Q. Okay. When you were with Monesha?

16 A. Well, we wasn't together, but we was back in the
17 neighborhood area hanging out with one another. You know,
18 me, her, and other, other people, you know? And that's
19 when he, he pulled up.

20 Q. He pulled up and you jumped in the truck, huh?

21 A. Sir?

22 Q. He pulled up, and you jumped in the truck?

23 A. No. He didn't just pull up and I jump in the truck.
24 He pulled over, and I done seen him down there purchasing
25 drugs, and he told me he'd give me \$30, you know, if I

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

245

1 could find him some, and that's what I did.

2 And when I was on the way to the truck, Monesha
3 actually asked me where I was fixing to go. I told her I
4 was fixing to go get him something. And she said well, can
5 I ride, and I said well, that ain't my truck. But then he
6 asked me was that my girlfriend. I said no. She just
7 cool, you know, from the neighborhood. We hang out. He
8 said well, she can go. She can ride, you know, and that's
9 when we got in.

10 Q. So, according to you, that was all on Mr. Hogan
11 because that's why Monesha got in the truck? Is that
12 correct?

13 A. Well, on my own thought, too, you know, but...

14 Q. Huh?

15 A. I say on my own thought, too. It ain't like he just
16 asked her, but he, he said that she can ride. So, we all
17 rode together. We got in the truck and we left.

18 Q. Y'all rode together and smoked crack together?

19 A. I didn't smoke. I just wanted my \$30.

20 Q. Oh, okay. So, you didn't smoke any crack?

21 A. No.

22 Q. You were just making the side hustle?

23 A. Yeah. I was just making -- you know, getting what he
24 wanted to get.

25 Q. Well, I thought you said \$30. You just, you just got

1 him what he wanted, and that was it?

2 A. Yeah. I got \$30 from him, yeah.

3 Q. Huh?

4 A. Yeah, I got \$30.

5 Q. You got \$30?

6 A. Yes.

7 Q. Okay. Just trying to understand.

8 A. Okay.

9 Q. And y'all drove around?

10 A. Well, we went over east by Jack's Island we stayed out
11 there, like, five minutes.

12 Q. Is that Lake Paul Wallace?

13 A. Yes.

14 Q. Okay. Go ahead.

15 A. And so we went around to the other side, and it was a
16 lot of people down there fishing. And he'd been riding,
17 smoking, and I was telling him, you know, the police or
18 somebody might see you flicking your lighter like that. We
19 was on the way back towards uptown, and he dropped me back
20 off on Amelia Street.

21 Q. All right. So, you just got him drugs once?

22 A. Yes.

23 Q. And you didn't smoke any of it yourself?

24 A. No.

25 Q. And Monesha -- this is a -- you said Amelia Street.

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

247

1 That's like a drug area?

2 A. I don't believe it's no drug area, you know? Just a
3 area, you know, a lot of people hang out at.

4 Q. A lot of people hang out, and sometimes drugs are
5 sold?

6 A. He ain't get no drugs from down there that night
7 because we -- I took him somewhere else on Breeden Street.

8 Q. Breeden Street in the Bennettsville area?

9 A. Yes.

10 Q. Okay. You said you had seen him ride through the area
11 before?

12 A. Yes. I seen people dealing with him.

13 Q. So, you saw him buying crack before?

14 A. I ain't say I seen him purchase it, see it drop in his
15 hands, nothing like that, but I know what was going on.

16 But, yes, I have seen him in the area.

17 Q. So, in that area, a number of drug transactions take
18 place, right?

19 A. Well, I ain't got no -- say something about no drugs.
20 I don't be watching what nobody else doing. You know what
21 I'm saying? I can't say with nobody else, you know, but I
22 ain't get nothing from down there that night.

23 Q. You ever worked for the Bennettsville Police
24 Department?

25 A. No.

1 Q. Never have? Okay, and you were just hanging out there
2 that night?

3 A. Yes.

4 Q. Okay, and Monesha Brown was a friend, I guess you'd
5 call her. You said she was a close friend but not a sexual
6 friend. Is that right?

7 A. Correct.

8 Q. Okay. Have you ever talked about this incident that
9 night with anybody else?

10 A. Yes.

11 Q. Okay. Do you get in and out of jail a lot?

12 A. Yes. I've been locked up.

13 Q. Okay, and you've never worked off charges with the
14 Bennettsville Police Department?

15 A. No. I did my time.

16 Q. Okay. Never bought any drugs for the Bennettsville
17 Police Department?

18 A. Have I ever bought any drugs? I bought, yeah, I've
19 bought drugs myself.

20 Q. Bought drugs yourself, but do you work as a
21 confidential informant for the Bennettsville Police
22 Department?

23 A. No.

24 Q. Okay. You have been to prison, have you not?

25 A. Yes.

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

249

1 Q. Okay. Have you ever had charges that just were
2 dropped?

3 A. I had one charge dismissed because they didn't have
4 probable cause to search me.

5 Q. Okay. What did you go to prison for, Casey?

6 A. Burglary in the second, and assault on three officers.

7 Q. Okay. How long were you in prison there?

8 A. Eighteen months.

9 Q. Was that the same time you were charged with
10 possession of a sawed off shotgun?

11 A. No.

12 Q. That was different?

13 A. I got sixty-day house arrest for that.

14 Q. Okay, and a resisting arrest from '98, malicious
15 injury to personal property, is that you?

16 A. Yes.

17 Q. Okay.

18 A. Yes.

19 Q. I noticed here you've had some various charges that
20 have been dismissed. Those were just shouldn't have been
21 brought, I guess? Resisting arrest in 2001, convicted?

22 THE COURT: What's the question, Mr. Blake?

23 Q. Were you convicted of resisting arrest in 2001?

24 A. Yes.

25 Q. And also convicted of burglary at the same time?

1 A. Yes.

2 Q. I notice a number of charges again dismissed. Those
3 were just because they were not correctly brought. Is that
4 what you're saying?

5 A. I had one charge dismissed because they didn't have
6 proximate cause to search me. Which ones you talking
7 about? Which ones you talking about?

8 Q. Common-law robbery in 2009.

9 A. I did time for that.

10 Q. It says non-conviction here.

11 A. Non-conviction? I got two years for strong-arm
12 robbery.

13 Q. Some shoplifting, possession of drug paraphernalia,
14 entering premises after warning, petit larceny, possession
15 of hypodermic needles.

16 MR. DANIEL: Is there a question? What ---

17 THE COURT: Yeah. What's the question?

18 MR. BLAKE: He's -- we were in the middle of that
19 question. These are various charges which had been
20 dropped.

21 THE COURT: Well, ask him the question. Don't
22 testify.

23 MR. BLAKE: Okay.

24 BY MR. BLAKE:

25 Q. I just listed some different charges there. There

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

251

1 have been no conviction at all. So, do you know anything
2 about those shoplifting charges?

3 A. Shoplifting charges are a thirty-day charge. What you
4 asking?

5 Q. Well, you said you had charges that were ---

6 A. I told you I had one charge dismissed.

7 Q. And the rest of them that went away?

8 A. The rest of them what? What, what, what other ones
9 are there then?

10 THE COURT: No, sir. Just listen. Ask specific
11 questions, please, Mr. Blake.

12 MR. BLAKE: Certainly.

13 THE COURT: Yeah. Yeah. Like I'm ---

14 THE COURT: Be quiet. Ask specific questions, and you
15 answer the questions. All right, specific questions.

16 BY MR. BLAKE:

17 Q. On February 10, 2005, you had a court date for
18 shoplifting.

19 THE COURT: No, sir. You are reading from something.
20 Ask him a question.

21 MR. BLAKE: Okay.

22 THE COURT: But you don't quote the documents you're
23 reading from.

24 BY MR. BLAKE:

25 Q. Did you February 10, 2009, have a court date where a

1 shoplifting third or more was dismissed?

2 A. No. Myesha Brown represented me, and I got ninety
3 days.

4 Q. And at the same time, a -- on February 10, 2009, did
5 you have a petit larceny that was dismissed?

6 A. Petit larceny? I don't even remember having no petit
7 larceny. I don't know where you got that paperwork there
8 from.

9 Q. So, you, you have been in and out of jail. You
10 remember back at the end of September of 2010 talking to a
11 Hispanic gentleman named Zane Arp?

12 A. Yes.

13 Q. In the jail?

14 A. Yes.

15 Q. Okay, and what did you talk about?

16 A. Nothing important that I know. You know, we just
17 locked up together.

18 Q. Okay. You didn't talk about this incident with
19 Monesha Brown on June 5, 2010?

20 A. I'm saying he probably asked me it. We probably
21 discussed it, but I don't, like, remember, you know? I
22 talk to a lot of people about it, you know? Not just me.
23 You know, they asked, people had asked me about it, you
24 know, you know, and...

25 Q. Did you tell him you were planning to rob Mr. Hogan?

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

253

1 MR. DANIEL: Objection, Your Honor.

2 A. Rob him?

3 MR. DANIEL: Leading.

4 THE COURT: Sir?

5 A. Rob him for what?

6 THE COURT: Wait a minute. Wait a minute.

7 A. No.

8 THE COURT: He objects. You just hush.

9 What's your objection?

10 MR. DANIEL: He's asking a leading question.

11 THE COURT: Overruled.

12 Ask the question again, and then you answer the
13 question. Ask the question, Mr. Blake.

14 MR. BLAKE: Yes, Your Honor.

15 BY MR. BLAKE:

16 Q. When you spoke with Zane Arp there in the jail back at
17 the end of September, early October 2010, did you tell him
18 that you were planning to rob Mr. Hogan and -- with Monesha
19 Brown, rob him with Monesha Brown and take his pickup
20 truck?

21 A. No. That's not true.

22 Q. So, he made that up.

23 THE COURT: No, sir. You can't comment on it. All
24 you can do is -- he answered it. You got to accept his
25 answer. There's a method if you want to impeach him.

C. MCCALL - DIRECT EXAMINATION BY MR. BLAKE

254

1 A. If I was planning on robbing somebody ---

2 THE COURT: Hold.

3 A. --- I'd have got locked up.

4 THE COURT: Hey. Nobody asked you a question. Just
5 hush. Wait till the next question. You answered that
6 question.

7 BY MR. BLAKE:

8 Q. A couple of weeks ago, do you remember talking to
9 Charles McPherson? Do you know who that is?

10 A. No.

11 Q. Okay. He was buying some marijuana from you. You
12 sell marijuana?

13 A. No. That ain't true.

14 Q. It's not true?

15 A. No.

16 Q. Okay. You didn't tell him about planning to rob Mr.
17 Hogan with Monesha, take his truck?

18 A. That's not true. No, I didn't.

19 MR. BLAKE: If I could have one minute, Your Honor?

20 THE COURT: Yes, sir.

21 WITNESS: Excuse me. Can I say something?

22 THE COURT: No, sir.

23 (A PAUSE.)

24 MR. BLAKE: Judge, I have no further questions at this
25 time.

C. MCCALL - CROSS-EXAMINATION BY MR. DANIEL

255

1 THE COURT: All right. Cross-examination, Mr. Daniel.

2 MR. DANIEL: Thank you. May it please the court?

3 CROSS-EXAMINATION BY MR. DANIEL:

4 Q. Mr. McCall, you've been in a lot of trouble, hadn't
5 you?

6 A. Yes. I've been convicted a couple times.

7 Q. I'm sorry?

8 A. Yes. You know, I ain't going to say a lot but, you
9 know.

10 Q. You've been convicted of several things?

11 A. Yes, yes.

12 Q. Minor, major, whatever. Okay. Does the fact that you
13 have been in trouble before have anything to do with Mr.
14 Hogan committing murder?

15 A. No, sir.

16 Q. All right. In fact, isn't it true that your only
17 involvement in this case is to describe to law enforcement
18 what Mr. Hogan looked like?

19 A. Yes.

20 Q. And you didn't know him when you did that. You didn't
21 know who he -- I mean, you didn't hang out with him, and
22 you didn't know who ---

23 A. No, sir.

24 Q. You'd seen him before?

25 A. Yes.

1 Q. Okay, and have, have you ever seen this before?

2 A. Yes.

3 Q. This is the sketch that was ---

4 A. Yes, sir.

5 Q. --- drawn by a SLED artist based on your description?

6 A. Yes.

7 Q. Which is, incidentally, remarkably similar ---

8 A. Yes.

9 Q. --- to what it looks like.

10 A. Uh-huh.

11 Q. Did you go to Mr. Hogan's house?

12 A. No.

13 Q. Have you ever, you ever been there?

14 A. I ain't know where he staying at, nothing.

15 Q. Okay..

16 A. No, sir.

17 Q. And you didn't have anything to do with Monesha
18 Brown's death, did you?

19 A. No, sir, because they ---

20 Q. She was your friend.

21 A. They polygraphed me three times in one day; I took a
22 polygraph and everything in Florence. They asked me about
23 robbing ---

24 THE COURT: All right.

25 A. --- him and all that, but ---

C. MCCALL - REDIRECT EXAMINATION BY MR. BLAKE

257

1 THE COURT: All right, all right, don't. You don't
2 need to elaborate.

3 WITNESS: Okay.

4 MR. DANIEL: I don't have any further questions,
5 Judge.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION BY MR. BLAKE:

8 Q. It was right after the test you referred to that you
9 gave this drawing, was it not?

10 A. Yes.

11 Q. You certainly knew Monesha was missing.

12 A. I ain't know she was missing because I was work at the
13 house at Rayfield at the point in time until, like, about a
14 couple of days I ain't seen her. You know, I got kind of
15 worried. I thought maybe they was at a motel or something.
16 Just, you know, but I ain't -- just...

17 Q. Okay. So, at some point, Lieutenant Turner spoke to
18 you about this situation?

19 A. Yes.

20 Q. Do you remember about when that was?

21 A. Not a exact date, no, I don't.

22 Q. Well, let's just try. You did this on July 16th. You
23 had spoken to him before that?

24 A. Yes, I spoke to him before then.

25 Q. Okay, and what did you tell him?

C. MCCALL - REDIRECT EXAMINATION BY MR. BLAKE

258

1 A. We rode and he took, he the one took me to Florence,
2 you know. I took the polygraph to ---

3 MR. BLAKE: No further questions.

4 A. --- prove my innocence. Okay, then.

5 THE COURT: All right, anything further, Mr. Daniel?

6 All right, thank you, Mr. McCall. You may step down.

7 (THE WITNESS EXITS THE STAND.)

8 MR. BLAKE: Judge, my next witness is in the back, and
9 also I think we have to clear up the NCIC.

10 MR. DANIEL: Who is it?

11 MR. BLAKE: McPherson.

12 THE COURT: Go ahead and call the next witness.

13 MR. BLAKE: Can I go get him?

14 THE COURT: Yeah, or somebody can.

15 MR. BLAKE: Well, that's -- I'm sorry, this is where
16 we have the NCIC.

17 (COUNSELORS CONFER.)

18 MR. BLAKE: Charles McPherson.

19 (A PAUSE.)

20 MR. BLAKE: We'll call Zane Arp, Judge. I think
21 there's a problem finding McPherson at this point.

22 THE COURT: All right.

23 MR. BLAKE: And he's in the back.

24 THE COURT: All right. Call your witness.

25 (A PAUSE.)

C. MCPHERSON - DIRECT EXAMINATION BY MR. BLAKE

259

1 THE COURT: Come around, please.

2 CHARLES S. MCPHERSON, BEING DULY

3 SWORN, TESTIFIES AS FOLLOWS:

4 CLERK OF COURT: Please be seated and state your full
5 name.

6 WITNESS: My name is Charles Shawn McPherson.

7 THE COURT: All right, what's your name?

8 WITNESS: Charles McPherson.

9 THE COURT: All right, Mr. Blake, you may proceed.

10 MR. BLAKE: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MR. BLAKE:

12 Q. Mr. McPherson.

13 MR. BLAKE: I'm not sure you -- can you see Charles
14 McPherson?

15 Q. Do you know Casey McCall?

16 A. Yes, sir.

17 Q. Do you see him in the courtroom?

18 A. Yes, sir.

19 Q. Back here?

20 A. Yes, sir, behind the prosecutor.

21 Q. Where is he back there?

22 A. In the back with a black hoodie, second row.

23 Q. Third row?

24 A. Third row.

25 Q. The gentleman that just spoke?

1 A. Yes, sir.

2 Q. Okay. Have you had occasion to talk to him?

3 A. Yes, sir.

4 Q. Okay. Did you have occasion to buy some marijuana
5 from him?

6 A. Yes, sir.

7 Q. Did you have a conversation with him at that time?

8 A. Yes, sir.

9 Q. About how long ago was that?

10 A. Approximately last week around the 25th. 24th, 25th.

11 Q. Okay. This is the 7th, so around ---

12 A. Week and a half back.

13 Q. 24th or 25th of what month?

14 A. December -- or, I'm sorry, January.

15 Q. January, all right, and could you tell us the
16 substance of that conversation?

17 A. I had asked him how he was tied into -- we were just
18 talking, regular conversation. I asked him how he was tied
19 into -- at the time, I didn't know the man's name. I
20 described him as the white boy. How he was tied into his
21 case, and that I knew he was coming up on trial. And I
22 thought Casey was a part of that trial.

23 Q. Okay, and what did he say to you?

24 A. That, in fact, he wasn't tied into the case. That it
25 was a friend of his, girlfriend, a former partner in crime.

C. MCPHERSON - DIRECT EXAMINATION BY MR. BLAKE

261

1 of his that was tied into the case they was in.

2 Q. You just said -- what did you say, former partner in
3 crime?

4 A. Yes, sir.

5 Q. Are those your words or his?

6 A. His.

7 Q. Okay. So, he said that to you, that Monesha Brown
8 was ---

9 MR. DANIEL: Your Honor, I, I'm -- not that we're
10 trying to hide anything, but this is surely hearsay.

11 THE COURT: Well, no. It's impeachment testimony, and
12 so under 613, he asked the witness about it, but I'm not
13 going to let him lead this witness. It is his witness, but
14 this is impeachment testimony under 613(b). He asked the
15 witness on the stand. He has got the right to introduce
16 extrinsic evidence regarding any statements made.

17 Proceed.

18 THE COURT: Thank you, Judge.

19 BY MR. BLAKE:

20 Q. So, you did ---

21 THE COURT: No. Don't lead him.

22 MR. BLAKE: Excuse me, Judge.

23 BY MR. BLAKE:

24 Q. Again, please tell us the substance of that
25 conversation you had, if you could, back on September --

1 I'm sorry, January 24th or 25th.

2 A. I was probing Casey to see the extent of his
3 involvement in the case that we're sitting here in front of
4 today.

5 Q. All right. Can you give us some details of that
6 conversation?

7 A. In the conversation, he assured me that he wasn't
8 involved in the case. That his partner was actually the
9 victim involved in the case, and it was a robbery gone bad.

10 Q. What does that mean, a robbery gone bad?

11 A. He stated that the goal, in fact, was for her to
12 escort Hogan to, to his house, accommodate him. They
13 was ---

14 Q. What does that mean, accommodate him?

15 A. They were both smoking crack together, John and the
16 female.

17 Q. Well, let's -- those are slang terms. You just speak
18 in plain English.

19 A. They were getting high off of a controlled substance.

20 Q. Okay. Was there anything else involved besides the
21 crack cocaine?

22 A. Far as drug use?

23 Q. No. You said John. What does that mean?

24 A. Well, she went with John.

25 Q. Okay.

C. MCPHERSON - DIRECT EXAMINATION BY MR. BLAKE

263

1 A. In order to continue to get high. The plan was to get
2 him high enough that she could steal from him and bring his
3 truck back to Casey.

4 Q. You understand, did you understand that to mean that
5 there was a plan between Casey and Monesha to rob John
6 Hogan?

7 A. Yes, sir.

8 Q. Okay, and you said something about take his truck?

9 A. Yes, sir.

10 Q. Did he speak to you anything else about his
11 relationship with Monesha, either personal or business?

12 A. That she was a good business asset, and he regret her
13 passing in that regard.

14 Q. What does that mean?

15 A. She made money for him.

16 Q. How did she make money for him?

17 A. She provide sexual favors for crack or money.

18 Q. So, he loaned her out? I'm just kind of trying to
19 understand what you're talking about.

20 A. Yes, in a sense, I guess. I mean, they both were on
21 crack, but you could consider him, I guess, the pimp and
22 her the means to make the money.

23 Q. You have a conversation with him about this?

24 A. Yes, sir.

25 Q. In what sort of context did this come up?

C. MCPHERSON - DIRECT EXAMINATION / CROSS-EXAMINATION 264

1 A. Through my probing, I just was asking him questions to
2 find out how, how involved in this case he was. I didn't
3 know if he was being charged with the botched robbery or
4 the set up. And I just really wanted to know before me and
5 him got to becoming friends or associates.

6 Q. And this occurred back around January 25th, something
7 like that?

8 A. Yeah, that last week in January.

9 Q. Here in Bennettsville?

10 A. Yes, sir.

11 MR. BLAKE: One moment, please, Your Honor.

12 (A PAUSE.)

13 MR. BLAKE: No further questions at this time.

14 THE COURT: Cross-examination, Mr. Daniel?

15 MR. DANIEL: Thank you, Your Honor.

16 CROSS-EXAMINATION BY MR. DANIEL:

17 Q. Briefly, Mr. McPherson, you ever been charged with any
18 crimes? Have you ever been charged ---

19 MR. BLAKE: Objection. Objection. He can ask about
20 convictions. He can't ask about being charged.

21 THE COURT: You can't ask about charges.

22 BY MR. DANIEL:

23 Q. Have you ever been convicted?

24 MR. DANIEL: I'm sorry. You're right.

25 Q. Ever been convicted of any crimes?

C. MCPHERSON - CROSS-EXAMINATION BY MR. DANIEL

265

1 A. Yes, sir.

2 Q. What, what, what crimes would those be?

3 A. I was a drug dealer around 1993, '94. I was involved
4 in the drug trade in Harrisburg, Pennsylvania. Crack
5 cocaine was ---

6 MR. BLAKE: Judge, I'm going to object on the basis
7 that I was just handed this prior to his testimony. I have
8 not been able to look at it. Do not know if what he is
9 saying complies with the rules or not. I'm being
10 prejudiced by the speed with which this is happening.

11 THE COURT: Well, now, you, you could have asked your
12 client -- I mean, you could have asked the witness that.
13 You brought, you called the witness. It wouldn't have --
14 objection is overruled.

15 MR. BLAKE: I can't ask ---

16 THE COURT: Witnesses of the -- objection is
17 overruled.

18 You may proceed with cross-examination.

19 MR. BLAKE: Objection on the basis that it's over ten
20 years.

21 MR. DANIEL: Your Honor.

22 THE COURT: Wait, counsel. Wait a minute.

23 (A PAUSE.)

24 THE COURT: All right, come around, counsel.

25 (OFF-THE-RECORD BENCH CONFERENCE.)

1 THE COURT: All right, ladies and gentlemen, this is a
2 legal issue that I am going to have to take up, and I need
3 to take it up on the record and outside of your presence.
4 If you will, go to your jury room for just a minute while I
5 take care of this matter, please. Thank you.

6 (THE JURY EXITS AT 3:28 P.M.)

7 THE COURT: All right, Mr. Daniel, tell me what you
8 propose to ask him. One, one thing you were asking him
9 about was a conviction for, what, drug -- what was the
10 charge?

11 MR. DANIEL: There is a theft charge from two thousand
12 -- well, arrest date from 2002.

13 THE COURT: Well, wait a minute. What was this 1993?
14 That's the one we -- we'll back into the rest of them.
15 We'll come forward with the rest of them, but the first one
16 you asked him about was ---

17 MR. DANIEL: It was a ---

18 THE COURT: --- it came up he was convicted in 1993.

19 MR. DANIEL: Some sort of violation of drug...

20 THE COURT: Drug offense in 1993.

21 MR. DANIEL: It's something out of state.

22 THE COURT: All right, and what else you want to ask
23 him about?

24 MR. DANIEL: The theft conviction that occurred,
25 the arrest date for -- which was July 2002. The offense

1 was 2002.

2 THE COURT: Conviction for ---

3 MR. BLAKE: Where?

4 THE COURT: What was the offense?

5 MR. DANIEL: Theft by unlawful taking.

6 THE COURT: Theft, and that was 2002?

7 MR. DANIEL: That's the arrest date was 2002.

8 MR. BLAKE: Do you have a conviction date?

9 THE COURT: All right, wait a minute. I'll take care
10 this, Mr. Blake.

11 MR. BLAKE: Excuse me, Judge.

12 THE COURT: You do your job, I'll do mine, okay?

13 Go ahead.

14 MR. BLAKE: Excuse me, Judge.

15 MR. DANIEL: He's got a current, pending charge of
16 attempted murder, but ---

17 THE COURT: What happened to that theft?

18 MR. DANIEL: It, it says conviction.

19 THE COURT: It says conviction?

20 MR. DANIEL: But it does not give a date. Doesn't
21 give a conviction date.

22 THE COURT: All right. All right, what else ---

23 MR. DANIEL: That's it ---

24 THE COURT: --- you want to ask him about?

25 MR. DANIEL: That's it.

1 THE COURT: Okay. All right, what, what's your
2 position on first the conviction for the drugs in 1993, Mr.
3 Blake?

4 MR. BLAKE: Judge, it's obviously beyond the ten year
5 rule, and I'm surprised that Solicitor Daniel would even
6 attempt to bring that out. I have yet to find that charge
7 on the NCIC, which I really did not have a chance to even
8 look at.

9 But could you tell me where it is?

10 MR. DANIEL: I'm sorry?

11 MR. BLAKE: Where's the theft on here?

12 (COUNSELORS CONFER.)

13 MR. BLAKE: Well, I don't have a page 3 and 4, and
14 it's on page 4 of 7. So, I would have a hard time even
15 finding it.

16 MR. DANIEL: All right, let me make this easy. I
17 won't ask him anything else about any other convictions,
18 but I want to put this on the record.

19 I'm not about easily offended, but it offends me when
20 Mr. Blake, who I respect, comes in this room and in front
21 of the jury says that he was just given this rap sheet
22 today.

23 This guy has been on his witness list, whenever he
24 made it. It's his witness. He knows, Dan knows, that
25 in order to get a rap sheet, we've got to have Social

1 Security ---

2 THE COURT: I understand. I understand, and it's on,
3 his witness list and he was going to call the witness. And
4 he should have known that this is one of the things you are
5 entitled to have is the Social Security number and birth
6 date of the witness so that a NCIC can be run on them in
7 plenty of time. And this should not be coming up at the
8 last minute; it's something that should have been done a
9 long time ago.

10 MR. DANIEL: And be blamed for it in front of the
11 jury.

12 MR. BLAKE: Judge, I was simply trying to stop the
13 avalanche, and I apologize for that. I had gotten the
14 information on Sunday, and I was going through my papers.
15 That particular paper was turned upside down, and I could
16 not see it. He asked me for it today at noon when you gave
17 us the short break for lunch:

18 THE COURT: Well, I'll be very frank with you. The
19 thing that bothers me about all of this testimony is that
20 the whole thing didn't arise as far as testimony until
21 about a week or ten days ago, and this case has been
22 pending all this time, the whole thing, very frankly. But
23 that's a matter for the jury to determine as to whether it
24 meets the smell test.

25 But be that as it may, the point is I'm not going to

1 have you two fencing with each other and pointing fingers
2 at each other and saying why you hadn't done what you were
3 supposed to do. I don't care about that.

4 It's supposed to have been done. This case has been
5 on the docket now for three months. I've been dealing with
6 it and hearing matters since back in December when I first
7 heard things. I heard another motion in January. There
8 have been several times when I've heard it. Everybody
9 knows what the witnesses were going to be or should know
10 what the witnesses were going to be.

11 And this matter shouldn't be coming up on the
12 afternoon of trial. And it's a failure of parties to do
13 what are required of them under the rules, and the court is
14 losing patience with it.

15 All right, with the stipulation by Mr. Daniel that he
16 is not going to go into this any further, we'll bring the
17 jury back in, Mr. Blake. But I don't want any more saying,
18 well, I just got this information, or I should know it. I
19 don't know anything about it. You've had ample opportunity
20 to know about it.

21 Bring the jury in.

22 (THE JURY ENTERS AT 3:36 P.M.)

23 THE COURT: All right, thank you, ladies and
24 gentlemen. Thank you for your patience. We are ready to
25 proceed.

C. MCPHERSON - CROSS-EXAMINATION BY MR. DANIEL

271

1 Mr. Daniel, you may proceed with your
2 cross-examination.

3 MR. DANIEL: Thank you, Your Honor. May it please the
4 court?

5 THE COURT: Yes, sir.

6 BY MR. DANIEL:

7 Q. Mr. McPherson, you weren't there when John Hogan slit
8 Monesha's throat, were you?

9 A. No, sir.

10 Q. Ever been to John Hogan's house? You ever been to
11 John Hogan's house?

12 A. No, sir.

13 Q. Do you know him?

14 A. No, sir.

15 Q. Okay. You didn't confess to duct taping her hands
16 behind her back, did you?

17 A. No, sir.

18 Q. You didn't confess to putting her in the bathtub?

19 A. No, sir.

20 Q. You didn't confess to slitting her throat?

21 A. No, sir.

22 Q. But you did get some information about those events
23 that's pretty important, right? You got some information
24 you said last week, I think it was, or a week ---

25 A. Yeah.

C. MCPHERSON - CROSS-EXAMINATION BY MR. DANIEL

272

1 Q. --- and a half? It's pretty important information
2 because it was about a murder, right?

3 A. I guess. Yeah.

4 Q. Yeah, and so with that information, on what day did
5 you go tell law enforcement about that important
6 information?

7 A. Approximately two or three days after it happened.

8 Q. You went and spoke to law enforcement?

9 A. I spoke to Officer Williams on a personal -- just to
10 ask him what I should do with the situation and how I
11 should go about it.

12 Q. You went to Officer Williams? What's his first name?

13 A. I don't know how many Officer Williams it is. Black
14 guy, gold tooth.

15 Q. And you said, you said what I found out is that
16 so-and-so, Casey McCall, was involved in this murder, and I
17 got this real good information I need to tell somebody is
18 what you told him?

19 A. No. I went to him. I asked him. I said if I fell
20 upon some information that might be able to help somebody
21 or convict somebody, what should I do with it? He said go
22 to the person's attorney, or go to the prosecutor.

23 Q. And you didn't come to us, did you?

24 A. No.

25 Q. You didn't go to the investigators?

Z. ARP - DIRECT EXAMINATION BY MR. BLAKE

273

1 A. No.

2 Q. You went to Mr. Blake?

3 A. Yes, sir.

4 MR. DANIEL: No further questions.

5 THE COURT: Mr. Blake?

6 MR. BLAKE: No further questions.

7 THE COURT: All right, thank you. You may step down.

8 (THE WITNESS EXITS THE STAND.)

9 THE COURT: All right, you may call your next witness.

10 MR. BLAKE: Ask that that witness be excused, Judge.

11 THE COURT: Any objection?

12 MR. DANIEL: No objection.

13 THE COURT: All right, witness will be excused. Thank
14 you for coming.

15 MR. BLAKE: Zane Arp.

16 ZANE ARP, BEING DULY SWORN,

17 TESTIFIES AS FOLLOWS:

18 CLERK OF COURT: I need you to sit right there and
19 state your full name for me.

20 WITNESS: Zane Boist Arp.

21 DIRECT EXAMINATION BY MR. BLAKE:

22 Q. How old are you, Mr. Arp?

23 A. Twenty-six.

24 Q. And why are you currently in jail?

25 A. Child support.

Z. ARP - DIRECT EXAMINATION BY MR. BLAKE

274

1 Q. Okay. Were you in jail back in September of 2010?

2 A. Yes, sir.

3 Q. Did you have occasion to speak to Casey McCall at that
4 time?

5 A. Yes, sir.

6 Q. Is Mr. McCall in the courtroom today? I mean, it's
7 kind of hard to ---

8 THE COURT: No, sir.

9 MR. BLAKE: Oh. Okay.

10 BY MR. BLAKE:

11 A. I do believe so. There in the back.

12 Q. Okay, and where did that conversation occur?

13 A. In J pod, county detention center.

14 Q. Our Marlboro jail?

15 A. Yes, sir.

16 Q. Why were you in there?

17 A. Child support.

18 Q. Okay. What do you do for work?

19 A. I'm electrician.

20 Q. Do you remember that conversation?

21 A. Yes, sir.

22 Q. And you remember approximately when that was?

23 A. It was around the 29th, the 30th of September 2010.

24 Q. So, you were in jail and Casey was in jail. Is that
25 correct?

Z. ARP - DIRECT EXAMINATION BY MR. BLAKE

275

1 A. Yes, sir.

2 Q. Why don't you just tell us the substance of that
3 conversation.

4 A. The substance, basically he told me that his, his
5 partner in crime was killed, and he told me the story of
6 how it all, how it all happened.

7 The guy that they went to go get some crack for, the
8 man, he said that him and his partner were going to go get
9 some more. And he was going to go get a gun and rob the
10 man for his truck, him and her. Said left with the man.
11 That was pretty much it, but he talked about it off and on
12 for two or three days until he was released.

13 Q. Are you telling me that they had some sort of plan?

14 A. It seems so. Just the plan was to rob the man of his
15 truck.

16 Q. This involved Casey and whom else?

17 A. Casey and another man and the woman that is -- he's
18 now on trial for.

19 Q. The woman that's now deceased?

20 A. Yes, sir.

21 Q. Did Casey say anything else about his relationship
22 with Monesha Brown?

23 A. Just basically a sex partner and partner in crime.
24 He'd sneak in the room and stuff like that of that nature.

25 Q. Sneak in a room?

Z. ARP - DIRECT EXAMINATION BY MR. BLAKE

276

1 A. Yeah. Sneak in a room through a window and stuff.

2 Told me about him shooting up some people at Sav-Way and
3 other stuff like that.

4 Q. And what else did he tell you about his relationship
5 with Monesha Brown, either personal or financial?

6 A. It was basically financial. You know, they, they were
7 partners in crime. She would do one thing, and he would
8 set it up, and she would close it off, and it'-- just hand
9 over hand, fist over fist.

10 Q. I'm not sure I understand what you're saying.

11 A. It's basically one hand washes the other. You scratch
12 my back, I'll scratch yours.

13 Q. Do you know anything about him pimping her out?

14 A. It was an occasion when we talked about it. You know,
15 it wasn't much about it, but that was pretty much the fact.
16 He would go get the dope, and she would either sell it to
17 him or, you know, she'd sell the intercourse for the crack.
18 And Casey and her would split off at the end of the night,
19 and just basically that's it.

20 Q. Did you ever talk about her and him doing previous
21 robberies together?

22 A. Just hustles here and there.

23 Q. What do you mean by hustle?

24 A. You know, hustling. Just getting some poor schmuck to
25 fall into the trap. And, you know, one would go get the

Z. ARP - DIRECT EXAMINATION / CROSS-EXAMINATION

277

1 dope, and the other one would close the deal.

2 Q. What does that mean, close the deal?..

3 A. Close the deal to get what they want, money or dope.

4 You know, whatever their ---

5 Q. That means ---

6 A. --- plan was for the night.

7 Q. That means steal from them?

8 A. Hustling, yeah.

9 Q. Hustling.

10 MR. BLAKE: No further questions.

11 THE COURT: Cross-examination, Mr. Daniel?

12 CROSS-EXAMINATION BY MR. DANIEL:

13 Q. Mr. Arp.

14 A. Yes, sir.

15 Q. When you heard this information from Mr. McCall, what
16 law enforcement agent, agent did you go tell?

17 A. He was just talking about it. I didn't think much of
18 it, you know? He was just telling me about -- he was just
19 talking to me. I didn't feel like I need to go turn the
20 name in.

21 Q. So, he tells you about ---

22 A. Hustling.

23 Q. --- a murder. He tells you about his ---

24 A. That some guy murdered his friend.

25 Q. You mind if I finish asking ---

1 A. Go ahead.

2 Q. --- my question? He tells you about a conspiracy to
3 rob someone which resulted, as you know, in a murder, and
4 you don't feel like it's important enough to go tell law
5 enforcement?

6 A. Be a snitch and probably get myself put back in the
7 same situation she's in?

8 Q. Aren't you ---

9 A. No, I don't, I don't think so.

10 Q. Aren't you being a snitch right now?

11 A. I'm just stating the facts here. You know, I'm not
12 bearing no false witness on my neighbor. I'm just telling
13 the truth and that's it. That's all.

14 Q. Okay. Do you know Mr. Hogan?

15 A. No, sir.

16 Q. Were you at his house the night Monesha Brown was
17 murdered?

18 A. No, sir.

19 Q. Did you confess to murdering ---

20 A. No, sir.

21 Q. --- Monesha Brown? Did you confess to tying her hands
22 behind her back with duct tape?

23 A. No, sir.

24 Q. Did you confess to slitting her throat?

25 A. No, sir.

Z. ARP - REDIRECT EXAMINATION BY MR. BLAKE

279

1 Q. Okay.

2 MR. DANIEL: No further questions.

3 THE COURT: Redirect, Mr. Blake?

4 MR. BLAKE: Thank you, Your Honor.

5 REDIRECT EXAMINATION BY MR. BLAKE:

6 Q. Mr. Arp, you said you spoke to Casey McCall in jail
7 around the end of September 2010?

8 A. Yes, sir.

9 Q. Mr. Hogan was arrested on July 23rd.

10 THE COURT: Now, don't testify, Mr. Blake.

11 MR. BLAKE: He could testify.

12 THE COURT: Don't testify. Ask questions.

13 BY MR. BLAKE:

14 Q. So, when this, when Casey McCall told you this, did
15 you know Mr. Hogan?

16 A. No, sir.

17 Q. Was he even mentioning any names to you?

18 A. No, sir.

19 Q. That you recall?

20 A. Just her name.

21 MR. BLAKE: Thank you.

22 THE COURT: Recross, Mr. Daniel?

23 MR. DANIEL: None.

24 THE COURT: All right. Thank you, sir. You may step
25 down.

S. FELDNER - DIRECT EXAMINATION BY MR. BLAKE

280

1 WITNESS: Thank you, sir.

2 (THE WITNESS EXITS THE STAND.)

3 THE COURT: All right, Mr. Blake.

4 MR. BLAKE: Ask that this witness be excused, Judge.

5 THE COURT: Any objection?

6 MR. DANIEL: None.

7 THE COURT: All right, you are excused.

8 MR. BLAKE: Shawn Feldner.

9 THE COURT: You are still under oath, Mr. Felder.

10 SHAWN FELDNER, HAVING PREVIOUSLY

11 BEEN SWORN THE SAME DAY, TESTIFIES AS FOLLOWS:

12 WITNESS: Shawn Feldner.

13 DIRECT EXAMINATION BY MR. BLAKE:

14 Q. Shawn, you were up here before, and were you involved
15 in -- I think you testified to being involved in a BOLO
16 being put out.

17 A. No, I was not.

18 Q. Not at all?

19 A. No, sir.

20 MR. BLAKE: Okay, no further questions.

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

22 (THE WITNESS EXITS THE STAND.)

23 MR. BLAKE: Lieutenant Larry Turner.

24 THE COURT: Mr. Turner, you're still under oath.

25 LARRY TURNER, HAVING PREVIOUSLY

L. TURNER - DIRECT EXAMINATION BY MR. BLAKE

281

1 BEEN SWORN ON 2/6/12, TESTIFIES AS FOLLOWS:

2 DIRECT EXAMINATION BY MR. BLAKE:

3 Q. Did you have anything to do with the initiation of a
4 SCIEX [verbatim] bulletin?

5 A. Yes, sir.

6 Q. Handing up you Defendant's Exhibit 5. Does that look
7 familiar to you?

8 A. Yes, sir.

9 Q. Who wrote the language in that?

10 A. Lieutenant Jamie Seales.

11 Q. But you gave him information?

12 A. Yes, sir.

13 Q. You're aware of that bulletin?

14 A. Yes, sir.

15 Q. It was part of your investigation in the case?

16 A. That was my attempt to locate her, yes, sir.

17 MR. BLAKE: Your Honor, we would move to enter this
18 into evidence at this time.

19 THE COURT: Mr. Daniel?

20 MR. DANIEL: We'd object on the same grounds that were
21 mentioned earlier.

22 THE COURT: Let me see it.

23 (A PAUSE.)

24 THE COURT: All right, I'm going to admit it over
25 objection. I don't think the thing that you objected to as

1 being prejudicial is at this prejudicial, in view of the
2 testimony that's already gone forth in this case. The
3 exhibit will be admitted over the objection of the state.
4 Defendant's Number 5 will be admitted.

5 MR. DANIEL: Thank you.

6 (SCIX BULLETIN MARKED INTO EVIDENCE AS DEFENDANT'S
7 EXHIBIT NUMBER 5.)

8 MR. BLAKE: No further questions, Judge.

9 THE COURT: All right. Thank you. You may step down.

10 (THE WITNESS EXITS THE STAND.)

11 MR. BLAKE: Judge, may we approach?

12 THE COURT: Yes, sir.

13 MR. BLAKE: A scheduling issue.

14 (OFF-THE-RECORD BENCH CONFERENCE.)

15 THE COURT: All right, ladies and gentlemen of the
16 jury, I know you think sometimes that things don't move
17 very efficiently as they should, and I agree with you. I
18 would like for them to move a little more efficiently, but
19 there are all kinds of matters, and getting the right
20 people at the right place at the right time in the trial of
21 a case.

22 And because it is almost 4:00, and I'm advised by the
23 state that -- I mean, by the defense the next witness is
24 going to be lengthy, and that there is a witness who will
25 be coming in tonight, that it would be best if we go ahead

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

290

1 THE COURT: All right. Ms. Hogan, come around please.

2 JESSICA SUMMER HOGAN, BEING DULY

3 SWORN, TESTIFIES AS FOLLOWS:

4 THE COURT: Have a seat right up here, please, Ms.

5 Hogan.

6 CLERK OF COURT: State your name for me.

7 THE COURT: State your name for the record.

8 WITNESS: Oh, I'm sorry. Jessica Summer Hogan.

9 DIRECT EXAMINATION BY MR. BLAKE:

10 Q. Thank you, Ms. Hogan.

11 MR. BLAKE: And I'll thank the judge for letting the
12 scheduling work like this.

13 Q. You just flew in from Texas last night. Is that
14 correct?

15 A. Yes, sir.

16 Q. Okay, and you're married to Mr. John Hogan?

17 A. Yes, sir.

18 Q. And where do you work?

19 A. I work for the Texas law office of Martin A. Harry.

20 Q. And what do you do there?

21 A. I'm a case manager.

22 Q. And what sort of work do you do as a case manager?

23 A. I help get over 400 clientele get Social Security
24 benefits.

25 Q. Okay. How long have you and Mr. Hogan been married?

1 A. Three years in November.

2 Q. Going back to June of 2010, where -- you, you came --
3 you went on vacation or you went somewhere. You were not
4 at home. Where were you?

5 A. I was at a family reunion for ten days on the coast of
6 California.

7 Q. Okay, and when did you come back?

8 A. I don't remember the exact date. I think it was the
9 6th of June. Maybe I left on the 6th of June. I can't
10 remember the exact date that I had come back or left, but I
11 was gone for ten days.

12 Q. Okay, and when you came back, where did you fly into?

13 A. I flew into Florence.

14 Q. Florence Airport?

15 A. Uh-huh, yes.

16 Q. Okay, and who picked you up?

17 A. John picked me up.

18 Q. Okay, and you had a luggage bag with you?

19 A. Yes.

20 Q. Okay, and where did you put that?

21 A. I put that in the back cab of the truck.

22 Q. And what did you notice?

23 A. There were two trash bags full of beer bottles.

24 Q. And what was your reaction?

25 A. I was very upset. It's ---

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

292

1 Q. Why?

2 A. It's -- we -- I wasn't approve of drinking and John
3 didn't have -- I'd asked him not to drink, but he had -- I
4 don't know. I was just upset that he had drank while I was
5 on vacation, and that was not what I had expected him to
6 do.

7 Q. All right, and you drove from the airport to your home
8 here near Bennettsville?

9 A. Yes.

10 Q. Okay, and where, where was that trailer located?

11 A. I believe it's 452 Mark Circle in Bennettsville.

12 Q. Okay. Do you know the main road that it was on?

13 A. I think 52.

14 Q. Okay.

15 A. I, I'm not completely for sure, but it's not actually
16 in Bennettsville. Like, it's not in the City of
17 Bennettsville. It's kind of on the way back from Florence.
18 So, I think that highway is 52.

19 Q. And where had you -- you came and moved here. Where
20 did you move from with Mr. Hogan?

21 A. Prior to living in Bennettsville, we were living in
22 Kilgore, Texas.

23 Q. And why did you and Mr. Hogan come here?

24 A. He got a job as a boilermaker.

25 Q. Okay. Where was that job?

1 A. Just on the south border of North Carolina.

2 Q. Okay, and were you also working at the time?

3 A. No, stay-at-home mom.

4 Q. Stay-at-home mom, and how old was your child?

5 A. In June, Ellie would have been six months.

6 Q. Is there anything else you noticed when you got home?

7 A. There were a few things out of place when I got back
8 to our residence. For the most part, things didn't seem
9 too out of place. More like things were not finished,
10 but ---

11 Q. What do you ---

12 A. --- there were ---

13 Q. What do you mean not finished?

14 A. The dishes were still in the sink. The laundry was
15 still in the floor. You know, the bed was poorly made.
16 But there was a hole in the wall close to our door to our
17 bedroom. There was a punch stain on the carpet in our
18 living room, but for the most part, I couldn't really tell
19 any difference.

20 That also kind of made me upset, but -- to come home
21 and the house wasn't cleaned. It wasn't changed from when
22 I had left it, but I, I later, like the next day, I found
23 that there had been a fairly large blood stain on our
24 comforter, on the inside of our comforter, and so that was
25 a little alarming. And then a few of John's white work

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

294

1 shirts had been stained with blood as well. So, that was
2 also really out of place when I started to clean the house
3 up the following day.

4 Q. Okay. At some point, did you notice any wound?

5 A. Yes. Well, I confronted John about the stains and
6 asked him what had happened. He had told me that he was
7 robbed and was stabbed, and when I looked at the wound, it
8 was on his side maybe an inch, inch and a half long wise, I
9 guess, and it didn't seem too bad. And then I went up to
10 look at it, and I, I couldn't see where it actually ended.
11 Like, it wasn't, like, a slice kind of cut like a cat
12 scratch. It was definitely deep. So, it wasn't very,
13 like, wide, like, I said, but really deep, and so I had
14 suggested to John that we go to the hospital.

15 I definitely think that he needed stitches at that
16 point. John had refused, telling me that he didn't want to
17 explain to the hospital getting robbed. So, that ended
18 that argument.

19 Q. Was he talking about a robbery that happened inside
20 the home or outside of the home?

21 A. He told me that he was going into a fairly bad
22 neighborhood in Bennettsville, and he had intentions of
23 getting drugs, and in that intention he was robbed before
24 he'd got it. But he said he was jumped. But that -- I
25 don't think ---

1 Q. So, at that point he was not telling you what
2 happened?

3 A. No.

4 Q. Did you find any evidence of drug use?

5 A. Yes. I later then found some crack in John's pickup
6 truck. I also confronted him about that.

7 Q. What did he say about that?

8 A. He said that he had actually gotten crack. He had
9 returned to the bad neighborhood and ended up getting some
10 crack and, and then smoking it. So, our, our bank account
11 was pretty much drained with that endower, endower,
12 whatever, so -- endeavor.

13 Q. When did you become aware of that as well?

14 A. I was aware of that within two days of coming back to
15 Bennettsville that our bank account had been drained.

16 Q. How much had been in there?

17 A. I honestly don't know. In the ten days that I was
18 gone, he did receive a pay check. When I left, there was
19 \$400. But then he got paid in that time period as well.
20 So ---

21 Q. Do you know how much his check was approximately?

22 A. Typically \$2,500.

23 Q. Anything else you can tell us relative to his wound?

24 A. Well, after I found out what had happened with his
25 wound, and, of course, suggesting that he get medical

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

296

1 attention and he refused, he did have to bandage it
2 himself. So, he was, like, supergluing the wound shut,
3 duct taping it together. He continued to work every day
4 after that, and so in that, he did work pretty laborious
5 jobs. So, he had to keep himself hunched over. You know,
6 he couldn't make a full posture, straight posture. He
7 couldn't lift Ellie up. He couldn't reach to the higher
8 cabinets. You know, anything that was going to include him
9 straightening up his stomach area where things had been
10 glued shut, it would bust open and start bleeding again and
11 was extremely painful.

12 Q. Did it bust open?

13 A. It did. It broke open about three times the following
14 week, which also caused the stain in t-shirts, and, you
15 know, with the job he worked, he couldn't not do reaching.
16 And so there were definitely times that it busted open, and
17 there was definitely times where he was in extreme pain
18 from the wound.

19 Q. You noticed that?

20 A. Oh, yes. I mean, definitely with things like picking
21 Ellie or lifting Ellie up or throwing her up or anything.
22 You know, I always asked him to do the hanging up stuff or
23 getting things off the top shelf or whatever, and he just
24 was not -- it wasn't a comfortable thing for him to do any
25 of those.

1 Q. But, again, he did not go to the hospital?

2 A. No.

3 Q. And the reason for that?

4 A. He did not want to attract attention to himself with
5 the injury. He didn't want to explain to the doctors or to
6 the hospital how the stab wound had occurred. According to
7 the story, you know, he was in the bad part of town trying
8 to get crack. So, he didn't really want to attract police
9 attention to his injury.

10 Q. Did that worry you about his not going to the
11 hospital?

12 A. It worried me because I wanted him to get better, but
13 he told me that he knew how to repair himself and he
14 superglued it, duct taped it. Like I said, never missed a
15 day of work. So, there really wasn't much I could do at
16 that point.

17 Q. Did he need to go to work for just paying the bills?

18 A. Yes.

19 Q. All right. So, that's around the beginning of June,
20 and you and he are there in the house, your daughter,
21 Elsie [sic]. And then I think sometime around July, third
22 week in July, July 21st, 22nd, you spoke to at least Shawn
23 Phillips. Is that correct?

24 A. Yes, sir.

25 Q. The second gentleman sitting there?

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

298

1 A. Yes.

2 Q. Okay. Had an interview with him?

3 A. Yes.

4 Q. And then the following day you drove your husband to
5 Sumter Sheriff's Office?

6 A. Yeah, in Bennettsville. Was that in Bennettsville?

7 Q. Well, the interview was in Bennettsville, I believe.

8 A. Okay. Yeah.

9 Q. And then did you end up driving your husband to
10 Sumter?

11 A. Yes.

12 Q. Okay, and at some point you left that interview. Is
13 that correct?

14 A. Yes, come back.

15 Q. Did you go home?

16 A. I did try to come home after I had dropped him off.
17 However, there are about eight to ten vehicles in our home
18 when I got back, and they told me I would not be able to
19 return home for three days.

20 Q. Did you try to return at any point earlier than those
21 three days?

22 A. Well, I had, I had tried to see if there were people
23 there. We knew the people that lived across the street,
24 but they had a lot of people in our home, and I, I wasn't
25 able to return until I got the phone call saying it was

1 okay for me to come home.

2 Q. Okay. Had you driven by or were you just calling
3 friends to see what was going on?

4 A. I drove by a few times.

5 Q. Were there still cars around?

6 A. Oh, yes.

7 Q. So, three days later, you finally did come home?

8 A. Yes, sir.

9 Q. Okay, and what did you notice when you came home?

10 A. Well, the evidence that had been left behind. Blue
11 residue I guess is what they used to determine where the
12 blood had been on previously or whatever. So, I did see
13 the blue residue where blood splatter had been.

14 Immediately upon walking into our trailer from the
15 back door, we have a little wall, a doorway into our
16 bedroom, another little wall, and then it goes into our
17 kitchen. And so these little partial walls were definitely
18 -- had splattered blood residue pretty thickly, about 4 and
19 a half, maybe 5 feet high. I just -- across the wall like
20 this, really heavily, and that's just right when you walk
21 in. So, there was that. There was definitely blood on the
22 door, and so ---

23 Q. Which door is that?

24 A. There was blood on the front door. There was blood on
25 our bedroom door. The bedroom door had it pretty thickly

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

300

1 right there, and like I said, that, that wall that is --
2 here's the doorway. Here's this little partial wall and
3 the fridge and then the kitchen. This wall had the most
4 thickest.

5 Q. In the kitchen area?

6 A. Yes, leading into the kitchen going into this. So --
7 but in that little doorway, there's definitely a lot of
8 blood splatter. There was a few blood splatter along the
9 bottom of the cabinets in the kitchen like under the sink
10 area kind of thing. But then kind of just kind of went
11 higher up on this other wall and ---

12 Q. Where, where was the, where was the -- you had some
13 thin sheetrock in there. Where was the sheetrock busted?

14 A. The sheetrock was busted also to the left of the
15 doorway, to the left of the bedroom doorway. Maybe just,
16 like, shoulder high. Maybe a little less. I can't
17 remember the exact placement, but just, just right to the
18 left of the doorway.

19 Q. Okay. Where else did you notice the blue coloring?

20 A. The blue coloring was also the most relevant in the
21 bathroom. So, you go into the bedroom. Here's the
22 doorway. We come into the bedroom, and in the far corner
23 of the house in the bedroom is -- we had a very large pool,
24 bathtub. So, we have a circular bathtub.

25 Q. Is that like with a jacuzzi in it?

1 A. Yeah, it was, you know, one of the fairly large, round
2 ones. Not oval, but round and ---

3 Q. Hold on one second. Let me just ---

4 A. Okay.

5 Q. Handing up State's Exhibit 5. Is this what you're
6 talking about?

7 A. Yes, sir.

8 Q. Okay, and looking at State's Exhibit 4, is this the
9 trailer?

10 A. Yes, sir, and so then we have the tub, and in the
11 corner -- so, our tub's in this corner. There's two
12 windows on the corner, and inside the bathtub there was
13 definitely the dark blue residue where I could see it
14 thickly. There was a few ---

15 Q. Did you say inside? Was that ---

16 A. Inside the bathtub.

17 Q. Near the drain or ---

18 A. Yes.

19 Q. --- or the whole bathtub or what?

20 A. Near the drain. More, to be precise, towards the
21 left, to the left of the drain ---

22 Q. Okay.

23 A. --- on the ground, and then there was some blood
24 splatter up around the lip of the bathtub again in the
25 corner, and then Ellie's toys were also here. So, her bath

J.S. HOGAN - DIRECT EXAMINATION BY MR. BLAKE

302

1 toys had some residue on there, and then I had some lace
2 curtains that had some residue on there. But the gist of
3 it was mainly in the bathtub.

4 Q. Okay. Handing up State's Exhibit 25. Is this the
5 lace that you're talking about?

6 A. Yes, sir.

7 Q. And what is that underneath it?

8 A. That's the blue residue.

9 Q. Okay, and the -- what kind of blind is that?

10 A. I don't know what -- I don't -- this one?

11 Q. Yeah, the ---

12 A. I, I don't know.

13 Q. Was that with the -- it looks like white vinyl. So,
14 was that in the trailer and then you purchased ---

15 A. Yes.

16 Q. --- the lace?

17 A. Yes.

18 Q. Okay. Handing up State's Exhibit 7. What does that
19 show you?

20 A. The bathtub, the mirrors by the bathtub, and the, the
21 windows, Ellie's toys on the outside of the bathtub. There
22 was a few blood splatters on this mirror, but not very
23 much.

24 Q. Okay. Thank you, and this is a picture of what?

25 A. That is our knives.

1 Q. Okay. That's where they were located in the kitchen?

2 A. Yes.

3 Q. Okay, and I'm sorry. That is State's Exhibit 6 you
4 were looking at and State's Exhibit 10.

5 A. Well, that wasn't -- I guess that was a secondary
6 hole. There was also another one over on -- behind this
7 wall, I'm pretty sure. If it wasn't in that wall, it was
8 on the door behind there, but ---

9 Q. Okay, and State's Exhibit 14.

10 A. Yes, that's our truck.

11 Q. The truck. All right.

12 MR. BLAKE: I'll move to publish those to the jury,
13 Judge.

14 THE COURT: Go ahead.

15 You'll recall, ladies and gentlemen, I told you that
16 the lawyers may ask for permission to publish exhibits.
17 That means pass them down and look at them while you're
18 sitting there in the jury box. Do not be concerned if you
19 do not have as long to look at them as you might like to.
20 You will be able to take all the exhibits to the jury room
21 when you retire to deliberate for the verdict.

22 BY MR. BLAKE:

23 Q. And you described the bathtub and some blood spatter,
24 I think, along the rim and on the blind. Did you see --
25 what did you see in terms of around the front, the carpet

J.S. HOGAN - CROSS-EXAMINATION BY MR. DANIEL

304

1 bottom there on part of the tub?

2 A. There -- I didn't really see much in that region.

3 Q. I'm talking about the color blue now.

4 A. Yes, there might -- there definitely was some trickle.

5 You could tell that there was -- someone had been brought

6 in that was bleeding into the bathtub because there was,

7 like, a little trail. It wasn't real thick like in the

8 bathtub, but there ---

9 Q. There on the carpet down there, did you see a bunch of
10 blue?

11 A. No.

12 MR. BLAKE: No further questions at this time.

13 THE COURT: Cross-examination, Ms. Johnson-Lee.

14 MS. JOHNSON-LEE: Mr. Daniel.

15 THE COURT: Mr. Daniel, okay.

16 CROSS-EXAMINATION BY MR. DANIEL:

17 Q. Ms. Hogan, good morning.

18 A. Good morning.

19 Q. Can you tell the jury about how long it is, how far it
20 is from the bathtub to the kitchen? If, if this is the
21 corner of the bath, and I know you might have to walk maybe
22 through or around the wall or something like that, you
23 know. But if this is the corner of the bathtub, if you
24 were to walk in a straight-line, about how far -- tell me
25 when to stop.

1 A. To the, to the door, to my doorway?

2 Q. To the kitchen from, from the bathtub, which is right
3 here ---

4 A. Uh-huh.

5 Q. --- to the kitchen all the way into the -- right by
6 the stove. Tell me when to stop.

7 A. That's about our doorway. That, that would be into
8 the kitchen.

9 Q. Okay, and then the stove was a little further?

10 A. Maybe like a hand reach. I mean, it's a single-wide
11 trailer; it's pretty small.

12 Q. So, this would be fair to say, then, this is about the
13 length that you have to walk to get to the bathroom to
14 this, this stove area here?

15 A. Around about.

16 MR. DANIEL: I have no further questions. Thank you.

17 THE COURT: Redirect?

18 MR. BLAKE: Thank you, Your Honor.

19 REDIRECT EXAMINATION BY MR. BLAKE:

20 Q. You said around about. Did you ever measure that
21 distance?

22 A. I definitely haven't measured that distance. Our, our
23 trailer was very small. Our bathtub was in our bedroom.
24 There wasn't a doorway or anything like that. It wasn't
25 like, you know, separated. So, we have our bathtub. We

J.S. HOGAN - REDIRECT EXAMINATION BY MR. BLAKE

306

1 have that small little wall that you'll see right next to
2 the bathtub. We have a -- my daughter's playpen, our bed,
3 and then the wall. Our bed was about a double size. So,
4 we have a large bathtub. I would say 3, 4 feet, our double
5 size bed. And from the double size bed, if you were going
6 to sit on the end, you could touch the wall. I don't know
7 if that helps with exact measurements or not.

8 But then, of course, that wall is the doorway that
9 goes almost directly into the kitchen. So, from our
10 doorway, it's about maybe three paces to the end, the
11 middle of the kitchen.

12 Q. And when's the last time you actually were living in
13 that trailer?

14 A. In July. Towards, towards the end of July.

15 THE COURT: Anything further, Mr. Daniel?

16 MR. DANIEL: Nothing from the state.

17 THE COURT: All right. Thank you, ma'am.

18 WITNESS: Thank you.

19 THE COURT: You may step down. All right.

20 (THE WITNESS EXITS THE STAND.)

21 THE COURT: Mr. Blake, call your next witness.

22 MR. DANIEL: We call John Hogan to the stand.

23 THE COURT: All right. Mr. Hogan.

24 JOHN LEE HOGAN, JR., BEING DULY SWORN,

25 TESTIFIES AS FOLLOWS:

1 CLERK OF COURT: Be seated and state your full name.

2 WITNESS: John Lee Hogan, Jr.

3 DIRECT EXAMINATION BY MR. BLAKE:

4 Q. Just to make it clear, you've been in jail ever since
5 you gave a confession on July 23rd, correct?

6 A. Yes. It's going on nineteen months.

7 Q. Has that been an easy time for you?

8 A. No, sir. This is probably one of the roughest jails
9 in South Carolina. It's -- they kind of run it like a
10 super max prison. You're in lockdown all day.

11 Q. How's, how's it just been for you in terms of the
12 aftermath of this incident?

13 MR. DANIEL: Your Honor, I'm going to object.
14 Relevance.

15 THE COURT: All right. What is the relevance of that,
16 Mr. Blake?

17 MR. BLAKE: I'm just trying to give him a chance ---

18 THE COURT: That's not my question. What's the,
19 what's the relevance to the issues here? Objection
20 sustained.

21 MR. DANIEL: Thank you.

22 BY MR. BLAKE:

23 Q. You gave your confession on July 23rd?

24 A. Yes, sir.

25 Q. This incident occurred on June 5th?

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

308

1 A. Yes, sir.

2 Q. What took place during that time frame?

3 A. Between when it happened and when I confessed?

4 Q. That's correct.

5 A. Well, it was -- the only way I can think to describe
6 it, I mean, it was, it was -- I mean, it was pure hell on
7 me. From, from the night that everything happened and the
8 next morning, you know, when I, when I was sobering up and
9 I was cleaning up, everything, I mean, I immediately knew
10 right then that what I did was wrong, very, very wrong.
11 And immediately, in my heart, I wanted to tell someone
12 right then.

13 I mean, I knew, I immediately in my head, I knew that
14 Monesha had a family. I didn't know her family at the
15 time, but I knew that she had a family, and I knew that
16 they were going to be looking for her. Like I said, I
17 wanted -- I knew I needed to tell something right -- I knew
18 I needed to tell it right away, but what kept me from that
19 was just -- there were a lot of things that kept me from
20 doing that.

21 I was, I was scared. I had just been married; I'd
22 only been married six months. I had -- we had a daughter,
23 you know? I'm not her biological father, but we were
24 married when Summer had her, and I cut her cord, you know?
25 I used to bathe her all the time and feed her. I used to

1 rock her, rock her to sleep every night after her mother
2 fed her, got done feeding her.

3 Q. All right. So, you lost your family then?

4 A. Yes. Also, I'm not afraid to sit here and say that
5 I'm a God-fearing man, a Christian man. I had been clean
6 off of crack for right at two years at that point. That
7 was the longest time that I'd ever been clean in my life.
8 Part of that I owe to getting saved. Summer and I were in
9 the church; we never missed a Sunday or Wednesday. Our
10 second date was me picking her up and taking her to church.

11 Q. All right. Let's, let's stick back with -- so, this
12 incident happened on June 5th, and then you finally
13 confessed on July 23rd?

14 A. Yes.

15 Q. And did you go to the police any time in between?

16 A. No, sir.

17 Q. Did you leave and go back to Texas?

18 A. No, sir. Like I said, Mr. Blake, I knew that what I
19 did was wrong, and in my heart I knew that it needed to
20 come out. I knew that it needed to come out, but I just
21 couldn't bring myself to do it because of, of my family.

22 And I, what I was about to say a while ago was we also
23 had a church family, and I was worried about what -- how it
24 would affect the church that I was going to as well. I was
25 a greeter at that church. I had a son. I've got a three-

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

310

1 and-a-half year old son. That, that's part of what kept me
2 clean that's -- for that two years. I was just -- there
3 was so many things going through my head as, as far as when
4 this comes out, you know, what's, what's going to happen to
5 my wife and my daughter.

6 I knew, I knew the night that it happened, the morning
7 that it happened, I knew that it was going to come out. I
8 knew in my heart that it was going to come out, and that
9 was, that was something that kept me, something just kept
10 me here, you know, for six weeks. I, I could have, I could
11 have went back to Texas. I could have ran. My mother even
12 made the comment, you know. If, son, if you would have
13 went back to Texas it might, might just be a cold case, you
14 know, and you might have got away with it.

15 Q. This was sometime later?

16 A. Yeah, that was, that was after I was arrested. My
17 mother came to visit me, but ---

18 Q. But you did clean up? You cleaned up?

19 A. Yes. Well ---

20 Q. You cleaned up the mess?

21 A. Yes, sir.

22 Q. You put her in a barrel?

23 A. Yes, sir.

24 Q. You dropped the barrel off in the woods?

25 A. Yes, sir.

1 Q. Tell us about the clean up.

2 A. The, the -- like, the majority of the blood was in the
3 kitchen. That's where, that's where the major struggle
4 took place was in the kitchen. It was like Summer said.
5 It was almost all in the floor. There might -- I may have
6 tracked just a little bit of blood onto the carpet in the
7 living room the night before when there was still blood in
8 the floor and I was ---

9 Q. What did you use to clean up?

10 A. I used bleach and towels and towels, just towels and
11 rags, and I had gotten some stuff from the Dollar Store,
12 some carpet stain cleaner. There were just a few little
13 dots on the carpet in the living room.

14 Q. Y'all had a roommate at that trailer?

15 A. Yes, sir.

16 Q. What was his name?

17 A. Jimmy Daniels.

18 Q. Was he away during this time?

19 A. Yes, he had taken some vacation days, and he's from,
20 he's from up around Asheville, North Carolina. He had gone
21 home.

22 Q. Okay. When did he return?

23 A. He was coming back home that Sunday night. Everything
24 happened on a Saturday night. He was coming back home the
25 very next night.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

312

1 Q. Okay. So, you had less than twenty-four hours to
2 clean up?

3 A. Yes.

4 Q. And also dispose of the body, which is what you did,
5 right?

6 A. Yes.

7 Q. Okay. Why did you dispose of the body? Why did you
8 put her in a barrel and drop her in the woods?

9 A. Just -- I mean, after it happened I just, I -- like I
10 said, I was afraid of what, what was going to become of my,
11 my whole life and I just knew that I -- I just decided, you
12 know, I've got to go ahead, and this has already happened.
13 I've got to go ahead and, and try to cover it up.

14 I wasn't thinking really rationally at the time. I
15 mean, there was so much going through my mind. I just, I
16 thought, you know, I've got to cover it up. I've got to
17 try to make it go away. I ---

18 Q. You were trying to make it go away?

19 A. Trying to make it go away, you know. Just ---

20 Q. How do you feel?

21 A. I ---

22 Q. How do you feel about all that now?

23 A. I'm devastated; I've been devastated for eighteen
24 months. I've cried myself to sleep almost every night and
25 woke up every morning crying. I pray for Monesha's family.

1 Every day, every single day I've prayed for her. I've
2 prayed for her family before I even pray for my mother and
3 my wife and children. I pray for God to heal her family,
4 bring them some comfort and peace.

5 I just, I cry a lot. I've been, I've been extremely
6 suicidal many times. I've been -- and I'm not just saying
7 that. I've truly, truly been on the verge of taking my own
8 life at least five times to where I was just curled up in a
9 ball in the fetal position, you know, in my cell just
10 crying, just...

11 Q. Did you start to see a psychiatrist?

12 A. Yes.

13 Q. Who's that?

14 A. His name is Dr. James Gibbs, Tri-County.

15 Q. Is he here in the courtroom?

16 A. Yes, sir.

17 Q. Is that the gentleman sitting over there?

18 A. It is.

19 Q. All right. I know this is tough for you, but we got
20 some things to cover. This happened back on June 5th. The
21 confession's on July 23rd, and was the event something you
22 just put out of your mind?

23 A. No, sir. I relived it every single day for six weeks.
24 I tried to rationalize something that was totally
25 irrational every single day. I mean, I had to, I had to

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

314

1 wake up and look at, like I said, look at my wife and my
2 daughter, and I had every day in my head was what I had
3 done. And I had to try to act normal around my wife and my
4 daughter and the people that I worked with.

5 Q. But she discovered the wound?

6 A. Yes. Yeah.

7 Q. And you tried to hide it from her in the beginning?

8 A. No, not really. Not, not really I wasn't. We had
9 gotten in an argument on the way home from Florence from
10 the airport and ---

11 Q. Because of the beer bottles?

12 A. Yes, and our daughter was crying and Summer was
13 driving, and I actually turned around and stopped, tried to
14 get our daughter to stop crying, and I, I guess Summer
15 doesn't remember it or whatever, but she hit me right in
16 the side. She hit me real hard in the side.

17 Q. You just pointed to your right side above the belt
18 line. Is that where the wound was?

19 A. Yes, sir.

20 Q. Why did you not go to the hospital?

21 A. It was part of trying to hide everything, you know?
22 Just part of trying to hide everything. I didn't want to
23 draw attention.

24 Q. You tried to hide it from your wife, too, didn't you?

25 A. Yes, sir, I lied, told her a whole bunch of lies.

1 I've never been a good liar either. You know, my lies were
2 just crumbling around me. She was slowly, she was -- the
3 lies were falling apart, you know? I've never ever been a
4 good liar my whole life.

5 Q. In fact, your initial interview with Larry Turner at
6 the Bennettsville Police Department on July 21st, you lied
7 to him?

8 A. Yes, and that was just, just purely out of fear. I, I
9 -- it was on the tip of my tongue that night. I -- when
10 they came and knocked on, on my door that night, that was
11 something that I had envisioned happening that whole six
12 weeks. Like I said, I was living in fear and worry and
13 stress every single day. I -- it happened just like I had
14 pictured it in my head. I knew that there was going to be
15 a knock on my door. I knew it in my heart that one day
16 there was going to be a knock on my door, and I was going
17 to look out there and there were going to be some
18 detectives, and that's exactly how it happened.

19 And probably if you ask Mr. Turner or whoever was with
20 him, I, I bet -- I'm sure I looked like a deer caught in
21 the headlights, you know? I knew as soon as I saw, saw
22 those detectives, I was, like, this is it. You know, it's
23 done. It's out. It's coming out.

24 Q. But you did not confess on July 21st?

25 A. No, sir.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

316

1 Q. Okay. You said that you thought about this day and
2 night during this six weeks. Did you think about the event
3 itself? Did you begin to remember things?

4 A. Yes, I did. I did. The night that everything
5 happened it was, it was all, it was all sort of a blur.
6 But as, as the time progressed, you know, seven or eight
7 days later, I, you know, I started remembering a little
8 better detail. That's when I remembered that, about
9 Monesha saying if you'll just let me go, I won't tell
10 anybody. I didn't, didn't really remember her saying that
11 the night that it happened. But, you know, like I said,
12 after seven or eight days of just dwelling on it and
13 thinking about it every single day, you know, like I said,
14 things started coming back to me a little bit, and that's,
15 that's when I remembered her saying that.

16 Q. All right. So, on July 23rd, you participated in two
17 interviews?

18 A. Yes.

19 Q. The first interview there with -- at the Sumter
20 Sheriff's Office there, was Lieutenant Turner and
21 Investigator Feldner there?

22 A. Yes, sir.

23 Q. And I think we've already had testimony that started
24 out denying on it the 23rd?

25 A. Yes, I did.

1 Q. How long did that go on for?

2 A. Not very long at all. It, it partly happened just
3 like, kind of like Mr. Feldner said. He -- they got me in
4 there, and they asked me a couple questions, and I denied
5 them. And then after a couple questions, Mr. Feldner did
6 say something to the effect of John, you and I both know
7 what happened. I can't remember his exact words, but it
8 was something to that effect, you and I both know what
9 happened. You need to go ahead and just tell us the truth
10 so that Monesha's family, you know, will have, have some
11 closure.

12 And as soon as he said that, I mean, that was all it
13 took. Man, it just -- I had been holding it back for so
14 long, man, it was just like a dam burst inside of me, you
15 know, and it was just -- and he was right. I said -- I
16 remember telling him I need -- this is what I said. I said
17 I need to tell y'all that she's not alive and then I just
18 began to cry, you know? I just begin to cry a lot. I was,
19 I was -- I would call it semi-hysterical almost, you know,
20 just sobbing and crying.

21 Q. So, we were able to watch the second interview on July
22 23rd, which was video recorded, but the first one was not?

23 A. Right.

24 Q. So, in contrast to the one that we did see, you
25 describing your being upset, how does that compare to the

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

318

1 second interview that was video recorded?

2 A. I mean, like I said, I was, I was -- I can only think,
3 the only words I can think of is semi-hysterical. I, I --
4 Lieutenant or Detective Turner, I -- it was to the point
5 where he, he did reach out and hold my hand. He took ahold
6 of my hand, and he actually held my hand for about two good
7 minutes or so, a minute and a half or two minutes, and he
8 was telling me, he was telling me -- he told me, like, two
9 or three times. He said John, it's going to be okay. He
10 said something like you got a long road ahead of you, you
11 know, but you're doing the right thing, and he held my hand
12 for a good two minutes.

13 Also, Lieutenant or Detective Feldner, Shawn Feldner,
14 he's -- we had a pretrial motion, a hearing here back in
15 October about the third week of October, and anybody who
16 can read those transcripts will see that, that he said,
17 sitting right here in this chair ---

18 MR. DANIEL: Objection, Your Honor.

19 THE COURT: Sustained.

20 BY MR. BLAKE:

21 Q. So, again, two different detectives ---

22 A. Excuse me.

23 Q. --- on July 23rd.

24 A. Yes.

25 Q. The first one not videotaped and, of course, we have

1 Investigator Feldner's testimony about what happened there.

2 A. Yes.

3 Q. Okay, and then we have the video recording which was
4 the second one?

5 A. Yes.

6 Q. What happened in between those two interviews?

7 A. I was -- excuse me. I was -- excuse me. I was
8 handcuffed and put into the back of Mr. Feldner's truck.
9 We rode from Sumter to, to -- back to Bennettsville. That
10 was just -- I mean, it was, it was like I was just -- and I
11 took them to, to where I had put Monesha. I took them to
12 the spot where I had taken her. It was, it was a lot of
13 time for me to sit back there and reflect and then just,
14 you know, between the first interview and the second
15 interview, so, so many things were going through my head.

16 I mean, my life was over at that point. In my head my
17 life was over. My wife and daughter, you know, my wife was
18 going to be devastated. I was thinking -- so much was
19 going through my head. Again, my church family, you know,
20 the people that I cared about, I thought about what they --
21 you know, just so many things were going through my head.

22 Q. So, do you have any idea of the time frame between the
23 interview in Sumter and the second videotaped interview
24 here in Marlboro County?

25 A. I mean, you know, two and a half hours, maybe two

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

320

1 hours and fifteen minutes, two hours and thirty minutes
2 maybe.

3 Q. Going back to that first interview on July 23rd, you
4 said you were very upset. I think the word was
5 semi-hysterical or something?

6 A. I would, I would say so.

7 Q. Okay.

8 A. I would have said so.

9 Q. Was the content of what you said in the first
10 interview, did it change in the second interview?

11 A. No, it's never changed.

12 Q. Can we rely on what you said in the second interview?

13 A. Yeah.

14 Q. On July 23rd?

15 A. Yes, sir. I mean, we ---

16 Q. You acknowledge you lied on July 21st?

17 A. Yes.

18 Q. Still covering up?

19 A. Yes.

20 Q. In fact, you were still covering up at the beginning
21 of the first interview on July 23rd, correct?

22 A. Yes, sir.

23 Q. On July 21st, the videotape with the police, you did
24 not tell them the truth?

25 A. No, sir.

1 Q. At the beginning of the initial interview on July
2 23rd, you did not tell them the truth until Investigator
3 Feldner confronted you?

4 A. Yes, sir.

5 Q. At which point, I think you said that the dam broke or
6 something. Okay, but the content of what you said in the
7 first interview on July 23rd and the second interview is
8 pretty much the same?

9 A. Probably, probably almost, you know, almost exactly.
10 I'm sure I -- you know, a little bit of the first
11 interview, I was crying so much and things were just coming
12 out, you know? I can't remember exactly what I, exactly,
13 exactly what I said the first interview. But it -- I -- it
14 was definitely very similar to, to, to what I said in the
15 second interview.

16 Q. So, the second interview is accurate?

17 A. Yes.

18 Q. Now, what was your state or mood when you did the
19 second interview, the one that was recorded?

20 A. It's just, it was, like I said, it was all over. I
21 mean it, it was out -- the moment that I, the moment that
22 it came out there was a, there was the -- there was a
23 feeling of relief at, at ---

24 Q. You talking about that first interview now?

25 A. Yeah, when it first came out, and -- but immediately,

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

322

1 immediately after that feeling of relief, I took on a whole
2 new burden, you know, immediately, and it even felt like
3 an, you know, an even heavier -- at least as heavy. You
4 know, it was ---

5 Q. I'm really asking questions about the second
6 interview:

7 A. Yeah.

8 Q. What was your mood like in the second interview?

9 A. I was ---

10 Q. How were you doing at that point?

11 A. I was not doing well at all. I was, I was -- it was
12 all I could do just to go through that interview. I, I did
13 it because I wanted to cooperate. I was doing what the
14 detectives asked me to do. It was very hard for me. It
15 was almost like I had to, I had to force myself to go
16 through it. It was like I was, almost like I was, I was
17 just withdrawing inside of myself, and it was just like I
18 wasn't really even there. I was sitting there and I was
19 telling them what happened, but ---

20 Q. Had that day been exhausting for you?

21 A. Very much so. Very much so.

22 Q. Why is that?

23 A. Man, six, six weeks. I mean, the -- what happened
24 was, was the most, the terrible most, the terrible thing,
25 you know, a person could ever experience that night, and

1 then from covering it up and living that six weeks thinking
2 about it every day, and then for it to come out, finally
3 come out like I knew it was going to come out. I knew -- I
4 had no doubt in my mind that it was going to eventually
5 come out, you know, and I just, I was in shock sort of.
6 It's just -- it was, it was, it was hard. It was hard to
7 sit there and, and go over it another time, you know, with
8 them ---

9 Q. Okay.

10 A. --- after.

11 Q. So, basically, as I understand it, three interviews
12 with the police. Again, July 21st recorded. You're
13 covering up. Beginning of July 23rd, the first interview,
14 you're covering up. And how long did it take for you
15 actually to tell the truth there in that first interview on
16 July 23rd?

17 A. Oh, man, it was, it was real quick, Dan. Shoot, I
18 would say less than five minutes, you know? Three or four
19 minutes. Maybe they asked me a couple of questions, two or
20 three questions and I, I lied. And immediately, I mean,
21 everybody just got quiet, and that's when Mr. Feldner said
22 what he said, and when he said what he said, that just ---

23 Q. All right. Well, in that -- both of those interviews
24 on July 23rd, you were describing what happened that night.

25 A. Yes, sir.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

324

1 Q. And I think it was, you just told us you spent those
2 six weeks thinking about it?

3 A. Yes, every single day. Night and day.

4 Q. And I believe you said you began to remember more
5 after about seven or eight days?

6 A. Yeah. Yes.

7 Q. Okay, but let's now go back to -- I think I'd like to
8 start and not take a lot of time, but your wife left and
9 went to California?

10 A. Yes.

11 Q. Okay, and during that time frame, were you working?

12 A. Yes.

13 Q. Okay, and what happened -- what were you doing at
14 night?

15 A. Drinking and ---

16 Q. She said two bags of beer bottles?

17 A. Yeah.

18 Q. A lot of ---

19 A. A lot of beer.

20 Q. --- beer?

21 A. Yes, sir. Yeah, and I, I -- the night she left, you
22 know, Sunday night or Sunday -- she left Sunday morning and
23 that night I, I got drunk and I went looking for some crack
24 that very same night, you know?

25 Q. Let me, let me jump in here just to clarify some.

1 Your wife didn't remember exactly those dates. So, this
2 happened on June the 5th?

3 A. Yes.

4 Q. When did she return?

5 A. Tuesday. It was a Tuesday, June the 8th, three days.

6 Q. Okay. That was June the 8th that you picked her up at
7 the airport?

8 A. Yes, sir.

9 Q. And what time?

10 A. I'd say 9:30.

11 Q. In the evening?

12 A. In the evening, yes, p.m.

13 Q. And -- okay, and this happened. Now, these things are
14 always complicated to talk about the date because they're
15 often happening around the midnight hour. So, was it June
16 4th to 5th, or June 5th to 6th?

17 A. Let's see. Tuesday was an 8th. Tuesday, 7th.
18 Monday, 6th. Sunday. It was the night that, that -- when
19 everything happened was the Saturday night of June the 4th.

20 Q. So, June the 4th to ---

21 A. To the morning hours of the 5th.

22 Q. --- the morning hours of the 5th?

23 A. Yes, sir.

24 Q. Okay. So, it was essentially you're saying Saturday
25 night?

1 A. Yes, sir.

2 Q. And your roommate, he -- just describe that situation.
3 Where did he stay in the trailer?

4 A. To the very opposite end of the trailer. There was
5 another bedroom and a small bathroom that he -- well, that
6 was his end, his end of the trailer, and we had our end of
7 the trailer, you know, and we shared the kitchen and the
8 living room.

9 Q. Okay.

10 A. They were at opposite ends of the trailer.

11 Q. And he came back on Sunday night?

12 A. Yes, sir.

13 Q. All right. So, again, you had essentially Sunday day
14 to clean up and dispose of the body itself?

15 A. Yes, sir.

16 Q. And your wife came home, you said, Tuesday night the
17 8th?

18 A. Yes, sir.

19 Q. So, you had one day in between that?

20 A. Yes.

21 Q. Okay. All right. I'm sorry. I just wanted to kind
22 of try and clarify that a little bit. So, your wife came
23 back on the 8th, and you said she left when?

24 A. Ten days prior to that. It was in the end of July.

25 It was whatever that holiday is. Is it ---

1 Q. Not in July. This is ---

2 A. I mean, I mean, not July. I mean, May, June, whatever
3 the holiday is the end of June. Is it Labor Day or is it
4 Memorial Day? It was that. ---

5 Q. Memorial Day at the end of May.

6 A. Yeah, I believe it was that weekend that she, that she
7 -- it was that weekend that she left on a Sunday because I
8 was off that next Monday. It was, I think, you know, we
9 were off on Memorial Day.

10 Q. Okay. Just move along here. So, you're off the
11 Monday and then you went to work on Tuesday?

12 A. Yes, sir.

13 Q. Okay. You dropped her off what time Sunday night?

14 A. At -- it was Sunday morning early.

15 Q. Sunday morning early?

16 A. Yeah, like 4:30 a.m.

17 Q. Okay. So, you had essentially Sunday and Monday
18 before you went back to work?

19 A. Yes.

20 Q. What did you do with that time?

21 A. I dropped her off and I drove home, and I went to
22 church and immediately after leaving church, I'd already
23 made up my mind that I was going to go get a case of beer.
24 I was by myself and I, you know, I just, I just thought,
25 you know, hey, she's gone. I'm going to have a little

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

328

1 relief or whatever. I've been working hard.

2 I -- the, the -- I left church and I drove to, to
3 Rockingham and got a case of beer because you can't buy
4 beer here on Sunday, and I drove home and started drinking
5 that same day.

6 Q. I'm not familiar with it, but is -- I'm older and when
7 I think of beer, I think of a six pack. But what's the
8 number that you're talking about when you say a case or
9 whatever?

10 A. Twenty-four.

11 Q. Twenty-four?

12 A. Yes.

13 Q. And I understand, from what your wife said, they were
14 bottles?

15 A. Yeah. I used to prefer to it out of the bottle.

16 Q. Okay. So, you had twenty-four. How many did you have
17 that, that day?

18 A. Twelve, fourteen maybe. Good half a case. Fourteen,
19 twelve, thirteen, fourteen beers.

20 Q. And you said something about trying to get some crack?

21 A. Yeah. I had driven -- yeah, I had driven -- I drove
22 into the, to that same neighborhood, you know, where I met
23 Casey and Monesha, and I didn't see Casey and Monesha that
24 night. There were a bunch of people, and nobody would
25 really -- nobody really trusted me. They were, they were

1 all on, on the porch of this orange house over across from
2 the trailer. And I sat there and I was trying to, you
3 know, get them to trust me, and they -- seemed like
4 everywhere I've ever been people, people think I'm a cop.
5 You know, every time I've ever been to score crack, people
6 think I'm a cop. But -- so, nobody would trust me.

7 So, I sit there on this lady's porch for a little
8 while. I just, I told them who I was. That's how
9 everybody knew who I was. I told them who I was. I told
10 them, you know, I am a construction worker from Texas. You
11 know, I just want to get high. You know, come on, somebody
12 get me some dope, you know, and finally this ---

13 Q. You ---

14 A. Sir?

15 Q. At that point, you had how many beers?

16 A. About twelve, fourteen. Twelve to fourteen, yeah.

17 Q. Shouldn't have been driving, should you?

18 A. No, not at all. I was very, very -- I was drunk.

19 Q. Okay. So, you're on the porch. Go ahead.

20 A. And finally, after sitting there about six or seven
21 minutes just trying to get somebody to trust me, this young
22 man came up on a bicycle and he was, like ---

23 Q. Was this Casey McCall?

24 A. No. No, I didn't see Casey or Monesha that night. I
25 never saw Casey and Monesha until the night that everything

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

330

1 happened.

2 Q. Did you talk to Casey know before the night that all
3 this occurred?

4 A. Never. Never saw her. Never.

5 Q. But you were down in that neighborhood how many times
6 during that, I guess, this was a week?

7 A. Dan, I'm trying to say Sunday, Tuesday, Wednesday. I
8 -- four or five times.

9 Q. Okay. Well, you had Sunday and Monday off, and Sunday
10 night you were down there. Did you get any crack?

11 A. No. The young man on the bicycle came up and he, he
12 said I, I can get it for you. He said but I got to have
13 your money and, of course I, I, you know, I've had problems
14 with crack off and on my whole life. I was, like, no, man.
15 I'm not going to give you my money. You know, I'm, you
16 know ---

17 Q. Been down that road before?

18 A. Yeah, and we, we tussled back and forth, you know?

19 Q. In ---

20 A. In conversation.

21 Q. Verbally?

22 A. Verbally. Yes, it was, like, no, man. I'm not going
23 to give you my money. He was, like, man, I got to have the
24 money if you want the dope and I was, like, no, man. He
25 was, like, I've got -- and finally my, my want to get high

1 overrode my want to hang on to my money, and I gave the
2 young man my money, and he rode off on his bicycle. It was
3 \$200. He rode off on his bicycle and didn't come back, you
4 know?

5 I sat there for about ten minutes and after about,
6 about five minutes I knew what had happened, and I told
7 everybody on his porch. I was, like, he ain't coming back,
8 is he, and they were all just kind of, you know, hung their
9 head and just, you know -- and I sit there about another
10 five minutes waiting on him and just hoping beyond hope
11 that he would come back, and he didn't.

12 Q. Didn't, didn't that tell you something right there?

13 A. Yeah, that should have told me something, Dan, yeah.
14 I, I know that was God reaching out to me telling me man,
15 what are you doing, you know? What are you doing?

16 Q. So, that was Sunday?

17 A. Right. Yeah. Yes.

18 Q. And then you had Monday off also?

19 A. Yes.

20 Q. What did you do on Monday?

21 A. Stayed at home and licked my wounds. I don't -- I
22 didn't even ---

23 Q. That's Monday after your wife left?

24 A. Yes. Yes.

25 Q. You tried to get some crack on Sunday night?

1 A. Yes.

2 Q. Drank the beer ---

3 A. Yes.

4 Q. --- Sunday?

5 A. Yes, got ripped off.

6 Q. So, you didn't, didn't do much that Monday?

7 A. No.

8 Q. Did you go back in that neighborhood Monday?

9 A. No.

10 Q. If you don't remember, just tell us.

11 A. No, I, I -- no, I don't believe I did. I'm, I'm
12 fairly certain that I stayed home all day. I was ashamed
13 of what I had done. I was sort of hung over. I hadn't
14 drank that much beer in a while. I just kind of laid on my
15 couch, like I said, just kind of ashamed of myself.

16 Q. Okay. So, Tuesday comes and you got work?

17 A. Yes.

18 Q. Okay, and where is that exactly? Where was that?

19 A. It's outside of Hamlet up in North Carolina. Progress
20 Energy.

21 Q. Were you doing a shut down?

22 A. No, sir, it was a new construction job. We were
23 building two Hersee boilers.

24 Q. Two what?

25 A. They're heat recovery steam generator boilers. They

1 call them Hersee.

2 Q. How big are those things?

3 A. They're, they're pretty big. They're, from the ground
4 up, they're probably about a 110 feet, you know, and ---

5 Q. Were you doing it on site?

6 A. Yes.

7 Q. Okay. You come back. What time did you get back from
8 work?

9 A. I can't remember if we were getting off at 5:00 or
10 5:30 then. 5:00 or 5:30 I got off of work that afternoon.

11 Q. What did you do when you got off of work?

12 A. Went straight to the store and got a six pack of beer.

13 Q. Did you drink it?

14 A. Of course.

15 Q. So, what had happened on the 24th?

16 A. They were at home. They were at home in the
17 refrigerator. There was about ten left, ten or eleven of
18 them left.

19 Q. Okay. So, what did you do that night?

20 A. I drank that six pack, went home, drank me a couple
21 more and got a buzz, and I went back into Bennettsville to
22 purchase some crack.

23 Q. You were able to purchase crack that night?

24 A. Yes.

25 Q. Same neighborhood?

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

334

1 A. Yes.

2 Q. That's a drug hot spot?

3 A. Yes.

4 Q. Okay. So, how much crack did you get that night?

5 A. I can't remember the exact amount, Dan. It was, it
6 was probably -- I -- sometimes I would try -- I would tell
7 myself that I'm just going to buy a little bit, you know,
8 and that's all I'm going to do. So, I think I started out
9 that night. Like, I purchased, like, maybe \$40 worth and
10 then went home and smoked that real fast and then went back
11 into, back into town.

12 Q. Back in the same -- on Tuesday night went back in
13 again?

14 A. Yeah.

15 Q. And how far is that from where you were staying out
16 towards Polk River there down into the Jennings Street
17 area? Any idea how long it takes?

18 A. Oh, I mean, it's just a few minutes.

19 Q. More than a few minutes?

20 A. I mean, it's -- excuse me.

21 Q. Do you have any idea how many miles it was?

22 A. Dan, I'm not even going to try to guesstimate. Five
23 miles, eight miles, I don't know.

24 Q. You didn't really care?

25 A. No.

1 Q. Is that correct?

2 A. Yes.

3 Q. So, you went there two times on Tuesday night. Is
4 that correct?

5 A. Yes.

6 Q. At any time, did you -- do you remember seeing Casey
7 or Monesha?

8 A. Never.

9 Q. Did you talk to either of them?

10 A. Never.

11 Q. All right. The next day you're back at work?

12 A. Yes.

13 Q. Okay, and that Wednesday night, what did you do?

14 A. I went to church. I didn't want to go to church. I
15 called Summer and told her I wasn't feeling good. She
16 called me. I told her I wasn't feeling good. I told her I
17 thought I was just going to skip out of church. She got on
18 me. She was, like, you know, you better go to church, you
19 know?

20 Q. So ---

21 A. Sorry.

22 Q. So, you went to church Wednesday night. Was that it?

23 A. I, I drank some beer after I got out of church. I
24 drank some beer.

25 Q. You didn't go back down to Jennings Street that night?

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

336

1 A. I don't think so, Dan.

2 Q. Thursday night or Thursday day you worked?

3 A. Yes.

4 Q. Thursday night, any idea, idea around when you got
5 off?

6 A. I got off -- that was pay day.

7 Q. Okay.

8 A. I got off of work and I drove into Rockingham. Again,
9 Summer called me and told me, you know, to get the rent
10 money at -- you know, the rent was due. She told me I
11 needed to pay the rent and the cell phone bill. So, I got
12 off of work and I drove into Rockingham, and I withdrew
13 \$900.

14 Q. So, this was around the first of June?

15 A. I suppose ---

16 Q. Around some ---

17 A. Thursday. It was that Thursday.

18 Q. You withdrew \$900?

19 A. Yeah.

20 Q. Is that from the ATM?

21 A. No, drive-through at the bank.

22 Q. Okay. Did you pay those bills?

23 A. I -- later on that week I, I got a -- this Saturday
24 that everything happened, I had drove into Bennettsville
25 and got a money order for the rent. I had spent the money

1 for the cell phone bill, but I, I made sure that I got the
2 receipt -- I mean, the money order for the rent.

3 Q. So, you got the rent paid?

4 A. That ---

5 Q. Got a money order?

6 A. Well, I got the money order. That was, that was
7 Saturday, though. That wasn't Thursday.

8 Q. Right, and you didn't have any idea how much the cell
9 phone bill was?

10 A. A hundred, a \$140 or something.

11 Q. But you did not pay that?

12 A. No.

13 Q. Okay. So, we're on Thursday. This is Thursday night
14 when you cashed your pay check and you said you got \$900?

15 A. Yeah.

16 Q. Okay. What did you do with the rest of Thursday
17 night?

18 A. Well, right after I got the \$900, I was -- I, you
19 know, I -- after going to church Wednesday night I, I had
20 told myself that I wasn't going to get anymore crack, that
21 I was done smoking crack, you know, and -- but I, I don't
22 know. I was just, I was feeling kind of -- I was feeling
23 better that afternoon. I was feeling kind of happy and
24 happier than I had the whole week, and I stopped -- I mean,
25 immediately after I got the \$900, again I stopped at the

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

338

1 store and got a six pack of beer. Started drinking again.

2 Q. Did you go into Bennettsville that day, that night?

3 A. Well, I know I keep talking about the church, but the
4 church was having a barbecue. They were cooking barbecue
5 and having a sale. My intention was to go to the church
6 and help them that night and I -- but I started drinking,
7 and I stopped at this station, this gas station. I don't
8 remember if I -- it wasn't on, wasn't on Highway 1. It
9 was, it was -- it's right outside of Bennettsville and I
10 guess kind of outside of Wallace. It's just a gas station
11 out there in between Rockingham and Bennettsville, and I
12 was already drinking.

13 And when I pulled up at that station, it was a crazy
14 coincidence, but one of the men that I had bought crack
15 with -- from was actually at that station getting gas, and
16 I had already drank, like, four beers. Already had a
17 little buzz, and as soon as I saw him, he was, like, oh,
18 man. I got some good stuff, you know? Got -- man, I got
19 the good stuff. Like I said, I already had me a little
20 buzz, man. So, I was like, yo, man, give me a \$100, you
21 know?

22 Q. You keep describing drinking beer and then going and
23 getting crack.

24 A. Yeah.

25 Q. Is that sort of how it works?

1 A. That's how it's worked my whole life, Dan. It always
2 -- you know, I've had substance, substance abuse problems
3 since I was twelve years old, you know?

4 Q. All right.

5 A. Off and on.

6 Q. Got you. Talking about Friday night now or Friday day
7 you went to work. Is that right or not?

8 A. Friday day, yes, I went to work.

9 Q. Okay. Friday night.

10 A. Drinking. Drinking. I smoked a little bit of crack
11 Friday. Oh, no, no, that -- no, I didn't. That ---

12 Q. It's hard to tell?

13 A. No, I know what I did. It just, I mean, it just
14 sounds so crazy, you know, me sitting here talking about
15 smoking crack.

16 Q. Well, you're telling the truth.

17 A. Friday ---

18 Q. So, tell me what happened ---

19 A. Friday. ---

20 Q. --- on Friday night.

21 A. I was, I was scheduled to go inside Kershaw prison.

22 Q. Did you go?

23 A. Yeah, I was, I was -- I was asked to start doing a
24 prison ministry with a man named John Gordon from our
25 church, and ---

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

340

1 Q. All right. So, Friday night you go to Kershaw prison
2 and ---

3 A. Share my testimony with the men.

4 Q. --- you gave that testimony and that testimony was
5 about what?

6 A. My, my gettingt ---

7 Q. Your recovery?

8 A. Yeah, yeah, my, my, my -- I mean, just when I gave my
9 life to the Lord in April of 2007 it, it was just -- it
10 was, it was, like, an amazing event. I mean, it was a
11 powerful. I just have a powerful testimony.

12 Q. I don't want to go into all that.

13 A. No.

14 Q. I just want to know ---

15 A. Yeah.

16 Q. --- about Friday night at Kershaw prison.

17 A. That's it.

18 Q. Did you speak to the men there?

19 A. Yes, I did.

20 Q. Okay. Did you tell them it was all better?

21 A. Yes.

22 Q. Okay, but that was actually in the middle of a crack
23 rave, correct?

24 A. Yes, sir.

25 Q. Okay. Did you go and get any crack that Friday night?

1 A. No, I went home.

2 Q. All right. Saturday, were you working?

3 A. No.

4 Q. Didn't work?

5 A. No.

6 Q. Okay. What time you get up Saturday?

7 A. Summer called me about, about 10:30. I was laying --
8 I was asleep on the couch.

9 Q. Okay.

10 A. Sir?

11 Q. So, she called you at 10:30 and ---

12 A. Yes.

13 Q. And briefly just tell us about the day.

14 A. She asked me if I had gotten the money order for the
15 rent, and I said no and ---

16 Q. Did you hear about it?

17 A. Of course, yeah. You need to go do that, and I told
18 her okay, you know, okay, I'll go get it.

19 Q. Did you?

20 A. Yeah.

21 Q. Okay. All right. So, that, that took you to downtown
22 Bennettsville. Where did you get the money order?

23 A. I think it's an Exxon station over across from Bi-Lo
24 where all Walgreen's and the Huddle House and all that is.

25 Q. Okay. So, what happened the rest of the day there

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

342

1 from that point on?

2 A. I got the money order receipt, and I really wasn't
3 planning on drinking that day, and I went to Bi-Lo to get
4 something for dinner, and I was walking by the beer cooler
5 and I just happened to look over and, you know, it was an
6 eighteen pack of Bud Lite that was on sale for \$11. And,
7 so ---

8 Q. So, you bought the beer?

9 A. I bought the beer, yes.

10 Q. Bought the beer and you said that was an eighteen
11 pack?

12 A. Yes.

13 Q. All right. You took it home?

14 A. Yes.

15 Q. What did you do with it?

16 A. Started drinking it.

17 Q. How many did you drink?

18 A. Eight, or nine, ten.

19 Q. What kind of time frame? When did you start? When
20 did you stop?

21 A. 12:30 that afternoon. 6:30 or 7:00 that evening.
22 6:30, 7:00.

23 Q. Okay. Where did you go after that?

24 A. In Bennettsville to get some crack.

25 Q. Okay. Did you get some?

1 A. Yes. That was when I met Casey and Monesha.

2 Q. Okay. That was the Jennings Street area, Amelia
3 Street, and you had drove in to Bennettsville. You just
4 had one vehicle, right?

5 A. Yes.

6 Q. So, you drove in there with your truck?

7 A. Yes, sir.

8 Q. Okay, but you'd already been in that neighborhood with
9 your truck before?

10 A. Yes, several times.

11 Q. Okay, and I think you actually said that first night.
12 Was that Sunday night was the first night that you went to
13 Jennings Street?

14 A. Yes, sir.

15 Q. Is that when you sat on the porch?

16 A. Yes.

17 Q. How long were you on the porch?

18 A. Like I said, about ten or twelve minutes, fifteen
19 minutes tops.

20 Q. And then five minutes or whatever time you dealt with
21 the guy that got your money?

22 A. Yes.

23 Q. Okay. So, I'm sorry. What time did you drive down
24 there again on Saturday night more or less?

25 A. It was that evening. It was getting on close to dark,

1 you know, 7:45, 8:00.

2 Q. Okay, and you had had eight or nine beers I think you
3 just said?

4 A. Yes.

5 Q. At one time?

6 A. Yeah.

7 Q. All right. So, you pull up in neighborhood, and,
8 again, just to make sure. We talked about this several
9 times, but had you met Casey before?

10 A. Never.

11 Q. Had you spoken to Casey before?

12 A. Never saw him in my life, Dan.

13 Q. Why hadn't you -- did you notice him in that
14 neighborhood or ---

15 A. No.

16 Q. Hadn't noticed him?

17 A. No.

18 Q. Don't know if you -- did you know if he was there or
19 not?

20 A. No. I've never, never seen him. Never noticed him.
21 Never saw his face before. Never talked to him.

22 Q. Had not talked to him?

23 A. No, nothing.

24 Q. How about Monesha?

25 A. No, I'd never seen her ever.

1 Q. Why were you down in that neighborhood on that
2 evening, that Saturday night?

3 A. Get some more crack.

4 Q. Give some more money away. So, you're there and
5 you're saying it's around close to dark I think you said?

6 A. It's getting on, yeah.

7 Q. Okay. So, tell us what happened from there.

8 A. Well, I mean, it's kind of odd looking back on it.
9 After hearing what I heard yesterday, it was pretty much as
10 soon as -- I mean, as soon as my truck stopped, it was a
11 group of guys come around the truck. Casey was one of
12 them, and immediately he just jumped into my passenger
13 side. He said yo, man, what you need.

14 Q. Did you have a conversation before?

15 A. No, not at all.

16 Q. Did you -- so, you stopped?

17 A. Yes.

18 Q. And he's in your front seat?

19 A. Yes. Well, almost immediately.

20 Q. Okay. Then he said what do you need?

21 A. Yes.

22 Q. What happened next?

23 A. I was talking to him and, I mean, six or eight seconds
24 after he jumped in, I mean, it was almost right after he
25 jumped in Monesha came and jumped in the back seat behind

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

346

1 me. And as soon as she jumped in, immediately I turned
2 around and I told her, I said hey. I said I don't need any
3 company; I said I don't want any company. I said you need
4 to get out, and Casey said no, no, man, she's with me.
5 Man, she's with me. She's cool. And when he said that, I
6 just went back to dealing with him and left her alone in
7 the back seat.

8 Q. You're telling this in more detail than you did on the
9 confession of July 23rd of the videotape.

10 A. Oh, yeah.

11 Q. How's that?

12 A. I mean, I've had eighteen months to sit. I'm not as
13 upset. I mean, I'm still upset over it, but I'm not in the
14 same state, frame of mind I was that day that all that
15 happened, that everything came out. I'm not in the same
16 frame of mind at all.

17 Q. Well ---

18 A. That day, that day that everything came out was just a
19 devastating day. I wasn't, I wasn't, wasn't myself at all,
20 you know?

21 Q. Were you trying to hide anything on July 23rd?

22 A. Nothing. Nothing. If there was anything, I was very
23 honest. I was very, very, very honest, very open, very
24 candid. I wanted to tell somebody. I had wanted to tell
25 somebody for six weeks every day.

1 Q. So, you kind of, you told them, but didn't have every
2 -- all the details of it?

3 A. No. There was, there was one, one detail that I had
4 heard actually in a confession that, that wasn't, wasn't
5 right. It was the only thing I heard that wasn't exactly
6 right.

7 Q. What was that?

8 A. It's toward the end of the confession when Mr. Feldner
9 asked me, or I don't remember if it was Larry or Mr.
10 Feldner asked me how much crack I had got that night, and I
11 said something about the first 40. I had forgotten about
12 the first \$40, and I said that I got it before I started
13 dealing with Casey. But actually, Casey got, actually got
14 me that \$40 that night. Casey got me ---

15 Q. Did you do a deal with him so he could get some money?

16 A. No, I didn't tell him that.

17 Q. You say -- I don't know how long you've had a crack
18 addiction, but you've had a lot of history with interacting
19 with people selling it?

20 A. Yes.

21 Q. And I guess sometimes they kind of, you give them the
22 money, they go get it, or something like that?

23 A. Yeah.

24 Q. Okay. So, were you in the habit of doing what you did
25 that first Sunday night, giving him money and ---

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

348

1 A. Like, yeah. I've been ripped off quite a few times.
2 I mean, like I said, I, I've never really been, been
3 trusted, you know? I'm -- when I come into the
4 neighborhood, I have, I have to -- it ends up being me
5 having to, you know, ending up trusting somebody, you know?
6 Just anybody who will go finally decide to trust me enough
7 to go get the dope for me.

8 Q. So, when you had that initial conversation with Casey,
9 how did that -- what was how -- did that go? I mean, sort
10 of ---

11 A. It was just really quick. He said, he said what do
12 you need, you know, and I said man, I'm looking for some
13 hard -- that's what they call crack. They call it hard.
14 Powder, they call it soft. And he said how much. And I
15 said man, 40. I said man, can you get me 40. He said
16 yeah, man, give me your money, man, and I handed him the
17 money and ---

18 Q. How much did you hand him?

19 A. \$40.

20 Q. Not 70?

21 A. 70? No, no, 40. And the men, I guess the men that,
22 that were with him were the crack dealers. Like I said,
23 there was three, three more of them that came up with Casey
24 on this side of my truck, and then there was a couple, two
25 more on the front of my truck. But when I gave Casey the

1 \$40, a couple of those men came around and he just opened
2 the door and he leaned out and, you know, got the crack.

3 Q. Okay.

4 A. Gave it to me.

5 Q. So, at this point it's you, Monesha, and Casey?

6 A. Yes, sir.

7 Q. All three in the truck?

8 A. Yes, sir.

9 Q. What do you do? Where do you go?

10 A. I mean, immediately I want to hit a crack. You know,
11 as soon as I get it, I'm already fiending for it and I just
12 started driving, you know? I started driving with my knee
13 at first and I opened one of the bags, baggies, and put a
14 piece of crack on my pipe and I, I hit my pipe, you know,
15 just going down the road, you know, and ---

16 Q. Were you the only one smoking?

17 A. No, all three of us were. I shared, I shared with
18 all, shared with both of them.

19 Q. All three of you were smoking crack?

20 A. Yeah. We were all using my pipe.

21 Q. Is that how that works, you use a pipe?

22 A. Yes.

23 Q. So, what, what does it look -- is it like to smoke
24 tobacco in or what?

25 A. No. It's straight, long, glass. Just one straight

JOHN LEE HOGAN, - DIRECT EXAMINATION BY MR. BLAKE

350

1 piece of glass and you put, put brillo in it, set the crack
2 on the brillo. They call it a stem.

3 Q. A stem?

4 A. Uh-huh.

5 Q. And you used what, a lighter or something?

6 A. Yes, sir.

7 Q. Okay. So, you get the 40 there on Jennings Street
8 with the crack. You're driving. Do you have any idea
9 where?

10 A. No, I don't have any idea. I just went up to the end
11 of the block and took a right and ---

12 Q. How long did it take you to dispose of the first, that
13 \$40 of crack?

14 A. It didn't take very long at all, Dan. I mean, time
15 was kind of it -- it was, it was really beginning to get,
16 to get dark. By that time it was getting, starting to
17 really -- the sun was starting to really go down.

18 Q. So, Casey's in the front seat, Monesha's in the back
19 seat?

20 A. Yeah.

21 Q. Where do you go next?

22 A. I asked Casey if he could get some more and he said
23 yeah. He directed me out to Lake Paul Wallace, and we went
24 out there. I gave him \$80. Monesha and I sat in the
25 truck, waited, and he went -- there were a bunch of cars

1 out there, people fishing and stuff, and it took him five
2 or six minutes, you know? It took him, it seemed like it
3 took him forever, but ---

4 Q. You thought maybe he'd run off with your money?

5 A. No, I knew he hadn't. I'm, I'm pretty certain he
6 hadn't run off, but I was, I was ready to do another hit,
7 you know, and he, he finally came back. He, he kind of
8 ripped me off a little bit. He -- I gave him \$80 and he
9 really only brought me back, like, about \$40 worth in a
10 cellophane, but I didn't say anything at all. You know, I
11 was high. I was just wanting to do another hit. So, I
12 mean...

13 Q. You hadn't made a deal with him for him to get your 40
14 and then he keep 40?

15 A. No.

16 Q. He was supposed to go get \$80 worth of drugs?

17 A. Yeah.

18 Q. I think you said he came back with about 40?

19 A. Yes.

20 Q. And you just sort of know that through experience?

21 A. Yes.

22 Q. Okay, and did you all three smoke the crack then?

23 A. Yes. Again, like I said, I was wanting a hit real
24 bad, and Casey, that was one thing that Casey said that was
25 true. I was wanting to hit it going down the road, and,

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

352

1 you know, I was a little paranoid. He was real paranoid,
2 and he directed me back to the neighborhood not too far ---

3 Q. Casey's, Casey's smoking at this time?

4 A. No, he, he. He was, he was pretty adamant about man,
5 man, put it down, you know, the cops will see, you know?

6 And so I, I listened to him. I mean, he was right. He was
7 right, you know, and I ended up listening to him, and I
8 just held on to the pipe and the crack, and he directed me
9 back to the neighborhood not too far from, from the
10 trailers.

11 Probably three or four blocks from the trailers,
12 there's a, there's a little bitty white abandoned house.
13 Like the trees in the yard is all grown up real high around
14 it. It's got a little drive, driveway that goes right
15 beside the house, and he directed me in there and I went --
16 I drove up all the way kind of like into the little -- the
17 woods were kind of around us, the yard and all, and we
18 parked right there and started smoking again.

19 Q. That's we?

20 A. Yes.

21 Q. All three of you?

22 A. Yes.

23 Q. Okay. Any idea how long you were in that yard smoking
24 crack?

25 A. I have no idea, man.

1 Q. Well ---

2 A. I guess it's like \$40 worth of dope. We took maybe
3 twenty, twenty minutes, twenty-five minutes, thirty minutes
4 tops to, to smoke all that, you know, pretty much all that.
5 You know, we just sitting there smoking and talking. Yeah,
6 and at that time Monesha did, you know, make some sexual
7 over, overtures, you know, to me and Casey both. She at
8 one point, you know, she kind of put her leg up on the
9 seat, told Casey, you know, she said Casey, I want y'all
10 both to, you know, sleep with me, and I was just kind of
11 shocked a little bit.

12 I, I just kind of looked over at Casey, like, kind of
13 chuckled or whatever. I just kind of looked at him, kind
14 of smiled and chuckled, and he didn't say anything, and I
15 didn't say anything. She didn't say anything else, you
16 know? She put her leg back down and, and I did a couple
17 more hits, you know? There was probably a couple -- you
18 know, I probably took another hit, and maybe Casey took
19 another hit, and that was about it with the dope.

20 And I asked him then -- we were out again. I asked
21 him if he could get me a \$100 worth, and he said no, man.
22 He said no. He said man, I got some stuff I got to go take
23 care of, and he got out of the pickup right there.

24 And Monesha got, she, Monesha said well, I know a
25 couple places we might could get some. She crawled in the

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

354

1 front. She got around and got in the front, and ---

2 Q. I think you might need to speak up a little bit for
3 the court reporter.

4 A. Okay. Sorry. So, she said, she said she knew a
5 couple of places to go, and we went to those couple of
6 places and they wouldn't sell it to her. Again because of
7 me. And so, I decided to drive right back to that, that
8 spot, that trailer. That seemed to be where everything
9 went on. There was a lot of people always around that
10 trailer, and I had seen, I had seen this other addict.
11 When we pulled up, I saw this other addict that had, had
12 gotten me some dope earlier in that week, and I asked him
13 -- well, he, he didn't get it for me, but he went, he went
14 and brought another guy out and that guy had the dope, and
15 I asked him. I said, yo, man, where's that dude, dude you
16 were with the other day? And I said man, if you go find
17 him, I said, man, if you can get me a \$100 worth, I said
18 I'll give, I'll give you a \$20 bill, you know, if you can
19 go find this guy or get me some dope.

20 And so immediately -- he was an addict, too.

21 Immediately he went, went and found this same guy, and they
22 both got in the back of the truck, back seat of the truck,
23 and we drove up to the end of the block. We take a left
24 and go, go right up to whatever that is y'all call the
25 bypass or whatever, 15, 401 or whatever. There's a little

1 apartment, a little apartment ---

2 Q. Okay. That's fine. Just keep moving.

3 A. --- complex there and we -- he got out and went in
4 and got the dope, and he came out and got back in the
5 truck. And the other guy was like hey, where's my \$20, and
6 I gave him his \$20, and I drove him back down the block and
7 a half or so to where I had picked him up, and they got
8 out, and I -- Monesha, I said, hey -- it was getting late.
9 It was dark by then, and I told Monesha. I said, man, I'm
10 freaking out. You know, I'm paranoid. I said I'm going,
11 I'm going home. I'm getting out of town, and she said
12 well, you mind if I hang out with you? And I was high, I
13 was high, and I just said, said I don't, I don't care.
14 Just said I don't care, and ---

15 Q. This is still, still downtown Bennettsville area more
16 or less?

17 A. Yeah, it was right ---

18 Q. Jennings Street?

19 A. Yeah, the trailer.

20 Q. Somewhere around in there?

21 A. Yes.

22 Q. Okay. So, you were, you were going -- and then you
23 were going back to your trailer. Is that right, or that's
24 where you went going directly? Where was she sitting?

25 A. In the front seat.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

356

1 Q. Okay. At what point did she get from the back seat to
2 the front seat?

3 A. Back when we were at that white house I was telling
4 you about when Casey got out.

5 Q. All right. So, you go to your trailer. Tell us what
6 happened next.

7 A. We went in and started smoking some crack. We did a
8 couple hits of crack and ---

9 Q. Because you had just gotten the \$80?

10 A. A 100.

11 Q. Oh, you got a 100 and you gave him 20. So, you just
12 spent \$120. A \$100 was on crack?

13 A. Yes.

14 Q. Okay.

15 A. And, like I said, we did a couple of hits of crack
16 and, you know, crack is a, crack's a sexual drug. That's
17 what most people do when they smoke crack is, is, you know,
18 they smoke it and have sex or whatever, you know. And I
19 guess we both thought that that's where the evening was
20 going to go. And she, she asked me if she could take a
21 bath, and I went in there and I drew her a bath, and she
22 got into the bath. She asked me, she said you want to get
23 in, and I didn't, I didn't say no. I got into the tub with
24 her.

25 Q. Were you all naked at that point?

1 A. Yes, and ---

2 Q. You two having sex in that tub?

3 A. No, we never did have sex, Dan. It was, it was really
4 awkward. It was just very awkward. When we got into the
5 tub together, it was just really awkward. We were both
6 real high and I, I mean, it's somewhere in my mind I guess
7 I knew I shouldn't be doing it. I wasn't supposed to be
8 doing it. It was just awkward and...

9 Q. You talked about being paranoid before. A little
10 earlier, you said you were paranoid. Were you paranoid in
11 the tub or what?

12 A. Yeah.

13 Q. I'm just asking. I ---

14 A. Yeah. I mean, I mean, yeah. I mean, yeah, probably a
15 little bit. You know, that probably had something to do
16 with it how, making it awkward.

17 Q. Okay. So, what happened next?

18 A. Now, I mean, not even, not even two minutes after we
19 got into the tub, we both decided to get out and got out,
20 dried off, put on some shorts, and ---

21 Q. Where did you go?

22 A. I went in the kitchen to get a beer.

23 Q. Okay.

24 A. And she ---

25 Q. When you, when you two first got in the trailer, and

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

358

1 you said you had a couple of hits of crack?

2 A. Yes.

3 Q. Where were you in the trailer?

4 A. In the living room.

5 Q. Okay, and you get from the entrance, which is, I
6 guess, kind of like the back door. Is that right?

7 A. Talking about the door that we come in and out of?

8 Q. In and out of.

9 A. Yes.

10 Q. That's where you parked?

11 A. Yes.

12 Q. Okay, and don't use the front door?

13 A. No, it's ---

14 Q. To get from that door where you come in and out, the
15 back door, to the living room, what do you have to go
16 through?

17 A. : Got to walk up the hall like Summer said. Just walk
18 up the hall. As soon as you come in the door, you can see
19 the refrigerator, and you just walk up and there's -- it's
20 just a -- it's just a dividing wall. There's not a door.
21 You just come straight in the back door and you just walk,
22 you know, 4 and a half feet. You turn, you turn to the
23 left and you're in the kitchen and you take, you know,
24 three steps through the kitchen, and you're in the living
25 room. There's those couch and love seat and chair in

1 there.

2 Q. Okay, let's get oriented here. State's Exhibit 4, is
3 that the front or the back of the trailer?

4 A. That's the front.

5 Q. That's the front. That shows a door there.

6 A. Yes. We, we hardly ever went in and out that door.

7 Q. Okay. Where was -- what's his name, Jimmy?

8 A. Yes.

9 Q. Where's he stay relative to that door?

10 A. On this end of the trailer.

11 Q. To the right of the, the front door, which wasn't
12 used?

13 A. Yeah, where there are no windows. It was the smallest
14 bedroom.

15 Q. Okay, and so y'all stayed at the other end of the
16 trailer?

17 A. Yes.

18 MR. BLAKE: Judge, move to publish these as, as we're
19 testifying here. Is that, is that okay?

20 THE COURT: Sir?

21 MR. BLAKE: Move to publish these.

22 THE COURT: Yes, sir.

23 BY MR. BLAKE:

24 Q. And then you describe the -- you said you could see
25 the refrigerator. This is State's Exhibit 10.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

360

1 A. Yes.

2 Q. So, does that mean the back door is sort of back
3 behind this wall here?

4 A. Yeah. It's just about 5 feet back there, and there's
5 a washer and a dryer as you come in the front door -- I
6 mean, the back door there.

7 Q. It's pretty narrow through there?

8 A. Yeah, it's -- yeah, it's just -- I mean, it's ---

9 Q. That's where you and Monesha would have come in?

10 A. Yes.

11 Q. You said you could see the refrigerator?

12 A. Yes.

13 Q. Okay, and there's a counter right next to that
14 refrigerator. Is that right?

15 A. Yes, and, and the sink is all right there.

16 COURT REPORTER: Use the microphone, please.

17 A. Yes, and the sink, and the sink is right there.

18 Q. Okay, and it shows the stove, and could I see that
19 picture just a second? Where's the stove relative to the
20 refrigerator and the, and the -- just orient here on
21 State's Exhibit 6.

22 A. That's -- I mean, it's, it's -- like I said, it's a
23 refrigerator, and then there's just a little piece of, of
24 cabinet about a couple of feet, and then there's a double
25 sink, and then there's another probably two and a half feet

1 of cabinet, and then it's the stove right here. You see
2 the stove, and then it -- there's another maybe two and a
3 half or three feet of cabinet and there's a bar that goes,
4 runs diagonal to it, a little short bar.

5 Q. Okay, and so there's this block of knives there next
6 to the stove?

7 A. Yes, sir. Yes, sir.

8 Q. Okay, and how, how big is that area there from you
9 walk in, you see the refrigerator, see a little bit of
10 cabinet? So, how, how wide is that -- how far is it from
11 the refrigerator just right to where the kitchen block is?

12 A. It's -- I can, I can -- I could stand there and put
13 one arm on the refrigerator, on the side of the
14 refrigerator and reach and, and touch the stove. I mean,
15 it's a small area.

16 Q. Okay.

17 A. It's real small.

18 Q. So, again looking at State's Exhibit 10, you come in
19 -- this door is -- you're looking at the photo is to the
20 right behind that. Is this sort of glass in here?

21 A. Yes, it's, it's, it's -- the whole wall there is
22 mirrors, mirror.

23 Q. Oh, it's mirror. It's not ---

24 A. It's not see through. It's a mirror.

25 Q. Okay, and so the, the, the door's right there. You

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

362

1 can see the refrigerator. How far is it from the door to
2 the refrigerator?

3 A. 7 feet, 6 and a half feet.

4 Q. Okay, and there's -- the bedroom then is back behind
5 this. Is that correct?

6 A. Yes, sir.

7 Q. And there's a door to the bedroom?

8 A. Yes.

9 Q. Okay. All right, and looking at State's Exhibit 7,
10 this appears to be a picture of the bedroom, and just tell
11 us what, what that is.

12 A. Yes. Yes, it's a -- that's a, almost a picture of the
13 whole bedroom just standing right there at the foot of the
14 bed. Probably one pace inside the door, pace and a half
15 inside the door to the bedroom just staring back at the
16 tub.

17 Q. How far is it from the -- is that the bed here in the
18 left-hand corner?

19 A. Yes.

20 Q. How far is it from the bed to the tub?

21 A. Like Mr. LaRosa said, about 5 feet.

22 Q. Okay, and there's this little partial wall. Is the
23 tub kind of right behind that in some of it?

24 A. Yes, yes. Half the tub is behind that wall there.

25 Yeah, you can't see the, you can't see the whole tub from

1 that ---

2 Q. Okay.

3 A. --- picture.

4 Q. That was State's Exhibit 7. Here is State's Exhibit

5 5. That's -- is that what we're talking about?

6 A. Yes, sir.

7 Q. That's the tub you were in with Monesha?

8 A. Yes.

9 Q. And you're saying that -- oh, so this is the half wall
10 over here?

11 A. Yes.

12 Q. And how far is it -- you said it was 5 feet from this
13 tub to the bed?

14 A. Yes, sir.

15 Q. It's a small little area there. Looking at State's
16 Exhibit 7, is there anything -- we don't see much of the
17 bed at all.

18 A. No.

19 Q. There's a wall over to the left of this picture?

20 A. Yes.

21 Q. Does the bed go all the way to the wall?

22 A. No. Like Summer said, it's a couple feet. You can
23 sit on the edge of the bed and reach out and touch, touch
24 the wall.

25 Q. Okay. Is there any furniture around the bed?

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

364

1 A. There's a, there's a bed. There's a dresser right --
2 as soon as you walk in the bedroom door, the dresser's
3 right here on the left, and there was, like a, a little
4 tote, a little blue tote sitting there by -- there's
5 another window there on my side of the bed.

6 Q. A tote?

7 A. A tote.

8 Q. Tote?

9 A. Yeah, like -- yeah, like a tote of people store things
10 in. You buy them at Wal-Mart.

11 Q. Oh, like a plastic bin?

12 A. Plastic bin, yes.

13 Q. Okay.

14 A. And that's where I have, had the alarm clock. My
15 alarm clock was sitting right there on that tote.

16 Q. How many steps is it from the bathtub area there --
17 well, let's see. I'll get to that in a second. Okay. I
18 interrupted you. I wanted to get a little bit oriented
19 there with inside the trailer. So, I think you said that
20 you two had been in that tub for approximately two minutes?

21 A. Yes. It wasn't very long at all.

22 Q. Okay. You said you got out, dried off, put on your
23 shorts, went to the living room?

24 A. Yeah. Yeah, Monesha got out right behind me. So, I
25 started drying off, and I went in the kitchen to get a

1 beer. I went in there and got the beer out of the
2 refrigerator and I opened it. I went and threw my cap in
3 the trash and took a long drink of my beer, and I walked
4 back toward the bedroom and that's ---

5 Q. All right. So, you were -- where were you drinking
6 the beer?

7 A. In the kitchen.

8 Q. Okay. You went to the bedroom?

9 A. Yes. Thank you.

10 MR. BLAKE: May we approach, judge?

11 THE COURT: Yes, sir.

12 (OFF-THE-RECORD BENCH CONFERENCE.)

13 THE COURT: All right, counsel, you -- I mean, after
14 conferring with counsel, and, ladies and gentlemen of the
15 jury, you've been in the courtroom now about an hour and
16 forty minutes. It's probably appropriate that we take our
17 morning break at this time. I am going to ask that you go
18 to your jury room..

19 Please do not discuss the case among yourselves. It's
20 premature for you to begin any discussions about this
21 matter in any manner whatsoever. We'll take a very short
22 break, and we'll be ready to resume shortly. Please go to
23 the jury room. Thank you.

24 (THE JURY EXITS AT 11:10 A.M.)

25 THE COURT: All right, Mr. Hogan, you may step down.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

366

1 I would tell you that while you're on the stand, it would
2 be improper for you to discuss this matter with your
3 attorney in any matter whatsoever during the recess or to
4 talk with anybody else about this matter whatsoever during
5 the -- during this ten minute recess. Thank you.

6 WITNESS: Yes, sir.

7 THE COURT: All right, we'll take ten minutes,
8 counsel. Be ready to start back at twenty after, please.

9 MR. BLAKE: Thank you.

10 (OFF THE RECORD.)

11 THE COURT: All right, Mr. Hogan, come back around,
12 please.

13 (A PAUSE.)

14 THE COURT: All right, if the jury's ready, bring the
15 jury in, please.

16 (THE JURY ENTERS AT 11:25 A.M.)

17 THE COURT: All right. Thank you, ladies and
18 gentlemen, and we are ready to resume, and we'll continue
19 with the direct examination of Mr. Hogan.

20 Mr. Blake.

21 MR. BLAKE: Thank you, judge.

22 BY MR. BLAKE:

23 Q. See if I can remember where you were. You were
24 talking about being in the tub. Got out of the tub. You
25 dried off. Put your shorts on. You were drinking a beer.

1 A. Yes. I went in the kitchen and got a beer. Yes, I
2 went in the kitchen and got a beer.

3 Q. And where was Monesha at this point?

4 A. She was still in the bedroom.

5 Q. And when you say bedroom, that's the bedroom and bath
6 altogether?

7 A. Yes.

8 Q. Okay.

9 A. When, when I left her, she was drying off.

10 Q. Okay. All that really separates that room out is the
11 little -- not even a wall. That half sort of partition
12 right near the bathtub?

13 A. Yes. Yes.

14 Q. For the, for the bedroom itself?

15 A. Yes.

16 Q. Just to reorient, does that -- is the bedroom at the
17 other end of the house?

18 A. Yes, there's, there's a ---

19 Q. State's Exhibit 4.

20 A. Our bedroom is at the, is at the far end where you see
21 all the windows. Those -- that little window is the
22 kitchen window, and that first window, the one by our bed,
23 and then the other two are right there beside the bathtub.

24 MR. BLAKE: It's okay to publish this?

25 THE COURT: Yes, sir.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

368

1 BY MR. BLAKE:

2 Q. Okay. So, you're in the kitchen drinking a beer.

3 A. Yes. Yes.

4 Q. What happens next?

5 A. I took a couple of drinks out of my beer, and I walked
6 back to the bedroom, and I come around the corner. Monesha
7 was standing there in front of the dresser. She had my
8 wallet in her hand, and she actually had my wallet opened,
9 and that's when I -- that's when the whole altercation
10 started.

11 I, I slapped her. I said in the interview, I said in
12 the interview a hit, but it was a, it was a open hand slap.
13 I told her, I said, get your, get your ass out of my wallet
14 and I slapped her.

15 Q. How are you feeling at this time?

16 A. Like, I was angry when I saw her in my wallet. Kind
17 of the way the whole week had gone. I mean, I was already,
18 you know, ashamed of just the pressure of the whole week,
19 everything I had done, and it kind of came boiling up at
20 that moment when I saw her in my wallet. I just lost my
21 temper and I, like I said, I slapped her.

22 Q. What happened next?

23 A. When I slapped her, she ---

24 Q. Let me, let me stop you a minute here.

25 MR. BLAKE: Judge, some of this language is going to

1 be kind of very graphic, and whatever is the truth is the
2 truth.

3 THE COURT: Don't worry about it.

4 MR. BLAKE: Okay, and he was concerned about that, but
5 I tried to tell him just speak the words as they happened.

6 BY MR. BLAKE:

7 A. After I slapped her and told her to get out of my
8 wallet, she immediately threw my wallet at me and went to
9 pass me, and that's when I slapped, slapped at her again.
10 I, I just hit her on the shoulder. She was passing by me.

11 Q. She was passing by you. You were in the bedroom at
12 this point?

13 A. Yeah.

14 Q. Okay.

15 A. Yes.

16 Q. And where were you standing?

17 A. Right beside the dresser. I mean, right inside the
18 door. Like, one step inside the door.

19 Q. The door that goes into the hallway?

20 A. Yeah, and I was in the bedroom.

21 Q. Okay, and again that's this hallway we've talked about
22 in State's Exhibit 10?

23 A. Yes.

24 Q. Okay. So, that's the hallway that leads to the door
25 you're coming in and out?

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

370

1 A. Yes.

2 Q. You turned left to go out ---

3 A. Yes.

4 Q. --- the building?

5 A. Yes.

6 Q. And what direction was she turning?

7 A. She turned right and instead went to the kitchen,
8 you know? She, she could have ran out the front door, but
9 she ---

10 Q. The front door?

11 A. I mean, the back door.

12 Q. The door you went in and out?

13 A. Yes, the door we went in and out.

14 Q. Okay.

15 A. She could have even turned to the left and went out
16 that door.

17 Q. But she went into the kitchen?

18 A. She went into the kitchen.

19 Q. Now, I just want to go back because I think it is very
20 important. When you first came into the trailer in that
21 back door, where did y'all go? Did you go past the
22 kitchen?

23 A. Yes.

24 Q. Okay. You went and smoked some crack. Where did you
25 smoke the crack?

1 A. In the living room.

2 Q. To get to the living room from the back door, where do
3 you have to go?

4 A. Through the kitchen.

5 Q. Okay. Is that where the knives are?

6 A. Yes.

7 Q. So, she threw the wallet at you. She's brushing past
8 you at the door going in the kitchen?

9 A. Yes.

10 Q. Okay. Tell us what you're saying, what she's saying.

11 A. Like I said, I told her. As I slapped her that first
12 time, I told her to get your ass out of my wallet, and she
13 threw my wallet at me and she said oh, hell no. When she
14 was shoving past me she said oh, hell, no, and ---

15 Q. Is that all she said?

16 A. Yeah ---

17 Q. Okay.

18 A. --- when she shoved past me.

19 Q. Let's tell it like it happened.

20 A. And ---

21 THE COURT: Go ahead. Just ask the questions, please.
22 Go ahead.

23 A. And she, like I said, she went toward the kitchen. I,
24 I bent down and picked up my wallet. I set my wallet and
25 the beer on the dresser, and I followed her into the

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

372

1 kitchen. When I came around the corner, she already had a
2 knife in her hand, and she was kind of crouched down on me.
3 She was, you know, she was expecting something.

4 And when I saw the knife in her hand, I told her. I
5 said calm down. I said just calm down, and she said hu-uh.
6 She said, she said oh, hell, no mother fucker.. You want to
7 slap me, you want to slap me, and she swung the knife and
8 she stabbed me in my side. And when she swung the knife
9 and stabbed me in my side, you know, I saw her swinging the
10 knife and I went to block it, but I didn't block it in
11 time, and it actually went in, you know, inch and a half or
12 2 inches into my side.

13 And as soon as that happened, I immediately -- well,
14 you know, I was, I was thinking oh, man, I could die, you
15 know? I was, I was just -- that fear for my life, you
16 know? It's -- I mean, she stabbed me, and immediately when
17 I felt the knife go in it was like oh, my God. I could
18 die, you know? And I, I grabbed her hand, and I squeezed
19 her hand. She dropped the knife.

20 Q. You're telling this very slowly. Did it happen at
21 this rate of speed?

22 A. It was, it was everything -- it was lightning. It was
23 lightning fast from there all the way up till I did what I
24 did in the tub. It was just, it was just a flash. It was
25 like a flash. It was a chain reaction. From the moment

1 she stabbed me, everything just went crazy.

2 As soon as she dropped the knife, I bent down to pick
3 up the knife. She kind of went forward, too, and she was
4 going forward, too. But I got it and immediately she was,
5 she was wrestling with me, trying to get toward the knife.
6 And as soon as I picked it up, I just swung it, you know,
7 just, just chest level just, I just swung it. I swung it
8 pretty hard. I wasn't aiming at any particular part of her
9 body or anything. But it, it just so happened that it hit
10 her in the neck. She was kind of bend down, and it hit her
11 in the side of the neck, and ---

12 Q. You had just showed us the right side of her neck.
13 Where did it ---

14 A. It was, it was her left side. I swung with my right
15 hand. It was her left side. I swung with my right hand.

16 Q. Okay.

17 A. She was facing me and I swung with my right, so it had
18 to be her left side. She was facing me and, like I said, I
19 swung the knife real hard, and it went in. It went in
20 pretty deep into her neck, you know, and I pulled it out,
21 and as soon as I pulled it out, the blood just started
22 pouring out of her neck, and that freaked me out.

23 When I saw all the blood, I mean, it was a lot of
24 blood immediately. It was just a lot of blood, you know,
25 just flowing out of her neck, and I dropped the knife. And

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

374

1 when I dropped the knife, she started to go for it again,
2 and that's -- and I got ahold of her and I swung her
3 around, and that's when she hit the wall. That's what made
4 the hole in the wall.

5 Q. This is all happening in the kitchen area?

6 A. Yes. Yes. I was trying to keep her from getting the
7 knife, and I swung her around and she hit the wall. That's
8 what made the hole, and I swung her around with so much
9 force that my feet actually came out from under me, and
10 I ---.

11 Q. Was the floor slippery at this point?

12 A. I, I mean, I believe there was -- yeah, there was
13 already some blood on the floor. It was a lot of blood,
14 Dan. And I swung, like I say, I swung her around so hard,
15 her feet came out from under me, and I, and I fell on, on
16 my back on the kitchen floor, and she dove over across.

17 The knife was over here kind of in front of the stove,
18 and she dove across on top of me going for the knife is
19 what I, I figured. I'm, you know, that's -- that was what
20 went through my head, she's going for the knife again, and
21 we both just started wrestling around the kitchen.

22 I was just, in my mind, I was trying to keep her from
23 getting to the knife, and I, I thought, I thought that's
24 what she was trying to do, get the knife, you know, and
25 stab me again. And we wrestled around there in the kitchen

1 for, I, I don't know how long, how long, maybe a minute and
2 a half. And she was just bleeding real, real, real bad. I
3 mean, real bad. It didn't take very long at all for whole
4 kitchen floor to be covered in blood.

5 And after about a minute and a half I guess we were
6 both, you know, exhausted from wrestling and she just kind
7 of, you know, she just kind of stopped wrestling. And as
8 she, as she stopped wrestling, I stopped wrestling, too,
9 you know? We both kind of just stopped wrestling about the
10 same time. You know, we were both breathing hard and
11 exhausted, and that's -- immediately I got up from there,
12 and there was a roll of duct tape on the top, top of the
13 refrigerator, the corner of the refrigerator. And my, my,
14 my first thought was grab the duct tape, you know, and,
15 and, and duct tape her hands so that she couldn't, you
16 know, get to the knife again.

17 So, I said in the confession that -- so she wouldn't
18 fight or whatever. But it was, in my mind, it was to keep
19 her from, from hurting me, from getting back to the knife.
20 When I said fight, I meant her getting back to the knife
21 and hurting me, and that's when I duct taped her hands.

22 And, like I said, this was all just a chain reaction.
23 I mean, it really -- there really wasn't a whole -- there
24 really wasn't just a serious thought went into it, and when
25 I duct taped her hands I, I, I stood her up, and that's

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

376

1 when I walked her in the bedroom. That's when I walked her
2 in the bedroom.

3 Q. You were in the kitchen. That's where the struggle
4 went ---

5 A. Yes, that's where the whole, whole struggle went.

6 Q. And, and you walked her into the bedroom where the tub
7 was?

8 A. Yes, that's where almost all the blood was, was in the
9 kitchen floor.

10 Q. Did you drag her into the bedroom, or what happened
11 then?

12 A. I mean, I, when I lifted her up off the floor, I
13 grabbed one of her arms and she just stood up, and she, she
14 stood up, and I just started walking toward the bedroom and
15 she just walked with me. I mean, she didn't do anything,
16 anything, you know? She got -- maybe she was too
17 exhausted. I don't know. I don't know what was going
18 through her head, but she just, she just walked where I
19 walked and we walked together. You know, I led her back
20 into the bedroom.

21 Q. What did you do next?

22 A. And I sat her in the tub and there was a table, there
23 was a table that was -- you could touch the tub and reach
24 out and touch the table. It was sitting beside our
25 bedroom. You can't see it. I don't know. There might be

1 a picture where you can see this table. But I had set the
2 crack pipe there real quick.

3 Q. Right next to the bed?

4 A. Yeah. The bed's right here, and then the table's
5 across from the bed, and then the tub's right here. It's
6 kind of like a triangle, and I, I saw the crack pipe and
7 took the crack pipe, and I lit it, put me a little piece of
8 crack on there, and I smoked it. I, I hit it and that's,
9 that's where the whole thing -- I want to clarify that
10 statement, that comment that I made in my confession about
11 the Devil.

12 That, that comment came from -- we talked about that
13 six weeks in between when it happened and I confessed.
14 And, like I said, I was thinking about it every single day
15 that whole time. You know, I was, I was trying to figure
16 out in my head how I could have even done that, you know?
17 I was fighting myself in my head thinking how -- I was
18 trying to figure out why, why that happened, why I let that
19 happen, how it could have happened, you know, and I was
20 thinking it was -- just that whole six weeks. And, like I
21 said in that interview, I was trying to be as honest and
22 candid with the detectives as I could, and there was just
23 -- I was -- as I was sitting there confessing, I, I thought
24 well, I mean, I, I've got to say a reason why. And, you
25 know, saying a confession, you know, and I said I guess the

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

378

1 Devil just told me I couldn't let her live.

2 That wasn't like I heard a voice from the Devil or
3 anything. What, what that came from was my Christian
4 belief, you know, and, and in Ephesians, Chapter 6, Paul
5 talks about putting ahold on to ---

6 Q. Don't need to get into that.

7 A. Yeah. Well, that's where the Devil came.

8 Q. Okay.

9 A. That's where the thought for the Devil came from.

10 Q. All right. So, you get her -- she's in the bathtub,
11 you take a hit of crack, what happens next?

12 A. Immediately, immediately after I did that, hit the
13 crack, I just went straight in the kitchen and got, got
14 another knife out of the block, and I went back in the
15 bedroom. I sat in the tub, and she, she wasn't moving or
16 resisting or she didn't say anything at all, and I just --
17 that's when I, that's when I sliced her. That's when I
18 sliced her throat, and there was no struggle in the
19 bathtub. There was no stab, stab, stab or beat, beat,
20 beat. It was just me slicing her throat.

21 And I got out of the tub and, I mean, I really, I
22 really can't say exactly what I did there for a few
23 minutes. I, I was covered in blood. I remember I went in,
24 and we have a shower in that room as well. There's a
25 little shower and a toilet in there. You know, I took off

1 my clothes and got in the shower, washed the blood off
2 myself, saw the stab wound to my side and, you know, just
3 went -- and that's just -- I mean, that was basically it at
4 the time. That was it.

5 I got out and there was a little more crack left, and
6 I did smoke it, and I was just thinking oh, my God, oh, my
7 God, oh, my God, you know. What just happened? What just
8 happened? You know, what do I do, you know? What do I do,
9 and I started sobering up a little bit, and that's when I
10 thought about that -- I'll call it a barrel, a barrel out
11 there, and I was just trying to think of some way to take
12 her from, from inside the house, you know, to wherever I
13 was going to take her.

14 I really didn't even have any idea what it was, where
15 I was taking her or anything, and about 5:30 that morning I
16 went and got the barrel. I brought it in, brought it in,
17 and I put Monesha in there. I put Monesha in there and I
18 just carried her, got in my truck, put her in the back of
19 the truck, and left the trailer part, and just started
20 driving.

21 You know, I took a right at -- I'd never been that way
22 before, and I took a right on that road. I just started
23 driving and driving, and just looking at the side of the
24 road.

25 Q. Was it like -- was it already daylight or ---

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

380

1 A. Yeah, it was.

2 Q. --- getting on?

3 A. It's dawn. The sun's coming up. This is around 6:00,
4 6:30 or something. It's, it's getting light, and I just
5 drove and drove and -- till I saw a spot that looked
6 halfway like it was out of the way or whatever. And I just
7 drove her up in the woods, and I took her out and put her
8 where I put her, got back in the truck and went home.
9 Started cleaning everything up.

10 Q. That was Sunday morning?

11 A. Yes.

12 Q. You've described the clean up to us.

13 A. Yes.

14 Q. You've described coming in the trailer, getting in the
15 tub together, getting out. You went and you had a beer.
16 She was still in the bedroom, saw the wallet, and then, of
17 course, you slapped her, and she went and got a knife. How
18 long was this whole time process? Do you have any idea
19 between the -- seeing her with the wallet, slapping her,
20 and then everything that proceeded from that?

21 A. I mean, it's, it's hard on me to put an actual time
22 on, Dan. But like I said, everything was just an
23 instantaneous reaction from the moment she stabbed me.
24 There was, there was no stopping it. It was like she
25 stabbed me, and everything that I said just happened just

1 immediately. It wasn't like I thought, I just thought
2 about getting up and getting the duct tape. I just got up
3 and did it. All the way, all the way to the end to doing
4 what I did in the bathtub was, was quick and a few minutes.

5 Q. All right. The, the bathtub then, I think you said,
6 as you said, was 5 feet. I think Paul Larosa said that.
7 So, you're sitting on the bed where you took the hit or two
8 of crack there?

9 A. That was -- I was standing up the first time --

10 Q. Okay. She was in the bathtub?

11 A. --- when she -- yes, and then afterwards I sat on the
12 bed.

13 Q. I mean, were you sitting there contemplating? How
14 long did that go on for? How long was it that you were --
15 it took -- you put her in the bathtub. You had some crack.
16 You slit her throat. What's that sort of time frame?

17 A. Super fast. I mean, it's just -- like I just keep
18 saying, it was just quick. It was -- the reaction didn't
19 stop. It didn't stop. It was an ongoing thing from when
20 she stabbed me until I did what I did in the bathtub was --
21 everything was just quick. It was just real quick.

22 Q. What was your initial reaction when you saw her in
23 your wallet?

24 A. Like I said, I got angry, you know? I don't know if
25 you can say rage or anger. Kind of out of control. Just

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

382

1 got out of control.

2 Q. Did that ever stop up until the actual slicing of her
3 neck?

4 A. No. No, I was out of control the whole, whole time.
5 I should have backed up except from when I slapped her.
6 That's where it really went, you know, went out of control.
7 But from the moment I slapped her until what happened,
8 until -- it was very fast. It was out of control. It was
9 just quick.

10 Q. It sounds like for a part of that time you were,
11 actually both of you were struggling, you were fighting for
12 your life.

13 A. Yes. Yes, in the kitchen that's definitely what was
14 going on.

15 Q. So, how long between the struggle in the kitchen to
16 getting her in the bathtub and slicing her throat? Any
17 idea? I mean, I know you're not looking at a clock or a
18 watch. I'm just trying to the get ---

19 A. It had to be a matter of, you know, seconds, a minute,
20 minute and a half and a minute ---

21 Q. The distance isn't very far?

22 A. No, it had to be a matter of seconds. I mean, forty-
23 five seconds. I don't know, Dan.

24 Q. Handing you State's Exhibit 18. Do you recognize this
25 garment?

1 A. Yes.

2 Q. What is it?

3 A. It's Monesha's shirt.

4 Q. Is that what she had on that night?

5 A. Yes. Yes.

6 Q. Okay. There was some talk about a defect in the
7 camisole. I think they said it was -- the doctor said it
8 was on the back. You guys, you said you struggled on the
9 floor?

10 A. Yes.

11 Q. Okay. At what point were you beating her severely?

12 A. Never ever. The two hits, just like I said in the
13 confession, two, two hits and they were actually slaps.
14 That's it. That's the only time I ever hit her.

15 Q. You said when she was in the bathtub you sliced her
16 neck two directions?

17 A. Yes.

18 Q. And that was a different knife than the original
19 stabbings? She stabbed you, you stabbed her, correct?

20 A. Yes.

21 Q. And what happened to that steak knife?

22 A. The one that we was stabbing each other with?

23 Q. Yes.

24 A. I don't know how it happened, but it broke in half,
25 and when I was going to pick Summer up from the airport, I

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

384

1 threw it off the PeeDee River bridge.

2 Q. Okay. So, obviously to do the slicing, you had to
3 pick up another knife?

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. Okay. What happened to that knife?

8 A. I put it back in the sink, in the kitchen sink. I
9 just put it back in the kitchen sink. It wasn't, it
10 wasn't, like, any blood on it or anything, you know? Maybe
11 just a little spot of blood or something. But I really
12 didn't see any blood on it. I don't know why I did it.
13 Don't know why I threw one away and kept the other one, but
14 that's just what happened. I put it in the kitchen sink,
15 and it got washed and put back into the block.

16 Q. I'm taking out State's Exhibit 37, which is -- is this
17 the block you're referring to?

18 A. Yes.

19 Q. Okay. Looks like it has three rows of knives.

20 MR. DANIEL: Judge, I would just caution the court.

21 We didn't pack those knives away. We got several knives in
22 the block there.

23 THE COURT: Oh. Just ask the questions. Go ahead.

24 You don't need -- just ask him the questions.

25 MR. BLAKE: Okay. Well, am I permitted to take the

1 knives out themself?

2 THE COURT: Yes, sir.

3 BY MR. BLAKE:

4 Q. Okay.. So, there's three rows here of knives?

5 A. Yes.

6 Q. What row, if you recall, what row did you take that
7 knife out?

8 A. The second row.

9 Q. That would be the middle row?

10 A. Yes.

11 Q. Okay, and there are, it appears, three knives in that
12 row?

13 A. I think it was one right there by the scissors.

14 Q. The one on ---

15 A. On that end, yeah.

16 Q. On the right here?

17 A. I believe so.

18 Q. Are you sure?

19 A. No, I'm not sure, Dan. I gave away one of those long
20 ones. It was not a long one. That, that, that might --
21 that looks like it. It wasn't a big one.

22 Q. Well, you had ---

23 A. No, it wasn't that small one. It was that last one.

24 Q. This one over here?

25 A. Yes.

JOHN LEE HOGAN - DIRECT EXAMINATION BY MR. BLAKE

386

1 Q. On the left?

2 A. Yeah.

3 Q. Okay. So, you picked that up?

4 A. Yes.

5 Q. Okay, and that's what you went back in and actually --
6 sorry -- that's what you sliced her throat with?

7 A. Yes.

8 Q. Okay.. Were you actually, there in the bathtub -- so,
9 that's the last knife. Were you, were you stabbing her?

10 A. No. I just did the two slices, like I told you. Like
11 I told the detectives, just the two slices and that was it.
12 That's all that happened in the tub. There was no
13 struggle. There was nothing there. No struggle in the
14 bathtub at all.

15 Q. Well, you didn't go crazy like a wild man stabbing in
16 her the neck?

17 A. No, sir.

18 Q. Okay. You sure of that?

19 A. I'm positive.

20 Q. Has everything you've told us been the truth today?

21 A. All the truth. Yes, all of it. Everything I said
22 absolutely. I'm sorry. Yes.

23 MR. BLAKE: No further questions.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION BY MR. DANIEL:

1 Q. Mr. Hogan.

2 A. Yes, sir.

3 Q. Would you agree, sir, that after the original
4 altercation when you and Monesha, as you say, lay exhausted
5 on the kitchen floor, would you agree that you took duct
6 tape and ---

7 A. I ---

8 Q. --- you put her hands behind her back, and you tied
9 her hands?

10 A. Yes, I said that.

11 Q. Would you agree also, Mr. Hogan, that after you walked
12 Monesha with her hands bound behind her back to the
13 bathtub, put her in the tub, and then you walked away? Do
14 you agree with that?

15 A. No, I didn't walk away. I took, I took like a step
16 and a half, and that's when I picked up the crack pipe. It
17 was right there beside the tub. I didn't walk away.

18 Q. So, you'd agree then that Monesha is in the tub, she
19 can't move her hands, and you smoked crack?

20 A. Yeah. I mean, she, she probably could -- she could
21 have moved her hands. I don't know if she could have got
22 them out of the duct tape. I mean, yes, she was in the tub
23 with her hands duct taped behind her back, and I stood
24 there and took that hit of crack like I said, yes.

25 MR. DANIEL: No further questions.

1 In my view there is evidence in the record of the
2 crime charged, and I would respectfully deny the motion for
3 directed verdict.

4 All right, counsel, let's talk just a minute about
5 charges. My general felony charge will include the
6 presumption of innocence, burden of proof, reasonable
7 doubt, credibility of witnesses. The substantial --
8 substantive charge will be murder.

9 And I think at this point, Mr. Daniel, there is
10 evidence of a struggle. Well, tell me what, what -- before
11 I tell you what I think I'm going to do, you tell me what
12 you think as far as lesser included and voluntary
13 manslaughter.

14 MR. DANIEL: I think there's evidence in the record to
15 support that charge.

16 THE COURT: All right. I agree. I think there is,
17 and so I'll charge the lesser included, voluntary
18 manslaughter, and the other substantive charge will be that
19 voluntary intoxication is not a defense.

20 MR. DANIEL: That's the other we were going to ask
21 for.

22 THE COURT: Okay. Special matters, particular matters
23 would be direct and circumstantial evidence and expert
24 witnesses. That's all I -- that's what I plan to do,
25 direct and circumstantial and expert witnesses. Anything

1 Mr. Blake.

2 MR. DANIEL: Your Honor, something's just come to my
3 attention. May we approach briefly?

4 THE COURT: Yes.

5 (OFF-THE-RECORD BENCH CONFERENCE.)

6 THE COURT: All right, Mr. Blake.

7 MR. BLAKE: Thank you, Judge.

8 I appreciate your attention. You haven't had to have
9 a lot of patience except maybe some of the -- that last
10 witness not answering some questions, but it's been pretty
11 short, quick, and pretty soon it's going to be in your
12 hands, okay?

13 As was stated by the prosecutor at the very beginning,
14 this is a case of whether it was murder or voluntary
15 manslaughter. To speak, to speak in non-legal terms, that
16 essentially means -- it's like murder is, a classic example
17 would be lying in wait, okay? Voluntary manslaughter is an
18 unlawful killing that happens as a result of a fight.
19 Those are common terms. The judge will give you the legal
20 jargon. Essentially that's what we're talking about.

21 We're here in this case not because my client is
22 saying I didn't do it. We admitted that way back on July
23 23rd. He's simply saying it was a fight that got out of
24 control, okay?

25 The judge will explain the law to you. I would say

1 that the critical factor in that law is whether or not my
2 client had sufficient time to cool off, okay, to cool off
3 from his rage or heat of passion. So, again, murder and
4 the lying in wait, voluntary manslaughter and fight.

5 Now, excuse me because if I step backward -- because
6 we kind of got some landmines back here with the wires. I
7 hope I don't trip, but I came close.

8 You've heard from a number of different witnesses.
9 The prosecutor in his opening statement called it a brutal
10 murder, and I think every one of the law enforcement
11 officers who got up and testified, when they had the
12 opportunity, said those exact words.

13 The judge will not read to you an instruction on
14 self-defense because at some point, self-defense was no
15 longer applicable. That's when her wrists were behind her
16 back. But up until that point, had the camera stopped
17 right before that, you wouldn't be here deciding whether or
18 not my client had acted in self-defense. And I contend to
19 you that up until that point, he was acting in
20 self-defense.

21 Now, yesterday afternoon a few things came to light
22 that really weren't brought to light before. I'd like you
23 now to remember the testimony of Casey McCall. He's the
24 gentleman with one eye. He sat up there and lied about
25 absolutely everything.

1 Now, I'm not here saying Casey McCall did this
2 killing. Don't misunderstand me. But there's more to this
3 situation then was apparent in the beginning.

4 You know, if you listened to Larry Turner's testimony,
5 that Casey McCall worked for the Bennettsville Police
6 Department. He worked off charges; he got paid money to do
7 drug buys. Larry Turner was very clear about that.

8 Now, I don't know if you noticed it, but one of the
9 things that goes on in trials like this is that we
10 sequester the witnesses so that they just can't hear what
11 everybody else is saying. Casey didn't know what Larry
12 Turner had said. Casey Turner -- Casey McCall knew what
13 the truth was. He knows what the truth is. But he says he
14 didn't do any buys, didn't work off any charges. All those
15 charges that went away; well, just kind of disappeared.

16 This case is not about Casey McCall, but that led to
17 some other information which I think is important in
18 considering this case. My client is, of course, the
19 defendant in this case, and he was stupid, stupid on crack.
20 And in the end, he killed Monesha Brown.

21 I don't think there's any doubt that he's sorry about
22 what happened. Not sorry because of where he is, but truly
23 sorry about having taken a life. And up until a certain
24 point, he was fighting for that life, and he had every
25 right to do that.

1 So, while you might think of him, and law enforcement
2 has certainly painted him as the predator, he was, when
3 this began, the prey. He wasn't out hunting. The only
4 thing he was hunting was a piece of crack cocaine. But he
5 went into an area where people were hunting those who
6 needed crack cocaine and who would do anything they could
7 to take advantage of them.

8 Now, you can say that's just all made up. That's not
9 true.

10 Why did Casey McCall lie about it? Well, he lied
11 about everything else, but he's telling the truth about he
12 didn't talk with those two people. He admitted to talking
13 to Zane Ard, did he not? He just wouldn't admit that it
14 was a planned robbery, and they planned to take his truck.

15 Well, obviously things went wrong. My client's
16 sitting here today because they did go wrong. But up until
17 that point there, it truly was self-defense.

18 You heard from both Zane Ard and Charles McPherson.
19 They both told you the kind of life that Ms. Brown was
20 leading and how Casey McCall was using her. Sometimes
21 things are not exactly as they seem. Does that excuse what
22 he did? No, it doesn't.

23 I think their case is pretty clear to you. You sat
24 here and patiently listened to testimony. You know that
25 all this happened back on June 4th, June 5th. Certainly

1 heard probably too much about the drug use. Just trying to
2 give background. You heard about the actual incident.
3 That's why we have a jury. That's for you to judge what
4 the truth is.

5 Now, we can never know anything for certain. I mean,
6 that's why the judge will read you an instruction on
7 reasonable doubt. He's already told you about that. The
8 burden of proof in a criminal case where you're taking
9 someone's liberty away is whether it would cause a
10 reasonable person to hesitate to do that. It's up to the
11 state to prove every element. It's up to you to decide
12 whether or not they've actually done that.

13 Yes, he covered it up. Yes, he put her in a barrel
14 and put that barrel in the woods.

15 You remember what Dr. Presnell said? She said that
16 decomposition cases were not all that uncommon in South
17 Carolina. She said she also had previously decomposition
18 cases. These are not pretty facts. They're pretty
19 disgusting.

20 But he told you why he did what he did. He told you
21 about the cover up and the reasons behind it. One of the
22 reasons that I called Charles McPherson and Zane Ard was to
23 show you or to corroborate or to help you understand that
24 perhaps my client was actually telling the truth when he
25 said that he saw her in his wallet.

1 I had Ms. Hogan come all the way from Texas so that
2 you could hear from someone about the wound in my client's
3 side. From that point on, it was a free for all. You
4 didn't get to hear about it or see it in real time. This
5 isn't TV. There was no video camera there. I wasn't
6 there. It went very quickly.

7 Yes, my client at some point taped her hands behind
8 her back. That was after they had struggled for a minute,
9 minute and a half, two minutes, who knows how long for that
10 knife. Now, I know she's not here, so you can't hear from
11 her what happened, and you've got to judge for yourself.

12 At the end of that struggle, the floor, the
13 floorboard, he reaches up, gets the duct tape, and puts her
14 hands behind her back, as he told you, so she would not
15 keep reaching for that knife. And then the next thing
16 happens, which putting -- in the tub.

17 Yeah, he smoked some crack. I don't know. That's --
18 he also told you about doing anything sometimes for that
19 crack. And he did admit on that confession, and he talked
20 about it here, that he did slice her throat.

21 Now, let's take a minute and talk about Paul LaRosa.
22 He talked about being a profiler or for a behaviorist. In
23 this case, he was a crime scene analyst. Now, I don't --
24 you probably don't think this way and it's up to you to
25 decide the facts. But sometimes what we do at our jobs can

1 skew how we see and understand things, and I need
2 something. It's been taped back up.

3 (A PAUSE.)

4 MR. BLAKE: This is the cutting from in front of the
5 tub. It's evidence. You'll be able to take it back into
6 the room with you. You can look at it, see what you see on
7 it. Paul LaRosa said there was a pool of blood there. He
8 literally said a bucket of blood.

9 Now, I wasn't there at the crime scene. It's my
10 understanding that that's where this came from. I don't
11 believe it. I don't believe it.

12 You heard from Ms. Hogan that she could not get back
13 in that house for three days because they had cars
14 surrounding it. We assume people were inside the house.
15 They gathered or had the opportunity to gather a whole
16 bunch of evidence.

17 Now, we don't have anything else out here, but you saw
18 these boxes before. They brought in a whole lot of
19 evidence. You'll have some of these exhibits to take back.

20 We stipulated that Ms. Brown was in that barrel and
21 that Ms. Brown's blood was left at the scene. You heard
22 from Ms. Hogan where most of that blood spatter was: in the
23 kitchen.

24 Now, I won't take it out again, but you saw the knife
25 that was used to slice her neck. The way Paul LaRosa

1 talked about it, he stabbed her, and stabbed her, and
2 stabbed her, and stabbed her. That was a pretty big knife.
3 That was a big knife.

4 My client has some strength there. What do you
5 imagine would be the condition of her neck had he taken
6 that kind of force to it with that sort of an instrument?

7 He never should have done it. He did slice her throat
8 once, twice. That was at the end of a very long fight, and
9 he talked about that blood pouring out of her, and blood
10 being on the floor.

11 We have no idea how long she would have lasted after
12 that, but I can tell you. I mean, he said that he took
13 statements and looked at all the evidence, and then he
14 repeatedly talked about my client's stabbing. You'll have
15 this back in the evidence room with you, the jury room. I
16 don't know. He'd about take her head off with that ,
17 stabbing her, stabbing her, stabbing her.

18 He was not there. He's paid by the state; he
19 testified for the state. We all have our biases. We all
20 have our opinions. He had ---

21 I know this is been very difficult on Monesha's
22 family, and the first witness the state called was her
23 mother, and you learned some things from that. That
24 grandma is taking care of the four kids. That Monesha
25 lived separately. That a couple days before this all

1 happened, she saw her daughter out on the bypass. Her
2 daughter had on flip flops, some kind of t-shirt or shirt,
3 shorts or something like that. Mom asked, offered her a
4 ride. It was pouring down rain. She declined to get in.

5 This started out as a missing person's case, and Larry
6 Turner did everything he could to find her. He finally
7 developed the composite photograph July 16th given to them
8 by Casey McCall, who'd been talked to before, but finally
9 had a polygraph. He said that. They did the drawing.
10 They did know about the Texas plates. They began to put
11 things together. Shortly after that, it was within a week,
12 then they had Mr. Hogan confessing and in custody.

13 An unfortunate set of circumstances, and perhaps you
14 got a glimpse of what life is like for a whole bunch of
15 people scratching and clawing, trying to get that crack
16 cocaine, and do whatever they need to to get it. It is up
17 to you to judge and try to determine what the truth is.

18 I was very upset that the first interview on July 23rd
19 was not videotaped, and then you heard or saw the second
20 videotape after, two and a half hours later, my client had
21 spilled his guts.

22 Now, you decide for yourself. The officers tried to
23 make out like he was the same exactly in both interviews.
24 One officer didn't recall saying to my client that he'd
25 never seen anybody so emotional. You saw my client. If

1 you thought he was putting on an act, that's, that's up to
2 you. You make that decision. He's been remorseful about
3 this since the day it happened.

4 Dr. Presnell testified and she talked about these
5 defects. I thought she was a very honest, forthcoming
6 witness. She said that the defects in the neck, she didn't
7 know if they were coming from decomposition. There might
8 have been a knife wound.

9 My client admits to striking Monesha in the neck, to
10 stabbing her there, and he talks about how right at that
11 point, that blood started flowing, and he dropped the knife
12 and struggled with her.

13 Dr. Presnell talked about slices. You have the
14 pictures. You'll have them in your, in your room. You
15 look at those pictures and see if it's a big old knife
16 coming down like that. See if that makes sense to you.

17 This should have never happened, but it did, and we're
18 here -- you're here to decide whether or not this was cold
19 blooded murder, or whether it was a killing in the heat of
20 passion. You need to weigh what you've seen and heard and
21 make your decision beyond a reasonable doubt.

22 I don't envy you being in that position, but that's
23 why we have the jury system. Nothing's perfect. But it
24 sure helps to have twelve people listening, thinking, and
25 discussing what they've just observed, and then making that

1 decision.

2 Now, I'm going to sit down here in just a second. I
3 go first because that's how the rules have it. The
4 solicitor gets the first go at the opening. They get the
5 last go in the closing. I ask you to consider in your mind
6 what might I say after the solicitor has finished. Thank
7 you.

8 THE COURT: Ms. Johnson-Lee.

9 MS. JOHNSON-LEE: Thank you, Your Honor. May it
10 please the court?

11 THE COURT: Yes.

12 MS. JOHNSON-LEE: Good afternoon. Thank you so much
13 for listening the last three days to all of the, the
14 evidence and testimony that's been given in this trial. I
15 do appreciate that and I know Monesha's family, whose been
16 here throughout the week, certainly appreciates that as
17 well.

18 We are here for one reason and one reason only, and
19 that's for you to decide if John Lee Hogan is guilty of the
20 brutal murder of Monesha Brown. Now, he is indicted for
21 murder. The evidence in this case shows that there was a
22 brutal, violent murder, and his confession that he gave on
23 July 23, 2010, both the one in Sumter and the one at the
24 sheriff's office here, both show this is clearly a murder
25 case.

1 Now, murder is defined under South Carolina law,
2 Section 16-3-10, as the killing of any person with malice
3 aforethought, either expressed or implied. That's murder.
4 You have malice in your jury heart, it's murder.

5 Voluntary manslaughter is defined under South Carolina
6 law, 16-3-50, as the unlawful killing of another without
7 malice, expressed or implied. Malice is murder. Without
8 malice is manslaughter. That's the law in this state.

9 Judge King is going to charge you on the law. That is
10 his job. He is the judge of the law. You're the judge of
11 the facts in case, and you decide if the facts in this case
12 fit which statute.

13 Now, malice is defined as follows:

14 It imports wickedness. It excludes any just
15 cause or legal excuse. It springs from
16 depravity, from a deprived spirit, from a heart
17 devoid of social duty and fatally bent on
18 mischief. It does not necessarily import ill
19 will towards the specific person who is injured,
20 but rather it signifies a general malignancy
21 towards and recklessness for the life and safety
22 of another, or a condition of the mind that shows
23 a heart devoid of social duty and fatally bent on
24 mischief.

25 The malice aforethought, it only takes seconds to

1 develop that. The entire time this struggle was going on
2 in the kitchen, Mr. Blake possibly has an argument that
3 during that struggle itself, whether you believe the story
4 that Hogan gave today or whether you believe the story he
5 gave, you know, eighteen months ago, whichever story you
6 believe, possibly there could have been a voluntary
7 manslaughter case if he had stabbed her in that kitchen and
8 killed her, but he didn't.

9 He had a sufficient cooling off period, and that
10 cooling off period is key to this case. Because once he
11 had cooled down, just like any reasonable person, when he
12 then killed her, he had malice in his heart.

13 Think about it. Monesha was in that bathtub. He was
14 sitting on that bed 5 feet away from that tub. Now, today
15 he changed his story and said that he didn't sit back down
16 on the bed. But remember back to his confession on July
17 23, 2010. He sat on the bed, and on that day he said he
18 took two hits of crack. Today he said it was one hit.

19 Monesha's hands were duct taped behind her back. She
20 couldn't move. She couldn't fight back; she was helpless.
21 She's laying in that tube that's still got water in it. He
22 listened to her beg for his life.

23 Now, note that today he didn't say a word about her
24 begging for her life. He totally left that out. But
25 remember back to what both, to what Officer Feldner told

1 you during the Sumter interview and what you witnessed him
2 saying during the interview that was videoed here. He said
3 she was begging please let me go. I won't tell anybody.
4 Please just let me go. She had time to just lay in that
5 tub, hands duct taped behind her back, a gaping wound
6 pouring forth blood, begging for her life, and he's sitting
7 on the bed 5 feet away puffing on crack, lighting it up,
8 taking hits as he described it.

9 He then says -- now today he changes his story. Oh,
10 the Devil didn't tell him to do it. That was just
11 something he thought about. He's had eighteen months to
12 think about what his story was going to be today. But
13 eighteen months ago, he said the Devil told him to go ahead
14 and kill her.

15 So, what did he do? He got up and he walked all the
16 way to the kitchen, got another knife because remember the
17 first one's already busted. It broke because he had rammed
18 it in there so hard, it broke. He gets another knife, and
19 he comes back to the tub where he slices her throat. He
20 admits twice slicing it. There are possibly more.

21 This was a brutal attack. It was overkill. If those
22 facts don't establish malice, I don't know what else does,
23 to be honest. The sheer brutality of this attack, attack
24 shows that John Hogan over there had malice in his heart.

25 Let's look at the autopsy. Now, Dr. Presnell said

1 there was a gaping defect on the side of the neck. That
2 confirmed his story of that knife breaking off when he
3 rammed it in there with such force.

4 Now, marked as State's Exhibit 39, which you're going
5 to have to take back there with you, is Dr. Presnell's
6 diagram. On page 2, she gives the sizes of the defects.
7 The hole in the neck was 2 and a half inches by 1 inch in
8 the right side of the neck. That's a pretty big hole in
9 that neck. 2 and a half inches by 1 inch in the neck, and
10 she's drawn how the whole front of the neck is just sliced
11 open, and you have a picture where the trach is cut. Not
12 one but twice. Once completely severed through, and
13 another cut directly below it, and the size of that gaping
14 defect, and that she doesn't just call it a defect. She
15 calls is a gaping defect 5 inches by 3 inches. Her neck is
16 sliced open pretty good.

17 And if you remember that there were other defects, and
18 you have a picture of it that you're going to take back
19 there that, yes, Dr. Presnell said it could have been a
20 naturally occurring decomposition, but it was also
21 consistent with other knife wounds. There was several
22 areas around the clavicle close to the trachea, and she
23 gave us a picture of that.

24 When you combined that testimony of Dr. Presnell with
25 what Paul LaRosa said about the large amount of castoff

1 going onto those blinds, we can use our common sense and
2 say those possibly could have been knife wounds because
3 there was an unusually loud, large amount of castoff blood
4 on the blinds behind the tub.

5 And remember the tub. It was a large garden tub about
6 4 feet across. There is blood pooling on the front of it,
7 and then there's castoff blood all the way back on the
8 window blinds back behind it. So, you've got blood
9 spurting out this and pooling down this way. This was a
10 brutal, a very brutal attack and Dr. Presnell, I believe,
11 said a very brutal attack.

12 And remember Dr. Presnell also removed the duct tape
13 from Monesha's hands. When he put her in that barrel, she
14 was still duct taped. He never took that duct tape off of
15 her.

16 Let's look at the evidence that corroborates his
17 confessions that he gave on July 23rd of 2010. Monesha's
18 blood was found on the wall in the hallway near the
19 bedroom, and you're going to have a SLED report that goes
20 back there. Both parties stipulated to the DNA. Her blood
21 was on the hallway wall near the bedroom. Her blood was
22 pooling on the floor outside the front of the tub on the
23 carpet. Paul LaRosa described it as free-flowing blood.

24 I want to address one thing. The SLED agent's not
25 going to cut every last piece of carpet with blood on it.

1 He is going to cut a representative sample to take back to
2 SLED because what's the purpose of getting the sample? So
3 you can check to see if it's her DNA. You don't need all
4 that carpet to check. You just need enough to check to see
5 if it's her DNA. And guess what? The SLED report shows
6 that the carpet cutting that you're going to take back
7 there with you, sure enough is Monesha Brown's blood. Paul
8 LaRosa did his job.

9 Furthermore, that castoff blood that was on the blinds
10 behind the tub, the SLED report shows that the DNA in that
11 blood sure enough belonged to Monesha Brown. So, you've
12 got Monesha's blood on the window blinds. You've got
13 Monesha's blood on the carpet in front of the tub, and
14 you've got Monesha's blood in the hallway outside the
15 bedroom. And Paul LaRosa, who's an expert, said that the
16 volume of the castoff is in the moderate to high range
17 indicating a brutal violent attack, which he said took
18 place in the bathtub.

19 Now, there was also a hole in the wall. That
20 corroborated his testimony -- or excuse me, his confession
21 from July 23rd when he said during that first fight in the
22 kitchen that he did shove her into the wall. And Paul
23 LaRosa said that the size of that hole and the shape of it
24 looked like maybe a head or an elbow or something on the
25 side of the body went into that hole.

1 And you'll have a picture of that to take back and
2 look. It's sheetrock. It looks like somebody took a
3 sledge hammer and beat it, but it's not. That's her body
4 being used as a battering ram to break a huge hole into the
5 sheetrock wall.

6 Another thing that shows that, that corroborates his
7 confession from July 23rd is there is a knife missing from
8 the knife block. Remember he said initially that the knife
9 broke in half, the one he rammed into her neck? He later
10 took that and threw it off the PeeDee River bridge into the
11 river, and sure enough there is a knife missing from that
12 knife block. He admitted duct taping her hands behind her
13 back in the kitchen. He admitted walking her from the
14 kitchen, through the hallway, to the bedroom, to the tub,
15 and sure enough duct tape was on her hands at autopsy, and
16 this is the duct tape.

17 And notice how it's wrapped. Dr. Presnell said when
18 she took it off, she tried to lay it out to show how it had
19 been around her wrist. Notice on the right wrist -- she's
20 got them, like, right and left. The right wrist is wrapped
21 around once and then multiple times around the left wrist.
22 She is bound; she can't go anywhere.

23 Now let's look at the, the defense. Now, they brought
24 up Monesha's character. They talked about her possibly
25 being a crack head or a prostitute. Well, I think it's

1 obvious. Even her mother said she may have smoked crack.
2 That's not an excuse for her being killed. And did she
3 prostitute herself? We don't know. If she had, that's,
4 again, no excuse for her death. There is no blame-the
5 victim mentally here.

6 Remorse. When he came in today, John Hogan sat on
7 that stand up there. He cried. He claimed he'd been
8 suicidal. Claims he cries daily. He cried on the stand
9 also. But remember he cried on the stand, if you think
10 back, only when he was talking about his wife, his child,
11 or the church. He didn't cry when he was talking about
12 what happened to Monesha. He wasn't remorseful for that.
13 He's remorseful for having got caught. I would cry, too,
14 if I was about to be arrested.

15 Remember he cried on July 23rd? He cried -- they said
16 he cried some in Sumter, and he cried on the videotape.
17 Well, he cried because he was caught and he was being
18 arrested. I think any of us would cry if we were being
19 arrested for murder.

20 Preparation. Now it's been almost two years. It's
21 been over eighteen months since this murder. He's had
22 multiple opportunities to meet with his lawyer. He's had
23 multiple opportunities to think about what he was going to
24 say today, and sure enough he did change up several of his
25 statements. He used words like ongoing thing. Words like

1 didn't stop. Words like out of control the whole time.
2 Words like it was very fast and quick. Just think of all
3 the phrases he used. Those are all things that would try
4 to fit a voluntary manslaughter conviction as opposed to a
5 murder conviction.

6 He has had time to sit around and think about it and
7 tailor his testimony, even though his testimony today is
8 different from his confession. He's had time to think
9 about it and tailor it to try to convince you that it's
10 voluntary manslaughter and not murder.

11 Now, Dan Blake even asked him. Are you telling more
12 details now than you admitted before? And he admitted
13 yeah, I have been sitting in jail for eighteen months
14 thinking about this.

15 One other thing: voluntary intoxication. Much has
16 been said about John Hogan's use of crack that week. Much
17 has been said about his drinking all the alcohol this week.
18 So what? In South Carolina, and the judge is going to
19 charge you this. In South Carolina, our State Supreme
20 Court has said voluntary intoxication is never a defense to
21 murder. It will never reduce murder to manslaughter.
22 That's the law in this state. He cannot use it at as an
23 excuse; he cannot use that as a defense. The fact that he
24 was high on crack, the fact that he might have been
25 drinking does not take this case to manslaughter. That's

1 the law in this state, and Judge King is going to tell you
2 that when he gives you your charges.

3 Let's look at Paul LaRosa. Now, he's basically been
4 attacked today and almost called a liar. This is a senior
5 special agent with the South Carolina State Law Enforcement
6 Division. He has nothing to win or lose. He was here
7 under subpoena to testify about what he did on July 22nd
8 and 23rd of 2010 in relation to this case. He is an expert
9 in crime scene; he is an expert in blood spatter.

10 He said, and I quote: The more the blood, the more
11 violent the crime. His expert opinion that he rendered
12 from stand is this was a very brutal attack. Occurred in
13 the bathtub area.

14 I want to address another thing. Mr. Blake told you
15 or indicated to you that Paul LaRosa may have been
16 testifying that she was stabbed repeatedly. I don't
17 believe that was his testimony. He was trying to tell you
18 about castoff. The more times there's a cut with a knife,
19 the more the castoff, whether it's a slice or a cut or a
20 stab. He was testifying about castoff and about the amount
21 of blood there was.

22 And if you remember Summer Hogan, Mr. Hogan's own wife
23 this morning when she testified, described how when she
24 went back to the house after they had sprayed the LCV
25 everywhere looking for blood, and she sat right here and

1 described all the places there was blue in that house
2 because LCV turns blue wherever blood was. And I think at
3 one point she described it as being 3 to 4 feet up one
4 wall. She described it being all over the tub, in the tub.
5 I mean, from the tub. It was everywhere. Even the
6 defense's witness told you there was a lot of blood in that
7 house.

8 Lieutenant Turner, could you assist me with the
9 blinds? And just to show you what Paul LaRosa was talking
10 about, we're going to open the blinds. They are an exhibit
11 in the case. You can take it back there and look at it if
12 you want. I'd recommend using gloves.

13 Remember this window was behind the tub. So, the
14 blinds come down. The blinds come down to the tub area.
15 Can you please stand over here? You notice there's blue
16 along the string here. Notice the castoff. This is
17 splatter. Can everybody see it? Let it go. This is all
18 splatter here. Every time there was a slice with the knife
19 -- remember he testified as the knife went up, blood is
20 splattering up? Look, there's spatter, spatter, spatter,
21 spatter. This is Monesha's blood. Thank you.

22 If this brutal violent killing isn't murder, then I
23 don't know what it. But let's go back and address some
24 other matters now. Thank you. You can just leave that
25 there.

1 So, what if John Hogan does come to court today and
2 he's the most remorseful person ever? That doesn't change
3 the fact that he killed Monesha Brown. It doesn't excuse
4 the fact, and he shouldn't get a free walk because of that.

5 He made multiple efforts to conceal his crime and lie
6 about it. After he brutally murdered her in that tub, he
7 let her lay there while he smoked more crack, and it wasn't
8 till 5:30 the next morning that he decided to do something
9 with her, with her body that had been laying there bleeding
10 out all night.

11 He remembered he had a barrel he brought with him from
12 Texas. So, he gets that barrel. He stuffs her body in it,
13 and remember Dr. Presnell talked about how the legs had to
14 be bent up and put in, the body, into the barrel.

15 So, he stuffs her in there real good, seals it up,
16 loads it in the back of his pickup truck, and goes driving
17 out around the countryside trying to figure out where he
18 can dump it like trash. And he finds an area off a road
19 off of 38 that turns up, going into a wooded area, and
20 there's a little ravine up there, and what does he do? He
21 rolls her down the hill.

22 He was judge, jury, executioner, and mortician. He
23 decided that was going to be her final resting place, and
24 he threw her away like garbage and drove way as if nothing
25 happened.

1 Went back home. Made every effort to wipe all the
2 blood up. Threw away the clothes that were left at the
3 house because remember: all she had on her that barrel was
4 her tank top. No panties. No pants or skirt. No flip
5 flops. Threw everything of hers away, wiped all the blood
6 up, lied to his wife when she got home about what happened.

7 He claimed that for six weeks -- because that's how
8 long she was a missing person. Six weeks is how long
9 Monesha's family was out in the community searching for
10 her. She was on the TV. It was in the newspaper. Putting
11 up posters. For six weeks this family was wondering where
12 their loved one was at. Was she alive? Was she dead? Was
13 she okay? For six weeks, he said he had time to think
14 about all this, and he said he wanted to tell somebody.
15 And yet, the first opportunity he had to tell somebody on
16 July 21st when Larry Turner goes to get him, what does he
17 do? He spends an hour and a half lying at the police
18 station.

19 Now, we didn't show it, but it's in evidence. The
20 July 21st interview at the Bennettsville Police Department
21 is an exhibit, and he lied throughout this entire thing.
22 He puts her in the car smoking crack and says he let's her
23 out up near KFC. Never sees her again. And if you want to
24 see just how believable he is when he lies, and compare it
25 to how believable he may have been to you today, then you

1 can watch this back there. You'll just have to let us
2 know, and they'll send it back there to let you watch it.

3 And then when he came again two days later to his
4 first interview on July 23rd, he started that interview off
5 by lying. It wasn't until Shawn Feldner told him, look, we
6 both know what you did, and now he's thinking, oh God, they
7 must have some evidence. It wasn't till Shawn Feldner told
8 him to man up, help this family, that he finally says she's
9 not alive. She's not living. He finally tells what's
10 happened, but it takes him six weeks.

11 And let's go back to how this entire incident started
12 at the house. Now, today he tried to minimize all his
13 actions. Today everything he said totally flew in the face
14 of his two confessions on July 23, 2010. Back then he said
15 that he became, and it was his word, enraged by finding her
16 going through his wallet, and that he hit her. Totally day
17 he tries to change his story. Oh, I didn't hit her. I
18 slapped her and said something nasty to her, and he claims
19 that she went running into the kitchen, immediately grabbed
20 a knife. Well, he didn't say any of that on July 23rd,
21 neither the first interview or the second interview.
22 Again, he's had eighteen months to sit out there at the
23 county jail and think about what his story was going to be
24 today.

25 He admitted in the interview that after he had rammed

1 her into the wall and then stabbed her in the neck and --
2 because remember she got that knife to try to protect
3 herself. This man has used her body as a battering ram and
4 rammed her into a wall with such force, it busted open
5 sheetrock.

6 And the only place she could stab him was the side.
7 She couldn't get the chest. She couldn't get the face.
8 All she could get was the side by the belt. And all he had
9 to do to get that knife away, he even admits, he just had
10 to squeeze her hand or something and got that knife away
11 from her and then rams it into her neck. And in his
12 interviews back in July 23, 2010, he said she, quote,
13 struggled a little after that violent stabbing.

14 She wanted to get away from him. That's why she was
15 struggling. There was no way he was going to let her leave
16 that house alive that night. It wasn't going to happen.

17 And another point I want to bring out. Today he
18 claims that her getting pushed into that wall was done
19 after he had already stabbed her in the neck, and they're
20 fighting over the knife. But the DNA analysis, which
21 you're going to have which shows that her blood is on the
22 window blinds, her blood is on the carpet cuttings, and her
23 blood was near a hole -- excuse me -- and her blood was
24 near the master bedroom, guess what was on the swab from
25 the, near the hole in the kitchen, the hole in the wall,

1 the stab taken near that hole? Ain't no blood there.
2 Well, if she's bleeding profusely because she's got this
3 huge gaping hole in her neck, if he then took her and
4 shoved her into the wall, surely it would have left some
5 blood somewhere. But it didn't because he is lying today.
6 He put her body through that wall before he stabbed her in
7 that neck.

8 And then this thing about Casey McCall. The defense
9 calls Casey as a witness and makes -- they bring up this
10 story about how Monesha and Casey were going to rob Mr.
11 Hogan. Well, the other two individuals never went to see
12 an investigator with the sheriff's office. Never went to
13 see an investigator with the police department. Never went
14 to the solicitor's office. And the first time that story's
15 brought out is here in court yesterday.

16 And remember what they said. One of them claimed that
17 he got the story, I believe it was in September 29th or
18 30th of 2010. Months -- no, over a year ago. The other
19 one claims he got his story January 25th of this year. But
20 yet their stories matched up almost word for word.

21 And you guys heard Casey on the stand. You -- we can
22 use our common sense and say those, that language he -- she
23 was my partner in crime does not sound like Casey McCall
24 talking. Casey, he admits where he lives. He lives on --
25 he works the streets. He does what he can to get by. He's

1 in and out of jail. He doesn't speak like that.

2 And, furthermore, even if you believe for a second
3 that Casey and Monesha were going to try to rob Mr. Hogan,
4 once her hands were duct taped behind her back and she was
5 in that tub, she was no threat to him whatsoever. He had
6 time to sit on the bed, time to smoke crack, time to get a
7 knife, time to come back and slice her. That's still
8 murder. He had a more than sufficient cooling off period.

9 And I want to bring out one other thing. Do you
10 remember when Summer Hogan was on the stand, and Mr. Daniel
11 asked her about how far it was from the tub to the area of
12 the kitchen? And we're going to walk that distance, and
13 let's just go through it one more time because it's so
14 important.

15 The fight in the kitchen is over; it's over and done
16 with. She's stabbed in the neck. She's bleeding
17 profusely. Monesha's hands are duct taped behind her back.
18 That duct tape is key; that duct tape alone is evidence of
19 malice.

20 He walks her to the tub. He's not dragging her. He's
21 not still furious and pulling her along. She walked to the
22 tub because he walked her there, puts her in the tub, sits
23 on the bed, takes two hits of crack. And remember the
24 testimony about how long it took the three of them to smoke
25 that crack? It took a good while. So, he's had time to

1 sit there and take two hits of crack while she's duct
2 taped.

3 He's 5 feet away. He then gets up, after the Devil
4 tells him you got to finish her off, and he walks from the
5 kitchen to retrieve a knife and come back, and by his own
6 wife's testimony this is how far it would be. And then
7 when he gets back in with the knife, he slices her neck not
8 once, at least twice, possibly more. Enough for her to
9 bleed almost a bucket of blood on to the floor, pooling in
10 front of the tub. Enough to put all that castoff on the
11 blinds that you saw.

12 This is clearly a murder case. I don't believe that
13 you will have any reasonable doubt about this being a
14 murder when you go back in there and deliberate and
15 consider everything that's been said, and consider all the
16 evidence that goes back with you. And I'm, I'm just going
17 to ask you to please, please find Mr. Hogan guilty of
18 murder because that is exactly what he's guilty of. Thank
19 you.

20 THE COURT: All right, ladies and gentlemen of the
21 jury, you've been in the courtroom for about an hour now,
22 and it's time for me to go into my instructions. But
23 before I do that, we're going to take about a ten minute
24 break. And then we'll be ready to go forward, and I would
25 instruct you on the law of this case.

6 (THE JURY EXITS AT 2:01 P.M.)

9 (OFF THE RECORD.)

14 Bring the jury in, please.

15 (THE JURY ENTERS AT 2:12 P.M.)

16 JURY CHARGE

23 You have followed very patiently and listened very
24 attentively to the presentation of the evidence in this
25 case, and also to the able arguments made by the solicitor,

1 Ms. Johnson-Lee on behalf of the state, and Mr. Blake on
2 behalf of the defendant, and I thank you for that. It now
3 becomes the duty of the trial judge, under the constitution
4 of this state, to charge, to charge and instruct you on the
5 law applicable to this case, and it is your duty, as
6 jurors, to accept and apply the law as the court will now
7 state it to you.

8 And let me ask, if you would please, before we go any
9 further, Mr. Daniel, put these exhibits down and move that
10 podium a little bit. They're blocking my view of the jury.

11 (A PAUSE.)

12 THE COURT: Thank you.

13 As I say, it becomes my duty to charge you with the
14 law in this case, and it is your duty, as jurors, to accept
15 and apply the law as the court will now state it to you.

16 And as jurors, it is your exclusive duty to decide all
17 of the issues of fact in this case, and for that purpose to
18 determine the effect, the value, the weight, and the truth
19 of the evidence presented. Both the state and the
20 defendant have the right to expect that you will
21 conscientiously consider and evaluate the evidence and
22 apply the law of the case thereto to the end that both the
23 State of South Carolina and the defendant will receive and
24 obtain a fair and impartial trial.

25 When I use the word defendant, I refer, of course, to

1 Mr. John Lee Hogan, Jr. The State of South Carolina, by
2 the bill of indictment in this case which I hold in my
3 hand, charges the defendant with the offense known in the
4 law as murder. The indictment reads in part as follows.
5 That John Lee Hogan, Jr., did in Marlboro County on or
6 about June the 5th, 2010, willfully, feloniously,
7 intentionally -- and intentionally kill the victim, Monesha
8 S. Brown with malice aforethought, either expressed or
9 implied, by means of beating the victim several times,
10 cutting her throat with a kitchen knife, and the victim did
11 die as a proximate result thereof on June the 5th, 2010, in
12 Marlboro County.

13 To this charge and to this indictment, the defendant
14 has entered a plea of not guilty. This plea of not guilty
15 by the defendant places the burden of proof on the state to
16 prove by evidence the guilt of the defendant beyond a
17 reasonable doubt before you, the jury, can find the
18 defendant guilty.

19 The defendant, Mr. Hogan, is presumed in the law
20 innocent of the charge contained in the indictment. It is
21 a cardinal and fundamental rule of law that a defendant,
22 irrespective of the enormity of the charge against him,
23 will always be presumed innocent of the crime for which he
24 is indicted unless and until the guilt of the defendant has
25 been proven by evidence which satisfies you, the jury, of

1 his guilt beyond a reasonable doubt.

2 The presumption of innocence is not a mere legal
3 theory; it is not just a legal phrase. The presumption of
4 innocence is a substantial right to which every accused is
5 entitled. Our Supreme Court has declared that the
6 presumption of innocence is like a robe of righteousness
7 placed about the shoulders of this defendant. And it
8 remains with him and assigns to him that class, the
9 innocent, until that presumptive robe of righteousness has
10 been stripped from his person by evidence satisfying you,
11 the jury, of the guilt of the defendant beyond a reasonable
12 doubt.

13 The presumption of innocence accompanies the defendant
14 from the time of his arraignment and appearance in this
15 court and continues with the defendant after you retire to
16 your jury room to deliberate your verdict. The presumption
17 of innocence remains with the defendant and continues in
18 existence to his benefit until you, the jury, reach the
19 conclusion that he -- that the state has proven the guilt
20 of the defendant beyond a reasonable doubt.

21 Now, the state is not required to prove the guilt of a
22 defendant beyond all doubt or beyond every doubt, but
23 beyond a reasonable doubt. What is a reasonable doubt? It
24 is not an imaginary or a fanciful doubt or a weak doubt.
25 It is a substantial doubt. It is a doubt which the words

1 imply a doubt for which you can give or assign a reason
2 based on the testimony and the evidence in the case.

3 A reasonable doubt is not any sort of doubt. You and
4 I know from everyday life experiences that you may have a
5 sort of a doubt about any matter that arises, no matter how
6 trivial it may be or how serious it may be. A reasonable
7 doubt is a doubt which makes an honest, sincere,
8 conscientious juror in search of the truth hesitate to act.

9 Proof beyond a reasonable doubt is proof which leaves
10 you firmly convinced of the defendant's guilt. If you have
11 a doubt for which you can give or assign a reason as to the
12 guilt of the defendant, then he is entitled to a verdict of
13 not guilty. Reasonable doubt may arise from the evidence
14 which is in the case or the lack of evidence in the case.
15 You, the jury, must make the determination of whether
16 reasonable doubt exists in this case or whether it exists
17 in any case. You must make the determination of whether or
18 not reasonable doubt exists as to the guilt of this
19 defendant.

20 The very fact, however, that the jury engages in a
21 full and free discussion of the issue of guilt or non-guilt
22 with the normal conversational ebb and flow does not mean
23 that reasonable doubt automatically exists in this case or
24 in any other case.

25 I charge you that the defendant is entitled to every

1 reasonable doubt arising in the whole case or arising in
2 any defense, in any defenses asserted by the defendant.
3 If, upon any issue of fact essential to a conviction and a
4 verdict of guilty, you have a reasonable doubt as to how
5 that duty -- how that issue should be resolved, it would be
6 your duty to resolve that doubt in favor of the defendant.

7 A defendant, ladies and gentlemen, is not required to
8 prove his innocence. But the state is required by law to
9 prove every essential element of the offense charged
10 against the defendant by evidence which satisfies you, the
11 jury, of the guilt beyond a reasonable doubt before you,
12 the jury, can convict the defendant and find him guilty.
13 If then, upon the whole case, you have a reasonable doubt
14 as to the guilt or innocence of the defendant, he is
15 entitled to that reasonable doubt and would be entitled to
16 a verdict that reflects that reasonable doubt.

17 But, on the other hand, if, upon the whole case, you
18 find that the state has proven by evidence which satisfies
19 you, the jury, of the guilt of the defendant beyond a
20 reasonable doubt, then in such circumstances it would
21 equally be your duty to convict the defendant and find him
22 guilty.

23 If you find the defendant guilty but have a reasonable
24 doubt as to whether the defendant be guilty of the greater
25 crime charged or the lesser crime charged, then you would

1 resolve that reasonable doubt in favor of the defendant,
2 and write a verdict of guilty only as to the lesser charge.
3 But, of course, you could not write a verdict of guilty as
4 to any charge unless you find that all elements of the
5 charge have been proven by the state beyond a reasonable
6 doubt.

7 Now, I charge you that the indictment in this case,
8 which I previously had in my hand and which I have now, is
9 not evidence in this case. As I told you at the first of
10 this case, the indictment is simply the formal written
11 instrument which contains the charge against the defendant,
12 and it serves as the formal document by which this case is
13 brought to court.

14 Now, during this trial, each of us, you and I, have
15 certain duties to perform. As the trial judge, it is my
16 responsibility to preside over the trial of this case. And
17 I also have the duty to, to rule upon or pass upon the
18 admissibility of evidence offered during the progress of
19 the trial. You are to consider only the competent evidence
20 before you. That is the evidence admitted into the trial
21 of this the case, and you are to disregard and disabuse
22 from your mind any testimony ordered stricken from the
23 record of this case during the progress of the trial, if
24 there be any. And you are to consider only the testimony
25 which has been presented from this witness stand, together

1 with any exhibits that have been admitted into the record
2 and any stipulations of counsel made into the record.

3 I have the additional duty to charge you on the
4 applicable law in this case. As the presiding judge, I am
5 the sole judge of the law in this case. It is your duty to
6 accept and apply the law as I now state it to you. If you
7 have a preconceived idea as to what the law is or what the
8 law ought to be, and it does not agree with what I tell you
9 the law is, you are to disregard that preconception on your
10 part, and abandon that preconception on your part because
11 you are sworn to accept the law precisely as I state it to
12 you.

13 In every case tried in this court before a jury, the
14 jury becomes the sole and exclusive judge of the facts of
15 the case. You, the jury, are the judge of the facts in
16 this case; the court is the judge of the law. The
17 constitution of this state has declared that the trial
18 judge shall not intimate, state, comment upon, or make any
19 statement to a trial jury about the facts of the case.
20 Since you are the sole judge of the facts, you're not to
21 infer from anything that I have said during the progress of
22 this trial in ruling upon the admissibility of evidence or
23 otherwise or anything that I say to you now during the
24 course of these instructions to you that I have any opinion
25 about the facts of this case. I do not. The law does not

1 permit me to have an opinion about the facts. That is a
2 matter solely for you, the jury, to determine.

3 As jurors, then, it is your duty to determine, as I
4 have stated, the effect, the value, the weight, and the
5 truth of the evidence presented during the course of this
6 trial. Necessarily, then, you must assess the credibility
7 of the witnesses who have testified in this case.

8 Credibility is simply a legalistic term meaning
9 believable. It becomes your duty to analyze and evaluate
10 the evidence and to, and to determine that evidence which
11 convinces you of its truth.

12 I charge you that in determining the question of
13 credibility or believability of the witnesses, you -- of
14 the witnesses, you may believe one witness as against
15 several witnesses, or several witnesses, as against one
16 witness. You may believe a part of the testimony of a
17 witness and reject the remaining part of the testimony of
18 that same witness. You may believe the testimony of a
19 witness in its entirety or reject the testimony of a
20 witness in its entirety. You may consider whether any
21 witness has exhibited any interest, any bias, or any
22 prejudice in the case. You may consider the demeanor of a
23 witness. That is the appearance of a witness on the
24 witness stand, and you may consider the opportunity for
25 knowledge concerning those things about which a witness

1 testified.

2 These considerations you do not exercise arbitrarily.
3 But if, in your good judgment, there is sound reason in the
4 record for so doing -- because your objective, ladies and
5 gentlemen, is to find the truth, whether it comes from a
6 witness or witnesses for the State of South Carolina or a
7 witness or witnesses for the defendant. And in doing so,
8 in exercising your mental processes and in determining what
9 you consider to be true, the law simply requires that you
10 exercise your good judgment, your common sense, your sense
11 of logic and reason, and your experiences in life.

12 You then apply these attributes of ability to the
13 evidence and determine what you consider to be the truthful
14 evidence. And to these true statements of facts, as
15 determined by you, the jury, you take and apply the law as
16 the court will now state it to you, and thus arrive at a
17 true verdict in this case.

18 Now, the defendant in this case is charged with the
19 offense of murder. What is murder? Murder is defined as
20 the willful, felonious killing of a human being by a human
21 being with malice aforethought, that malice being either
22 expressed or implied malice. Section 16-3-10 of the Code
23 of Laws of South Carolina provides murder is, quote: The
24 killing of any person with malice aforethought, either
25 expressed or implied, end quote. The state must prove

1 beyond a reasonable doubt that the defendant killed another
2 person with malice aforethought.

3 The presence of malice is a required element of
4 murder. Malice is defined as being hatred or ill will.
5 Malice, in its legal sense, does not necessarily import ill
6 will toward the individual injured, but signifies rather a
7 general malignant recklessness of the lives and safety of
8 others. Or a condition of the mind which shows a heart
9 regardless of social duty and fatally bent on mischief.

10 Malice is the wrongful intent to injure another
11 person. It indicates a wicked or depraved spirit intent on
12 doing wrong. Malice is a legal term implying wickedness
13 and excluding a just cause or excuse. It is the doing of a
14 wrongful act intentionally and without just cause or
15 excuse. The term malice indicates, indicates a formed
16 purpose and design to do a wrongful act under the
17 circumstances that exclude any legal right to do it.
18 Excuse me.

19 Malice may be either expressed or implied. The words
20 expressed or implied add nothing to the meaning of the word
21 malice. They do not imply different kinds of malice, but
22 merely the manner in which the only kind known in the law
23 may be shown to exist. That is, either by positive
24 evidence or inference.

25 Expressed malice is when there is a deliberate

1 intention to unlawfully take the life of another. Implied
2 malice is when circumstances demonstrate a wanton or
3 reckless disregard for human life. Or a reasonably prudent
4 man would have known that, according to common experience,
5 there was a plain and strong likelihood that death would
6 follow the contemplated act.

7 The law says if one intentionally kills another with a
8 deadly weapon, the implication of malice may arise. If
9 facts are proven beyond a reasonable doubt sufficient to
10 raise an inference of malice to your jury satisfaction,
11 this inference would be simply an evidentiary fact to be
12 taken into consideration by you, the jury, along with other
13 evidence in this case. And you may give it such weight as
14 you determine it should receive.

15 A deadly weapon is any article, instrument, or
16 substance which is likely to cause death or great bodily
17 harm. Whether an instrument or object has been used as a
18 deadly weapon depends upon the facts and circumstances of
19 each case.

20 Although malice must be aforethought, there is no
21 requirement that it must exist for any appreciable length
22 of time before the commission of the act. It may be
23 conceived at the very moment the act occurs. There must be
24 a combination of the evil intent and the act producing the
25 result.

1 Now, under the theory of our law that the greater
2 offense includes the lesser offense, and we refer to this
3 as the lesser-included offense, a lesser-included offense
4 of murder is voluntary manslaughter.

5 What is voluntary manslaughter? Section 16-3-50 of
6 the Code of Laws defines voluntary manslaughter as, quote:
7 The unlawful killing of another without malice, expressed
8 or implied. Voluntary manslaughter is the unlawful killing
9 of a human being without malice in sudden heat of passion
10 upon sufficient legal provocation.

11 To prove voluntary manslaughter, the state must
12 demonstrate beyond a reasonable doubt that the defendant
13 unlawfully killed another without malice in sufficient heat
14 of passion based upon sufficient legal provocation. Heat
15 of passion alone will not suffice. Both heat of passion
16 and sufficient legal provocation must be present at the
17 time of the killing to constitute voluntary manslaughter.

18 The sudden heat of passion upon sufficient legal
19 provocation, while it need not dethrone reason entirely or
20 shut out knowledge and volition, must be such as would
21 naturally disturb the sway of reason and render the mind of
22 an ordinary person incapable of cool reflection and produce
23 what, according to human experience, may be called an
24 uncontrollable impulse to do violence. The passion need
25 not be so overpowering as to -- as for the time to shut out

1 knowledge and destroy volition.

2 To constitute sufficient legal provocation, the
3 provocation must come from some act of or related to the
4 victim. The provocation of the deceased must be such as
5 naturally and instantly produces in the mind of a person
6 ordinarily constituted the highest degree of exasperation,
7 rage, anger, sudden resentment, or terror, rendering the
8 mind incapable of cool reflection. If sufficient legal
9 provocation does not exist, the killing, even if committed
10 during the, the heat of passion, is not voluntary
11 manslaughter. The provocation must deprive one of the
12 power of self-control, but it need not entirely dethrone
13 reason.

14 Now, the exercise of a legal right, no matter how
15 offensive of another, is never sufficient legal provocation
16 for voluntary manslaughter. In determining whether the act
17 which caused death was impelled by heat of passion, all of
18 the surrounding circumstances and conditions are to be
19 taken into consideration, including previous relations and
20 conditions connected with the tragedy, as well as all of
21 those existing at the time of the killing.

22 In order for an intentional and unlawful killing to
23 constitute voluntary manslaughter, the killing must occur
24 during the heat of passion aroused by adequate provocation,
25 and before the passion has cooled or has had time to cool.

1 Even if sufficient legal provocation has aroused a
2 defendant's passion, if, at the time of the killing, those
3 passions had cooled or a sufficiently reasonable time had
4 elapsed so that the passions of the ordinary reasonable
5 person would have cooled, the killing is not voluntary
6 manslaughter. If sufficient time has elapsed under all the
7 circumstances of the case for the defendant to cool -- that
8 is to say time within which an ordinary man under like
9 circumstances would have cooled before the fatal blow is
10 struck -- then the killing is not voluntary manslaughter.

11 In determining whether a reasonable time for cooling
12 off has elapsed, you should consider all of the
13 circumstances surrounding the event, the nature of the
14 provocation, the defendant's physical and mental condition,
15 the defendant's condition in life, the defendant's
16 education, habits, conduct, manner, and conversation
17 throughout the entire incident, and the circumstances and
18 relationships between the parties.

19 Now, ladies and gentlemen, I would also charge you
20 that voluntary intoxication is not an excuse for or a
21 defense to a crime, regardless of whether the crime is one
22 involving general or specific intent. This rule also
23 extends to the voluntary ingestion of drugs.

24 A person who voluntarily ingests alcohol or drugs and
25 thereby becomes intoxicated is no less responsible for his

1 acts while in such condition. If one voluntary drinks
2 intoxicating liquors, wine, or beer, or ingests drugs and
3 becomes intoxicated to whatever degree, and if, while in
4 that condition, commits an act which would be a crime if it
5 had been committed by a sober person, the fact of
6 intoxication would not relieve the intoxicated person from
7 responsibility.

8 Now, ladies and gentlemen, there are generally two
9 types of evidence that are presented in any case: direct
10 and circumstantial evidence. Direct evidence is the
11 testimony of a person who asserts or claims to have actual
12 knowledge of a fact, such as an eye witness.
13 Circumstantial evidence is proof of a chain of facts, chain
14 of facts and circumstances indicating the existence of a
15 fact. The law makes absolutely no distinction between the
16 weight or value to be given to either direct or
17 circumstantial evidence, nor is there a greater degree of
18 certainty required of circumstantial evidence than of
19 direct evidence.

20 You should weigh all of the evidence in this case.
21 And after weighing all of the evidence, if you are not
22 convinced of the guilt of the defendant beyond a reasonable
23 doubt, it would be your duty to find him not guilty on that
24 charge. On the other hand, after weighing all of the
25 evidence, if you are convinced of the guilt of the

1 defendant beyond a reasonable doubt, you would find him
2 guilty.

3 Now, there has also been testimony in this case from
4 witnesses who have been qualified as expert witnesses.
5 Although lay witnesses are limited to testifying about
6 facts within their knowledge and are not allowed to give
7 their opinion, certain witnesses, who by their training,
8 education, or experience are considered experts in a
9 particular field, may give their opinions in that field
10 based upon the facts of the matter and their conclusions.
11 These opinions constitute evidence to be considered by you
12 in connection with all of the other evidence in this case.

13 You may consider an expert's opinion just as you do
14 all of the other evidence in this case. It is for you, the
15 jury, to give it such weight as you, in your experience and
16 discretion, may determine. You must weigh such evidence
17 and accept or reject it in the same manner that you do all
18 other evidence in this case.

19 Now, as I said, ladies and gentlemen, you do have the
20 right to take all of the exhibits back to the jury room
21 with you and, and will, will -- everything that's been
22 introduced into evidence. What we will do, if you want to,
23 we will send the DVDs or the CD-ROMs back there, but you
24 will not have the equipment to play them. But if you
25 should decide, Mr. Foreman and ladies and gentlemen of the

1 jury, that y'all want to see any, all, or part of any of
2 those, you let us know, and we'll make arrangements to have
3 them played for you because you -- they are part of the
4 evidence in this case, and you do have the right to view
5 those further if you should want to.

6 Now, ladies and gentlemen, I've about finished my
7 instructions to you, but I will tell you that you are not
8 partisans or advocates for the State of South Carolina or
9 for this defendant. You do not serve on the jury to reward
10 your friends or punish your enemies. Obviously such a
11 perverted system of justice would be intolerable. You have
12 been selected by both the state and this defendant as fair
13 and impartial jurors.

14 It is your duty, then, by your joint deliberations to
15 determine the truth in this case, giving to the defendant
16 the benefit of each and every reasonable doubt on each and
17 every issue. And then to the facts which you determine to
18 be true, you take and apply the law which has been given to
19 you by this court and arrive at a verdict which does speak
20 the truth. Because the word verdict, ladies and gentlemen,
21 has a Latin derivative. It comes from the Latin word
22 *veridicto*, meaning true saying or to speak the truth. And
23 when you have, when you have accomplished these
24 responsibilities, you will have satisfied your oath as
25 jurors, and you will discharge your duty to this court.

1 I now want to instruct you on your forms of verdict in
2 this case, and there are three possible verdicts in this
3 case, and I have put them on a piece of paper.

4 If the state has failed to prove the guilt of the
5 defendant on the greater charge, your verdict as to that
6 charge -- that's prove his guilt beyond a reasonable doubt,
7 the charge -- your verdict as to that charge would be not
8 guilty, or as to either of the two charges, your verdict
9 would be not guilty. If the state has proven the guilt of
10 the defendant beyond a reasonable doubt on either of the
11 other charges, then your verdict would be -- one, one of
12 the other two would be guilty.

13 So, I have prepared here: State of South Carolina,
14 County of Marlboro. All this up here at the top is just
15 your -- the formalities and name of the case and the
16 number.

17 And I will tell you, first of all, that the order in
18 which I have put your possible verdicts on this verdict
19 form has absolutely no significance whatsoever. You should
20 not infer from the order in which I have put the possible
21 verdicts on this verdict form as I -- as my having any
22 opinion as to what your verdict should be. I do not. The
23 law does not allow me to have an opinion. But obviously,
24 in putting something down on paper, I had to put something
25 first, something second, and something third.

1 But across the top we have put: We, the jury, by
2 unanimous consent. And the verdict of -- must be the
3 verdict of all twelve of you. It must be by unanimous
4 consent: We, the jury, by unanimous agreement, find the
5 defendant, John Lee Hogan, Jr., guilty of murder or guilty
6 of voluntary manslaughter or not guilty. And you would
7 select one of the three and sign your name, Mr. Foreman,
8 and date it, and notify us, and we will return you to the
9 courtroom as soon as possible.

10 Now I'm going to send you to your jury room. I'm
11 going to ask that you not begin your deliberations just
12 yet. The law does require that I take up certain matters
13 of law with the attorneys in this case. If it is not
14 necessary for me to bring you back for additional
15 instructions, the bailiffs will bring you the exhibits,
16 they will bring you the verdict form, and tell you to begin
17 your deliberations. And when you have finished your
18 deliberations, if you would knock on the door, we will
19 return you to the courtroom as soon as possible. The
20 bailiff will be stationed outside the jury room door for
21 your security during the course of your deliberations.

22 And so with the exception of the alternate who I'm
23 going to ask to stay with me, I would ask the twelve of you
24 to go your jury room, but do not begin your deliberations
25 just yet. Thank you.

1 (THE JURY EXITS AT 2:41 P.M.)

2 THE COURT: Additions or exceptions on behalf of the
3 state, Ms. Johnson-Lee?

4 MS. JOHNSON-LEE: None, Your Honor.

5 THE COURT: Please, alternate, bring the alternate
6 back.

7 All right, nothing on behalf of the state?

8 MS. JOHNSON-LEE: No, Your Honor.

9 THE COURT: Anything on behalf of the defense?

10 MR. BLAKE: None by us.

11 THE COURT: All right, counsel, if y'all would check
12 the exhibits, make sure, and then we'll get them.

13 And bring them, bring them back in, Mr. Funderburk.
14 I'm going to discharge the alternate, counsel. The statute
15 actually provides the alternate is supposed to be
16 discharged when the matter goes to the jury.

17 (WHEREUPON, THE ALTERNATE JUROR IS DISMISSED.)

18 THE COURT: All right. Counsel, here's the -- I mean,
19 Mr. Funderburk, here's the verdict form, and if y'all got
20 all the exhibits, check them, check them out, and tell the
21 jury to go ahead and begin their deliberations.

22 MR. DANIEL: Judge, I was going to add, I just ---

23 THE COURT: All right. All right. Let's put it on
24 the record. Go ahead.

25 MR. DANIEL: I just wanted to make sure. Mr. Blake

1 FOREPERSON: We have.

2 (A PAUSE.)

3 THE COURT: All right, the standard form. The verdict
4 appears to be correct. Mr. Blake, if you and Mr. Hogan
5 stand, please, while the verdict is published.

6 All right, Mr. Clerk, you may publish the verdict.

7 VERDICT

8 CLERK OF COURT: Indictment number 2010-GS-34-0696,
9 *State of South Carolina vs. John Lee Hogan, Jr.* We, the
10 jury, by unanimous agreement find the defendant, John Lee
11 Hogan, Jr., guilty of murder. James Aubry Crosland,
12 foreman. February, February the 8th, 2012, Bennettsville,
13 South Carolina.

14 Is this your verdict? Please say it by raising your
15 right hand.

16 (ALL JURORS COMPLY.)

17 CLERK OF COURT: We thank you.

18 THE COURT: Thank you. You may be seated.

19 Anything further from Mr. Blake before the jury is
20 excused?

21 MR. BLAKE: No, Your Honor.

22 THE COURT: All right. All right, ladies and
23 gentlemen of the jury, this does complete your services in
24 connection with this case. I will tell you that in my
25 view, the jury role in the fact-finding process is so

1 period of time all over again in his life, and that he will
2 remember it every day for the rest of his life.

3 I have to weigh that remorsefulness, however, against
4 the six week period of time from the time the incident
5 actually occurred, and I think that was a result of drug-
6 induced behavior. But the problem that I really have with
7 this is the fact that he did not come forward. That there
8 was a six week period of time in there when no one knew
9 where the victim was.

10 Her family was looking for her and wondering where she
11 was, and what had happened to her, and that was -- had to
12 be excruciating as well. That does not mitigate well for
13 you, Mr. Hogan, that there was that six week period of time
14 that from the time that this happened that night, if you
15 had come forward that night and owned up to it, things
16 might have been somewhat different.

17 Based upon the facts of this case, and my evaluation
18 of the testimony, and what has happened both on the night
19 of the incident and after that, I think that the
20 appropriate sentence is that that the law authorizes me to
21 impose. And so the sentence of the court is defendant is
22 committed to the South Carolina Department of Corrections
23 for a term of life in prison.

24 --- END OF TRANSCRIPT OF RECORD ---

WITNESSES

Jamie Seales

Marlboro County Sheriff

Law Enforcement Case #: 2010-005292

347

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
K119953

ARRESTED ON: 2010-07-23

ACTION OF GRAND JURY

TRUE BILLED

SEP 3 0 2010

Grand Jury Foreperson

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2010-GS-34-0696

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
September 2010

THE STATE

vs.

John Lee Hogan Jr.

COPY

INDICTMENT FOR

Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

INDICTMENT FOR

Murder

§16-03-0010; 16-03-0020

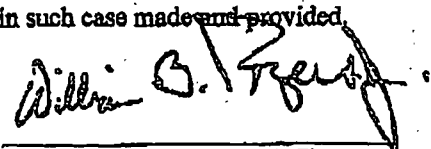
At a Court of General Sessions, convened on September 30, 2010, the Grand Jurors of Marlboro County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That John Lee Hogan Jr. did in Marlboro County, on or about June 5, 2010, willfully, feloniously, and intentionally kill the victim, Monesha S. Brown, with malice aforethought, either express or implied, by means of beating the victim several times, cutting her throat with a kitchen knife, and the victim did die as a proximate result thereof on or about June 5, 2010 in Marlboro County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS, JR.
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Marlboro

VS.

John L Hogan

AKA:

Race:

Sex: M

Age:

DOB:

SS#:

Address:

City, State, Zip: Bennettsville, SC 29512

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / MurderINDICTMENT/CASE#: 2010-GS-34-0696
A/W#: K119953
Date of Offense: 7/23/2010 6-5-2010
S.C. Code § : 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Johnson-Lee, Mary T

SC Bar# 65347

Defendant

Attorney for Defendant

SC Bar# 7353

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-40 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

_____ days/hours Public Service/ Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

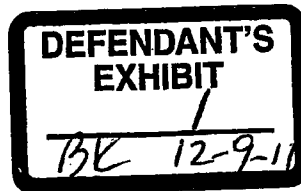
SCCA/217 (05/2011)

Presiding Judge

Judge Code:

Sentence Date:

Howard P. Hargis
2107
Feb 8, 2012



427

CURRICULUM VITAE**William Alexander Morton Jr., PharmD****July 2011****PERSONAL DATA:**

Home Address: [REDACTED] Greenfield Circle
Eagle Lake
Brevard, NC 28712

Business Address: 102 College Station Dr.
Suite 3, #101
Brevard, NC 28712

Home Telephone: (828) 884-2075
Cell Telephone: (843)-364-6306
E-mail: mortona@musc.edu
mortona@gmail.com

LICENSURE:

Licensed to practice Pharmacy in:	South Carolina	#4919
	California	#30133
	North Carolina	#5944

BOARD CERTIFICATION:

Board certified in: Psychiatric Pharmacy Practice, #496285,
December, 1996, Recertified December, 2004
Board of Pharmaceutical Specialties (currently 553 worldwide
members) www.bpsweb.org

EDUCATION:

University of California at San Francisco:
Residency in Hospital and Clinical Pharmacy
June 1976

**A CERTIFIED
TRUE COPY**

William B. Sunderbush

**CLERK OF COURT
MARLBORO COUNTY**

University of Tennessee:

Doctor of Pharmacy
June 1975

University of North Carolina:

Bachelor of Science in Pharmacy
May 1972

CURRENT APPOINTMENT:

Professor Emeritus in Pharmacy and Clinical Sciences (2004), Professor (1996), Tenured (1982), College of Pharmacy, Medical University of South Carolina (1976)

PAST APPOINTMENTS

Associate Professor of Psychiatry and Behavioral Sciences (1997-2007), Department of Psychiatry and Behavioral Sciences, College of Medicine, Medical University of South Carolina (1978).

Associate Member, College of Graduate Studies, Medical University of South Carolina (2004-2007).

PAST CLINICAL PHARMACY EXPERIENCE:**Center for Drug and Alcohol Program**

Inpatient team member providing psychopharmacological assessment, teaching, and consultation to this program, as well as served as an education group leader (1991 - 2004).

Clinical Pharmacist

Provide educational activities for Doctor of Pharmacy students and provide clerkship experience for both BS and Doctor of Pharmacy students in the area of psychiatry (1977 - 2004).

Clinical Psychopharmacology Research Section

Coordinated and developed clinical pharmacy services and served as a co-investigator in studies conducted in the Clinical Research Section of the MUSC Department of Psychiatry (1986 - 2002).

Psychopharmacology Clinical Supervisor

Served as a supervisor in the outpatient program for patients receiving psychoactive medications and being treated by third-year psychiatry residents. (1984 - 2002).

Psychopharmacology Unit

Served as the Assistant Director and Clinical Supervisor in this outpatient program which is staffed by third-year psychiatry residents. Also, provide administrative, clinical, and educational services in this program which I helped initiate and develop (1984-2001).

Psychopharmacy Residency Program

Coordinator and preceptor for this ASHP approved Psychopharmacy Residency Program, 1983-1995.

Fenwick Hall Hospital

Initiated and developed clinical pharmacy services at this private chemical dependency treatment center on Johns Island, SC. Clinical services included group patient education presentations, individual patient consultation, medication monitoring and assessment, staff education regarding psychopharmacological issues, drug utilization reviews, developing a formulary, chairman of pharmacy and therapeutic committee, and developing a medication distribution system. Approximately 675 presentations were given to patients on the following topics: "Withdrawal Syndromes," "Medication Information," "Physical Side Effects of Alcohol," "Psychological Side Effects of Substances," "Pharmacological Treatment of Psychiatric Disorders," and "Alternatives to Using Substances." These services were provided between April, 1980 and May, 1994.

Charleston County Memorial Hospital

Provided psychopharmacology consultation to the psychiatry unit which consisted of interviewing, evaluating, and discussing a patient and the patient's current/future drug therapy. A didactic presentation on psychopharmacological issues was also presented. Approximately 425 patient consultations and drug therapy presentations were conducted between June, 1985 and June, 1994.

Mental Health Center

Charleston Area Mental Health Center, provided clinical pharmacy consultation to this community mental health center from 1987 to 1991.

Inpatient Department of Psychiatry

Developed and provided clinical pharmacy services for the MUSC Department of Psychiatry inpatient unit. Activities on the Adult Inpatient Service included providing medication information, monitoring drug therapy, as well as psychopharmacology and pharmacokinetic consultation (1981). Consultative services were also provided to the Adolescent and Child Psychiatry Divisions. These services were provided from July 1981 to June 1991.

Access

Participated as a full member in this private psychiatric outpatient practice providing medication evaluation and monitoring for outpatients requiring psychopharmacologic agents from June 1981 to June 1983.

Charleston VA Medical Center

Initiated and provided Clinical Pharmacy Services for the Inpatient Psychiatry Service from January 1977 until June 1981; initiated and provided Clinical Pharmacy Services in the Mental Hygiene Clinic which included psychiatric drug therapy, served as a primary practitioner to 128 outpatients, provided education programs to staff and students, and provided psychiatric evaluation to off-schedule patients from June 1977 to June 1982.

Medical University of SC

Developed Clinical Pharmacy Services MUSC Seizure Clinic, served as primary practitioner to patients receiving anticonvulsant drug therapy from March 1977 until June 1981.

Medical University of SC

Initiated and provided Clinical Pharmacy Services in the Medical Screening Clinic from October 1976 to January 1979.

University of Tennessee

Clinical clerkships included the following: General Medicine, Psychiatry, Pulmonary Medicine, Drug Information, Ambulatory Care, and Pharmacy Practice.

Hot Springs Health Program, Hot Springs, NC

Served as Director of Pharmacy Services from June 1973 to May 1974. Responsibilities included drug procurement, outpatient dispensing, controlled substance records, and the following clinical pharmacy services: patient counselling, medication histories, patient monitoring, providing drug information to the medical and dental staff, drug advisor to nurse practitioners, and primary care practitioner for select hypertensive patients.

Cabarrus Memorial Hospital, Concord, NC

Served as pharmacist intern and staff pharmacist from June 1972 to May 1973. Responsibilities included the practice and supervision of inpatient dispensing, outpatient dispensing, IV additives, controlled substance records, participation in cardiopulmonary emergencies, and providing drug information to the pharmacy and medical staff.

SHAC Clinic

Member of the Student Health Action Committee; provided pharmacy services at the SHAC Edgemont Clinic in Durham, NC during the Spring of 1972.

Clinical Clerkship

Orientation to clinical pharmacy services at Duke University Hospital while attending University of North Carolina School of Pharmacy, Spring 1972.

Family Pharmacy Practice

Practiced family pharmacy as a pharmacy intern in Wilmington, NC, June 1968 to September 1968.

PUBLICATIONS:

1. **Morton WA**, Bridges ME. "Pharmaceutical services in a medical screening clinic." Am J Hosp Pharm 1978; 35:574-78.
2. Wannamaker BB, **Morton WA**, Gross AJ, Saunders S. "Improvement of antiepileptic drug levels following reduction of intervals between clinic visits." Epilepsia 1980; 21:155-62.
3. **Morton WA**, Sexauer JD, Miles SM. "Duplication of benzodiazepine prescriptions by outpatients." Hospital Formulary 1981; 16:826-31.
4. Doyal LE, **Morton WA**. "The clinical usefulness of lithium as an antidepressant." Hosp Community Psychiatry 1984; 35:685-91.
5. **Morton WA**. "Commentary on buspirone hydrochloride: A unique new anxiolytic agent." Pharmacotherapy 1984; 4:324.
6. Anton RF, Paladino JA, **Morton WA**, et al. "Effect of acute alcohol consumption on lithium kinetics." Clin Pharmacol Ther 1985; 38:52-55.
7. Steele TE, **Morton WA**. "Salicylate-induced delirium." Psychosomatics 1986; 27:455-56.
8. Santos AB, **Morton WA**. "More on clonazepam in manic agitation." J Clin Psychopharmacol 1987; 7:439-40.
9. Doyal LE, **Morton WA**, Crane DF. "Antihypertensive drug therapy in alcohol dependence: A drug utilization review in a chemical dependence treatment facility." Psychosomatics 1988; 29:301-306.
10. Lydiard RB, Laird LK, **Morton WA**, Steele TE, Kellner C. "Fluvoxamine, imipramine

- and placebo in the treatment of depressed outpatients: Effects of depression." Psychopharmacol Bull 1988; 25(1):68-70.
11. Malcolm R, Gabel T, **Morton A**. "Idiosyncratic reaction to naltrexone augmented by thioridazine." Am J Psych 1988; 145(6):773-74.
 12. Malcolm R, Gabel T, **Morton A**. "More on idiosyncratic reactions to naltrexone." Am J Psych 1989; 146:124-25.
 13. **Morton WA**, Santos AB. "New indications for benzodiazepines in the treatment of major psychiatric disorders." Hosp Formul 1989; 24:274-80.
 14. Santos AB, **Morton WA**. "Use of benzodiazepines to improve management of manic agitation." Hosp Community Psych 1989; 40:1069-71.
 15. Liotta C, **Morton A**. "A review of the pharmacologic management of panic disorder." Pharm Perspec Ambul Care 1991;3:43-47.
 16. **Morton WA**, Jackson CW, Santos AW, Hulstrand EP. "Clonazepam for psychiatric disorders? A look at its use in an inpatient psychiatric facility." Hosp Formul 1992;27:407-10.
 17. Johnson MA, Lydiard RB, **Morton WA**, Laird LK, Kellner C, Steele TS, Ballenger JC. "Effect of fluvoxamine, imipramine, and placebo on catecholamine function in major depression", Psychiatric Research, 1993;27:161-72.
 18. Laird LK, Lydiard RB, **Morton WA**, Steele TE, Kellner C, Thompson NM, Ballenger JC. "Cardiovascular effects of imipramine, fluvoxamine, and placebo in depressed outpatients. J. Clin Psychiatry, 1993;54:224-28.
 19. **Morton WA**, Sonne SC, Lydiard RB. "Fluoxetine associated side effects and suicidality". J Clin Psychopharmacology, 1993;13:292-95.
 20. Lydiard RB, **Morton WA**, Emmanuel NP, Zealberg JJ, Laraia MT, Stuart GW, O'Neil PM, Ballenger JC. "Preliminary Report: Placebo-controlled, double-blind study of the clinical and metabolic effects of desipramine in panic disorder. Psychopharmacol Bull, 1993;29:183-188.
 21. **Morton WA**, Sonne SC, Lydiard RB. "Lithium side effects in the medically ill". Int'l J Psychiatry in Medicine 23(4):357-382, 1993.
 22. **Morton WA**, Laird LK, Crane DF, Partovi N, Frye L. "A prediction model for identifying alcohol withdrawal seizures." Am J Drug Alcohol Abuse 1994;20:75-86.
 23. Jackson CW, **Morton WA**, Lydiard RB. "The pharmacologic management of obsessive compulsive disorders." Southern Medical Journal 1994;87:310-321.

24. Sonne SC, Brady KT, **Morton WA**. "Substance abuse and bipolar affective disorder". J Nerv Ment Dis 1994;182:349-352.
25. Brady KT, Lydiard RB, Kellner CH, Joffe RT, Laird LK, **Morton WA**, Steele TH. "A comparison of imipramine and fluvoxamine on the thyroid axis." Biol. Psychiatry 1994;36:778-779.
26. **Morton WA**, Sonne SC, Verga MA. "Venlafaxine: A structurally unique and novel antidepressant." Ann Pharmacother 1995;29:387-395.
27. **Morton WA**, Mendenhall AR, Windsor PG, Lydiard RB. "Clinical psychopharmacy consultations: Acceptance of recommendations on an adult inpatient psychiatric unit." Hosp Pharmacy 1995;30:786-790.
28. Brawman-Mintzer O, Lydiard RB, Phillips KA, **Morton A**, Czepowicz V, Emmanuel N, Villarreal G, Johnson M, Ballenger JC. "Body dysmorphic disorder in patients with anxiety disorder and major depression: A comorbidity study." Am J. Psychiatry 1995;152:1665-1667.
29. **Morton WA**. "Chemical dependence: A look at what does and doesn't work." J. Pharm. Practice 1996;9:147-154.
30. Markowitz JS, **Morton WA**, Gaulin BD. "Antipsychotic blood concentrations: Nonstandardization of reference ranges." J Clin Psychopharmacology 1997;17:121-123.
31. Villarreal G, Johnson M, Lydiard RB, **Morton WA**. Desipramine plasma levels and clinical response in panic disorder. Canadian Journal of Psychiatry 1995;40(2):110-111 (erratum re: authorship published 42:212, 1997).
32. Johnson MR, Marazziti D, Brawman-Mintzer O, Emmanuel NP, Ware MR, **Morton WA**, Rossi A, Cassano GB, Lydiard RB. "Abnormal peripheral benzodiazepine receptor density associated with generalized social phobia." Biol. Psychiatry 1998;43:306-309.
33. Easton MR, **Morton WA**. "An assessment of herbal weight loss products." J Pharm Practice 1999;12:240-250.
34. **Morton WA**. "Panic disorder." In Schwinghammer TL (ed.), Pharmacotherapy: A Patient-Focused Approach, 2nd Ed. Appleton & Lange, 1999.
35. Lorberbaum JP, George MS, Johnson MR, Emmanuel NP, Book SW, Mintzer O, **Morton WA**, Nahas Z, Bohning DE, Vincent D, Shastri A, Hamner M, Arana GW, Ballenger JC, Lydiard RB. "Feasibility of using fMRI in social phobics undergoing a public speaking task." Biological Psychiatry 1999;45:8s.
36. DeVane CL, Ware MR, Emmanuel NP, Brawman-Mintzer O, **Morton WA**, Villarreal G, Lydiard RB. "Evaluation of the efficacy, safety, and physiological effects of fluvoxamine in social phobia." Int Clin Psychopharmacol 1999;14:345-351.

37. **Morton WA.** "Cocaine and psychiatric symptoms." Primary Care Companion: J Clin Psychiatry 1999;1:109-113.
38. Emmanuel NP, Brawman-Mintzer O, **Morton WA**, Book SW, Johnson MR, Lorberbaum JP, Ballenger JC, Lydiard RB. "Bupropion-SR in treatment of social phobia." Depress Anxiety 2000;12:111-113.
39. **Morton WA**, Stockton GG. "Methylphenidate abuse and psychiatric side effects." Primary Care Companion J Clin Psychiatry 2000;2:159-164.
40. **Morton WA.** "Panic Disorder." In Schwinghammer TL (ed), Pharmacotherapy: A Patient-Focused Approach, 5th Ed Appleton & Lange, 2002.
41. **Morton WA**, Laird LK. "Obsessive-Compulsive Disorder." In Schwinghammer TL (ed), Pharmacotherapy: A Patient-Focused Approach, 5th Ed. Appleton & Lange, 2002 .
42. **Morton WA.** "The Course of Cocaine Addiction." US Pharmacist, 2002, 27:(HS)15-22.
43. **Morton WA**, Robert S. "Adverse consequences of alcohol abuse and dependence." US Pharmacist, 2002, 27(HS)27-37.
44. Markowitz JS, **Morton WA.** "Psychoses" in Pharmacotherapy Self-Assessment Program (PSAP, 4th Ed. ACCP, 2002.
45. **Morton WA**, "Anxiety Disorders: Presentation and Diagnosis" US Pharmacist, 2002. 27(9): (HS) 48-62.
46. **Morton WA.** "Anxiety Disorders: Treatment and Counseling", US Pharmacist 2002. 27(10):(HS) 5-17.

ABSTRACTS

1. Hurwitz GA, **Morton WA.** "Severe lithium neurotoxicity in association with concurrent diuretic therapy." Annual Meeting, American Academy of Clinical Toxicology, Salt Lake City, Utah, August 3-7, 1981.
2. Lydiard RB, Steele TE, Laird LK, **Morton WA**, Kellner CH. "Fluvoxamine, imipramine and placebo in the treatment of depressed outpatients: Effects on depression of catecholamine function." 28th Annual Meeting of the New Clinical Drug Evaluation Unit Program, Key Biscayne, Florida, May 31-June 3, 1988.
3. Lydiard RB, Laird LK, **Morton WA**, Steele TE, Kellner C, Laraia MT, Ballenger JC. "Fluvoxamine, imipramine and placebo in depressed outpatients." Presented at the NCDEU meeting, Key Biscayne, Florida, June 1-3, 1988.
4. Lydiard RB, Laird LK, **Morton WA**, Steele TE, Kellner CH, Laraia MT, Ballenger JC.

- "Effects of fluvoxamine and imipramine on 24-hour urinary catecholamine output in depressed patients." American College of Neuropharmacology, Puerto Rico, December 12, 1988.
5. Lydiard RB, Laraia MT, Stuart GW, Zealberg JJ, **Morton WA**. "Desipramine effect on resting metabolic rate." American Psychiatric Association Annual Meeting, San Francisco, California, May 6-11, 1989.
 6. Lydiard RB, Laird LK, **Morton WA**, Steele TE, Laraia MT, Ballenger JC. "Effect of fluvoxamine, imipramine and placebo on catecholamine function." American Psychiatric Association Annual Meeting, San Francisco, California, May 6-11, 1989.
 7. Fossey MD, Lydiard RB, March WH, Stuart GW, **Morton WA**, Ballenger JC. "Personality assessment in female patients with irritable bowel disorders." American Psychosomatic Society Meeting, Boston, Massachusetts, March, 1990.
 8. Lydiard RB, Fossey MD, Zealberg JJ, Laraia MT, **Morton A**, Ballenger JC. "Panic-Depression: Clinical features," American Psychiatric Association, New York, New York, May 12-17, 1990.
 9. Lydiard RB, Fossey M, Marsh W, Ballenger JC, Laraia MT, Stuart G, **Morton WA**, Zealberg J. "Gastrointestinal symptoms in panic disorder." Presented at the 11th Annual Meeting of the American Anxiety Disorders Association, Chicago, Illinois, April 3-5, 1991.
 10. Zealberg JJ, Lydiard RB, Ballenger JC, Laird LK, **Morton WA**. "Phenylacetic acid urinary output in patients with panic disorder, major depression and normal controls." Presented at the 144th Annual Meeting of the American Psychiatric Association, New Orleans, Louisiana, May 13-17, 1991.
 11. Phillips JD, Malcolm R, **Morton WA**. "Comparison of bromocriptine, pergolide, and no medication in cocaine withdrawal." J Amer Acad Physicians Assist 5:359, 1992.
 12. Fossey MD, Lydiard RB, Laraia MT, Zealberg JJ, **Morton WA**, Ballenger JC. "Predictions of placebo response in panic disorder." American Psychiatric Association 145th Annual Meeting, Washington, DC, May 2-7, 1992.
 13. Emmanuel NP, Mintzer OB, Lydiard RB, Payeur R, Johnson M, **Morton WA**, Ballenger JC. "Personality disorders in generalized anxiety disorder." Presented at the 145th Annual Meeting of the American Psychiatric Association, Washington, DC, May 2-7, 1992.
 14. Lydiard RB, **Morton A**, Zealberg J, Laraia M, Stuart G, Ballenger JC. "A placebo-controlled, double-blind study of desipramine in panic disorder." NCDEU Annual Meeting, Boca Raton, Florida, May 26-29, 1992.
 15. Emmanuel NP, Mintzer OB, Johnson MR, **Morton A**, Lydiard RB, Ballenger JC.

- "Personality disorders in social phobia." Presented at 13th National Conference of Anxiety Disorders Association of America, Charleston, South Carolina, March 20, 1993.
16. Mendenhall AR, **Morton WA**. "Abecarnil: An experimental anxiolytic." The 24th Annual Southeastern Conference for Post-Graduate Pharmacy Education and Training. The University of Georgia, Athens, Georgia, April 17, 1993.
 17. Sonne SC, Brady KT, **Morton WA**. "Substance abuse and bipolar affective disorder." Presented at College on Problems of Drug Dependence, Toronto, Canada, June 14, 1993.
 18. Ware MR, Emmanuel NP, Czepowicz VD, Johnson MR, Kapp R, Walsh MD, Villarreal G, Rubey RN, Crawford M, **Morton WA**, Ballenger JC, Lydiard RB. "Self-reported sexual dysfunction in social phobic patients." Presented at Anxiety Disorders Association of America Annual Meeting, April 17, 1995.
 19. Johnson MR, Emmanuel N, Ware M, Mintzer O, Book S, Jones C, Kapp R, Crawford M, **Morton A**, Ballenger J, Lydiard RB. "Differentiating generalized from specific social phobia by responses on the Liebowitz Social Anxiety Scale." Presented at the Anxiety Disorders Association of America, Orlando, Florida, March 28-31, 1996.
 20. Devane CL, Ware MR, Emmanuel NP, Brawman-Mintzer O, Jones CR, **Morton WA**, Kapp R, Villarreal G, Lydiard RB. "The evaluation of the safety, efficacy, and physiological effects of fluvoxamine in social phobia." Presented at the 151st Annual Meeting of the American Psychiatric Association, New York, New York, May 5-9, 1996.
 21. Ware MR, Emmanuel NP, Johnson MR, Brawman-Mintzer O, Kapp R, Crawford-Harrison M, **Morton WA**, Lydiard RB. "Self-reported sexual dysfunction in anxiety disorder patients." Presented at the 151st Annual Meeting of the American Psychiatric Association, New York, New York, May 5-9, 1996.
 22. Johnson MR, Manazziti D, Lydiard RB, Mintzer OB, Emmanuel NP, Ware MR, **Morton WA**, Diamond BI. "Abnormal peripheral benzodiazepine receptors in social anxiety." Presented at the 151st Annual Meeting of the American Psychiatric Association, New York, New York, May 5-9, 1996.
 23. Johnson MR, Emmanuel NP, Brawman-Mintzer O, Book S, **Morton WA**, Ware M, Lydiard RB. "Decreased peripheral benzodiazepine receptor density in patients with generalized social phobia." Presented at the Annual Meeting of the Society for Biological Psychiatry, New York City, May 3, 1996.
 24. Ware MR, Emmanuel NP, Johnson MR, Brawman-Mintzer O, Kapp R, Crawford-Harrison M, **Morton WA**, Lydiard RB. "Self-reported sexual dysfunction in anxiety disorder patients." Presented at the New Clinical Drug Evaluation Unit (NCDEU) Annual Meeting, Boca Raton, Florida, May 30, 1996.
 25. Emmanuel NP, Cosby C, Brawman-Mintzer O, Johnson MR, Book S, **Morton WA**, Kapp R, Crawford M, Ballenger JC, Lydiard RB. "Sertraline in generalized anxiety

- disorder: A case series." New research poster presented at the New Clinical Drug Evaluation Unit (NCDEU) Annual Meeting, Boca Raton, Florida, May 27–30, 1996.
26. Johnson MR, Emmanuel NP, Brawman-Mintzer O, **Morton WA**, Ware M, Crawford M, Kapp R, Czepowicz V, Villareal G, Book S, Lydiard RB, Ballenger JC, Marazziti DM. "Functional disability associated with comorbid generalized social phobia and major depressive disorder." Presented at the 37th Annual Meeting of the New Clinical Drug Evaluation Unit (NCDEU) Program, Boca Raton, Florida, May 29, 1997.
 27. Emmanuel NP, Johnson MR, Villareal G, Cosby C, Czepowicz C, Mintzer O, Crawford M, Book S, **Morton A**, Rubey R, Kapp R, Jones C, Ballenger JC, Lydiard RB. "Imipramine in the treatment of social phobia: A double-blind study." Presented at the 36th Annual American College of Neuropsychopharmacology Meeting, Kanuela, Hawaii, December 8, 1997.
 28. Emmanuel NP, Ware M, Cosby C, Crawford M, Kapp R, Mintzer O, Book S, **Morton A**, Jones C, Lydiard RB, Ballenger JC. "Concomitant use of herbal products in subjects applying for clinical trials." Presented at the 153rd Annual Meeting of the American Psychiatric Association, Toronto, Canada, May 20, 1998.
 29. Emmanuel NP, Cosby C, Mintzer O, **Morton A**, Book S, Johnson M, Lorberbaum J, Crawford M, Kapp R, Jones C, Lydiard RB, Ballenger JC. "Open label treatment of social phobia using sustained-release bupropion." Presented at the New Clinical Drug Evaluation Unit (NCDEU) meeting, Boca Raton, Florida, June 11, 1998.
 30. Johnson MR, Book S, Emmanuel N, **Morton A**, Crawford M, Kapp R, Cosby C, Brawman-Mintzer O, Lydiard RB. "Clinical research subjects with comorbid panic disorder and major depressive disorder: Comparisons with non-comorbid subjects." Presented at the New Clinical Drug Evaluation Unit (NCDEU) meeting, Boca Raton, Florida, June 11, 1998.
 31. Brawman-Mintzer O, Lydiard RB, Kapp R, Emmanuel N, Johnson MR, **Morton A**, Ballenger JC. "Treatment response in patients with generalized anxiety disorder and a lifetime history of major depression." Presented at the New Clinical Drug Evaluation Unit (NCDEU) meeting, Boca Raton, Florida, June 12, 1998.
 32. Lorberbaum JP, Emmanuel NP, Mintzer O, Kapp R, Crawford M, **Morton A**, Johnson MR, Book SW, Hamner M, Nahas Z, Arara GW, Ballenger JC, Lydiard RB, George MS. "Changes in anxiety after prefrontal r-TMS in patients with GAD." Presented at the Society of Biological Psychiatry annual meeting, Chicago, IL, May 11–13, 2000.
 33. Lorberbaum JP, Mintzer O, Kapp R, Crawford M, **Morton A**, Johnson MR, Book SW, Hamner M, Nahas Z, Arara GW, Ballenger JC, Lydiard RB, George MS. "r-TMS in GAD subjects: Testing the valence theory of emotions." Presented at the 153rd American Psychiatric Association meeting, Chicago, IL, May 13–19, 2000.
 34. Lorberbaum JP, George MS, Johnson MR, Brodrick PS, Emmanuel NP, Mintzer O,

Book SW, **Morton A**, Crawford-Cisa M, Kapp R, Hamner M, Ballenger JC, Lydiard RB. "Brain activity in social phobics undergoing a public speaking task." Poster presented at the 39th American College of Neuropharmacology (ACNP) meeting, San Juan, PR, December 12, 2000.

PAPER PRESENTATIONS:

1. "A Determination of the Effectiveness of a Pharmacist on Improving Drug Compliance in an Outpatient Setting" presented at the 10th Annual ASHP Midyear Meeting, Washington, D.C., December 1975.
2. "Clinical Pharmacy Services in the Medical Screening Clinic" presented at the 12th Annual ASHP Clinical Midyear Meeting, Atlanta, Georgia, December 1977.
3. "Problems in Prescribing Benzodiazepines" presented at 1978 National Drug Abuse Conference, Seattle, Washington, April 6, 1978.
4. "Evaluation of Pharmaceutical Services in a Medical Screening Clinic" presented at the 13th Annual ASHP Midyear Clinical Meeting, San Antonio, Texas, December 7, 1978.
5. "Salicylate Delirium" presented at the SIG on Psychopharmacy Practice of the 36th Annual ASHP Meeting, Anaheim, California, April 24, 1979.
6. "The Lithium Clinic: The Pharmacist's Role" presented at the 14th Annual ASHP Clinical Midyear Meeting, Las Vegas, Nevada, December 6, 1979.
7. "Determination of Lithium Nephrotoxicity by Non-Invasive Techniques" presented at the 15th Annual ASHP Clinical Midyear Meeting, San Francisco, California, December 8, 1980.
8. "Self-Management of Epilepsy" presented at the 16th Annual ASHP Clinical Midyear Meeting, New Orleans, Louisiana, December 10, 1981.
9. "Antihypertensive Drug Therapy in Alcohol Dependence: A Drug-Use Review in an Alcohol Treatment Facility" presented at the 17th Annual ASHP Clinical Midyear Meeting, Los Angeles, California, December 8, 1982.
10. "The Impaired Health Practitioner" presented at the 18th Annual ASHP Clinical Midyear Meeting, Atlanta, Georgia, December 6, 1983.
11. "Fluoxetine Associated Side Effects and Suicidality" presented at National Mental Health Association Scientific Symposium, Charleston, SC, August 11, 1992.
12. "Effects of Sertraline on Quality of Life: A Double-Blind Study" presented at the 28th Annual ASHP Midyear Meeting, Atlanta, GA, December 6-7, 1993.
13. "Effects of Sertraline on Quality of Life: A Double-Blind Study" presented at the Annual

American College of Physicians Midyear Meeting, Miami Beach, FL, April 23–24, 1994.

14. "Effects of Sertraline on Quality of Life: A Double-Blind Study" at the scientific program "Depression in Primary Care: Recognition and management" presented at the 22nd Annual Physician Assistant Conference, San Antonio, TX, May 25, 1994.
15. Robert S, **Morton WA**, Simpson K, Chumney E. "SSRI Loss of Effectiveness" presented at the 5th Annual International Meeting of the College of Psychiatric and Neurologic Pharmacists, Seattle, WA, April 18-21, 2002.

INVITED PRESENTATIONS:

1. "Use of Lithium in Affective Disorders," presented at the University of Kentucky School of Pharmacy, March 1976.
2. "Use and Abuse of Benzodiazepines," presented at the University of Florida School of Pharmacy, October, 1977.
3. "Drug Compliance in Epilepsy," presented at 1978 Region IV Symposium: Problems in Epilepsy, Charleston, SC, March 1, 1978.
4. "Anticonvulsant Medications," presented at 1st Annual Conference of the SC Epilepsy Association, Columbia, SC, November 4, 1978.
5. "Antiepileptic Medications", Panel Discussion, 2nd Annual Meeting of the SC Epilepsy Association, Columbia, SC, November 3, 1979.
6. "The Lithium Clinic," presented at MUSC, Department of Psychiatry Retreat, Kanuga, North Carolina, November 10, 1979.
7. "The Lithium Clinic: The Pharmacist's Role," presented at Charleston VA Medical Center, January 10, 1980.
8. "Anticonvulsant Medications," presented at Midland Epilepsy Association, Columbia, SC, January 24, 1980.
9. "Anticonvulsant Medications," presented at a seminar entitled "What You Should Know About Epilepsy", sponsored by Low Country Epilepsy Association and MUSC Epilepsy Project, Charleston, SC, February 12, 1980.
10. "Review of the Benzodiazepines," presented at the Mental Hygiene Clinic, Charleston VA Medical Center, February 18, 1980.
11. "Drugs of Abuse," presented at the Charleston Youth Bureau, Charleston, SC, March 18, 1980.

12. "Drugs Which Affect the Human Mind," presented at the Access School, Charleston, SC, April 16, 1980.
13. "Anticonvulsant Medications," presented at Charleston Police Department Inservice Training Program, May 1, 1980.
14. "Clinical Decision Making by the Pharmacist," presented at 1980 Annual SC Pharmaceutical Association Convention, Kiawah Island, SC June 16, 1980.
15. "Drug Therapy of Alcohol Withdrawal," presented at Annual Meeting of SC Pharmaceutical Association, Hilton Head, SC, June 22, 1981.
16. "Current Concepts of Antidepressant Drug Therapy," presented at SC AHEC Program, Summerville, SC, February 4, 1982.
17. "Psychiatric Drug Therapy," presented as a Clinical Consultation Session at the 39th ASHP Annual Meeting, Baltimore, Maryland, June 7, 1982.
18. "Antipsychosomatic and Antidepressant Drug Therapy," presented at SC AHEC Program, Beaufort, SC, March 15, 1983.
19. "Carbamazepine Use in Affective Disorders," presented at Charleston VA Medical Center Mental Hygiene Clinic, March 31, 1983.
20. "Withdrawal Syndromes" and "Medical Complications of Alcohol Use," presented at SC AHEC Program, "Alcoholism . . . Drug Abuse . . . New Concepts You Need to Know", Fenwick Hall Hospital, Johns Island, SC, May 27, 1983.
21. "Problem Solving in the Treatment of Bipolar Affective Disorders," presented at the Southeast Mental Health Pharmacists Meeting, Athens, Georgia, September 1983.
22. "Aspects Actual de Traitement de la Psychose Maniacodepressive: Recherches Cliniques Sur Les Effects de Tegretol," presented at Hospital Neurologique, Lyon, France, September 12, 1984.
23. "Withdrawal Syndromes and Detoxification," presented at workshop "Dealing with the Chemically Dependent," Fenwick Hall Hospital, Johns Island, SC, September 28, 1984.
24. "Recognition of the Problem: Signs and Symptoms," presented at School of Nurses Workshop on Substance Abuse at Fenwick Hall Hospital, Johns Island, SC, January 25, 1985.
25. "Issues in the Treatment of Cocaine Dependence," presented at Grand Rounds, MUSC Department of Psychiatry and Behavioral Sciences, Charleston, SC, March 12, 1985.
26. "Characteristics of Cocaine Addicts and Addictions." SC Conference on Cocaine, Columbia, SC, April 8, 1986.

27. "Psychopharmacology of Cocaine." SC Medical Association Annual Meeting, Charleston, SC, April 25, 1986.
28. "The Clonazepam Alternative: Adjunctive Treatment for Manic Agitation." MUSC Psychiatry Grand Rounds, Charleston, SC, June 24, 1986.
29. "Special Issues in the Treatment of Addictive Disease" including "Drug Withdrawal-General Principles," "Pharmacology of Cocaine and Amphetamines," "Pharmacology of Sedative-Hypnotic Drugs," "Pharmacology of Opioids and Cannabis," and "Medical Complications of Alcohol Use," presented at SC School of Alcohol and Drug Studies, Charleston, SC, July 27-August 1, 1986.
30. "Review of Agents Used to Treat Psychotic Illnesses," presented at SC Society of Hospital Pharmacists Summer Seminar, Columbia, SC, September 18, 1986.
31. "Pharmacology of Alcohol and Sedative Hypnotics," presented at Review Course in Substance Use Disorders, American Medical Society of Alcoholism and Other Drug Dependencies, Atlanta, Georgia, September 26, 1986.
32. "Extrapyramidal Side Effects and Compliance," presented at Charleston Area Mental Health Center, Charleston, SC, March 27, 1987.
33. "Complications of Alcohol Use," presented at SC School of Alcohol and Drug Studies, Rock Hill, SC, July 12-17, 1987.
34. "Special Issues in the Treatment of Addictive Disease" including "Drug Withdrawal-General Principles," "Pharmacology of Cocaine and Amphetamines," "Pharmacology of Sedative-Hypnotic Drugs," and "Medical Pharmacology of Widely Abused Prescription Drugs," presented at Southeastern Conference on Prescription Drug Abuse, Charleston, SC, October 7, 1987.
35. "Drug Utilization Review and Monitoring Parameters," presented at Southeast Mental Health Pharmacists Meeting, Athens, GA, October 26, 1987.
36. "Pharmacologic Management of the Dually Diagnosed," presented at Charleston County Substance Abuse Commission Seminar, "The Dually Diagnosed: What we need to know", Charleston, SC, October 13, 1988.
37. "Behavioral Effects of Alcohol and Drug Use," presented at Attorney and Judges Seminar "Understanding Alcohol and Drug Addiction, Fenwick Hall Hospital, Johns Island, SC, December 9, 1988.
38. "Clomipramine in the Treatment of Obsessive-Compulsive Disorders," presented at MUSC Psychiatry Residents Meeting, Charleston, SC, March 6, 1990.
39. "Current Protocols for the Treatment of Acute Alcohol Problems," presented to Medical Staff at Georgetown Memorial Hospital, Georgetown, SC, July 9, 1990.

40. "Dual Diagnosis in Substance Dependence: Treatment Alternatives," presented to Fenwick Hall Hospital Alumni Meeting, Johns Island, SC, May 23, 1991.
41. "Bipolar Affective Disorders: Complications in Treating Depression," Department of Psychiatry Clinical Research Section, Seminar, Charleston, SC, June 6, 1991.
42. "Pharmacologic Perspective," presented at Charleston Memorial Hospital Social Work Department Seminar. "Depression: A Holistic Approach to Treatment and Prevention", Charleston, SC, November 15, 1991.
43. "Clinical Research Protocols in Anxiety and Depressive Disorders," presented at Charleston Area Mental Health Center staff meeting, Charleston, SC, March 17, 1992.
44. "Pharmacological Advances in Treating Depression," Newberry Medical Society, Prosperity, SC, March 31, 1992.
45. "Pharmacological Treatment of Obesity," presented as part of the program "Obesity and Weight Control," SC Health Communications Network, Charleston, SC, September 8, 1992.
46. "New Antidepressant Medication," presented Medical University of SC Internal Medicine Residents Meeting, VA Medical Center, Charleston, SC, October 26, 1992.
47. "Psychiatric Drugs in the Year 2000." New Psychiatric Medications: Potential for Abuse," presented at Eighth Southeastern Conference on Prescription Drug Abuse, Charleston, SC, December 8, 1992.
48. "Clinical Research: The Pharmacist's Role," presented at 1993 Symposium of Mental Health, Mental Retardation of Substance Abuse Pharmacists, Athens, GA, February 3, 1993.
49. "Problems in the Treatment of Anxiety Disorders," presented at 1993 Symposium for Mental Health, Mental Retardation and Substance Abuse Pharmacists," Athens, GA, February 4, 1993.
50. "Running: Meeting Some Psychological Needs," presented at the Charleston Center for Athlete's Cooper River Bridge Running Camp, Charleston, SC, February 17, 1993.
51. "Pharmacology of Addictions," Workshop presented to health professionals at AHEC, Greenwood, SC, June 8, 1993.
52. "Psychiatric Drug Issues in Residential Care," presented at S.C. Association of Residential Care Homes Annual meeting, Charleston, SC, July 26, 1993.
53. "Abuse Potential of New Psychiatric Medication," presented at Fenwick Hall Hospital Annual Professional Staff Meeting, Johns Island, SC, August 10, 1993.

54. "Top Ten Psychiatric Drug Interactions," presented at "Depression in Primary Care," Wild Dunes, Isle of Palms, SC, January 15, 1994.
55. "Withdrawal Syndromes: Treatment of Alcohol and Other Substances of Abuse," presented at the 1994 Symposium for Mental Health, Mental Retardation, Substance Abuse Pharmacists, Athens, GA, February 2, 1994.
56. "Top Ten Psychiatric Drug Interactions," presented at Charleston Naval Hospital, Charleston, SC, February 16, 1994.
57. "Top Ten Psychiatric Drug Interactions," presented at Charleston VA Medical Center, Psychiatry Service, February 23, 1994.
58. "New Psychotropic Drugs and Their Potential for Abuse," presented at the Fourth Annual Update on Addiction Medicine, Greenwood, SC, February 26, 1994.
59. "Drug Interactions with Psychiatric Medication," presented at MUSC Annual Pharmacy Alumni Weekend, Charleston, SC, April 17, 1994.
60. "Top Ten Psychiatric Drug Interactions," presented at the Grand Strand Pharmaceutical Society, Myrtle Beach, SC, May 15, 1994.
61. "Post Marketing Surveillance and Pharmacoeconomic Studies: A Collaborative Proposal," presented at Psychopharmacy Research Meeting at the 34th New Clinical Drug Evaluation Unit Meeting, Marco Island, FL, May 31, 1994.
62. "Drug Interactions with Psychiatric Medications," presented at The Dilemma of Depression: Assessment and Management Issues in the Primary Care Setting," Charleston, SC, September 14, 1994.
63. "Drug Interactions with Psychiatric Medications," presented at Psychiatry Grand Rounds, Eisenhower Medical Center, Augusta, GA, September 29, 1994.
64. "Drug Interactions with Psychiatric Medications," presented at Grand Rounds, Medical College of Georgia, Department of Psychiatry, September 29, 1994.
65. "Drug Interactions with Psychotherapeutic Drugs," presented at the American Society of Consultant Pharmacists Post Graduate Geriatric Workshop, Charleston, SC, October 8, 1994.
66. "Myths Mama Told You — What Works and What Doesn't in Treatment of Substance Abuse," presented at the 15th National Conference of Mental Health, Developmental Disabilities, and Substance Abuse Pharmacists, Athens, GA, February 1, 1995.

67. "Substances of Abuse," presented at the 15th National Conference of Mental Health, Developmental Disabilities, and Substance Abuse Pharmacists, Athens, GA, February 2, 1995.
68. "Psychopharmacy Practice and Research," presented at MUSC Department of Hospital Pharmacy Practice and Administration Faculty Seminar, Charleston, SC, April 20, 1995.
69. "Anxiety in the 1990's: A Look at Panic Disorder," presented to Palmetto Dental Society, Columbia, SC, April 26, 1995.
70. "Depot Neuroleptic Therapy: An Underutilized Option," presented at Psychiatric/Mental Health Nursing Conference, Columbia, SC, October 12, 1995.
71. "Update on Anxiety Disorders," presented at the SCSHP 1996 Fall Seminar: Psychopharmacy, Columbia, SC, September 13, 1996.
72. "Anxiety Disorders: Review of Treatment," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 7, 1996.
73. "Schizophrenia and Antipsychotic Medications," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 7, 1996.
74. "Psychopharmacological Treatment of Personality Disorders, Developmental Disorder, and Eating Disorders," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 7, 1996.
75. "Case Presentations in Anxiety Disorders," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 8, 1996.
76. "Substances of Abuse," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 8, 1996.
77. "Case Presentations in Mood Disorders," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 8, 1996.
78. "Impulse Control Disorders," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 9, 1996.
79. "Case Presentations in Schizophrenia and Bipolar Disorders," presented at the Clinical Midyear Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, October 9, 1996.
80. "Use of Antidepressants in Anxiety Disorders," presented at MHAL Training Institute Workshop, Charleston, SC, October 29, 1996.

81. "Why Practitioners Ignore Anxiety Disorders: Ideas for Providing Successful Treatment," presented at the 17th National Symposium for Psychiatric Pharmacy Practitioners, Athens, GA, February 5, 1997.
82. "Medicines for the Mind: How Drugs Affect Your Thinking, Feeling, and Behavior." "Ask the Expert" series, Medical University of South Carolina Office of Public Education and Institute of Psychiatry, Charleston, SC, April 9, 1997.
83. "Reading and Evaluating the Psychopharmacologic Literature," presented at the 18th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 4, 1998.
84. "Running 101—Use of Running in Stress Management," presented at the 18th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 4, 1998.
85. "Stress Management," presented at the 18th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 5, 1998.
86. "New Pharmacological Treatments for Anxiety and Depression: What's Reasonable to Expect," presented at the MUSC Institute of Psychiatry Breakfast Rounds, Charleston, SC, May 29, 1998.
87. "Treatment of Anxiety," presented at Psychotropic Medication and the Health Care Professional, Charleston, SC, August 10, 1998.
88. "Medicines of the Mind," presented at the Mind Your Health program, MUSC Institute of Psychiatry, Charleston, SC, November 17, 1998.
89. "The Challenge of Treating Depression in Women," presented at the 5th Annual Advanced Practice Nurses' Conference, Charleston, SC, February 4, 1999.
90. "Running and Mental Health: A Workshop for Those Just Starting Out Running," presented at the 19th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 9, 1999.
91. "Cocaine Intoxication: Why People Do What They Do," presented at the 19th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 10, 1999.
92. "Assessment Scales in Psychopharmacy," presented at the 19th National Symposium of Mental Health/Developmental Disabilities/Substance Abuse Practitioners, Athens, GA, February 11, 1999.

93. "Treatment of Panic Disorder in the Medically Ill Patient," presented at the 2nd Annual International Meeting, College of Psychiatric and Neurologic Pharmacists, Lake Tahoe, NV, March 26, 1999.
94. "Pharmacologic Treatment of Depression: Where to Start," presented at "Making a Difference in Treating Depression," Charleston, SC, November 21, 1999.
95. "Why People Don't Take Their Medication," presented at "Making a Difference in Treating Depression," Charleston, SC, November 21, 1999.
96. "Assessment Tools: MSE and Rating Scales," presented at "Making a Difference in Treating Depression," Charleston, SC, November 21, 1999.
97. "Antidepressants: Essentials of MAOIs and TCADs," presented at "Making a Difference in Treating Depression," Charleston, SC, November 21, 1999.
98. "Adverse Events and Their Treatment," presented at "Making a Difference in Treating Depression," Charleston, SC, November 21, 1999.
99. "Are Any of Your Patients Depressed or Anxious?," presented at "Psychotherapeutics for Clinicians," MUSC College of Nursing, Charleston, SC, December 3, 1999.
100. "Medication Noncompliance: Why Patients Don't Take Their Medications," presented at 20th National Symposium for Psychiatric Practitioners, Athens, GA February 22, 2000.
101. "Case Studies: Adverse Drug Reactions or Events," presented at 20th National Symposium for Psychiatric Practitioners, Athens, GA, February 22, 2000.
102. "What is a Medication Response?" presented at the 21st National Symposium for Psychiatric Practitioners, Athens, GA, February 7, 2001.
103. "Basic Principles of Treating Addiction", presented at the 21st National Symposium for Psychiatric Practitioners, Athens, GA, February 8, 2001.
104. "Treatment of Addiction". presented at the MUSC Center for Drug and Alcohol Program Inpatient Staff, Charleston, SC, April 24, 2001.
105. "Catching Up with Science: Basic Treatment of Addiction" MUSC Health Communications Network Presentation of Pharmacy Update 2001, Charleston, SC, June 12, 2001.
106. "Basic treatment of Addictions" presented at Regional Meeting of the SC Academy of Professional Psychologists, Charleston, SC, June 27, 2001.
107. "Basics of Psychopharmacology" presented at Southeastern Region Therapeutic Recreation Symposium, Charleston, SC, July 20, 2001.

108. "Medical and Legal Implications of a New Drug Culture" presented at Judges and Attorneys Substance Abuse and Ethics Seminar, Charleston, SC, December 7, 2001
109. "Psychiatric Drug Therapy for the Non-Pharmacist" presented at the 22nd National Symposium for Psychiatric Practitioners, Athens, GA, February 5, 2002.
110. "Case Studies: Drug Dependency Disorders" presented at the 22nd National Symposium for Psychiatric Practitioners, Athens, GA, February 6, 2002.
111. "Catching Up With Science: Why We Don't Adequately Treat Addictions": presented at the 22nd National Symposium for Psychiatric Practitioners, Athens, GA, February 7, 2002.
112. Pharmacology Institute: "The Best Is Yet to Come": workshops on "What is a Medication Response?", "Update: New Psychiatric Medications", and "Why We Don't Adequately Treat Addictions" presented at SC National Association of Social Workers Spring Symposium, Columbia, SC, March 6, 2002.
113. "The Course of Addiction" presented at the MUH Department of Pharmacy Clinical Staff Meeting, Charleston, SC, May 21, 2002.
114. "The Course of Addiction" presented at the MUH Department of Pharmacy Clinical Staff Meeting, Charleston, SC, and May 21, 2002.
115. "Investigating, Understanding, and Explaining Substance Abuse" presented at NC Academy of Trial Lawyers Seminar: "Making the Case for Life: V", Raleigh, NC, September 28, 2002.
116. "Substance Use in Criminal Defendants" a workshop presented at the 8th Biennial Forensic Forum: Best Practices: Collaboration between Human Service and Criminal Justice Systems, Columbia, SC, October 24, 2002.
117. "Understanding Antipsychotic Medications and New Issues in Medications for Old Illnesses" presented at 3rd National Seminar on Mental Health and the Criminal Law, Atlanta, GA, November 2, 2002.
118. "High Profile Drugs: Use" presented at Judges and Attorneys Substance Abuse and Ethics Seminar, Charleston, SC, December 6, 2002.
119. "What to Expect from Medication when Doing Psychotherapy" presented at the 23rd National Symposium for Psychiatric Practitioners, Athens, GA, February 5, 2003.
120. "Addictions and Legal Issues: So What?" presented at the 23rd National Symposium for Psychiatric Practitioners, Athens, GA, February 6, 2003.
121. "Addictions: Controversial Legal and Treatment Issues" Presented to USC-Beaufort Department of Psychology, Beaufort, SC, April 17, 2003.

122. "Contempt and Hate: Dealing with Strong Feelings for Patients" presented at the 24th National Symposium for Psychiatric Practitioners, Athens, GA, February 3, 2004.
123. "Who Cares?: Treatment of Generalized and Social Anxiety Disorders" presented at the 7th College of Psychiatric and Neurologic Pharmacists Annual meeting, Chicago, IL, April 25, 2004.
124. "Treatment of Addictions" presented at the IOP Pharmacy Inservice Program, Charleston, SC, May 27, 2004.
125. "Contempt and Hate: Dealing with Strong Feelings for Patients with Substance Use Disorders" presented at the MUSC Department of Pharmacy Services Clinical Staff Meeting, Charleston, SC, Jul 27, 2004.
126. "Psychopharmacology Legal Issues: Basic Treatment of Addictions, The Effects of Methamphetamine on the Brain, Pharmacokinetics, Blood Levels and the Brain, and Blood Alcohol Levels" presented at Georgia Public Defender Staff In-service, Atlanta, GA January 30, 2006.
127. "The Interface of Psychopharmacology and Addictive Disorders" presented at the 26th National Symposium for Psychiatric Practitioners, Athens, GA, February 7, 2006.
128. "Contempt and Hate: Strong Feelings for Patients" presented at the MUSC Department of Pharmacy Residents RITE meeting, Charleston, SC, Sept 15, 2006.
- 129 "The Positive Drug Test Report" presented at the SC Association of Criminal Defense Lawyers Annual Seminar, Columbia, SC, November 5, 2010.

TEACHING EXPERIENCE:

Advanced Clinical Pharmacy, Medical University of SC; Preceptor for Pharm.D. candidates on the Psychiatry Rotation, 1977–2004.

Advanced Therapeutics, Medical University of SC; Module Coordinator; Group Leader, Lecture for Psychiatric Pharmacy Practice, Pharm.D. students, 1980–2004.

Substance Abuse: A Pharmacist's Perspective, Medical University of SC; Group Moderator, Pharm.D. students, 1999–2003.

Psychology Internship Seminar Program, Medical University of SC; Provided seminars on the following topics: Introduction to Psychopharmacology, Use of Major Tranquilizers, Antidepressant Medication, Use of Lithium in Affective Disorders, Drug Induced Psychiatric Disorders, 1979–1990, 1994, 2002–2003.

Psychopharmacology Unit, Medical University of SC; Clinical Supervisor to 3rd and 4th year Psychiatry Residents and 1st year Psychopharmacy Practice Residents, Didactic

presentations, 1984–2001.

Clinical Pharmacy I, Medical University of SC; Didactic presentation includes: Antipsychotic medication, Antidepressant medication, Lithium, Anti-anxiety agents, Schizophrenia, Affective Disorders, Anxiety, and Substance Abuse Disorders, 1977–1999.

Clinical Pharmacy II, Medical University of SC; Preceptor for fifth year B.S. pharmacy students on the Psychiatry Rotation. Also includes didactic presentations, 1976–1999.

Doctoral Project, Medical University of SC; Directed project for fifteen Pharm.D. candidates, 1978–1995.

Behavioral Sciences, Medical University of SC; Coordinator of Behavioral Sciences course for 1st year Pharm.D. candidates, co-leader in seminars involving guest speakers, 1978–1987.

Supervisor, Medical University of SC; for the Psychiatric Pharmacy Practice Resident, for the 3rd and 4th year Psychiatric residents in a medication clinic, 1982–1987.

Required Psychiatry Clerkship, Medical University of SC; Preceptor for medical students on the Adult Inpatient Psychiatric Unit at MUSC, VA Mental Hygiene Clinic and VA Adult Inpatient Psychiatric Unit — emphasis on applied psychopharmacology and therapeutics, 1978–1988.

Fundamentals of Drug Information, Medical University of SC; the following lectures were presented to 1st year Pharm.D. students: How to Present an Oral Presentation, Effective Use of Teaching Materials, and Methods of Evaluation, 1976–1977.

Health Sciences Teaching Course, completed a two-week course in Health Science Teaching while at the University of California. This course was designed to improve teaching techniques, 1975.

Clinical Pharmacy 130, University of California; emphasis on the interpretation and clinical significance of laboratory tests plus the medical management of problems involving the cardiovascular system and the kidneys. Experience in leading conference groups, developing test materials, and evaluating student performance for 3rd year pharmacy students, 1975–1976.

Clinical Pharmacy 135, University of California; Served as a preceptor for 3rd and 4th year students during their inpatient and outpatient rotations; responsibilities included the instruction and evaluation of these students, 1975–1976.

Clinical Pharmacy 132, University of California; Presented the following lectures: Treatment of Affective Disorders with Lithium, Treatment of Affective Disorders with Tricyclic Antidepressants, 1976.

Pharmaceutical Preparations Laboratory; University of Tennessee; Introduction to pharmaceutical preparations and dispensing for 3rd year pharmacy students. Served as a laboratory instructor and was responsible for providing practical instruction and evaluating student's performance in the laboratory, 1974.

ADMINISTRATIVE EXPERIENCE:

Coordinator for the Clinical Pharmacy Program, 5th year B.S. Pharmacy Students at the Medical University of South Carolina during 1979–1982, 1988–1999.

Coordinator for the Behavioral Science Course, for the 1st Year Doctor of Pharmacy students during 1978–1987.

Director of Education and Training, Department of Clinical and Institutional Pharmacy, May 1983-July 1984.

Coordinator for the Doctor of Pharmacy Program, Institutional Tract, April 1983-July 1984.

Hot Springs Health Program, Initiated and provided clinical pharmacy services for three rural community clinics; responsible for the total operation of these services, June 1973 – May 1974.

AWARDS:

MUSC Applause Program, February, 1997; September, 2000

College of Pharmacy Research Productivity Award, 1993–1994, 1994–1995

Department of Hospital Pharmacy Practice and Administration Research Productivity Award, 1993–1994, 1994–1995

COMMITTEE EXPERIENCE:

MUSC College of Pharmacy Admissions Committee 2002-2004.

MUSC College of Pharmacy - Appointments, Promotion and Tenure Committee, 2000–2004.

Program Planning Committee, National Meeting of Mental Health/Developmental Disabilities and Substance Abuse Pharmacists, 1987–2004.

MUSC Continuing Education Committee, 1999–2002, Chairperson.

MUSC Honorary Degree Committee, 1998–2002.

MUSC College of Pharmacy, ACPE Accreditations Committee, Chairperson, 2000–2001.

Department of Pharmacy Practice and Promotion and Tenure Committee, 1988–94, 1996–2001.

MUSC College of Pharmacy Assessment and Curriculum Committee, 1997–2001, Chairperson.

ASHP Foundation Fellowship Program Selection Panel for Psychiatric Drug Therapy, 1996

Doctor of Pharmacy Advisory Committee, MUSC College of Pharmacy, 1979–85, 1991–96.

Program Planning Committee, Midyear Clinical Symposium for Psychiatric Pharmacy Practitioners, 1996.

MUSC Faculty Hearing Committee, 1988–93, 1996.

Department of Hospital Pharmacy Practice and Administration Pharmacy Residency and Fellowship Committee, 1984–85, 1987–95.

MUSC Student Life Council, 1988–93.

Served as a member of the ASHP Residency Accreditation Survey Team in Psychopharmacy Practice.

Scholastic Standing Committee, Medical University of SC College of Pharmacy, 1987–92.

Department of Clinical and Institutional Pharmacy Curriculum Committee, 1985–87.

Department of Clinical and Institutional Pharmacy Clinical Services Committee, 1985–87.

Department of Clinical and Institutional Pharmacy Research Committee, 1982–85.

Education and Training Working Group, Special Interest Group on Psychopharmacy Practice, American Society of Hospital Pharmacists, 1980–84.

Admissions Committee, MUSC College of Pharmacy, 1978–83.

Medical Records Subcommittee on Psychiatric Medical Records, Charleston VA Medical Center, 1979.

Advisory Panel for Awards, American Society of Hospital Pharmacists Education and Research Foundation, 1978–80.

Subcommittee for Accreditation Standards for Specialty Residencies in Psychiatric Pharmacy, American Society of Hospital Pharmacists, Special Interest Group on Psychopharmacy Practice, 1978–79.

RESEARCH INTERESTS:

Treatment of substance abuse disorders.

Psychopharmacological treatment of affective disorders and anxiety disorders.

Patient education and patient self-management of chronic psychiatric disorders.

Drug utilization of psychiatric medication.

RESEARCH METHODOLOGY TRAINING:

1986– 2004 Ongoing M.D. supervision via preceptor assignment

1991– 2002 Clinical research staff training: monthly inter-rater reliability meetings

Proficient use of the following assessment scales (not inclusive):

Structured Clinical Interview for Diagnosis (SCID)
 Hamilton Depression Rating Scale (HAM-D)
 Montgomery and Asberg Depression Rating Scale (MADRS)
 Hamilton Anxiety Rating Scale (HAM-A)
 Beck Depression Inventory (BDI)
 Yale-Brown Obsessive Compulsive Scale (Y-BOCS)
 Liebowitz Social Phobia Scale (LSPS)
 Brief Social Phobia Scale (BSPS)
 Brief Psychiatric Rating Scale (BPRS)
 Abnormal Involuntary Movements Scale (AIMS)
 Young Mania Rating Scale
 Rickels Symptom Checklist
 Physicians Withdrawal Checklist

RESEARCH EXPERIENCE:

1. 1977 – 1980 Co-Investigator, HEW Grant 50-P-20682, "Antiepileptic Drug Compliance in an Outpatient Seizure Program."
2. 1986 – 1988 Co-Investigator, Kali-Duphar Laboratories, "Fluvoxamine in the treatment of Depression: a Multicenter Double-Blind Placebo-Controlled Comparison with Imipramine in Outpatients."
3. 1986 – 1988 Co-Investigator, "Thyroid Function in Depressed Outpatients Receiving Fluvoxamine, Imipramine, and Placebo."
4. 1987 – 1989 Principal Investigator, The Upjohn Co., "Evaluation of the Long Term Use of Alprazolam in Panic Disorder."
5. 1988 – 1990 Co-Investigator, Merrell-Dow, Inc., "Desipramine vs. Placebo: Efficacy in Panic Disorder."

6. 1988 – 1990 Co-Investigator, Pfizer, Inc., "Sertraline vs. Placebo in the Treatment of Obsessive-Compulsive Disorder."
7. 1988 – 1989 Co-Investigator, Pfizer, Inc., "SM-3997 in the Treatment of Generalized Anxiety Disorder."
8. 1989 – 1993 Principal Investigator, The Upjohn Co., "Pharmacoeconomic Study of Patients with Irritable Bowel Syndrome and Anxiety Disorders."
9. 1989 – 1990 Co-Investigator, Sandoz, Inc., "ZK112-119 Alprazolam and Placebo in the Treatment of Panic Disorder."
10. 1989 – 1990 Co-Investigator, Sandoz, Inc., "ZK112-119 Alprazolam and Placebo in the Treatment of Generalized Anxiety Disorder."
11. 1989 – 1996 Co-Investigator, NIAAA (RO1AA07825-01A1), "Imipramine Treatment of Alcoholics with Panic Disorder."
12. 1990 – 1991 Co-Investigator, Searle Inc., "Efficacy and Safety of SC-48274 0.25, 1 mg and 5 mg Twice Daily in Patients with Generalized Anxiety Disorder."
13. 1990 - 1991 Co-Investigator, Upjohn Co., "Evaluation of Xanax SR 4 mg, 6 mg, and Placebo in the Treatment of Panic Disorder with Agoraphobia."
14. 1990 -1992 Co-Investigator, Wyeth-Ayerst, "Venlafaxine vs Placebo in Panic Disorder."
15. 1990 – 1992 Co-Investigator, Pfizer Inc., "Sertraline, Amitriptyline, and Placebo in Outpatients with Depression."
16. 1990 – 1993 Co-Investigator, Pfizer Inc., "Sertraline, Clomipramine, and Placebo in Outpatients with Obsessive Compulsive Disorder."
17. 1990 – 1992 Co-Investigator, Pfizer Inc., "Follow-up Study of Sertraline in Outpatients with Obsessive Compulsive Disorder."
18. 1990 – 1992 Co-Investigator, Glaxo Inc., "Ondansetron vs. Diazepam and Placebo in the Treatment of Generalized Anxiety Disorder."
19. 1991 – 1993 Co-Investigator, Roche, "Librax vs. Librium, Quarzan, and Placebo in IBS"
20. 1991 – 1992 Co-Investigator, Mead Johnson Labs, "Nefazodone in Depression."
21. 1992 – 1993 Co-investigator, Glaxo Inc., "A Double Blind, Placebo-Controlled Study of the Safety and Efficacy of Ondansetron vs Placebo in the Treatment of

Social Phobia."

22. 1992 – 1993 Co-investigator, Hoffman-La Roche. "Double Blind Dose Response Study of Determining the Safety and Efficacy of Fixed Dosed of Moclobemide in Patients with Panic Disorder with or without Agoraphobia."
23. 1992 – 1993 Co-investigator, Hoffman-La Roche. "Double Blind Dose Response Study to determine the Safety and Efficacy of Fixed Doses of Moclobomide in patients with Social Phobia."
24. 1992 – 1993 Co-investigator, Sandoz. "A Prospective, Randomized, Double Blind Multicenter Parallel Group Comparison of the Efficacy, Safety, and Tolerance During Short and Long Term Treatment and the Effects of Medication Discontinuation After Long Term Treatment with Abecarnil and Alprazolam in Patients with Generalized Anxiety Disorder."
25. 1992 – 1995 Co-investigator, "Sleep Deprivation Study in Patients with Panic Disorder, Obsessive-Compulsive Disorder, Generalized Anxiety Disorder, Depression, and Normal Controls."
26. 1993 – 1995 Co-investigator, Solvay Pharmaceuticals, "Fluvoxamine in The Treatment of Depression: A Double-Blind Multicenter Comparison with Sertraline in outpatients."
27. 1993 – 1994 Co-investigator, SmithKline Beecham Pharmaceuticals, "Paroxetine versus Clomipramine and Placebo in The Treatment of Obsessive Compulsive Disorder."
28. 1993 – 1994 Co-investigator, Eli Lilly and Company. "Amesergide versus Fluoxetine versus Placebo in Major Depressive Disorder."
29. 1993 – 1995 Co-investigator, Pfizer, Inc., "Double-Blind parallel comparison of Sertraline and Desipramine in Outpatients with Concurrent Major Depression and Obsessive Compulsive Disorder."
30. 1994 – 1994 Co-investigator, Glaxo, Inc., "A Double-Blind Placebo-controlled Escalation Study of the Safety and Efficacy of Oral Ondansetron in the Treatment of Patients With Panic Disorder."
31. 1994 – 1995 Co-investigator, Bristol-Myers-Squibb, "Open-Label Study of Serzone (Nefazodone) in the Management of Patients with Symptoms of Depression in General Psychiatric Practices."
32. 1994 – 1994 Co-investigator, Upjohn Co., "Deracyn (adinazepam) in the Treatment of Social Phobia."

33. 1994 – 1996 Co-investigator, Pfizer, Inc., "Sertraline Treatment Followed by a Double-Blind Comparison of Sertraline and Placebo in the Prevention of Relapse in Outpatients with Obsessive Compulsive Disorder."
34. 1994 – 1995 Co-investigator, Parke-Davis, "A Double-Blind, Placebo-Controlled, Six-Week Study of Oral CI-988 in Patients with Panic Disorder."
35. 1994 – 1996 Co-investigator, Eli-Lilly and Company, "Fluoxetine vs. Placebo in Panic Disorder."
36. 1995 – 1996 Co-investigator, Organon, Inc., "ORG-4428 v. Fluoxetine v. Placebo in Major Depression."
37. 1995 – 1997 Co-investigator, Pfizer, Inc., "One-year Open-label Extension Study of Sertraline Followed by a Double-blind Comparison of Sertraline and Placebo in Outpatients with Panic Disorder."
38. 1995 – 1996 Co-investigator, Solvay Pharmaceuticals, "Flesinoxan in the Treatment of Generalized Anxiety Disorder."
39. 1995 – 1995 Co-investigator, Solvay Pharmaceuticals, "Evaluation of Fluvoxamine in Social Phobia."
40. 1995 – 1995 Co-investigator, Glaxo, Inc., "Ondansetron v. Placebo in Panic Disorder."
41. 1995 – 1996 Co-investigator, SKB Pharmaceuticals, "Paroxetine v. Placebo in Social Phobia."
42. 1995 – 1996 Co-investigator, SKB Pharmaceuticals, "Paroxetine Open Label Extension in Social Phobia."
43. 1995 – 1996 Co-investigator, Upjohn Company, "Pramipexole v. Fluoxetine v. Placebo in the Treatment of Patients with Major Depression."
44. 1995 – 2000 Co-investigator, NIMH Grant, "Imipramine vs. Phenelzine vs. Paroxetine vs. Placebo in Panic Disorder with Depression."
45. 1996 – 1997 Co-investigator, Wyeth-Ayerst, "Venlafaxine vs. Placebo in Generalized Anxiety Disorder."
46. 1996 – 1998 Co-investigator, Parke-Davis Pharmaceutical Research, "Placebo-Controlled Trial of Gabapentin in Patients with Panic Disorder."
47. 1996 – 1998 Co-investigator, Wellcome Foundation, "A Multicenter, Double-blind, Placebo-controlled, Fixed-dose Evaluation of the Safety and Efficacy of Lamictal (lamotrigine) in the Treatment of a Major Depressive Episode in

Patients Suffering from Bipolar Disorder."

48. 1997 – 1998 Co-investigator, Interneuron Pharmaceuticals, Inc., "Placebo-Controlled Parallel Group Trials of Three Doses of Pagaclone in Patients with DSM-IV Panic Disorder."
49. 1997 – 1998 Co-investigator, Smith-Kline Beecham Pharmaceuticals, Inc., "A Double-Blind, Placebo-Controlled, Flexible Dosing Trial to Evaluate the Efficacy of Modified Release Paroxetine in the Treatment of Panic Disorder."
50. 1997 – 1998 Co-investigator, Smith-Kline Beecham Pharmaceuticals, Inc., "A Randomized, Double-Blind, Fixed Dose Comparison of 20, 40, and 60 mg Daily of Paroxetine and Placebo in the Treatment of Generalized Social Phobia."
51. 1997 – 1998 Co-investigator, Smith-Kline Beecham Pharmaceuticals, Inc., "A Double-Blind, Placebo-Controlled, Trial to Evaluate the Clinical Effects of Immediate Release Paroxetine and Modified Release Paroxetine in the Treatment of Major Depression."
52. 1997 – 1998 Co-investigator, Bristol Myers Squibb Pharmaceuticals, "A Double-Blind, Randomized Trial of Three Fixed Doses of Transdermal Buspirone Compared to Placebo in the Treatment of Anxious Outpatients."
53. 1998 – 1999 Co-investigator, Bristol Myers Squibb Pharmaceuticals, "Flexible-Dose Trial of Nefazodone HCl and Placebo in the Treatment of Subjects with Panic Disorder."
54. 1998 – 1999 Co-investigator, Forest Laboratories, "Open-Label Evaluation of Citalopram in Outpatients with Depression."
55. 1998 – 1999 Co-investigator, Merck and Co., "Double-Blind Acute and Extension Study of MK-9869 vs Fluoxetine and Placebo in Treatment of Outpatients with Major Depressive Disorder."
56. 1998 – 1999 Co-investigator, Glaxo-Wellcome, "Placebo-Controlled Study of Bupropion HCl Sustained Release for the Prevention of Relapse/Recurrence in Subjects Whose Depression Responded to Treatment with Wellbutrin SR."
57. 1998 – 1999 Co-investigator, Parke-Davis Pharmaceutical Research, "Pregabalin in Social Phobia."
58. 1998 – 2000 Co-investigator, Glaxo-Wellcome, "Placebo-Controlled, Randomized, Fixed-Dose Evaluation of Lamotrigine in Long-Term Prevention of Relapse and Recurrence of Depression and/or Mania in Patients with Bipolar I Disorder."

59. 1999 – 2000 Co-investigator, Novartis, "Randomized, Double-Blind, Placebo-Controlled Trial to Evaluate 4 Doses of NKP608A in Patients with Social Phobia."
60. 1999 – 2000 Co-investigator, Novartis, "Randomized, Double-Blind, Active and Placebo-Controlled Trial of NKP608A in Patients with Moderate to Severe Major Depressive Disorder."
61. 1999 – 2000 Co-investigator, Synthelabo Research, "Comparison of Befloxadone 2.5 mg vs Placebo in Outpatients with Moderate to Severe Major Depressive Disorder."
62. 1999 – 2001 Co-investigator, SmithKline Beecham, "Double-Blind, Placebo-Controlled Flexible Dosage trial to Evaluate Paroxetine in Patients with Generalized Anxiety Disorder."
63. 2000 – 2001 Co-investigator, Wyeth-Ayerst Research, "Venlafaxine ER and Placebo in Outpatients with Generalized Social Phobia."
64. 2000 – 2001 Co-investigator, Clinical Innovation Group, "Efficacy and Tolerability of Sertraline in Generalized Anxiety Disorder."
65. 2000 – 2001 Co-investigator, Bristol Myers Squibb, "Nefazodone vs. Venlafaxine in Outpatients with Generalized Anxiety Disorder."
66. 2000 – 2001 Co-investigator, Glaxo-Wellcome Inc., "Safety and Effectiveness of Bupropion SR in Panic Disorder."
67. 2000 – 2001 Co-investigator, Forest Laboratories, Inc., "Safety and Efficacy of Lu 26-054, Citalopram and Placebo in the Treatment of Panic Disorder."
68. 2000 – 2001 Co-investigator, Biovail Laboratories, "Safety and Efficacy of Buspirone Extended Release vs Placebo in the Treatment of Generalized Anxiety Disorder."
69. 2000 – 2001 Co-investigator, Pharmacia and Upjohn, "Reboxatine vs Placebo in Treatment of Major Depressive Disorder Resistant to Fluoxetine."
70. 2000 – 2001 Co-investigator, Eli Lilly and Co., "Long Term, Open Label Treatment with R-Fluoxetine HCL in Major Depressive Disorder."
71. 2001 - 2004 Co-investigator, NIDA, "Double-Blind, Placebo-Controlled Trial of Carbergoline for the Treatment of Cocaine Dependence."
72. 2001 - 2004 Co-investigator, NIDA, "Double-Blind, Placebo-Controlled Trial of Selegiline Transdermal System for the Treatment of Cocaine

dependence.”

73. 2003 - 2004 Co-investigator, NIH, “Methylphenidate-Ethanol Interaction in ADHD and Coabuse.”

PROFESSIONAL ORGANIZATIONS:

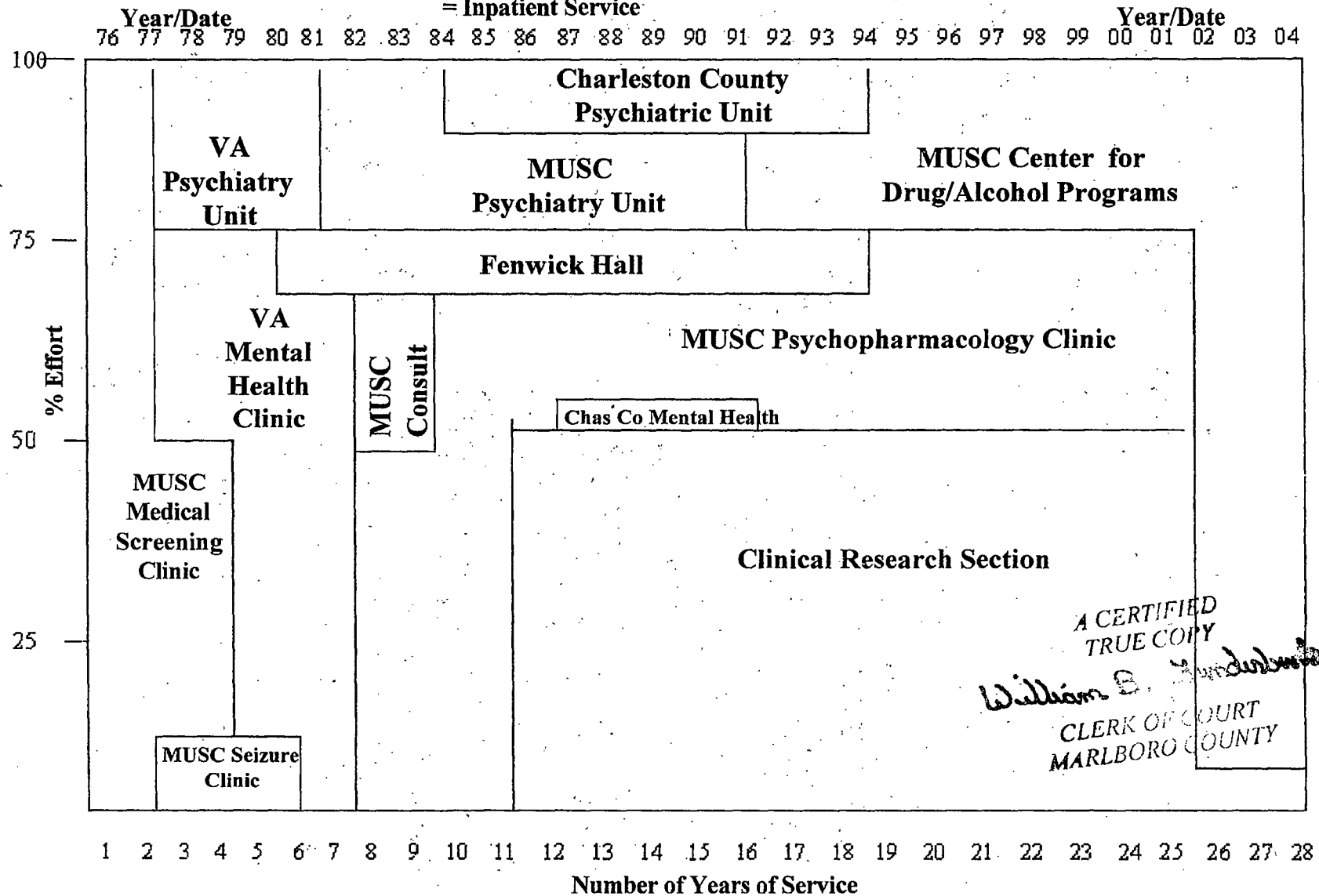
American Society of Health Systems Pharmacists

College of Psychiatric and Neurologic Pharmacists

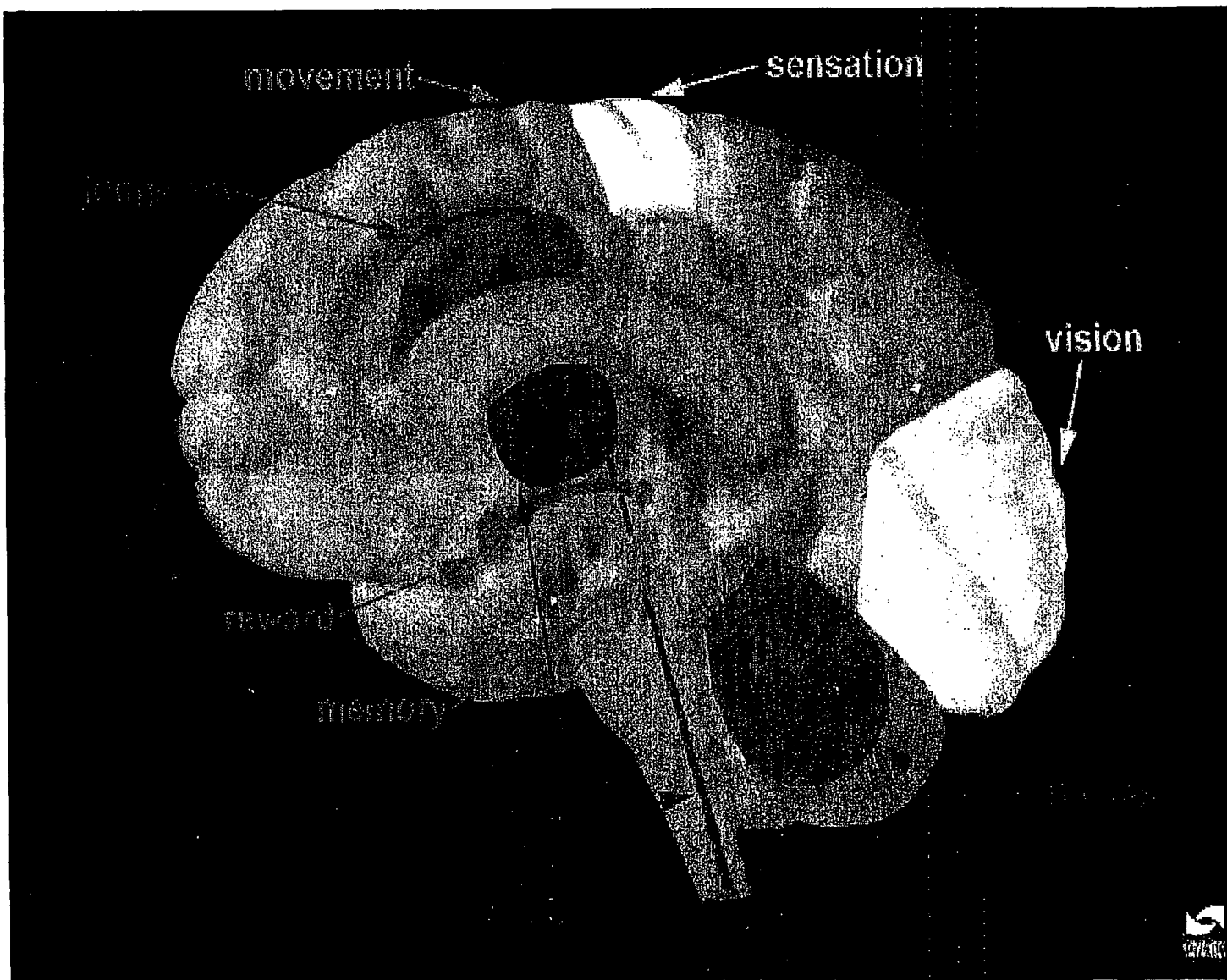
2A

Time Line for W. Alexander Morton, Pharm.D.

= Inpatient Service



Drugs and their Effects on the Brain



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William E. Hurdubert
CLERK OF COURT
MARLBORO COUNTY

Crack Cocaine's Initial Effects

- Intense euphoria
- Indescribable pleasure
- Feeling of ecstasy
- Everything pleasurable is intensified.
(Anything that feels good, feels 100's of times better with cocaine.)
- This may be the first time someone has ever experienced a good feeling.

Speed of Onset

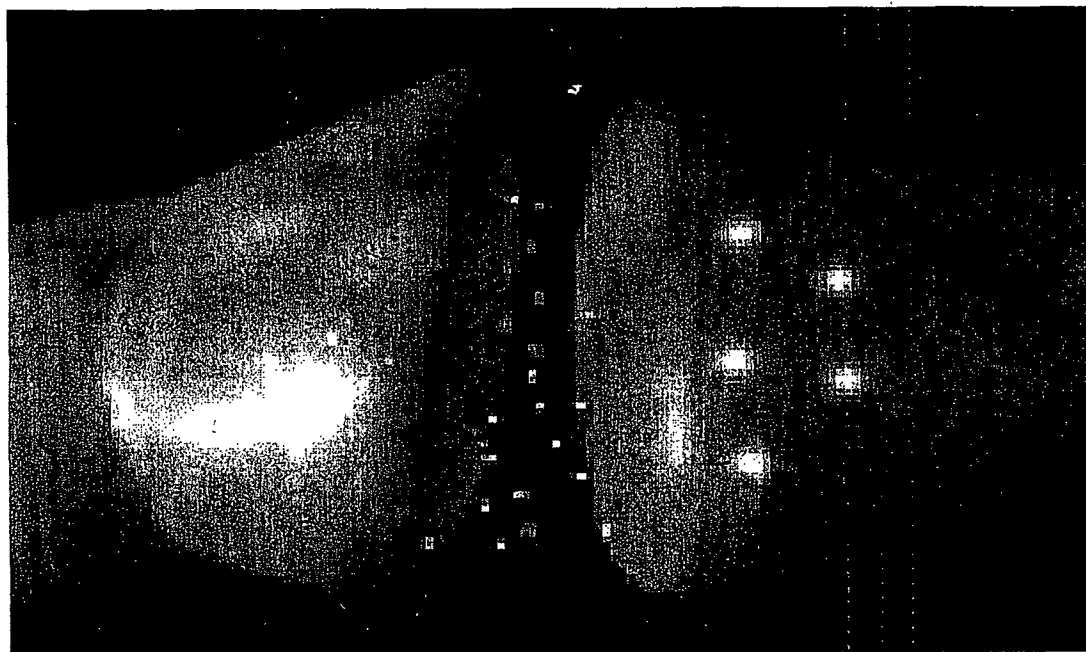
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William C. Dandridge

CLERK OF COURT
MARLBORO COUNTY

How The Brain Communicates: Neurotransmitters

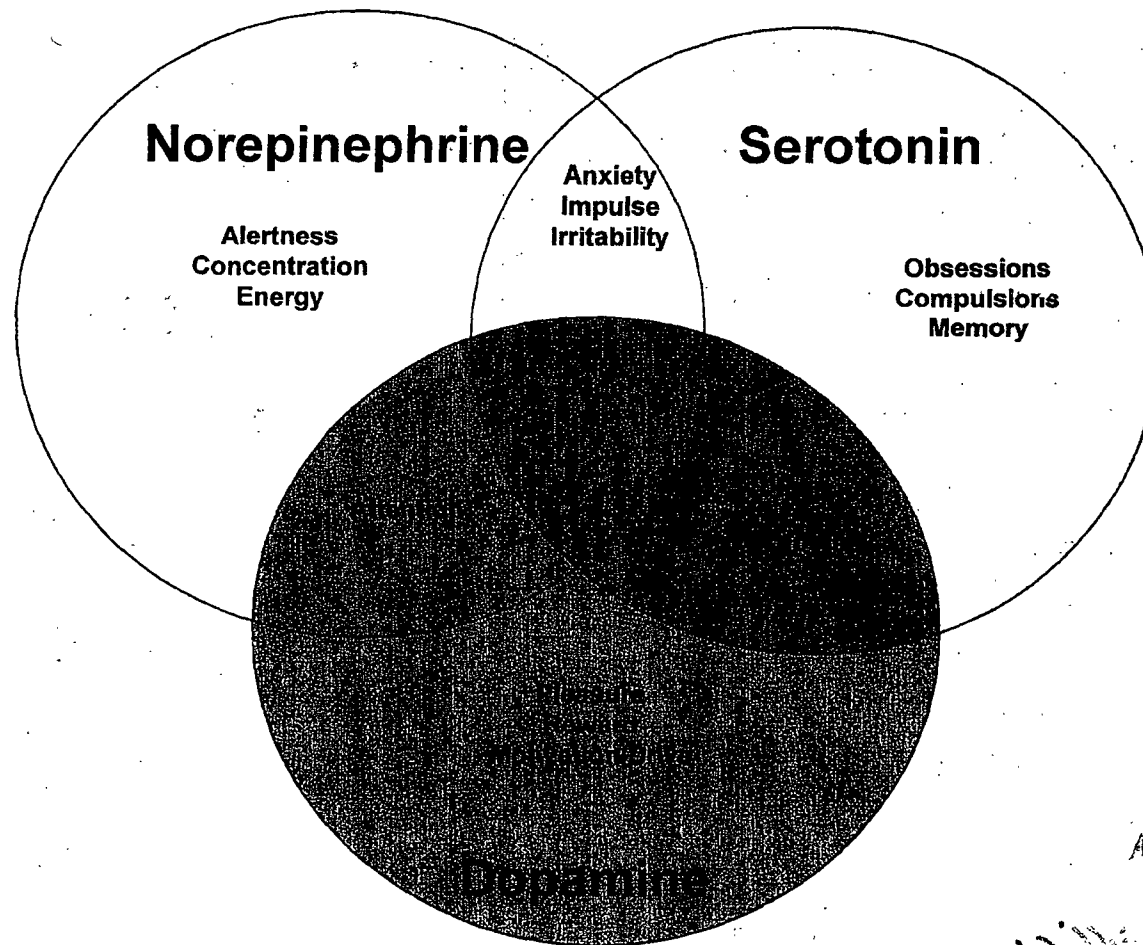


Dopamine
Norepinephrine
Serotonin

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William C. [Signature]
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MARLBORO COUNTY

Three Prominent Neurotransmitters



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MARLBORO COUNTY

Dopamine:

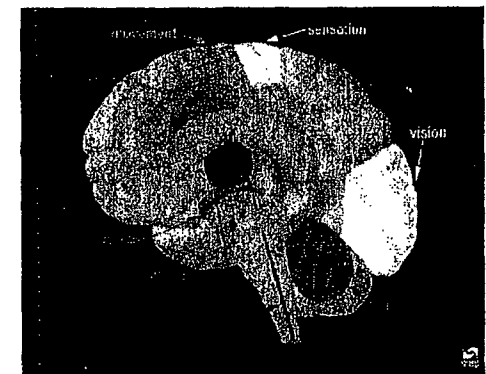
DEFENDANT'S
EXHIBIT

2F

Dopamine works in other parts of the brain, besides the reward system...

too much of this brain chemical can cause severe side effects, such as:

**hallucinations,
abnormal thinking,
aggression,
and**



loss of impulse control.

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William B. Borden
CLERK OF COURT
MARLBORO COUNTY

Facts: Psychiatric Effects from Cocaine

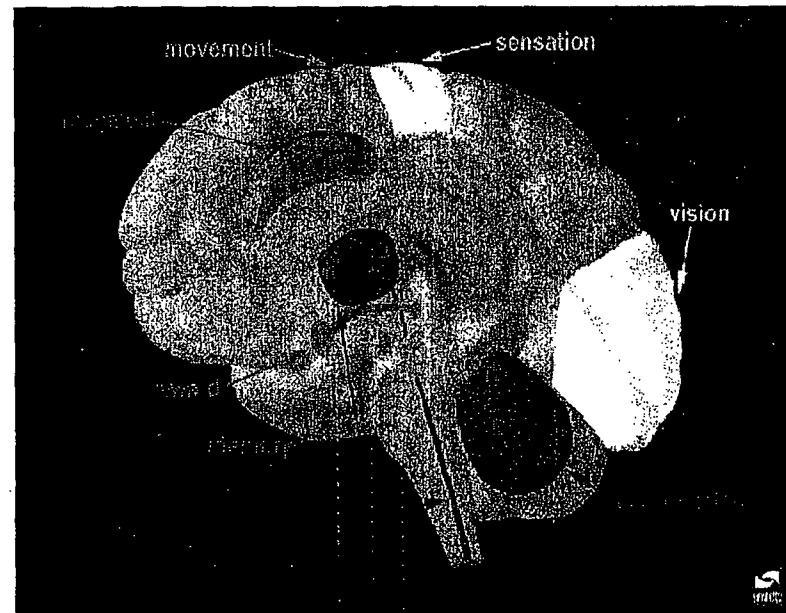
- Agitation
- Paranoia
- Hallucinations
- Delusions
- Violence
- Suicidal Behavior
- Homicidal Behavior
- Withdrawal

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William B. [Signature]
CLERK OF COURT
MARLBORO COUNTY

Morton WA. "Cocaine and psychiatric symptoms." Primary Care Companion: J Clin Psychiatry 1999;1:109-113.

Facts: Cocaine's Residual Side Effects: (Side effects after stopping use.)

- Impulsivity
- Irritability
- Aggressiveness
- Agitation
- Poor thinking
- Distorted perceptions
- Paranoia
- Increased anxiety
- Withdrawal



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William E. Sandelak
CLERK OF COURT
MARLBORO COUNTY

27

Facts: Withdrawal from Cocaine

- “Crash” and withdrawal phase: people try to avoid by using cocaine again
- Depression:
 - Fatigue
 - Insomnia or excessive sleeping
 - Agitation
 - Poor concentration
- Anxiety
- Hostility
- Paranoia

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William F. [Signature]
CLERK OF COURT
MARLBORO COUNTY

Morton WA. "Cocaine and psychiatric symptoms." Primary Care Companion: J Clin Psychiatry 1999;1:109–113.

Facts: Psychiatric Effects from Alcohol

- Anxiety and panic
 - Sedation and euphoria
 - Irritability and restlessness
 - Violence
 - Depression
 - Sleep disturbances
 - Memory impairment
 - Hallucinations and delusions
- from: Morton WA, Roberts S. "Adverse consequences of alcohol abuse and dependence." US Pharmacist, March 2002: HS27-37.

A CERTIFIED
TRUE COPY
William B. Zundorff
CLERK OF COURT
MARLBORO COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF MARLBORO	)	INDICTMENT NO.: 10-GS-34-0696
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
John Lee Hogan,	)	
	)	
Defendant.	)	

This matter came before me on December 9, 2011 in Lee County pursuant to an agreement by the parties to waive venue in Marlboro County for this hearing to resolve certain motions and pretrial matters. The State was represented by Assistant Solicitors Mary Thomas Johnson-Lee and Shipp Daniel. The Defendant was present and represented by Dan Blake, Esquire.

I. SCRE 609 and SCRE 404

The first matter addressed was an earlier ruling by the Court as a result of a hearing held on November 2, 2011. That ruling dealt with the admissibility under SCRE 609 of Hogan's prior convictions. The Court was in error in reciting a 1999 tax conviction and also in stating that the parties agreed that a Burglary 2nd conviction was admissible for impeachment purposes. Therefore, that portion of the November 10, 2011 Order, contained in the second paragraph on page three (3), is rescinded.

The Court is now advised that the State contends that a 1999 charge for Assault with a Deadly Weapon, and the 2003 conviction for Burglary are impeachable matters. The Court is withholding rulings on these matters pending establishment of the exact

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WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

nature and disposition of the Assault charge and to allow the Defendant to fully articulate any arguments or objections under SCRE 609. Since the admissibility becomes an issue only for impeachment purposes if Hogan testifies, the Court will rule on the admissibility at the appropriate time.

The Court reaffirms its finding that the State, by agreement, will not offer evidence pursuant to SCRE 404 and/or State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923) that the Defendant is a suspect in other crimes.

II. Photographs

The Court next addressed the issue of photographs. State's Exhibits 1 – 16 were agreed upon and are admitted without further authentication. The other photographs are marked for identification (ID) only at this time and the Court will rule on their admissibility at the appropriate time.

III. Expert Testimony

The admissibility of the testimony of the Defendant's expert witness, William A. Morton, Jr., was the primary reason for the hearing. The Defendant is charged with the offense of murder, and Morton is being offered as an expert regarding intoxication by illegal drugs and the effects of drug use on intent. The proper procedure for determining the admissibility of expert testimony is to have an *in camera* hearing and have the qualifications and testimony proffered.

Under State v. Council, 335 S.C. 1, 20, 515 S.E.2d 508, 518 (1999) the test for determining the admissibility under SCRE 702 of expert testimony is that the trial judge must find that the evidence will assist the jury to determine a fact in issue, that the witness is qualified by knowledge, experience, training, and education, and that the

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WILLIAM B. FUNDENBURG
MADISON COUNTY, S.C.

underlying science is reliable. In determining reliability, the factors enumerated in State v. Jones, 383 S.C. 535, 681 S.E.2d 580 (2009), should be applied. These include: (1) publication and peer-review of the technique; (2) prior application of the method to the type of evidence involved in this case; (3) the quality control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures. Further, if the evidence is admissible under SCRE 702, the Court should determine if its probative value is outweighed by its prejudicial effect under SCRE 403.

Morton has a Bachelor of Science and Doctor of Pharmacology degrees. He specializes in the effects of lethal substances, – alcohol, nicotine, and illegal drugs (cocaine, heroin, etc.), – on the body. He has an impressive curriculum vitae which list over seventy-five (75) cases in which he has been qualified as an expert in state and federal court in several states, including South Carolina. He testified, however, that about two-thirds (2/3) of the cases in which he had been qualified and testified were in the penalty phase and he could not recall if he had been qualified to testify as an expert in the guilt phase in a South Carolina state court on the question of diminished intent as a result of drug use. It is apparent that most of the time his testimony has been in mitigation of the sentence rather than responsibility for the criminal act. However, the State does not object to Morton's qualifications in the field of addiction pharmacology, and thus the second test under Council is met.

Neither does the State contest the third requirement of Council: reliability of the underlying science. In his proffer, the Defendant established that Morton had published many articles and spoken at numerous seminars (peer review); that others in his field and the medical field had concurred that long time drug abuse had an extremely detrimental

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ALLAN B. FURBERBURK
CHARLESTON COUNTY, S.C.

effect on the body, including the brain (prior application of the science); quality control safe guards were in place, and the methodology was consistent with recognized scientific laws and procedures. Morton did admit that the effect of intoxication on the brain was manifested in subjective ways rather than objective factors. The Court is making no ruling or finding on the reliability of the testimony because the Defendant has not met the first requirement of Council: That the expert testimony will aid the jury to determine a fact in issue.

The State contends that the testimony is not admissible because the law of South Carolina is that voluntary intoxication is not a defense to a crime, and thus the effects of voluntary intoxication on the brain are not admissible to negate or excuse criminal behavior. Therefore, in the State's view, the testimony would not assist the trier of fact to determine a fact in issue. On the other hand, the Defendant argues that it would assist the jury to determine specific intent, which goes to malice or the lack thereof, which could reduce the criminal offense from murder to voluntary manslaughter. Defendant's argument is ingenious, and would have merit if the law of South Carolina were not to the contrary.

In State v. Vaughn, 268, S.C. 119, 232 S.E. 2nd 328 (1977), the Supreme Court held that voluntary intoxication is not a defense to a crime involving general or specific intent. In Vaughn, the Court was asked to hold that voluntary intoxication is a defense to crimes requiring specific, as opposed to general, intent. This point had never been specifically addressed in South Carolina. The Court recognized that a majority of American jurisdictions permit voluntary intoxication as a defense to specific intent

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WILLIAM B. LUNDQUIST
CLERK OF COURT
MARLBOROUGH COUNTY, S.C.

HPK

crimes. See 22 C.J.S. Criminal Law, Sections 112 and 113 (1989). However, the Court adopted a different rule:

We adopt the rule that voluntary intoxication, where it has not produced permanent insanity, is never an excuse for or a defense to crime, regardless of whether the intent involved be general or specific. (emphasis added)

The Defendant does not contend intoxication causing insanity that destroyed his ability to distinguish right from wrong, and specifically asserts that he is not interposing an insanity (GBMI) defense. The Court reaffirmed the Vaughn holding in State v. Hatfield, 300 S.C. 469, 388 S.E.2d 802 (1990).

In State v. Davis, 278 S.C. 544, 298 S.E.2d 778 (1983), citing State v. Crocker, 272 S.C. 344, 251 S.E. 2d 764 (1979), the Court held that voluntary intoxication does not impair a person's ability to act with malice aforethought so as to reduce murder to voluntary manslaughter. It follows that the effects of voluntary intoxication on the brain are similarly not a defense.

While the logic of the majority rule as articulated in Vaughn is persuasive and has appeal, this Court cannot ignore the clear holdings of the Supreme Court. In Vaughn, the Court unequivocally held that voluntary intoxication that does not produce permanent insanity is never a defense regardless of whether the intent required is general or specific. In Davis, the Court ruled on the exact issue in this case and held that voluntary intoxication does not impair a person's ability to act with malice aforethought so as to reduce the crime of murder to voluntary manslaughter.

IV. Conclusion

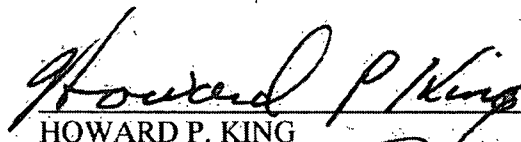
The Court has applied the tests for admissibility of testimony of the expert, William A. Morton, Jr.. The testimony does not meet the test set forth as the first factor

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WILLIAMSBURG
MALBORO COUNTY, S.C.

in Council, which is the requirement that the testimony will assist the trier of fact to determine a fact in issue. Under South Carolina law, voluntary intoxication and its effect on the brain is not a defense whether the intent be general or specific and does not impair a person's ability to act with malice aforethought. The testimony of Dr. Morton is suppressed and excluded.

AND IT IS SO ORDERED.


HOWARD P. KING
PRESIDING JUDGE, 3rd CIRCUIT

Sumter, South Carolina

December 21, 2011

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2011 DEC 22 PM 1 20
WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF MARLBORO)

State of South Carolina)

vs.)

John Lee Hogan,)

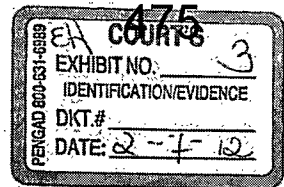
Defendant)

FOURTH JUDICIAL CIRCUIT

GENERAL SESSIONS COURT

INDICTMENT NO.: 10-GS-34-0696

MOTION FOR RECONSIDERATION



2012 JUN 3 PM 4 04
WILLIAM D. FORTNEY
CLERK OF COURT
MARLBORO COUNTY, S.C.

FILED

This Motion for Reconsideration is the Defendant's response to an Order by the Honorable Howard P. King, filed in the Marlboro County Clerk's Office on December 22, 2011. In Section III of this Order, the Court ruled that the expert testimony by Dr. William Alex Morton, Jr., was not admissible. In this Order, the Court relies on State v. Council in its determination that Dr. Morton could not testify in this case because it would not aid "the jury to determine a fact in issue". State v. Council, 335 S.C. 4, 515 S.E.2d 508, 518 (1999). The South Carolina Supreme Court states in State v. Council:

[w]e find the proper analysis for determining admissibility of scientific evidence is now under the SCRE. When admitting evidence under Rule 702, SCRE, *the trial judge must find the evidence will assist the trier of fact*, the expert witness is qualified, and the underlying science is reliable (emphasis added).

Rule 702 of the South Carolina Rules of Evidence reads:

If scientific, technical, or other specialized knowledge *will assist the trier of fact to understand the evidence or to determine a fact in issue*, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise (emphasis added).

The Defendant contends that Dr. Morton's testimony about the immediate effects of cocaine ingestion on human behavior will assist the jury to either 1) understand the evidence or 2) to determine a fact in issue. First, testimony by Dr. Morton will assist the jury to understand the evidence. The evidence about crack cocaine use will be part of the evidence to be presented at trial. The State has stipulated that evidence of crack cocaine use by both the victim and the defendant will be presented in their case in chief, and the Defendant does not object. The use of crack cocaine "furnishes part of the context of the crime" and "is necessary to a full presentation of the case" and therefore part of the "res gestae" of the crime. State v. Adams, 322 S.C. 114, 470 S.E.2d 366, 370, 371 (1996), *citing* U.S. v. Masters, 622 F.2d 83, 86 (4th Cir. 1980). The effects of cocaine on human behavior are important facts that will assist the jury in understanding the evidence that will be presented at trial.

Second, Dr. Morton's testimony will assist the jury "to determine a fact in issue". The critical question here is what is "a fact in issue" in this case. The answer to this question would appear to have both a legal basis and a factual basis. With regards to the legal basis, the primary issue in this case is whether the Defendant is guilty of murder or voluntary manslaughter. Murder is the killing of any person with malice aforethought, either express or implied. Voluntary manslaughter is the unlawful killing of a human being, without malice, in sudden heat of passion upon sufficient legal provocation. Ralph King Anderson, Jr., *South Carolina Requests to Charge - Criminal*, 2007, §2-7. In other words, the intentional killing of another human being is considered to be without malice when it is done in the sudden heat of passion upon sufficient legal provocation. As explained in The Criminal Law of South Carolina:

The distinction between murder and manslaughter is the manifestation of a very common-sense attempt to sort out various intentional homicides according to their relative blameworthiness. As explained in detail below, if the killing is committed during the heat of passion aroused by legally adequate provocation, then it is considered to be without malice and therefore manslaughter, the less serious of the two offenses. If, on the other hand, the killing does not occur during the heat of passion, or if the provocation is inadequate, then the killing is with malice and therefore murder.

McAninch, Fahey, and Coggiola, The Criminal Law of South Carolina, 176 (5th Ed. 2007).

Similarly, the case law in our state defines voluntary manslaughter as the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. State v. Davis, 278 S.C. 544, 298 S.E.2d 778 (1983); State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000) et al.

In South Carolina, there are three degrees of unlawful killing: murder, voluntary manslaughter and involuntary manslaughter. Both murder and voluntary manslaughter are intentional crimes while involuntary manslaughter is an unintentional killing. With regards to the issue of malice, murder requires malice while both voluntary and involuntary manslaughter are defined as crimes without malice. As noted above, the issue of being without malice in a voluntary manslaughter case is whether the killing occurred during the heat of passion upon adequate legal provocation.

The Defendant admits that the killing was intentional. However, he contends that the killing was without malice, that is, that the killing occurred in a sudden heat of passion upon sufficient legal provocation. In addition, for voluntary manslaughter to apply, the killing must occur before the passion has cooled or has had time to cool.

The Defendant contends that he acted while in a sudden heat of passion, and that he had experienced sufficiently legal provocation. The Defendant contends therefore that the specific issue in this case is whether the Defendant's heat of passion had cooled or had time to cool prior to the killing of the victim. The Defendant wishes to present Dr. William Alex Morton's expert testimony about the use of cocaine and its effects on behavior as information for the jury to consider in determining this fact that is a primary "fact in issue" in this case.

It would also appear helpful to have a basic understanding of the facts in this case in order to determine what is a "fact in issue". The following facts are presented in the Defendant's video-taped confession of July 23, 2010, which has already been ruled as admissible by this Court.

In this statement, defendant speaks about the use of crack cocaine that night by both himself and the victim (victim also showed cocaine metabolites in her toxicology report). With regards to the death of the victim, defendant states that he was in the living room of his double-wide trailer and the victim was taking a bath in a large, Jacuzzi-type tub in the bedroom. Concerned about the amount of time that had elapsed, defendant went into the bedroom and found the victim attempting to steal money from his wallet. The defendant slapped the victim. At this point, the victim pushed past the defendant and proceeded to the kitchen where she grabbed a knife and stabbed the defendant in the side. The defendant removed the knife from his side and swung the knife and stuck the victim in the side of the neck. The defendant immediately dropped the knife on the floor, and the victim went for the knife. The parties struggled, with blood pouring out on the floor. Exhausted, the parties stopped wrestling. At this point, the defendant grabbed some duct tape nearby, taped the victim's hands behind her back, and led her back to the tub in the bedroom. He then sat on the edge of the bed (several feet from the tub), and smoked two hits of crack cocaine. He then got a knife from the kitchen and slit the victim's throat. Later that day, he placed the victim in a barrel and deposited the barrel in the woods.

The Defendant will ask for a jury instruction on voluntary manslaughter. This charge must be given to the jury unless "there is no evidence whatsoever tending to reduce the crime from murder to voluntary manslaughter." State v. Lowry, 315 S.C. 396, 434 S.E.2d 272 (1993). Thus, the issue before the jury is whether the killing was murder or voluntary manslaughter. Given the facts stated above, the more specific issue is whether the Defendant's heat of passion had cooled or had time to cool.

The Court relies on State v. Davis. In this case, the Defendant was convicted of voluntary manslaughter and he appealed on the basis that there was "no evidence to support a jury instruction on, and conviction of, voluntary manslaughter." The trial judge had "instructed voluntary manslaughter *on the ground that appellant's intoxication could have eliminated the element of malice from the killing*" (emphasis added). In direct response to this request, the Davis court stated that "voluntary intoxication does not impair a person's ability to act with malice aforethought so as to reduce murder to voluntary manslaughter", citing State v. Crocker, 272 S.C. 344, 251 S.E.2d 764 (SC 1979). However, the Davis court upheld the conviction for voluntary manslaughter because there was evidence presented indicating both heat of passion and adequate legal provocation.

In Crocker, the Defendant had requested a charge to the jury if they "found appellant to be under the influence of drugs to such an extent that his ability to act with malice aforethought was

impaired, a verdict of voluntary manslaughter was warranted." Citing State v. Vaughn, the Crocker court ruled that this was an improper jury request, noting that "voluntary intoxication is not an excuse for, or a defense to a crime." State v. Vaughn, 268 S.C. 119, 232 S.E.2d 328 (1977).

In this case, the Defendant is not asserting the defense of voluntary intoxication. Defendant's cocaine use does not excuse his behavior or provide a defense to the crime. The Defendant has admitted to the killing and has offered to plead guilty to voluntary manslaughter. The Defendant does not contend that his cocaine use eliminates or even reduces malice. Rather, the Defendant states that the effects of cocaine on human behavior (both the defendant and the victim's behavior) are appropriate facts for the jury to consider when it determines whether or not the Defendant's heat of passion had cooled or should have cooled.

In conclusion, SCRE Rule 702 provides that a witness may testify when their technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue. In this case, Dr. Morton's testimony about the immediate effects of cocaine ingestion will assist the jury to either understand the evidence or determine a fact in issue. The other two (2) issues in Council: qualification of the witness and reliability of the underlying science are not being addressed in this Motion to Reconsider because the court has based its Order on the first prong in Council. These issues can be addressed by the Defendant if the Court deems it necessary.

Therefore, the Defendant requests that the Court reconsider its Order and allow the testimony of Dr. William Alexander Morton. In the alternative, the Defendant requests that the Court withhold its final decision on this matter until the actual trial of this case.

December 31, 2011
Bennettsville SC 29512

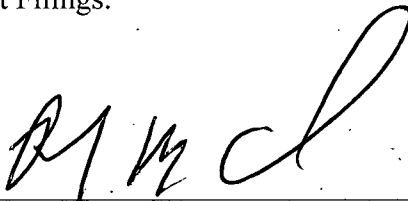


Daniel Blake, Attorney for the Defendant
Blake Law Firm, PA
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Bennettsville SC 29512
(843) 479-2393 phone
(843) 479-2391 fax

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 20th, 2013



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Marlboro County

Howard P. King, Circuit Court Judge

RECEIVED

DEC 20 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOHN L. HOGAN,

APPELLANT

APPELLATE CASE NO. 2012-208526

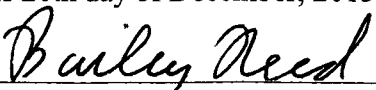
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 20th day of December, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of December, 2013.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021