

VOLUME I of II

In The Court of Appeals

R. Lawton McIntosh, Circuit Court Judge

RESPONDENT,

V.

APPELLANT

APPELLATE CASE NO. 2012-207553

RECORD ON APPEAL

Attorneys for Respondent

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT

STATE'S EXHIBIT # 15 (CD)

State of South Carolina

In the Court of General Sessions

County of Anderson

State of South Carolina,

Plaintiff,

-vs-

Matthew Fullbright,

Defendant.

2010-GS-04-00069/00072

November 17, 2011

Transcript of Record

BEFORE:

The Honorable R. Lawton McIntosh, Judge

APPEARANCES:

Christina Adams, Esquire
Assistant Solicitor for 10th Judicial Circuit
Catherine T. Huey, Esquire
Assistant Solicitor for 10th Judicial Circuit
Attorneys for the State

Scott Robinson, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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Chris Beusse - Direct Examination by Ms. Huey

5

1 MR. ROBINSON: Thank you, Your Honor.

2 (WHEREUPON, court stood at recess.)

3 THE COURT: All right. Just for the record, I
4 followed the procedure pursuant to the rules, and I'm
5 advised by counsel for the Defense and counsel for the
6 State they have no objection to me proceeding in this
7 matter.

8 Is that correct, Mr. Robinson?

9 MR. ROBINSON: That is correct.

10 THE COURT: Is that correct, Ms. Huey?

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

12 THE COURT: Okay. Would you go ahead and
13 announce your case, please?

14 MS. HUEY: Yes, Your Honor. This is the matter
15 of the State versus Matthew Brandon Fullbright. He's
16 been charged with two counts of murder on indictments
17 2010-GS-04-0069 as well as 0070. He's also been charged
18 with two counts of armed robbery, indictment numbers
19 2010-GS-04-0071 and 0072. And Your Honor, at this time
20 we'd like to proceed with a Jackson Denno Hearing.

21 THE COURT: Okay. Call your first witness.

22 MS. HUEY: Thank you, Judge. Your Honor, the
23 State calls Chris Beusse to the stand.

24 **CHRIS BEUSSE,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

1 DIRECT EXAMINATION

2 BY MS. HUEY:

3 Q. Sergeant Beusse, where do you work?

4 A. Anderson County Sheriff's Office.

5 Q. And in what capacity do you work there?

6 A. I'm a sergeant in the criminal investigations.

7 Q. How long have you held that particular title?

8 A. A little over a year.

9 Q. How long have you been in law enforcement all
10 together?

11 A. A little over eight years.

12 Q. What were your duties in October of 2009?

13 A. I was assigned to homicide investigations, death
14 investigations and white collar crime.

15 Q. What was your particular role in the case of the
16 State versus Matthew Fullbright?

17 A. I was assigned as the lead investigator.

18 Q. . . As a result of being the lead investigator, did you
19 have an occasion to talk to the Defendant, Matthew
20 Fullbright, in this case regarding taking a statement
21 from him?

22 A. Yes, ma'am.

23 Q. And did you advise him of his rights?

24 A. Yes, ma'am.

25 Q. Did you do so using a form of rights listed?

1 A. Yes, ma'am.

2 Q. Sergeant Beusse, I'm going to show you what's been
3 marked as State's 1. Would you take a look at that,
4 please?

5 A. Yes, ma'am.

6 Q. Do you recognize that form?

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

8 Q. And how do you recognize it?

9 A. It has my handwriting on it, my signature, Sergeant
10 Gebing's signature and Mr. Fullbright's signature and
11 initials.

12 Q. What time did this advice of rights take place?

13 A. It started at six thirty-five p.m.

14 Q. And where exactly did the advice take place?

15 A. It was at the Anderson County Sheriff's Office in
16 the interview room.

17 Q. Can you tell me a little bit about that interview
18 room, describe what it's like?

19 A. Yes, ma'am. It's on the same floor as the Sheriff's
20 office, which is the investigations division. It's
21 approximately an eight-by-eight room. It has a desk
22 inside of it, three chairs, and on one wall, there's a
23 one-way mirror.

24 Q. Was anyone else present in this interview room with
25 you?

1 A. Yes, ma'am.

2 Q. And who was present?

3 A. Sergeant Gebing.

4 Q. As well as the Defendant, Matthew Fullbright?

5 A. Yes, ma'am.

6 Q. How about outside the room? You said there was a
7 one-way mirror.

8 A. There was several investigators who were witnessing
9 the interview.

10 Q. Now, during the process of this advice of rights
11 interview, was he denied any comforts? For instance, if
12 he wanted to go to the bathroom, he could go to the
13 bathroom?

14 A. Yes, ma'am, he could.

15 Q. All right. And if he needed something to drink, was
16 he given something to drink?

17 A. Yes, ma'am.

18 Q. How about smoke breaks?

19 A. He did have several smoke breaks.

20 Q. As well as if he wanted something to eat?

21 A. Yes, ma'am.

22 Q. Do you know if he was in handcuffs during this
23 process?

24 A. He had handcuffs. They were in the front.

25 Q. And was he seated during this process?

1 A. Yes, ma'am.

2 Q. How do you normally advise someone of their rights?

3 What's your typical procedure?

4 A. I usually ask the subject their full name, if they
5 can read or write, how far they went in school. I write
6 this on the right-hand side of the form. I then fill in
7 the appropriate blanks for location, date and time. I
8 ask them to read the first two lines of their *Miranda*
9 rights to me. That way they can read it out loud and
10 show me they can read. I have them initial by those two
11 lines, and I finish reading the form for them.

12 Q. And is that what you did in this case?

13 A. Yes, ma'am.

14 Q. And this form lists the rights on it of which you
15 informed the Defendant?

16 A. Yes, ma'am.

17 Q. And what rights are those rights that you informed
18 the Defendant?

19 A. You have the right to remain silent. Anything you
20 say may be used against you in Court. You have the right
21 to speak to a lawyer for advice before you're asked any
22 questions and have him with you during questioning. If
23 you cannot afford a lawyer, one will be appointed for you
24 before any questioning if you wish. If you decide to
25 answer questions now without a lawyer present, you still

1 have the right to stop answering questions at any time.

2 You also have the right to stop answering at any time

3 until you speak with a lawyer.

4 Q. And did you make sure he understood those rights?

5 A. Yes, ma'am.

6 Q. And were any makings made on that form to indicate

7 that he did understand those rights?

8 A. Yes, ma'am. He initialed by the first two lines

9 that he read, and he also put his signature under those

10 rights.

11 Q. So in your opinion, did the Defendant understand his

12 rights that you were advising him of?

13 A. Yes, ma'am.

14 Q. Did the Defendant seem to be under the influence of

15 anything as far as alcohol or drugs?

16 A. No, ma'am.

17 Q. And then did the Defendant indicate that he

18 understood his rights by signing the form?

19 A. Yes, ma'am..

20 Q. Were any threats or promises made in order to get

21 him to sign that form and give a statement?

22 A. No, ma'am.

23 Q. Any intimidation?

24 A. No, ma'am.

25 Q. His waiver of rights was voluntary?

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Chris Beusse - Direct Examination by Ms. Huey

11

1 A. Yes, ma'am.

2 Q. Now, did the Defendant indicate to you whether he
3 wanted to waive those rights and then give a statement?

4 A. Yes, ma'am.

5 Q. Okay. And how did he do that?

6 A. We went over the bottom section as to waiver of
7 rights. I read those to him and explained to him what it
8 meant and then put the date, time and signature.

9 Q. Okay. And how did you go over the waiver of rights?

10 A. I read it to him. I said, I have the right -- I
11 have read this statement of my rights and understand what
12 my rights are. I am willing to make a statement and
13 answer questions. I do not want a lawyer at this time.
14 I understand and know what I am doing. No promises or
15 threats have been made to me and no personal coercion of
16 any kind has been used against me. At that time --
17 excuse me. May I get some water?

18 THE COURT: Just one second.

19 Would you get him some water?

20 MS. HUEY: Yes, sir, I was going to get him
21 some water.

22 THE WITNESS: Thank you.

23 Q. What, if anything, is significant about the waiver
24 of rights, Detective Beusse?

25 A. I just explained to him we weren't promising him

1 anything, and we weren't using any coercion, we weren't
2 using any intimidation or physical force to get him to
3 tell us what we needed to know.

4 Q. Okay. And is the word coercion underlined?

5 A. Yes, ma'am.

6 Q. And what's the purpose behind that?

7 A. I just do that to make sure I explain that to them,
8 what that means.

9 Q. And he seemed to understand?

10 A. Yes, ma'am.

11 Q. And again, he signed the waiver of rights then?

12 A. Yes, ma'am.

13 Q. Now, did the Defendant in fact give you a statement?

14 A. Yes, ma'am.

15 Q. How did that actually come about?

16 A. After I advised him of his rights, I had a picture
17 of Ms. Staton and a picture of Mr. Staton. I showed him
18 their driver's license picture. I showed him a picture
19 of Mr. Staton and advised him I was currently working a
20 homicide investigation in reference to Mr. Staton.
21 Showed him a picture of Ms. Staton advised him that I was
22 currently working at that time a missing persons
23 investigation on her. I advised him I had reason to
24 believe that he had information in reference to these
25 cases and incidents. We then proceeded to interview him

1 for the next several hours. Over that course of time,
2 Sergeant Gebing was taking notes and I was asking
3 questions.

4 Q. So initially a written statement was not taken; is
5 that correct?

6 A. No, ma'am.

7 Q. It was just oral conversation between yourself,
8 Detective Gebing as well as the Defendant, Mr.
9 Fullbright?

10 A. Yes, ma'am.

11 Q. Okay. Now, in backing up, you said that you were
12 investigating a homicide of Mr. Staton, but Ms. Staton
13 was a missing person still at this time; is that correct?

14 A. At that current time we had not located her or
15 located her body.

16 Q. Now, what, if anything, did you notice about the
17 Defendant's demeanor during this time?

18 A. Well, after a couple of hours of interviewing him
19 and we were asking him about the location of Ms. Staton
20 -- we were trying to find her. At that time, he began to
21 come to a breaking point in the interview. He was
22 looking down at the floor, wouldn't make eye contact,
23 started taking deep breaths. Then he started to act as
24 if he was going to throw up and proceeded to fall out of
25 the chair onto the floor as if he was passed out.

1 Q. So he literally fell in the floor; is that correct?

2 A. Yes, ma'am.

3 Q. Okay. And so what did you all do as a result of
4 that?

5 A. Well, we stopped at that point. We notified the
6 E.M.S. and had them respond to the Sheriff's office.

7 Q. And did the Defendant require medical treatment?

8 A. No, ma'am.

9 Q. Did you go to the hospital?

10 A. No, ma'am.

11 Q. Did you feel the Defendant needed further medical
12 attention?

13 A. No, ma'am.

14 Q. At any point did anyone else speak with the
15 Defendant in this case?

16 A. After he was checked out by E.M.S. -- the Sheriff
17 was on the floor. He did -- he was witnessing the
18 interview. He did walk into the room. He knelt down on
19 the floor on his knee. Mr. Fullbright was still on the
20 floor. He advised him that he was John Skipper, he was
21 the sheriff of Anderson County. He told him we'd been
22 working long and hard on this case, and it was time, if
23 he knew, to show us where Ms. Staton was. At that time
24 he was asked if he knew where she was at, and he nodded
25 his head yes.

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Chris Beusse - Direct Examination by Ms. Huey

15

1 Q. Now, what happened after he nodded his head yes?

2 A. Myself and Sergeant Gebing walked him outside to my
3 vehicle. At that time, I placed him in the front seat.
4 I drove and Sergeant Gebing was in the back seat. We
5 then proceeded to follow his directions to the location
6 of Ms. Staton.

7 Q. And what kind of oral statements was he giving you
8 during this process of driving to where Ms. Staton was
9 located?

10 A. He didn't give too many oral statements during the
11 drive. Basically he just gave us directions. He began
12 to talk about it a little bit, and he started sobbing a
13 little bit. And he basically just gave directions.

14 Q. And you mentioned a little bit about him sobbing.
15 What was his demeanor like during this drive?

16 A. He just had his head down when he started talking
17 about it. He said that he didn't want to really talk
18 about it at that moment, he just wanted to give the
19 directions.

20 Q. And is that in fact what happened?

21 A. Yes, ma'am.

22 Q. All right. How long did this drive actually take
23 place from the Sheriff's office to where Ms. Staton was
24 actually located?

25 A. I would say it was probably between thirty and

1 forty-five minutes.

2 Q. Once y'all got to the location -- and again, where
3 was Ms. Staton located?

4 A. She was located on Waterside Drive, on the edge of
5 Waterside Drive, just along the wood line.

6 Q. Okay. And that's in Anderson County?

7 A. Yes, ma'am.

8 Q. After she was located, what did you all do at that
9 point?

10 A. Mr. Fullbright had pointed out the spot to us. I
11 shined the flashlight in the area he stated that she
12 would be at that time. We waited. The other
13 investigators looked. They found her. As soon as they
14 found her, we left. We drove back to the Sheriff's
15 office, and we stopped at Taco Bell and got something to
16 eat for Mr. Fullbright, myself and Sergeant Gebing.

17 Q. Do you know about what time that was?

18 A. I would say that would have been around midnight.

19 Q. And did y'all eat in the car, or where did y'all eat
20 your meal?

21 A. We took it back to the Sheriff's office, and we ate
22 inside my office.

23 Q. While y'all were eating, did you talk about the
24 case, or did y'all just eat?

25 A. We pretty much just ate our meal.

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Chris Beusse - Direct Examination by Ms. Huey

17

1 Q. Now, did he eventually indicate that he was going to
2 give a written statement?

3 A. Yes, ma'am. After we finished eating, we started on
4 the written statement.

5 Q. And was that statement put in writing?

6 A. Yes, ma'am.

7 Q. And how did that come about? What time did that
8 take place?

9 A. Probably took us thirty minutes to eat when we
10 started on the statement, so I figure that was between
11 twelve thirty and one a.m.

12 Q. Now, were y'all in the interview room again, or were
13 y'all in a different location for the written statement?

14 A. We were in my office. I typed the statement on my
15 computer.

16 Q. Can you describe your office?

17 A. At that particular time, there was two desks inside,
18 two computers. It was a shared office. I had two
19 windows, a door, several chairs inside.

20 Q. And who else was present during this process?

21 A. Sergeant Gebing and Mr. Fullbright.

22 Q. So did you actually type the statement yourself
23 then?

24 A. Yes, ma'am.

25 Q. And did you type it accurately as the Defendant told

1 you what happened?

2 A. Yes, ma'am.

3 Q. Did you read it back to him or hand it to him to
4 read?

5 A. I read it back to him.

6 Q. Did the Defendant actually indicate that it was his
7 statement?

8 A. He did say it was his statement, but he said it
9 wasn't in the right order.

10 Q. I'm going to show you what's been marked as State's
11 Exhibit 2. Do you recognize that?

12 A. Yes, ma'am.

13 Q. And how are you able to recognize it?

14 A. Well, it has Mr. Fullbright's initials on the first
15 five pages and his signature on the sixth page. This
16 also has my signature and Sergeant Gebing's signature.

17 Q. And is that the statement that you took on the night
18 of October 28th, 2009, from the Defendant, Matthew
19 Fullbright?

20 A. Yes, ma'am.

21 Q. Now, how long did this process actually take from
22 start to finish thereabouts?

23 A. From the initial start?

24 Q. Yes, sir.

25 A. About six thirty-five, and I believe he was booked

1 in at the Anderson County Detention Center at four
2 thirty-five a.m.

3 Q. Okay. And he was booked in after you finished
4 typing the written statement, but again, at that point he
5 refused to sign the statement; is that correct?

6 A. Yes, ma'am.

7 Q. And did he give you a reason for not signing the
8 statement?

9 A. He did.

10 Q. And what was that reason?

11 A. At the very end of the statement he said that he
12 wanted to be completely honest and say the plan was to
13 kill and rob the people and he had not mentioned that
14 earlier from the beginning. And he said he wanted to
15 mention that earlier in his statement, and he was also
16 tired at that time.

17 Q. So essentially he didn't like the order in which the
18 statement was written; is that correct?

19 A. Yes, ma'am.

20 Q. And then he was tired?

21 A. Yes, ma'am.

22 Q. And so as a result y'all stopped?

23 A. Yes, ma'am.

24 Q. And booked him in at the detention center?

25 A. Yes, ma'am.

1 Q. Okay. Now, at any point during this ten- or so hour
2 process, did the Defendant say he was tired and no longer
3 wished to give a statement other than at the very end?

4 A. No, ma'am.

5 Q. Did he at any point request an attorney during this
6 process?

7 A. No, ma'am.

8 Q. Now, what happened after you were done booking him
9 in? Did y'all have a conversation with him at that point
10 or prior to his booking?

11 A. Yeah. On the way we said we would get back with him
12 after he had some kind of rest and go over his statement
13 and put it in the correct order.

14 Q. And so did you all in fact do that then?

15 A. Yes, ma'am.

16 Q. Okay. And when did you meet up with him the next
17 day?

18 A. It was after lunch the following afternoon.

19 Q. And was the Defendant informed of his rights again
20 at that point?

21 A. Yes, ma'am.

22 Q. Using the same kind of form that you used the first
23 time?

24 A. Yes, ma'am.

25 Q. Let me show you what's been marked as State's

1 Exhibit 3. Would you take a look at that, please?

2 A. Yes, ma'am.

3 Q. Do you recognize that form?

4 A. Yes, ma'am.

5 Q. And how are you able to recognize it?

6 A. That is my handwriting, my signature, Sergeant
7 Gebing's signature, Investigator Barton's signature and
8 Mr. Fullbright's signature.

9 Q. And is this the form you used to advise him of his
10 rights then?

11 A. Yes, ma'am.

12 Q. Now, where did you advise him of his rights the
13 second time? He was at the jail; is that correct?

14 A. Yes, ma'am.

15 Q. All right. So he obviously was in custody. Was he
16 handcuffed at that particular time?

17 A. No, ma'am.

18 Q. All right. What room did this interview take place
19 in?

20 A. There's an office at the detention center. It's an
21 old storage room. It was made into an interview room.
22 It had a desk, three chairs -- two chairs and a computer
23 that you could type a statement out on.

24 Q. And was he seated during this process?

25 A. Yes, ma'am.

1 Q. But not in handcuffs?

2 A. (No verbal response)

3 Q. And you said earlier that Detective Gebing, yourself
4 as well as Danny Barton were present for this?

5 A. Yes, ma'am.

6 Q. Did you go over the form with the Defendant?

7 A. Yes, ma'am.

8 Q. Did you make sure he understands his rights again?

9 A. Yes, ma'am.

10 Q. Were any markings made on this particular form to
11 indicated that he understood his rights?

12 A. Yes, ma'am. He initialed and signed the form.

13 Q. At this time, did the Defendant seem to be under the
14 influence of anything, drugs or alcohol?

15 A. No, ma'am.

16 Q. And what was his demeanor like at the time?

17 A. Pretty much the same as the night before. He just
18 was more rested, maybe a little more matter of fact.

19 Q. Do you know if he received any medical attention
20 while at the detention center over the night?

21 A. Not to the best of my knowledge.

22 Q. Were any threats or promises made in order to get
23 him to sign or give a statement?

24 A. No, ma'am.

25 Q. Again, there was no -- was there any intimidation?

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Chris Beusse - Direct Examination by Ms. Huey

23

- 1 A. No, ma'am.
- 2 Q. His waiver of rights was voluntary?
- 3 A. Yes, ma'am.
- 4 Q. And then he indicated that he would like to give you
- 5 a second statement; is that true?
- 6 A. Yes, ma'am.
- 7 Q. And that statement was put in writing?
- 8 A. Yes, ma'am.
- 9 Q. Let me show you what's been marked as State's 4. If
- 10 you would take a look at that, please. And do you
- 11 recognize that?
- 12 A. Yes, ma'am.
- 13 Q. And how are you able to recognize that exhibit?
- 14 A. It has Mr. Fullbright's initials at the beginning
- 15 and the end. It also has his signature. It has my
- 16 signature and Sergeant Gebing's signature.
- 17 Q. And what time did that statement take place?
- 18 A. We started the advisory of rights at two twenty p.m.
- 19 on October 29th, '09.
- 20 Q. And did you actually type the statement this time?
- 21 A. No, ma'am. Sergeant Gebing did.
- 22 Q. Was it typed accurately as the Defendant said what
- 23 happened then?
- 24 A. Yes, ma'am.
- 25 Q. And was it read back to him or handed to him to read

1 in this particular case?

2 A. Sergeant Gebing handed it to him.

3 Q. And did he indicate that it was his statement?

4 A. Yes, ma'am.

5 Q. And how did he do that?

6 A. He placed his initials at the beginning and end and
7 put his signature at the end.

8 Q. Now, what, if anything, happened with the first
9 statement at this time?

10 A. We also went over that statement that we took during
11 the nighttime. And he agreed that the first five pages
12 were accurate, and he initialed and signed the first five
13 pages. And that's where we picked up and started the
14 second statement to try to put it in the right order that
15 he wanted it to be.

16 Q. Okay. So as far as the first statement goes, he
17 only signed on the fifth page even though there was
18 another two pages; is that correct?

19 A. Yes, ma'am.

20 Q. All right. And again, it was because he didn't like
21 the order of things?

22 A. Yes, ma'am.

23 Q. With the second statement, did he refuse to sign it?

24 A. No, ma'am.

25 Q. Now, during this process at the jail, did he ever

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25

1 wish to speak with an attorney?

2 A. No, ma'am.

3 Q. Did he ever tell you that he wanted to stop the
4 interview?

5 A. No, ma'am.

6 MS. HUEY: That's all I have at this time,
7 Judge.

8 THE COURT: Cross-examination, Mr. Robinson?

9 MR. ROBINSON: Thank you, Judge. May it please
10 the Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. ROBINSON:

14 Q. Officer, let's look at -- I think you may have a
15 copy of exhibit 1. Is it up there? I think you have a
16 copy of it.

17 A. Yes, sir.

18 Q. And that's the first advisory of rights form; is
19 that right?

20 A. Yes, sir.

21 Q. And that is -- that's where Mr. Fullbright initialed
22 on the left-hand side?

23 A. Yes, sir.

24 Q. He initialed only the two boxes, the right to remain
25 silent and anything you may -- may be used against you in

1 court, but he didn't initial the other three sections of
2 that report; is that right?

3 A. Yes, sir.

4 Q. Okay. And isn't that because he wanted to speak to
5 a lawyer?

6 A. No, sir.

7 Q. No, sir? Why wouldn't he sign something like that?

8 A. I didn't ask him to.

9 Q. You didn't ask him to?

10 A. No. The way I do it is I ask him to read the first
11 two lines out loud to me.

12 Q. Right.

13 A. That's just for my benefit so he can show me that he
14 can read. I asked him to read them out loud to me, and
15 then I asked him to initial by those first two lines.

16 Q. Well, let's -- the part that I'm interested in --

17 I'm just kind of curious though. And you've been

18 practicing -- you've been in the Sheriff's office for how
19 long?

20 A. Eight years.

21 Q. And you given a lot of waiver and advice of rights
22 forms; is that correct?

23 A. Yes, sir.

24 Q. And in all that time is it your practice not to ask
25 these other three questions and have the persons initial

1 them?

2 A. That's my practice.

3 Q. Okay. So let's read to the Judge what these three

4 parts are. The first box -- well, these are the ones

5 that aren't checked, that you in your practice don't have

6 checked, is you have the right to speak to a lawyer for

7 advice before you're asked any questions and to have him

8 with you during questioning. You don't think it's

9 important for the person to initial that they've seen

10 that, that they know about that? You don't think that's

11 important?

12 A. Well, it's just my practice. I read the last three

13 to them. The first two is just to show me that they can

14 read and write and understand what I'm talking about.

15 Q. But what indication is there that they understand it

16 if they're not initialing it?

17 A. They sign it at the bottom.

18 Q. But don't you think it's important to have them

19 initial each one of these?

20 A. That's your opinion.

21 Q. I'm asking you.

22 A. That's not my normal procedure.

23 Q. Okay. And the fourth line down is if you can't

24 afford an attorney, one will be appointed for you before

25 any questioning if you wish. You don't have him sign

1 that or initial that either, do you?

2 A. No, sir.

3 Q. And you also don't have him sign the last box there
4 which is, if you decide to answer questions without a
5 lawyer present, you will still have the right to stop
6 answering questions at any time. You also have the right
7 to stop answering at any time until you speak to a
8 lawyer. Is that correct?

9 A. Yes, sir.

10 Q. So these three boxes regarding the right to an
11 attorney and the right to refuse an attorney and so
12 forth, you don't think it's important to have the person
13 sign off on it?

14 A. He signed off on the form. I think that's
15 important. As far as the initials on the other three,
16 that's just not my practice.

17 Q. It's not your practice?

18 A. No.

19 Q. So how is it that someone can tell that they've been
20 given an opportunity then if they haven't checked these
21 boxes?

22 A. I advise them of their rights, and they sign it
23 saying they understood it.

24 Q. Okay. But you don't feel the need to check these
25 three boxes. And I believe this particular form is made

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1 out by your department -- you actually -- your department
2 says -- it says on the top here, Anderson County
3 Sheriff's Office, Advisory of Rights. This is actually a
4 document put out by your department, isn't it?

5 A. Yes, sir.

6 Q. And would it appear to you that your department
7 seems to think it's very important for those last three
8 boxes to be initialed and checked?

9 A. Well, no, sir. Those are bullet points to me.

10 Q. So you -- okay. All right. So if your department
11 found it important to put these in as far as the last
12 three boxes being initialed and checked by the -- by any
13 sort of -- any defendant, you, yourself, didn't find it
14 important, and you just skip that and go down to waiver
15 of rights on the bottom; isn't that right?

16 A. I had him sign the form to make sure he understood
17 it. I ask him if he understands it. If he does, I have
18 him place his signature on the form, and then I go to the
19 next spot. I don't skip anything.

20 Q. Okay. Now, I'm going to let you answer this
21 question. In exhibit 1, let's look at the initials here.
22 You're testifying to this Court under oath that these are
23 the initials that Mr. Fullbright did that day in the top
24 two sections, right?

25 A. Yes, sir.

1 Q. You're also testifying that that is his signature in
2 the signature box and also on the signature box on the
3 waiver of rights, right?

4 A. Yes, sir.

5 Q. Can you look at those for me? Is that what your
6 testimony is?

7 A. Yes, sir.

8 Q. Okay. Now let's look at exhibit 2. Would you turn
9 to exhibit 2?

10 A. Yes, sir.

11 Q. Now, you're not advising this Court that the
12 initials in exhibit 2 are the same initials that were
13 found in exhibit 1, right? They're not the same.
14 They're not the same initials, are they?

15 A. M.B.F., yes, sir.

16 Q. Look at the two -- look at the two sets, exhibit 1
17 and exhibit 2. Those are not the same initials, are
18 they? They're not the same. They're not written the
19 same. Not written by the same person; isn't that right?

20 A. I witnessed Mr. Fullbright make both -- all
21 initials. Yes, sir.

22 Q. Okay. It's your testimony under oath that you or
23 anyone in your department did not sign his initials to
24 this?

25 A. No, sir.

1 Q. And Mr. Fullbright never -- never signed off on this
2 statement, did he?

3 A. He signed the first five pages.

4 Q. That's not the question, Officer. The question is
5 this. On the last page of this, which is the last page
6 saying you've read this, received a copy, he didn't sign
7 this that this was his statement, did he?

8 A. He didn't sign the last page, no, sir.

9 Q. Okay. That would indicate that it's not his
10 statement, wouldn't it?

11 A. Not in my opinion.

12 Q. So if someone checks someone else's signature five
13 or six pages and you get to the last section and they
14 don't sign it, to you, that means they've signed it? Is
15 that what you're trying to say?

16 A. He signed the first five pages the second day.

17 That's what I'm saying. He didn't sign the last two.

18 Q. He didn't sign them. He initialed -- he allegedly
19 initialized the sides of these pages, right? Not signed,
20 initialed, correct? That's what your statement is?

21 There's no signature on here in exhibit 2 that indicates
22 that he signed each one of these pages. And these are
23 initials that you allegedly say are his, right?

24 A. Yeah. And after this, this is his signature.

25 Q. Where?

1 A. Right there. That's also where my signature is and
2 Sergeant Gebing's is.

3 Q. Let's look at, let's turn to the -- that's on page
4 ---

5 A. Five.

6 Q. --- five. That's on the bottom right; is that
7 right?

8 A. Yes, sir.

9 Q. Now, look at the signature that you took at six
10 thirty-five p.m. on 10/28/2009. Look at that signature
11 of Mr. Fullbright. You see it?. That's in exhibit 1?

12 A. Yes, sir.

13 Q. That's not the same signature, is it, as in exhibit
14 2 that you have at the bottom of that page, is it?
15 That's not the same signature.

16 A. Mr. Fullbright signed all these forms.

17 Q. Do these signatures appear to be alike to you? The
18 signature on the bottom of page five in exhibit 2 and the
19 signature in exhibit 1, do they appear to be the same
20 signature to you?

21 A. No, sir, they're somewhat different.

22 Q. Okay. Now, turning to -- now, I'm using exhibit 1
23 as an example for you because the signature of Mr.
24 Fullbright -- this is from -- this is exhibit 1 from
25 10/29/09 at six thirty-five p.m. -- that is Mr.

1 Fullbright's initials and his signature. Let's turn to
2 Exhibit 3, the advisory of rights.

3 A. Okay.

4 Q. The question is this, okay? The initials on this
5 between one and three do not appear to be the same, do
6 they?

7 A. They say M.B.F., but I can't tell you why he writes
8 different.

9 Q. But they -- this is just -- they don't appear to be
10 the same, do they?

11 A. They look somewhat different each time.

12 Q. And also too, regarding the signatures allegedly on
13 exhibit 3 versus exhibit 1, the signatures appear to be
14 different too, don't they?

15 A. Yes, sir.

16 THE COURT: What exhibits are those, please?

17 MR. ROBINSON: Your Honor, the exhibits are
18 different. The signatures ---

19 THE COURT: I understand that. What exhibits
20 do you maintain have unsimilar signatures, please?

21 MR. ROBINSON: 1 and 3, Your Honor.

22 THE COURT: 1 and 3?

23 MR. ROBINSON: Yes, sir.

24 Q. And let's turn to exhibit 4. And I'm going to use
25 again exhibit 1 as an example, all right? Turning to

1 exhibit 4 versus exhibit 1, look at the initials on each
2 one of these pages. Do you see those, the initials?

3 A. On 1 and 4?

4 Q. In exhibit 4, correct. The initials appear to be
5 different, don't they?

6 A. Yes, sir.

7 Q. And also too turning to the signatures, they also
8 seem to be quite different, don't they?

9 A. Yes, sir.

10 Q. Okay. Now, tell me this. As far as when y'all were
11 interviewing Mr. Fullbright these different occasions you
12 had, I think there was one interview that lasted a good
13 bit of time on the 28th, and then one again on the 29th.
14 Did you ever record -- there was never a recording made
15 of this statement, correct?

16 A. No, sir.

17 Q. Okay. Was it ever videotaped or anything like that
18 so that we could have proof of what Mr. Fullbright may
19 have said? Is there any videotape of?

20 A. No, sir.

21 Q. Nothing like that. Okay.

22 MR. ROBINSON: Your Honor, may I have a chance
23 to speak to my client for just one second?

24 THE COURT: Yes, you may.

25 (Off record discussion)

1 MR. ROBINSON: Thank you, Officer. That's all
2 the questions I have.

3 THE COURT: Any redirect?

4 MS. HUEY: Just a couple, Judge.

5 THE COURT: Yes, ma'am.

6 REDIRECT EXAMINATION

7 BY MS. HUEY:

8 Q. Sergeant Beusse, just to clarify. In terms of the
9 advice of rights form, State's Exhibit 1 and 3, just
10 because Mr. Fullbright only initialed the top two
11 bullets, does that mean those are the only ones you read
12 aloud to him?

13 A. No, ma'am.

14 Q. Or that you went over with him?

15 A. No, ma'am.

16 Q. Okay. Again, you went through his entire rights,
17 these all -- one, two, three, four, five bullets; is that
18 correct?

19 A. Yes, ma'am.

20 Q. All right. And how did he indicate in your opinion
21 that he understood those rights?

22 A. He signed the form, signed all the forms saying he
23 understood them.

24 Q. And that was the case in both State's Exhibit 1 and
25 State's Exhibit 3; is that correct?

1 A. Yes, ma'am.

2 Q. Okay. Now, in terms of his initials and his
3 signatures, despite them looking different in some
4 instances, were you a witness to each and every initial
5 and signature that Mr. Fullbright did?

6 A. Yes, ma'am.

7 Q. Both on October 28th as well as October 29th?

8 A. Yes, ma'am.

9 Q. In reference to State's Exhibits 1, 2, 3, and 4?

10 A. Yes, ma'am.

11 MS. HUEY: That's all I have, Judge.

12 THE COURT: May this officer be excused?

13 MR. ROBINSON: I have no recross, Your Honor.

14 THE COURT: You may step down.

15 MS. HUEY: Your Honor, I have a couple more
16 witnesses. I call Bob Gebing to the stand at this time.

17 **ROBERT GEBING,**

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. HUEY:

21 Q. Sergeant Gebing, where do you work?

22 A. I work at Anderson County Sheriff's Office in
23 Anderson, South Carolina.

24 Q. In what capacity?

25 A. Currently I'm in charge of the criminal

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1 investigation division.

2 Q. How long have you held that particular title?

3 A. That particular title since February. I've been
4 with the office since May of 2001.

5 Q. How long have you been in law enforcement all
6 together?

7 A. Between the Sheriff's office and the Army -- I was a
8 military police officer for five years. So roughly
9 fifteen plus years.

10 Q. What were your duties at the Sheriff's office in
11 October of 2009?

12 A. In October of 2009, I was a detective. I was
13 primarily assigned to violent crimes, crimes against
14 person cases. Additionally, I was a homicide and death
15 investigator.

16 Q. What was your role in the case of State versus
17 Matthew Fullbright?

18 A. Mostly assisting Detective Beusse. He was the lead
19 investigator. I was, you know, tasked to assist as were
20 many people in the office.

21 Q. Did you have an opportunity to speak to the
22 Defendant in this case regarding a statement from him?

23 A. I did.

24 Q. And how did that come about?

25 A. As we developed information and began to believe

1 that Mr. Fullbright might have had some involvement, he
2 later came to the office and turned himself in on other
3 charges. And I was asked to assist Sergeant Beusse with
4 the interview.

5 Q. And was the Defendant advised of his rights?

6 A. He was.

7 Q. With the use of a form?

8 A. He was.

9 Q. I'm going to show you what's been marked as State's

10 1. Do you recognize that form?

11 A. I do.

12 Q. Okay. Is that the form that was used to advise Mr.

13 Fullbright of his rights on October 28th of 2009?

14 A. It is.

15 Q. And how can you be sure of that?

16 A. The other witness line bears the signature of my
17 name in my hand.

18 Q. Now, where did this particular advice of rights take
19 place?

20 A. This was in an interview room at the Anderson County
21 Sheriff's Office on the second floor.

22 Q. Okay. And what was the room like?

23 A. It's a small, just a square -- I'm not sure of the
24 exact measurement. It's got a one-way mirror for an
25 observation room. It has a plain desk, some chairs,

1 trash can.

2 Q. During this process, was he denied any comforts?

3 For instance, if he wanted to go to the bathroom, could
4 he go to the bathroom?

5 A. He could.

6 Q. How about in terms of smoke breaks or something to
7 drink?

8 A. That would have been acceptable.

9 Q. And during the course of this process, was he given
10 the opportunity to take those breaks?

11 A. Seems like he had several smoke breaks.

12 Q. Now, he was in handcuffs during this process; is
13 that correct?

14 A. He was.

15 Q. Did the Defendant seem to be under the influence of
16 anything as far as alcohol or drugs?

17 A. In my opinion, no.

18 Q. In your opinion, did he understand the rights that
19 Detective Beusse explained to him?

20 A. In my opinion, yes.

21 Q. And what did he do to indicate that he understood
22 those rights?

23 A. As they were going through the form, Detective
24 Beusse would have him stop and initial at certain places
25 and affix signatures indicating that he understood

1 portions of the form.

2 Q. And again, because your signature is on that form,
3 you are a witness to this; is that correct?

4 A. I was in the room at the table.

5 Q. So you heard Detective Beusse go through every
6 single right with the Defendant, Matthew Fullbright; is
7 that correct?

8 A. I did.

9 Q. All right. And did you also witness, in reference
10 to State's Exhibit 1, every time Mr. Fullbright initialed
11 and/or signed that particular form?

12 A. Yes, ma'am.

13 Q. And that's the purpose of being a witness; is that
14 correct?

15 A. That's correct.

16 Q. Were any threats or promises made in order to get
17 him to sign the form and give a statement?

18 A. No.

19 Q. Any intimidation?

20 A. No.

21 Q. In your opinion, his waiver of rights was voluntary?

22 A. In my opinion, yes.

23 Q. And did he want to waive those rights and give a
24 statement?

25 A. He agreed to, yes.

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1 Q. And how did the initial statement come about,
2 Detective Gebing?

3 A. The initial statement was the result of a lengthy
4 interview. We started in an interview room. Questioning
5 that led into, you know, questioning him about his
6 possible involvement at that point.

7 Q. Now, since Detective Beusse was the lead
8 investigator, was he doing the majority of the
9 questioning?

10 A. He was.

11 Q. How does that normally work?

12 A. He had more first-hand knowledge of the case because
13 he had worked off scene on everything at that point, so I
14 was there just to sit and take notes, trying to pay
15 attention.

16 Q. Okay. And did you take notes in this particular
17 case?

18 A. I did.

19 Q. Now, did he initially give a written statement?

20 A. We had began compiling one later in the evening. We
21 had been reducing what he'd told us over the course of
22 the evening to writing. But again, as the night
23 progressed, he got tired and refused to sign it. He
24 wanted some changes made, but he didn't want to do it
25 then. He was tired and wanted to go to sleep. So there

1 was a statement prepared, but he did not sign it at that
2 time.

3 Q. Okay. And now, prior to that when you all were
4 talking with him for some time, what, if anything, did
5 you notice about his demeanor?

6 A. Again, I didn't think he was under the influence of
7 any drugs or alcohol. Sometimes he would get upset and
8 defensive. Sometimes he would slow down and stare at the
9 floor, kind of hide behind the bill of his cap, get
10 somewhat emotional, take long pauses between speaking,
11 just some different changes in his personality.

12 Q. And did you witness when he fell out of his chair?

13 A. I did.

14 Q. And what did you all do as a result of that?

15 A. When he fell out of his chair, I tried to evaluate
16 him a little bit, shake him.

17 Q. And why is that?

18 A. Well, the guy fell out in front of me. I just
19 wanted to make sure ---

20 Q. Do you have any experience in that regard?

21 A. I do have some experience. We receive first aid and
22 C.P.R. training at the Sheriff's office. In the Army I
23 had a combat lifesaver course which is a relatively
24 advanced couple of weeks long first-aid course, you know.
25 In the '90s I was actually -- I held a C.M.T.

1 certification.

2 Q. And so your first instinct was to check him out and
3 see if he was okay?

4 A. Correct.

5 Q. All right. And as a result of that, what did you
6 actually do to him?

7 A. I just got down next to him, called his name, shook
8 him a little bit to see if he would respond. I opened
9 his eyes to see, you know, to see if it was rolled back
10 in his head, stuff like that. Make sure he was
11 breathing. I gave him a sternum rub to see if he would
12 respond.

13 Q. And what was your opinion on how he was acting?

14 A. I couldn't determine if there was anything medically
15 wrong with him. I thought maybe he was faking, maybe
16 not. But again, I couldn't make that determination, so
17 ---

18 Q. So E.M.S. was called.

19 A. --- ultimately we decided that E.M.S. should come in
20 and look at him further.

21 Q. Okay. And then they, in fact, came and checked him
22 out; is that correct?

23 A. That's correct.

24 Q. All right. Once they checked him out, did he
25 actually go to the hospital?

1 A. He did not.

2 Q. He didn't require any further medical treatment?

3 A. He did not.

4 Q. Now, did anyone else speak with the Defendant after
5 he was checked out by E.M.S.?

6 A. The Sheriff entered the room briefly and spoke to
7 him briefly.

8 Q. Okay. And as a result of that conversation, what
9 happened next?

10 A. When he began acknowledging and speaking about
11 knowing the location, we helped him to his feet, escorted
12 him out of the office, and he agreed to take us to where
13 she was located. We brought him downstairs to a car.

14 Myself and Sergeant Beusse rode with him. He gave
15 directions to the location where we recovered her body.

16 Q. Okay. And you were in the backseat with him; is
17 that correct?

18 A. I was seated behind him.

19 Q. Behind him. And so what, if anything, could you
20 tell about his demeanor during this drive?

21 A. He seemed somewhat upset, very quiet. Every once in
22 a while he would -- I don't want to say cry out -- he
23 would, you know, sob, say, oh, God, or something along
24 those lines. I did, as we were driving, try to ask him
25 certain things, you know. Are you sure what road she's

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1 on? Are you going to be able -- and he refused to speak.

2 I can't talk about this now. Things like that, you know.

3 He was just very, very closed and wouldn't talk about it.

4 There really wasn't a whole lot of conversation.

5 Q. But nonetheless, he was giving you directions to the
6 body of Jo Ann Staton?

7 A. He was. He was telling us left, right, left, right,
8 which way to go, you know. He gave us directions all the
9 way there.

10 Q. And so then once you got to that location, how long
11 do you think that took?

12 A. To get there?

13 Q. Uh-huh (affirmative).

14 A. Just based on the distance, at least a half an hour,
15 and likely a little bit more than that.

16 Q. All right. And then how long did it take to locate
17 her body?

18 A. Twenty minutes or so. He led us within the general
19 area and indicated which way we should start looking. So
20 some of the officers who had accompanied us in separate
21 vehicles had to get out in a line and start walking
22 beside Waterside Drive.

23 Q. Once she was discovered, what happened after that?

24 A. He had shown us an area that later turned out to be
25 an old cut-through. He pointed out some areas down there

1 where some other things had happened. And after that, we
2 left to go back to the office to continue with the
3 interview and the statement.

4 Q. And while y'all were on the drive back to the
5 office, what did you do?

6 A. Sergeant Beusse had asked him if he was hungry. And
7 he indicated that he was, so we stopped at Taco Bell,
8 went through the drive-thru and got some food for
9 everybody. It was getting pretty late, and I was hungry
10 too.

11 Q. So then once y'all got back to the office, is that
12 when the actual written statement took place?

13 A. That's when we began. Right after we ate, that's
14 when Sergeant Beusse began typing out the statement as we
15 had developed it thus far.

16 Q. And again, you were a witness to this; is that
17 correct?

18 A. I was.

19 Q. Let me show you what's been marked as State's
20 Exhibit 2. Do you recognize that?

21 A. I do.

22 Q. Okay. And how are you able to recognize State's
23 Exhibit 2?

24 A. Again, on page five there's a signature at the
25 bottom. My -- that's my -- this says, R. Gebing, and

1 that's my signature in my hand.

2 Q. And was that statement typed accurately as the
3 Defendant said what happened?

4 A. It was.

5 Q. All right. And did he indicate it was his statement
6 eventually?

7 A. Eventually, yes.

8 Q. Okay. Now, he refused to sign the statement
9 originally; is that correct?

10 A. Correct.

11 Q. And what was the reason behind that?

12 A. It was late. And as the night progressed, he was
13 wanting changes made. He got to the point where he was
14 tired and just said, I'm not signing it until I get to
15 sleep some.

16 Q. And so at that point y'all stopped the interview; is
17 that correct?

18 A. We did, yeah. We carried him to the jail and had
19 him booked in.

20 Q. At any point during this process, Detective Gebing,
21 Sergeant Gebing now, did he say he wanted a break prior
22 to that?

23 A. He'd had breaks prior to that. We'd gone and --
24 gone outside to smoke. He smoked cigarettes in the
25 office there, so we'd ---

1 Q. Was he ever denied a break?

2 A. No.

3 Q. And he never said he wanted to stop period?

4 A. Until he said I'm tired, I'm going to sleep.

5 Q. And did he ever wish to speak with an attorney at
6 any point during this process?

7 A. No.

8 Q. Now, y'all booked him in at that point; is that
9 correct?

10 A. That's correct.

11 Q. All right. And then did you eventually meet with
12 him again regarding taking a clarified statement, I
13 suppose?

14 A. Later that afternoon.

15 Q. Okay. And how did that come about?

16 A. We'd gone home obviously. Everybody needs to sleep
17 at that point. And we had talked about going back and
18 approaching Mr. Fullbright and see if we could continue
19 with the interview and get a statement, make the
20 corrections that he wanted and get a written statement
21 from him. So we went down to the jail. It was myself,
22 Sergeant Beusse, and Investigator Barton. All went down
23 to the jail and met with Mr. Fullbright again.

24 Q. Okay. And was he informed of his rights again?

25 A. He was.

1 Q. All right. And Detective Beusse did the advise of
2 rights again?

3 A. He did.

4 Q. All right. The same way he did the night before?

5 A. The same way.

6 Q. All right. I'm going to show you what's been marked
7 as State's 3. Do you recognize that particular form?

8 A. I do.

9 Q. Okay. How do you recognize it?

10 A. Again, this is a Sheriff's office advisory of rights
11 form. There's a witness line. The second line has my
12 name in my hand.

13 Q. Okay. How long did the process of the second
14 statement take, the entire process?

15 A. We began the advice of rights at two twenty, and we
16 finished signing statements at three twenty-eight p.m.

17 Q. During this point, was he denied any comforts?

18 A. No.

19 Q. If he wanted to go to the restroom or wanted
20 something to drink, y'all would give that to him?

21 A. Yes.

22 Q. Okay. Did he seem to understand his rights?

23 A. Yes.

24 Q. And again, you were a witness; is that correct?

25 A. I was. I was present in the room, yes. I was a

1 witness.

2 Q. And what did you witness Detective Beusse do?

3 A. I witnessed him as he went through the form again
4 using the same procedures that he does, having him read
5 the whole line out loud just to verify that he can in
6 fact read, having him affix his initials to a couple of
7 spots to again verify that he can in fact write. He
8 reads through the rest of the form, asked Mr. Fullbright
9 if he understands. Mr. Fullbright affixes his signature
10 on the line. And then he goes through the waiver of
11 rights process, goes through the entire form. He does it
12 the same way I do, which there's a mark under the word
13 coercion. Just -- we stop and explain to him you need to
14 understand coercion. I'm not bribing, I'm not
15 threatening you. If you don't want to talk, it's your
16 choice. And then again we ask if he agrees with that, he
17 affixes his signature.

18 Q. And did he seem to understand those rights and want
19 to waive those rights?

20 A. Yes.

21 Q. And again, you were a witness to each and every
22 initial and signature by Matthew Fullbright?

23 A. Yes.

24 Q. What was his demeanor like at the jail?

25 A. Again, he'd had some rest at this point, so he

1 wasn't demanding more rest or more time or anything like
2 that. He seemed somewhat how he was in the interview.
3 Especially after we'd gotten back from recovering the
4 body and gave him some food, he was very compliant and
5 very willing to speak. More to the point. We didn't
6 have to dance around issues.

7 Q. And did he indicate he wanted to give another
8 statement?

9 A. Yes.

10 Q. All right. Let me show you what's been marked as
11 State's 4. Do you recognize that particular exhibit?

12 A. I do.

13 Q. And how do you recognize it?

14 A. This is the statement that I typed, the second
15 statement that was taken. Again, on the back page,
16 myself and Sergeant Beusse signed as witnesses. The
17 second is a signature in my hand.

18 Q. And in this particular instance, did you type it or
19 did Detective Beusse type it?

20 A. I did. I typed this one.

21 Q. And so did you type it accurately as the Defendant
22 told you what happened?

23 A. I did.

24 Q. And in this particular case, was it read back to him
25 or handed to him to read?

1 A. It's my practice, I offer it to them. Read this and
2 make sure it's correct and let me know if there's
3 anything you want to add, change or delete.

4 Q. And did he want to change, add or delete anything?

5 A. No. Once we had this one done -- the process for
6 this particular one was slightly different in that
7 Detective Beusse had brought the other statement and they
8 were kind of going over that to indicate what was still
9 correct and what wasn't. This was -- it didn't have any
10 changes that needed to be made to this because it had
11 been clarified during the course of this hour.

12 Q. And were there any major changes to the second
13 statement, or was that just an abbreviated version?

14 A. This is just an abbreviated version of the lengthier
15 one.

16 Q. And did the order of things change in the second
17 statement?

18 A. Somewhat. He had indicated that he wasn't pleased
19 with the certain order of things as far as when he became
20 aware that the plan was going to be a robbery and a
21 murder.

22 Q. He wanted that to come earlier than in the first
23 statement?

24 A. He did.

25 Q. Okay. And so in the second statement, does it come

1 earlier?

2 A. In the second statement, yes, it's earlier.

3 Q. And so you witnessed again him initial and sign the
4 second statement; is that correct?

5 A. That's correct. I physically put it in front of
6 him.

7 Q. And then at the same time, this is when he also
8 initialed and signed the first statement?

9 A. Yeah. He indicated the first five pages of that
10 were still accurate, and he agreed that those were still
11 accurate. He initialed the pages and then signed the
12 fifth. And then I again signed the fifth along with him
13 and a witness.

14 Q. And again, you were a witness to each and every
15 initial and signature; is that correct?

16 A. That's correct.

17 MS. HUEY: That's all I have at this time, Your
18 Honor.

19 THE COURT: Cross-examination, Mr. Robinson?

20 CROSS-EXAMINATION

21 BY MR. ROBINSON:

22 Q. Officer, the question I have for you is, let's talk
23 about when you -- you said a second ago that he gave you
24 an idea of the general area that the body of Ms. Staton
25 was in, correct?

1 A. Yes, sir.

2 Q. Was it kind of like this area where it is? He
3 didn't give a specific spot. He just told you the
4 general area it could be in; is that right?

5 A. He brought us to the street and said it's somewhere
6 between this and here. And I remember we turned around.
7 I mean, he put us within fifty feet of it. But her not
8 being immediately visible from the road, he wasn't able
9 to bring us to the exact inch.

10 Q. I think you just testified he led you to the general
11 area. When you say general area, you're saying you're in
12 between two streets basically, right?

13 A. I just narrowed it down.

14 Q. Narrowed it down, about how many feet?

15 A. Fifty.

16 Q. So it wasn't like right there. It was just the
17 general area it could be in, correct?

18 A. Correct.

19 Q. All right. Were any of these statements recorded or
20 videotaped?

21 A. No, sir.

22 Q. Just like that?

23 A. Correct, sir.

24 Q. Okay.

25 MR. ROBINSON: That's all I have.

1 THE COURT: Any redirect?

2 MS. HUEY: Your Honor, I have just one more
3 witness. May he be excused?

4 THE COURT: You may step down.

5 You may call your next witness.

6 MS. HUEY: Yes, sir, Your Honor. The State
7 calls Mark Henderson to the stand.

8 **WILLIAM MARK HENDERSON,**

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MS. HUEY:

12 Q. Mr. Henderson, where are you employed?

13 A. I'm employed at Medshore Ambulance Service.

14 Q. And how long have you been with Medshore?

15 A. I've been with Medshore twenty years.

16 Q. And what is your current position?

17 A. My current position is compliance and professional
18 standards coordinator.

19 Q. But in October 2009, were you in a different
20 situation?

21 A. I was a paramedic field training officer for
22 Medshore.

23 Q. And what kind of training did you receive to be a
24 paramedic?

25 A. I graduated from Upstate in 1995, receiving a

1 Certificate of Paramedic Education. I passed the South
2 Carolina State Paramedic practical and written exams. I
3 also hold a national registered certification as a
4 national registered paramedic.

5 Q. And during the course of your time as a paramedic,
6 which was, what, from 1995 until now?

7 A. I've actually been certified as an emergency medical
8 technician in the state of South Carolina since 1990.

9 Q. Since 1990. Okay. And do you get various training
10 updates and that sort of thing throughout that process
11 throughout those years?

12 A. Yes, ma'am. We have in-service recertification
13 training monthly.

14 Q. Now, did you have an occasion to respond to the
15 Sheriff's office located at 305 Camson Road on October
16 28th of 2009?

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

18 Q. All right. And what was the purpose of your
19 response?

20 A. We were dispatched out to an unresponsive patient at
21 the Sheriff's office.

22 Q. Okay. And what time did you arrive?

23 A. We arrived at the Sheriff's office at twenty-one
24 forty-five.

25 Q. And in laymen's terms?

1 THE COURT: What was that term?

2 MS. HUEY: Twenty-one forty-five, Judge.

3 Q. Is that about nine forty-five?

4 A. Hold on for a minute. Eighteen and six. Yes,
5 ma'am.

6 Q. Okay. At night, correct?

7 A. Yes, ma'am.

8 Q. Okay. Now, what, if anything, did you observe when
9 you first arrived at the scene?

10 A. We arrived at the scene to an individual that was
11 later identified as Mr. Fullbright lying supine, which
12 is, of course, on his back in the floor of the interview
13 room. He was awake and alert.

14 Q. So he was awake and alert and he was lying on the
15 floor; is that correct?

16 A. Yes, ma'am.

17 Q. All right. And was anyone else around him?

18 A. He had three other individuals around him.

19 Q. What are your first steps generally when you arrive
20 to treat a patient?

21 A. The first steps when we arrive is scene safety and
22 scene security. Of course, being at the Sheriff's office
23 that is of little concern. Whenever we arrive, we all
24 want to have -- make patient contact. After patient
25 contact, determine whether or not they meet a load-and-go

1 criteria, exhibiting any severe signs of respiratory
2 distress, chest pain, shock-related symptoms and/or if
3 they are trauma related.

4 Q. Okay. And what does load and go mean?

5 A. Load and go means whether or not the patient
6 exhibits a severe sign where they need immediate
7 definitive care in either an operating room and/or to see
8 a physician immediately.

9 Q. Okay. And did you determine that was the case with
10 Mr. Fullbright?

11 A. No, ma'am.

12 Q. Now, how did you go about assessing him?

13 A. Mr. Fullbright gave us verbal consent to examine
14 him. During the examination, of course, it is a limited
15 head-to-toe exam, getting a sample history, O.P.Q.R.S.T.,
16 the onset, provocation, quality. At that time, Mr.
17 Fullbright complained to us, of course, as documented, of
18 right-sided abdominal discomfort, and right-sided pain.
19 He was observed to have a abrasion to his sternum, right
20 side of his chest, and also to the back of both hands.

21 Q. Okay. Now, the abrasion to his sternum, what, if
22 anything, could cause that?

23 A. It can be caused from multiple type of things
24 related to some type of trauma. It's common practice in
25 the E.M.S. to perform a sternum rub to determine the

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1 level of responsiveness from someone: alert, painful,
2 verbal, or unresponsive.

3 Q. Now, was Mr. Fullbright actually able to speak with
4 you?

5 A. He was.

6 Q. All right. And he actually told you himself that he
7 was complaining of this abdominal pain; is that correct?

8 A. He did.

9 Q. Now, in your twenty years, Mr. Henderson, have you
10 had an occasion to observe people or patients that you
11 feel are on drugs or alcohol?

12 A. I have.

13 Q. Okay. And what, if anything, do you usually
14 indicate in your report if you feel like a patient is
15 under the influence of these things?

16 A. Those people usually exhibit as an unsteady gait,
17 loss of balance, stupor, speaking in a lethargic manner,
18 confusion, altered mental status.

19 Q. Okay. And were any of those symptoms elicited by
20 Mr. Fullbright in this case?

21 MR. ROBINSON: Your Honor, I'm going to object.
22 She's got to lay more of a foundation as far as to get
23 him qualified as an expert, which is what she's trying to
24 do.

25 THE COURT: Would you like to voir dire the

1 witness?

2 MR. ROBINSON: Yeah. I would like to find out
3 how many times and specific instances he's had with these
4 kinds of things.

5 THE COURT: All right. I'm going to let him
6 voir dire the witness a little bit.

7 MS. HUEY: Yes, sir.

8 THE COURT: Go ahead, Mr. Robinson.

9 EXAMINATION

10 BY MR. ROBINSON:

11 Q. Mr. -- Officer Henderson, you said you had how many
12 years of experience?

13 A. I have been certified since 1990.

14 Q. 1990, okay. And I think that the Prosecutor is
15 attempting to set you forth as an expert in what? Do you
16 understand what you're trying to be put as an expert as?

17 A. Sir, I'm experienced in emergency medical.

18 Q. Emergency medical, okay. And all of that time
19 you've worked for the Sheriff's department; is that
20 right?

21 A.. No, sir.

22 Q. No, sir?

23 A. I do not work for the Sheriff's office.

24 Q. In terms of the drugs and so forth, looking at drug
25 patients, how many in your -- all your years of practice,

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1 how many specific instances have you had? How many cases
2 have you dealt with?

3 A. That is something that I will not be able to tell
4 you because I've had them so many occasions. They're all
5 documented at some point at the ambulance service. But
6 case-by-case, I can tell you that there have been
7 hundreds over my twenty years experience just with
8 Medshore.

9 Q. And that is observing certain persons when you're
10 called out to them to see whether or not they're
11 exhibiting signs of drugs, withdrawals or something like
12 that; is that right?

13 A. Whether or not they're under the influence of
14 narcotics, alcohol, illicit drugs.

15 Q. How many times? Hundreds of times?

16 A. Oh, at least.

17 Q. Okay. That's what I wanted to know. Thank you.

18 THE COURT: Ms. Huey, first before we go
19 forward, any motions at this point?

20 MR. ROBINSON: I have no objection to him being
21 qualified, Your Honor. I just wanted to find out what
22 his specific experiences had been.

23 MS. HUEY: Judge, at this time I'd move to have
24 Mr. Henderson qualified as an expert in emergency medical
25 treatment.

1 THE COURT: So stipulated.

2 DIRECT EXAMINATION

3 CONTINUED BY MS. HUEY:

4 Q. Mr. Henderson, so backing up, you said you have
5 probably seen hundreds of people who have been under the
6 influence of alcohol and drugs; is that correct?

7 A. Yes, ma'am.

8 Q. Okay. And again, what are some of the symptoms
9 people usually have when they're under the influence?

10 A. Unsteady gait, imbalance, stupor, lethargic, altered
11 mental status which would be confusion.

12 Q. And again, did Mr. Fullbright have any of those
13 symptoms?

14 A. No.

15 Q. And in fact, in your report, do you indicate that he
16 was awake, alert and oriented?

17 A. Yes, ma'am.

18 Q. Okay. And can you describe that?

19 A. He was awake such as we are today in the courtroom.

20 He is oriented to time, time of day being morning,
21 afternoon or night. Also, his place where he's currently
22 at.

23 Q. All right. And how about the condition of his skin?

24 A. His skin, of course, is documented as being warm,
25 dry and pink.

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1 Q. Okay. And what, if anything, does that indicate?

2 A. That indicates that his in-tissue perfusion is
3 adequate to sustain life.

4 Q. And how about his blood pressure?

5 A. His blood pressure was one-twenty over eighty. That
6 is within all normal limits.

7 Q. And I believe -- did you do another test? Is that
8 correct?

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

10 Q. Okay. And what test was that?

11 A. We checked his blood glucose level. They can
12 sometime have hypo or hyperglycemia due to diabetes-
13 related illnesses.

14 Q. And what was the purpose of checking that?

15 A. Just to be thorough.

16 Q. Okay. And were there any problems with that
17 particular test?

18 A. No, ma'am.

19 Q. Again, those were in the normal ranges?

20 A. Yes, ma'am.

21 Q. Now, in spite of there not being any symptoms of him
22 being on drugs or alcohol, did the patient, Mr.
23 Fullbright, indicate that he had taken some narcotics the
24 last ---

25 A. In a verbal statement he did, as documented, saying

1 that he had been -- within the last seventy-two hours he
2 has taken Oxycontin, Lortab, and Darvocet un-prescribed
3 to him by a physician.

4 Q. Okay. Un-prescribed to him by a physician?

5 A. Yes, ma'am.

6 Q. Okay. Now, as you were assessing Mr. Fullbright,
7 how long did that process take?

8 A. We were on scene for over forty minutes.

9 Q. And is that a usual amount of time to be on scene?

10 A. According to our plan and operating procedures,
11 normal medical contact should last no longer than twenty-
12 five minutes unless circumstances apply.

13 Q. Okay. And in this particular case, what did Mr.
14 Fullbright want to do?

15 A. Mr. Fullbright did indicate to us on two occasions
16 where he would just like to be left alone.

17 Q. So he didn't want any help from you; is that
18 correct?

19 A. He did not want to be transported to the emergency
20 room, no.

21 Q. And again, he said that two different times; is that
22 correct?

23 A. Yes, ma'am.

24 Q. All right. What, if anything, did you witness as
25 Mr. Fullbright was leaving the Sheriff's office?

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1 A. After our assessment had concluded, we consulted
2 with him about whether or not he wanted to be treated.
3 He said that he wanted to be left alone, that the pain
4 would go away. We went out, took our equipment back to
5 the ambulance. Whenever we arrived back with our
6 paperwork to get his name to write the refusal, he was
7 then witnessed to come out of the interview room with two
8 officers to his sides and he was walking away. We again
9 asked, is he going to the hospital? And he said, no.

10 Q. And is -- did he say no?

11 A. Yes, ma'am.

12 Q. And how was he walking?

13 A. He was walking with a steady gait with the officers
14 beside him.

15 Q. Now, was this particular situation a little
16 different since he was in the custody of the Sheriff's
17 office?

18 A. Yes, ma'am.

19 Q. Okay. And how so?

20 A. Because since he was actually in custody of the
21 Sheriff's office, he still has the right to refuse
22 medical care. However, if it would be deemed necessary
23 for him to be transported, the Sheriff's office would
24 have to give permission.

25 Q. Okay. And in this particular case, did you feel

1 that he needed further treatment?

2 A. He did not wish to be transported to the emergency
3 room. No, ma'am.

4 Q. If he had to be -- if it was your opinion that he
5 needed further treatment, would that have been conveyed
6 to the Sheriff's office?

7 A. That would have been conveyed to the Sheriff's
8 office and that we strongly advise him to seek medical
9 attention, be seen by a physician, evaluated by a
10 physician and be treated.

11 Q. Okay. And was that done in this particular case?

12 A. No, ma'am.

13 MS. HUEY: That's all I have of this witness,
14 Judge.

15 THE COURT: Cross-examination, Mr. Robinson?

16 CROSS-EXAMINATION

17 BY MR. ROBINSON:

18 Q. Officer, you have your report there with you; is
19 that correct?

20 A. I do, sir.

21 Q. I want to find out when you got there and when you
22 left. Do you keep exact times?

23 A. That exact time, sir, is in the lower left-hand
24 corner. Arrived at the scene at twenty-one forty-five.

25 Q. Twenty-one forty-five, okay.

1 A. And we departed the scene at twenty-two twenty-four.
2 And it is customary due to the patients not being
3 transported that they are -- twenty-two twenty-four would
4 be my times throughout to availability which is our
5 provider time at the middle at the end of the form.

6 Q. Okay. And I think you mentioned that Mr. Fullbright
7 said he had taken Oxycontin and Lortab in the last forty-
8 eight hours; is that right?

9 A. That is his verbal statement to E.M.S., yes, sir.

10 Q. Verbal statement to E.M.S. And so you heard him say
11 that, correct?

12 A. Yes, sir.

13 Q. Now, I don't know much about Oxycontin or Lortab.
14 But that doesn't that affect your ability to understand
15 right from wrong sometimes?

16 A. Depending on the individual, it could or could not.

17 Q. Okay. Can it to an extent make things very -- you
18 know, that people don't understand something or in a
19 different state and so forth. Is that pretty true?

20 A. It is.

21 Q. It is. If you were taking Oxycontin and Lortab,
22 that would kind of make you not understand what you're
23 doing at a certain time; is that correct?

24 A. It depends on the individual's tolerance to the
25 medication that he's been taking.

1 Q. And you had no idea if Mr. Fullbright had -- when he
2 had taken it or anything like that?

3 A. No, sir.

4 Q. But it could, in your opinion -- since you've been
5 qualified in this case -- in your medical opinion, do you
6 think that it could have an effect as far as
7 understanding things, this combination of Oxycontin and
8 Lortab?

9 A. Yes, sir. Oxycontin, Lortab and Darvocets, if he
10 had been taking them over the last seventy-two hours, it
11 could have affected him in a way, and a way to describe
12 it to you is a drunken stupor.

13 Q. A drunken stupor. And if you put that in
14 combination with a lack of sleep and so forth, would that
15 be a pretty bad combination?

16 A. It can be depending on his tolerance to the
17 medication.

18 Q. You didn't do any drug test, did you?

19 A. No, sir, I did not.

20 Q. Okay.

21 MR. ROBINSON: Your Honor, I'm going to ask my
22 client one question.

23 THE COURT: Yes, sir.

24 Q. That's all I have. Thank you, Officer.

25 THE COURT: Any redirect?

1 MS. HUEY: Just a few questions, Judge.

2 THE COURT: All right.

3 REDIRECT EXAMINATION

4 BY MS. HUEY:

5 Q. Mr. Henderson, I believe, just to clarify in your
6 report, it was the past seventy-two hours that he had
7 Oxycontin and Lortab; is that correct?

8 A. Within the last seventy-two hours, yes, ma'am.

9 Q. As opposed to the forty-eight hours that Mr.
10 Robinson stated?

11 A. Yes, ma'am.

12 Q. Additionally, again, you testified that he was
13 awake, alert and oriented, he could talk with you; is
14 that correct?

15 A. Yes, coherent speech and talking.

16 Q. Okay. And again, you have examined hundreds of
17 patients or assessed hundreds of patients that have been
18 on drugs before; is that correct?

19 A. Yes, ma'am.

20 Q. And in this particular case, do you believe Mr.
21 Fullbright was under the influence of any alcohol or
22 drugs?

23 A. He did not seem to be under the influence of any
24 alcohol or drugs.

25 Q. And if you felt like he was, would that have been

1 something you would have conveyed to the Sheriff's
2 office?

3 A. Yes.

4 THE COURT: May this gentleman step down?

5 MR. ROBINSON: No objection.

6 THE COURT: Thank you, sir.

7 MS. HUEY: Your Honor, at this time, that would
8 be the last witness, and we would like to publish State's
9 Exhibit 1, 2, 3, and 4 to the Court.

10 THE COURT: Please.

11 MS. ADAMS: Your Honor, this is State's Exhibit
12 1 which is the waiver of rights and statement from
13 October 28th, '09 at six thirty-five p.m.

14 This is being written for me by R. Gebing
15 of the Anderson County Sheriff's Office. I had
16 talked with Ernie who lives down the street
17 from me about my financial problems and some
18 people I knew who bought gold and jewelry and
19 stuff. We smoked dope together and hung out
20 sometimes. We got to talking about robbing the
21 people I knew, Chip and Jo Ann Staton, and
22 Ernie and me planned on robbing them and
23 killing them.

24 I'm so sorry. That's the second one.

25 MR. ROBINSON: Your Honor, could I approach?

1 THE COURT: Yes, y'all may approach.

2 (WHEREUPON, a bench conference was held off the
3 record.)

4 THE COURT: Let's take about a ten-minute
5 break.

6 (WHEREUPON, court stood at recess for a short
7 break.)

8 THE COURT: I had an in-camera or an in-
9 chambers conference with all attorneys involved in this
10 matter, and I ruled and I'm placing it on the record that
11 I will allow the Solicitor to publish the exhibits 1, 2,
12 3, or 4 or any versions of those she wants to and subject
13 to the Defendant's objection. I think he had concerns
14 about tainting the potential jury pool and venue. And I
15 pointed out that as jury selection proceeds in this
16 matter, that would be something we'd have to cross at
17 that point in time.

18 Now, Mr. Robinson, from that meeting, what I said on
19 the record, would you like to add anything additional to
20 the record based our meeting in my chambers?

21 MR. ROBINSON: Based on our conversation, which
22 was with the solicitors and myself, I would just add,
23 Your Honor, that my objection, as I said before, was,
24 one, I think that publication by the Solicitor of the
25 statements that aren't in evidence yet, I think that

1 could have the potential of prejudicing my client.
2 Secondly, it could also taint any sort of jury pool
3 that's potentially watching the news or reading about
4 this in the newspaper.

5 THE COURT: Yes, sir.

6 MR. ROBINSON: I think it may deprive my client
7 a fair trial in this case in Anderson County if -- she
8 may try to -- the Solicitor may try to abbreviate this or
9 maybe generalize it and so forth. But I do think it may
10 have a prejudicial value, and I think it may damage the
11 jury pool. And accordingly I may be deprived or my
12 client may be deprived of a fair trial in this case.

13 THE COURT: Yes, sir. I note your objection
14 for the record.

15 Solicitor, I'll leave it to you publish it if you'd
16 like to.

17 MS. ADAMS: Thank you, Your Honor. Your Honor,
18 State's Exhibit 1 was the advisory of rights on October
19 28th of 2009 at six thirty-five p.m. The statement is ...

20 I am allowing Detective Beusse to type
21 this statement. On Tuesday or Wednesday of
22 last week, I was walking down Blair Mill Road
23 and heard someone shooting targets that were
24 metal that I had heard before, and this got my
25 attention. I walked up and looked around the

1 fence and started talking to the guy who lives
2 there. He asked me if I was the guy down the
3 street with the pit bull, and I said yes. I
4 went to the back porch and started talking to
5 him and we introduced ourselves. I told him I
6 was Matthew, and he told me his name was Ernie.

7 Within about 20 minutes Ernie was asking
8 me if I could get some weed. I told him that I
9 knew where to get some, and we left in the hour
10 and went to Subway and got something to eat.
11 Ernie asked me how far it was to get some weed,
12 and I told him it was by the fairgrounds. I
13 told him turn by turn of how to get there.

14 We got there and I got him some weed. He
15 had a glass pipe with him. This was at Kenneth
16 Burdette's house. We got forty dollars worth
17 of weed. Ernie bought the weed and he had went
18 by the Wachovia in Belton after Subway. I got
19 some OCs for myself.

20 We smoked some weed and drove around for a
21 while. This was when we started talking
22 heavily about my financial problems. Ernie was
23 talking about his financial problems but stated
24 he was not that worried, that he got a check
25 but could always use money. I brought up that

1 I had a ring and some tools that I could sell
2 and get some money. I told him that I was
3 going to sell the ring to my buddy. I told
4 Ernie that my friend wore a Rolex and some
5 diamond rings, and I told Ernie I wished I had
6 my bills paid.

7 We drove around some more and we talked
8 about that some more. Ernie said that he had
9 never seen a Rolex and he wished he had a Rolex
10 and some diamonds would be nice. Ernie started
11 asking questions about who I sold jewelry to.
12 He asked how old they were, how long have you
13 known them, do you know where they live. I had
14 told him that it was a man and his wife, and
15 they were from Greenville, South Carolina.
16 Ernie stated that he could not believe that
17 they had not been robbed riding around like
18 that, and I told him that I had thought about
19 that too.. We drove around some more and Ernie
20 took me home late in the day.

21 The next day I got real high and walked up
22 to Ernie's house. We shot some air rifles.
23 Prior to meeting Ernie, I went to my Aunt Edna
24 Edwards and called Chip Staton and asked him if
25 I could meet him at the Jockey Lot over the

1 weekend so he could take a look at the ring I
2 had to sell. This was on Wednesday when I made
3 this call. Chip said he would meet me on
4 Saturday at the Jockey lot in Anderson.

5 Back to being at Ernie's when I was high
6 and we were running out of weed. Ernie wanted
7 some more weed, and we went back to Kenneth's.
8 Ernie was asking about OCs, Oxycontins, and
9 wanted to know how it made you feel. I told
10 him it was great. I told him I would get some
11 and let him try it. I four or five pills -- I
12 had four or five pills, and we were riding
13 around smoking weed and let him try some.
14 Ernie really liked it, and I sold him one of my
15 pills.

16 We were riding around, and I told him
17 about my father's land and had some deer.
18 Ernie was into hunting and told him that I
19 would take him out there. I know one day Ernie
20 went to work with me to an electrical job in
21 Anderson. We did the job and got the check and
22 cashed the check at Eddie's Minute Mart for
23 \$225.00. We then went to Kenneth's and bought
24 some pills.

25 I think the day after the job is when we

1 went to my dad's property and showed it to
2 Ernie. We looked at deer tracks and drove
3 around. On this night we went back late,
4 around seven and eight thirty p.m., and found a
5 buck on Whitten Road, stopped and got it and
6 took it to Ernie's. We cleaned it at Ernie's,
7 and I helped him.

8 During this time is when Ernie started
9 talking about it looked like we killed somebody
10 because there was blood everywhere. He said
11 something along the lines like they are going
12 to think we have a body strung up. Ernie said
13 he could kill somebody and explain the blood.
14 I went home between one thirty and two thirty
15 a.m.

16 The next day Ernie came and got me at my
17 house and we went back to his house. We sat on
18 the back porch, and Ernie said he had a
19 question for me. He started asking about Chip
20 and Jo Ann and wanted to know if I was sure
21 they always had that stuff on them all the
22 time. I told him yes, and he asked me if I was
23 still meeting Chip at the Jockey Lot. I know
24 that I had previously called Chip from Ernie's
25 cell phone and asked about a meeting time at

1 the Jockey Lot.

2 Ernie asked me if I had thought about
3 taking their money, and I told him it had
4 crossed my mind but I did not think I could do
5 it. Ernie asked me if they carried a lot of
6 cash, and I told him a good bit. I asked Ernie
7 what are you thinking, and he said he would
8 like to see everything with his eyes. I said
9 okay and I could call them and they could come
10 up here. Ernie said if we did something it
11 would have to be secluded. Ernie asked me if I
12 could keep a secret, and I asked him if he
13 could keep a secret. We both said yes. I told
14 him that if I was seen, I could not do
15 anything. Ernie said we could think of a way
16 around that.

17 Ernie said he did not want to use a gun
18 because it could be traced back and he would
19 have to get rid of it. I told him that I did
20 not want to shoot anyone. Ernie asked if they
21 would come meet me at my house, and I told him
22 yes. Then Ernie said if I do see their stuff
23 and I think it is good, we need a game plan.
24 We came up with a plan to have them come to my
25 house and then call them back and tell them to

1 come down to Ernie's to buy the ring and then
2 he could see if they -- he could see if they
3 and their gold and cash.

4 Ernie came up with a plan to tell them
5 that we knew somebody who had some gold to get
6 them in the car and take them off in the
7 country. Ernie wanted to find a real secluded
8 spot to do that. I told Ernie how I am going
9 to do this if I am seen because I know them.
10 We then came up with the idea of me being part
11 of the robbery. I was supposed to be with them
12 and I would be robbed too. We were going to
13 tell them that Ernie had a friend out in the
14 country that wanted to sell some gold knowing
15 that they would agree. Ernie told me that he
16 used to be an ex cop and knew how to work this.
17 Ernie asked me if they carried guns and I said
18 yes.

19 We needed a place to do this, and Ernie
20 asked if I knew a place. I told him no. Ernie
21 said it needed to be near a house but secluded.
22 We got into Ernie's truck and drove around
23 looking for a place. I told Ernie that there
24 was a lot of country out towards Iva. We took
25 off and went down Hwy 413 and kept driving. We

1 went down several roads. We drove down Hen
2 Coop Road, Beer Creek, and we turned around,
3 and Ernie said these will not work. We kept
4 going and got to Audubon and went down and took
5 all the roads in and out. We got to the end
6 and drove to both cul-de-sacs, and Ernie said
7 this is perfect. Ernie turned onto a cut out
8 road in the woods and drove down to the creek
9 and went over the log.

10 Ernie got out and walked around and I took
11 a piss. Ernie walked around the lake. This
12 was in the daylight. We left and drove the
13 roads again to see the ways in and out. We
14 took Millrich Road and kept going over and over
15 on what was going to happen. Ernie told me
16 that I was going to have to file a police
17 report and make it look real because Chip and
18 Jo would want to and I would have to go along
19 with it. Ernie told me when I got to the spot
20 to ask them to pull over so I could take a piss
21 or get out and use the cell phone because of no
22 service. This all was supposed to depend on
23 how much money they had. I was supposed to
24 call them and say the friend's name was Billy.
25 I was going to take them to Billy in the

1 country and ride with them, and Ernie was going
2 to leave after us and beat us to the spot where
3 the robbery was going to take place. I was
4 supposed to ride them through town to kill time
5 to give him time to get on Highway 413 and get
6 to the spot we picked out.

7 We went back to Ernie's house and he
8 wanted me to call Chip and tell him about Billy
9 having coins and gold to sell. I did call Chip
10 on Ernie's phone and told him about the same
11 ring and asked him if he wanted to come up
12 tonight if it was not too late and buy the ring
13 and go see a guy named Billy who had some
14 stuff. Chip agreed and he could be there in an
15 hour. Then me and Ernie started going over the
16 details of the robbery. Ernie had a cover
17 story saying that he would be at a guy's house.
18 The guy had an Arabic name that begins with an
19 'A'. This is where he was supposed to be. I
20 don't know if he exists.

21 Some time passed, and I called Chip back
22 and told him that I was going to be up the road
23 and wanted him to meet me there. Chip asked if
24 it was safe, and I told him it was okay. They
25 were familiar because they had been to my house

1 before. Chip agreed and I told him that he got
2 on my street to call me back. Chip did call me
3 back when he got close by on Ernie's phone.
4 All the phone calls to Chip took place on
5 Ernie's phone. One time in the middle, I did
6 call and ask if they were close-by and they
7 said they were in Williamston.

8 They came to Ernie's house and pulled into
9 Ernie's yard coming from my house near the
10 road. We were both high. When we got there, I
11 did have my dog with me and tied her up on the
12 corner. Chip and Jo got out and were talking
13 to Ernie and me. The plan was going to be if
14 it was not a go, Ernie was going to get on the
15 phone and act like Billy could not make it. I
16 asked Chip to look at the ring, and he looked
17 at the ring on the porch with his loop. When I
18 got back in the car with Chip and asked him to
19 pay me if he could so I could stop and get
20 something to eat. At this time Ernie was
21 talking to Jo about her necklace and something
22 else. Chip weighed the ring in the car and
23 then paid me and Ernie could see.

24 They said it's getting late and asked if
25 everything was a go with Billy. Ernie got on

1 his phone and acted like he was talking to
2 Billy and told them that I had the address and
3 if I got lost I would call. I told Chip that
4 Billy was ready. I got in the car with Chip
5 and Jo which is a dark blue car. I sit in the
6 back seat with Chip. I gave them directions
7 off of a paper that Ernie had wrote to make it
8 look real. We drive to the spot that we had
9 picked out which was the spot that I showed the
10 detectives tonight.

11 We got there, and I asked Chip if he could
12 stop and I could pee. I got out and took a
13 piss next to the woods and got back to the car
14 and nothing happened. We drove around some,
15 and I was acting like I could not find the
16 place. I did not know what to do. I then saw
17 Ernie's truck sitting out in the woods. We
18 drove down to the cul-de-sac and turned around.
19 We went back down the road and I said let me
20 call this guy. I asked Chip to use his phone
21 and pretended to call Billy. I was in the car
22 at this point and then got out of the car with
23 the cell phone. I told him that I had the
24 number. I acted like I did not have a signal.
25 I was where we found Jo tonight.

1 Ernie comes out of the woods and it is
2 dark. Ernie pushed me and screams, get on the
3 ground. I put the phone in my back pocket and
4 got on the ground and put my hands out. Ernie
5 said, get your hands up, and Chip did not do
6 this and reaches for his pocket. Ernie slides
7 into the back seat and has a gun pointed to
8 their heads and says, don't move. Jo says,
9 take what you want, don't hurt us. Ernie hit
10 Chip with the gun when Chip reached for his
11 pocket and Chip kept reaching. Ernie said,
12 hands up, and he hit Chip again with the gun in
13 head. Ernie had a automatic black gun. Ernie
14 had something on the end that was cloth. Jo
15 started to come down with her hands, and the
16 next thing I know Ernie pulled something out of
17 his jacket and hits Chip in the head and Jo in
18 the head. Jo said, he shot us. I did not know
19 what to do. Ernie said, I'm taking the money,
20 and he hit them and hit them and hit them. I
21 had to look away and kept hearing Ernie hit
22 them. Jo was in the driver's seat and Chip was
23 in the passenger seat.

24 Ernie got out and looked at me and said,
25 get up. I got up and Ernie opened Jo's door.

1 Ernie said help me and I stood there. Ernie
2 pulled her to the woods. Ernie said, I need
3 you to drive this car, and I did. Ernie was
4 over there with Jo, and I know he has her
5 diamond ring because I saw it later. I got in
6 the car and sat there looking straight forward.
7 Chip was not making any noise. I had to move
8 the driver's seat back to drive.

9 Before I got in to drive, Ernie handed me
10 some textile gloves that were white in color.
11 I sit there and Ernie comes around and hands me
12 a phone and says I need you to call me. This
13 was a Go Phone. The phone had a plastic thing
14 around it. Ernie got in the back seat and
15 rambled around, and I did not look much. I did
16 not want to see Chip. Ernie told me to try the
17 phone to see if it worked. I turned the phone
18 on and at first could not get it to work.
19 Ernie was taking Chip's watch, jewelry, wallet
20 and cash. Ernie was wearing gloves that looked
21 like the ones that he gave me. Ernie was
22 putting his stuff in a dark bag that was a
23 pocketbook size.

24 Ernie told me to drive down the street to
25 the cul-de-sac and turn around and give me time

1 to change clothes. I don't know where he
2 changed. I think he might have went down to
3 the lake because his truck was down that path
4 that I showed the detectives. I drove down the
5 road. Ernie told me to pull over where there
6 is no houses. I was waiting on Ernie on the
7 side of the road. Ernie came out and stopped
8 behind me and then pulled up beside me. Ernie
9 told me to go down Highway 413 and go to the
10 caution light and wait. Ernie said stay near
11 the caution light.

12 While we were leaving, I tried the phone
13 and it worked. I called Ernie. Ernie pulled
14 off from me when we left, and I met back up
15 with him at the caution light. I followed
16 Ernie in his truck, and Ernie pulled over and I
17 stopped. Ernie said that we needed to get Chip
18 out of the car. I don't know where we were at.
19 Ernie drug Chip into the woods and did not
20 spend that much time. I sat in the car. Ernie
21 had on coveralls that were brown at this point
22 that he did not have on during the robbery. He
23 was still wearing gloves.

24 Then I drove to Horton Road, and Ernie
25 stayed there and did not get in his truck.

1 Ernie told me to go to Horton Road and wait on
2 me. We had seen Horton Road earlier when we
3 drove around looking for the robbery spot. I
4 was calling him, and he is calling me. I went
5 and parked on Horton Road on a little turn-off.
6 Ernie comes down to Horton Road, and he went
7 past me. And the phone died and I called him
8 back.

9 Ernie pulled in behind me. Ernie got out
10 of his truck and came to the car and was going
11 through the car again. I was standing outside
12 the car. He still had his coveralls on. The
13 lights were off on his truck. Ernie was going
14 slow, and he had some water and washed up. The
15 water was in a bottle. I don't know what kind
16 of bottle. He had on camouflage gloves now.

17 Ernie bent down at his truck and did
18 something. At first I was standing by the car
19 and I walked into the woods and threw up about
20 thirty to forty feet away. Ernie spent about
21 three or four minutes in the car. Ernie told
22 me not to get into the truck, just wait. Ernie
23 told me to take my gloves off and put them in a
24 bag he had that was a black trash bag. Ernie
25 gave me a painter's suit to put on and he

1 slipped some dish washing gloves on my hands.
2 Ernie had all kinds of white sheets with
3 squares on them and sheets of plastic down
4 inside the truck to cover up the seats and
5 floorboard.

6 We got into the truck and left and went to
7 a spot down near McCormick. There was a wooden
8 building out in the country, and there was a
9 well head with a red handle. Ernie had a big
10 tarp, and we put all our clothes on it and
11 cleaned up good. Ernie had more sheets and
12 more gloves in the back. We rolled up the
13 tarp, folded the corners and tied it up and put
14 it in the back of the truck.

15 We drove to another spot, and Ernie
16 stopped and got out and put something else in
17 the back of the truck. He drove to the bottom
18 of the property and stopped. Ernie got out and
19 took the tarp out of the back of the truck. He
20 asked me to help, and I did. We put the tarp
21 on top of a cement pad in the woods and left it
22 there. Ernie said it would be taken care of
23 because I told him that we needed to get rid of
24 it.

25 We got in the truck, left and drove back

1 to Belton. When we go to his house, he told me
2 not to get out. He came around to my side and
3 put down a blue tarp but not a whole tarp. I
4 took my shoes and socks off, and he rolled it
5 up. I stood on the tarp and washed my feet.
6 Ernie put the tarp in a black trash bag and
7 took it down in the woods.

8 He had the other bag with the jewelry and
9 money around back, and he had the wallets and
10 stuff in the bag. I got three thousand dollars
11 of cash and some jewelry from Ernie which
12 buried in the woods near my house. I want to
13 be completely honest and say that the plan was
14 to kill and rob the people.

15 And Your Honor, State's Exhibit 3 is the advisory of
16 rights form that was done on October 29th, 2009 at two
17 twenty p.m. This is being written for me by R. Gebing of
18 the Anderson County Sheriff's Office. This is State's
19 Exhibit 1.

20 I had talked with Ernie who lives down the
21 street from me about my financial problems and
22 some people I knew who bought gold and jewelry
23 and stuff. We smoked dope together and hung out
24 sometimes.

25 We got to talking about robbing the people

1 I knew, Chip and Jo Staton, and Ernie and me
2 planned on robbing them and killing them. He
3 said that he didn't want to leave witnesses.
4 The plan was that he was supposed to get them
5 out of the car and tie them up and take them
6 out in the woods, but it didn't happen like
7 that. I was supposed to have rode with them
8 off of Audubon where I showed the detectives
9 last night and they found Jo Ann's body.

10 I rode there with them and led them
11 through town to let Ernie get there ahead of
12 us. Jo Ann drove slow, and I was supposed to
13 get out of the car when I got there. Ernie was
14 supposed to run up, get them at gunpoint. I
15 was supposed to hold the gun once they got out
16 of the car. I had some gloves with me before I
17 even got in the car with them. Ernie had
18 gloves too. He was gonna tie them up with duct
19 tape, a new roll he'd gotten somewhere without
20 touching it. He was gonna walk them into the
21 woods and execute them. I was supposed to jump
22 in the car and drive off to Horton Road. We'd
23 scouted all these places out beforehand.

24 Things didn't go like they were planned
25 because Chip and Jo didn't cooperate. I had

1 gotten out of the back seat to use the phone,
2 and that was how Ernie got in the back seat. I
3 had left the door open. He had a black
4 automatic handgun with some kind of cloth on
5 the top of it. Ernie wasn't wearing a mask or
6 anything. He had a cheap leather jacket on.

7 When Chip started going for his gun and
8 wouldn't put his hands up, Ernie hit him, first
9 with the gun, then with a hammer. Ernie hit Jo
10 with the hammer too. He hit them both a pretty
11 good bit. I was getting up off the ground. He
12 started pulling the jewelry off of them, and I
13 held the bag for him. It was a black kind of
14 like a pocketbook, maybe like a shaving kit
15 with a zipper on the top. He got Jo out of the
16 car and drug her to the woods. When he did, he
17 told me to get in the car. I didn't want to
18 drive around with Chip in the car, but it was
19 too late then. He went up to the truck, and I
20 waited on him. Then I followed him to where
21 Chip was dumped, and I helped him drag Chip
22 into the woods.

23 We then drove up to Horton Road and we
24 talked on the phone. I was using Chip's Go
25 Phone. Ernie was telling me how to drive, what

1 to do if anybody saw us, that kind of stuff.

2 He said that if somebody was out there that we
3 shouldn't be seen together. There was a lot of
4 little things that were said. He followed me
5 the whole way there. There was no call telling
6 him that he had passed me and to turn around.

7 When we got to Horton, he started going
8 through the car real good and I got changed. I
9 had brought a change of clothes, some pants,
10 shoes, shirt, socks, whatever. He had told me
11 to bring it, said he didn't want me to get into
12 the truck with any of the car stuff on me. I
13 don't know what else was taken there, but I
14 know he went through the car real well. There
15 were sheets on the seats of the truck.

16 We rode back to Ernie's house and then
17 went to my house to get a change of clothes,
18 then rode to McCormick and Ernie cleaned up
19 something out back. Ernie wanted to change
20 again, and we wrapped up the clothes and sheets
21 in the tarp and we left the tarp there on a
22 cement thing.

23 We left McCormick and came back to Ernie's
24 house. He gave me some money and some of the
25 jewelry. We sat out back and got high, then I

1 went home.

2 The next day, before we rode out to the
3 land, I went out to the woods behind his house
4 and I buried some of my money and the jewelry.
5 I walked up to his house and we went to
6 Hardee's, I think. Then we went to Wal-Mart
7 and I got some clothes, and he went in with me.
8 He told me some things to buy and gave me the
9 money for it and would tell me to keep the
10 change.

11 We got two gas cans and went to the gas
12 station next to the Wal-Mart and got the gas.
13 He pumped it. We went up to my father's land
14 on Monitor, and we burned a big bag of stuff.
15 I'm not sure what was in it. I had some stuff
16 from my house, some trash. Ernie threw the
17 hammer that he killed Jo and Chip with
18 barehanded into the water down by the back of
19 the property.

20 I called Chip's phone the day after he was
21 killed because Ernie told me to. I left him a
22 message. We'd already talked about doing it,
23 that I should do it after all this was done to
24 not implicate anybody. I remember the message
25 was something like that he was the first person

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1 I was calling. I got me a new phone.

2 This is the complete truth this time. The
3 part about the robbery and the killing, I
4 didn't want to make anyone think that it was
5 anything else than what it really was. Me and
6 Ernie both knew that Chip and Jo were going to
7 be killed.

8 And Your Honor, then he drew a picture of the hammer
9 and dated it.

10 Your Honor, that's all of State's Exhibits 1, 2, 3,
11 and 4, and we just ask that they be admitted.

12 THE COURT: I'll take that under reservation.

13 Do you have any witnesses you want to call, Mr.
14 Robinson?

15 MR. ROBINSON: Your Honor, in response to what
16 she's saying, first of all, there is nothing -- if
17 there's anything in that statement like a drawing or
18 something like that, that was not -- that should -- that
19 is inadmissible at this point. None of the witnesses
20 ever talked about any drawings or anything like that. I
21 think these -- if she's -- she's putting these statements
22 these officers all testified to, but I don't think she
23 can put that in as ---

24 THE COURT: That line drawing?

25 MR. ROBINSON: The drawing, correct.

1 THE COURT: That's part of Exhibit 4?

2 MR. ROBINSON: Yes.

3 THE COURT: Okay. I'll take that under
4 advisement. Counsel, do you have any witnesses?

5 MR. ROBINSON: I do, Your Honor. Your Honor,
6 we would call Mr. Marshall Fullbright.

7 (WHEREUPON, the witness was duly sworn.

8 MR. ROBINSON: May it please the Court?

9 THE COURT: Yes, sir.

10 **MARSHALL FULLBRIGHT,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. ROBINSON:

14 Q. Marshall, what is your address?

15 A. [REDACTED] Dobbins Bridge Road.

16 Q. And how long have you lived in Anderson County?

17 A. All my life.

18 Q. And what do you do for a living?

19 A. Electrician.

20 Q. Do you also own a gym or had a gym?

21 A. I did.

22 Q. All right. Marshall, prior to today, were you
23 advised to tell the truth in this matter?

24 A. Yes, sir.

25 Q. You understand that's what you must do when you come

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1 to court; is that right?

2 A. Yes, sir.

3 Q. Anyone promise you or ask you to do anything that
4 was improper or ask you to do anything for them?

5 A. Uh-huh (negative).

6 Q. Okay. I'm going to ask you, Marshall, to look at
7 some of the State's exhibits.

8 MR. ROBINSON: Can I approach the witness, Your
9 Honor?

10 THE COURT: Yes, sir.

11 Q. And this is regarding your son. You are the father
12 of Matthew Fullbright; is that correct?

13 A. Yes, sir.

14 Q. And he is sitting in the courtroom to your left; is
15 that right?

16 A. Yes, sir.

17 Q. That's your son. How old's your son?

18 A. Thirty-two.

19 Q. You've known him for thirty ---

20 THE COURT: Hold old is he?

21 Q. How old is he?

22 A. Thirty-two, I think.

23 THE COURT: Thirty-two?

24 MR. ROBINSON: Thirty-two, Your Honor.

25 Q. And for all that time, have you had an opportunity

1 to observe his signature and how he writes and so forth?

2 A. Yes, sir.

3 Q. If I were to show you a copy of his signature and
4 initials, could you tell me if those are his or not?

5 A. Yes, sir.

6 Q. I'm going to have you look at what's been marked
7 State's Exhibit Number 1. Can you advise the Court --
8 and look at the signature and the abbreviations. Is that
9 his signature?

10 A. Yes, sir.

11 Q. Okay. And how about the abbreviations on the left-
12 hand side?

13 A. Yes, sir.

14 Q. Okay. Now, I'm also going to ask you to look at
15 what's been marked State's Number 2. Actually, no. Let
16 me look at State's Number 3. Is that your son's
17 signature?

18 A. No, sir.

19 Q. Is that your son's abbreviation?

20 A. No, sir.

21 Q. Okay. I'm going to ask you ---

22 THE COURT: When you say abbreviation, are you
23 referring to initials?

24 MR. ROBINSON: Initials, yes, Your Honor.

25 THE COURT: Okay.

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1 Q. Are those your son's initials on there?

2 A. No, sir.

3 Q. Okay. Turning to what's been marked State's Exhibit
4 Number 4, page number three, is that your son's
5 signature?

6 A. No, sir.

7 Q. And look at the initials on the pages, are those --
8 looking at number 3, are those your son's initials? Can
9 you see any initials?

10 A. I can see them there. No, sir.

11 Q. And turning to what's been marked State's Number 2,
12 I want you to look through this and see if any of these
13 initials are your son's initials?

14 A. No.

15 MR. ROBINSON: That's all I have. Thank you.

16 THE COURT: What was his response, Mr.

17 Robinson? I didn't hear it.

18 Q. What was your response to -- the question was were
19 any of the initials in number 2 your son's initials?

20 A. No, sir.

21 MR. ROBINSON: Thank you.

22 THE COURT: Cross-examination?

23 MS. HUEY: Yes, sir. Just a couple of
24 questions.

25 CROSS-EXAMINATION

1 BY MS. HUEY:

2 Q. Mr. Fullbright, were you with your son Matthew on
3 October 28, 2009, at six thirty-five p.m. when the
4 advisement of rights form was given?

5 A. When I took him in to the Sheriff's department?

6 Q. Uh-huh (affirmative).

7 A. I took him in, yeah, for jewelry robbery.

8 Q. You took him in. And were you present for the
9 advisement of rights form at six thirty-five p.m.?

10 A. No. But when we got out there, I made a suggestion
11 to the officers.

12 Q. I'm sorry. I didn't hear you.

13 A. I made a suggestion to the officers when I got out
14 of the van and was carrying him inside.

15 Q. Right. But once you dropped him off, did you see
16 him again after that point?

17 A. No, not after he went inside.

18 Q. Okay. So after six thirty-five p.m., you did not
19 see him again, and then he was booked at four something
20 the next morning?

21 A. No.

22 Q. You didn't see him that entire time; is that
23 correct?

24 A. Correct.

25 Q. Okay. And were you present at the jail on October

1 29th, 2009, at two twenty p.m. when a second advisory of
2 rights form was given?

3 A. At the jail?

4 Q. Yes, sir?

5 A. I don't think so.

6 Q. You were not present at two twenty p.m. on October
7 29th, 2009, at the Anderson County Detention Center; is
8 that correct?

9 A. When we met with the lawyers?

10 Q. When your son was talking with the detectives in
11 this particular case.

12 A. No.

13 Q. You weren't present during that interview?

14 A. No.

15 Q. And again, that lasted from about two twenty to
16 almost four o'clock.

17 A. Right.

18 Q. Were you present during that time?

19 A. No.

20 MS. HUEY: That's all I have.

21 THE COURT: Any redirect?

22 MR. ROBINSON: I have no redirect.

23 THE COURT: May this witness be excused?

24 MR. ROBINSON: Yes, Your Honor.

25 THE COURT: Ms. Huey?

1 MS. HUEY: That's it, Judge.

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

3 MR. ROBINSON: Your Honor, may I speak with my
4 client for one second.

5 THE COURT: Yes, sir.

6 MR. ROBINSON: That's the Defendant's case,
7 Your Honor.

8 THE COURT: Anything in reply?

9 MS. HUEY: No, sir, Your Honor.

10 THE COURT: Okay. Would you pass forward the
11 exhibits 1 through 4?

12 MS. HUEY: Yes, sir, I believe ...

13 THE COURT: All right. Counsel, I want to go
14 back in my chambers. I'm going to read through these
15 exhibits. When I come back, I'll give you my decision.
16 We'll be in recess.

17 MS. HUEY: Thank you, Judge.

18 MR. ROBINSON: Thank you, Your Honor.

19 (WHEREUPON, court stood at recess for a short
20 break.)

21 THE COURT: All right. I've reviewed all the
22 evidence thus far. And I'm going to go through and make
23 my findings on the record.

24 Let me advise everybody here in the courtroom and in
25 the gallery, there will not be any outburst one way or

1 the other.

2 With that being said -- and these are notes that
3 I've made -- that the statements made by Mr. Fullbright,
4 both the oral statements and the written statements, both
5 during the night of October 28th that went into the
6 morning of October 29th and on the day of October 29th,
7 the second day of interrogation, were clearly made, and I
8 find by a preponderance of the evidence, while the
9 Defendant was in police custody, i.e., that these were
10 custodial interrogations. Therefore, under the law of
11 *Miranda*, Mr. Fullbright had to be given his proper
12 *Miranda* rights before he could be questioned. With that
13 being said, I find by a preponderance of the evidence
14 that Mr. Fullbright was, in fact, properly Mirandized
15 both on the night of his initial interrogation and on the
16 second day of his interrogation, at both times.

17 I further find by a preponderance of the evidence
18 that the Defendant knowingly and intelligently waived his
19 *Miranda* rights and that he also waived his Sixth
20 Amendment right to counsel. Therefore, I find that by a
21 preponderance of the evidence, Mr. Fullbright's
22 statements to law enforcement, both oral and written, on
23 the night of October 28th into the morning of the 29th
24 and also again on the 29th were freely and voluntarily
25 made. Therefore, I find that the State of South Carolina

1 has met its burden of establishing the voluntariness of
2 Mr. Fullbright's statements by a preponderance of the
3 evidence which is the only standard they need to meet at
4 this stage.

5 Therefore, exhibits 1 through 4 shall be admissible
6 during the trial of this matter. However, the exhibits
7 that were attached to those exhibits will not be
8 admissible at this stage without further proper
9 foundation. I agree with Mr. Robinson. There was no
10 testimony as to those. In addition, the statements do
11 not refer back to those exhibits. That will have to be
12 subject to further foundation laid by the State.

13 In making my findings, I want to place on the record
14 that I find that there was no police coercion. Although
15 there was a fairly lengthy initial interrogation, I note
16 that the Defendant was given multiple smoke breaks. He
17 was allowed to use the restroom, and then he was
18 subsequently provided dinner. He was not denied any
19 comforts other than being handcuffed in the front of his
20 body which I don't find to be unduly coercive under the
21 circumstances.

22 I've considered the fact that the interrogation did
23 take place at the Sheriff's office or as described. I've
24 considered the continuity of the interrogation. And in
25 considering this element, I note again that the Defendant

1 was allowed to have multiple smoke breaks, bathroom
2 breaks, was allowed to eat dinner and also that there was
3 a significant passage of time between the first
4 interrogation and the second interrogation on the next
5 day.

6 I note that the Defendant was, based on my notes,
7 either twenty-nine to thirty years of age at the time of
8 this interrogation so that he should have been mature.
9 There was nothing about the education of the Defendant
10 produced or rebutted by the Defense. I did not consider
11 that. I did consider the physical condition of the
12 Defendant and more specifically that the Defendant fell
13 out on the floor during his -- the night of his initial
14 interrogation complaining of right-side abdominal pain
15 and right-sided pain. I noted that he was initially
16 checked by Officer Gebings who had some -- who had
17 formerly been trained in emergency medical procedures and
18 had some other medical training. Thereafter, E.M.S. was
19 called and a certified E.M.S. technician with in excess
20 of twenty years experience thoroughly examined the
21 Defendant's condition and found that he was okay. Also,
22 at that time the Defendant refused medical treatment and
23 that the Defendant appeared to be alert, awake and
24 oriented and not under the influence of any medications
25 or drugs. To the extent that the Defendant asserted

1 taking Oxycontin, Darvocet or Lortab within the previous
2 seventy-two hours, I noted that the E.M.S. technician
3 with over twenty years experience did not believe him to
4 be under the influence. And further, I find that that
5 information actually goes to the weight of that evidence
6 and not to its admissibility.

7 I did not consider the mental health of the
8 Defendant because that was not placed in evidence. The
9 experience of the Defendant was not really placed into
10 evidence, and the characteristics of the Defendant were
11 not such that it would show that coercion took place.
12 However, I do specifically find that there was no police
13 misrepresentations during these interrogations either the
14 night of or the next day. There were no threats of
15 violence. There was no intimidation. And there was also
16 no promises of leniency during any of the interrogation
17 process. I considered the fact or the passage of time
18 between Mr. Fullbright's initial confession and his
19 subsequent confession the next day. I also considered
20 that there was actually a change in location between the
21 first confession and the second location.

22 Now, the alleged dissimilarities that was raised by
23 the Defendant, the Defense, between the Defendant's
24 signatures and initials on the various State's exhibits,
25 also, the failure of the State to have the Defendant

1 allegedly initially all of the form, *Miranda* form, the
2 boxes on the form, go to the weight and not the
3 admissibility of the Defendant's statements. Therefore,
4 the statements, oral and written, as well as the waiver
5 forms will be admissible at trial as noted. The exhibits
6 will have to be further substantiated by a proper
7 foundation before admissibility will be considered. And
8 it will be the State's burden to prove the voluntariness
9 of the Defendant's statement beyond a reasonable doubt to
10 the satisfaction of the jury.

11 With that being said, are there any other matters
12 that need to be addressed at this hearing?

13 MS. HUEY: Not at this time, Judge.

14 THE COURT: Mr. Robinson?

15 MR. ROBINSON: Not at this time. We do have
16 something we could discuss in chambers regarding timing
17 and so forth regarding this case.

18 THE COURT: Well, these cases are scheduled to
19 be tried, I believe, in, what, in two weeks?

20 MR. ROBINSON: Three weeks. December 12th,
21 Your Honor.

22 THE COURT: Whenever they're tried is when
23 we're going to trial.

24 MR. ROBINSON: I understand that. But the
25 issue, Your Honor, is with Judge Maddox. I have a murder

1 case in Laurens County. He's scheduled a murder ---

2 THE COURT: Let me tell you, Mr. Robinson, I've
3 advised you and the State before, and I will do it again.

4 MR. ROBINSON: Yes, sir.

5 THE COURT: When this case called, it is going
6 to when we stated it is going to trial, okay?

7 MR. ROBINSON: Of course, Your Honor.

8 THE COURT: All right. Now, if there are other
9 matters I need to hear, let's put it on the record right
10 now.

11 MR. ROBINSON: No, sir. I just wanted to see
12 if I could get some assistance as far as getting the
13 other case ---

14 THE COURT: Oh, I apologize. I totally
15 misunderstood. Who is the trial judge, Judge Maddox?

16 MR. ROBINSON: I don't think it was Judge
17 Maddox. It was -- what happened is that they scheduled a
18 murder trial to start on Wednesday. And my case, my
19 first case, that started on Monday went through Thursday.

20 THE COURT: And this is in Laurens?

21 MR. ROBINSON: Laurens County.

22 THE COURT: So that would be Judge Addy or
23 Judge Griffin?

24 MR. ROBINSON: Yeah. And I wanted to see if I
25 could get some assistance because ---

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1 THE COURT: Sure.

2 MR. ROBINSON: --- I'd like to ---

3 THE COURT: Actually, I'll make that call right
4 now. What is the date of that proposed trial?

5 MR. ROBINSON: The 5th.

6 THE COURT: The 5th of November? December?

7 MR. ROBINSON: Yes, a week before. And I don't
8 know if I can really be prepared to do both.

9 THE COURT: I understand. That's a little
10 much. I will call down there if you will wait with me.

11 MR. ROBINSON: I appreciate that.

12 THE COURT: If you want to stand by, I'll call
13 the Clerk and get the Judge, and I'll talk to the Judge
14 right now.

15 MR. ROBINSON: I appreciate that.

16 THE COURT: Anything further from the State?

17 MS. ADAMS: May we approach real quick?

18 THE COURT: Yes, ma'am.

19 (WHEREUPON, a bench conference was held off the
20 record.)

21 THE COURT: We're in recess.

22 (WHEREUPON, the hearing ended at approximately 12:35
23 p.m.)

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1

CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 17th day of November 2011.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14 January 18, 2012

15

16

17



Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	THE COURT OF GENERAL SESSIONS
	)	2010-GS-04-00069-00072
THE STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
	)	
VERSUS	)	
	)	
	)	
MATTHEW FULLBRIGHT,	)	
	)	DATE: JANUARY 23-27, 2012
Defendant.	)	ANDERSON, SOUTH CAROLINA

TRIAL TRANSCRIPT OF RECORD

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

CHRISSY ADAMS, ATTORNEY AT LAW
 CATHERINE HUEY, ATTORNEY AT LAW
 ATTORNEYS FOR THE PLAINTIFF

SCOTT ROBINSON, ESQUIRE
 ATTORNEY FOR THE Defendant

PROVIDED FOR: SCCID

FOR COPIES CONTACT: JO RICE
 JRICE@SCCOURTS.ORG
 OFFICIAL COURT REPORTER
 SOUTH CAROLINA JUDICIAL DEPARTMENT

JURY SELECTION

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1 case then you will tell them, "I am on the jury, please
2 stop." If they persist, try to find out who they are.
3 Report it to the bailiff. He will report it to me and they
4 will be dealt with forthwith. Okay? That being said, I am
5 going to excuse you until 2:30 and then I am going to ask
6 that you be back in your jury room no later than 2:30 and we
7 will start the case this afternoon. Okay? Thank you very
8 much.

9 (Jury out at 12:17 p.m.)

10 THE COURT: All right, any additions or exceptions from
11 the State in regards to my initial charge to the jury?

12 MS. HUEY: No, sir, Your Honor.

13 THE COURT: From the Defense?

14 MR. ROBINSON: No, sir.

15 THE COURT: All right, lets go -- What is the first
16 matter I need to go over, please?

17 MS. HUEY: Your Honor, I guess it should be evidence not
18 covered in the original Jackson/Denno hearing we held back in
19 November of '09. I would like to put up one witness,
20 specifically, as to the drawing of the hammer.
21 Additionally, we would also go into the fact that he did take
22 the defendant out of the custody of the jail along with
23 Investigator Beusse and the defendant did not make a written
24 statement after that, but he was able to point some things
25 out to them and we would get into a few oral statements just

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

PROFFERED EXAMINATION OF DANNY BARTON

25

1 in generalities.

2 THE COURT: Okay.

3 MS. HUEY: Additionally, the defendant was also
4 mirandized on the following day and was again taken from the
5 jail and the same sort of thing, Judge, and that would be, no
6 written statement, just some oral statements and generalities
7 and pointing things out to the Sheriff's office.

8 THE COURT: Okay, would you call your witness, please?

9 MS. HUEY: Yes, sir, Your Honor. The State calls Danny
10 Barton to the stand.

11 (After being duly sworn by the Clerk of Court, Danny
12 Barton testified as follows:)

13 CLERK OF COURT: If you would take the witness stand and
14 state your full name and spell your last name for the record,
15 please.

16 DANNY BARTON: Danny Barton. Last name is B-A-R-T-O-N.

17 PROFFERED DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

18 Q Investigator Barton, where are you currently employed?

19 A Anderson County Sheriff's Office.

20 Q And how long have you been employed there?

21 A Eleven years.

22 Q Eleven years?

23 A Yes, ma'am.

24 Q And what department are you currently in?

25 A Criminal Investigations Division.

1 Q And were you in that department back in October of 2009?

2 A Yes, ma'am.

3 Q What are your duties -- What were your duties then, when
4 you were in Investigations?

5 A I was an Investigator assigned to property crimes.

6 Q And has that changed now?

7 A Yes, ma'am.

8 Q And what assignment do you have now?

9 A Now I investigate crimes against persons.

10 Q Now, did you have an occasion to become involved in an
11 investigation of the homicides of Homer and JoAnn
12 Staton?

13 A Yes, ma'am.

14 Q And in what capacity was that?

15 A Detective Beusse contacted me on October 29th of '09 and
16 asked me to go with him to the Detention Center. They
17 were going to interview Mr. Fullbright and then possibly
18 escort Mr. Fullbright to several locations.

19 Q And why -- How did that come about?

20 A Apparently, Detective Beusse had spoken to Mr.
21 Fullbright the day before and he had given him
22 information where certain items of evidence were located
23 and Detective Beusse and Detective Gebing were going to
24 interview him, but Detective Gebing couldn't devote the
25 entire day to ride him around and so Detective Beusse

PROFFERED EXAMINATION OF DANNY BARTON

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1 got me to assist him, to ride with him.

2 Q Okay. So, on October 29, 2009 there were actually three
3 investigators present during the second segment when you
4 advised him of his rights?

5 A Yes, ma'am.

6 Q And you actually witnessed the defendant sign the
7 Advisory of Rights form?

8 A Yes, ma'am.

9 (Ms. Huey hands Mr. Robinson a document)

10 Q Mr. Barton, I am going to show you what's now been
11 admitted as State's Exhibit 3, previously, from the
12 Jackson/Denno hearing. If you could take a look at
13 that. Is that your signature on that Advisory of Rights
14 of Rights form?

15 A Yes, ma'am.

16 Q And what does that indicate?

17 A It means I was a witness of this form, going over it
18 with Matthew Fullbright.

19 Q It's your understanding that he waived those rights and
20 he wished to give a statement?

21 A Yes, ma'am.

22 Q And were you a witness to that entire event?

23 A Yes, ma'am.

24 Q Now, there has been previous testimony about a written
25 statement, which again, was admitted in the previous

1 Jackson/Denno hearing, but additionally, there was a
2 question of a drawing of a hammer. What, if anything,
3 can you speak to about that?

4 A During the interview, Mr. Fullbright made mention of a
5 hammer and Investigator Beusse asked him if he would
6 make a sketch of the hammer and Mr. Fullbright did so.

7 Q And again, it was your role, you were a witness and then
8 to accompany Mr. Fullbright and Investigator Beusse to
9 look for or locate evidence later on that day?

10 A Yes, ma'am.

11 (Ms. Huey shows Mr. Robinson a document)

12 MR. ROBINSON: I object to this, Your Honor. I am not
13 exactly sure who ---

14 THE COURT: Could you speak up, please, sir?

15 MR. ROBINSON: Your Honor, I object to lack of foundation
16 and I am not exactly sure who drew this. I would like more
17 explanation before it goes into evidence in this case.

18 MS. HUEY: I am just showing it to him, Judge.

19 THE COURT: Okay. I will note your objection and
20 subject it to being removed.

21 Q All right. Mr. Barton, let me show you what has been
22 marked State's Exhibit 5. If you could take a look at
23 that, please. (Hands document to witness) And do you
24 recognize that item?

25 A Yes, ma'am.

PROFFERED EXAMINATION OF DANNY BARTON

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- 1 Q And how are you able to recognize that?
- 2 A It is the hammer that Mr. Fullbright drew during the
- 3 interview at the Detention Center.
- 4 Q Okay, and what, if anything, indicates that is the
- 5 sketch that Mr. Fullbright drew?
- 6 A Detective Beusse asked Mr. Fullbright to initial it
- 7 after he drew it and these are the initials he left.
- 8 Q And can you make out his initials on that sheet?
- 9 A No, ma'am.
- 10 Q Okay, but you were a witness to this event and you
- 11 actually saw the defendant actually draw this picture of
- 12 the hammer? Is that correct?
- 13 A Yes, ma'am.
- 14 Q And then initial it or scribble or however you want to
- 15 call it?
- 16 A Yes, ma'am.
- 17 Q And you witnessed the entire event. Is that true?
- 18 A Yes, ma'am.
- 19 Q And again, this after the Advisory of Rights form had
- 20 been gone over and he wanted to waive his rights and
- 21 give a statement?
- 22 A Yes, ma'am.
- 23 Q This was right after the second written statement. Is
- 24 that true?
- 25 A Yes, ma'am.

1 Q Okay. At this time, Your Honor, we would seek to enter
2 State's 5.

3 THE COURT: Let me ask, for my memory. The second
4 witness statement was the one the defendant signed?

5 MS. HUEY: Yes, sir.

6 THE COURT: All right. I'll be glad to hear from you,
7 Counsel.

8 MR. ROBINSON: As far as my objection, Your Honor, it
9 would be the same objection I made previously, that this is,
10 obviously, not his signature. That is my objection to that.

11 THE COURT: I overrule your objection. I find Exhibit
12 No. 5 was the result of a free and voluntary statement that
13 was given to, given by the defendant after he had waived his
14 Miranda. He made a knowing and intelligent waiver of his
15 Miranda Rights as I found at the previous Jackson/Denno
16 hearing for the reasons set forth, therein. Okay?
17 Therefore, it is admitted.

18 (Whereupon, a drawing of a hammer is admitted as State's
19 Exhibit No. 5, over objection by the defense)

20 Q Just a few more questions in follow up, Mr. Barton.

21 What, if anything else, did he indicate in terms of the
22 description of the hammer?

23 A He did the colors of it.

24 Q And what were those colors?

25 A The handle ---

PROFFERED EXAMINATION OF DANNY BARTON

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1 THE COURT: Just one second. Speak a little slower. I
2 am having a hard time hearing. Would you get a little bit
3 closer to the microphone, please, sir?

4 A He indicated the colors that the hammer would be. He
5 indicated the handle would be black, the neck of the
6 hammer would be yellow, and with a metal hammer head.

7 Q Now, after you all were done with the defendant in terms
8 of the written statement, what was your next course of
9 action?

10 A Detective Beusse and myself signed Matthew Fullbright
11 out of the Detention Center and escorted him to a couple
12 of locations in Anderson County.

13 Q And again, he was still under the effect of the Miranda
14 from the jail. Is that correct?

15 A Yes, ma'am.

16 Q And at any time did he ask for an attorney?

17 A No, ma'am.

18 Q And at any time did he want to stop?

19 A No, ma'am.

20 Q And how long do you think y'all were with him on the
21 29th?

22 A Pretty much all day, I would think. Until that
23 afternoon, about three or four o'clock.

24 Q And so, what did y'all do?

25 A First, we went to 201, a wooded area beside 201 Blair

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

1 Mill Road. Mr. Fullbright indicated there would be
2 jewelry and money buried next to a tree in this wooded
3 area. I drove and went down to 201, but could not find
4 anything.

5 Q And where did he indicate that money and jewelry had
6 come from?

7 A From the robbery of the Statons.

8 Q And were you able to locate anything as a result of
9 that?

10 A No, ma'am.

11 Q Where else did y'all go to, if anywhere?

12 A After we left there, we went to a property off of
13 Monitor Drive where Mr. Fullbright escorted us to a
14 swampy pond area and gave us directions where there was
15 a hammer thrown that was used in this incident.

16 Q That he claimed to have been used in this incident? Is
17 that what you said?

18 A Yes, ma'am.

19 Q And at that time, did you locate a hammer?

20 A No, ma'am.

21 Q And was there any reason behind it?

22 A The area he said he threw it in was inside a swampy pond
23 and we notified divers that went down there at a later
24 time.

25 Q Did he say anything else to y'all that day other than

PROFFERED EXAMINATION OF DANNY BARTON

33

1 pointing places out to you?

2 A No, ma'am.

3 Q Anything other than what he had gone into in his
4 previous written statement?

5 A No, ma'am.

6 Q Okay. And so, what did y'all do when this was done?

7 A We escorted him back to the Detention Center.

8 Q And how did you leave things that day?

9 A At the Detention, we signed him back in and there was a
10 -- He had also indicated there were items buried and
11 left in McCormick, South Carolina, and we told him we
12 would be coming back to take him down there to show us
13 where those items were.

14 A And did y'all make plans to do that?

15 A Yes, ma'am.

16 Q And when did y'all do that?

17 A The next day.

18 Q And then did you go back, then, to jail on October 30th?

19 A Yes, ma'am.

20 Q And what was your procedure once you went back to the
21 jail to speak with Mr. Fullbright?

22 A It was myself and Detective John Williams checked Mr.
23 Fullbright out of Detention Center. Once we got him in
24 the car, I advised him of his Miranda rights. He waived
25 his rights and we escorted him to McCormick.

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

1 Q Okay. I am going to show you what has been marked as
2 State's 6, Mr. Barton. If you could take a look at this
3 please? (Ms. Huey hands document to the witness) Do you
4 recognize that?

5 A Yes, ma'am.

6 Q Okay. And how are you able to recognize that?

7 A It has my signature on it.

8 Q And is this the Advisory of Rights form that you went
9 over with the defendant on October 30, 2009?

10 A Yes, ma'am.

11 Q Can you tell me what your general procedure is when you
12 go through the Advisory of Rights form, normally, with a
13 Defendant?

14 A Normally, I put their name, address, date of birth, and
15 all their information, how far they went in school,
16 whether they can read and write. I fill out the top
17 portion of the form that has the location, date, and
18 time and I ask the defendant to read the first two,
19 just to prove that he can read, to me. Then, I read the
20 remaining three lines to him. Once I do all those, I
21 ask him if he understands everything. He says yes or no
22 and if he does understand it, I ask him to initial the
23 first and second lines just to show me that he read
24 those out loud for me and to sign the bottom if he
25 understands everything.

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1 Q Okay. And that was what happened in this particular
2 case?

3 A Well, after he read the first two out loud, then I went
4 through the second -- the next three, and I asked him to
5 initial the first two and to sign on the bottom and for
6 some reason he initialed the first, second, fourth and
7 fifth sections of the Miranda Form. I actually was
8 sitting behind him so when he was initialing it, I
9 couldn't see if he was initialing every one. He handed
10 it back to me and I told him he only had to initial the
11 first, two but it wasn't any problem and to just sign
12 it.

13 Q And backing up, where did you actually mirandize him and
14 go through the Advisory of Rights form?

15 A Inside the vehicle outside the Detention Center.

16 Q Okay. Once you checked him out of the Detention Center,
17 you then put him in the patrol car. Is that correct?

18 A Yes, ma'am.

19 Q He was in the front seat, did you say?

20 A Yes, ma'am. The front passenger seat.

21 Q And you were sitting behind him?

22 A Yes, ma'am.

23 Q You read his Miranda Rights to him at that time?

24 A Yes, ma'am.

25 Q And was he handcuffed at that time?

- 1 A Yes, ma'am.
- 2 Q And so, how was he able to sign the form?
- 3 A He had his hands cuffed in front of him.
- 4 Q And so, you went through the form with him and of his
- 5 own volition, did he initial the other lines on the
- 6 Advisory of Rights form?
- 7 A Yes, ma'am. The fourth and fifth.
- 8 Q Even though you had not asked him to do those?
- 9 A Yes, ma'am.
- 10 Q What was his demeanor like during this process, Mr.
- 11 Barton?
- 12 A He was fine. He was talking.
- 13 Q Did he appear to be under the influence of anything?
- 14 A No, ma'am.
- 15 Q Had his demeanor changed from the day before when you
- 16 met with him all day?
- 17 A If anything, he was more talkative.
- 18 Q Did he seem to understand his rights?
- 19 A Yes, ma'am.
- 20 Q Were any threats or promises made to get him to sign the
- 21 form or to give a statement?
- 22 A No, ma'am.
- 23 Q And you didn't ask him to make a written statement or
- 24 anything as a result of this?
- 25 A No, ma'am.

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1 Q Any intimidation or threats?

2 A No, ma'am.

3 Q And in your opinion, his waiver of rights was voluntary?

4 A Yes, ma'am.

5 Q He indicated that he was willing to speak with you. Is
6 that correct? Without an attorney?

7 A Yes, ma'am.

8 MS. HUEY: At this time, the State would move State's
9 Exhibit 6 into evidence.

10 THE COURT: Mr. Robinson?

11 MR. ROBINSON: The same objection as before, Your Honor.
12 Mr. Fullbright says this was not his signature. That is my
13 objection.

14 THE COURT: Okay. I overrule your objection.

15 (Whereupon, an Advisory of Rights form is entered into
16 evidence as State's Exhibit No. 6, over Mr. Robinson's
17 objection.)

18 Q And then, Mr. Barton, after you went through the
19 Advisory of Rights Form then what did you all do with
20 the defendant?

21 A Myself and Detective Williams escorted him to an area on
22 Asaville School Road, I believe, where he pointed us to
23 a section where his cell phone had been thrown out of a
24 vehicle into a wooded area. Once he showed us that it
25 happened in this area, myself and Detective Williams,

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- 1 along with Mr. Fullbright, walked up and down the side
2 of the road checking through the areas that he said it
3 was thrown. We weren't able to locate anything.
- 4 Q And again, what was the significance of the cell phone?
- 5 A It was a cell phone that was involved in the Statons'
6 murder.
- 7 Q But y'all did not locate anything at that time?
- 8 A No, ma'am.
- 9 Q But he pointed the area out?
- 10 A Yes, ma'am.
- 11 Q And where else did y'all go?
- 12 A After we finished on Asaville School Road, we drove down
13 to McCormick, South Carolina. Mr. Fullbright stated
14 there was a blue tarp with some evidence items wrapped
15 inside it. He told us it would be on a field service
16 road in McCormick next to a Pump Wash Station. Myself,
17 Detective Williams, and Mr. Fullbright, rode to the area
18 in McCormick and spent the remainder of the afternoon,
19 almost, looking for the area of this pump station.
- 20 Q And what was the significance of this blue tarp and
21 other items?
- 22 A It was where he stated they had cleaned up after the
23 Staton murders.
- 24 Q And so this was where some of the items from the Staton
25 murders was housed?

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- 1 A Yes, ma'am.
- 2 Q At this pump station in McCormick?
- 3 A Yes, ma'am.
- 4 Q And were you later able to locate this pump station?
- 5 MR. ROBINSON: Judge, could you ask him to speak into
- 6 the microphone?
- 7 THE COURT: Yes, sir. How about sliding up and speaking
- 8 into the microphone, please.
- 9 Q And were you later able to locate this pump station?
- 10 A No, ma'am.
- 11 Q And then where else, if anywhere, did you go?
- 12 A After we left McCormick, we went back to the pond on
- 13 Monitor Drive and escorted Mr. Fullbright back over to
- 14 the pond area where he showed us where the entrenching
- 15 tool had been thrown that was involved in the Staton
- 16 murders.
- 17 Q And Monitor Drive. Where is that located?
- 18 A Off the 29 By-pass in Anderson County.
- 19 Q Okay. And do you know who owns that property?
- 20 A I believe it was owned by Mr. Fullbright's father,
- 21 Marshall Fullbright.
- 22 Q And as a result of your communications with Mr.
- 23 Fullbright at Monitor Drive, were you able to locate
- 24 anything at that time?
- 25 A Not at that time.

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1 Q And how long do you think you were together with Mr.
2 Fullbright that day?

3 A I think it was all day. We took him back to the jail
4 around 5:00 or 6 o'clock that afternoon.

5 Q And during this lengthy time together, was he given an
6 opportunity to have a break?

7 A Yes, ma'am.

8 Q In terms of using the bathroom?

9 A Yes, ma'am.

10 Q Did you get something to eat?

11 A Yes, ma'am.

12 Q Something to drink?

13 A Yes, ma'am.

14 Q At anytime during this lengthy time together, did he ask
15 for an attorney?

16 A No, ma'am.

17 Q Or want to stop the interview?

18 A No, ma'am.

19 MS. HUEY: That's all I have, Judge.

20 THE COURT: Mr. Robinson?

21 MR. ROBINSON: If it please the Court.

22 PROFFERED CROSS EXAMINATION OF DANNY BARTON BY MR. ROBINSON

23 Q Officer, did Mr. Fullbright -- Isn't it true that
24 Mr. Fullbright advised you he was showing you where Mr.
25 Irving Ramirez said some things were hidden? Is that

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1 not so?

2 A No, I don't believe so. I believe he was showing us
3 where he had firsthand knowledge.

4 Q So, you never had the name Irving Ramirez mentioned by
5 any of the officers, Mr. Buesse, or anyone, in your
6 presence?

7 A Yes, sir. He was mentioned.

8 Q Okay. He was actually the main suspect before Mr.
9 Fullbright was. Wasn't he?

10 A I am not aware of that.

11 Q You are not aware of that? Did you know that Mr.
12 Ramirez signed a statement prior ---

13 MS. HUEY: Objection, Your Honor. This doesn't go to the
14 Jackson v. Denno hearing.

15 THE COURT: I will allow it for the purposes of this
16 hearing. Go ahead.

17 Q I'm just curious. So, you were there the entire time.
18 How many officers were in the car at the time you went
19 down to McCormick?

20 A Two.

21 Q Two? You and Detective Williams. Was any of this
22 recorded, at all, on videotape?

23 A No, sir.

24 Q And you started in the morning around what time?

25 A It was after 9:00. The Miranda form says 9:50.

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- 1 Q And you stayed out to about 5:00 or so?
- 2 A Yes, sir.
- 3 Q And then brought him back?
- 4 A Yes, sir.
- 5 Q What was the date on that again?
- 6 A October 30, 2009.
- 7 Q Okay. And the statement, the statement that was
- 8 prepared for Mr. Fullbright, you didn't prepare that
- 9 statement. Did you?
- 10 A No, sir.
- 11 Q Do you know who that was prepared by?
- 12 A I believe it was prepared by Detective Gebing.
- 13 Q And who was in the car that day with you?
- 14 A Myself and Detective Williams. Which day are you
- 15 speaking of? Are you speaking of the day we went to
- 16 McCormick?
- 17 Q Yes, sir.
- 18 A Myself and Detective John Williams.
- 19 Q And when you went out to the different places where the
- 20 cell phone was, or where it allegedly was, who was in
- 21 the car with you?
- 22 A Detective John Williams.
- 23 Q And at no time was it ever mentioned to you by Mr.
- 24 Fullbright that he was showing you where Mr. Ramirez,
- 25 Irving Ramirez, had told him about it? He was never

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1 mentioned?

2 A Not that I recall.

3 Q And as far as the form that you talked about in terms of
4 getting the signature of Mr. Fullbright, did you witness
5 Mr. Fullbright signing the Waiver of Rights?

6 A I was seated right behind him.

7 Q So, did you see him?

8 A It was only three of us in the car. I handed him the
9 form in the car and he handed it back to me and it was
10 signed and Detective Williams didn't sign it.

11 Q Okay. Did you actually see him sign it. I know you
12 were in the car with him, but were you actually sitting
13 there watching him?

14 A No, sir.

15 Q Okay. Now, the day you went out to look for where the
16 cell phone was and look around that area and where the
17 hammer was thrown and so forth, what day was that?

18 A That would have been on October 29th.

19 Q And when did you pick up Mr. Fullbright that morning or
20 that day?

21 A It was that afternoon some time.

22 Q And how long did you keep him out?

23 A Just a few hours.

24 Q And Mr. Fullbright, at that time, to your knowledge,
25 never mentioned Irving Ramirez telling him where these

- 1 things were?
- 2 A Not that I recall. No.
- 3 Q Regarding the phone, the phone allegedly left by the
- 4 side of the road. It is your testimony that Mr.
- 5 Fullbright never mentioned to you he was showing you
- 6 where Mr. Ramirez had thrown this phone?
- 7 A I don't recall if he said he threw it or Ramirez threw
- 8 it, but he was giving first hand knowledge where the
- 9 phone had been thrown.
- 10 Q That someone had thrown the phone out?
- 11 A Yes, sir.
- 12 Q But you don't know if it was him or Mr. Ramirez.
- 13 Correct?
- 14 A No, sir.
- 15 Q Besides the statement that you have there -- excuse me,
- 16 the warnings and so forth, did you prepare any reports
- 17 on this subject?
- 18 A No, sir.
- 19 Q Did you take reports or anything like that?
- 20 A No, sir.
- 21 Q When you signed him out of the jail, did you sign him
- 22 out on a form or anything like that?
- 23 A Yes, sir.
- 24 Q Did you did give a copy of that to the Solicitor's
- 25 office?

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1 A I don't have that. That is a form for the Detention
2 Center and it stays at the Detention Center.

3 Q What is that report called?

4 A I believe it's a, some type of custody form. A
5 temporary custody form.

6 Q And how many times did you do that? Twice, three times?

7 A Twice, I believe.

8 Q So, each time you signed him out, they would have a
9 record of that?

10 A They should.

11 Q And you went out with him which day?

12 A October the 29th and the 30th.

13 Q And those reports should be at the Detention Center. Is
14 that correct?

15 A They should.

16 Q Thank you.

17 MR. ROBINSON: That's all I have, Your Honor.

18 THE COURT: Redirect?

19 MS. HUEY: Just a few, Your Honor.

20 PROFFERED REDIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

21 Q Investigator Barton, you were present for the second
22 written statement of Matthew Fullbright?

23 A Yes, ma'am.

24 Q And in that statement, are you aware that he was
25 implicating Irving Ramirez, as well?

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1 A Yes, ma'am.

2 Q Okay. So, when you signed Mr. Fullbright out of jail on
3 October 29th and also on October 30th, the places he was
4 taking you and the information that he was giving, did
5 that incorporate both of their involvements in this
6 incident?

7 A As far as I know, I thought it did.

8 Q Okay. I have just one more question. Detective Barton,
9 at the time of riding out to Asaville School Road with
10 the defendant ---

11 A Yes, ma'am.

12 Q --- and him showing you where the cell phone was thrown
13 out, did he say that he threw the cell phone out himself
14 or that he witnessed Irving Ramirez throw the cell phone
15 out?

16 A I don't recall. It was just so ---

17 Q Would you like to read your supplemental report on that?

18 A Yes, ma'am. Actually, I have it right here. (Witness
19 looks at document) He told us that Ramirez had thrown
20 the cell phone into the woods.

21 Q Okay. And in terms of throwing the hammer out at
22 Monitor Drive.

23 A Yes, ma'am.

24 Q What did he say in reference to that?

25 A (Looks at document) All I have here is that he showed us

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1 where a hammer was disposed. I don't recall who he said
2 threw it.

3 Q But again, it was your understanding that he was giving
4 you firsthand knowledge of this event?

5 A Yes, ma'am.

6 Q Even if he were not the one to do it, he witnessed
7 someone do it. Is that correct?

8 A Yes, ma'am. It was a large pond area and he pointed out
9 the exact location of the pond and exactly the way the
10 hammer was thrown.

11 Q And was the hammer eventually located at the pond?

12 A I believe so. Yes.

13 Q And how did that come about?

14 A After Detective Beusse and I got a location on the
15 hammer, where Mr. Fullbright said it was thrown, we
16 notified our divers and they went out and I believe they
17 found the hammer.

18 Q Okay. And what then happened at the pond?

19 A As far as I know, they had to drain the pond.

20 Q Okay. And so, in terms of the next day and riding
21 around McCormick, what, if anything, did the defendant
22 tell you about the blue tarp in McCormick?

23 A As far as I recall, I believe he said that's where they
24 changed clothes at, he and Ramirez had changed clothes
25 at this location and they wrapped their clothes up in a

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1 blue tarp and left them in that area.

2 Q Okay. And again, he's implicating both of them. Is
3 that correct?

4 A Yes, ma'am.

5 Q He had firsthand knowledge of the event.

6 A Yes, ma'am.

7 Q Okay. And then when you went back to Monitor Drive
8 again, on the 30th ---

9 A Yes, ma'am.

10 Q --- what, if anything, did he indicate about the
11 entrenching tool up there?

12 A He told us that it had been thrown in a, like a brush
13 area, and if we were able to find that brush area, we'd
14 find the entrenching tool. I don't recall if he said he
15 threw it or Ramirez threw it, but it's the same thing as
16 the hammer, he had firsthand knowledge of where it was
17 thrown.

18 Q And to backtrack, the day before, the 29th, did he talk
19 about going to Blair Mill Road, is that right, to look
20 for money and jewelry?

21 A Yes, ma'am.

22 Q From the incident?

23 A Yes, ma'am.

24 Q And again, what, if anything, did he do to implicate ---
25 what did you indicate from that?

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1 A He was telling us that some money and jewelry would be
2 stashed underneath a tree along the side of a wooded
3 area and, the same, he had firsthand knowledge of where
4 these items were at.

5 Q Okay. And that these items came from the robbery of the
6 Statons?

7 A Yes, ma'am.

8 Q And that was October 23, 2009?

9 A Yes, ma'am.

10 MS. HUEY: That's all I have, Judge.

11 THE COURT: Anything further, Mr. Robinson?

12 MR. ROBINSON: Yes, sir.

13 PROFFERED RECROSS EXAMINATION OF DANNY BARTON BY MR. ROBINSON

14 Q Earlier in the proceedings you talked about some items.
15 Were these items ever found?

16 A Not that I know of.

17 Q In terms of the hammer, or that tool, was it ever found?

18 A I'm not sure.

19 Q In terms of the actual statements, you've seen a copy of
20 the statements. Were you at the Jackson v. Denno
21 hearing?

22 A No, sir.

23 Q Did you see the copy of the statements?

24 A No, sir. Other than at the jail.

25 Q I'm sorry?

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1 A Other than that day at the jail.

2 Q Did you see him sign the statement?

3 A Yes, sir.

4 Q Were you in the room with him at the time?

5 A Yes, sir.

6 Q You saw him sign the statements?

7 A Yes, sir.

8 MR. ROBINSON: One second, Your Honor?

9 THE COURT: Yes, sir.

10 MR. ROBINSON: That's it. Thank you, Your Honor.

11 THE COURT: Let me make sure I understand the testimony.

12 On the 29th of October, the defendant allegedly signed, or

13 signed, a Notice of Rights form. Then, after signing that

14 form, he was taken out to go look at various locations for

15 most of the day. Is that correct?

16 MS. HUEY: Yes, sir, Your Honor.

17 THE COURT: Okay. And the next day the defendant went to

18 areas, being a wooded area where money and jewelry were

19 buried under a tree, to Monitor Drive where there was a

20 hammer. Then, the next day he was re-Mirandized and executed

21 an Advisory of Rights form and then he was taken to McCormick

22 and also back to the pond again for most of the day. Is that

23 correct?

24 MS. HUEY: Yes, sir.

25 THE COURT: Okay. And what is your motion, please,

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1 ma'am?

2 MS. HUEY: Your Honor, it's our motion that we would like
3 Mr. Barton to be able to testify to the fact that on October
4 29th -- and I'm going to try to get the dates correct -- On
5 October 29th, he and Detective Beusse, after the second
6 written statement had been taken and the Advisory of Rights
7 form given and that drawing of the hammer, they checked him
8 out of jail and the defendant, essentially, directed them
9 what places to go to. He directed them to a wooded area on
10 Blair Mill Road where, supposedly, some money and jewelry
11 from the Staton robbery had been buried. Now, they did not
12 find that there, but they still went by his direction to that
13 location. They also went by his direction to field off of
14 Monitor Drive that was owned by Marshall Fullbright, his
15 father, and he says that the hammer from the incident was
16 thrown in the pond. Subsequently, the pond was drained and a
17 hammer was located a week or so later. The next day, another
18 Advisory of Rights form and witnessed him sign and initial
19 that he wanted to cooperate with the police and again, show
20 them some other locations at his direction, Your Honor. So
21 they went to Asaville School Road in Anderson County where
22 the defendant claimed that Irving Ramirez threw a cell phone
23 from the incident in a wooded area over there. They tried to
24 locate it in that area at the defendant's direction. They
25 went to McCormick trying to locate this Pump Wash Station

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1 where the defendant claims that he and Mr. Ramirez hid some
2 bloody clothes, some of the evidence from the Staton robbery
3 and murder. They ultimately were not able to locate that
4 pump station, but again, this was at the defendant's
5 direction. And then finally, Your Honor, they went back to
6 Monitor Drive again looking for an entrenching tool at the
7 defendant's direction and that could not be located, but the
8 defendant was essentially telling them where to go to try and
9 recover evidence from the Statons' robbery and murder.

10 THE COURT: Okay. Mr. Robinson? Anything?

11 MR. ROBINSON: Not a thing, Your Honor.

12 THE COURT: Okay. Let me just say this. I previously
13 found that the statement on the 29th was freely and
14 voluntarily given and I found that by a preponderance of the
15 evidence and since that was a continuous transaction between
16 them, for lack of a better term, the defendant and the State
17 in this matter, there was no duty to re-Mirandize him on the
18 29th when they took him out after he signed this confession
19 or this statement. Again, the next day, the defendant was
20 again properly Mirandized and from the totality of those
21 circumstances, by the preponderance of the evidence, he gave
22 free and voluntary statements and freely and voluntarily
23 signed the Advisory of Rights form; he was talkative, there
24 was no coercion, there were no promises of leniency, no
25 threats, the defendant had not been coerced for a length of

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1 time at that point and he was old enough to know what he was
2 doing. So, I am going to find that the October 30th
3 statements and the Notice of Rights Forms he signed were
4 freely and voluntarily done so, by the preponderance of the
5 evidence. The jury will have to make a determination as to
6 the voluntariness of all the statements made in this matter
7 beyond a reasonable doubt. That being said, anything else
8 from the State at this stage?

9 MS. HUEY: I'm sorry. Could you repeat the last
10 sentence?

11 THE COURT: I am saying that that issue will be put to
12 the jury and they will have to make their determination if
13 those are voluntary statements beyond a reasonable doubt.

14 MS. HUEY: Yes, sir. Nothing further, Your Honor.

15 THE COURT: You may step down. All right, Mr. Robinson,
16 do you have any matters that we need to hear at this point?

17 MR. ROBINSON: I do, Your Honor. First off, last
18 Thursday we met on the third floor and the issue that I had
19 brought before the Court was the issue of the playing of the
20 arraignment video to the jury. The State had a case that
21 they had brought to the Court in chambers the previous week-
22 end. I handed the Court a case, I believe the Gardner case,
23 but Your Honor, I made the distinction between the two cases,
24 and that is, the case the Solicitor presented to the court
25 was a bond hearing. He had not talked with an attorney

1 before the hearing, which was an arraignment, and whether or
2 not he knowingly and voluntarily gave up his right to counsel
3 in that case. That's the question I had. That is why I
4 think that is a problem with playing that in front of a jury,
5 because one thing, that is a bond matter and there is no
6 purpose, is very prejudicial in this matter. There is no
7 indication other than a checked box, like a highlighted box.
8 We can't find any transcript of this hearing.

9 THE COURT: I'm sorry. What was it that you can't find
10 any evidence of?

11 MR. ROBINSON: There is no evidence that his rights to an
12 attorney were knowingly and voluntarily given. There is no
13 transcript, I don't believe, of that and, too, Your Honor,
14 there was also a different arraignment that was done
15 regarding the double murder part of it. The arraignment that
16 we're talking about here was as to the conspiracy part of it.
17 He had a previous arraignment with the double murder case in
18 which he denied his responsibility. That is not before the
19 Court, but I am just making the Court aware of that, because
20 if there is a tape out there or something out there to that
21 effect, but we have no indication or anything the State has
22 given to us, that a waiver of rights to counsel was
23 voluntarily given and as a result of that, I believe it is
24 distinguishable and should be suppressed in this case.

25 THE COURT: Thank you. All right. Ms. Huey?

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1 MS. HUEY: Your Honor, as previously argued, I do believe
2 State v. Kirton is on point, in that, obviously, it did not
3 even matter if he was Mirandized if not subject to custodial
4 interrogation, but if the Court is inclined to go that way,
5 Your Honor, we do have a checklist which has been provided to
6 you and Mr. Robinson, that shows the defendant was advised of
7 his rights. I can make that a part of the record, Your
8 Honor, but again, I don't think that that is necessary under
9 State v. Kirton.

10 THE COURT: May I see that form, please?

11 MR. ROBINSON: Your Honor, may I respond?

12 THE COURT: Yes, sir. Sure.

13 MR. ROBINSON: Your Honor, this is the issue inherent and
14 it is completely distinguishable from the Kirton case, that
15 was a bond hearing. First, in his arraignment, we are not
16 talking about Miranda rights, we are talking about the sixth
17 amendment and rights to counsel in this case. And what Ms.
18 Huey sent me is simply a computerized check, basically, on
19 what a judge would fill out. That's all it is, basically,
20 and whether or not it was knowingly and voluntarily given,
21 that is in question, because it is a computerized piece of
22 paper. There is no indication that is my client's signature
23 or anything to indicate that he was aware or equated that
24 with waiving his right to counsel. That is a separate issue
25 in this case, because one, this case is distinguishable from

1 the Kirton case, and two, they are regarding two different
2 things. We are not arguing Miranda rights, we are arguing
3 the right to counsel, which is totally different.

4 THE COURT: Well, I don't know. You said that it is a
5 question of whether or not the defendant's statement and the
6 things he said was knowingly and voluntarily made. That is
7 Miranda.

8 MR. ROBINSON: No, the question was, Your Honor, ---

9 THE COURT: I know that it's whether he knowingly and
10 intelligently waived his right to counsel. I understand
11 that, but the way you phrase it, it does bring in the Miranda
12 aspect.

13 MR. ROBINSON: Yes.

14 THE COURT: Okay. Now, may I see that, Ms. Huey? Would
15 you look at that Mr. Robinson?

16 MR. ROBINSON: Ms. Huey has shown it to me, Your Honor.

17 THE COURT: Okay. (Ms. Huey hands document to the
18 Judge.) All right, Ms. Huey. I am going to overrule your
19 objections, Mr. Robinson. I do believe this is not -- The
20 Gardner case is distinguishable from this case. I think it
21 is controlled by State versus Kirton and it is a Miranda
22 question. Therefore, I am going to allow that evidence in as
23 long as there is a properly laid foundation and is properly
24 redacted, as well.

25 MR. ROBINSON: I still have an objection to it, Your

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1 Honor. I think it is highly prejudicial as well.

2 THE COURT: I understand that. All right. Anything
3 further, Mr. Robinson?

4 MR. ROBINSON: We do have an issue regarding, Your Honor,
5 venue, in this case.

6 THE COURT: Venue?

7 MR. ROBINSON: Venue, Your Honor. Correct.

8 THE COURT: You want me to -- Okay, I will hear you.

9 MR. ROBINSON: I can't make it prior to the jury being
10 sworn. I have to do it now, Your Honor. This is different
11 on ---

12 THE COURT: Let me let you know, for the record, that on
13 the strike list that you did not use all your strikes that
14 were available to you and you don't have a venue argument at
15 this point, but I am going to let you make it for the record.
16 Okay, sir?

17 MR. ROBINSON: I understand. I read the cases, Your
18 Honor, and I have to use them all and I didn't get to that
19 point, but Your Honor, this is different from your typical
20 case, because we have the prosecutor putting on, basically,
21 telling the cameras and telling the audience these statements
22 of Mr. Fullbright that were from the Jackson v. Denno
23 hearing. That is very unusual for a potential jury panel to
24 hear something like that. Secondly, you have an arraignment
25 being played. That is very unusual for a jury to hear what,

1 and you will use that as you listen to the evidence in this
2 case and you will use that in your deliberations, your common
3 sense coupled with the fact that the defendant led
4 investigators to JoAnn Staton's body. She had been out there
5 for over five days in the elements and no one had discovered
6 her, and yet, he led police officers there late at night in
7 the pitch black dark. He led them to her body and then,
8 ultimately, he confessed to being a part of these murders and
9 robberies. And again, the evidence will corroborate that.

10 Ladies and Gentlemen, the defendant is guilty, beyond a
11 reasonable doubt, of the murders and armed robberies of Homer
12 and JoAnn Staton. Thank you.

13 THE COURT: Mr. Robinson, does the Defense wish to have
14 an opening statement?

15 MR. ROBINSON: We do.

16 THE COURT: Okay, sir.

17 OPENING STATEMENT - MR. ROBINSON

18 Good afternoon. My name is Scott Robinson and as the
19 Judge introduced me a few minutes ago, I am the attorney for
20 Mr. Fullbright. Matthew Fullbright is innocent. I want to
21 kind of explain to you, it sounds, if you only listen to the
22 Solicitor's side of things, it sounds pretty bad, but let's
23 kind of move away from that a little bit.

24 There was a football game on that Friday, October 23rd,
25 2009. B-H-P was playing Seneca. Matt was at home. He got

1 home around 3:30 or so from work. He cashed his check that
2 day at Eddie's Quick Mart or Mini-Mart. He had \$225.00. He
3 got a couple hundred dollar bills and some small change. He
4 went home and went to bed that night and the next morning
5 woke up and went to Walmart and got some clothes and got
6 other items, and so forth. He used his two one hundred
7 dollar bills and six small bills.

8 This originally started in this case when Matt went to
9 the Law Enforcement Center on the 28th and he was talking to
10 them. They wanted to talk to him about Eddie Ramirez and
11 this case. That was the suspect they had. They wanted to
12 know if he had any information on who this Ramirez guy was,
13 because there was an investigation and Mr. Ramirez was a
14 suspect. Matt said he knew Mr. Ramirez, and so forth, that
15 Mr. Ramirez had bragged that the cow pasture would be a good
16 place if anyone wanted to do something bad, like hide bodies
17 and so forth. Mr. Ramirez is also actually an ex-police
18 officer. He worked in Pennsylvania as a cop.

19 Ladies and Gentlemen, when Matt went to the Police
20 Department or the Law Enforcement Center, he thought he was
21 going there to help the police. What happened instead was,
22 the police turned around after he cooperated with them and
23 had shown them where Mr. Ramirez had talked to him about
24 where Mr. Ramirez had done certain things, because they
25 wanted him to help them with that, but then they turned it

1 around against him and charged him with murder.

2 Now, the Solicitor talks about these confessions and I
3 will put those in quotation marks in this case. These
4 "confessions" were not given by Matt. You will see, the
5 evidence will show, that is not Matt's signature. See, in
6 this case, and you may have read or heard about these kinds
7 of things in the newspapers or on the internet. This is a
8 case of extreme overreaching by law enforcement. What they
9 did was, they got him in there for the purpose of getting
10 information on Irving Ramirez and then they turned it around
11 against him and when he wouldn't cooperate and give them a
12 statement implicating himself, they went ahead and did it for
13 him.

14 This is a case where, as the Prosecutor said a second
15 ago, there is no physical evidence. She's got no fingerprints
16 or anything like that. There are no fingerprints or anything
17 taken from the crime scene, but Ms. Staton had hair in her
18 hand, that will be testified to by SLED. It wasn't Matthew
19 Fullbright's hair.

20 Now, Matthew Fullbright, at the time, was 27 years old.
21 He went to B-H-P High School. He didn't graduate, he went to
22 the 9th grade. He had to work for his Dad, Marshall
23 Fullbright, but he went back at a later point and got his
24 G-E-D. He is an electrician by trade.

25 The Solicitor is going to try to show that the motive in

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1 this case was money. What the evidence will show is that
2 Matt had money. He got it from his Dad. He paid for his
3 house that he lived in. He'd paid his rent. His father
4 owned the house. He also got money from different places, as
5 you will see in the testimony where he got money, he got paid
6 for work that he did. There will be a number of people who
7 will come in and testify regarding the work that Matthew has
8 done and the amount of money that he got. He didn't need
9 money.

10 Well, let me tell you about Matt Fullbright. Matt got
11 into something that a lot of young adults in their tweens get
12 into trouble for. He got involved with drugs. And you
13 can't, I can't sit here and say he didn't, because he did.
14 He is a drug abuser. He got into Oxycontin. He got into
15 Meth. He got into Cocaine. But being a drug abuser does not
16 mean you are a killer and that is what the evidence will
17 indicate, because the State has no physical evidence in this
18 case that points to him. They have some statements that they
19 wrote. They wrote. Matt didn't write them, but that they
20 wrote and signed, that they say are confessions. When they
21 got him in on the 28th, the evidence will show that they kept
22 him up for hours and hours, days and days, trying to get him
23 to help them out and do something. When he wouldn't do it,
24 they signed it themselves.

25 In this case, Ladies and Gentlemen, Matthew Fullbright

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1 was a drug abuser, but Matthew Fullbright is not a killer
2 and you are going to see, as the Prosecutor pointed out, the
3 last person that ever had a call, in terms of Mr. Staton, it
4 was Irving Ramirez, not Matt Fullbright. Irving Ramirez.
5 And you will see the phone calls from Irving Ramirez to the
6 Statons. You will also see phone calls from Kenneth Burdette
7 to the Statons. So, just think about it. The evidence is
8 going to show he was in isolation for days and days and hours
9 and hours at the police department.

10 This case is an important case to Matthew Fullbright,
11 his family, the people of Anderson County, and to the people
12 of the United States. Why, you may say. Why is your job so
13 important? The Judge has alluded to it in the opening. That
14 outside of war, in peace time, it is one of the highest
15 duties you can have. I want you to think about your duties
16 and your obligations. Thomas Jefferson said at one point,
17 and I had to write this down so I wouldn't forget it. You
18 may have great memories. I don't. Thomas Jefferson once
19 said that he considered trial by jury as the only anchor yet
20 imagined by man by which a government can be held to the
21 principles of the Constitution. Think about that. Think
22 about that as you apply the law as the Judge gives it to you
23 in this case.

24 This is a case that has no physical evidence, that is
25 fraught with fabrications and lies. If you do that, we ask

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1 you to come back with the verdict of not guilty. Thank you
2 very much.

3 THE COURT: Would you call your first witness, please?

4 MS. HUEY: Yes, Your Honor. The State calls Marlene
5 McClain to the stand.

6 (After being duly sworn by the Clerk of Court, Marlene
7 McClain testified as follows:)

8 CLERK OF COURT: If you will take the witness stand and
9 state your full name and spell your last name for the record,
10 please.

11 MS. MCCLAIN: Marlene Thompson McClain. M-C-C-L-A-I-N.

12 THE COURT: Just one second. Can you hear her okay?

13 (Speaking to the jury) If you would try to speak into the
14 microphone please, Ms. McClain? All right. Excuse me.

15 DIRECT EXAMINATION OF MARLENE MCCLAIN BY MS. HUEY

16 Q Ms. McClain where do you work?

17 A I work at the Anderson County Sheriff's office as
18 Director of Victim's Services.

19 Q And how long have you been working there in that
20 capacity?

21 A Since January of 2005.

22 Q What are some of your duties as the Director of Victim's
23 Services?

24 A We assist our officers and detectives with cases where
25 victims are involved with first responders. Sometimes

1 we go out on the scene to assist family members and
2 victims who have been traumatized. We also follow up
3 with all victims of violent crime to see if we can
4 assist them in obtaining services that might help them.
5 We have a fund that assists with medical bills, with
6 counseling services, with funeral and burial expenses.
7 We accompany victims to arraignment and bond hearings,
8 to Orders of Protection hearings, and we just are there
9 to be that liaison between the victims and the officers
10 and detectives who are investigating their case.

11 Q And did you do so in reference to Homer and JoAnn
12 Staton's family?

13 A I did.

14 Q Okay. I believe you testified that you accompany family
15 members to arraignment hearings and that sort of thing.

16 A Yes, we do.

17 Q And did you do so in this case. Specifically, on
18 November 04, 2009?

19 A I did.

20 (Ms. Huey shows item to Mr. Robinson)

21 MR. ROBINSON: Your Honor, I have a matter to take up
22 outside the presence of the jury.

23 THE COURT: I'm sorry, sir. Could you say that again,
24 please?

25 MR. ROBINSON: I have a matter to take up outside the

1 presence of the jury, Your Honor.

2 THE COURT: Okay, sir. If you would take your jury back
3 to the jury room for just a second, please ma'am?

4 (Jury out at 3:28 p.m.)

5 THE COURT: All right. Just one thing before we get
6 started. The proper objection is, "I have an objection" and
7 then you state the nature of your objection. I am not
8 fussing at you. I am not fussing at anybody. I just want to
9 make sure, because that is my preference. I don't want you
10 to tell me I have a matter to be taken up outside the jury's
11 purview, because that is my call. Okay?

12 MR. ROBINSON: Yes, sir.

13 THE COURT: So, I am not fussing at you. Just do that.
14 It is just my little pet peeve. All right, with that being
15 said Mr. Robinson, would you tell me what the nature of your
16 objection is.

17 MR. ROBINSON: My objection is, this is marked as kind of
18 a foundational kind of evidence, Your Honor. I believe it is
19 from Channel 4, a WYFF 4 video in this case. That is my
20 first objection, as far as foundation goes. They are trying
21 to put it in through her, who was an advocate through
22 Victim's Services who was at the hearing. I don't think
23 that's going to be proper foundation to get this in as
24 evidence since she was just sitting there. I don't know who
25 recorded it or as far as whether the machine was in working

1 order or not. I'm not sure. And I would like to view the CD
2 before the jury gets it to make sure it has been redacted
3 properly. I've had issues in the past with that.

4 THE COURT: Is this the arraignment video?

5 MS. HUEY: Yes, sir, Your Honor.

6 THE COURT: Are you trying to use Ms. McClain to
7 establish foundation?

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

9 THE COURT: What basis could she have to authenticate
10 this tape? She is not an employee of WYFF 4.

11 MS. HUEY: Well, Your Honor, there is a media shield law
12 and so we cannot force someone from WYFF 4 to testify, but in
13 speaking with Ms. McClain, she was present for this entire
14 hearing, and the video, she can verify that it fairly and
15 accurately represents what happened that day on November 4,
16 2009. She even has notes where she attended the arraignment
17 and you can actually see her in a part of the video, as well.

18 THE COURT: Doesn't the foundation have to be that the
19 tape is a true and accurate tape of the proceedings and that
20 it has not been altered or changed other than redacted for
21 purposes of this hearing at the time of that proceeding?
22 Isn't that the proper foundation?

23 MS. HUEY: Yes, sir. The video has been redacted.

24 THE COURT: Sure.

25 MS. HUEY: But she wouldn't speak to that redacted

1 portion, but that that is a fair and accurate representation
2 of the conversation that took place between the defendant,
3 Matthew Fullbright, and Henry Staton during the arraignment
4 proceedings.

5 THE COURT: I will let you proffer it. I'm going to
6 sustain the objection as to Ms. McClain, without prejudice to
7 you building the case for the State, but you are going to
8 have to properly authenticate it. I don't think she is
9 qualified to do so. I know that she is quite good at what
10 she does, but there is no way for her to say ---

11 MS. HUEY: Your Honor, if I could just offer an example.
12 If an officer were to testify to an in-car video, he wouldn't
13 necessarily know that his equipment was in proper working
14 order or that sort of thing, but he could testify that that
15 is, in fact, what he saw on the day in questions and those
16 would be admissible. By way of example, that is what I would
17 do to show the foundation with Ms. McClain.

18 THE COURT: Under what evidentiary rule, please?

19 MS. HUEY: Your Honor, I would have to look for that. If
20 you will give me just a minute, but it is a fair and accurate
21 image just like a photo would be, and that it truly reflects
22 what happened on November 4, 2009. She was a witness to that
23 incident.

24 THE COURT: I understand. I am going to sustain the
25 objection right now. I think that you cannot authenticate it

1 through an unrelated witness and I understand your
2 frustration because the folks from "4" obviously won't come
3 forward in this matter, but, I don't think that Ms. McClain
4 can authenticate it properly because she cannot testify what,
5 if anything, has happened to that tape since it's been taken.
6 I just don't think that is the appropriate way to
7 authenticate it. I am not going to -- It is going to be
8 without prejudice to you bringing it in later, but I just
9 don't think you can.

10 MS. HUEY: May I finish just proffering then, Judge?

11 THE COURT: Yes, ma'am. You have ---

12 MS. HUEY: And then ---

13 THE COURT: I think you have to.

14 MS. HUEY: And then I can find the appropriate case law.

15 THE COURT: Yes, ma'am.

16 MS. HUEY: And we weren't going to play it through Ms.
17 McClain, anyway. It was just to lay the foundation for it
18 and, in the meantime, I will find the proper case law.

19 THE COURT: Absolutely. Okay.

20 MR. ROBINSON: Your Honor, in the event there is case
21 law, and I don't think there is, is it the Court's ruling
22 that without proper foundation laid, this does not come in?

23 THE COURT: I am saying that it has not been
24 authenticated properly as a foundational requirement at this
25 stage.

1 MR. ROBINSON: Thank you, Your Honor.

2 THE COURT: Okay.

3 MS. HUEY: Judge, while the jury is out, should we go
4 ahead and try to play the video so you can see it?

5 THE COURT: Yeah. In fact, that is what I thought you
6 were doing. I was waiting. Go ahead and do your proffer
7 now.

8 MS. HUEY: Sure.

9 THE COURT: And to each party, once you do your proffer,
10 you can move for it to come back into evidence.

11 MS. HUEY: Your Honor, I am going to get a laptop in
12 order to be able to play it. It will be just a minute.

13 Q Okay.

14 (Brief bench conference)

15 THE COURT: Okay. I called the attorneys up to the bench
16 for a side bar. I pointed out to Mr. Robinson Rule 901 of
17 the South Carolina Rules of Evidence, Rule 1001, and it has
18 to do with writings, recordings, photographs, and
19 particularly Rule 1003, in the Rule 901 of South Carolina
20 Rules of Evidence. It appears that the method by which Ms.
21 Huey was attempting to authenticate that particular document
22 would be provided for under the rules, but that being said, I
23 want you, after this proffer, I want to hear from you on that
24 as well as Rule 1001 through 1003. Okay, sir?

25 MR. ROBINSON: Yes, sir.

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1 MS. HUEY: I would like to ask her a few more questions
2 if that is all right?

3 THE COURT: Okay.

4 PROFFERED DIRECT EXAMINATION OF MS. MCCLAIN BY MS. HUEY

5 Q Ms. McClain, backing up, I have shown you State's 15,
6 previously.

7 A Yes.

8 Q A recording of the arraignment of Matthew Fullbright on
9 November 4, 2009. Is that correct?

10 A Yes.

11 Q Okay. And did that recording fairly and accurately
12 depict what occurred on November 4, 2009?

13 A It did.

14 Q Okay.

15 MS. HUEY: Your Honor, at this time we would play it.

16 THE COURT: Okay. Do you need her to step down to view
17 the recording or...

18 Ms. Huey: I think it is on our screens, Judge.

19 THE COURT: Where would you rather her be?

20 MS. HUEY: Marlene, would you like to step down so you
21 can see the bigger TV? (Witness leaves the witness stand)

22 Judge, we seem to be having some technical difficulties. We
23 may just play it on the laptop for today's purposes.

24 THE COURT: Okay. Mr. Robinson, ---

25 MS. HUEY: It will not be ---

PROFFERED EXAMINATION OF MARLENE MCCLAIN

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1 THE COURT: --- do you want to step around? (Mr.
2 Robinson complies.) Let me see y'all up here, please.

3 (Brief bench conference)

4 MS. ADAMS: Your Honor, this is not working. We actually
5 did not plan to play it today, because when Marlene saw this
6 actual CD, she knew that was the one she knew she actually
7 saw and heard. We have provided that, obviously, to Mr.
8 Robinson. I was hoping to finish with Marlene today because
9 she---

10 THE COURT: Would you say that again, please?

11 MS. HUEY: I was hoping to finish with Marlene today
12 because she is going out of town and we just wanted to lay
13 the foundation and admit it into evidence and then play it
14 later on. We are not planning on playing it today and
15 that's why I wanted to ---

16 THE COURT: Let me tell you, Solicitor. I understand
17 that and I am glad to try to work with you as much as I can,
18 but without playing it -- you can get your other information
19 from this witness and let her, you know, go ahead and go on
20 with her plans, but I am going to have to look at it before I
21 make a final ruling as to whether or not it comes in. Okay?
22 So, what I was telling Ms. Huey is, let's go ahead and finish
23 with other testimony from this witness as much as you need
24 and try to get your technical glitches out of the way and
25 then we will try to play it tomorrow. That is the only thing

1 that I know to do.

2 MS. HUEY: It may be something, Judge, that we can work
3 out before the end of the day.

4 THE COURT: Whenever. Okay. All right. Now, are you
5 ready to proceed?

6 MS. HUEY: Yes, sir.

7 THE COURT: Let's continue with this being, in camera,
8 please.

9 MS. HUEY: Okay.

10 MR. ROBINSON: I have a copy, Judge.

11 THE COURT: You have a copy?

12 MR. ROBINSON: Yes, sir.

13 THE COURT: Mr. Robinson says that he has a copy, a
14 duplicate.

15 MR. ROBINSON: I have a computer, too, and we can try to
16 play it on that.

17 THE COURT: Okay. Do you want to try that right quick?
18 (Mr. Robinson tries to play the CD on his computer.)

19 MR. ROBINSON: It is ready, now.

20 THE COURT: You have it? Okay. Do you mind stepping
21 back around? (Speaking to Ms. McClain. Witness returns to
22 the stand) Thank you, Mr. Robinson.

23 (Video is played in camera)

24 CONT. PROFFERED DIRECT TESTIMONY OF MS. MCCLAIN BY MS. HUEY

25 Q Ms. McClain, does that fairly, the video, fairly and

PROFFERED EXAMINATION OF MARLENE MCCLAIN

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1 accurately depict what you observed on October, excuse
2 me, November 4, 2009?

3 A Yes, it does.

4 Q Has it been altered in any way in terms of the clip that
5 you saw?

6 A Not to my knowledge, no. That was the version of what I
7 remember Mr. Staton saying as well as Mr. Fullbright
8 saying.

9 MS. HUEY: Your Honor, at this time I would move to
10 submit State's 15 into evidence.

11 THE COURT: Okay. Do you wish to question the witness at
12 all?

13 MR. ROBINSON: I do, Your Honor.

14 THE COURT: Okay, sir.

15 PROFFERED CROSS EXAMINATION OF MARLENE MCCLAIN BY MR.

16 ROBINSON

17 Q Ma'am, you just said a second ago that you remembered,
18 and so forth, but you haven't had this disk since it was
19 recorded, have you?

20 A No, sir. The disk has not been in my possession. I was
21 present.

22 Q I know you were present, but were you present at the
23 whole arraignment?

24 A Yes, sir. I was.

25 Q And you work for Victim's Services in the Sheriff's

1 Department. Is that right?

2 A Yes.

3 Q Who had this video during this period of time? Who had
4 this video, this audio, since the arraignment?

5 A I would assume that it would have been with the news
6 outlet that filmed it.

7 Q Right. But not you?

8 A No, sir. As I stated, I have not had the video. I was
9 present.

10 Q Thank you. Where were -- in this video, this was a
11 small room, obviously. Where were you in relation to
12 this whole event?

13 A I was standing directly behind Judge Bates. If you
14 noticed in the corner of the screen, you saw an arm
15 reach out on a couple of occasions towards Mr. Henry
16 Staton, that was my arm. That was my black jacket in
17 the video behind Judge Bates.

18 Q And it has been sitting in the possession of who since
19 this arraignment?

20 A Sir, I wouldn't be able to testify to that.

21 MR. ROBINSON: That's all I have, Your Honor.

22 THE COURT: That is all you have?

23 MR. ROBINSON: That's all I have of this witness, Your
24 Honor.

25 THE COURT: Okay. Any redirect of this witness based on
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1 Mr. Robinson's cross?

2 MS. HUEY: Just to clarify.

3 PROFFERED REDIRECT EXAMINATION OF MARLENE MCCLAIN BY MS. HUEY

4 Q Ms. McClain, this is a fair and accurate representation
5 of what you observed, yourself, on November 4, 2009?

6 A Absolutely, it is.

7 Q Thank you.

8 THE COURT: May this witness step down?

9 MS. MCCLAIN: Yes, sir, Your Honor.

10 THE COURT: Mr. Robinson?

11 MR. ROBINSON: I have just one question as follow-up. I
12 don't mean to take up the Court's time, but I just thought of
13 this.

14 PROFFERED RE-CROSS EXAMINATION OF MARLENE MCCLAIN BY MR.

15 ROBINSON

16 Q Ma'am, was this video cut down at all or did anyone cut
17 this video apart as far as where it was kept? Do you
18 know? Did anyone change this video in any way?

19 A Sir, I would not be able to answer about the video.
20 What I testified to is that that is what I observed on
21 November 4, 2009, the conversation between Mr. Henry
22 Staton and Mr. Fullbright and the comments made by the
23 Judge.

24 MR. ROBINSON: Okay. Thank you.

25 THE COURT: Thank you, Ms. McClain. You may step down.

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1 MS. McCLAIN. Thank you, Your Honor.

2 THE COURT: If you would, please don't leave. You can
3 step down for the time being. Now, I want to hear you with
4 regard to your objections to this piece of evidence, please,
5 sir.

6 MR. ROBINSON: Your Honor, I read 901 and 1001 as the
7 Court instructed. I think it is -- I don't think the
8 situation talked about here is the same kind of situation the
9 rules anticipate and I think the reason for that is, this is
10 an officer of the victim's services with the Sheriff's
11 department who is coming forth and saying, I heard and
12 watched this arraignment take place. But she wasn't -- She
13 doesn't have the entire tape of what was said and the other
14 parts of the tape and that's what concerns me a little bit,
15 because we haven't been able to get a transcript of this and
16 it's very odd and concerning to me that we have a person from
17 the Sheriff's department, not a person who gave the
18 statement, but a person from the Sheriff's department who is
19 saying that is a fair and accurate representation of the
20 tape. I just don't know if 901 or 1001 are what is
21 applicable in this case and I'm reading the examples in
22 901(b), but I am a little concerned that it may not be
23 something that's applicable, because, and too, once the Court
24 looks at the authenticity and so forth, it still goes to the
25 other parts of relevancy and prejudice and so forth in this

PROFFERED EXAMINATION OF MARLENE MCCLAIN

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1 case. I think it is extremely prejudicial, as I said before,
2 in this matter and I don't think 901 or 1001 are applicable
3 in this case and I also believe it is not relevant and if it
4 is not relevant ---

5 THE COURT: Let me stop you there and let me ask you why
6 would that not be relevant assuming that I let it -- find
7 that it is admissible when the defendant made what appears to
8 be some type of admission of his conduct involved in this
9 incident. Why would that not be relevant?

10 MR. ROBINSON: I withdraw that, Your Honor. The Court is
11 right in that respect.

12 THE COURT: Okay.

13 MR. ROBINSON: I think the prejudice is the worst. I
14 think the prejudicial value outweighs the probative value.
15 But going back to the admissibility in terms of authenticity,
16 in the case of an officer who witnesses someone or something
17 at the scene or something like that, I think that can be
18 distinguished from what 901 and 1001 anticipates as far as
19 this type of situation. This is a murder case we are talking
20 about.

21 THE COURT: Agreed.

22 MR. ROBINSON: We are talking about an alleged
23 conversation between the brother of the victim, who is
24 deceased, and my client. And I think it is, not only do I
25 think it is inadmissible, it is very prejudicial. I think

1 the prejudicial value heavily outweighs the probative value.
2 This is very concerning to me that an officer of the
3 Sheriff's department is going to stand there and say this is
4 what was said and this is authentic. She does not know, from
5 that hearing that occurred that day, back in 2009 which is
6 two years ago, she has no idea what happened to it or if it
7 was cut up or anything like that and I am not sure she can
8 come into court and say anything that she wants to which
9 would favor the State and I am concerned about that aspect as
10 far as her saying this is authentic, and that is my concern.

11 THE COURT: Here is my concern, and I am going to take
12 the matter and rule on this under advisement and let you pull
13 out any case law you can find and give it to me, because I
14 agree with you, this is a highly important case for both the
15 State and for the defendant, but the requirement for
16 authentication in 901, essentially, is if someone with
17 knowledge under (b)(1) says the document is what it is
18 purported to be. Okay? And that is essentially what we
19 heard, you know. The other aspect that you argued that Ms.
20 McClain is an officer of the Sheriff's office and, therefore,
21 what you are really saying is she is biased and may fabricate
22 whatever, that goes to, in my view, at this stage unless my
23 research tells me something different, not to its
24 admissibility, but its weight. Okay?

25 Also, I agree with you that the State has to meet the

1 other evidentiary rules in this matter. I don't think it is
2 non-probative. I think it is certainly relevant to this case
3 because the conversation purports to be what would sound like
4 an admission of the allegations, or part of the allegations
5 against him, as to Mr. Staton. With that being said, then
6 you do a 403 analysis, whether the probative effect is
7 outweighed substantially by the prejudicial effect. Well,
8 clearly, any evidence that the State wishes to introduce is
9 going to be somewhat prejudicial because that is the nature
10 of these proceedings, but it substantially outweighs, I just
11 don't necessarily see that, but if you want to argue that in
12 your research to me or argue any evidentiary rule that you
13 feel like is inappropriate. Likewise, the State, if you feel
14 like you want to give me rules that state it is admissible
15 beyond what you have given me I will encourage you to do so.
16 I am going to take it under advisement. My law clerk and I
17 will research it this evening. With that being said, are you
18 ready to proceed with Ms. McClain's testimony?

19 MS. HUEY: Yes, sir, Your Honor.

20 MR. ROBINSON: They can use my computer.

21 THE COURT: Sir?

22 MR. ROBINSON: It's in here, they can use my computer.

23 THE COURT: Let me say this: I am not going to let them
24 play that right now. I mean, in front of the jury, because I
25 haven't determined whether it is admissible or not. If they

1 want to lay a foundation, that she says that it is what it
2 purports to be, that's fine. But, right now, unless you want
3 to bring it to me tomorrow I don't want to play it for the
4 jury. You understand that, right?

5 MS. HUEY: I'm sorry? I didn't hear the last part.

6 THE COURT: I do not want that video played to the jury.

7 MS. HUEY: Yes, sir.

8 THE COURT: Okay. Because we have to determine findings
9 on admissibility on this.

10 MS. HUEY: Your Honor, what we would intend to do is just
11 to continue with her testimony, because I don't think we got
12 as far as looking at the actual exhibit and noting her
13 initials on it and whether it fairly and accurately depicts
14 what she saw in November 4, 2009. Those are the remaining
15 questions I would have for her and we would seek to introduce
16 it, but we are not going to publish it at this time.

17 THE COURT: All right.

18 MS. HUEY: I understand there is an objection to the
19 admission of it.

20 THE COURT: Okay. So, you are going to put her back on
21 the stand in front of the jury to go over those remaining
22 issues, move, and then let Mr. Robinson cross exam her. Is
23 that correct?

24 MS. HUEY: Yes, sir. Unless you have a problem with me
25 doing that.

1 THE COURT: I don't have a problem. The only problem I
2 have is playing it.

3 MS. HUEY: Yes, sir. I don't intend on playing the video
4 today.

5 THE COURT: Okay.

6 MS. HUEY: I won't play it until we have your ruling on
7 it.

8 THE COURT: Mr. Robinson, do you have an objection to
9 proceeding as described?

10 MR. ROBINSON: I don't. I think that's a good idea.

11 THE COURT: Okay. Are you ready to put Ms. McClain back
12 on the stand and bring the jury in?

13 MS. HUEY: Yes, sir, Your Honor.

14 THE COURT: Mr. Robinson?

15 MR. ROBINSON: Yes, sir.

16 MS. HUEY: The only other thing I may add, Judge, as
17 Solicitor Adams indicated earlier, I was going to ask if she
18 could be released after this. She is planning a trip out of
19 town.

20 THE COURT: Okay.

21 MS. HUEY: That's why we called her out of order, Judge.
22 Is there any reason that we would need to redact this video
23 or is it fine as it is?

24 MR. ROBINSON: I think some of it needs to be redacted,
25 of the conversation of Mr. Staton's brother talking to Mr.

1 Fullbright.

2 THE COURT: Well, that is going to be dependant on my
3 ruling. You know, I can't make that decision right now, but
4 you're asking about further redaction than what you've done?

5 MS. HUEY: Exactly. What I plan to do is just put Ms.
6 McClain back on, offer her testimony, lay the foundation for
7 it, move to admit it, obviously, subject to objection. We
8 would not play it until Detective Beusse takes the stand, who
9 will be our last witness.

10 THE COURT: Well, let me say this. If it is determined
11 that Ms. McClain's authentication of that recording is
12 appropriate under the Rules, the fact that it may further be
13 redacted would not change the authentication finding. So, I
14 don't see a problem if it needs to be redacted further. I'm
15 not saying it does, I am saying it would not be ---

16 MS. HUEY: I was just trying to think ahead, Judge.

17 THE COURT: Right. All right. Ms. McClain would you
18 mind coming back around, please, ma'am? Would you bring the
19 jury in?

20 (Jury in at 4:11 p.m.)

21 THE COURT: Are you ready to proceed?

22 MS. HUEY: Yes, sir, Your Honor.

23 CONT. DIRECT EXAMINATION OF MARLENE MCCLAIN BY MS. HUEY

24 Q Ms. McClain, backing up. I think I was getting ready to
25 show you what's been marked as State's Exhibit 15.

DIRECT EXAMINATION OF MARLENE MCCLAIN BY MS. HUEY

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1 Would you take a look at that, please? (Ms. Huey hands
2 witness a document)

3 A Yes.

4 Q Do you recognize that item, State's 15, Ms. McClain?

5 A I do.

6 Q Okay. And how are you able to recognize it?

7 A It's a video that has my initials in two places, one on
8 the outside cover and one on the inside on the DVD.

9 Q And what, if anything, do those initials indicate?

10 A They indicate that I have viewed this CD, or DVD, and
11 initialed my initials and the date when I viewed this.

12 Q Okay. And, Ms. McClain, State's 15, does it fairly and
13 accurately depict what occurred, what you observed on
14 November 4, 2009, at the defendant, Matthew
15 Fullbright's, arraignment?

16 A Yes.

17 Q And has this particular DVD been altered in any way as
18 far as you know?

19 A No.

20 MS. HUEY: Your Honor, at this time we would move
21 State's 15 into evidence.

22 THE COURT: I will take it under advisement. Mr.

23 Robinson would you care to cross examine this witness?

24 MR. ROBINSON: Your Honor, I would like the Court to note
25 my objection, but I have no cross at this time.

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DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY 110

1 THE COURT: Very good. May Ms. McClain be excused?

2 MS. HUEY: Yes, Your Honor, she may be excused.

3 THE COURT: Mr. Robinson, any objections?

4 MR. ROBINSON: No, sir.

5 THE COURT: It is my understanding is that she intends to
6 leave the jurisdiction. Is there an objection from you?

7 MR. ROBINSON: No, sir.

8 THE COURT: Thank you, Ms. McClain. How long is your
9 next witness going to take?

10 MS. HUEY: Your Honor, she shouldn't take but about 10 to
11 15 minutes.

12 THE COURT: Okay, would you call your next witness then,
13 please, ma'am?

14 MS. HUEY: Your Honor, the State calls Traci Gremillion.

15 (After being duly sworn by the Clerk of Court, Traci
16 Gremillion testified as follows:)

17 CLERK OF COURT: If you would take the witness stand and
18 state your name and spell your last name for the record,
19 please.

20 MS. GREMILLION: Traci JoAnn Staton Gremillion.

21 G-R-E-M-I-L-L-I-O-N.

22 DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY

23 Q Traci, how old are you?

24 A Forty-seven.

25 Q Forty-seven. And do you have any children?

DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY

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- 1 A One..
- 2 Q Girl or boy?
- 3 A Girl.
- 4 Q And age?
- 5 A Sixteen.
- 6 Q Are you currently working?
- 7 A Yes, ma'am.
- 8 Q And where do you work?
- 9 A I work at Wade Hampton Country Buffet.
- 10 Q And how long have you been working there?
- 11 A A little over four years.
- 12 Q And are you the daughter of Homer and JoAnn Staton?
- 13 A Yes, ma'am.
- 14 Q Now, how many brothers and sisters do you have?
- 15 A I have an older brother and an older sister.
- 16 Q Traci, I am going to take you back to October of 2009.
- 17 Do you remember the last day you saw your parents?
- 18 A Yes, ma'am.
- 19 Q Do you remember what time of day that was?
- 20 A I had to be at work at 4:00 in the afternoon. So, I
- 21 probably saw them around 4:15. They came in, both my
- 22 parents, my Mom and Dad, came in. They usually came in
- 23 to visit me.
- 24 Q And do you remember what day of the week this was?
- 25 A Friday.

1 Q How long did they stay?

2 A Maybe 15 or 20 minutes. It was kind of busy with my
3 customers and so the others spoke to them, a couple of
4 waitresses spoke to them because I had worked with the
5 girls a long time so they knew both my parents.

6 Q They were regulars at the restaurant?

7 A Oh, yes. They came in to talk to me just about every
8 time I was on a shift.

9 Q Now, you say they stayed about 15 or 20 minutes,
10 something like that?

11 A Yeah, give or take. It wasn't very long.

12 THE COURT: Let me stop you. Can the jury hear this
13 witness? (Jurors nod) Thank you. Go ahead.

14 Q Now, do you know where they were going when they left?

15 A No, ma'am. I do not.

16 Q What did your parents do for a living at that time?

17 A One of their hobbies was buying and selling gold
18 jewelry.

19 Q And how long had they been doing that?

20 A Oh, God, forever. Maybe 20, 30 years.

21 Q And what was the nature of that business?

22 A They would go to yard sales, flea markets, look in the
23 newspapers, pawn shops. They would look, you know,
24 wherever they found it.

25 Q And what was the purpose of going to these places?

DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY

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1 A To buy and sell jewelry.

2 Q Now what, if anything, can you say about the amount of
3 cash they may have carried?

4 MR. ROBINSON: Your Honor, I am going to object. It's a
5 foundation objection.

6 THE COURT: State your question one more time.

7 MS. HUEY: What, if anything, can Traci say about how
8 much cash her parents may have carried as a result of this
9 business.

10 THE COURT: I overrule the objection. Go right ahead.

11 A A lot. It depended on where he was going and what he
12 was doing. If he was going to buy a bunch of stuff he
13 would probably, may carry, \$20,000.00 plus.

14 Q Okay, and how about just on a normal day?

15 A Probably 12 to 15 thousand in hundreds in his wallet.

16 He had ---

17 Q And -- I'm sorry. What were you going to say?

18 A He had two wallets.

19 Q And as far as the higher end of that spectrum, why would
20 he carry that much amount, that much cash?

21 A If there was someone he was speaking to that had a lot
22 of merchandise, then he would kinda estimate about what
23 he would need and then he would go.

24 Q And what, if anything, did you say about the kind of
25 cash, in particular?

- 1 A It was in hundreds.
- 2 Q And so when he was carrying 10 to 12 thousand or up to
3 50 thousand dollars, it would be in one hundred dollar
4 bills?
- 5 A Uh-huh.
- 6 Q Okay.
- 7 A Hundreds. He didn't carry too many 20s, that was low
8 end.
- 9 Q As a result of your parents carrying a lot of cash,
10 what, if anything, would they do to protect themselves?
- 11 A My Dad carried a gun and my Mom had a gun. Her gun
12 pretty much stayed in her pocketbook and my Dad
13 sometimes had two to three guns around his waist.
- 14 Q What kind of jewelry did they wear?
- 15 A Dad had big gold bracelets and nice diamond rings. Not
16 little diamond rings, big cluster rings. A diamond
17 Rolex watch, a big necklace, a rope necklace that had a
18 big Jesus cross on it. It was kind of flashy. I liked
19 it. My Mom, she had her diamonds and diamond rings, her
20 diamond bracelets. She had stuff that he would come
21 across that she would really like and he would give that
22 to her.
- 23 Q Now Traci, if they were going to meet a potential buyer,
24 would it be usual or unusual for them to have jewelry in
25 their car with them?

DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY 115

1 A It depends. If they had just left from one customer and
2 maybe they had a phone call from someone else, they
3 would, you know, go to the next sale.

4 Q So, they could have had jewelry from other sales in
5 their car?

6 A Oh, yes. Absolutely.

7 Q What, if anything, would your Dad ---

8 THE COURT: I'm sorry. (Coughing)

9 MS. GREMILLION: Do you need some water, hon? I have got
10 some.

11 THE COURT: No, you go right ahead. I have some. Thank
12 you, though.

13 Q What, if anything, would your Dad take with him when he
14 was doing these buys or sells, or however you want to
15 call it, to measure the value of the gold?

16 A He had a set of scales, an acid test kit. It tells you
17 whether it is 10, 14, 18, 24 karat or fake.

18 Q And where did he usually keep that kit?

19 A Usually in his trunk or if he was -- sometimes he would
20 put it in the back seat, but mainly, it was in the
21 truck, I believe, most of the time.

22 Q Now, were your parents usually together on these
23 ventures?

24 A Yes. My Mom was the driver.

25 Q And why was that?

- 1 A His driving was awful.
- 2 Q I'm sorry. Because his driving was awful?
- 3 A Yeah.
- 4 Q So your Mom was in charge of the driving most of the
- 5 time?
- 6 A Yeah. Absolutely.
- 7 Q Now, do you remember what their cell phone numbers were
- 8 at the time, Traci?
- 9 A Uh-huh.
- 10 Q Okay. How about your Mom's cell phone number?
- 11 A 525-2030.
- 12 Q Okay. And how about your Dad's cell phone number?
- 13 A 366-6783.
- 14 Q Now, do you know if they had a GoPhone for any reason?
- 15 A Yes. My Dad did. I don't believe he called me on it
- 16 but one time and I didn't recognize the number and I
- 17 said hello and he said, "Hey." And I said, "Daddy,
- 18 whose number are you on?" I didn't recognize the number
- 19 and he said, "It's my GoPhone." And I said, "What have
- 20 you got it for?" And he said it was just an extra
- 21 phone. I guess he was going to use it for his business.
- 22 Q All right. And that was in addition to the cell phone
- 23 number you just named?
- 24 A Yes.
- 25 Q And in addition to your Mom's cell phone number, as

DIRECT EXAMINATION OF TRACI GREMILLION BY MS. HUEY

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1 well?

2 A Yes, it was their third phone.

3 Q Do you know where that was kept?

4 A No, he had just gotten it. I don't think he had it that
5 long. He had come by the house and he showed it to me,
6 but it wasn't around his waist like the other phone. I
7 think he just kept it in the car in the console.

8 Q And did anyone wear a hearing aid?

9 A Yes, my father did.

10 Q And how about glasses?

11 A Both of them.

12 Q And did they wear those glasses all the time, pretty
13 much?

14 A Uh-huh. Yes, ma'am.

15 Q Do you remember your cell phone number at the time of
16 this incident, Traci?

17 A No. I did, and I just....

18 Q If I showed your statement to you would that help
19 refresh your memory?

20 A Yes.

21 Q I'm going to show you.

22 (Ms. Huey shows document to Mr. Robinson)

23 Q Okay. I'm going to show you the statement from October
24 24, 2009. Do you recognize that statement?

25 A Yes, ma'am.

CROSS EXAMINATION OF TRACI GREMILLION BY MR. ROBINSON 118

- 1 Q And how are you able to recognize it?
- 2 A It has my name on it, and date of birth, and phone
- 3 number, where I live, and I signed it.
- 4 Q Okay. Do you want to take a look at that and see if it
- 5 will help you with your memory?
- 6 A Yes. 553-9033.
- 7 Q Say it slowly for me one more time.
- 8 A 553-9033. That was my cell phone at that time.
- 9 Q Okay. Thank you.
- 10 A Thank you.
- 11 Q Now Traci, can you tell me where your parents actually
- 12 lived?
- 13 A Graystone Way, number 1, Graystone.
- 14 Q Okay, and that is in ---
- 15 A In Greenville. Taylors, South Carolina.
- 16 Q Is that Greenville County?
- 17 A Yes. Greenville County.

18 MS. HUEY: That is all for this witness at this time,

19 Judge.

20 THE COURT: Cross examination?

21 MR. ROBINSON: May it please the Court.

22 CROSS EXAMINATION OF TRACI GREMILLION BY MR. ROBINSON

- 23 Q How are you doing, Traci?
- 24 A Fine.
- 25 Q Traci, let me ask you, when your parents went out on

CROSS EXAMINATION OF TRACI GREMILLION BY MR. ROBINSON 119

1 their ventures to flea markets and so forth, how many
2 different, if you could estimate, how many different
3 people would they have contact with as far as deals and
4 transactions?

5 A I'm not sure. Quite a few. They had been doing that
6 for about 20 to 25 years.

7 Q Would they go out at all times, all hours of the night
8 and day, pretty much?

9 A No. Not at night.

10 Q They didn't go out at night?

11 A No. Not usually.

12 Q It was not usual for them to go out at night?

13 A Sometimes. I mean, you know, if it was someone they
14 knew that they had dealt with before and they felt
15 comfortable, sure.

16 Q Did your parents advertise in IWANA, the magazine?

17 A Not that I am aware of, no.

18 Q They didn't ever advertize in any magazines that you
19 know of?

20 A No.

21 Q How would people find out about them?

22 A Like I said, they'd go to yard sales and they would see
23 things on the tables there. Sometimes people would have
24 jewelry there that people didn't even know they had, you
25 know. The flea markets were the same thing, you don't

- 1 know what's going to be out there and there are a lot of
2 people who are in this business.
- 3 Q So, they were in the business of...
- 4 A Buying and selling jewelry.
- 5 Q Buying and selling jewelry.
- 6 A Uh-huh.
- 7 Q Who were the major -- Did your father have some
8 competitors in this business?
- 9 A I am sure that he did.
- 10 Q Did he ever have one or two competitors that gave him
11 problems?
- 12 A No, sir. My father was a very loving man.
- 13 Q A very loving man. Okay. Now, you said that your
14 father carried large amounts of money around with him
15 all the time. Is that right?
- 16 A Sometimes.
- 17 Q And he had a diamond Rolex. Is that right?
- 18 A Uh-huh.
- 19 Q A gold chain?
- 20 A Uh-huh.
- 21 Q And he carried a lot of cash on him at times?
- 22 A Yes, sir.
- 23 Q Just for transactions and so forth like that.
- 24 A Uh-huh. Yes, sir.
- 25 Q Okay. Did your father know most of the people that he

CROSS EXAMINATION OF TRACI GREMILLION BY MR. ROBINSON 121

1 dealt with?

2 A I believe so. Yes.

3 Q So, if someone called him on the phone to do a deal with
4 him, would he know those people, usually?

5 A Well, I'm sure if they had his number, I'd guess so.

6 Q So, it's your opinion they may have had dealings with
7 them in the past. Right?

8 A No, sir, that's not necessarily true. I'm just saying
9 that if someone gives someone else your number but, you
10 know, I don't know.

11 Q Was your father known as "The Gold Man"?

12 A I don't think I have heard that term.

13 THE COURT: Just one second. You need to repeat that
14 question, please. And speak a little bit louder if you
15 would.

16 MR. ROBINSON: Yes, sir, Your Honor. (A juror could not
17 hear.)

18 Q Ma'am, was your father known as, "The Gold Man"?

19 A I've never heard that term.

20 Q Okay. I want to go through where your father and mother
21 would go when they did their transactions they did. You
22 said the flea market. Is that right?

23 A Uh-huh.

24 Q Would that be the Anderson Jockey Lot?

25 A Uh-huh. Yes, sir.

- 1 Q Would they go there every weekend?
- 2 A I'm not sure. I didn't go with them.
- 3 Q Okay. What other flea markets would they go to?
- 4 A All of them.
- 5 Q All of them?
- 6 A Uh-huh.
- 7 Q Like what -- Now we are talking about an area of,
- 8 geographically, we are talking state-wide or Anderson
- 9 County?
- 10 A Anderson Flea Market or Jockey Lot, which it's called
- 11 sometimes. Pickens County has one on Wednesday morning
- 12 and it ---
- 13 Q Okay.
- 14 A --- usually start around 5:00 a.m. and that's all I
- 15 know.
- 16 Q That is all you know. Okay. And you said that he
- 17 carried hundreds, but you also said he carried twenties,
- 18 as well. Is that correct?
- 19 A If he broke a hundred, I'm sure.
- 20 Q Okay. He carried two wallets?
- 21 A One, he just had in his trunk, in his case.
- 22 Q Okay. Do you know, to your knowledge, do you know if
- 23 any of the money he carried was marked? Any idea?
- 24 Marked like so you could keep track of it?
- 25 A Not that I know of.

CROSS EXAMINATION OF TRACI GREMILLION BY MR. ROBINSON 123

1 Q Okay. Did he keep a log, to your knowledge, of who he
2 dealt with in terms of who he did a transaction with?

3 A I don't know. I didn't do business with him.

4 Q Okay. So, your mother and your father were kind of the
5 business people, it was their business and they would
6 put together who they would deal with and so forth.

7 Correct?

8 A Right.

9 Q That's all. Thank you.

10 THE COURT: Redirect?

11 MS. HUEY: That's all I have.

12 THE COURT: Thank you. May this witness be excused?

13 MS. HUEY: Yes, sir, Your Honor.

14 THE COURT: All right.

15 MR. ROBINSON: Yes, sir, Your Honor.

16 THE COURT: You may step down. Do you have another
17 relatively short witness?

18 MS. HUEY: No, sir, Your Honor. Actually, the next
19 witness will be a fairly long witness.

20 THE COURT: Okay. The next witness is going to be a
21 fairly long witness is why I think they are asking that we go
22 ahead and break for the day.

23 MR. ROBINSON: That will be fine. No objection, Your
24 Honor.

25 THE COURT: Is that what you were requesting?

1 THE COURT: From the Defense?

2 MR. ROBINSON: No, sir.

3 THE COURT: Okay. We will go ahead and call a recess for
4 the day. Let's be back here at 9:15. We will go over the
5 evidentiary issues about the CD and then we will try to start
6 the testimony at 10:00 in the morning. Mr. Fullbright will
7 be remanded back to the Detention Center and bring him back
8 in the morning.

9 MS. HUEY: Thank you, Judge.

10 THE COURT: We are in recess.

11 JANUARY 24, 2012 - MORNING

12 THE COURT: All right, is the State ready to proceed?

13 MS. HUEY: I think so, Your Honor. I would like to make
14 the Court aware of something, Your Honor. I know, the issue
15 of the video came up yesterday. We do have two witnesses
16 that are managers, one from Walmart and one from SaveMore Gas
17 Station and they will testify as to video stills taken from
18 video surveillance at these locations and they are available,
19 Your Honor, if you would like to go ahead and proffer them.
20 I'm sure there will be an objection to them.

21 THE COURT: Well, let's do the first video first and then
22 we will get into that in just a second. Okay?

23 MS. HUEY: Sure.

24 THE COURT: When we left yesterday, there was an
25 objection to the admission of the, I think it is Channel 4,

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1 film of the arraignment of the defendant.

2 MR. ROBINSON: That is correct.

3 THE COURT: And I previously ruled at a pre-trial that
4 under State versus Kirton, which is 671 S.E. 2d 107, that the
5 video, and the scene depicting the video, did not involve a
6 custodial interrogation and therefore there was no
7 requirement that Miranda be established at that point. Mr.
8 Robinson then laid, or raised, the objection of the Sixth
9 Amendment, his failure to waive those rights to an attorney
10 at the hearing and the fact that he was not represented. I
11 overruled that objection. And the next was an objection as
12 to the authentication that was attempted by the State through
13 their witness, Marlene McClain, who is either a Victim's
14 Advocate or somewhat along those lines with the Sheriff's
15 department, who was present at the time that the arraignment
16 took place and, therefore, when the video was made. Okay?
17 And I asked both parties to brief me or do research to the
18 admissibility of that video on the limited basis of
19 authentication and, Mr. Robinson, I will be glad to hear from
20 you first, since this is your objection.

21 MR. ROBINSON: May it please the Court.

22 THE COURT: Yes, sir.

23 MR. ROBINSON: Your Honor, this tape should be
24 suppressed. I looked at 901-1001 as far as this goes. And
25 the objection that I made yesterday, as far as authenticity

1 goes, as far as using that particular rule was that I don't
2 believe that the persons, that this particular rule applies
3 and that there are really two parts to this rule. The first,
4 the State has to show that it is sufficient to support a
5 finding that the proponent says it is what it is or what they
6 say it is in this case. The next is going to be prejudice
7 versus probative value. Taking the first prong first, it
8 requires that it must be sufficient, but also the testimony
9 of a witness with knowledge. This particular witness, I
10 don't believe is what the rule is applicable to, and this is
11 why: Because it opens kind of a floodgate almost, because
12 what we have here is a snippet of the tape, not the entire
13 tape, but a snippet of the tape, a portion of it and having a
14 law enforcement person come in and say this is what was said
15 at this arraignment, I was there, a member of law
16 enforcement, and this is what was said and Ms. Huey raised
17 the example of, I believe it was a State Trooper or some
18 officer who could talk about a video or something like that.
19 Well, there are mechanisms in place and there is case law
20 that, if they don't do, if they don't turn on their video,
21 whether it is a DUI stop or something like that, then they
22 can't use it. It will get thrown out as a result. It was
23 developed to do certain things. In this case what could
24 happen, the danger, the witness in this case is the Victim's
25 Advocate who works for the State, works for law enforcement.

1 Anything, any sort of video or any sort of recording or a
2 device such as this, a video from a television station that
3 was played, that means that anyone from law enforcement can
4 come in and say this is what I heard there and this is an
5 accurate representation of what was said that day, without
6 more and I don't believe that this statute or this Rule opens
7 that whole, that myriad of problems that you would run into
8 with this. What they are trying to say in this Rule, and
9 there really is not case law directly on point in what I saw,
10 but the Rule, really, is to prevent this kind of thing from
11 happening. It's not a ticket for law enforcement to evade
12 the rules of court. Ms. Huey mentioned the, this media
13 shield she talked about, but this does not mean that it
14 obviates the rules of ethics, does not tear them apart and
15 says, well, the media says I can't bring them here to
16 authenticate it, so as long as a law enforcement officer
17 says, "Okay, this is what the tape said, this is what was on
18 there," it's okay. And what is further disturbing to this
19 attorney is that the arraignment that they had on the double
20 murder, that is nowhere to be found. There is no recording.
21 There is no video. There is nothing. And further, when we
22 tried to get the transcript of this hearing that this
23 Victim's Advocate talked about, that they talked about, our
24 office went to two or three different municipal or magistrate
25 court judges and no one had a transcript or anything in this

1 area and that's disturbing, because what that means, what
2 this would give is a gatekeeper, is what the Rule here is, is
3 for the Court is to keep out prejudicial material like this
4 that are not properly authenticated.

5 THE COURT: When did you make your request for this
6 material, the transcript from the magistrate's office?

7 MR. ROBINSON: We had -- Your Honor, I would have to ask
8 my assistant about that.

9 THE COURT: Go ahead and do that for me, please.

10 MR. ROBINSON: Sir?

11 THE COURT: Go ahead and do that for me, please. I would
12 like to find out the date that that was asked.

13 MR. ROBINSON: I can call her up now.

14 THE COURT: No, you don't need to call her. Just ask her
15 to find out when that was done.

16 MR. ROBINSON: Last Monday, Your Honor.

17 THE COURT: Last Monday? Okay, sir. And this
18 arraignment took place in 2009?

19 MS. HUEY: Yes, sir.

20 THE COURT: October 29th. Is that correct?

21 MS. HUEY: Actually, I think it was November 4th.

22 THE COURT: November 4th, 2009? Okay. The timeliness of
23 the request. I know that you didn't get into the case as
24 early as you would have liked, but at the same time, I don't
25 find that so disturbing because their rules don't require

1 them to maintain them, as I understand it, for that
2 sufficient period of time. Now, if that had been a timely
3 request then I would take a different view of your argument,
4 But last Monday over, what, going on three years? I just
5 don't see that being very timely. Go ahead, please sir.

6 MR. ROBINSON: Thank you for considering that, Your
7 Honor. Again, the argument is, I believe would open up
8 almost a floodgate of issues regarding the law enforcement
9 interpretation, or getting up on the stand in every case
10 where there is a tape or video snippet, and saying that is
11 the entire statement, this is what I heard, and so forth, and
12 that is not what I believe the Rule is applying to.

13 And secondly, going to the second prong, if the Court
14 believes that the Rule would allow this, the second prong is
15 about prejudice, whether or not the prejudicial value in this
16 case outweighs the probative value of this. And in this
17 case, as the prosecutor said in her opening statement, there
18 is no physical evidence in this case and it is disputed
19 regarding the statements that we had at the previous hearing,
20 the two statements were made that we had in the Jackson v.
21 Denno Hearings.

22 THE COURT: Uh-huh.

23 MR. ROBINSON: Besides those, there is really not a lot
24 of evidence in this case, physical evidence that would say he
25 is the guy in this matter.

1 THE COURT: Well, what is the meaning of unfair prejudice
2 under the Rule 403?

3 MR. ROBINSON: Well, the position that I take, Your
4 Honor, is prejudice is relevant information, of course, to
5 the Court it is relevant, but ---

6 THE COURT: Would you agree it is material?

7 MR. ROBINSON: It's material. Correct.

8 THE COURT: So, the question boils down to whether there
9 is a unfair prejudice ---

10 MR. ROBINSON: Yes, sir.

11 THE COURT: --- on this matter or one of the other
12 caveats under the Rule?

13 MR. ROBINSON: That clearly is it, Your Honor. Because
14 if you look at this as a tool, for law enforcement to be able
15 to say, okay, this is what it said at this time. Your Honor,
16 I think if it were a different kind of situation, you know,
17 maybe, but this is a person who works with the Solicitor's
18 office, is a victim's advocate and the Court has an
19 opportunity to look at credibility, obviously, but Your
20 Honor, I believe that with this case that as there is no
21 physical evidence in the matter, in this particular case,
22 that the prejudicial value outweighs any sort of probative
23 value of this matter. Those are the two prongs that I first
24 would look at. The Court first has to find that it is
25 sufficient to support a finding as to what the proponent says

1 it is, as Marlene, yesterday, testified to and this is a
2 witness with knowledge and is this the type of knowledge that
3 this Rule anticipates? It is a Victim's Advocate with
4 knowledge and I would argue that it is not this type of
5 person we're talking about here and it does open up a
6 floodgate.

7 And secondly, the prejudicial prong of this, we believe
8 that the prejudicial value outweighs the probative value in
9 the matter.

10 THE COURT: Okay. Thank you, sir.

11 MR. ROBINSON: Thank you.

12 THE COURT: All right, Ms. Huey?

13 MS. HUEY: Your Honor, we would reiterate our argument
14 from yesterday in that we believe this videotape is just like
15 a photograph in that Ms. McClain was present at the hearing.
16 She is a witness with knowledge and she testified that this
17 video was a fair and accurate representation of the
18 communications between the defendant, as well as Henry
19 Staton, and that was not redacted or edited in any way.

20 Furthermore, as far as the unfair prejudice, Your Honor,
21 I believe it is extremely probative. It's the defendant's
22 admission in this case. The Defense, in his opening
23 statement, is objecting to the statement, he's saying the
24 defendant didn't even make the statement and so, I think it
25 is extremely probative, because here this defendant is

1 admitting on camera in a video, that Ms. McClain can
2 substantiate. It's an admission. I think it is extremely
3 probative.

4 THE COURT: All right. Let me go over with you what we
5 found last night. Number one, under Rule 901(b)(1), the
6 requirement of authentication, which is one of the objections
7 raised by Mr. Robinson, it inquires that the testimony is of
8 a witness with knowledge, i.e., the testimony that the matter
9 is what it claims to be. Under that rule I will note that it
10 says that Rule 901 is essentially identical to the Federal
11 Rule with the exception of a sub-part (b)(10) which is not
12 implicated in this case. The initial determination by the
13 Court must be that the material was relevant and material, or
14 that the evidence is relevant and material. That has been
15 admitted by the defendant, quite appropriately.

16 We looked at the case of State versus Campbell which is
17 191 S.E. 2d 770, which is the situation somebody raised the
18 objection to a photographer not being present to be cross
19 examined while allowing the police officer, who saw the
20 scene, to authenticate photographs of the scene and the Court
21 found that the argument that the photographer should have
22 been present for cross examination was without merit.

23 We also looked at Amjure Evidence. Under section 960,
24 it says that an adequate foundation may be established by
25 testimony that establishes, or identifies the evidence and

1 establishes the competency, materiality, relevancy, of the
2 evidence under Amjure Evidence 981, and it held that, 981
3 provides rather, that the photograph's accuracy may be
4 verified by a person who took the photograph, by a person who
5 was present at the time the photograph was taken by the
6 photographer and a third person, or by that third person.
7 And under the case of U.S. versus Clayton which is 643 F.
8 2d 1071, which is, in fact, a Fifth Circuit Federal case, but
9 I am using it as persuasive authority, it says a photograph
10 is generally authenticated by testimony that is fair and
11 accurate of the actual scene or event.

12 And also under Saturn Manufacturing Inc. versus Williams
13 Patent Crusher and Pulverizer Company, which is 713 F. 2d
14 1347, which is an Eighth Circuit case, it says that a motion
15 picture or video may be authenticated on the same foundation
16 as a still photograph. I did find that the issue of
17 authentication does implicate the chain of custody.

18 If you will recall at the beginning of this case, the
19 defendant stipulated to chain of custody matters in this
20 case. So, I think the idea being that the material was not
21 tampered with and is to be what it is supposed to be.

22 I note that Mr. Robinson does bring up the idea that he
23 tried to get the transcript of the arraignment. He has been
24 unable to, but coming roughly three years after that
25 arraignment, that is not surprising. I find that is not a

1 proper issue.

2 Also under Rule 103, a duplicate is admissible to the
3 same extent as an original is unless a genuine issue is
4 raised as to the authenticity, which I think also implicates
5 chain of custody or under circumstances that it would be
6 unfair.

7 I agree with both attorneys that the first question as
8 to authenticity goes to relevancy and materiality. Then it
9 goes to a 403 analysis and unfair prejudice under that Rule,
10 according to my research, means undue tendency to suggest a
11 decision on an improper basis commonly, though not
12 necessarily, an emotional one and the determination of undue
13 prejudice must be based on the entire record as we have it up
14 to this point. In this case, the type of evidence being
15 proffered by the State is not such to suggest unfair
16 prejudice as implicated by that Rule in the sense that it
17 does not suggest a decision on an improper basis. It is
18 simply a video of the statements made by the defendant.

19 With that being said, I am going to find that the video
20 is admissible and I will let you note your objection for the
21 record and I will let you proceed with that.

22 Now, the next issue of other videos or what, please
23 ma'am?

24 MS. HUEY: Your Honor, the next issue would be two. The
25 manager from Walmart and the manager from the SavMore. They

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1 pulled videos that showed the defendant with Irving Ramirez
2 the next day. This goes to corroborate what was in the
3 defendant's statement and that they went to Walmart and the
4 gas station the next day, purchased gas cans, and then later
5 on, they went to burn at the property. Evidence that ---

6 THE COURT: Okay, let's do one at a time, if we could?

7 MS. HUEY: Yes, sir.

8 THE COURT: The first one is which, please?

9 MS. HUEY: Your Honor, I would call Jonathan Hinshaw
10 first.

11 THE COURT: Okay.

12 MS. HUEY: And actually, Judge, I need to mark an
13 Exhibit.

14 THE COURT: Okay.

15 (Ms. Huey has exhibits marked for identification)

16 MS. HUEY: Your Honor, the State calls Jonathan Hinshaw
17 to the stand.

18 (After being duly sworn by the Clerk of Court, Jonathan
19 Hinshaw testified as follows:)

20 CLERK OF COURT: Please have a seat. If you would
21 please, state your full name and for the record and spell
22 your last name.

23 MR. HINSHAW: Jonathan Bolton Hinshaw. Last name is
24 H-I-N-S-H-A-W.

25 PROFFERED DIRECT EXAMINATION OF JONATHAN HINSHAW BY MS. HUEY

1 Okay?

2 MR. ROBINSON: Your Honor, may I ask that we move the
3 podium more in front of the jury so that I have easier
4 access?

5 THE COURT: Where are you asking to move it?

6 MR. ROBINSON: In front of the jury. That way the Court
7 Reporter can hear everything. Right here. (Indicating)

8 THE COURT: Well, I'm afraid that might block the line of
9 sight of the Solicitor's office. I don't have a problem in
10 your doing that, but you just can't block the sight of
11 opposing counsel, wherever you move it. Okay? All right.

12 MS. ADAMS: Judge, I think that if they moved it there,
13 it does block our view.

14 THE COURT: Well, just wherever you move it, if it is
15 blocking your view, just let us know and we will try to
16 situate it such that it doesn't. All right. Is the State
17 ready to proceed?

18 MS. HUEY: Yes, sir, Your Honor.

19 THE COURT: Okay. Mr. Robinson, are you ready to
20 proceed?

21 MR. ROBINSON: Yes, sir, Your Honor.

22 MS. HUEY: Your Honor, as a matter of record keeping.
23 Your ruling on the arraignment video, Your Honor, I just
24 wanted to put that on the record as State's Exhibit 15. It
25 is my understanding that it has been admitted into evidence.

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1 THE COURT: Correct. State's 16?

2 MS. HUEY: Fifteen.

3 THE COURT: Fifteen. Okay.

4 (Whereupon, a video is admitted into evidence as State's
5 Exhibit No. 15, without objection)

6 THE COURT: All right, would you bring the jury in?

7 (Jury in at 10:17 a.m.)

8 THE COURT: Good morning, Ladies and Gentlemen of the
9 jury. First, I know that there were several notes that were
10 passed out by the forelady. I've asked the attorneys
11 involved in this case, I am not going to require them to
12 stand by the podium the entire time, but I asked them to
13 speak loud enough and to position themselves so that you can
14 hear what they are saying. Again, somebody did it yesterday,
15 when you cannot hear, any of you, please just raise your hand
16 when that occurs so that we can stop it there and make sure
17 we have the testimony repeated such as you can. I think the
18 system is a little bit better today. Also, if there is ever
19 a problem with transportation for anybody, if you will let
20 the foreperson let it be known to me, then we can make
21 suitable arrangements. Okay? Other than that, I am going to
22 ask all the jurors whether or not they have seen, heard, or
23 read anything about this case when court was not in session?
24 If you have, would you raise your hand? Very good. Let the
25 record reflect that no one raised their hand. Is the State

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1 ready to proceed?

2 MS. HUEY: Yes, sir, Your Honor.

3 THE COURT: Is the Defense ready to proceed?

4 MR. ROBINSON: The Defense is ready.

5 THE COURT: Then would you call your witness, please,
6 ma'am.

7 MS. ADAMS: Thank you, Your Honor. May it please the
8 Court? The State calls Sergeant Rob Gebing to the stand.

9 (After being duly sworn by the Clerk of Court, Rob
10 Gebing testified as follows:)

11 CLERK OF COURT: Thank you. If you would state your full
12 name for the record and spell your last name.

13 MR. GEBING: My name is Robert Kim Gebing, Jr.
14 G-E-B-I-N-G.

15 DIRECT EXAMINATION OF SERGEANT ROB GEBING BY MS. ADAMS

16 Q Sergeant Gebing, where do you work?

17 A I work for the Anderson County Sheriff's office in
18 Anderson, South Carolina.

19 Q And if you can make sure that you speak into that mike
20 so the jury can hear you that would be great. What are
21 your current duties at the Sheriff's office?

22 A Currently I am a Sergeant. I am one of the supervisors
23 in the Criminal Investigations Division.

24 Q Okay. What are your responsibilities as Sergeant over
25 the Criminal Investigations Division.

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1 A Presently, I supervise the Crimes Against Persons
2 section, which is comprised of five deputies. The cases
3 are generally assault, sex crimes, violent assaults,
4 robberies, and I also supervise two Property Crimes
5 deputies, as well, so seven, total.

6 Q Okay. How long have you been a supervisor?

7 A Since February of last year.

8 Q All right. Now, how long have you been with the
9 Sheriff's Department?

10 A Since May of 2001.

11 Q How about, how long have you been in law enforcement,
12 all together?

13 A Sheriff's office, and then prior to that, I was in the
14 army in the Military Police for five years. So, a
15 little over 15 years.

16 Q Now, in October of 2009, what were your duties at the
17 Sheriff's office?

18 A In October of 2009, I was a Crimes Against Persons
19 Detective, primarily robberies and violent crimes and on
20 my call week, I was a homicide and death investigator,
21 as well.

22 Q All right. Now, how were you involved in this
23 particular case?

24 A Primarily, just assisting Sergeant Beusse. He was the
25 lead detective and I was one of many that was called

1 upon to assist him with this investigation.

2 Q Please explain to the jury how the Sheriff's office
3 first learned that the Statons were missing.

4 A This case started with the discovery of the Staton's car
5 on Horton Road. It had been abandoned in a little
6 driveway to a pasture. Responding officers came down
7 and found the car to have a pretty substantial amount of
8 blood and suspected bodily tissue and things like that
9 in the car and that's what, that is what began the
10 search for the Statons.

11 Q All right. Now, do you recall what day that was that
12 the car was found on Horton Road?

13 A October the 24th, some time in the early afternoon.

14 Q So, that was a Saturday. Correct? The 24th?

15 A Yes.

16 Q Okay. Now, what was the next step in attempting to
17 locate the Statons once you found this bloody car?

18 A Once the car was discovered, some of the family and
19 neighbors where they lived up in Taylors, were notified.
20 Greenville County was asked to go to the residence to do
21 a well-being check, just trying to locate them and
22 determine their whereabouts.

23 Q Okay. Obviously, at this point, it's a missing persons
24 investigation?

25 A It was, but given what they found in the car, foul play

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1 was suspected.

2 Q So, as part of your investigations, explain to the jury
3 how the Staton's cell phone records were important.

4 A The cell phone records would obviously show us who they
5 likely would have had a phone conversation with last,
6 try to track down who they had spoken to leading up to
7 their disappearance, and in some cases we can actually
8 find, based on tower locations and where their cell
9 phone hits, what part or what area they were in.

10 Q Okay. So, as part of their investigation, were you able
11 to obtain the cell phone records of Homer Staton?

12 A Yes, the records were obtained for Homer Staton.

13 Q Okay. And do you recall what that number was? Traci
14 testified to it earlier, but do you recall?

15 MR. ROBINSON: Your Honor, I object. Leading.

16 THE COURT: Just re-phrase, please.

17 Q What was Homer Staton's cell phone number?

18 A Records indicated, and from what they obtained, was 363-
19 6783.

20 Q Okay. Now what, if anything, happened on that Sunday,
21 October 25th, that prevented law enforcement from going
22 through those cell phone records that you obtained?

23 A In the early evening of Sunday the 25th was when Homer's
24 body was discovered on Asaville School Road by a
25 gentleman out walking.

1 Q How were you able to get Homer Staton's cell phone
2 records so quickly?

3 A Most of the phone companies, in fact I think all the
4 phone companies, will provide for exigent circumstances
5 and if you do an exigency request with them, they will
6 provide it in an expedited manner.

7 Q Okay. Do you recall what cell phone company Homer was
8 associated with?

9 A I believe he was AT&T.

10 Q Okay. Now, so at this point, is JoAnn Staton still
11 missing?

12 A She is still not located.

13 Q Okay. So, on that Monday, which was October 26, '09,
14 were you able to determine the phone number of the last
15 conversation Homer Staton had?

16 A Records indicated that it was 318-1497. This number was
17 later found by a phone call to belong to a Irving
18 Ramirez, who is more commonly goes by "Ernie".

19 Q All right. Now when was that last phone call?

20 A 7:29 p.m., appears to be the last one, or would have
21 been a conversation, or would have been the last one
22 according to the connection time.

23 Q And what date was that?

24 A That was on Friday, the 23rd, according to my the
25 records.

1 Q Okay. So, that call was on Friday night, October 23rd
2 at 7:29, the last conversation.

3 A According to the records, yes.

4 Q So what, if anything, was done with that phone number,
5 318-1497, or Irving Ramirez's phone number?

6 A At that point, investigators made contact with Mr.
7 Ramirez to try to determine the nature of this call and
8 interviewed him about it.

9 Q Now, where did Irving Ramirez live at that time in
10 October of 2009?

11 A Then, he lived at [REDACTED] Road in Belton.

12 Q Okay. And where did the defendant live in October of
13 2009?

14 A He lived at [REDACTED] Road in Belton.

15 Q So, basically, the two were neighbors?

16 A Yes.

17 Q Did Ernie Ramirez cooperate with law enforcement and
18 give a statement on that Monday and then again on that
19 Wednesday?

20 A He did. And there is actually a third one he gave to
21 us.

22 Q Okay. As a result of the statements and conversations
23 with Irving Ramirez, what, if anything, became the focus
24 of your investigation?

25 A The defendant ---

1 MR. ROBINSON: I object, Your Honor. Leading and also
2 relevancy to this case.

3 THE COURT: Overruled.

4 A The defendant, Matthew Fullbright, became the focus
5 based on what Mr. Ramirez had after the investigation.

6 Q Were you able to track this defendant down?

7 A Yes.

8 Q How did that come about?

9 MR. ROBINSON: Objection, Your Honor. Assumes facts not
10 in evidence. She's making a statement regarding this
11 defendant, tracking him down. I would ask that be stricken
12 from this case.

13 THE COURT: I would ask you to re-phrase that question,
14 please ma'am.

15 Q Did you eventually speak to the defendant, Matthew
16 Fullbright?

17 A Yes. On Wednesday.

18 Q Okay. And that would be Wednesday, October 28th.

19 Correct?

20 A Yes. Correct.

21 Q Okay. How did that come about? Why did you speak to
22 the defendant, Matthew Fullbright?

23 A He turned himself into the Sheriff's office on a
24 unrelated matter.

25 Q Okay. So, he did not turn himself in to talk about the

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1 Staton murder or Ernie?

2 A No.

3 Q And again, had JoAnn's body been located yet? This is
4 Wednesday the 28th.

5 A No, not by Wednesday. At that time, she was still not
6 located.

7 Q What is law enforcement doing during this time frame
8 between finding the car, basically, Saturday and now,
9 Wednesday?

10 MR. ROBINSON: Objection, Your Honor. Foundation. He is
11 not law enforcement.

12 THE COURT: Overruled.

13 A Between finding the car and Wednesday, we are talking to
14 neighbors trying to gather witnesses, sending out
15 additional requests for records and search warrants,
16 following up on other leads. There were numerous
17 detectives going in numerous directions. We had plenty
18 of work to do.

19 Q So the jury understands what's happening, you, along
20 with Detective Beusse, who is the lead right here
21 (indicating) ---

22 A Yes, ma'am.

23 Q --- are you pretty much working day and night to try to
24 locate Mrs. Staton at this point?

25 A Yes.

1 Q When the defendant came in that Wednesday afternoon to
2 the Law Enforcement Center, did you speak to him about
3 the Statons and your investigation?

4 A We did.

5 Q Who was present when you spoke with the defendant?

6 A Myself and Sergeant Beusse were in the interview room
7 with him.

8 Q Okay. And so you were in an interview room?

9 A We were.

10 Q Okay. Where was this interview room located?

11 A It's on the second floor of the Anderson County
12 Sheriff's Office.

13 Q Please describe that room for the jury so they
14 understand what it looks like.

15 A It's a small square room, maybe 10 by 10 square. It has
16 three chairs, a plain desk, trash cans, one wall has a
17 one-way mirror to an observation room.

18 Q Okay. So, what is a one-way mirror? What is the
19 purpose of that?

20 A So that other people on the other side of the mirror can
21 observe me, you know, in that room and not be seen
22 behind the glass but they can observe what is going on
23 in the interview room.

24 Q So, you can't see out, but they can see in because they
25 are outside?

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1 A If you are in the interview room looking at the mirror,
2 it looks like a mirror.

3 Q Okay. All right. So, was anyone outside of that room
4 on the other side of the one-way mirror witnessing your
5 interview along with ---

6 A Yes.

7 Q --- Detective Beusse?

8 A Oh, yes.

9 Q Okay. Who was out there? Do you know? About how many
10 officers?

11 A The then supervisors, my current Captain, two Colonel
12 Lieutenants, some other detectives, Sheriff Skipper,
13 there was a good many more either in the interview room
14 or in the hallway.

15 Q Why were so many officers there at that point?

16 A At this point, we still -- these people had contributed
17 in this case, too, and they knew the potential of this
18 interview and they wanted to see what came of it and
19 they were still concerned, because we still needed to
20 find Mrs. Staton. So, there was just a lot of interest.

21 Q How many officers did the Sheriff's office have working
22 on this case?

23 A At this time? Probably a dozen.

24 Q Were the defendant's Miranda Rights read to him in your
25 presence?

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- 1 A They were.
- 2 Q Okay. Who read them?
- 3 A Sergeant Beusse read them. I just observed.
- 4 Q Okay. And so at this point, it's just you, Sergeant
- 5 Beusse, and the defendant in the room.
- 6 A Correct.
- 7 Q Okay. Rob, I want to show you State's Exhibit 1. Do
- 8 you recognize that?
- 9 A I do.
- 10 Q Okay. How do you recognize it?
- 11 A This is one of our Anderson County Sheriff's office
- 12 Advisory of Rights Forms. This is the common form that
- 13 all of us use. I recognize this one in particular
- 14 because, you know, I witnessed this one filled out, but
- 15 I also, on the witness line, affixed my signature and
- 16 this is my signature in my hand.
- 17 Q Okay. What time did this advice of rights take place?
- 18 A It began at 6:35 p.m.
- 19 Q Okay. Please explain to the jury exactly how Detective
- 20 Beusse read the rights to the defendant. In fact, go
- 21 through that form for me.
- 22 A In going through the form from top to bottom, there is a
- 23 line for location, date, and time, which he filled out.
- 24 He also, towards the right side of the form, put the
- 25 defendant's name. He asked him what's the farthest

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1 level of education and he had achieved, Mr. Fullbright
2 replied that he had a G-E-D. He was also asked if he
3 could read or write or if he had difficulty in reading
4 and writing and he indicated that he could read and
5 write. Sergeant Beusse then goes into the bulk of the
6 form. The first line in which he asked him is, "Before
7 you are asked any questions, you must understand your
8 rights."

9 Q Sergeant, if I may stop you. I am...

10 MS. ADAMS: Judge, if you don't mind, I am going to put
11 it up so the jury can see it as he is explaining it. (Ms.
12 Adams projects form on large screen.) May he step down?

13 THE COURT: Yes, ma'am. (Witness steps off witness stand
14 to stand in front of the large screen in front of the jury)

15 Q All right, Sergeant Gebing, if you could explain to the
16 jury what all this is.

17 A Again, this is an Anderson County Sheriff's office
18 standard Advisory of Rights Form, as you can see
19 indicated up here. There's a place for the location,
20 date, and time, the starting time. Sergeant Beusse
21 noted the defendant's name and he asked him about how
22 far he'd gone in school and he said he had his G-E-D and
23 that he could read and write English. He tells him,
24 "Before you are asked any questions, you must understand
25 your rights." And then Sergeant Beusse made two lines

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1 and asked Mr. Fullbright to read these two out loud.

2 Mr. Fullbright was able to read out, "You have the right
3 to remain silent and anything you say may be used
4 against you in court." And then he was asked to put his
5 initials there. (Indicating)

6 Q So, Matthew Fullbright put his initials there? He is
7 the one that signed that?

8 A Correct.

9 Q Okay.

10 A To indicate that he had read those out loud and it also
11 helps us verify that this person, in fact, is capable of
12 reading and writing and doesn't need glasses or contacts
13 or any assistance. Sergeant Beusse then reads this out
14 loud with him, he reads, "You have the right to speak to
15 a lawyer for advice before you are asked any questions
16 and have him with you during questioning. If you cannot
17 afford a lawyer, one will be appointed for you before
18 any questioning, if you wish. If you decide to answer
19 questions now without a lawyer present, you will still
20 have the right to stop answering questions at any time.
21 You also have the right to stop answering at any time
22 until you speak with a lawyer." Once he's completed
23 this, he asked if he understood all this and if he did,
24 he was asked to place his signature on the signature
25 line. Sergeant Beusse then fills out the date and the

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1 time. He signed as a witness and, again, this is my
2 signature in my hand.

3 Q All right. Now, Sergeant Gebing, why do you not get the
4 defendant to sign the last three rights?

5 A That is just common practice. We've never -- These are
6 just bullet points. They are not big enough for anybody
7 to sign or anything like that. So, this is something
8 that we've added over time and we ask, "Can you read
9 these two out loud for me and have them sign and, again,
10 that's just our way of verifying that they can read and
11 write. That is something we've adapted, but this is
12 just our common practice.

13 Q And is that just another way for you to make sure that
14 they understand what you are doing?

15 A Correct.

16 Q Okay. All right. Now, so if you can slide it up a
17 little more and keep on going.

18 A As the form continues, the top portion is the
19 explanation of their rights and if they wish to speak to
20 us, this is a waiver of their rights. Sergeant Beusse
21 read this portion out here. It states: "I have read
22 this statement of rights and I understand what my rights
23 are. I'm willing to make a statement and answer
24 questions. I do not want a lawyer at this time. I
25 understand and know what I am doing. No promises or

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1 threats have been made to me and no pressure or coercion
2 of any kind has been used against me." There's a line
3 under the word "coercion", and we ask if they understand
4 what the word coercion means. Most people will tell you
5 no and we explain it to them, "that I am not threatening
6 you, I am not bribing you. If you don't want to speak
7 to me that is your choice." But that is the nature of
8 that line there, because he was asking him about the
9 word "coercion".

10 Q Now what about Mr. Fullbright? Did he understand what
11 coercion meant?

12 A He said that he did.

13 Q Okay.

14 A And then again, it was dated, timed and he was asked to
15 affix his signature there, which he did. Sergeant
16 Beusse signed as a witness and again that is my
17 signature in my hand.

18 Q Okay. If you could take your seat, that would be great.
19 (Witness returns to witness stand) So, when you were
20 reading him his rights, did he have any questions at
21 all?

22 A No.

23 Q And he appeared to understand those rights?

24 A Yes.

25 Q And he did so by signing that form?

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1 A Yes.

2 Q Okay. Was the defendant's speech coherent when you were
3 speaking to him?

4 A Oh, yes.

5 Q What was his demeanor?

6 A He was calm. He was compliant.

7 Q In your experience as a law enforcement officer, have
8 you ever seen anyone under the influence of alcohol or
9 drugs?

10 A Yes. Quite frequently.

11 Q Did the defendant appear to be under the influence of
12 alcohol or drugs at this time?

13 MR. ROBINSON: Your Honor, objection. Foundation.

14 THE COURT: Overruled.

15 A He did not exhibit any signs of being under the
16 influence of alcohol or drugs.

17 Q At any point, while you were going over the defendant's
18 rights or speaking to him, did he ever ask for a lawyer?

19 A No.

20 Q Okay. What would you have done if he had asked for a
21 lawyer?

22 A We would have had to have ceased questioning him.

23 Q And you would have. Correct?

24 A Oh, yes.

25 Q Did you or Detective Beusse ever threaten or coerce the

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- 1 defendant into giving a statement?
- 2 A No.
- 3 Q Did the defendant, in fact, give you a statement on
- 4 October 28th?
- 5 A We spoke verbally on October 28th. Just verbal. We had
- 6 a verbal conversation on October 28th.
- 7 Q Okay. So, explain to the jury exactly what transpired,
- 8 then, after you read the defendant his rights.
- 9 A We began questioning him about things which led to the
- 10 Fullbright situation.
- 11 A What was your role that evening? Who was doing the
- 12 questioning?
- 13 A Sergeant Beusse was doing the bulk of the questioning.
- 14 It was his case and because he's the lead, he has more
- 15 knowledge of it. I was there just to witness and to
- 16 take notes.
- 17 Q So, you were taking notes?
- 18 A Yes.
- 19 Q All right. How long were you with the defendant this
- 20 night, this evening?
- 21 A That night?
- 22 Q Uh-huh.
- 23 A From 6:35 to roughly 4:00 in the morning.
- 24 Q Okay. Now, when you first started speaking to the
- 25 defendant about the Statons, what, if anything, did you

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1 show him?

2 A Sergeant Beusse showed him driver's license photos of
3 Mr. And Mrs. Staton.

4 Q What did you tell him about that photo?

5 A He told him that Homer had been found dead and JoAnn was
6 missing and questioning led him to that.

7 Q And what was the defendant's demeanor when you showed
8 him that photo?

9 A He got defensive. He was almost taken aback about it,
10 like, "why am I being questioned about this?" You know,
11 "what does this have to do with me?" He kind of got
12 anxious about it.

13 Q Okay. So, what did he say, at first, about any
14 knowledge of the Statons' murders?

15 A He denied any knowledge of it. He did acknowledge
16 knowing them and having had past dealings with them, but
17 denied knowing anything about their disappearance or
18 their murders.

19 Q So, as the interview progressed, how was the defendant
20 acting?

21 A His demeanor changed again. He went from calm and
22 compliant to slightly defensive to sometimes
23 disinterested and unwilling to speak. He would stare
24 down at the table and not answer us at times. He got
25 kind of almost like lethargic.

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1 Q Now, when you say, "unwilling to speak," what do you
2 mean? I mean, did he ever indicate that he wanted to
3 stop? Did he ever indicate he wanted a lawyer at any
4 point in time?

5 A No. I'm not -- when I say, unwilling to speak, he would
6 literally look down at the desk and we would have to ask
7 him, you know, Matthew can you hear, you know, or are
8 you paying attention? Matthew, we had to physically,
9 not physically, but literally ask him several times to
10 acknowledge that we were speaking to him.

11 Q Okay. Now, at some point, obviously, E-M-S was called.

12 A Yes.

13 Q Correct? All right. Explain to the jury what happened
14 that prompted y'all's call to E-M-S.

15 A As questioning continued and we started to get some
16 indication that he had some involvement, at one point
17 Mr. Fullbright put his head down to his chest and had
18 his eyes closed and started blowing bubbles. I mean,
19 that's the only way I can really describe it. I thought
20 he was going to throw up at that time. So.

21 Q How long into the interview has this been? About what
22 time?

23 A Somewhere around 9:20, 9:25, 9:30. Somewhere around
24 that time.

25 Q Okay. So, somewhere between two-and-a-half to three

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1 hours ---

2 A Yes.

3 Q --- you had been talking to the defendant.

4 A Yes.

5 Q Okay. Now, so you thought he was going to throw up.

6 What did he do?

7 A What did he do?

8 Q Yes. Did he ever throw up?

9 A No. I put a trash can over towards him in case he was
10 going to, but as he was sitting there blowing bubbles,
11 then he kind of, I don't want to say collapsed, because
12 it was very slow. He just kind of slowly lowered
13 himself to the floor, passing out but in slow motion. I
14 don't know how to describe it, but he very slowly
15 lowered himself to the floor.

16 Q So, he didn't fall to the floor?

17 A No.

18 Q All right. What did you do when he rolled over, when he
19 rolled himself onto the floor?

20 A Well, we moved the chairs and I went over and checked on
21 him, briefly, and then E-M-S was called.

22 Q When you checked on him, what did you do?

23 A When I got down and checked to see if he was still
24 breathing, I gave him a sternum rub to see if he was
25 unresponsive, checked his eyes to make sure he wasn't

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1 having a seizure.

2 Q What is a sternum rub?

3 A You take a knuckle to the breast bone and apply
4 pressure.

5 Q What is the purpose of that? How do you know to do
6 that?

7 A Unconscious people will not -- It's painful. It's
8 designed to be slightly painful or uncomfortable so
9 unconscious people won't respond to that. Those who are
10 genuinely out for medical reasons or other reasons will
11 not respond to the sternum rub.

12 Q Now, did Matthew Fullbright respond to your sternum rub?

13 A He physically did. He kind of grunted and drew his
14 chest in a little bit.

15 Q Okay. Which told you what? That he was not passed out?

16 A In my ---

17 MR. ROBINSON: Objection, Your Honor. Foundation and the
18 qualifications of this particular person.

19 THE COURT: Would you lay a little foundation for that,
20 please ma'am?

21 Q How did you know to do a sternum rub? What kind of
22 training have you had?

23 A We have first aid and C-P-R training through the
24 Sheriff's Office. When I was in the Army, I took a
25 Combat Life Saver Course, which is a slightly more

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1 advanced First Aid Course. And in the '90's I was
2 actually an ambulance-level E-M-T in the State of
3 Connecticut.

4 Q So, have you ever done a sternum rub before?

5 A Yes.

6 Q So, again, please describe how Matthew Fullbright
7 reacted when you did the sternum rub.

8 A He didn't open his eyes, but he physically withdrew from
9 the pain. It was obvious, the stimulus, that he was
10 able to feel that. He grunted and kind of drew his
11 chest in as if trying to withdraw from the pressure.

12 Q Okay. Did E-M-S come?

13 A They did.

14 Q All right. How long did E-M-S stay? Do you recall?

15 A I don't recall, but it was somewhere around, maybe, 45
16 minutes. Now, that is their call, how long they were
17 there.

18 Q How long do you think the E-M-S was actually in the
19 interview room checking on Matthew Fullbright?

20 A Twenty minutes.

21 Q Okay. What happened with Matthew Fullbright after E-M-S
22 left that room?

23 A Sheriff Skipper entered the room and spoke to him down
24 at the floor level, briefly.

25 Q Now, he had been outside watching this entire thing?

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1 A He had.

2 Q Okay.

3 A Again, the Sheriff entered the room and spoke to him
4 briefly. Matthew acknowledged some of the things the
5 Sheriff was saying. The Sheriff asked him some things
6 or told him some general ---

7 MR. ROBINSON: Objection, Your Honor. Hearsay.

8 THE COURT: Sustained.

9 Q As a result of the Sheriff coming in, what did the
10 defendant do?

11 A At one point, I heard the defendant say something about
12 Hen Coop Road and he acknowledged that he could take us
13 to where she was.

14 Q And when you say "she", who is she?

15 A JoAnn Staton.

16 Q Okay. So the defendant, in your presence, said he knew
17 where JoAnn Staton's body was?

18 A I believe he said Hen Coop Road and he acknowledged that
19 he could take us to where she was.

20 Q Okay. So, did he willingly take y'all, I mean, to
21 JoAnn's body?

22 MR. ROBINSON: Objection, Your Honor. Leading.

23 THE COURT: Just re-phrase it, please, ma'am.

24 Q What did you do with the defendant once he said he knew
25 where JoAnn Staton's body was?

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- 1 A We helped him to his feet and then walked him to
2 Sergeant Beusse's car.
- 3 Q Who is we?
- 4 A Myself and Sergeant Beusse.
- 5 Q Who rode with the defendant?
- 6 A Sergeant Beusse drove. I was in the car seated behind
7 Mr. Fullbright, who was in the passenger seat.
- 8 Q What was Matthew Fullbright's demeanor in the car?
- 9 A Very anxious. He would occasionally sob. Say, "Oh,
10 God" or "My life is over". He was very reluctant to
11 answer questions. I was in the back actually asking
12 him, I thought we were going to Hen Coop Road, so I was
13 asking him where, on Hen Coop Road, was there any
14 landmark that I needed? He said he couldn't talk about
15 it right now. He was very upset.
- 16 Q Okay. But what was he telling Detective Beusse?
- 17 A Directions.
- 18 Q All right. Was he specific in his directions?
- 19 A He would tell us, left here, right here. As we came to
20 certain intersections he would tell us which way to go.
- 21 Q Where did he take you?
- 22 A We ended up on Waterside Drive.
- 23 Q Which is where?
- 24 A It is off -- It is in the Bridge Point subdivision which
25 is off of Mellrich Road, it's off Audubon in Iva. The

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1 Bridge Point subdivision comes to an intersection and to
2 the left is Waterside Drive.

3 Q Okay. Which is in Iva, South Carolina though, in
4 Anderson County?

5 A Yes.

6 Q Okay. Did the defendant have any trouble directing you
7 to Waterside Drive?

8 A No, not really.

9 Q Where is Hen Coop Road in relation to Waterside Drive?

10 A It's a couple of miles away.

11 Q Would you go past Hen Coop Road to get to Waterside
12 Drive?

13 A Not from that -- not from the directions he gave us.

14 Q How long did it take you to get from the Sheriff's
15 Department to Waterside Drive?

16 A Maybe a half an hour.

17 Q And again, you thought you were going to Hen Coop Road.
18 Correct?

19 A I did, only because that is the last thing I'd heard him
20 say in the interview room.

21 Q Did the defendant ever appear confused about where he
22 was taking you?

23 A No.

24 Q Did he ever appear unsure of how to get there?

25 A No.

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1 Q Would you please describe the location of where you
2 found JoAnn Staton's body to the jury.

3 A The subdivision at the time, and it still is, is under
4 development. There are larger lots, larger houses. It
5 is kind of an upscale area.

6 Q Is it on the lake?

7 A It is, or a portion of it is. Bridge Point Drive comes
8 to a T intersection at Waterside and I forget the name,
9 but if you continue, left is Waterside and right is
10 another street name, but I don't recall it. Waterside
11 and the other street are lake properties. He brought us
12 down Bridge Point and told us to turn left on Waterside.
13 It was very isolated and very dark.

14 Q Were you even familiar with this area?

15 A I'd never been there.

16 Q About what time is it, at this point, that you finally
17 reached Waterside Drive?

18 A It's after 10:00.

19 Q How many police cars followed you to Waterside Drive?

20 A Quite a few. Probably six or seven.

21 Q Why so many?

22 A Again, the people who had been observing the interview,
23 they were wanting to come assist trying to locate her.
24 We had forensic people come down. We had quite a few
25 people and they all brought their own car.

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1 Q When you got to the location of Waterside Drive, what
2 happened? What did Matthew Fullbright tell you in an
3 attempt to locate JoAnn Staton's body?

4 A As we are going down Waterside Drive, he's looking out
5 his window.

6 Q So, he's on the right side?

7 A He's on the passenger side and Sergeant Beusse is
8 driving and Mr. Fullbright is looking out to the right
9 out his window. I can only assume looking for Mrs.
10 Staton. We got -- and we were going along very slowly.
11 We got to a point where he told us he thought that we
12 passed her and had us turn around. There was a cul-de-
13 sac. We turned around in the cul-de-sac and came back
14 down to the approximate area. We slowed again and now
15 he is looking over his left passenger -- I'm sorry, over
16 at Sergeant Beusse's window and told us to stop, she
17 should be somewhere in here. Sergeant Beusse took the
18 flashlight and shined it on the ground and thus telling
19 the other detectives to look in that area. They ended
20 up getting out and forming a line a few feet, a little
21 bit down, and working their way up and that's when she
22 was discovered.

23 Q How close were you in the car with the defendant to
24 JoAnn's body?

25 A About, no more than 50 feet.

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1 Q How far off the road was JoAnn's body, approximately?

2 A Approximately 30 feet.

3 Q What kind of location was this? Was there anything near
4 her body?

5 A No. Where she was found was just trees and grass, a
6 little depression in the ground, but there was nothing
7 developed there. It was a wooded area.

8 Q Sergeant Gebing, I'm going to show you State's Exhibit
9 23B. Do you recognize that?

10 A Yes.

11 Q Okay. How do you recognize that?

12 A This is one of our photos that was taken by our forensic
13 personnel. It's a marker with a pair of glasses that
14 were found in the road and this is the street where the
15 body was found.

16 Q And that is Waterside Drive?

17 A Yes.

18 Q Is that a fair and accurate representation of what it
19 looked like that night while you went down there with
20 Mr. Fullbright?

21 A It's not in that this is illuminated with a camera
22 flash, so in actuality, it was very, very dark and there
23 was little ambient light. So, this is actually brighter
24 than what would appear to the naked eye, but with the
25 light, yes, this is a fair and accurate representation

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1 of what we found.

2 MS. ADAMS: Your Honor, I would like to admit that into
3 evidence.

4 THE COURT: Any objections?

5 MR. ROBINSON: No objection.

6 THE COURT: Admitted without objection. You said it is
7 23C?

8 Ms. Adams: "B", Your Honor.

9 THE COURT: "B", all right.

10 (Whereupon, a photograph is entered into evidence as
11 State's Exhibit 23B, without objection)

12 Q Sergeant Gebing, how did y'all get the body out of
13 there? Tell us what you did with the body once you
14 found it. Let me take -- Let me ask you this, how long
15 did it take the officers to find the body?

16 A Not long. A few minutes.

17 Q Okay. Because it was so dark, what did y'all have to do
18 once you had discovered the body?

19 A The Fire Department was actually called to bring out
20 some portable light for us to process the scene.

21 Q Now, I want to show you State's Exhibit 23A. Do you
22 recognize that?

23 A Yes.

24 Q How do you recognize it?

25 A This is a photograph again taken by our forensic

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1 personnel showing a slightly closer image from closer in
2 towards Mrs. Staton's body. It appears that is her as
3 we found her that night.

4 Q So, is that a fair and accurate representation of where
5 Mrs. Staton's body was located that night?

6 A Yes

7 MS. ADAMS: Your Honor, I would like this admitted into
8 evidence.

9 THE COURT: Any objections?

10 MR. ROBINSON: No objection, Your Honor.

11 MS. ADAMS: And this is 23A.

12 THE COURT: Admitted without objection. Okay.

13 (Whereupon, a photograph is entered into evidence
14 as State's Exhibit 23A, without objection)

15 (Ms. Adams projects photograph on large screen)

16 Q So, explain to the jury where the road is in this
17 picture so they can kind of get an idea of where this
18 picture was taken.

19 A The road would have been behind the photographer.

20 Q All right. And then again, you said that this would be
21 Mrs. Staton?

22 A Ma'am, I am not ---

23 Q You can step down. Why don't you point for the jury to
24 make sure they can see. (Witness leaves the witness
25 stand and uses laser pointer)

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1 A You have this grey area here and Mrs. Staton is right
2 here.

3 Q Thank you.

4 (Witness returns to the witness stand)

5 Q Now did the defendant ever get out of the car that
6 night?

7 A No.

8 Q Okay. So, once her body was found, what did you and
9 Sergeant Beusse do with the defendant?

10 A We drove down the street. He wanted to show us another
11 area where they had been prior to that and after that,
12 we left to go back to the office to continue the
13 interview and take a statement.

14 Q All right. At any point that night when you were riding
15 around before you found JoAnn's body, did the defendant
16 ask to stop or go back to the Law Enforcement Center or
17 ask for a lawyer?

18 A No.

19 Q What was his demeanor in the car on the way back after
20 just showing you where JoAnn's body was?

21 A Much calmer than it had been on the way down. He was
22 far more compliant and seemed more at ease.

23 Q About what time is it now?

24 A Probably coming up on -- It's probably closer to, if not
25 a little bit after, 11:00.

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- 1 Q Did you get the defendant anything to eat at this point?
- 2 A Sergeant Beusse had asked him whether or not he was
- 3 hungry and he said he was, so on the way back to the
- 4 office, we stopped and got him something to eat.
- 5 Q Where did y'all go?
- 6 A Taco Bell.
- 7 Q Where did y'all eat?
- 8 A In Sergeant Beusse's office.
- 9 Q Once you were finished eating, did the defendant give a
- 10 written statement?
- 11 A He did.
- 12 Q I want to show you what has been marked as State's
- 13 Exhibit 2. Do you recognize that?
- 14 A I do.
- 15 Q What is that?
- 16 A This is the written statement that was prepared that
- 17 night as a result of the continuing interview that we
- 18 had with Mr. Fullbright after returning from Waterside
- 19 Drive.
- 20 Q And where were you when that statement was given?
- 21 A We were in Sergeant Beusse's office when that was
- 22 prepared and given.
- 23 Q Okay. And do you recall about what time it is now? Is
- 24 it midnight? After?
- 25 A Depends on what you are asking. When we started or when

- 1 it was completed or...
- 2 Q When you started typing this statement.
- 3 A We started typing it, probably, sometime after midnight.
- 4 Q All right. And again, who was present?
- 5 A Myself, the defendant, and Sergeant Beusse.
- 6 Q Who is typing?
- 7 A Sergeant Beusse.
- 8 Q And where was he typing it?
- 9 A On his computer at his desk.
- 10 Q And what were you doing?
- 11 A I was sitting at the other desk, again, observing,
- 12 taking notes, and asking questions as needed.
- 13 Q About how long did this process take to type up that
- 14 statement?
- 15 A A couple of hours. It was lengthy.
- 16 Q How many typed pages do you have right there?
- 17 A Seven typed pages and a signature page with no statement
- 18 typed on it.
- 19 Q Once that statement was typed out, explain to the jury
- 20 what you and Detective Beusse did with that typed
- 21 statement.
- 22 A As he was typing this out, we were going over the
- 23 contents of it with Mr. Fullbright, discussing what was
- 24 in it, offering him and taking him on breaks as needed.
- 25 When it came time for us to get it signed, he found some

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- 1 things that he wanted changed and made the admission to
2 us during break regarding the sequence of events, that
3 he wasn't in agreement with. We tried to make those
4 corrections and he began complaining that he was tired
5 and for us to just do this tomorrow. We were obviously
6 wanting to complete this then, but he ended up refusing
7 to sign it and said he was going to sleep and he wasn't
8 signing anything and then he just sat back in his chair
9 against the wall and wouldn't respond to us anymore.
- 10 Q Okay. So, before he did that, now, are you reading the
11 statement to him or do you just let him read it?
- 12 A Sergeant Beusse is reading it.
- 13 Q Okay. That evening, did he sign that statement or
14 initial anything?
- 15 A No.
- 16 Q Did he acknowledge that night anything in that
17 statement?
- 18 A He acknowledged the contents of it, but again, he had
19 made mention during break that he wanted some things
20 changed. So.
- 21 Q And when you say he wanted some things changed, what do
22 you mean? What did he -- What didn't he like about that
23 typed statement?
- 24 A He didn't like -- During break he had -- We were
25 downstairs and he was smoking a cigarette and he says,

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1 "I can't do this. I don't want to make this sound like
2 anything it wasn't." I asked him what he meant. He
3 said, "I don't want this to sound like, you know,
4 anything more than what it was." I said, "Is this
5 supposed to be a murder?" And he said, "Yes". I said,
6 They weren't supposed to come out of this alive?" And
7 he said, "No". Basically, he wanted the sequence of
8 when he became aware that this was actually supposed to
9 have been a robbery and a murder as opposed to what he
10 had been telling us up to that point.

11 Q So, in that statement, he didn't say that in the
12 beginning?

13 A No.

14 Q All right. So, he wanted y'all to understand that the
15 plan was to rob and kill them from the beginning?

16 A Yes. He wanted to just come clean with it as he
17 described it.

18 Q So, when he said he was tired, did you stop questioning
19 him?

20 A We had no choice. He was seated against the wall with
21 his eyes closed and refusing to respond to us, so we had
22 to stop questioning. We took him to the jail and had
23 him booked in for the night.

24 Q About what time was this?

25 A A little after 4:00.

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- 1 Q In the morning. Correct?
- 2 A Correct. The morning of the 29th.
- 3 Q Did he, at any time during this, approximately 10-hour
- 4 process, ever ask for a lawyer?
- 5 A No.
- 6 Q What, if anything, did y'all discuss with the defendant
- 7 before you stopped that night about clarifying his
- 8 statement the next day?
- 9 A At the sally port, when we were booking him in, we told
- 10 him we would come see him the next day.
- 11 Q What time did you and Sergeant Beusse see him the next
- 12 day?
- 13 A Sometime in the early afternoon, two something. Two, in
- 14 the afternoon.
- 15 Q Was he informed of his rights again that day?
- 16 A He was.
- 17 Q I'm going to show you what has been marked State's
- 18 Exhibit 3. Do you recognize that?
- 19 A I do.
- 20 Q And what is that?
- 21 A This is another Anderson County Sheriff's office
- 22 Advisory of Rights Form. This is the one that was done
- 23 the next day at the jail at, it was begun at 2:20 in the
- 24 afternoon. It's identical to the other form and, again,
- 25 my signature is on the witness line and in my hand.

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1 Q Okay.

2 MS. ADAMS: If I may, Your Honor, show it to the jury
3 and he explain what it is?

4 THE COURT: Any objection to the admission of that?

5 MR. ROBINSON: Just my previous objection, Your Honor.

6 THE COURT: Admitted, subject to objection.

7 (Whereupon, an Advisory of Rights Form is admitted into
8 evidence as State's Exhibit No. 3, subject to objection.)

9 Q All right. So again, who is reading the defendant his
10 rights on this day, the 29th.

11 A Sergeant Beusse.

12 Q Okay. And it started at 2:20 p.m., as it says right
13 here?

14 A Correct.

15 Q So this was, obviously, after the defendant was able to
16 get some sleep?

17 A Yes. It was.

18 Q And again, what did you witness Sergeant Beusse do,
19 regarding his rights?

20 A I witnessed him, again, fill out the portions as he did
21 earlier, filling out the subject's name, his education
22 level, that he can, in fact, read and write at the top.
23 I witnessed him read that first line and then he asked
24 Mr. Fullbright, after making a little small line to the
25 first two items, he asked Mr. Fullbright to read those

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1 out loud and when he did, he asked him to initial on
2 those lines. I witnessed Sergeant Beusse read out the
3 rest of the form and then ask Mr. Fullbright if he
4 understood and when he did, I asked, I witnessed him ask
5 him to affix his signature on the signature line, which
6 he did. And again, I signed as a witness to that.

7 Q What was the defendant's demeanor at this point? The
8 next day after he was able to sleep?

9 A He seemed better. He wasn't, you know, argumentative
10 about needing more rest or anything like that. He was
11 compliant. He was more easy going, more relaxed.

12 Q Did he appear to be under the influence of any alcohol
13 or drugs on this day?

14 A Oh, no.

15 Q Who else was with you and Sergeant Beusse?

16 A Detective Danny Barton. And he is actually --
17 Underneath my signature is his signature as well as an
18 additional witness.

19 Q Right here? (Indicating on large screen)

20 A Correct.

21 Q Now, so, this waiver started at 2:20 and when was it
22 completed?

23 A The Advisory or the Waiver?

24 Q The Advisory.

25 A The Advisory was completed at 2:21 which is indicated at

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- 1 that date and time.
- 2 Q Whose signature is that?
- 3 A That's Mr. Fullbright's.
- 4 Q And did you witness him sign that?
- 5 A I did.
- 6 Q Okay. So, then you did the Waiver of Rights again.
- 7 Correct?
- 8 A Correct.
- 9 Q All right. And again, who was present?
- 10 A Myself, Detective Barton, Sergeant Beusse was going over
- 11 it, and the defendant.
- 12 Q And what time was that finished?
- 13 A That was finished at 2:22 p.m.
- 14 Q Okay. And again, who's signature is that by that "x"?
- 15 A That is Mr. Fullbright's.
- 16 Q And you were witness to that as well. Correct?
- 17 A Yes. I did.
- 18 Q Okay. Now, obviously, the purpose of this meeting, or
- 19 interview like you said, was to clarify what the
- 20 defendant has said the previous night. Correct?
- 21 MR. ROBINSON: Objection, Your Honor. Leading.
- 22 THE COURT: Sustained.
- 23 Q How did this interview start? What did y'all do?
- 24 A We had a meeting to continue the interview from the last
- 25 night, to make clarifications and to make whatever

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1 changes he wanted. That's why we approached him this
2 day, to continue what we had started the night before.

3 Q Did he ever refuse to speak to you on this day?

4 A Oh, no.

5 Q Did you coerce him or threaten him to speak to you on
6 this day?

7 A No. Like I said, he was compliant and very willing to
8 speak to us that day.

9 Q So, did he freely and voluntarily give you his statement
10 on October 29, 2009?

11 A He did.

12 Q I want to show you State's Exhibit 4. Do you recognize
13 this?

14 A I do.

15 Q Now what is that?

16 A This is the second statement that was prepared and this
17 was prepared at that second meeting at the jail. This
18 is an abbreviated version of the one that Sergeant
19 Beusse had taken. I recognize this, because I am the
20 one who prepared this one. And again, on the second
21 page, I signed it as a witness and this has my signature
22 in my hand.

23 Q All right. So, when you say you prepared it, what does
24 that mean?

25 A I typed it.

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1 Q Did you go over that two-page statement with the
2 defendant that day?

3 A Well, I'm typing as he is telling his version of events.
4 Once it is completed, he is offered it to read and he
5 has an opportunity to go over it.

6 Q So, you were actually typing while he is talking?

7 A Correct.

8 Q Once you were done, did you read it to him or let him
9 read it?

10 A It's my practice, I offer it to them and let them read
11 it.

12 Q All right. And did he do that?

13 A Yes.

14 Q All right. Did he want to change, add, or delete
15 anything in that two-page statement?

16 A No, he was satisfied with this.

17 Q So, was the two-page statement, basically, an
18 abbreviated version from the night before?

19 A Yes.

20 Q What was he telling you about that?

21 A It was a slightly condensed or abbreviated version of
22 what he had told us in the lengthy one the night before.

23 Q So, was that done first?

24 A This one was done first. The longer one was the one
25 that had been prepared the night before. So, it was

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1 already typed, it had just not been signed. So.

2 Q Did you review the prior longer statement with him on
3 the 29th?

4 A Yes. Sergeant Beusse was actually going over it, as
5 they were progressing, so we went over both of them.

6 Q While you were going over the seven-page statement from
7 the previous night, what was the defendant doing? I
8 mean, did he acknowledge any part of that first
9 statement?

10 A He was -- He acknowledged the first five pages.

11 Q How do you know that?

12 A He told us. I mean, that is where he stopped and said,
13 "Well, everything up to here is okay." But ---

14 Q When you say okay, you are talking about order or
15 substance?

16 A Yes. The things that he had, the things that he had not
17 liked before were after page five, so he was in
18 agreement with everything through page five. It was the
19 stuff afterwards that he had concerns about, the
20 sequence, the order they were in.

21 Q So, you witnessed the defendant sign and initial these
22 statements. Correct?

23 A I did.

24 MS. ADAMS: Your Honor, I would like to move State's
25 Exhibits 2 and 4 into evidence.

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1 THE COURT: Any objections?

2 MR. ROBINSON: As noted, Your Honor.

3 THE COURT: Subject to prior, admitted, subject to
4 objection.

5 (Whereupon, an eight-paged written statement dated
6 10/28/09 is admitted as State's Exhibit No. 2 and a written
7 statement dated 10/29/09 is admitted into evidence as State's
8 Exhibit No. 4, subject to objection.)

9 Q So, Sergeant Gebing, so the jury understands, on this
10 first statement, when was it signed and initialed? When
11 was the first five pages signed and initialed by the
12 defendant?

13 A Right after he signed that smaller, second one.

14 Q Okay. Now, do you recall what time that was?

15 A I don't recall off the top of my head, but I made a
16 notation of when I signed it as a witness which, on this
17 document, was 3:28 p.m.

18 Q On the 29th. And how do you know that?

19 A Because we dated it and ---

20 Q And signed it?

21 A --- and signed it and that is why I put that time, so I
22 will know when I was bearing witness.

23 Q And so the jury can see this and they can understand,
24 this is the fifth page? (Ms. Adams projects document on
25 large screen)

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1 A Yes, ma'am.

2 Q And you were referring to?

3 A The bottom left where it says R. Gebing/ACSO/1528.

4 That's military time for 3:28 p.m.

5 Q And this was at 3:28 on the 29th.

6 A Correct.

7 MS. ADAMS: Your Honor, just to clarify and confirm,

8 State's 1, 2, 3, and 4 have been admitted into evidence.

9 THE COURT: Is that correct, Counsel? Take a minute and
10 look at those. Would you show those to Mr. Robinson, please
11 ma'am?

12 MR. ROBINSON: The same objections, Your Honor, as
13 before.

14 THE COURT: They have been admitted.

15 MS. ADAMS: Your Honor, may we approach?

16 THE COURT: Yes, ma'am.

17 (Bench Conference Off the Record)

18 THE COURT: All right, Ms. Terry and Ladies and Gentlemen
19 of the jury, this is a good breaking point for the morning
20 session. Go ahead and go back and get something to drink and
21 whatever. If you need anything, the bailiffs will make it
22 available to you and we will resume in about 15 minutes,
23 okay? If you need any additional time let us know.

24 (Jury out at 11:10 a.m.)

25 THE COURT: Is the State ready to proceed?

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1 MS. HUEY: Yes, sir, Your Honor.

2 THE COURT: Mr. Robinson, is the defense ready to
3 proceed?

4 MR. ROBINSON: The defense is ready, Your Honor.

5 THE COURT: Would you bring the jury in, please sir?

6 (Jury in at 11:36 a.m.)

7 MR. ROBINSON: Your Honor?

8 THE COURT: Yes, sir.

9 (Brief Bench Conference Off the Record)

10 (The jury is directed to return to the jury room)

11 THE COURT: Shut the door, please. All right, Mr.
12 Robinson?

13 MR. ROBINSON: Your Honor, I have some concerns that
14 officers may be texting back and forth. The court has ruled
15 that there will be a sequestration order in place and I would
16 ask that they are not to communicate with each other, with
17 the officers outside. I want to make sure that that they are
18 not texting back and forth about any of the testimony here,
19 talking back and forth about what they say or what was said.

20 THE COURT: Who are the alleged offenders?

21 MR. ROBINSON: I can't say, but I just want them to know
22 that they are not supposed to do that.

23 THE COURT: All right. Is anyone involved in law
24 enforcement who has a phone out there that has been texting
25 into the courtroom? All right, this goes to not only law

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1 enforcement but to anyone involved in this case who is in
2 this courtroom. There shall be no texting, whatsoever, if
3 you are sitting in the gallery. Mr. Frazier, if you see
4 anyone with a cell phone out who appears to be texting, I
5 want you to remove it from them and bring it to me. Okay,
6 sir? I am not saying that you are, but let's make sure that
7 that is not happening. Is somebody doing it now?

8 MR. FRAZIER: Right here this reporter has got computers.

9 THE COURT: Well, reporters are allowed to report on what
10 is going on. They have an exception to the Rule, but other
11 than that, there is not, and I am not saying there is, but
12 there is not to be any texting by any person spectating
13 whether you are watching, whether you are law enforcement,
14 involved in the case or not. Okay? Is that clear?

15 MR. ROBINSON: Thank you, Judge.

16 THE COURT: Okay.

17 MS. ADAMS: Your Honor, I did ask Sergeant Beusse and
18 there has been no texting from him. The only thing I can
19 think of, maybe, is that an officer, during the break, came
20 in and asked about what time we thought another officer might
21 testify, just for timing, but I can assure you they're not
22 texting back and forth. We may need Westlaw access, but I can
23 assure you, we are not texting anyone about anything.

24 THE COURT: I am not accusing you of that.

25 MS. ADAMS: Oh, I know that.

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1 THE COURT: The issue was raised ----

2 MS. ADAMS: I just didn't want you to see us on our
3 phones and wonder what we were doing.

4 THE COURT: The issue was raised. It is an appropriate
5 concern. I'm just, it's just a forewarning that that is
6 something that does not go on. After that, are you ready to
7 proceed, Mr. Robinson?

8 MR. ROBINSON: I am, Your Honor, as long as law
9 enforcement realizes what they are allowed.

10 THE COURT: I have already instructed them. I don't need
11 you to instruct them any further. Okay, sir? All right,
12 now, from the State, are you ready to proceed?

13 MS. ADAMS: Yes, I am, sir.

14 THE COURT: Okay, would you bring the jury in.

15 (Jury in at 11:41 a.m.)

16 THE COURT: All right. Are you ready to proceed?

17 ADAMS: Yes, sir, Your Honor. May it please the Court.

18 I would like to publish the statements taken from the
19 defendant, at this point, to the jury.

20 THE COURT: Yes, ma'am.

21 MS. ADAMS: Your Honor, this is the first statement that
22 began on October 28th of 2009, which is, State's Exhibit 2.

23 (Ms. Adams reads to the jury) "I am allowing Detective
24 Beusse to type this statement. On Tuesday or Wednesday of
25 last week, I was walking down Blair Mill Road and heard

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1 someone shooting targets that were metal that I had heard
2 before and this got my attention. I walked up and looked
3 around the fence and started talking to the guy who lives
4 there. He asked me if I was the guy down the street with the
5 pit bull and I said yes. I went to the back porch and
6 started talking to him and we introduced ourselves. I told
7 him I was Matthew and he told me his name was Ernie. Within
8 about 20 minutes Ernie was asking me if I could get some
9 weed. I told him that I knew where to get some and we left
10 in the hour and went to Subway and got something to eat.
11 Ernie asked me how far it was to get some weed and I told him
12 it was by the fairgrounds. I told him turn by turn of how to
13 get there. We got there and I got him some weed. He had a
14 glass pipe with him. This was at Kenneth Burdette's house.
15 We got forty dollars worth of weed. Ernie bought the weed
16 and he had went by the Wachovia in Belton after Subway. I
17 got some OCs for myself. We smoked some weed and drove
18 around for a while. This was when we started talking heavily
19 about my financial problems. Ernie was talking about his
20 financial problems, but stated he was not that worried, that
21 he got a check, but could always use money. I brought up
22 that I had a ring and some tools that I could sell and get
23 some money. I told him that I was going to sell the ring to
24 my buddy. I told Ernie that my friend wore a Rolex and some
25 diamond rings and I told Ernie I wished I had my bills paid.

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1 We drove around some more and we talked about that some more.
2 Ernie said that he had never seen a Rolex and he wished he
3 had a Rolex and some diamonds would be nice. Ernie started
4 asking questions about who I sold jewelry to. He asked how
5 old they were, how long have you known them, do you know
6 where they live. I had told him that it was a man and his
7 wife and they were from Greenville, South Carolina. Ernie
8 stated that he could not believe that they had not been
9 robbed riding around like that and I told him that I had
10 thought about that, too. We drove around some more and Ernie
11 took me home late in the day. The next day I got real high
12 and walked up to Ernie's house. We shot some air rifles.
13 Prior to meeting Ernie, I went to my aunt's, Edna Edwards,
14 and called Chip Staton and asked him if I could meet him at
15 the Jockey Lot over the weekend so he could take a look at
16 the ring I had for sale. This was on Wednesday when I made
17 this call. Chip said he would meet me on Saturday at the
18 Jockey Lot in Anderson. Back to being at Ernie's when I was
19 high and we were running out of weed, Ernie wanted some more
20 weed and we went back to Kenneth's. Ernie was asking about
21 OCs and wanted to know how it made you feel. I told him it
22 was great. I told him I would get some and let him try it.
23 I got four or five pills and we were riding around smoking
24 weed and I let him try some. Ernie really liked it and I
25 sold him one of my pills. We were riding around and I told

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1 him about my father's land and he had some deer. Ernie was
2 into hunting and I told him that I would take him out there.
3 I know one day Ernie went to work with me to an electrical
4 job in Anderson. We did the job and got the check and cashed
5 the check at Eddie's Minute Mart for \$225.00. We then went
6 to Kenneth's and bought some pills. I think the day after
7 the job is when we went to my Dad's property and showed it to
8 Ernie. We looked at deer tracks and drove around. On this
9 night we came back late around 7:00 and 8:30 p.m. and found a
10 buck on Whitten Road, stopped and got it and took it to
11 Ernie's. We cleaned it at Ernie's and I helped him. During
12 this time is when Ernie started talking about it looked like
13 we killed somebody because there was blood everywhere. He
14 said something along the lines like they are going to think
15 we have a body strung up. Ernie said he could kill somebody
16 and explain the blood. I went home between 1:30 and 2:30
17 a.m. The next day Ernie came and got me at my house and we
18 went back to his house. We sat on the back porch and Ernie
19 said he had a question for me. He started asking about Chip
20 and Jo and wanted to know if I was sure they always had that
21 stuff on them all the time. I told him yes and he asked me
22 if I was still meeting Chip at the Jockey Lot. I know that I
23 had previously called Chip from Ernie's cell phone and asked
24 about a meeting time at the Jockey Lot. Ernie asked me if I
25 had thought about taking their money and I told him it had

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1 crossed my mind, but I did not think I could do it. Ernie
2 asked if they carried a lot of cash and I told him a good
3 bit. I asked Ernie what he was thinking and he said he would
4 like to see everything with his eyes. I said okay. I could
5 call them and they could come up here. Ernie said if we did
6 something, it would have to be secluded. Ernie asked me if I
7 could keep a secret and I asked him if he could keep a
8 secret. We both said yes. I told him that if I was seen I
9 could not do anything. Ernie said he could think of a way
10 around that. Ernie said he did not want to use a gun because
11 it could be traced back and he would have to get rid of it.
12 I told him I did not want to shoot anyone. Ernie asked if
13 they would come meet me at my house and I told him yes. Then
14 Ernie said if I do see their stuff and I think it is good, we
15 need a game plan. We came up with the plan to have them come
16 to my house and then call them back and tell them to come
17 down to Ernie's to buy the ring and then he could see if they
18 had gold and cash. Ernie came up with the plan to tell them
19 that we knew somebody who had some gold to get them in the
20 car and take them off in the country. Ernie wanted to find a
21 real secluded spot to do that. I told Ernie how I am going
22 to do this if I am seen, because I know them. We then came
23 up with the idea of me being part of the robbery. I was
24 supposed to be with them and I would be robbed, too. We were
25 going to tell them that Ernie had a friend out in the country

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1 that wanted to sell some gold, knowing that they would agree.
2 Ernie told me that he used to be an ex-cop and knew how to
3 work this. Ernie asked me if they carried guns and I said,
4 "Yes". We needed a place to do this and Ernie asked if I
5 knew a place. I told him no. Ernie said he needed to be near
6 a house, but secluded. We got into Ernie's truck and drove
7 around looking for a place. I told Ernie that there was a
8 lot of country out towards Iva. We took off and went down
9 Highway 413 and kept driving. We went down several roads.
10 We drove down Hen Coop Road, Bear Creek and we turned around
11 and Ernie said these will not work. We kept going and got to
12 Audubon and went down and took all the roads in and out. We
13 got to the end and drove to both cul-de-sacs and Ernie said,
14 This is perfect." Ernie turned onto a cut-out road in the
15 woods and drove down to the creek and went over the log.
16 Ernie got out and walked around and I took a piss. Ernie
17 walked around the lake. This was in the daylight. We left
18 and drove the roads again to see the ways in and out. We
19 took Millrich Road and kept going over and over on what was
20 going to happen. Ernie told me that I was going to have to
21 file a police report and make it look real because Chip and
22 Jo would want to and I would have to go along with it. Ernie
23 told me when I got to the spot, to ask them to pull over so I
24 could take a piss or get out and use the cell phone because
25 of no service. This all was supposed to depend on how much

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1 money they had. I was supposed to call them and say the
2 friend's name was Billy. I was going to take them to Billy
3 in the country and ride with them and Ernie was going to
4 leave after us and beat us to the spot where the robbery was
5 going to take place. I was supposed to ride them through
6 town to kill time to give him time to get on Highway 413 and
7 get to the spot we picked out. We went back to Ernie's house
8 and he wanted me to call Chip and tell him about Billy having
9 coins and gold to sell. I did call Chip on Ernie's phone and
10 told him about the same ring and asked him if he wanted to
11 come up tonight if it was not too late and buy the ring and
12 go see a guy named Billy who had some stuff. Chip agreed and
13 he could be there in an hour. Then me and Ernie started
14 going over the details of the robbery. Ernie had a cover
15 story saying that he would be at a guy's house. The guy had
16 an Arabic name that begins with a "A". This is where he was
17 supposed to be. I don't know if he exists. Some time passed
18 and I called Chip back and told him that I was going to be up
19 the road and wanted him to meet me there. Chip asked if it
20 was safe and I told him it was okay. They were familiar
21 because they had been to my house before. Chip agreed and I
22 told him when he got on my street to call me back. Chip did
23 call me back when he got close by on Ernie's phone. All the
24 phone calls to Chip took place on Ernie's phone. One time in
25 the middle, I did call and ask if they were close by and they

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1 said they were in Williamston. They came to Ernie's house
2 and pulled into Ernie's yard coming from my house near the
3 road. We were both high. When they got there, I did have my
4 dog with me and tied her up on the corner. Chip and Jo got
5 out and were talking to Ernie and me. The plan was going to
6 be if it was not a go, Ernie was going to get on the phone
7 and act like Billy could not make it. I asked Chip to look
8 at the ring and he looked at the ring on the porch with his
9 loop. Then I got back in the car with Chip and asked him to
10 pay me if he could so I could stop and get something to eat.
11 At this time, Ernie was talking to Jo about her necklace and
12 something else. Chip weighed the ring in the car and then
13 paid me and Ernie could see. They said it's getting late and
14 asked if everything was a go with Billy. Ernie got on his
15 phone and acted like he was talking to Billy and told them
16 that I had the address and if I got lost I would call. I
17 told Chip that Billy was ready. I got in the car with Chip
18 and Jo, which is a dark blue car. I sit in the back seat
19 behind Chip. I give them directions off a piece of paper
20 that Ernie had wrote to make it look real. We drove to the
21 spot that we had picked out which was the spot that I showed
22 the detectives tonight. We got there and I asked Chip if he
23 could stop and I could pee. I got out and took a piss next
24 to the woods and got back to the car and nothing happened.
25 We drove around some and I was acting like I could not find

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1 the place. I did not know what to do. I then saw Ernie's
2 truck sticking out of the woods. We drove down to the
3 cul-de-sac and turned around. We went back down the road and
4 I said let me call this guy. I asked Chip to use his phone
5 and pretended to call Billy. I was in the car at this point
6 and then got out of the car with the cell phone. I told him
7 that I had the number. I acted like I did not have a signal.
8 I was where we found Jo tonight. Ernie comes out of the
9 woods and it is dark. Ernie pushed me and screams to get to
10 the ground. I put the phone in my back pocket and got on the
11 ground and put my hands out. Ernie said, "Get your hands
12 up," and Chip did not do this and reached for his pocket.
13 Ernie slides into the back seat and has a gun pointed to
14 their heads and says, "Don't move". Jo says, "Take what you
15 want. Don't hurt us." Ernie hit Chip with the gun when Chip
16 reached for his pocket and Chip kept reaching. Ernie said
17 hands up and he hit Chip again with the gun in the head.
18 Ernie had a automatic black gun. Ernie has something on the
19 end that was cloth. Jo started to come down with her hands
20 and the next thing I know Ernie pulled something out of his
21 jacket and hits Chip in the head and Jo in the head. Jo said,
22 "He shot us". I did not know what to do. Ernie said, "I'm
23 taking the money," and he hit them and hit them and hit them.
24 I had to look away and kept hearing Ernie hit them. Jo was
25 in the driver's seat and Chip was in the passenger seat.

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1 Ernie got out and looked at me and said, "Get up". I got up
2 and Ernie opened Jo's door. Ernie said, "Help me," and I
3 stood there. Ernie pulled her to the woods. Ernie said, "I
4 need you to drive this car," and I did. Ernie was over there
5 with Jo and I know he has her diamond ring because I saw it
6 later. I got in the car and sat there looking straight
7 forward. Chip was not making any noise. I had to move the
8 driver's seat back to drive. Before I got in to drive, Ernie
9 handed me some textile gloves that were white in color. I
10 sat there and Ernie comes around and hands me a phone and
11 says, "I need you to call me." This was a GoPhone. The
12 phone had a plastic thing around it. Ernie got in the back
13 seat and rambled around. I did not look much. I did not want
14 to see Chip. Ernie told me to try the phone to see if it
15 worked. I turned the phone on and at first could not get it
16 to work. Ernie was taking Chip's watch, jewelry, wallet, and
17 cash. Ernie was wearing gloves that looked like the ones
18 that he gave me. Ernie was putting this stuff in a dark bag
19 that was a pocketbook size. Ernie told me to drive down the
20 street to the cul-de-sac and turn around and give me time to
21 change clothes. I don't know where he changed. I think he
22 might have went down to the lake because his truck was down
23 that path that I showed the detectives. I drove down the
24 road. Ernie told me to pull over where there is no houses.
25 I was waiting on Ernie on the side of the road. Ernie came

1 out and stopped behind me and then pulled up beside me.
2 Ernie told me to go down Highway 413 and go to the caution
3 light and wait. Ernie said to stay near the caution light.
4 While we were leaving I tried the phone and it worked. I
5 called Ernie. Ernie pulled off from me when we left and I
6 met back up with him at the caution light. I followed Ernie
7 in his truck and Ernie pulled over and I stopped. Ernie said
8 that we needed to get Chip out of the car. I don't know
9 where we were at. Ernie drug Chip into the woods and did not
10 spend that much time. I sat in the car. Ernie had on
11 coveralls that were brown at this point that he did not have
12 on during the robbery. He was still wearing gloves. Then I
13 drove to Horton Road and Ernie stayed there and did not get
14 in his truck. Ernie told me to go to Horton Road and wait on
15 me. We had seen Horton Road earlier when we drove around
16 looking for the robbery spot. I was calling him and he is
17 calling me. I went and parked on Horton Road on a little
18 turn off. Ernie comes down to Horton Road and he went past
19 me and the phone died and I called him back. Ernie pulled in
20 behind me. Ernie got out of his truck and came to the car
21 and was going through the car again. I was standing outside
22 the car. He still had his coveralls on. The lights were off
23 on his truck. Ernie was going slow and he had some water and
24 washed up. The water was in a bottle. I don't know what
25 kind of bottle. He had on camouflage gloves now. Ernie bent

DIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 down at his truck and did something. At first I was standing
2 by the car and I walked into the woods and threw up about 30
3 or 40 feet away. Ernie spent about three or four minutes in
4 the car. Ernie told me not to get into the truck, to just
5 wait. Ernie told me to take my gloves off and to put them in
6 a bag he had that was a black trash bag. Ernie gave me a
7 painter's suit to put on and he slipped some dish washing
8 gloves on my hands. Ernie had all kinds of white sheets with
9 squares on them and sheets of plastic down inside the truck
10 to cover up the seats and floorboard. We got into the truck
11 and left and went to a spot down near McCormick. There was a
12 wooden building out in the country and there was a well head
13 with a red handle. Ernie had a big tarp and we put all the
14 clothes on it and cleaned up good. Ernie had more sheets and
15 more gloves in the back. We rolled up the tarp, folded the
16 corners, and tied it up and put it in the back of the truck.
17 We drove to another spot and Ernie stopped and got out and
18 put something else in the back of the truck. He drove to the
19 bottom of the property and stopped. Ernie got out and took
20 the tarp out of the back of the truck. He asked me to help
21 and I did. We put the tarp on top of a cement pad in the
22 woods and left it there. Ernie said it would be taken care
23 of, because I told him that we needed to get rid of it. We
24 got into the truck, left, and drove back to Belton. When we
25 got to his house, he told me not to get out. He came around

DIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 to my side and put down a blue tarp, but not a whole tarp. I
2 took my shoes and socks off and he rolled it up. I stood on
3 the tarp and washed my feet. Ernie put the tarp in a black
4 trash bag and took it down in the woods. He had the other
5 bag with the jewelry and money around back and he had the
6 wallets and stuff in the bag. I got \$3,000.00 of cash and
7 some jewelry from Ernie, which I buried in the woods near my
8 house. I want to be completely honest and say that the plan
9 was to kill and rob the people."

10 MS. ADAMS: This is State's 4, Your Honor, and it was
11 taken October 29, 2009. "This is being written for me by R.
12 Gebing of the Anderson County Sheriff's Office. I had talked
13 with Ernie, who lived down the street from me, about my
14 financial problems and some people I knew who bought gold and
15 jewelry and stuff. We smoked dope together and hung out
16 sometimes. We got to talking about robbing the people I
17 knew, Chip and Jo Staton, and Ernie and me planned on robbing
18 them and killing them. He said that he didn't want to leave
19 witnesses. The plan was that he was supposed to get them out
20 of the car and tie them up and take them out in the woods,
21 but it didn't happen like that. I was supposed to have rode
22 with them down off Audubon, where I showed the detectives
23 last night and they found JoAnn's body. I rode there with
24 them and led them through town to let Ernie get there ahead
25 of us. JoAnn drove slow and I was supposed to get out of the

DIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 car when I got there. Ernie was supposed to run up and get
2 them at gunpoint. I was supposed to hold the gun once they
3 got out of the car. I had some gloves with me before I even
4 got in the car with them. Ernie had gloves, too. He was
5 going to tie them up with duct tape, a new roll he had gotten
6 somewhere, without touching it. He was going to walk them
7 into the woods and execute them. I was supposed to jump in
8 the car and drive off to Horton Road. We'd scouted all these
9 places out beforehand. Things didn't go like they were
10 planned because Chip and Jo didn't cooperate. I had gotten
11 out of the back seat to use the phone and that was how Ernie
12 got in the back seat. I had left the door open. He had a
13 black automatic handgun with some kind of cloth on the bottom
14 of it. Ernie wasn't wearing a mask or anything. He had a
15 cheap leather jacket on. When Chip started going for his gun
16 and he wouldn't put his hands up, Ernie hit him, first with
17 the gun, then with a hammer. Ernie hit Jo with the hammer,
18 too. He hit them both a pretty good bit. I was getting up
19 off the ground. He started pulling the jewelry off of them
20 and I held the bag for him. It was a black, kind of like a
21 pocketbook, maybe like a shaving kit with a zipper on the
22 top. He got Jo out of the car and drug her to the woods.
23 When he did, he told me to get in the car. I didn't want to
24 drive around with Chip in the car, but it was too late then.
25 He went up to the truck and I waited on him, then I followed

1 him to where Chip was dumped and I helped him drag Chip into
2 the woods. We then drove up to Horton Road and we talked on
3 the phone. I was using Chip's GoPhone. Ernie was telling me
4 how to drive, what to do if anybody saw us, that kind of
5 stuff. He said if somebody was out there, that we shouldn't
6 be seen together. There were a lot of little things that
7 were said. He followed me the whole way there. There was no
8 call telling him that he had passed me and to turn around.
9 When we got to Horton, he started going through the car real
10 good and I got changed. I had brought a change of clothes;
11 some pants, shoes, shirt, socks, whatever. He had told me to
12 bring it, said he didn't want me to get into the truck with
13 any of the car stuff on me. I don't know what else was taken
14 there, but I know he went through the car real well. There
15 were sheets on the seats of the truck. We rode back to
16 Ernie's house and then went to my house to get another change
17 of clothes, then rode to McCormick and Ernie cleaned up
18 something out back. Ernie wanted to change again and we
19 wrapped up the clothes and sheets in the tarp and we left the
20 tarp there on a cement thing. We left McCormick and came
21 back to Ernie's house. He gave me some money and some of the
22 jewelry. We sat out back and got high, then I went home.
23 The next day, before we rode out to the land, I went out to
24 the woods behind his house and I buried some of my money and
25 the jewelry. I walked up to his house and we went to

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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1 Hardee's, I think, then we went to Walmart and I got some
2 clothes and he went in with me. He told me some things to
3 buy and gave me the money for it and would tell me to keep
4 the change. We got two gas cans and went to the gas station
5 next to the Walmart and got the gas. He pumped it. We went
6 up to my father's land on Monitor and we burned a big bag of
7 stuff. I'm not sure what was in it. I had some stuff from
8 my house, some trash. Ernie threw the hammer that he killed
9 Jo and Chip with, barehanded, into the water down by the back
10 of the property. I called Chip's phone the day after he was
11 killed, because Ernie told me to. I left him a message.
12 We'd already talked about doing it, that I should do it after
13 all this was done to not implicate anybody. I remember the
14 message was something like that he was the first person I was
15 calling. I got me a new phone. This is the complete truth
16 this time, the part about the robbery and the killing. I
17 didn't want to make anyone think that it was anything else
18 than what it really was. Me and Ernie both knew that Chip
19 and Jo were gonna be killed."

20 Q Sergeant Gebing, just to clarify, in part of the
21 defendant's statement I read OCs? What are OCs?

22 A Oxycontin.

23 MS. ADAMS: I have nothing further.

24 THE COURT: Cross examination?

25 CROSS EXAMINATION OF OFFICER ROB GEBING BY MISTER ROBINSON

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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1 Q Officer Gebing, I want to go back to what was happening
2 at the Police Department when y'all took these
3 statements. You would agree that he was in handcuffs.
4 Wouldn't you?

5 A He was.

6 Q And you would agree that he never wrote these
7 statements. They were actually written by you and
8 Officer Beusse. Correct?

9 A One was written up by Sergeant Beusse and a follow-up
10 the next day by me.

11 Q You would also agree that there is no video or audio
12 recordings of either of these statements. Correct?

13 A Correct.

14 Q So, there is nothing that you have that you could bring
15 the Court as far as audio or video tape that would
16 corroborate what you are saying. Isn't that right?

17 A There is no audio or video.

18 Q Okay. And in so far as, as for the blowing of the
19 bubbles, he was blowing bubbles at some point. Is that
20 correct?

21 A That's the best way that I can describe it. Yes, sir.

22 Q Officer Gebing, ---

23 THE COURT: I'm sorry. You are going to need to repeat
24 that last question. (Juror indicated she can't hear.)

25 MR. ROBINSON: Yes, sir.

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 Q Officer, E-M-S was called. Is that right?
- 2 A They were.
- 3 Q You said in your statement that you gave him a sternum
4 rub. Is that correct?
- 5 A I did.
- 6 Q And after the sternum rub, is that when you called
7 E-M-S?
- 8 A I think somebody was calling E-M-S while I was checking
9 on him.
- 10 Q Okay.
- 11 A I didn't physically call E-M-S.
- 12 Q Well, let's talk about when this all occurred on the
13 28th. At what time did it start?
- 14 A We advised him of his rights some time around 6:00. I
15 forget the time, but his Advisory of Rights was after
16 6:00 p.m.
- 17 Q And it went to about 4:00 in the morning. Is that
18 correct?
- 19 A All total, yes.
- 20 Q All total, about 4:00 in the morning. That is,
21 basically, about 10 hours. Is that correct?
- 22 A Yes.
- 23 Q Okay. And to your knowledge, you didn't feel like he
24 was under the influence of anything or had had any drugs
25 or alcohol. Correct?

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 A No. He didn't exhibit to me any signs or symptoms of
2 that.
- 3 Q Okay. But the blowing of bubbles that you are talking
4 about, he was laying on the floor blowing bubbles.
5 Isn't that correct?
- 6 A No. That is not.
- 7 Q He wasn't on the floor? He was on his chair?
- 8 A No. As I demonstrated earlier, he had his head leaning
9 forward and he was (Indicating).
- 10 Q Uh-huh. But at some point, he was on the floor. Is
11 that correct?
- 12 A Correct.
- 13 Q And when E-M-S got there, he was on the floor. Correct?
- 14 A Yes.
- 15 Q Okay. And there was you and Officer Beusse in the room
16 with him. Right?
- 17 A I know when I was checking on him, I don't know where
18 everybody else was.
- 19 Q Okay.
- 20 A Because I was down, physically, at his side checking on
21 him.
- 22 Q Okay. And you said a moment ago regarding the,
23 regarding going out to this site, this area that we are
24 talking about. You are not saying to this jury that he
25 took you to exactly to where this body was. Are you?

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 A I am saying he took us within 50 feet of where the body
2 was.
- 3 Q So, it's not exactly the same location, it's the area
4 that the body could have been found. Correct?
- 5 A No. I'm saying he brought us to where she was found.
- 6 Q How many feet away?
- 7 A Around 50 or less.
- 8 Q Fifty or less feet. So, about from where I am standing
9 to that wall over there. Is that about right?
- 10 A I think it was even less than that..
- 11 Q Less than that?
- 12 A I mean, it's an approximation.
- 13 Q So, it's an approximation, then. You are not saying he
14 took you directly to the body, it's just that he took
15 you within 50 yards of the body. Correct?
- 16 A Feet.
- 17 Q Fifty feet of the body, excuse me.
- 18 A Correct.
- 19 Q Okay. Now, I want to go into Irving Ramirez who was
20 mentioned in the statements in this case. Matt told you
21 that when he took you, or you asked him to go out to
22 these areas, he told you this was the general area that
23 Irving Ramirez had talked about before. Didn't he?
- 24 A No. He took us out there and drove down the street and
25 told us, "I think we passed it, let's turn around." And

1 then said, "She's over here somewhere".

2 Q And I think your testimony was, that you drove around
3 several times trying to find this particular area? Is
4 that correct?

5 A No. We drove past it one time and he was looking out
6 his window. He eventually got to a point where he
7 thought that we had passed where she was at.

8 Q Okay.

9 A He instructed us to turn around and we turned around and
10 now he is looking out the driver's side, because we had
11 reversed our course and he stopped us and said, "She's
12 somewhere over in here".

13 Q Okay. Now, you, at some point, you got the, you checked
14 the Staton's phone and you found that Irving Ramirez was
15 the last person that called him. Correct?

16 A His records.

17 Q Is that correct?

18 A Correct.

19 Q And you went out to Irving Ramirez' house. Is that
20 correct?

21 A I did not. Contact was made with Irving Ramirez, but,
22 yes.

23 Q Okay. And the officers -- as far as your role in this
24 investigation, did you, you didn't go out to Irving
25 Ramirez' house. Did you?

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 A Not the first time. The second time.
- 2 Q The second time you went out there and the second time
- 3 they went out there they found a metal mop head. Didn't
- 4 they?
- 5 A That was the -- that was a subsequent time after that.
- 6 Q Were you out there then?
- 7 A I was out there. I don't think -- I don't recall
- 8 whether I was the one that found that, but I was out
- 9 there when it was found.
- 10 Q And didn't they find a mop head that was green and
- 11 black, excuse me, green and blue in color?
- 12 A A mop head? Or handle?
- 13 Q Mop handle.
- 14 A I believe it was. It was blue and green. Yes.
- 15 Q And they also found a gas can at this location? Ernie's
- 16 location. Correct?
- 17 A Yes.
- 18 Q And they also found a gun at Ernie's location. Didn't
- 19 they?
- 20 A No. They found a B-B gun.
- 21 Q A B-B gun?
- 22 A Are you speaking of a handgun or a rifle?
- 23 Q A handgun.
- 24 A We didn't find a handgun, as I recall. It was either a
- 25 B-B gun or pellet gun.

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 Q All right. And as far as the investigation of Ernie
2 went, Ernie is the person who gave a statement
3 implicating Mr. Fullbright. Isn't he?
4 A Correct.
5 Q Okay. In fact, no other person implicated Mr.
6 Fullbright besides Irving Ramirez. Isn't that right?
7 A That is not correct.
8 Q Okay. Who else gave a statement saying that he did it?
9 A Well, not necessarily that he did it, but his name had
10 been brought up by other people that were interviewed by
11 Sergeant Beusse earlier in the day.
12 Q But Irving Ramirez gave a statement implicating Matthew
13 Fullbright. Correct?
14 A Correct.
15 Q Okay. And he was an ex-cop. Wasn't he?
16 A He claims to have been. Yes.
17 Q Now, when you went out and talked to him, I think -- Did
18 you go out, at some point, and talk to him?
19 A The second time. Yes.
20 Q The second time? And did he tell you that he -- Did you
21 get the impression that he forgot a lot of things?
22 A That was why we went out to talk to him. He had
23 actually called us and offered that there was some
24 things that he wanted to clarify, some things that he
25 had forgotten to tell us.

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

CROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 Q All right. And Ernie, at some point, actually went out
2 and showed where different things were as well. Didn't
3 he?
- 4 A Correct.
- 5 Q Now, when you went out to Matt's house, you didn't find
6 anything at Matt's house as far as blood or any sort of
7 residue or anything like that. Did you?
- 8 A I have not been to Matt's house. I didn't go to Matt's
9 house.
- 10 Q You didn't go to Matt's house?
- 11 A I, myself, didn't. Others did, but I didn't.
- 12 Q Okay. But you would agree with me that the
13 investigation started, or that the interrogation started
14 around 6:00 p.m. and ended around 4:00 in the morning.
15 Correct?
- 16 A Yes.
- 17 Q Okay. And during that period of time he was on the
18 floor at some point and E-M-S had to be called. Correct?
- 19 A Correct.
- 20 Q Okay. And it's also true that the statements were not
21 written out by Mr. Fullbright but were actually typed
22 out by you and Mr. Beusse. Correct?
- 23 A Correct.
- 24 Q Okay.
- 25 MR. ROBINSON: One second, Your Honor.

REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

224

1 Q And the statement was taken from Ernie before Matt.

2 Isn't that correct?

3 A Two of them were.

4 Q Before Matt's statement was taken. Correct?

5 A Correct.

6 MR. ROBINSON: One second, Your Honor?

7 THE COURT: Yes, sir.

8 MR. ROBINSON: (Speaks to his client.) That is all I
9 have, Your Honor.

10 THE COURT: Redirect?

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

12 REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

13 Q Two things, Sergeant Gebing. You were asked if Ernie's
14 statement implicated the defendant. What do you mean by
15 implicate the defendant?

16 A Ultimately, does Ernie's statement lead to or add weight
17 to the State's claim that Matthew Fullbright had
18 participated in this murder. That's what we mean by
19 implicated in.

20 Q What, if anything, did Ernie say about his actual
21 involvement in the murder?

22 A Ernie denies all involvement in the actual murder. He
23 denies ever having met Homer or JoAnn. He denies ever
24 having seen them or been around them. He denies ever
25 having consulted with them in any way or knowing

REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 anything about them.

2 Q So, you had spoken to Ernie, or law enforcement had
3 spoken to Ernie, two times before the defendant gave his
4 statement. Correct?

5 A That's correct.

6 Q And you were present the second time Ernie gave a
7 statement?

8 A I was.

9 Q Okay. Where was that statement from Ernie taken?

10 A Ultimately, it was taken at the office but we had spent
11 the bulk of the day with him showing us various areas
12 where the things were that he had recalled. He'd spent
13 a good amount of time with us and the second statement
14 from him was taken in Sergeant Beusse's office.

15 Q Okay. About what time was that second statement taken?

16 A It was in the early evening and it was shortly before
17 Mr. Fullbright came to the office.

18 Q Were they actually in the Sheriff's Department at the
19 same time?

20 A There was a point where both of them were in the
21 building at the same time, though we kept them from
22 seeing or having contact with each other.

23 Q Now, let's back up because you stated that you had been
24 with Ernie that Wednesday.

25 A Yes.

1 Q Okay. What did he show you?

2 A Some of the things that he had wanted to tell us about.

3 He ended up telling us he had picked Mr. Fullbright up

4 on Horton Road and he agreed to show us where. He

5 actually rode with us down Horton Road and showed us

6 where he had picked Mr. Fullbright up, which was a very

7 short distance from where the Staton's car was found.

8 He additionally ---

9 Q What -- What, if anything, did you get about Ernie
10 seeing the car?

11 A He -- He denied even seeing the car. He stated he had
12 gotten a phone call asking for a ride. He was told to
13 come down 413. When he got on 413, he states, he called
14 from the number he had been called from and was told it
15 was Horton Road. He states as he was going down Horton
16 Road, he received a call back stating he had missed him,
17 turn around. He turned around in a driveway and found
18 Matthew standing on the side of Horton Road a short
19 distance up from where the car was ultimately found.

20 Q As part of your investigation, did you get Irving
21 Ramirez's cell phone records to determine if all these
22 calls had taken place?

23 A We did.

24 Q Okay. In the defendant's statement, he stated that at
25 the time of the murder on Waterside Drive in Iva, he was

REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 using the GoPhone and he was calling Ernie. Correct?

2 A Correct. As I recall, he said they were calling back
3 and forth and Ernie was telling him which way to go and
4 things of that nature.

5 Q As part of your investigation, what did you learn
6 regarding those phone calls?

7 A Ernie's phone records indicate that those calls, as
8 described by Mr. Fullbright, did not take place. They
9 also indicate that when Ernie did receive phone calls,
10 his cell phone was bouncing off of what Alltel describes
11 as the Campbell tower, which is right outside of Belton,
12 Belton Highway, adjacent to North Major Road.

13 Q Which is the tower near where?

14 A It would be nearest to his house.

15 Q Okay. And Ernie lives where, again?

16 A [REDACTED] Road.

17 Q Okay. And Waterside Drive is how many miles from
18 Belton?

19 A If I was guessing, I would say at least 10, 12,
20 somewhere around there. It is a considerable distance.

21 Q So, if those phone calls had happened, would Ernie have
22 been hitting off his Campbell tower as he was that
23 night?

24 A I don't see how. It would have -- I would assume it
25 would hit off somewhere else, had he been somewhere else

1 sending and receiving calls, but his calls throughout
2 the night were all off that Campbell tower.

3 Q So, when you had these two statements from Ernie before
4 you met with the defendant, what, if any, details did
5 you have about the actual murder that took place? Did
6 you have any details about how the Statons were
7 murdered?

8 A Not from Ernie. We knew what we knew from processing
9 the scene and what we had found as far as the car, as
10 far as Homer. When we had talked to Ernie, we still
11 hadn't found JoAnn. So, we knew nothing about that.
12 And Ernie, other than acknowledging going to Horton Road
13 to pick Mr. Fullbright up, provided no details of the
14 murder, either.

15 Q And what did Ernie's phone records tell you about him
16 picking Matthew up at Horton Road?

17 A When they finally came, again, the towers indicated that
18 he was hitting outside of Belton and the calls were as
19 he described when he got a call and the sequence of how
20 he got them, not as how Matthew had described of, he
21 called me and I called him as we were going up the road
22 together.

23 Q So what, if any, evidence do you have to indicate that
24 Ernie Ramirez was at that Waterside Drive area when the
25 murders took place?

REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 A Other than Mr. Fullbright's statements. The phones
2 don't support that Ernie was anywhere other than
3 somewhere in the range of that Campbell tower.

4 Q What else did Irving Ramirez show you?

5 A He additionally told us stuff, these purchases made at
6 Walmart, and also going onto a piece of property near
7 Walmart, where some items were burned as described in
8 the statement. He showed us where that was.

9 Q So, he took you to Monitor Drive to a burn site?

10 A Monitor Drive being behind Walmart. Yes.

11 Q Okay. And how did he know about that Monitor Drive burn
12 site?

13 A He had been there. He told us that this is where ---

14 Q When had he been there?

15 A With Matthew. He had been there Saturday morning when
16 they were supposed to have gone hunting and this is
17 where he claimed Matthew said this is his father's land
18 and they went there to hunt. That's how he knew about
19 it. According to Ernie, Matthew brought him there.

20 Q So, Ernie was with Matthew that next Saturday morning?
21 That Saturday after the Friday night?

22 A Yes.

23 Q And where were they, again, together?

24 A We found them on video at the Walmart, the Savmore Gas
25 Station, and if I recall, at Hardee's eating together.

RECROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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1 And then by both their admissions, they were together on
2 the Monitor Drive property.

3 Q Who burned the items at Monitor Drive?

4 A They both claim that the other burned the items.

5 Q As part of your investigation, did you review the

6 Hardee's video with Matthew and Ernie together in the
7 drive-through getting food ---

8 A I did ---

9 Q --- that Saturday morning?

10 A --- I did not. I have not seen that video.

11 Q What, if anything, was found at Irving Ramirez' house to
12 indicate that he was a hunter?

13 A He had hunting clothes, hunting videos, a hunting rifle,
14 he had all the accessories and things that a hunter
15 commonly has. He was a avid hunter. He invited me to
16 go hunting.

17 Q So, through your investigation, were you basically able
18 to substantiate and corroborate what Ernie Ramirez told
19 you regarding the events surrounding the 23rd and the
20 24th?

21 A It appears that the evidence supports what Ernie's told
22 us. Yes.

23 Q Thank you.

24 RE-CROSS EXAMINATION OF OFFICER ROB GEBING BY MISTER ROBINSON

25 Q So, Ernie has got no involvement in any of this? Is

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RECROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON 231

1 that what your position is?

2 A It's not necessarily my position. My position is that
3 the evidence that has been gained over months after this
4 incident tends to support Ernie's claim more than your
5 client's.

6 Q And they just, your department just happened to find gas
7 cans and other items at his house?

8 A Correct.

9 Q Just like that. So, you are telling this jury that
10 Ernie is not here, because Ernie really wasn't
11 responsible for this. Is that what you are saying?

12 A No. This is the trial of Matthew Fullbright and I ---

13 Q I understand that, but let's -- When you went to Ernie's
14 home, when your department went to Ernie's home, you
15 find a gas can, you also find a Ruger .44. Isn't that
16 correct?

17 A I don't know.

18 Q You don't know that?

19 A If we did, I don't recall it. I'm not saying we didn't.
20 I'm just saying I don't recall it.

21 Q You don't recall that? Now, in your investigation, Ms.
22 Adams touched on the investigation you did of Ernie
23 Ramirez. You did his statement, did you -- When you
24 went to McCormick to check out the tarp and so forth,
25 did you ever find a tarp?

RECROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON 232

- 1 A I didn't go to McCormick, but it's my understanding that
2 it was not.
- 3 Q Okay. When you checked the phone records, Ernie
4 Ramirez, Ernie Ramirez was calling Chip Staton a lot.
5 Wasn't he?
- 6 A You mean up until their disappearance?
- 7 Q Yes.
- 8 A There were several phone calls to him.
- 9 Q Several?
- 10 A There was more than one.
- 11 Q More than one?
- 12 A Yes.
- 13 Q And his was the last call on Mr. Staton's phone. Isn't
14 that correct?
- 15 A It was the last one that appeared to be connected to a
16 conversation. Yes.
- 17 Q All right. And now we get the last phone call going to
18 Chip, you also have a gas can at his house, you see him,
19 he may have purchased this gas can for this purpose.
20 Correct?
- 21 A From the house?
- 22 Q Okay. You never found anything that was burned that was
23 related to this. Did you?
- 24 A We did find a burn pile and there was evidence that
25 something had been burned.

RECROSS EXAMINATION OF ROB GEBING BY MR. ROBINSON

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- 1 Q But you don't know what was burned?
- 2 A But we don't know what was burned.
- 3 Q So, it could be anything?
- 4 A Correct.
- 5 Q And you don't know what it is.
- 6 A Correct.
- 7 Q Okay. Now, in your investigation of this and this
- 8 report, do you remember a statement you gave at a
- 9 hearing we had a little while ago, back in November?
- 10 A The Jackson v. Denno?
- 11 Q Yes. Do you remember that?
- 12 A I do.
- 13 Q And you said a moment ago that Mr. Fullbright took you
- 14 directly to the location, within 50 feet of the
- 15 location?
- 16 A Yes.
- 17 Q Took you a very short time to get there. Is that
- 18 correct?
- 19 A Just by distance. It was about a half-an-hour or so.
- 20 Q So, it wasn't immediate. It took about a half-an-hour
- 21 to get to that location. Correct?
- 22 A Yes, it's a relatively long distance from the Sheriff's
- 23 office to that location. That's accounting for drive
- 24 time.
- 25 Q And when you got there, how long did it take you to find

REDIRECT EXAMINATION OF ROB GEBING BY MS. ADAMS

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1 this location?

2 A Not long. I don't recall us being -- I don't recall
3 myself, Sergeant Beusse, and your client being there a
4 total of 20 minutes, somewhere around there. It did not
5 take us but a few minutes to find her.

6 Q Okay.

7 MR. ROBINSON: One second, your Honor, please?

8 THE COURT: Yes, sir.

9 MR. ROBINSON: That's all I have, Your Honor.

10 THE COURT: May this witness step down?

11 MS. ADAMS: May I ask one quick follow-up question about
12 the gas can?

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION OF ROBERT GEBING BY MS. ADAMS

15 Q What was purchased that next morning at Walmart?

16 A Some clothing items, some produce or some food items,
17 and two gas cans.

18 Q So, the gas can that Mr. Robinson is referring to that
19 was found at Ernie's, was that one of the same gas cans
20 or a separate gas can?

21 A It appears to be a separate gas can. It was older.

22 Q Thank you.

23 THE COURT: All right, sir. You may step down. How long
24 is your next witness going to be?

25 MS. HUEY: Your Honor, he should not take very long. We

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY 235

1 could take him and then take a break.

2 THE COURT: Okay. Very good. Will you call your next
3 witness, please?

4 MS. Huey: Your Honor, the state calls Mark Henderson.

5 (After being duly sworn by the Clerk of Court, Mark
6 Henderson testified as follows:)

7 CLERK OF COURT: If you would take the witness stand and
8 state your name and spell your last name for the record,
9 please.

10 MR. HENDERSON: William Mark Henderson.

11 H-E-N-D-E-R-S-O-N.

12 DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

13 Q Mr. Henderson, where are you employed?

14 A MedShore ambulance service.

15 Q And how long have you been there?

16 A Twenty years.

17 Q What is your current position there?

18 A I am the Compliance and Professional Standards
19 Coordinator.

20 Q And how about in October of 2009?

21 A I was a paramedic field training officer for MedShore.

22 Q What kind of training have you received to be a
23 paramedic?

24 A I completed my training in 1995 from Upstate, where I
25 was certified as a paramedic. I have South Carolina

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 State Certification as a paramedic as well as a National
2 Registry of Emergency Medical Technician Certification.

3 Q And do you continue to receive training to be a
4 paramedic?

5 A Yes, ma'am.

6 Q Okay. And is that annually?

7 A That is monthly.

8 Q Monthly. Did you have an occasion to respond to the
9 Sheriff's office located at 305 Camson Road on October
10 28, 2009?

11 A I did.

12 Q And for what purpose?

13 A We were responding or sent to an unresponsive patient at
14 the Sheriff's office.

15 Q And what time did you arrive at the Sheriff's office?

16 A As the report says, we arrived at the Sheriff's office
17 at 20:45. In layman's terms that would be 9:45 at
18 night.

19 Q And who, if anyone, responded with you?

20 A Just myself and my partner.

21 Q What, if anything, did you observe when you first
22 arrived at the Sheriff's office?

23 A Whenever we arrived at the Sheriff's office, we were
24 instructed to go into the interview room where we
25 observed Mr. Fullbright lying supine, which is on his

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 back, in the interview room. He was awake and alert,
2 oriented and we were told that he had a complaint where
3 he had fainted during his interview.

4 Q Now, was anyone else present when you first observed the
5 defendant on the floor?

6 A There was three other personnel with him in the room
7 whenever we arrived.

8 Q And when you say personnel, from the Sheriff's office?

9 A Yes, ma'am.

10 Q And you learned that his name was Matthew Fullbright, as
11 you just stated.

12 A He was identified to us through the Sheriff's office as
13 Matthew Fullbright.

14 Q When you arrive at a scene such as this what are some of
15 your first steps you take?

16 A First steps we take, of course, since day one of
17 education, is seeing to the safety and security and then
18 determine whether or not the patient meets a critical
19 care code criteria. Those patients, of course, would
20 need immediate definitive care at a health care facility
21 by a physician in the Emergency Room or O-R. Whenever
22 we arrive, we determine if the patient meets those
23 criteria and if they are met, we make immediate
24 transport.

25 Q And did you do so in this case?

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 A We didn't.

2 Q Okay. And so tell me the steps you went through in this
3 case to determine that.

4 A Whenever we arrive and make patient contact, we
5 determine the level of responsiveness, such as whether
6 they are awake, alert, and oriented. If that is the
7 case then, of course, we go through some physical
8 findings such as skin, turgor, condition. Warm, dry,
9 pink tells me that, of course, they are normal status,
10 whereas someone who is pale, cool, and diaphoretic is
11 exhibiting some kind of shock. We would then, of
12 course, ask permission to have a self-evaluation and we,
13 naturally, would perform a physical exam. Once that
14 exam is completed we can determine fully whether or
15 not that patient needs that 'load and go' criteria at
16 that time.

17 Q Okay. And was Mr. Fullbright able to speak with you at
18 this time?

19 A He was.

20 Q And was he able to tell you what was wrong with him
21 medically?

22 A Yes, ma'am.

23 Q Okay. In your twenty years as a paramedic, have you had
24 an occasion to treat patients under the influence of
25 alcohol and/or drugs?

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 A Yes, ma'am.

2 Q What, if anything, do you usually indicate in your
3 report if you feel the patient is under the influence of
4 these things?

5 MR. ROBINSON: Your Honor, I am going to object.

6 Foundation.

7 THE COURT: Overruled. Go ahead.

8 A In the report itself, it would actually go in the report
9 that the patient exhibited signs and symptoms of drugs
10 or alcohol-type symptoms. Some of those, of course,
11 would be a drunken stupor, unsteady gait, they were very
12 lethargic, unable to speak coherently, does not have a
13 coherent thought, unable to communicate very well to
14 others and the patient will present to you, in severe
15 cases, symptoms such as toxicity of alcohol or drugs,
16 they would be unresponsive, shocky, which you would call
17 diaphoretic.

18 Q Did you make any such notes in this particular case when
19 you were examining Mr. Fullbright?

20 A I did not.

21 Q And so what, if anything, does that indicate to you
22 then?

23 A My report states that his skin was warm, dry, and pink.
24 That his blood pressure and pulse rates were within
25 normal parameters. So, therefore, he was not meeting

1 the criteria of a load and go situation that required
2 immediate care at that moment.

3 Q And so, did he elicit any symptoms that would indicate
4 to you that he was under the influence of anything?

5 A No, ma'am.

6 Q What, if anything, did you note about any abrasions he
7 may have had?

8 A In my documentation I have, as far as his physical exam
9 showed, that he had an abrasion about the sternum. Also
10 in the notes that I have, that he has an abrasion to the
11 right side of his chest and to the posterior or the back
12 of his hands.

13 Q What, if anything, can you say about the abrasion to his
14 sternum?

15 A The abrasion to the sternum, of course, I was not
16 notified, but it is a common practice through medicine
17 to perform a sternum rub. A sternum rub is where you
18 actually rub the sternum when a patient is considered to
19 be unresponsive to determine whether or not they are
20 responsive to painful stimuli.

21 Q Okay. And so is a sternum rub painful then, or
22 uncomfortable?

23 A It would be uncomfortable.

24 Q Okay. And if a patient is unconscious, will they
25 respond to a sternum rub?

DIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY 241

1 A If they are unconscious and unresponsive, they will not
2 respond to a sternum rub.

3 Q Now did Mr. Fullbright request further treatment?

4 A Mr. Fullbright did not.

5 Q If it had been obvious that he needed further treatment,
6 what would have been the procedure that you would have
7 followed?

8 A I would have consulted the Sheriff's Office, as well as
9 Mr. Fullbright, about the need for him to seek medical
10 attention by a physician. I would have consulted the
11 Sheriff's office against his willingness to deny
12 transport, because Mr. Fullbright said he wanted to be
13 left alone, that he needed medical attention and since
14 he was in custody of the Sheriff's office they could
15 take him in protective custody and make him receive this
16 treatment.

17 Q And did you do that in this case?

18 A No, ma'am.

19 Q So, in your opinion he did not need further treatment.
20 Is that correct?

21 A No, ma'am.

22 Q And so did Mr. Fullbright continue to refuse treatment
23 himself?

24 A Yes, ma'am.

25 Q Who actually signed the refusal?

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

- 1 A The Sheriff.
- 2 Q And how long did you stay on scene at the Sheriff's
- 3 office?
- 4 A About 41 minutes.
- 5 Q And is this a typical amount of time?
- 6 A It is not.
- 7 Q In what way?
- 8 A Our standard operating procedure is to stay at a usual,
- 9 on-scene time parameter of 25 minutes for a medical
- 10 call.
- 11 Q Okay. So, why did you stay longer in this particular
- 12 case?
- 13 A Because we were at the Sheriff's office. It takes a
- 14 little longer to get in and out because of security
- 15 procedures. Also, whenever we arrived, taking extra
- 16 precautions that he did not need any medical needs at
- 17 that time.
- 18 Q What, if anything, did you notice about the patient
- 19 being led out of the Sheriff's office?
- 20 A I'm sorry?
- 21 Q What, if anything did you notice about the patient, Mr.
- 22 Fullbright, being led out of the Sheriff's office?
- 23 A That he was being led out of the office by two officers.
- 24 He had a steady gait and when I asked, "Well, are you
- 25 going to the hospital," he announced, "No".

CROSS EXAMINATION OF MARK HENDERSON BY MR. ROBINSON 243

1 Q And so he continued to refuse any further medical
2 attention?

3 A From E-M-S, yes, ma'am.

4 Q That's all I have of this witness, Your Honor.

5 THE COURT: Cross examination?

6 MR. ROBINSON: May it please the Court?

7 CROSS EXAMINATION OF MARK HENDERSON BY MISTER ROBINSON

8 Q Sir, looking at your report that you have in front of
9 you, it also mentions in there, regarding a medical
10 history given by Mr. Fullbright. Isn't that correct?

11 A Yes, sir.

12 Q And I think in the medical history, he states in the
13 medical history, I think you wrote down in the medical
14 history, the patient states in the last 72 hours he had
15 taken Oxycontin, Lortab, Darvocet, and what else?

16 A Unprescribed medication by a physician.

17 Q So he advised that he had taken those drugs in the last
18 72 hours. Correct?

19 A He told us that he had been taking those medications
20 within the last 72 hours.

21 Q All right. And in terms of the abrasions in this case,
22 there were abrasions on the chest from the sternum.
23 Correct?

24 A Yes, sir.

25 Q And one on the right side of the chest. Right?

- 1 A On the right side of the chest.
- 2 Q And one on the posterior. Is that correct?
- 3 A Multiple abrasions on the posterior of both hands.
- 4 Q Okay. On the posterior, as on the back of the hands?
- 5 A On the back of both hands.
- 6 Q On the back of the hands. All right. When you say
- 7 abrasion, you are talking about scrapes or what are you
- 8 talking about?
- 9 A That's a good analogy to use.
- 10 Q Scrapes?
- 11 A Yes, sir.
- 12 Q That comes ---
- 13 A That's good to use.
- 14 Q Couldn't that come from defensive wounds? Would that be
- 15 considered defensive?
- 16 A I can not testify to that.
- 17 Q You don't know whether it is or not?
- 18 A I could tell you that it was some kind of trauma to the
- 19 skin, an abrasion of the skin.
- 20 Q Now, you didn't take any blood tests or anything like
- 21 that. Did you?
- 22 A The only thing that we took was a blood glucose test,
- 23 which is basically a finger prick to get just enough for
- 24 a sample to check the blood for blood glucose level.
- 25 Q You didn't take any testing as far as drugs, any

CROSS EXAMINATION OF MARK HENDERSON BY MR. ROBINSON 245

1 alcohol, or anything like that. Correct?

2 A No, sir.

3 Q In terms of the signature on this form we are talking
4 about, is it Mr. Fullbright refused or he was not able,
5 not able to sign this sheet?

6 A He was not able to sign the sheet. He was in custody
7 and he was being led out in handcuffs behind his back.

8 Q So, it is not that he refused, it's actually that the
9 officers were restraining him from signing anything. Is
10 that correct?

11 A He did not sign the form, sir.

12 Q Okay. And that is because --

13 A He didn't refuse to sign the form. He did not sign the
14 form. He was in custody.

15 Q He was in custody. So, he did not refuse to sign the
16 form. Correct?

17 A He did not refuse to sign our form. No, sir.

18 Q Okay. And I think in the -- This is on the MedShore
19 Ambulance Service treatment refusal non-transport
20 waiver. Do you have that with you?

21 A Yes, sir.

22 Q Okay. And underneath the medical advice instructions
23 that Mr. Fullbright was not able to sign, it states --
24 Well, tell me what that states. Under Medical Advice
25 Instructions, what does that state, the first sentence?

REDIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 A MedShore Ambulance Service personnel advises the medical
2 condition requires evaluation by a physician.

3 Q Okay.

4 A And he refuses transport against medical advice.

5 Q And this was -- And the officers did not permit him. He
6 was not permitted, basically, to sign that. Correct?

7 A It is not that he was not permitted to sign it. He was
8 being led out in handcuffs.

9 Q In handcuffs. Correct. Thank you.

10 THE COURT: Redirect?

11 MS. HUEY: Just a few questions on redirect, Judge.

12 THE COURT: Yes, ma'am.

13 REDIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

14 Q Just to clarify, Mr. Henderson, you spoke with Mr.
15 Fullbright yourself?

16 A Yes, ma'am.

17 Q And he was awake, alert, could answer your questions.
18 Is that correct?

19 A He was.

20 Q Okay. And there was a comment about him admitting to
21 taking Oxycontin, Lortab, and some other drugs,
22 possibly, within the last 72 hours?

23 A Yes, ma'am.

24 Q But when you evaluated him and examined him, he did not
25 seem to be under the influence of any drugs?

REDIRECT EXAMINATION OF MARK HENDERSON BY MS. HUEY

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1 A He did not seem to be under the influence at that time.

2 Q And in terms of signing this form, again, if you had
3 thought in your professional opinion that he needed
4 further treatment, would you have instructed the
5 Sheriff's office and their personnel that that was your
6 opinion?

7 A I would.

8 Q And you did not do so in this case?

9 A No. I did not.

10 Q And did Mr. Fullbright himself, even though he didn't
11 actually get to sign a form, did he orally refuse any
12 further treatment?

13 A On two occasions.

14 Q That's all I have of this witness.

15 THE COURT: May this witness be excused?

16 MS. HUEY: Yes, Your Honor.

17 THE COURT: Mr. Robinson?

18 MR. ROBINSON: Yes, sir.

19 THE COURT: Okay. Thank you, sir. All right, Ms. Terry,
20 I think this is a great time to go ahead and have a lunch
21 break. I am going to let you go on your lunch break and ask
22 that you be back in your jury room at 1:45.

23 MS. TERRY: Yes, sir.

24 THE COURT: And I am going to remind you and the other
25 members of the jury that you are not to speak amongst your

1 selves about this case or anyone else. I hope you have a
2 nice lunch.

3 Ms. Terry: Thank you, Judge.

4 THE COURT: Yes, ma'am.

5 (Jury out at 12:44 p.m.)

6 THE COURT: All right, anything further from the State
7 before we break for lunch?

8 MS. HUEY: No, sir, Your Honor.

9 THE COURT: From the Defense?

10 MR. ROBINSON: No, sir.

11 THE COURT: All right, we will be in recess until 1:45.

12 (Lunch Break)

13 JANUARY 24, 2012 - AFTERNOON

14 THE COURT: All right, there is a note from the
15 foreperson that says that the monitor on the edge of the
16 counter between the juror area and the witness is preventing
17 one of the jurors from seeing the witness stand and it is not
18 being used at the time. This one right here. I assume this
19 just needs to be removed. Okay? Any objection to that, Mr.
20 Robinson?

21 MR. ROBINSON: No objection, Your Honor.

22 (Monitor is removed)

23 THE COURT: Okay. I'm going to ask both attorneys, all
24 attorneys rather, to remind me at the end of the day or
25 before we get started tomorrow, I want to articulate a little

1 more, some of my earlier rulings in this case and in light of
2 the conversation I had with my law clerk over the lunch
3 break, I think it was brought up that I didn't articulate my
4 ruling very well. I want to make sure that I did, at least
5 enough for the record. With that being said, is the State
6 ready to proceed?

7 MS. HUEY: Yes, sir, Your Honor.

8 THE COURT: Is the Defense ready?

9 MR. ROBINSON: The Defense is ready, Your Honor.

10 THE COURT: Would you bring the jury in, please?

11 (Jury in at 2:21 p.m.)

12 THE COURT: All right, Ms. Terry and Ladies and Gentlemen
13 of the jury, let me go over a couple of things with you in
14 response to your questions. First, there was a question
15 about the juror's responsibilities for lunch. The normal
16 practice is, while we break during trial, everybody goes out
17 and has lunch on their own. While you are in deliberations
18 during trial, then it will be provided to you at appropriate
19 times. If there are other arrangements that need to be made,
20 you can let us know and we will look and see what we can do.
21 The second part is the monitor has been removed. If, at any
22 time, anyone cannot see what they are supposed to be seeing,
23 please let me know. Okay? And raise your hand if you cannot
24 hear, like you have been doing. With that being said, is the
25 State ready to proceed?

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

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1 MS. HUEY: The State is ready, Your Honor.

2 THE COURT: Is the Defense ready to proceed?

3 MR. ROBINSON: The Defense is ready, Your Honor.

4 THE COURT: Call your next witness.

5 MS. HUEY: Your Honor, the State calls Danny Barton to
6 the stand.

7 (After being duly sworn by the Clerk of Court, Danny
8 Barton testified as follows:)

9 CLERK OF COURT: Will you take the stand and pronounce
10 your name and spell your last name for the record, please.

11 MR. BARTON: Danny Barton. B-A-R-T-O-N.

12 DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

13 Q Investigator Barton, where are you employed?

14 A Anderson County Sheriff's office.

15 Q And how long have you been there?

16 A Eleven years.

17 Q And in what department do you currently work?

18 A Criminal Investigations Division.

19 Q And were you doing so back in October of 2009?

20 A Yes, ma'am.

21 Q Did you become involved in the investigation of the
22 homicides of Homer and JoAnn Staton?

23 A Yes, ma'am.

24 Q In what capacity?

25 A In October 2009, Detective Chris Beusse approached me

DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

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1 and told me that he needed me to ride with---

2 MR. ROBINSON: Objection, Your Honor. Hearsay.

3 THE COURT: Sustained. Would you re-phrase, please?

4 A In October 2009 ---

5 THE COURT: Just one second, let her re-phrase the

6 question, please, sir.

7 Q How did you first become involved in the investigation
8 without saying what someone else said?

9 A In October 2009, I went to the Detention Center along
10 with Detective Beusse and Detective Gebing to interview
11 Matthew Fullbright in reference to the murders of Homer
12 and JoAnn Staton.

13 Q And so you were present when the second interview took
14 place on October 29, 2009? Is that correct?

15 A Yes, ma'am.

16 Q Okay. I'm going to show you what has previously been
17 admitted as State's 3. Take a look at that. (Hands the
18 document to the witness.) Do you recognize that?

19 A Yes, ma'am.

20 Q Okay. And how are you able to recognize it?

21 A It has my signature on it.

22 Q Okay. And what, if anything, does that signature
23 indicate?

24 A It indicates that I witnessed Matthew Fullbright's
25 Miranda Rights being read to him and his voluntary

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1 Waiver of Rights.

2 Q Okay. And do you go on to witness then, that you were
3 present at the second statement being taken? Is that
4 correct?

5 A Yes, ma'am.

6 Q Okay. Now, in addition to actually giving the written
7 statement, what, if anything else, did the defendant do
8 during the course of that interview on October 29, 2009?

9 A In the course of the interview, or during his statement,
10 he had made mention of a hammer that had been thrown
11 into a pond on his father's property off Monitor Drive.
12 He drew a sketch of the hammer.

13 Q Okay. And at the time, did the defendant imply that
14 this was the hammer used in the murders of the Statons?

15 A Yes, ma'am.

16 MR. ROBINSON: Objection, Your Honor. Leading.

17 THE COURT: Overruled.

18 Q And so, as a result of that, what, if anything, did the
19 defendant do?

20 A After he drew the sketch of the hammer, he initialed it.

21 Q Okay. And again, this was done in your presence?

22 A Yes, ma'am.

23 Q As a part of the second statement taken on October 29,
24 2009?

25 A Yes, ma'am.

DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

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1 Q I'm going to show you what has been marked as the
2 State's 5. See if you can recognize that.

3 A Yes, ma'am. I recognize it.

4 Q And how are you able to recognize that?

5 A This is the sketch that Matthew Fullbright drew during
6 the second interview on October 28, 2009.

7 Q Okay. And how are you able to say that is Matthew
8 Fullbright's drawing?

9 A He was asked to affix his initials on it and he affixed
10 what he said was his initials and I witnessed it.

11 MS. HUEY: Your Honor, at this time we would admit
12 State's 5 into evidence.

13 THE COURT: Any objections?

14 MR. ROBINSON: No. The same objection as beforehand.

15 THE COURT: Subject to objection, it is admitted.

16 (Whereupon, a drawing of a hammer is admitted into
17 evidence as State's Exhibit No. 5, subject to objection.)

18 MS. HUEY: Your Honor, may I publish this to the jury?

19 THE COURT: Yes, ma'am.

20 Q Mr. Barton, I may have you to step down.

21 THE COURT: You may step down. (Witness complies)

22 Q This is State's 5. (Ms. Huey projects exhibit onto
23 large screen) Mr. Barton, if you would explain to the
24 jury how this came about.

25 A During the second statement Mr. Fullbright ---

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

DIRECT EXAMINATION OF DANNY BARTON BY MS. HUEY

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1 THE COURT: Would you step a little closer? I think they
2 are having a hard time hearing.

3 A Yes, sir. During the second statement of Mr.
4 Fullbright, he made mention of using a hammer during the
5 murders of Homer and JoAnn Staton. We asked him to draw
6 a sketch of the hammer. After he did so, Detective
7 Beusse asked him ---

8 MR. ROBINSON: Objection, Your Honor. Hearsay again.

9 THE COURT: Overruled. Please go ahead.

10 A And Detective Beusse asked him to explain the colors of
11 the hammer and he said the hammer was black and yellow
12 and was made of metal. Detective Beusse asked him to
13 affix his initials to it and I watched Mr. Fullbright
14 put down his initials on it.

15 Q And you witnessed him initial it. Can you make out the
16 initials on that?

17 A I eyewitnessed him initial it, but I can't make out the
18 initials.

19 Q Thank you. You can have a seat now. (Witness returns
20 to the witness stand) Now, Investigator Barton, after
21 the written statement was taken down and the drawing was
22 completed, what, if anything, did you do in reference to
23 the defendant?

24 A Myself and Detective Beusse escorted Mr. Fullbright to a
25 wooded area. I believe it was Blair Mill Road, I

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- 1 believe. It was beside [REDACTED] Yes, [REDACTED]
2 [REDACTED] Road where Mr. Fullbright had indicated in his
3 statement that he had buried some jewelry and some money
4 that was stolen during the murder of Homer and JoAnn
5 Staton.
- 6 Q Okay. And so Mr. Fullbright accompanied yourself and
7 Detective Beusse. Is that correct?
- 8 A Yes, ma'am.
- 9 Q Okay. And you all got into one patrol car?
- 10 A Yes, ma'am.
- 11 Q And how did you know to go to [REDACTED] Road?
- 12 A At the direction of Mr. Fullbright.
- 13 Q Okay. And then once you got to [REDACTED] Road,
14 again, what were you looking for there?
- 15 A It was jewelry and money that was stolen during the
16 murders of Homer and JoAnn Staton.
- 17 Q Okay. And this was at Mr. Fullbright's direction? Is
18 that correct?
- 19 A Yes, ma'am.
- 20 Q And were you able to locate anything at that time?
- 21 A No, ma'am.
- 22 Q Where, if anywhere else, did you go?
- 23 A Once we left [REDACTED] Road, we went to Marshall
24 Fullbright's property off Monitor Drive at Matthew
25 Fullbright's direction, where he led us to a swampy pond

1 down on the backside of the property. At the swampy
2 pond, he pointed us into the direction the hammer was
3 thrown that was used in the murder of JoAnn Staton and
4 Homer Staton.

5 Q Okay. A hammer that he indicated was used in their
6 murders. Is that correct?

7 A Yes, ma'am.

8 Q Okay. And at that particular time, did you locate this
9 hammer?

10 A No, ma'am.

11 Q Okay. And why was that?

12 A It was thrown in the pond. The pond was full. At a
13 later time, we had to drain the pond to find the hammer.

14 Q Now how long do you think you were out with the
15 defendant on the 29th?

16 A A few hours.

17 Q And what was his demeanor like during that time?

18 A He seemed to be fine. Rested.

19 Q At any time, did he say he wanted an attorney or wanted
20 to stop talking with you all?

21 A No, ma'am.

22 Q Now, at any time, did you speak with the defendant again
23 after the 29th?

24 A The next day, on October the 30th.

25 Q And can you tell us how this came about?

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- 1 A In Mr. Fullbright's statement that he gave to Detective
2 Beusse, on the second day in the second statement, he
3 indicated that he and Mr. Ramirez went to a location in
4 McCormick County, South Carolina, and disposed of items
5 of evidence at that location so Detective Williams, John
6 Williams, and myself picked Mr. Fullbright up from the
7 Detention Center and escorted him to McCormick to locate
8 these items.
- 9 Q And again, these are items of evidence from the murders
10 of the Statons?
- 11 A Yes, ma'am.
- 12 Q Was he again advised of his rights?
- 13 A Yes, ma'am. He was.
- 14 Q And did you do so using a form?
- 15 A Yes, ma'am.
- 16 Q And where was he actually advised of his rights?
- 17 A In Detective John Williams vehicle inside the Detention
18 Center parking lot.
- 19 Q Okay. And who was present for this?
- 20 A Myself and Detective John Williams and Matthew
21 Fullbright.
- 22 Q Detective Barton, I'm going to show you what has been
23 marked as State's 6. Will you take a look at that,
24 please?
- 25 A Yes, ma'am.

1 Q And do you recognize that exhibit?

2 A Yes, ma'am. I do.

3 Q And how are you able to recognize it?

4 A It has my signature on it.

5 Q And is that the form that you used to advise the
6 defendant of his rights on October 30, 2009?

7 A Yes, ma'am.

8 MS. HUEY: Your Honor, at this time, we would admit
9 State's 6 into evidence.

10 THE COURT: Any objections?

11 MR. ROBINSON: Same objection, Your Honor.

12 THE COURT: Admitted subject to objection.

13 (Whereupon, an Advisory of Rights Form, dated 10/30/09,
14 is admitted into evidence as State's Exhibit No. 6, subject
15 to objection.)

16 MS. HUEY: May I publish this to the jury?

17 THE COURT: Yes, ma'am.

18 Ms. Huey: May Sergeant Barton step down again, please?

19 THE COURT: Yes, sir. Go ahead. (Witness complies)

20 Q State's 6. (Ms. Huey projects it on the large screen.)

21 If you would go through this form and explain to the
22 jury what this is.

23 A This is our Advisory of Rights Form. It explains the
24 Miranda Rights to the defendant prior to him being
25 questioned. I filled out this form. I put his name,

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- 1 address, date of birth in the top right-hand corner, top
2 lefthand corner, and the level of education he has and
3 whether he can read and write or not. Then, once I
4 filled out the location, date, and time, then I had the
5 defendant read the first two lines. Once he read the
6 first two lines, then I read the remaining three lines
7 for him. I ask him if he understands everything and if
8 he says, "yes," he signs the form. If he says "no", I
9 go back through everything with him again. Mr.
10 Fullbright said he understood so I asked him to put his
11 initials by the first two lines showing that he read
12 them out loud. Once he did that, I also asked him to
13 put his signature up under the Advisory and affix his
14 initials and he did. He actually initialed four lines
15 and he skipped the third line for some reason.
- 16 Q Okay. Let me stop you there, Mr. Barton. Do you
17 usually just have them initial the first two lines? Is
18 that correct?
- 19 A Yes, ma'am.
- 20 Q Okay. And you didn't ask Mr. Fullbright to initial the
21 other two lines, but he did so on his own volition. Is
22 that what you are saying?
- 23 A Yes, ma'am.
- 24 Q And then did he indicate that he wished to cooperate?
- 25 A Yes, ma'am. He did.

1 Q How did he do that?

2 A Once he said he understood everything and signed that
3 top portion and I read the Miranda Rights portion to him
4 and explained what coercion meant. He didn't know what
5 that word was and I explained it to him and I asked him
6 if he wished to speak to me and he said, "Yes," and I
7 asked him to affix his signature on the Waiver of Rights
8 section and he did so.

9 Q Okay. Thank you. You can have a seat. (Witness returns
10 to the witness stand) So, Mr. Barton, what was the
11 purpose of going to speak with Mr. Fullbright then,
12 again on the 30th?

13 A On his statement on the 29th, he had made mention of
14 certain items that were located in McCormick, so
15 Detective Williams and I were going to pick him up and
16 escort him to McCormick to try and locate these items.

17 A Okay. And so once you went through his rights with him
18 again and he indicated he wanted to waive those rights,
19 did you all then go to McCormick?

20 A Yes, ma'am.

21 Q Okay. And can you tell me a little bit about that?

22 A Prior to going to McCormick, we stopped off on Wright
23 School Road, essentially where Mr. Fullbright had told
24 us that Mr. Ramirez threw the phone out that he had used
25 during the murders of Homer and JoAnn, and once we got

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1 to the section of the road he explained to us to go to,
2 we got out and searched that area and were unable to
3 find the cell phone. Once we determined we couldn't
4 find the cell phone, we got back into the vehicle and
5 continued to McCormick. Mr. Fullbright had told us that
6 during the night of the murders, they had went to the
7 road called Field Service Road in McCormick. Once we
8 got down there, we located numerous field service roads.
9 He had given us descriptions of certain items that
10 should be on the road, like he told us there was some
11 type of old cattle gate material in the roadway. He
12 told us what the Pump Wash Station looked like where
13 they left the clothes at, where they washed up and they
14 cleaned up at. We searched the area and we were unable
15 to find anything like that. We even alerted the
16 McCormick Sheriff's office that day and they weren't
17 able to find a location like that. Once we had
18 determined that we couldn't find anything like that,
19 then we came back to Anderson.

20 Q Thank you. And again, as you are traveling to these
21 places, Mr. Fullbright is in the car with you all?

22 A Yes, ma'am.

23 Q And at his direction?

24 A Yes, ma'am.

25 Q Where else did y'all go, if anywhere?

1 A Once we got back to Anderson, we stopped back by the
2 property on Monitor Drive that's owned by Marshall
3 Fullbright. We walked back down to the pond with Mr.
4 Fullbright, where he showed us where an entrenching tool
5 had been thrown.

6 Q Okay. And as a result of that, were you able to locate
7 anything?

8 A No, ma'am.

9 Q And how long do you think you were out with Mr.
10 Fullbright on this particular day?

11 A It was the better part of the day. We didn't get back
12 to the jail until 5:00 or 6:00 p.m.

13 Q And again, at any time, did he say that he wanted an
14 attorney or wish to stop speaking with you all?

15 A No, ma'am.

16 Q And his demeanor during this time?

17 A It was fine. He was talkative.

18 Q And had it changed from the day before at all?

19 A If anything, he was more talkative.

20 Q Now, what else was your investigation into these cases,
21 Mr. Barton, if anything?

22 A I believe it was on the third of November, Detective
23 Owens, Todd Owens and I, went back to McCormick by
24 ourselves in an attempt to locate this area on Field
25 Service Road that Mr. Fullbright made mention of. This

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1 time we met with Forestry Services down there, several
2 employees of theirs, and we explained to them what Mr.
3 Fullbright had told us. We checked a few locations, but
4 were unable to locate anything like what Mr. Fullbright
5 said would be there.

6 Q Did you have any other involvement in this case, Mr.
7 Barton?

8 A Yes, ma'am. On November 04, 2009, we went to the
9 Walmart on the 28 By-pass and spoke with the Assistant
10 Manager and retrieved a photocopy of two receipts where
11 Mr. Fullbright was in Walmart purchasing items, and also
12 a video of that transaction.

13 MS. HUEY: That's all I have for this witness, Judge.

14 THE COURT: Cross examination?

15 CROSS EXAMINATION OF DANNY BARTON BY MISTER ROBINSON

16 Q Officer Barton, you have your report with you. Don't
17 you?

18 A Excuse me?

19 Q Do you have your report in front of you?

20 A Yes, sir.

21 Q Let's look at something. Let's go for a second to
22 November 2, 2009.

23 A Yes, sir.

24 Q The Solicitor didn't ask you this, but you went to
25 Eddie's Minute Mart. Is that correct?

- 1 A Yes, sir.
- 2 Q And this is in your report, which is on page 12. It has
- 3 got your name on the bottom of it and you got a
- 4 photocopy of a check which Matthew Fullbright cashed
- 5 that day. Isn't that correct?
- 6 A Yes, sir.
- 7 Q And you also got a video of the transaction when he
- 8 cashed this check. Is that right?
- 9 A Yes, sir.
- 10 Q And that was a check he received from who? Who gave him
- 11 that check?
- 12 A Who gave Mr. Fullbright the check?
- 13 Q Who he was paid by, yeah.
- 14 A I don't know.
- 15 Q Do you know what the amount was?
- 16 A No, sir.
- 17 Q Okay. Now also, too, in your report, let's look at page
- 18 11 of your report. Are you there? Page 11?
- 19 A I don't think I have the same page numbers that you do.
- 20 Q This would be, the top of the page says, "Investigative
- 21 Follow-up" and that begins 10/28/09.
- 22 A Yes, sir.
- 23 Q You see it? Okay. Going down to 10/30/09, near the
- 24 bottom of the page.
- 25 A Yes, sir.

CROSS EXAMINATION OF DANNY BARTON BY MR. ROBINSON

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- 1 Q You never mention in there a GoPhone. You only
2 mentioned a cell phone. Isn't that correct?
- 3 A Yes, sir.
- 4 Q Okay. And regarding -- Going back to 10/29 at the
5 Detention Center, you said a moment ago that you
6 witnessed a statement by him. Is that correct?
- 7 A Yes, sir.
- 8 Q But in your report, you don't, this is 10/29/09, which
9 is when you said that you witnessed this. You didn't
10 mention anything about this, witnessing this report, or
11 this affidavit or statement, in your report. Did you?
- 12 A No, sir.
- 13 Q Okay. And also, too, you also -- I'm using "also" a
14 lot, excuse me. But in the page in your report that has
15 got 11/04/2009.
- 16 A Yes, sir.
- 17 Q Do you see that?
- 18 A Yes, sir.
- 19 Q You didn't mention in there that you went to [REDACTED]
20 [REDACTED] Road in Belton. Did you?
- 21 A No, sir. I didn't in the report.
- 22 Q Well, let's look at 11/04/09 and make sure we are on the
23 same page. The page I'm looking at, which is your
24 supplemental report, has on the top, it starts with,
25 "While escorting Fullbright back to the Detention

1 Center". Do you see that?

2 A What page is that on?

3 Q This looks like -- on the bottom of the page it has
4 11/05. This is when in your referencing 11/04/09.

5 A I don't see where you are speaking of. I have just a
6 copy of the supplemental here. It's not the incident
7 report that you have.

8 THE COURT: Would you step forward and show him what you
9 have?

10 MR. ROBINSON: May I approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 Q I want you to look at this report. Is that a copy of
13 your report?

14 A Yes, sir.

15 Q Okay. Do you recognize that?

16 A Yes, sir.

17 Q Can you tell the jury, in your report, 11/04/09, what
18 did you write in your report?

19 A 11/04/09?

20 Q Can you speak into the microphone, please?

21 A Yes, sir. I went to Walmart at the 28 By-pass in
22 Anderson, South Carolina. I retrieved a photocopy of
23 two receipts where Matthew Fullbright had purchased
24 items on the morning of 10/24/09. Those items were
25 turned into Detective Beusse. I then responded to 201

CROSS EXAMINATION OF DANNY BARTON BY MR. ROBINSON

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1 Blair Mill Road in Belton, South Carolina with a search
2 warrant for this residence, along with Detective
3 Williams and Mark Coyle. We retrieved a red 5-gallon
4 gas can, a mop handle with the head attached, and a mop
5 head.

6 Q And the person who lived at the [REDACTED] Road was
7 Irving Ramirez. Correct?

8 A I believe so.

9 Q Thank you.

10 MR. ROBINSON: One second, Your Honor?

11 THE COURT: Yes, sir.

12 Q Just one more question, Officer. You said you saw Mr.
13 Fullbright sign the statement. Were you at the
14 Detention Center or at the Sheriff's office?

15 A The statement itself? At the Detention Center.

16 Q Thank you.

17 THE COURT: Redirect?

18 MS. HUEY: No, Your Honor. May he be excused?

19 THE COURT: Do you have any objection?

20 MR. ROBINSON: No objection, Your Honor.

21 THE COURT: Thank you, sir. You may step down. Would
22 you call your next witness, please?

23 MS. HUEY: Yes, sir. The State calls Mark Coyle to the
24 stand.

25 (After being duly sworn in by the Clerk of Court, Mark

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1 Coyle testified as follows:)

2 CLERK OF COURT: If you would have a seat on the stand
3 and state your name and spell your last name for the record,
4 please.

5 MR. COYLE: My name is Mark Coyle. C-O-Y-L-E.

6 DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

7 Q Investigator Coyle, where are you currently employed?

8 A Anderson County Sheriff's Office.

9 Q In what Division?

10 A Crime Scene Forensics.

11 Q And how long have you been in that division?

12 A Almost 15 years.

13 Q What are some of your duties as a Forensic Investigator?

14 A Photograph the scene, collect evidence, process
15 evidence, test some forms of drugs sometimes, just
16 various functions of the crime scene, gathering
17 evidence.

18 Q What type of training have you received and that you
19 continue to receive in the area of forensics?

20 A Several fingerprint classes, some basic and advanced
21 crime scene classes, blood spatter pattern analysis,
22 crimes against children. Just several.

23 Q And did you become involved in the investigation of this
24 defendant, Matthew Fullbright?

25 A Yes.

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DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

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- 1 Q Okay. When were you first involved in this
2 investigation?
- 3 A They called me out to Horton Road in Belton when the car
4 was found.
- 5 Q And what car are you referring to?
- 6 A It was a black Toyota Corolla, four-door.
- 7 Q What, if anything, did you do when you first arrived on
8 scene at this car?
- 9 A When I first got there, I just basically took some
10 overall photographs and then we were waiting on certain
11 warrants so I took some external photographs just of the
12 area.
- 13 Q And do you know why you were originally called out
14 there?
- 15 A It was an abandoned vehicle, but they noticed there was
16 a large amount of blood inside.
- 17 Q And so once you get there one of your first steps is to
18 take just overall photographs of the ---
- 19 A Yes, ma'am. Just trying to get the scene in as pristine
20 condition as possible.
- 21 Q As you were photographing the car, what, if anything,
22 did you notice?
- 23 A Just through the window just -- there was -- I don't
24 know if I need to get too graphic, but there was a large
25 amount of blood, hair, bone, and some brain matter. It

1 was just all over the car, inside of the car. It was
2 horrific.

3 Q So, did you actually process the car at Horton Road or
4 was the car transported elsewhere?

5 A We waited until the search warrant arrived. I think we
6 took some photographs there on scene and then we
7 transported it to the Sheriff's office. We have some
8 impound bays where we put secured vehicles inside.

9 Q Okay. And once you secure the vehicle inside is that
10 when you start to process it?

11 A Yes.

12 Q Okay. And so can you explain to the jury what
13 processing is?

14 A Basically, I start by taking photographs like I said,
15 inside and outside, to get everything in it's original
16 location. We -- If they want to try to collect blood,
17 then we do that or anything inside the car or anything
18 evidentiary-wise they are going to need and then I can
19 start and also process by doing fingerprints, just
20 anything that seems like it will be involved in the
21 case, we collect it.

22 Q Okay. Now in terms of fingerprints, Investigator Coyle,
23 do you have training specifically for fingerprint
24 analysis?

25 A Yes. I do.

DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

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1 Q Okay. What kind of training is that?

2 A Back in 1993, through Midlands Technical College at the
3 South Carolina Criminal Justice Academy, I took a basic
4 fingerprint class. 2001, I completed all requirements
5 to become an active member of the International
6 Association of Fingerprint Identification and then in
7 2002, I was trained at the South Carolina Department of
8 Public Safety on Crime Scene Techniques and
9 Investigations. But along with that, like I say, for
10 the last 15 years, I have been developing, lifting,
11 collecting, examining fingerprints.

12 Q Can you guess how many fingerprints you think you have
13 analyzed over the years?

14 A Several thousand.

15 Q And can you explain, generally, what a fingerprint is?

16 A Basically, it's the ridges and lines on your fingertips
17 that the oils, could be the oil sweats from the body,
18 that you leave on a surface when you touch it.

19 Q Investigator Coyle, have you ever testified in court
20 before as an expert in fingerprint examination?

21 A I have.

22 Q And do you know how many times?

23 A Just a few, less than six.

24 MS. HUEY: Your Honor, at this time we would have Mr.

25 Coyle qualified as an expert in fingerprint examination.

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1 THE COURT: Any objection? Would you like to do
2 additional voir dire?

3 MR. ROBINSON: I would like additional voir dire, Your
4 Honor.

5 THE COURT: Okay, sir.

6 VOIR DIRE EXAMINATION OF INVESTIGATOR COYLE BY MR. ROBINSON

7 Q You said you have, only a few times, been qualified as
8 an expert?

9 A That's correct.

10 Q Can you tell us how many times you have been qualified
11 as an expert?

12 A Probably less than six.

13 Q Less than six times. And the courts you were talking
14 about, which courts have you been qualified in less than
15 six times?

16 A General Sessions.

17 Q General Sessions?

18 A The court? Yes.

19 Q Okay. Educationally, you said you went to the Police
20 Academy. Is that correct?

21 A Correct.

22 Q And you took classes at the Academy?

23 A Yes.

24 THE COURT: Hang on just one second. Can the jury hear
25 his questions? I'm sorry, I don't mean to interrupt you. I

DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

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1 just wanted to make sure.

2 MR. ROBINSON: Yes, sir.

3 Q After the Academy, where else did you go to as far as
4 classes and so forth?

5 A I think -- both of those, my main classes were both at
6 the Academy.

7 Q Both were at the Academy? How many classes did you
8 take?

9 A Well, actually, the basic fingerprint I have taken, I
10 went there twice, just as a refresher course several
11 years later. Like I said, originally in 1993. There
12 was a slot open in, I believe, 2005 or '6, I went ahead
13 and took it again, just as a refresher course and the
14 other class in advanced techniques was in 2002.

15 Q How many classes have you taken in handwriting analysis
16 and gloves?

17 A Handwriting analysis and gloves?

18 Q Yes. Have you received any training in handwriting
19 analysis and gloves?

20 A No. No, sir.

21 Q So, you have received no training, then, in analyzing
22 fingerprints from gloves. Is that true?

23 A I don't understand the question.

24 Q Have you taken no classes that would help you analyze
25 whether something has been tampered with, with gloves or

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1 not?

2 A No, sir. Just 15 years of experience. When you process
3 a scene, you see glove prints, you know what they are.

4 Q You've had no advanced classes in that and you've
5 testified less than six time. Right?

6 A Yes. That's correct.

7 Q How many cases, in these 5 or 6 cases, have involved
8 gloves?

9 A That I have testified in?

10 Q Yes.

11 A That have involved gloves? I'm not sure if any that I
12 have testified in have had gloves. I know we would
13 bring pictures in of fingerprints and I would make a
14 match and I have testified to that. I have never
15 testified actually to, like, finding a glove at the
16 scene and being able to match it to anything in the car
17 or a crime scene or anything like that.

18 Q Okay.

19 MR. ROBINSON: Your Honor, I am going to have to object
20 to his qualifications.

21 THE COURT: What is the basis?

22 MR. ROBINSON: A foundation, as far as qualifications and
23 the specifics of what he is testifying to based on the lack
24 of being qualified as an expert.

25 THE COURT: Okay. In the area that you are asking that

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1 he be qualified in is the area of fingerprint analysis?

2 MS. HUEY: Yes, sir, Your Honor. And I believe what Mr.
3 Robinson is touching on is, essentially, there were no
4 fingerprints recovered.

5 THE COURT: I understand. Let's stay with where we are.
6 It is fingerprint analysis?

7 MS. HUEY: Yes, sir.

8 THE COURT: I am going to find that the witness is
9 qualified in the area of fingerprint analysis. The objection
10 from the Defense goes to the weight and not to the
11 admissibility. With that being said, let me tell you, Ladies
12 and Gentlemen of the jury, that normally a witness is not
13 allowed to, or is limited to, testifying about what they see,
14 what they hear, what they feel or they smell. Basically,
15 your senses. Sometimes, because a person's education or
16 their experience, or a combination of the two, the person is
17 allowed to give their opinion in their field of expertise.
18 In this case, this witness, I have qualified him an expert in
19 the field of fingerprint analysis. Therefore, he will be
20 allowed to give his opinion in that field. That doesn't mean
21 you must accept it. You may reject it. You may accept it
22 and you can do with it like any other evidence in this trial.
23 You can do with it what you would like. That being said, go
24 ahead, please, ma'am.

25 MS. HUEY: Thank you, Judge.

1 CONTINUATION OF DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

2 Q Now, Mr. Coyle, in terms of processing the scenes then,
3 I believe you touched on the fact that sometimes you
4 also see glove marks. Is that correct?

5 A Correct.

6 Q Okay. And do you process the car when you are looking
7 for glove prints and fingerprints? Does that all happen
8 at the same time?

9 A Yes. It does.

10 Q And why is that? How does that come about?

11 A We just -- We use a standard black powder most of the
12 time and when you process it, a lot of the time it just
13 depends on what develops; fingerprints, palm prints,
14 glove prints, a fabric print. Sometimes you don't see
15 it until after it develops a lot of the time.

16 Q And so, when you say a print, it could be any of the
17 things you just named?

18 A Sure.

19 Q Okay. And how do you go about trying to lift that
20 print?

21 A We have just basic fingerprint tape and a white lift
22 card that we place the tape over where the powder has
23 developed a print, stuck to the print, and it pulls it
24 off and you put it on the card for examination. It's
25 not high tech.

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1 Q Okay. Now, in this particular case, in terms of the
2 black Toyota Corolla that was registered to the Statons,
3 did you try to lift fingerprints from this particular
4 car?

5 A We did process the whole outside of the car. There was
6 -- I lifted 7 latent print cards. One, only one, had
7 minor fingerprints on it or pieces of a fingerprint that
8 you could tell was a fingerprint, but when entered
9 through our latent department, there was not enough
10 ridge detail to find out who it belonged to.

11 Q Let me stop you right there. In terms of ridge detail
12 what are you, what do you mean by that?

13 A The ways to identify fingerprints are by the shape of
14 the print, whether there are any ridges or bifurcations
15 in the lines, which are the ridges in the fingerprint.
16 There are several different ways to identify
17 fingerprints. If there are scars or marks or anything
18 like that.

19 Q So, you were able to lift a partial print of sorts from
20 the outside of the car?

21 A The outside driver's door.

22 Q Okay. And based on your years of training and your
23 expertise in examining fingerprints, even though it was
24 a partial, what, if anything, could you say about a
25 partial print?

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1 A This is just a educated guess, I would probably say ---

2 MR. ROBINSON: Objection, Your Honor.

3 THE COURT: I sustain the objection.

4 Q Based on your expertise in examining...

5 MS. HUEY: I'm sorry, Judge. May I re-phrase?

6 THE COURT: Yes, ma'am.

7 MS. HUEY: Thank you.

8 Q Based on your expertise in examining, you said,

9 thousands of fingerprints, based on that, do you have an
10 opinion as to the partial print that you lifted from the
11 car?

12 A The print itself ---

13 Q What, if anything, is the print consistent with in your
14 expertise?

15 A That it was either a very small male or a female.

16 Q Okay. Now, was that the only partial fingerprint that
17 you could lift?

18 A Yes, ma'am.

19 Q Okay. Now what, if anything, did you process from
20 inside the car, in terms of prints?

21 A We processed what we could, the rear view mirror, some
22 surfaces in there. Everything else was covered in blood
23 and debris.

24 Q And fingerprints, in general, are -- What can you say
25 about if they are fragile or not? Can you speak to

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1 that?

2 MR. ROBINSON: Your Honor, I am going to object to
3 leading.

4 THE COURT: Overruled.

5 A The fingerprints themselves, if made indoors in a good
6 environment when the temperature stays the same, can
7 last a long time. Outside in the weather or any kind of
8 disturbance, they can be destroyed very easily.

9 Q So, as you processed the interior of the car then, you
10 said you tried to get prints but you were unable to. Is
11 that correct?

12 A No usable prints were found. No.

13 Q Okay. What, if anything, were you able to lift?

14 A On the outside of the car when I put the powder, when
15 you could see it on the car, it appeared to be wiped
16 down. It had the distinguished marks, back and forth.
17 If you have ever cleaned your bathroom mirror, when it's
18 wet, when it dries, you have the little white streaks
19 all over it.

20 MR. ROBINSON: Your Honor, objection. That goes beyond
21 his expertise.

22 THE COURT: Lay some foundation for that, please, ma'am.

23 Q Investigator Coyle, in your 15 years in forensics, what,
24 if anything, in terms of crime scenes you have evaluated
25 or examined, what kind of crime scenes have you seen?

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1 A I'm sorry. What are you asking?

2 Q How many crime scenes do you think you have examined in
3 your 15 years?

4 A Several hundred. Hundreds.

5 Q And in any of those other crime scenes, was it
6 determined through other evidence that they may have
7 been wiped down?

8 A Yes.

9 Q Okay. And as a result of that, were you able to verify
10 that through your forensic examination of these scenes?

11 A Yes, we were.

12 MR. ROBINSON: Objection, Your Honor. Lack of Foundation.

13 THE COURT: Overruled.

14 Q So, you have seen crime scenes where things had been
15 wiped down?

16 A Correct.

17 Q Okay. And so what are some of the characteristics that
18 you look for when something has been wiped down?

19 A Just, like I say, just the telltale signs of the long
20 streaks and patterns in the surface itself. On a dirty
21 surface, I mean, I believe everybody has, like I said,
22 in their bathroom, when you clean the mirror you can
23 tell when it has been wiped down. It's not hard to
24 tell.

25 Q Okay. And so can you lift those actual smears?

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1 A Not really. I mean you can, but not really. Sometimes
2 they will lift and sometimes they won't.

3 Q In reference to the latent card that you do have, what
4 were you able to lift?

5 A Partial -- I was trying to identify the partial glove
6 prints to have those.

7 (Ms. Huey shows items to Mr. Robinson)

8 MR. ROBINSON: I have no objection, Your Honor.

9 THE COURT: What exhibit is that, please, ma'am?

10 MS. HUEY: This is State's 25, A through G.

11 THE COURT: That will be admitted without objection.

12 (Whereupon, seven fingerprint cards are admitted into
13 evidence as State's Exhibit Nos. 25 A-G, without objection)

14 Q Mr. Coyle, I am going to show you what has been admitted
15 as State's 25, A through G. Would you take a look at
16 all of these, please?

17 A These are the prints that I was talking about.

18 Q Okay. And so, please explain to the jury how you were
19 able to lift those.

20 A Just from using the black powder and developing them.
21 You can see on some of these, on some of these, you can
22 see the glove pattern itself. I used, basically,
23 fingerprint tape and putting it on the card. It's not
24 very hard to do.

25 MS. HUEY: Your Honor, I would like to publish these.

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1 THE COURT: Yes, ma'am.

2 Q Mr. Coyle, will you step down again? (Witness complies
3 and documents are put on the large screen) Let's start
4 with Exhibit 25A. Can you explain to the jury what that
5 is.

6 A It looks like two fingerprint smudges here, maybe the
7 end of the fingers on the gloves. You can see just a
8 little bit of the print formation from the glove print.

9 Q So, it is your opinion these are glove smears?

10 A Yes.

11 MR. ROBINSON: Your Honor, objection. I think that is
12 beyond his expertise in this area.

13 THE COURT: I note your objection. Overruled.

14 Q All right, Investigator Coyle, can you explain why that
15 is a glove smear?

16 A Just, like I said, the pattern, the pattern matches with
17 the other. You can see a lot more of the detail in it
18 and just years of experience.

19 Q And where was 25A lifted?

20 A The driver's window outside, on the driver's door.

21 Q This is 25B.

22 A And this was from the top of the driver's side rear door
23 and, to me, that is a glove pattern from the side. You
24 can see like the side of the hand fits on it, a part of
25 the palm all the way to the little finger.

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1 Q And, again, that is a glove print?

2 A Yes, it is. In my opinion, yes.

3 Q This is 25C.

4 A This was from the passenger side front door on the
5 outside. On this one, you can actually see little
6 striations all the way through it, like a cloth glove
7 print itself.

8 Q This is 25D.

9 A This was from the driver's door outside. This is, these
10 are little pieces of partial fingerprints. The only
11 ones I could find on the car. There is a little bit of
12 ridge detail here and very little on these other spots.

13 Q And again, you were not able to match these to anyone?

14 A No. There was not enough ridge detail identification to
15 use.

16 Q This is 25E.

17 A And this is the driver's side rear door at the top.
18 This is a little bit more of the glove pattern here and
19 here and maybe just a little here. You can see the
20 fabric formations here and here. (Indicating).

21 Q 25F.

22 A The trunk near the tag. This was actually in -- There
23 was more dirt on the car around that area and the glove
24 print actually created more of a void in the powder and
25 it actually stuck more to the car than to the board and

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- 1 actually came out better than the print itself.
- 2 Q And again, this is of a glove?
- 3 A Yes.
- 4 Q This is 25G.
- 5 A This was on the hood in the middle of the front of the
6 car. You can see it is almost like the whole face of
7 the hand, the heel and the side of it.
- 8 Q Thank you. You may have a seat, Mr. Coyle. What is
9 your next step, Investigator Coyle? Do you try to lift
10 fingerprints?
- 11 A Pardon?
- 12 Q Do you try to lift fingerprints, or glove prints in this
13 case?
- 14 A I started going through the car with the investigators
15 and collecting, photographing and collecting whatever
16 they needed.
- 17 Q Okay. What, if anything, was collected in the car,
18 Investigator Coyle? Specifically, in reference to a
19 purse or wallet of that nature?
- 20 A Okay. Inside the purse, in the victim's purse, hidden
21 between two old checks in a burgundy checkbook was
22 \$1200.00 cash, a burgundy checkbook that was in there as
23 well, a ---
- 24 Q Let me stop you right there. What do you mean by hidden
25 in the checkbook?

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- 1 A It was a back pocket on the checkbook and it looked like
2 there were just a couple of pieces of paper in it and if
3 you pulled it out, in between them was the cash.
- 4 Q And what, if anything, could you tell about the outside
5 of the purse?
- 6 A Not a whole lot. It was a little bit of blood on it,
7 but not much.
- 8 Q And so you found the \$1200.00 cash in the burgundy
9 checkbook.
- 10 A Yes.
- 11 Q What, if any, blood or hair samples or tissue samples
12 did you collect?
- 13 A Several. Just from -- Do you want me to go down the
14 list of what we collected? From the driver's seat area
15 we collected hair sample, hair sample from the passenger
16 front seat, hair sample from the passenger rear side
17 seat, hair sample from the dash, four blood samples, two
18 from the drivers seat and two from the passenger seat,
19 one tissue sample from the rear passenger floorboard,
20 four pieces of bone from the passenger front seat, four
21 pieces of bone from the passenger rear seat area, and
22 overall 6 more blood samples, two from the driver's door
23 and two from the steering wheel and two from the
24 driver's side floor near the console.
- 25 Q And then when you collect those items, what do you then

- 1 do with them?
- 2 A I collect them and take them back and enter them into
3 evidence at the Sheriff's office.
- 4 Q Okay. And then from the Sheriff's office, where are
5 they then taken?
- 6 A For analysis, they are then taken to SLED.
- 7 Q What else did you locate in the vehicle, Investigator
8 Coyle, other than the tissue and blood samples and bone
9 matter?
- 10 A On the driver's floor was a hearing aid, from -- there
11 were a couple more items in the purse that we found in
12 the purse like the metal business card holder, a cell
13 phone. She also had a ---
- 14 Q Could you speak, specifically, to where the cell phone
15 was located?
- 16 A It was in her purse.
- 17 Q Okay.
- 18 A The Kel-Tec .380, which was a small handgun, was in her
19 purse. We collected 7 pieces of miscellaneous paperwork
20 that had Mr. Staton's name on it. One pair of
21 prescription glasses from the console in between the
22 seats. Two vehicle cards, information cards, with the
23 victim's name on it. It was over the sun-visor of the
24 driver's seat. Other miscellaneous paperwork from the
25 passenger front floorboard and, like I said, several

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1 items from her brown and gold purse that was then in the
2 front seat, the front passenger seat. We -- there was
3 also what looked like a plastic, some kind of grocery
4 bag that had a GoPhone, pay as you go, empty box in it.
5 One DeWalt tool box with gold detecting equipment in it
6 in the passenger rear side seat. I think that's about
7 it, out of the car.

8 Q Okay. Investigator Coyle, I am going to show you...

9 (Ms. Huey shows Mr. Robinson photographs)

10 MR. ROBINSON: No objection.

11 THE COURT: Admitted without objection. What is that
12 exhibit number?

13 MS. HUEY: Your Honor, this would be State's 23, C
14 through I.

15 THE COURT: Thank you, ma'am. Admitted without
16 objection.

17 (Whereupon, 7 photographs are entered into evidence as
18 State's Exhibit Nos. 23 C through I.

19 MS. HUEY: May I publish these to the jury, Judge?

20 THE COURT: Yes, ma'am.

21 (Witness leaves the witness stand.)

22 Q State's Exhibit 23, I. Can you explain to the jury what
23 this is?

24 A That's the Corolla that was found on a small dirt road,
25 abandoned, in front of the gate.

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- 1 Q Who did the Corolla belong to, again?
- 2 A Mr. and Mrs. Staton.
- 3 Q State's 23H.
- 4 A That is just a further back view of the same shot of the
- 5 Corolla.
- 6 Q And is that where the car was found abandoned, exactly?
- 7 A Yes.
- 8 Q Once it was processed, did you take that into evidence?
- 9 A Yes.
- 10 Q I'm going to show you what has been marked as State's
- 11 23D. Can you explain to the jury what that depicts?
- 12 A That's the burgundy wallet that we found with the 22
- 13 checks in the back and the cash in between.
- 14 Q And again, how much cash was in it?
- 15 A \$1200.00.
- 16 Q This is State's 23C.
- 17 A That is the empty GoPhone box that was located in the
- 18 plastic bag in the passenger seat.
- 19 Q Now what, if anything, did you take from the GoPhone
- 20 box? Were you able to take swabs of it?
- 21 A We didn't take any swabs of it, but we did go ahead and
- 22 process it. But like I said, no usable prints were
- 23 found on it.
- 24 Q And in terms of -- you said it was in a plastic bag, I
- 25 believe?

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1 A Yes, ma'am.

2 Q And what did the bag look like?

3 A The bag itself? It looked like, as I said, a plastic
4 grocery bag and it had a pretty good amount of blood
5 on it.

6 Q It was the bag that this was in, that had blood on it?

7 A Yes.

8 Q And not the GoPhone box itself?

9 A There was a little bit of a smudge, which I believe to
10 be the same kind of glove print as we have seen earlier.
11 I just got little finger marks where the glove went.

12 Q And then this is State's 23F.

13 A That's the DeWalt tool box that he actually used that
14 had some gold testing equipment in it and it was located
15 on the passenger side rear seat.

16 Q And State's 23G?

17 A That's the interior of the box with the equipment he
18 used.

19 Q It was called a jewelry testing kit? Is that right?

20 A I believe it was a gold testing kit.

21 Q And then State's 23E?

22 A This is a silver name card holder and I believe that was
23 actually in the purse.

24 (Witness returns to the witness stand)

25 Q What, if anything, did you note about the head liner of

1 the car?

2 A The head liner, I noticed right around the light, it
3 looked like it had been touched a lot. I don't know --
4 I'm not going to say what for, but like it had been
5 touched. And then there were several, some cast off
6 lines. When an object has got blood on it, they made
7 some spatter marks and then it looked like several
8 strikes from an object back and forth.

9 Q Okay. And can you speak to what kind of object that
10 would be?

11 MR. ROBINSON: Your Honor, I am going to object. Not
12 within his expertise.

13 THE COURT: I sustain that objection.

14 Q Other than the \$1200.00 collected from Mrs. Staton's
15 wallet, was any other cash or jewelry located in the
16 car?

17 A Besides what -- I believe she had jewelry. I believe
18 she had some rings on.

19 Q Just specifically to the car?

20 A Um.

21 Q Any other cash located in the car or any kind of jewelry
22 located in the car?

23 A No. I don't think so.

24 Q Okay. Now, Investigator Coyle, did you also -- were you
25 also involved in other aspects of the investigation?

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1 A Yes. I was.

2 Q Okay. What was your next step? Your next involvement,
3 rather?

4 A On Horton Road, we actually went back down to do another
5 sweep of the area.

6 Q Okay.

7 A Where the car was found.

8 Q And at that time what, if anything, was located?

9 A We was policing the area and basically a bunch of guys
10 get in a line and sort of walk it. I believe it was
11 actually the Sheriff who seen another Kel-Tec .380 gun
12 laying in the grass or in the leaves that would have
13 been to the right side of the car.

14 Q Okay. And was that collected?

15 A Yes.

16 Q Okay. And when you say another, had one previously been
17 collected?

18 A The -- Yes, from the purse.

19 Q Again, Ms. Staton's purse from the car?

20 A Yes.

21 Q After you went back to Horton Road, what was your next
22 involvement in this particular investigation?

23 A That is when we received a call about the Asaville --

24 The next thing I was involved in was the Asaville School
25 Road when Mr. Staton was found.

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1 Q Okay. And can you describe Asaville School Road, that
2 location?

3 A I'm not familiar with that area, but it seemed like it
4 was out in the middle of nowhere. There is not -- It is
5 very scarcely populated.

6 Q And again, what was one of the first steps when you
7 arrived on scene?

8 A Photographs.

9 Q What, if anything, did you notice about the area?

10 A When we first arrived, I mean, you -- it was a
11 handkerchief lying right by the road up through the
12 brush and leading toward where the body was found. It
13 looked like there might have been some drag marks
14 through where the greenery was, you know, disheveled and
15 it looked like drag marks through the dirt.

16 Q And where Mr. Staton was located, what, if anything, was
17 around him?

18 A The -- There was a black cowboy vest, a Gamecock
19 lanyard, a blue long sleeved Perry Ellis dress shirt. A
20 few little items that looked like they had come off
21 while he was being drug, either dropped or thrown back
22 there.

23 Q Okay. So, they were not on his person.

24 A No.

25 Q They were next to him.

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1 A Yes.

2 Q Okay. And did you locate any weapons on Mr. Staton?

3 A He -- We did. He had a Mercer .380, a small pistol in a
4 brown holster, on his side.

5 (Ms. Huey shows document to Mr. Robinson.)

6 MR. ROBINSON: No objection.

7 THE COURT: What are those numbers?

8 MS. HUEY: Your Honor, this is 23J.

9 THE COURT: Admitted without objection.

10 (Whereupon, a photo is admitted into evidence as State's
11 Exhibit No. 23J, without objection).

12 Q Investigator Coyle, I would like you to step down a
13 moment while I publish this to the jury. This is
14 State's 23J. Tell the jury what that depicts.

15 A That's, basically, an overall view, from just beyond
16 where you can see here on the back side of the road
17 leading up into the woods. You can see the other items
18 that I said were just before the body and then the body
19 was deep in the woods here.

20 Q And again, this is how the body was found and you took
21 photos of the body in the same location?

22 A Yes, ma'am.

23 Q Thank you. And again, once all of those items are
24 collected in terms of Mr. Staton's clothing and what
25 not, and the gun, that's all taken back to evidence. Is

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- 1 that correct?
- 2 A Correct.
- 3 Q What was your next involvement in this investigation,
- 4 Investigator Coyle?
- 5 A The Waterside Drive where Mrs. Staton's body was found.
- 6 Q Okay. And can you describe how this came about?
- 7 A I was just -- We were called by -- The Investigator's
- 8 office called our investigator, I believe it was
- 9 Investigator Gebing who said that they ---
- 10 MR. ROBINSON: Your Honor, ---
- 11 Q Without saying what he said.
- 12 A Okay.
- 13 Q Were you called out to the scene?
- 14 A Yes.
- 15 Q Okay. And once you got to the scene again, do you
- 16 follow the same sort of process?
- 17 A I do.
- 18 A Okay. What was your first step?
- 19 A I started taking photographs of the area.
- 20 Q Okay. And what did you photograph in this particular
- 21 area?
- 22 A Just the -- From the scene itself, from the roadway,
- 23 there was a pair of glasses that looked like they had
- 24 been prescription glasses that had been run over. Some
- 25 marks in the road that depicted drag marks and then just

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1 down to the body itself.

2 (Ms. Huey shows documents to Mr. Robinson.)

3 MR. ROBINSON: No objection.

4 THE COURT: What exhibit numbers are those, please?

5 MS. HUEY: Your Honor, this would be State's 23, K and L.

6 THE COURT: Admitted without objection.

7 MS. HUEY: Thank you.

8 (Whereupon, two photographs are entered into evidence as
9 State's Exhibits Nos. 23 K and L, without objection.

10 Q Investigator Coyle, would you mind stepping down? (Ms.
11 Huey projects exhibits on large screen) I am going to
12 show you what has been previously been admitted as
13 State's 23A. Can you tell the jury what that depicts?

14 A Once again, with the roadway being right here, this is
15 sort of an open area down near where the body was
16 located.

17 Q Did you take this photograph?

18 A I did.

19 Q And what is the significance of 23B, that has been
20 previously admitted?

21 A Just a shot showing where the glasses were found.

22 Q And State's 23L?

23 A Just a close-up of the glasses themselves.

24 Q And State's 23K?

25 A This is a photograph showing some marks, some marks

1 leaving the roadway.

2 Q And based on your training, the reason you took this
3 photograph was because?

4 A They were believed to be drag marks.

5 Q Thank you, Investigator Coyle. Would you please have a
6 seat? (Witness returns to the witness stand)

7 Investigator Coyle, did you have any other involvement
8 in this particular investigation?

9 A Yes, ma'am.

10 Q Okay. What was your next involvement?

11 A Blair Mill Road, Belton.

12 Q Okay. And what was the purpose of going out to Blair
13 Mill Road?

14 A We were told that there may be some of the ---

15 MR. ROBINSON: Objection, Your Honor.

16 Q Without saying ---

17 THE COURT: Sustained.

18 A We were going to look for some possible, some of the
19 money, some of the jewelry. It was a possible location.

20 Q Okay. And so, did you respond to Blair Mill Road then
21 to try -- and you would photograph potential recovered
22 property. Is that correct?

23 A Yes.

24 Q Okay. And were you able to photograph such property?

25 A No.

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- 1 Q Okay. And why was that?
- 2 A Well we found, it was, basically, a freshly dug little
3 shallow hole and nothing was in it.
- 4 Q Okay. And how about your next involvement in this case,
5 Investigator Coyle?
- 6 A The swamp area off Monitor Drive.
- 7 Q Okay. And what was the purpose of going to Monitor
8 Drive?
- 9 A The -- Our dive team had been down looking for a hammer
10 that was supposed to be in the swamp and I was called
11 and told it was located..
- 12 Q And prior to the hammer being located and collected, did
13 you take photographs of this particular area?
- 14 A Yes,
- 15 Q Okay. Was there anything of significance about Monitor
16 Drive other than the swamp?
- 17 A When I arrived on the scene, SLED was on scene and my
18 sergeant was down assisting them. He had just taken a
19 dirt sample and was testing it for accelerants.
- 20 Q Okay. And as a result of that, did you collect the
21 dirt?
- 22 A Yes.
- 23 Q Okay.
- 24 A It was found to be positive, so he took a sample and I
25 collected it from him..

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1 Q Okay. Positive for accelerant?

2 A Yes, ma'am.

3 Q Okay. And again that was from Monitor Drive?

4 A Yes.

5 Q Okay. And then I believe you mentioned earlier that a
6 hammer was located.

7 A Correct.

8 (Ms. Huey shows Mr. Robinson documents)

9 MR. ROBINSON: No objection.

10 THE COURT: Exhibit numbers, please?

11 Ms. Huey: Your Honor, this is State's 23, N, O, Q, and

12 P. I'm sorry. S, as well.

13 THE COURT: All right. Admitted without objection.

14 (Whereupon, five photographs are entered into evidence
15 as State's Exhibit Nos. 23 N, O, Q, P, and S, without
16 objection)

17 MS. HUEY: Thank you, Judge. May I publish these to the
18 jury? (Witness leaves the witness stand and exhibits are
19 projected on large screen)

20 Q Investigator Coyle, I am going to show you what has been
21 marked as State's 23P. If you can tell the jury what
22 that depicts?

23 A That's the burn site where they were taking the burn
24 samples from.

25 Q And again, the samples were collected and tested for

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1 accelerants. Is that correct?

2 MR. ROBINSON: Your Honor, objection. I don't think he
3 is qualified as far as the testing of these products.

4 THE COURT: I sustain that objection.

5 Q You were just involved in collecting these samples?

6 A Correct.

7 Q You were ---

8 MS. HUEY: I'm sorry. I believe a juror was raising her
9 hand.

10 MS. TERRY: Is there any way we could get that cursor
11 moved out of the middle? It's right in our view.

12 THE COURT: Okay. Would you mind doing that for me,
13 please, Ms. Huey?

14 MS. HUEY: I think it's done, Judge. Thank you. I
15 didn't see that.

16 THE COURT: Do you need to have that exhibit replaced?

17 MS. TERRY: No. We're good.

18 THE COURT: Thank you, ma'am.

19 Q And this is State's 23Q.

20 A That is of the burn site.

21 Q And then the State's 23M.

22 A That is the overall view of the swamp area where the,
23 the area where the hammer was found.

24 Q Okay.

25 MS. TERRY: Your Honor, we would like to see another, the

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1 first view.

2 THE COURT: The first exhibit, the first photograph?

3 MS. TERRY: Yes.

4 THE COURT: Could we have that back up there on the
5 viewer, Ms. Huey?

6 MS. HUEY: (Complies) Exhibit 23P.

7 THE COURT: Have you had sufficient time to review it?

8 MS. TERRY: (Nods head)

9 MS. HUEY: And then 23N.

10 A That's the -- That is one of our dive guys holding up
11 the hammer where he found it. The stake back here
12 indicates where he found it on the ground.

13 Q Okay. And can you point out exactly where the hammer is
14 that he found?

15 A It's in his hand. It was found straight out here.

16 Q And again, that is on the swamp side of Monitor Drive.

17 A That is correct.

18 Q And this is State's 230.

19 A That's the stake they basically used to identify the
20 hammer. Before we picked it up to look at it, it was
21 located right here in the edge of the grass.

22 Q And that's the swamp that had to be drained to find the
23 hammer?

24 A Yes.

25 Q (Witness returns to the stand) And so, Investigator

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1 Coyle, once the swamp was drained and you took photos of
2 the hammer, what, if anything, did you then do with the
3 hammer?

4 A We collected it, along with a can of dirt, along with
5 another item they found which was a green and blue mop
6 handle that looked sort of new, so we included it as
7 well. They were taken back and entered into evidence at
8 the Sheriff's office.

9 Q Okay. A green and blue mop handle was collected at the
10 swamp site, as well?

11 A Yes.

12 Q In terms of the hammer...

13 (Ms. Huey shows an item to Mr. Robinson)

14 MR. ROBINSON: Your Honor, my objection is as to
15 foundation.

16 THE COURT: Just one second. I think this is time to go
17 ahead and have the afternoon break. If you would, just go
18 back and take about a ten or fifteen minute break and then we
19 will resume testimony. Officer, you may step down, but you
20 cannot speak to anyone about your testimony.

21 (Jury out at 3:32 p.m.)

22 THE COURT: All right, go ahead and place your objection
23 on the record, please, sir.

24 MR. ROBINSON: May it please the Court.

25 THE COURT: Yes, sir.

DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

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1 MR. ROBINSON: The objection is, as far as he's proven
2 in the testimony that he collected this stuff, I'm not sure
3 he can testify to where it wound up, as far as the chain.

4 THE COURT: Well, didn't the Defense stipulate to the
5 chain of custody?

6 MR. ROBINSON: We did, Your Honor. I just want a little
7 more information on how he found it and what he did with it
8 after it was found.

9 THE COURT: I'm sorry?

10 MR. ROBINSON: I had an objection, but the Court is
11 right, we did stipulate to chain of custody. I'm withdrawing
12 the objection.

13 THE COURT: Okay. All right, we are going to have about
14 a ten to fifteen minute break and then we will resume
15 testimony again. Do not discuss your testimony with anybody.

16 INVESTIGATOR COYLE: Yes, sir.

17 (Brief break)

18 THE COURT: All right, Ms. Huey, are you ready to
19 proceed?

20 MS. HUEY: Yes, sir, Your Honor. May we approach a
21 minute?

22 THE COURT: Yes, ma'am.

23 (Bench Conference Off the Record)

24 THE COURT: Mr. Robinson, are you ready to proceed?

25 MR. ROBINSON: We are ready, Your Honor.

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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1 THE COURT: Will you bring the jury in, please?

2 (Jury in at 3:52 p.m.)

3 CONT. DIRECT EXAMINATION OF MARK COYLE BY MS. HUEY

4 Q Investigator Coyle, I was showing you State's 7.

5 MS. HUEY: And I believe it is admitted without
6 objection, Judge?

7 THE COURT: Admitted without objection.

8 MS. HUEY: Thank you.

9 (Whereupon, a hammer is entered into evidence as State's
10 Exhibit No. 7, without objection.)

11 Q Investigator Coyle, do you recognize this item,
12 State's 7?

13 A I do.

14 Q And is that the hammer that you collected from the
15 swampy area off of Monitor Drive?

16 A It is.

17 Q And then once that's collected, what did you then do
18 with that item?

19 A I entered it into evidence at the Sheriff's office.

20 MS. HUEY: That's all I have for this witness, Judge.

21 THE COURT: Cross examination, Mr. Robinson?

22 MR. ROBINSON: May it please the Court, Your Honor.

23 CROSS EXAMINATION OF MARK COYLE BY MISTER ROBINSON

24 Q Officer Coyle, I want to go back to the first part of
25 your testimony, where you talked about jewelry. Did you

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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- 1 find any in the car?
- 2 A Pardon?
- 3 Q You said that you found some jewelry in the car. Is
- 4 that right?
- 5 A No, not in the car.
- 6 Q Where was it?
- 7 A I remember a ring and I think a ring and maybe something
- 8 else on Mrs. Staton's body.
- 9 Q And what happened to that?
- 10 A It was left on her body and I guess they took it off
- 11 during autopsy.
- 12 Q Okay. Where was the ring on her body? I know it was on
- 13 the hand, but which hand was it on?
- 14 A Let me see if I have a photo. (Looks through his
- 15 documents.) The -- It appears to be her left ring
- 16 finger.
- 17 Q Okay. And you also stated there was also \$1200.00 in
- 18 cash. Is that correct?
- 19 A Correct.
- 20 Q Okay. Now, in your report, and this would be, it looks
- 21 like page one of your report. Do you have that up
- 22 there? Is that right?
- 23 A Yes.
- 24 Q There were a total of 7 latent prints, I think you said.
- 25 Is that right?

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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- 1 A Yes.
- 2 Q Taken? This is in the inside of the vehicle. Correct?
- 3 A I believe all those were actually on the outside of the
- 4 vehicle.
- 5 Q On the outside of the vehicle?
- 6 A Yes.
- 7 Q Okay. And you also found a Texas Instrument calculator.
- 8 Is that right?
- 9 A That was found outside the car in the, in the, like in
- 10 the leaves to the right side of the car or actually on
- 11 the driver's side of the car.
- 12 Q Okay.
- 13 A Just a few feet away from the car.
- 14 Q You didn't take any latent prints from that?
- 15 A We tried, but there was nothing found on that.
- 16 Q Okay. And you also found a GoPhone box. Is that right?
- 17 A Yes.
- 18 Q And a charger. You didn't take any prints from that?
- 19 A It was processed. There was none found on it.
- 20 Q None found on it. Okay. You also found four hair
- 21 samples. Is that right?
- 22 A Correct.
- 23 Q Let's go to page three of your report.
- 24 A Which page? I only have two.
- 25 Q It looks like...

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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1 MR. ROBINSON: May I approach the witness, Your Honor?

2 THE COURT: Yes, sir.

3 A It's not printed out like that.

4 (Mr. Robinson shows witness document)

5 A Okay.

6 Q Do you have that?

7 A Yes, sir. That's on my page two.

8 Q Mine is marked as a different page from you. Right?

9 A Correct.

10 Q This was at the swamp area. Isn't that right?

11 A Yes.

12 Q Okay. In the swamp area, it looks like you found a
13 hammer and a metal mop handle? Is that right?

14 A Our dive team did. Yes, sir.

15 Q Dive team. In your report you don't put a -- Now, you
16 were at the scene. You actually went out there. Didn't
17 you?

18 A Yes.

19 Q Okay. You didn't put the color of the metal mop handle,
20 or did you? Because down the page on Blair Mill Road in
21 Belton, it says green and blue. Is that not the same
22 handle or what?

23 A On the swamp area, I do have a green and blue mop handle
24 and then on Blair Mill it also says green and blue
25 metal.

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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- 1 Q Okay. Now [REDACTED] Road. That was Arthur
2 Ramirez' residence. Correct? To your knowledge?
- 3 A I'm not sure.
- 4 Q Okay. But at that residence you found, this is looking
5 at your report, the remains of one mop head. Right?
- 6 A Yes.
- 7 Q A mop with a green and blue metal handle.
- 8 A Correct.
- 9 Q Right. And also a red 5-gallon gas can. Right?
- 10 A Yes.
- 11 Q Okay. And in the swamp area, you found one green and
12 blue metal mop handle. Correct?
- 13 A Correct.
- 14 Q Okay. And one hammer.
- 15 A Yes.
- 16 Q Okay. Now, you don't know if that was there for a long
17 period of time or a short period of time. Do you?
- 18 A No, sir.
- 19 Q You just don't know how long it was there. Do you?
- 20 A No.
- 21 Q Okay. And regarding the hammer, there is no way you
22 could take any prints off of it or DNA or anything like
23 that. Correct?
- 24 A It was going to be sent to SLED ---
- 25 Q Okay.

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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- 1 A --- for any further analysis. I'm not sure. We didn't
2 even attempt it.
- 3 Q Okay.
- 4 A If there was anything left on there, I wanted them to be
5 able to find it.
- 6 Q Okay. Regarding one of the pictures, there's a picture
7 of a, it looks like an incineration pit or something.
- 8 A Yes.
- 9 Q You don't know how long that was there. Do you?
- 10 A No, sir.
- 11 Q Okay. I've got a few questions for you and this is
12 looking at your report. You found a handkerchief, or a,
13 yes, a handkerchief and drag marks that led from the
14 handkerchief to Mr. Homer Staton's body. Is that right?
- 15 A Correct.
- 16 Q Okay. And you photographed a pair of broken glasses
17 with drag marks that led from the glasses to Mrs.
18 Staton's body. Right? On Waterside Drive.
- 19 A Yes, sir.
- 20 Q Okay.
- 21 A There were glasses and right beside them were the marks.
- 22 Q Okay. What day did you respond to Horton Road? Do you
23 recall?
- 24 A The -- (Witness looks through his documents) The
25 original call to Horton Road?

CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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1 Q Yes, sir.

2 A I don't have that in my -- I have it in my notebook. I
3 don't have it in my material here.

4 Q All right. How long was it between the first officer on
5 scene at Asaville School Road before you then responded?
6 Any idea?

7 A I would have to go back and look at the original
8 incident report.

9 Q Okay. And that is a supplemental report. Is that
10 correct? Or is that something else?

11 A The original report?

12 Q Yes.

13 A That should be the original incident report.

14 Q Okay. Is that something you did or who did that?

15 A I'm not sure who took the original report. I imagine
16 the deputy took it.

17 Q Okay. Okay. So, you don't have that in your
18 possession. Correct?

19 A I don't.

20 Q Okay. Now, do you usually respond after the officers
21 are done with their investigation?

22 A Usually, if they get there and there is a crime scene
23 there, they will call and I will be dispatched out.

24 (Beeping noise in the courtroom)

25 THE COURT: Does somebody have something going off in

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CROSS EXAMINATION OF MARK COYLE BY MR. ROBINSON

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1 here? Pass it forward. Thank you. (Cell phone is given to
2 the bailiff)

3 MR. ROBINSON: Thank you, Judge.

4 THE COURT: Yes, sir.

5 Q How long, if you know, okay, how long was it between
6 Gebing's call to you on the 28th and your arrival to
7 Waterside Drive?

8 A I think I followed him down there. When they called me,
9 we were all leaving the Sheriff's office about the same
10 time.

11 Q So, you kind of all went at the same time?

12 A Yes.

13 Q How many officers went down there with you?

14 A Several.

15 Q Several?

16 A I don't recall.

17 Q Okay.

18 A A good number, but several.

19 Q A good number. Okay.

20 MR. ROBINSON: One second, Your Honor?

21 THE COURT: Yes, sir.

22 MR. ROBINSON: I have no more questions. Thank you.

23 THE COURT: Any redirect?

24 MS. HUEY: I do not have any. May he be excused?

25 THE COURT: Yes, ma'am. You may step down. Any reason

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY 313

1 THE COURT: Yes, sir. That will be fine.

2 (Jury in at 4:10 p.m.)

3 DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY

4 Q Mr. Burdette.

5 A Yes, ma'am.

6 Q How old are you?

7 A Fifty years old.

8 Q And Mr. Burdette, I am going ahead and ask you: Have
9 you been convicted of forgery?

10 A Yes, ma'am.

11 Q Have you been convicted of a failure to stop for a blue
12 light?

13 A Yes, ma'am.

14 Q Obtaining drugs by false pretenses?

15 A Yes, ma'am.

16 Q And, Mr. Burdette, do you have pending charges?

17 A Yes, ma'am.

18 Q Have you been promised anything as relates to those
19 charges? Anything from the State?

20 A No, ma'am.

21 Q Do you know the defendant in this case, Matthew
22 Fullbright?

23 A I do.

24 Q And how long have you known him?

25 A Just a few years.

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY 314

1 Q I want to draw your attention, Mr. Burdette, to the days
2 surrounding October 23, 2009.

3 A Yes, ma'am.

4 Q What, if anything, was your relationship with Matthew
5 Fullbright at that particular time?

6 A We were just like drug buddies. You know, got high
7 together.

8 Q And as a result of that, what, if anything, did you do
9 to provide Mr. Fullbright with drugs to get high?

10 A If he come to me and wanted some or called me and wanted
11 some.

12 Q I'm sorry?

13 A If he come to me and wanted some or called me and wanted
14 some, I was the go-to man. I would get them so we could
15 get high.

16 Q And so, you were the middle man?

17 A Yes, ma'am.

18 Q And what kind of drugs would you provide to Mr.
19 Fullbright?

20 A We'd do about any kind there was. Oxycontin, stuff like
21 that.

22 Q And the days leading up to October 23, 2009, what kind
23 of drugs, specifically, was Matthew Fullbright coming to
24 you for?

25 A Oxycontin.

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY

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- 1 Q And how many pills would he buy from you at a time?
- 2 A It varied.
- 3 Q What were the various amounts? In terms of the street
- 4 value or how much would he pay for them?
- 5 A A hundred -- for when? Then?
- 6 Q As far as the value, how much would he pay you?
- 7 A One hundred and twenty, sometimes.
- 8 Q I'm sorry?
- 9 A One hundred and twenty.
- 10 Q And how many pills would that get him?
- 11 A Two.
- 12 Q Now, Mr. Burdette, specifically on Friday, October 23,
- 13 2009, what, if at anytime, did you meet up with the
- 14 defendant on this particular night?
- 15 A It was 9:00 or 10:00.
- 16 Q Around 10:00?
- 17 A Yeah. Around 10:00 or something.
- 18 Q Okay. And can you tell me a little bit about where this
- 19 meeting took place.
- 20 A At a store down off 252, McCoy Crossroads.
- 21 Q And can you describe the location of this?
- 22 A You just go down 252 and go to the first store on the
- 23 left. He was at the station across the road. We pulled
- 24 into this station and I run across the road and met him
- 25 and went back to my car.

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY 316

1 Q Now, when you say, at this location, you were at one gas
2 station and there was another one across the road?

3 A Yes. It's closed.

4 Q The one across the road was closed?

5 A The one across the road is closed down. Yeah.

6 (Ms. Huey shows a document to Mr. Robinson)

7 MR. ROBINSON: No objection.

8 THE COURT: Admitted without objection. What is that
9 exhibit number?

10 MS. HUEY: Your Honor, this is State's 24.

11 (Whereupon, a photograph is entered into evidence as
12 State's Exhibit No. 24, without objection.)

13 Q Mr. Burdette, I'm going to show you what has been
14 admitted as State's 24. Can you take a look at that
15 photo.

16 A Yeah, that's it.

17 Q And how are you able to recognize that photo?

18 A By the store here and this empty lot here where I met
19 him at.

20 Q I'm going to ask you to step down and publish this to
21 the jury. Just step down, please.

22 A Step down and do what? (Witness leaves the witness stand
23 and a photograph is projected on large screen)

24 Q Stand right there. This is State's 24. Would you point
25 out to the jury the gas station where you were parked.

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY 317

- 1 A I was parked right here in front where I could see the
2 gas station. He called me and said, "I'm behind you."
3 I jumped out and I ran across the street and met him
4 right here. (Indicating) I handed him what he wanted and
5 he handed me what I wanted and I was gone.
- 6 Q And then, so this is the abandoned gas station that you
7 referred to?
- 8 A Yes, ma'am.
- 9 Q You may take your seat. Now backing up, Mr. Burdette,
10 you talked about him calling you back and forth. Where
11 were you living at this particular time?
- 12 A 1507 Olin Drive.
- 13 Q And that is in Anderson County?
- 14 A Yeah.
- 15 Q And do you remember your cell number at this particular
16 time?
- 17 A I think mine was 356-2935.
- 18 Q And on this particular night when you say Mr. Fullbright
19 called you, did you recognize what number he was calling
20 you from?
- 21 A I didn't. He had got a new phone or something. I get
22 so many -- I had so many calls at the time, I didn't.
23 You know, it would ring and I answered it.
- 24 Q Okay. But nonetheless, you received calls from him on
25 October 23, 2009?

- 1 A Yes, ma'am.
- 2 Q Okay. You spoke to him?
- 3 A Yes, ma'am.
- 4 Q And do you know how many times you spoke to him that
- 5 night?
- 6 A It was two or three times, three or four times.
- 7 Q Now, as a result of those conversations, as you said,
- 8 you met him at this gas station?
- 9 A Yes, ma'am.
- 10 Q Okay. And what was the purpose of meeting him at this
- 11 gas station?
- 12 A He wanted some pills.
- 13 Q And so you were going to provide those to him?
- 14 A Yes, ma'am.
- 15 Q All right. And once you got to the gas station, you
- 16 were at the open gas station?
- 17 A Yes, ma'am.
- 18 Q The one still in business. Okay, and you received a
- 19 call from Mr. Fullbright. Is that correct?
- 20 A Uh-huh.
- 21 Q Okay. And as a result of that call, what did you do?
- 22 A I jumped out of the car and run across the road.
- 23 Q Okay. To the abandoned gas station.
- 24 A To the abandoned gas station.
- 25 Q And what, if anything, did you notice about the

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY

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1 defendant when you walked across the street?

2 A I didn't really notice anything.

3 Q Okay. How about what kind of car he was in?

4 A I mean, I just come back there. It was just a little
5 car. I mean, a black car, I didn't pay attention. I
6 mean, I seen him in 20 different cars and, I mean, I
7 never paid no attention.

8 Q Had you ever seen him in that particular car before?

9 A No, ma'am.

10 Q And so, did you in fact, exchange drugs and money that
11 particular night?

12 A I did.

13 Q Okay. And do you recall how many pills he bought from
14 you that particular night?

15 A It was a good many. I don't recall or particularly
16 remember, exactly.

17 Q Okay. Can you put a value on it? How much did he pay
18 you for bringing him those pills?

19 A I don't know, there were so many times, you know what I
20 mean. I don't know. Probably \$300.00 worth, I guess.

21 Q And could it have been more than that?

22 MR. ROBINSON: Objection, Your Honor. Leading.

23 THE COURT: Sustained.

24 Q Mr. Burdette, would it help to see a statement you gave
25 to police back in October of 2009?

DIRECT EXAMINATION OF KENNETH BURDETTE BY MS. HUEY 320

1 A Probably, a little closer to the time. It might refresh
2 my memory.

3 Q Mr. Burdette, I'm going to show you a statement that you
4 gave in January of 2010. Will you read that statement,
5 please, and see if that refreshes your memory. If you
6 will read at the end of the page.

7 A (Witness looks at the document.) Yeah, like I said, it
8 was a few times there when the amount went up. I mean,
9 it could have been at that time. You know, if I give
10 this statement, it was most likely at the time. It's
11 been a little while and my mind, you know, it's a little
12 slipping in my mind and all.

13 Q Regardless, now that you have read your statement your
14 memory is refreshed?

15 A Yeah.

16 Q Okay.

17 A Yeah, it was a good amount that night.

18 Q Okay. And was that different than usual?

19 A Yeah. Usually it wasn't, you know, I mean he worked,
20 you know, a job and sometime he would get a good job and
21 spend more. It varied, but that was a good bit, you
22 know, a good amount that night.

23 Q Okay. And do you remember what kind of cash he paid you
24 with?

25 A No, not exactly. I mean, it was a few hundred dollar

CROSS EXAMINATION OF KENNETH BURDETTE BY MR. ROBINSON 321

1 bills and the rest was just 20s.

2 Q Okay. Now, drawing your attention to the following day,
3 Saturday, October 24, 2009, what, if anytime, did you
4 meet up with the defendant again?

5 A He come to my house that next morning.

6 Q For the purpose of?

7 A Getting pills.

8 Q Okay. And how many pills was he buying then?

9 A I don't really remember or recall. It was a few.

10 Q Okay. What if, at anytime, did you meet up with the
11 defendant at C & L Quick Stop?

12 A Later on that day.

13 Q And what was the purpose of that?

14 A To get some pills.

15 Q Okay. And again, what was the value of that exchange?

16 A I don't remember the value.

17 Q Let me ask you this: Was Mr. Fullbright buying more or
18 less pills from you after Friday, October 23, 2009?

19 A He seemed to be spending a little more money after then.

20 MS. HUEY: That's all I have of this witness, Judge.

21 THE COURT: Cross examination?

22 MR. ROBINSON: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS EXAMINATION OF KENNETH BURDETTE BY MISTER ROBINSON

25 Q Mr. Burdette, now Matt -- I think you just testified

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 sir. Do you have another witness we can get in by ---

2 MS. HUEY: Yes, sir. Your Honor, the State calls Joe
3 Hoefer. (After being duly sworn by the Clerk of Court, Joe
4 Hoefer testified as follows:)

5 CLERK OF COURT: If you would have a seat on the witness
6 stand and state your name and spell your last name for the
7 record, please.

8 MR. HOEFER: My name is Joseph Allen Hoefer.
9 H-O-E-F-E-R.

10 DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

11 Q Mr. Hoefer, what is your profession? What is your
12 occupation?

13 A I am currently an RF Engineer for Erickson.

14 Q And what does a RF Engineer do?

15 A It's a rather broad job description, but for the most
16 part, we maintain the wireless network system for a
17 wireless company.

18 Q All right. Now ---

19 THE COURT: Let me stop you. Would you mind backing off
20 just a little bit. I want you to speak into the mike, but
21 not quite so close. I'm sorry.

22 MS. ADAMS: Thank you, Judge.

23 Q Now, you said you were employed by Erickson?

24 A That's correct.

25 Q Okay. How long have you been employed by Erickson?

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 A Officially, since 2009, but then they've acquired
2 various companies. I'm on my 12th year now.

3 Q Okay. What actually is Erickson?

4 A Erickson is a service provider. We provide RF services
5 to install, integrate and maintain wireless networks.

6 Q What does -- What is Erickson's connection to Sprint
7 cellular service?

8 A Erickson is Sprint's contractor to maintain their
9 network.

10 Q And when you say, maintain network, what does that mean
11 so the jury understands the relation to cell towers and
12 phone calls?

13 A From every aspect, to building a new tower to
14 maintaining the existing towers, coordinating
15 performance as far as calls go, statistics, cell tower
16 statistics, and we build towers and everything that has
17 anything to do with the network to enable you to talk,
18 to maintaining.

19 Q So, do your day-to-day operations deal with cell phone
20 towers?

21 A Yes.

22 Q Now what type of education and training have you had as
23 a Radio Frequencing Engineer?

24 A I have an Electronic Engineering Degree and Assistant
25 Associate Degree and my RF background is basically from

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 on the job training and training from the companies I've
2 worked for, for over 22 years.

3 Q Okay. So, how long have you worked in this field?

4 A Twenty-two years.

5 Q And where did you get your degree from?

6 A N.I.T. in Des Moines, Iowa.

7 Q As part of your day-to-day operations, do you interpret
8 cell phone records generated by Sprint?

9 A Yes. Not every day but a lot of days. Yes.

10 Q So, that is part of your duties?

11 A Yes.

12 Q And how is that done? How do you interpret these
13 records?

14 A Generally, if I have a trouble ticket from a person
15 having trouble making calls or receiving calls and going
16 through the ticketing process, we will start producing
17 all the records around that time frame. I'll get those
18 records and see if any of them apply to dropped calls
19 and narrow them down to a particular tower and find out
20 if there are any issues from that particular tower.

21 MS. ADAMS: Your Honor, at this point, I would like to
22 qualify Mr. Hoefer as an expert in Radio Frequencing
23 Engineering for Sprint.

24 THE COURT: Radio Frequencing Engineering?

25 MS. ADAMS: Yes, sir.

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 THE COURT: Any voir dire?

2 MR. ROBINSON: Yes, sir.

3 THE COURT: Okay.

4 VOIR DIRE EXAMINATION OF JOE HOEFER BY MISTER ROBINSON

5 Q Sir, have you ever, when you went to -- where did you
6 go?

7 A N.I.T.

8 Q And did you take up Radio Frenquencing Engineering at
9 N.I.T?

10 A No, sir.

11 Q Did you have any advanced classes in Radio Frequencing
12 Engineering?

13 A I have many class certificates from different vendors
14 and so forth.

15 Q Have you ever testified in court as an expert in Radio
16 Frequencing Engineering in the state of South Carolina?

17 A I never have before.

18 Q Thank you.

19 MR. ROBINSON: Thank you, Judge. I have an objection as
20 far as his being considered an expert.

21 THE COURT: I'm going to overrule your objection. I find
22 that Mr. Hoefer is an expert in the field of Radio Frequency
23 Engineering for Sprint and he can give his opinion as regards
24 to that certification. And again, Ladies and Gentlemen,
25 witnesses are typically limited to not giving their opinions,

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 but have to give their testimony about what they saw, felt,
2 or heard. In this case, Mr. Hoefer will be allowed to give
3 his opinion in the field of Radio Frequency Engineering. It
4 is like any other evidence in this case you can accept it,
5 you can reject it, you may do with it as you like.

6 MS. ADAMS: Thank you, Your Honor. And again, you have
7 been doing this for how many years?

8 A Twenty-two, as of last November.

9 Q Okay. I want to take you back to October 2009 and the
10 jury actually just heard testimony from Kenneth Burdette
11 about his cell phone number being 356-2935 and I want to
12 show you what has been marked State's Exhibit 19.

13 (Ms. Adams shows a document to Mr. Robinson)

14 MR. ROBINSON: No objection, Your Honor.

15 THE COURT: Admitted without objection.

16 (Whereupon, Kenneth Burdette's Sprint cell phone record
17 is entered into evidence as State's Exhibit No. 19, without
18 objection.)

19 Q I'm showing you State's Exhibit 19 that has been
20 admitted into evidence. Do you recognize those records?

21 A Yes, I do.

22 Q Can you explain to the jury exactly what those records
23 are?

24 A They are records of a specific mobile, either placed or
25 received calls and it dates it, times it, locates it by

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 cell site and sector. Gives the duration of the call
2 and the gives the direction, whether they were incoming
3 or outgoing and the numbers that were called by the
4 cell.

5 Q Now which handset are these records for?

6 A These are for 864-356-2935.

7 Q Okay. Which, again, was Kenneth Burdette's cell phone
8 number. I will probably refer to it as that just so
9 that we don't get confused with all these numbers.

10 A Okay.

11 Q If you would just step down and I will put these records
12 up so the jury can see.

13 MS. ADAMS: Judge, is that okay?

14 THE COURT: Yes, ma'am.

15 (Ms. Adams projects the document on the large screen)

16 Q Can you explain to the jury what all this means?

17 A At the start ---

18 THE COURT: Could you speak louder?

19 A In the first column is the calling number, that's the
20 number that originated the call. The dialed digits is
21 the number the switch received. Basically, the called
22 number and the dialed digits aren't different. It adds
23 the area code, as well.

24 Q And the MR number, that is next to that. What is that?
25 Tell the jury.

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 A It tells you whether it is an incoming or outgoing
2 number. You know, who received or placed the calls. The
3 first number is incoming.

4 Q And now, the start date for these records, because,
5 obviously we are going to see them in the time frame of
6 October 23, 2009. When is the beginning date and time
7 for these calls? Would it be, October 23, 2009?

8 A October 23rd. Yes.

9 Q October 23, 2009 at 19:24:38?

10 A That's correct.

11 Q Which would be 7:24, correct? P.m.?

12 A Yes.

13 Q Okay. And they end on the next page at, that would be
14 October 24, '09 at 11:23 in the morning. Is that
15 correct?

16 A That's correct.

17 Q Is the cell tower information that's listed on these
18 records the same today as they were back in 2009?

19 A Yes, it was. Yes.

20 Q So, what do these numbers tell you? What is the
21 duration? Is that in minutes or seconds for the call?

22 A That would be -- If you do the math, the start date and
23 end date, that would be in seconds.

24 Q And for purposes of locating where a cell phone call,
25 which tower a cell phone call kicks off of, is -- What

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 do you look at?

2 A You look at the first cell and the last cell.

3 Q So, in preparing this file today, did you physically go
4 to the location of Kenneth Burdette's house or 1507 Olin
5 Drive in Anderson?

6 A Yes, I did.

7 Q Okay. At that address, do you recall what cell tower he
8 would have hit off of?

9 A He was being served by two sectors of two different
10 towers and one would be the 4105 and two, 4290.

11 Q That would be, so the jury can understand, 4105 or the
12 4290?

13 A Correct.

14 Q When he was at his home.

15 A Yes.

16 Q Okay. Now, how can you hit off two different cell
17 towers at one location?

18 A The technology allow the phones to use more than one
19 tower at once and it depends on which call comes in
20 first and which towers are transmitting a weaker signal
21 or have less capacity so you get one or the other for
22 the processing of the call.

23 Q Now, specifically, Kenneth Burdette testified he talked
24 to the defendant, Matthew Fullbright, the night of
25 October 23, 2009. I want you to, specifically, look at

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 the calls to the phone number, 864-373-4666.

2 MR. ROBINSON: Your Honor, I am going to object to this.

3 It's simply, those facts are not in evidence in this case.

4 There was no testimony regarding what the number was Mr.

5 Burdette called that night.

6 THE COURT: I note your objection. Go ahead.

7 Q Thank you, Your Honor. So, when we look at the 864-373-
8 4666 number, did Kenneth Burdette's handset receive his
9 first call from that number at 9:27 that night? Is that
10 correct? It may be better if you take your seat and
11 look at this up close. How about that? (Witness
12 returns to witness stand)

13 THE COURT: Is there an extra copy that you could put up
14 on the screen while you go over that with him? (Mr. Robinson
15 supplies another copy and it is projected on screen)

16 Q All right, so again, what time did Kenneth Burdette's
17 handset receive it's first call from 373-4666?

18 A On this page, 10/23/09 at 21:27:01 in.

19 Q That was an incoming call at 9:27?

20 A Yes.

21 Q And how long did that call last?

22 A Eighty-eight seconds.

23 Q And what tower was Mr. Burdette's handset hitting off
24 of?

25 A It started and ended on 4105.

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 Q And again, that's consistent with Mr. Burdette being
2 home when he received that phone call. Is that correct?

3 A Yes, ma'am. That's the tower in that area.

4 Q Now, obviously, as we can see here, there are several
5 calls between Mr. Burdette's handset and Matt's phone
6 number.

7 MR. ROBINSON: Objection, Your Honor. Assumes evidence
8 not testified to, as far as Kenneth Burdette. That has not
9 been testified to.

10 (Brief bench conference off the record)

11 THE COURT: Just for the record, I am going to sustain
12 your objection, to the extent that you are identifying the
13 receiver of the call as Matt. There has been no evidence in
14 this case presented that identifies that number as belonging
15 to Matt. Okay? Otherwise, you can testify about Mr.
16 Burdette's number and the number that was called.

17 MS. ADAMS: I believe I said that exact phone number. I
18 apologize.

19 THE COURT: That's okay.

20 MS. ADAMS: I didn't -- All right.

21 Q So, specifically, I want you to look at the two calls
22 between Kenneth Burdette's handset and the phone number
23 which is 373-4666 and those would be the 10:07 p.m. and
24 10:11 phone calls. It's on the second page.

25 A Okay.

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 Q What tower is Kenneth Burdette's cell phone hitting off
2 of at 10:07 and 10:11.

3 A 10:07. Actually, the first phone went through at
4 22:07:23 and he received a call while he was on cell
5 2105 and the second tower was 2105.

6 Q And again, at 10:11, he was also on the 2105 tower?

7 A Yes, at the same site.

8 Q Now, there's a call in here that says, "routed call".
9 What does that mean?

10 A Generally, it means routed to voice mail and the
11 receiver didn't answer or missed the call.

12 Q So, is that -- what do the zeros mean on the cell
13 towers?

14 A It didn't use any time on the tower so it didn't stamp
15 it with the tower.

16 Q That is because it was routed to voice mail at the time?

17 A Yes. It's indicated there under called number, 11864.

18 Generally, that is your voice mail system.

19 Q Now, did you have an opportunity to go to the gas
20 station at the corner of Highway 252 and 413 in
21 preparation for this trial?

22 A Yes. I performed some calls out there.

23 Q And what is the dominate tower that Kenneth Burdette's
24 cell phone would have hit off of if he were at that gas
25 station? Would it be the 2105 noted on this call?

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 A Initially, prior to going out there, I thought it would
2 be 4184, but it turned out to be 2105 and that was the
3 dominate cell at that gas station.

4 Q And the dominate cell tower at that specific location is
5 2105, as these phone records indicate. Correct?

6 A Yes.

7 Q Okay. So, his phone records are consistent, Kenneth
8 Burdette's phone records are consistent, with him being
9 at the intersection of 252 and 413 at 10:07 and 10:11
10 p.m. on October 23, 2009?

11 A Yes. The server is in the same sector.

12 Q Now the -- to take you back to the first page of these
13 records. Okay? As you can see, there is a 10:00 p.m.
14 phone call that is outgoing, beginning at 10:00 or 2200
15 and ends at 22:02:04.

16 A Right.

17 Q So, obviously that indicates that there was a 101 second
18 phone call between Kenneth Burdette and 373-4666.
19 Correct?

20 A Yes. That's correct.

21 Q Now, what, if anything, does it mean that the first cell
22 is at 4290 and the last cell at that time is 2290?

23 A That indicates that the phone call Mr. Burdette received
24 was at one tower and moved from one position to another.

25 Q So, it would be consistent since he is at 4290, 4105,

DIRECT EXAMINATION OF JOE HOEFER BY MS. ADAMS

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1 prior to that which is home, it is consistent with him
2 moving, getting into a car and moving to the
3 intersection of 252 and 413. Correct?

4 A Yes. I couldn't be sure, but that is what it indicates.

5 Q Let me direct you back to that second page. And the
6 rest of Mr. Burdette's calls that evening after the
7 10:07, 10:11 phone calls, his next call is at 4290.

8 Correct? It's his cell tower. He is at 4290.

9 A I can't place it. You said the next call?

10 Q Right. After the 10:11, so basically, it's at 10:22
11 p.m. He's back at cell 4290. Correct?

12 A Yes.

13 Q Would you say it was consistent with him being at home?

14 A Yes.

15 Q And being that his home site cell towers are 4290 and
16 4105, basically, the rest of the evening he is at 4290.

17 Is that correct?

18 A That is correct.

19 Q Thank you.

20 MS. ADAMS: I have no further questions.

21 THE COURT: Cross examination?

22 MR. ROBINSON: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS EXAMINATION OF JOE HOEFER BY MISTER ROBINSON

25 Q Sir, you have no idea who was using these phones on the

CROSS EXAMINATION OF JOE HOEFER BY MR. ROBINSON

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1 other end of the lines. Do you?

2 A No, sir.

3 Q It could be anybody. Couldn't it?

4 A Potentially.

5 Q But you just don't know.

6 A No. I don't know the source. No, I don't know the
7 answer to that.

8 Q Let me ask you about this: Now, you don't know,
9 necessarily, that Kenneth Burdette had that phone on his
10 person or someone else had that phone. Do you?

11 A No.

12 Q Thank you.

13 MR. ROBINSON: That's all I have.

14 THE COURT: Any redirect?

15 MS. ADAMS: No, sir, Your Honor. May he be excused?

16 THE COURT: Yes, ma'am. Mr. Robinson, any objections?

17 MR. ROBINSON: No, sir.

18 THE COURT: Thank you, sir. You may step down. Let me
19 see the attorneys up here, please.

20 (Brief Bench Conference Off the Record)

21 THE COURT: Ms. Terry, Ladies and Gentlemen of the Jury,
22 we are going to take two more short witnesses then we will
23 break for the evening. Okay?

24 MS. HUEY: Your Honor, the State calls Kim Hudson to the
25 stand.

DIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

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1 (After being duly sworn by the Clerk of Court, Kim
2 Hudson testified as follows:)

3 CLERK OF COURT: If you would take the witness stand,
4 please ma'am, and state your name and spell your last name.

5 MS. HUDSON: My name is Kimberly Hudson. H-U-D-S-O-N.

6 DIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

7 Q Ms. Hudson, have you previously worked at C & L Quick
8 Stop?

9 A Yes, ma'am.

10 Q When did -- How long did you work there?

11 A I quit on my fourth year, so, three or four years.

12 Q Were you working there on October of 2009?

13 A Yes, ma'am.

14 Q And what was your position then?

15 A A cashier.

16 Q And who owns C & L Quick Stop?

17 A Mr. Larry Preshner.

18 Q And where is C & L Quick Stop located?

19 A On Highway 20, 1311 Williamston Road.

20 Q Now, drawing your attention to Saturday, October 24,
21 2009, were you working on this particular day?

22 A Yes, ma'am.

23 Q And what is your schedule like, usually, for a Saturday
24 when you were working at C & L Quick Stop?

25 A On Saturdays, I went in at three. I went in an hour

DIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

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1 earlier on Saturdays.

2 Q So, you typically you went in at 4:00, but on Saturdays
3 you went in at 3:00?

4 A Yes, ma'am.

5 Q Now, on Saturday, October 24, 2009, did you come into
6 contact with the defendant, Matthew Fullbright?

7 A Yes ma'am. I did.

8 Q Okay. And how do you know the defendant in this case?

9 A We cashed checks for him.

10 Q Okay. And this was at C & L Quick Stop?

11 A Yes, ma'am.

12 Q So he was a regular customer?

13 A Yes, ma'am. He'd come two or three days a week, times a
14 week, I guess cashing checks. Yes, ma'am.

15 Q Okay. And other than cashing checks, would he also
16 purchase items there?

17 A Yes, ma'am.

18 Q And at C & L Quick Stop, I guess if you can explain it,
19 exactly what it is.

20 A It's a convenience store, but we also cash checks.

21 Q Okay. Now on October 24, 2009, what kind of business
22 did Mr. Fullbright have at the store, if any?

23 A He come in and bought items.

24 Q Okay.

25 A I didn't cash a check that day.

- 1 Q Okay. So, he bought particular items on the 24th?
- 2 A Yes, ma'am.
- 3 Q Okay. Did he do all these items at once or did he do
- 4 them individually?
- 5 A Individual.
- 6 Q Okay. So, if you can describe his first transaction.
- 7 A He come in. He bought a rose vase for a dollar and I
- 8 changed a \$100.00 bill and then he went outside.
- 9 Q And did you see how Mr. Fullbright actually got to the
- 10 store?
- 11 A I seen he was dropped off in front of the store off the
- 12 highway.
- 13 Q Okay.
- 14 A I don't remember the car or anything. I just, straight
- 15 out my window he was dropped off by a car.
- 16 Q Okay. But nonetheless, he came in and he bought a
- 17 rosebud vase?
- 18 A Yes, ma'am.
- 19 Q Okay. And he did so with a \$100.00 bill?
- 20 A Yes, ma'am.
- 21 Q And that was the only item he bought at that time?
- 22 A At that time. Yes, ma'am.
- 23 Q Okay. So, what, if anything, happened next?
- 24 A He went back outside and then he come back in.
- 25 Q Okay. How much time do you think passed?

DIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

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- 1 A I don't know. Not but just a few minutes, like he
2 forgot something.
- 3 Q Okay. And so, what did he do the next time he came back
4 in, if anything?
- 5 A He come in and bought a Brillo pad.
- 6 Q Okay. And how did he pay for that particular item?
- 7 A With a \$100.00 bill.
- 8 Q And did he buy anything else in that transaction?
- 9 A No, ma'am.
- 10 Q Okay. And so, how much do these particular items cost,
11 the rosebud vase and the Brillo pad?
- 12 A A dollar.
- 13 Q Exactly?
- 14 A A straight dollar.
- 15 Q A straight dollar. Okay. And what, if anything, did he
16 do after he bought the Brillo pad?
- 17 A He come in and bought another dollar item, a Pepsi.
- 18 Q Okay. So, he went outside after he bought the Brillo
19 pad?
- 20 A Yes, ma'am.
- 21 Q Okay. And then he came back in a third time.
- 22 A Yes, ma'am.
- 23 Q And he bought a Pepsi that time.
- 24 A Yes, ma'am.
- 25 Q And how did he pay for that Pepsi?

DIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

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1 A With a \$100.00 bill.

2 Q Okay. So what, if anything, are you thinking at this
3 point in time?

4 MR. ROBINSON: Objection, Your Honor. Calls for
5 speculation.

6 THE COURT: What she was thinking?

7 MR. ROBINSON: What she was thinking about.

8 THE COURT: Overruled. Go ahead.

9 Q What were you thinking at the time?

10 A That it was suspicious, you would buy three \$1.00 items
11 with three \$100.00 bills.

12 Q That struck you as odd?

13 A Yes, ma'am.

14 Q Okay. And as a result of that, did you tell anyone
15 about that?

16 A Yes, ma'am. I hollered for Mr. Larry.

17 Q And again, Mr. Larry is the owner of C & L Quick Stop?

18 A Yes, ma'am.

19 Q And did you eventually give a statement to police?

20 A Yes, ma'am.

21 Q Regarding these events?

22 A Yes, ma'am.

23 Q Okay. Could you see anything else outside in the
24 parking lot or anything of that nature?

25 A Only that somebody was picking him up at the store or

CROSS EXAMINATION OF KIM HUDSON BY MR. ROBINSON

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1 either met him at the store.

2 Q Okay. But you couldn't see anybody, specifically?

3 A No, ma'am. Just a truck.

4 Q That's all I have for this witness, Judge.

5 THE COURT: All right. Cross examination?

6 MR. ROBINSON: May it please the Court.

7 CROSS EXAMINATION OF KIM HUDSON BY MISTER ROBINSON

8 Q Kim, how long have you known Matthew Fullbright?

9 A He's probably been doing business with Mr. Larry for a
10 couple of years that I worked for Mr. Larry.

11 Q In the work that Matthew did, these check you say you
12 cashed for him and so forth, what kind of work was he
13 doing, if you know?

14 A That, I didn't get into. They were always personal
15 checks, because I had to ask permission before I could
16 cash them.

17 Q Would you sometimes -- I mean, if he brought in a check,
18 what is the highest denomination check that you got from
19 Mr. Fullbright to cash?

20 A Probably not even \$200.00. They were always small
21 checks.

22 Q And you would give him hundreds or twenties? What did
23 you give him?

24 A I give him whatever I had.

25 Q So, if you had hundreds, you would give him hundreds?

- 1 A Yes.
- 2 Q And if you had twenties, you would give him twenties?
- 3 A Yes, sir.
- 4 Q That's right? Okay. And you testified he was working
- 5 when you knew him at different jobs, you just don't know
- 6 what kind of jobs. Right?
- 7 A Yes, sir.
- 8 Q Okay. You don't recall which kind of or what business
- 9 paid him or not? Anything like that?
- 10 A No, sir.
- 11 Q You just ---
- 12 A Like I said, it was always personal checks.
- 13 Q Always personal checks that he got. Okay. All right.
- 14 A Like side work, maybe.
- 15 Q Okay. Now this C & L location that you are talking
- 16 about, are you the secretary, cashier, or what are you
- 17 at this business?
- 18 A Cashier.
- 19 Q Okay. And how many people coming out of there -- At the
- 20 time this all went down, how many people come in there
- 21 every day?
- 22 A Lots.
- 23 Q Lots. Lots of people?
- 24 A Uh-huh.
- 25 Q What kind of clientele does it serve, primarily?

CROSS EXAMINATION OF KIM HUDSON BY MR. ROBINSON

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1 A Well, we cash checks and it's a convenience store. It's
2 a convenience store and he also cashes checks.

3 Q Okay. So, Mister -- is it Presher?

4 A Yes, sir.

5 Q He cashes checks. Right?

6 A Yes, sir.

7 Q Okay. And how large are the checks that he cashes?

8 A There really wasn't a limit, because we did Income Tax
9 checks, too.

10 Q So, you had hundreds in your till. Isn't that right?

11 A Yes, sir.

12 Q So it wasn't -- So, when these people cashed their
13 Income Tax checks, they would get hundreds, twenties,
14 any sort of denomination, pretty much. Correct?

15 A Yes, sir.

16 Q Okay. And they would spend it sometimes at the store.
17 Wouldn't they? In the convenience store?

18 A Yes, sir.

19 Q And if someone got an Income Tax check and sometimes
20 they would want a Pepsi or maybe a candy bar or
21 something like that. Isn't that pretty common?

22 A Yes, sir.

23 Q And they would pay with whatever they got from their
24 Income Tax check. Wouldn't they? Or whatever way they
25 got their checks cashed, if they got a thousand dollars,

1 they would pay with that to pay for things. Right?

2 A Yes, sir.

3 Q So, when people, when you actually are cashing checks at
4 the store, you are giving them whatever cash you've got.

5 If you've got -- If it's going to be for \$600.00, you
6 would give them six hundreds sometimes. Right? Or five
7 hundreds and five twenties. Right?

8 A Yes, sir.

9 Q And those customers, they use that money to buy things
10 and purchase things at the store. Right?

11 A Yes, sir.

12 Q Let me ask you this: This convenience store that you
13 are talking about, okay, what kind of, besides Brillo
14 pads, and I think you talked about a rose vase. Is that
15 right?

16 A Yes, sir.

17 Q What other kinds of stuff can you buy there?

18 A What did he buy there?

19 Q No, what other kinds of stuff can other people buy there
20 in your store?

21 A Candy bars, drinks, soda, dish detergent, washing
22 powder, soups, crackers, anything. It's a convenience
23 store.

24 Q Yeah, you have lots of stuff. You sound like a real
25 good grocery store. So, people -- It's not unusual for

REDIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

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1 people, then, to come in when they cash their checks to
2 buy items and pay for these items with large bills. Is
3 it?

4 A No, sir.

5 Q Okay. Thank you.

6 MR. ROBINSON: That's all I have.

7 THE COURT: Any redirect?

8 MS. HUEY: Just a couple of questions.

9 THE COURT: Yes, ma'am.

10 MS, HUEY: Thank you, Judge.

11 REDIRECT EXAMINATION OF KIM HUDSON BY MS. HUEY

12 Q Ms. Hudson, you said that Mr. Fullbright did not come in
13 to cash a check on this particular occasion. Is that
14 right?

15 A No, ma'am.

16 Q Okay. And in fact, had he been in to cash a check
17 lately?

18 A No, ma'am.

19 Q And were you allowed to cash his checks?

20 A No, ma'am. Not no more.

21 Q And when, when had you stopped being able to cash his
22 checks?

23 A I was asked by Mr. Larry not to cash them anymore.

24 MS. HUEY: That's all I have, Judge.

25 THE COURT: Re-cross, Mr. Robinson?

DIRECT EXAMINATION OF LARRY PRESHER BY MS. HUEY

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1 MR. ROBINSON: Just a follow-up, Your Honor.

2 RE-CROSS EXAMINATION OF KIM HUDSON BY MISTER ROBINSON

3 Q Did you ever see Ken Burdette on the 24th? Do you know
4 Ken Burdette?

5 A I do know Kenneth.

6 Q Did you see him on the 24th?

7 A No, sir. I didn't.

8 Q Okay. All right, thank you.

9 THE COURT: May this witness be excused?

10 MS. HUEY: Yes, sir.

11 THE COURT: Any objection? Mr. Robinson, any objection
12 to this lady being excused?

13 MR. ROBINSON: No, sir.

14 THE COURT: Thank you, ma'am. You may be excused.

15 MS. HUEY: Your Honor, the State calls Larry Presher to
16 the stand.

17 (After being duly sworn by the Clerk of Court, Larry
18 Presher testified as follows:)

19 CLERK OF COURT: If you could have a seat on the witness
20 stand and state your name and spell your last name for the
21 record, please.

22 MR. PRESHER: Larry Presher. P-R-E-S-H-E-R.

23 DIRECT EXAMINATION OF LARRY PRESHER BY MS. HUEY

24 Q Mr. Presher, what do you do for a living?

25 A I own a convenience store.

DIRECT EXAMINATION OF LARRY PRESHER BY MS. HUEY

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- 1 Q And what's the name of that convenience store?
- 2 A C & L Quick Stop.
- 3 Q And how long have you owned it?
- 4 A Thirty-four years.
- 5 Q Do you know the defendant in this case, Matthew
- 6 Fullbright?
- 7 A I do.
- 8 Q And how do you know him?
- 9 A I know him from trading at my store.
- 10 Q From coming to your store?
- 11 A Yes, ma'am.
- 12 Q Okay. Drawing your attention to Saturday, October 24,
- 13 2009, was Kim Hudson working for you that day?
- 14 A She was.
- 15 Q And do you remember having a conversation with her
- 16 without saying what she said?
- 17 A Yes. I do.
- 18 Q Okay. And as a result of that conversation what did you
- 19 do?
- 20 A I went over to the window and I looked out and I saw
- 21 Matthew Fullbright talking to Kenneth Burdette.
- 22 Q Okay. And so, you know Kenneth Burdette, then?
- 23 A Yes. I do.
- 24 Q And how are you familiar with Kenneth Burdette?
- 25 A He traded at my store.

CROSS EXAMINATION OF LARRY PRESHER BY MR. ROBINSON

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1 Q Now, could you see anything that was going on outside?

2 A I didn't see anything going on.

3 Q Okay. But you saw Matthew Fullbright with Kenneth
4 Burdette?

5 A Yes. I did.

6 Q That's all I have, Judge.

7 THE COURT: Cross examination?

8 CROSS EXAMINATION OF LARRY PRESHER BY MISTER ROBINSON

9 Q Where did you see Kenneth Burdette?

10 A He was in my parking lot.

11 Q Was he in a truck?

12 A In a truck.

13 Q Who was in the truck with him? Do you know?

14 A I couldn't tell.

15 Q Thank you.

16 THE COURT: May he be excused?

17 MS. HUEY: Please.

18 MR. ROBINSON: Yes, Your Honor.

19 THE COURT: All right. Thank you, Mr. Presher.

20 MR. PRESHER: Thank you.

21 THE COURT: Ms. Terry, Ladies and Gentlemen of the Jury,
22 that is going to conclude the testimony for the day. I'm
23 going to ask that you be in your jury room no later than 9:30
24 tomorrow morning and we will resume testimony at that time.
25 Does anybody have a problem making it at that point? No?

1 Okay. I'm going to remind you not to speak with anybody
2 about this case, not to watch, read or listen to anything
3 about this case. Okay? With that being said, I hope you
4 have a nice evening.

5 (Jury out at 5:09 p.m.)

6 THE COURT: Anything else from the State before we recess
7 for the evening?

8 MS. HUEY: No, sir, Your Honor.

9 THE COURT: From the Defense?

10 MR. ROBINSON: No, sir, Your Honor.

11 THE COURT: We will be in recess until tomorrow morning
12 at 9:30 a.m.

13 JANUARY 25, 2012 - MORNING

14 THE COURT: We had a brief meeting before we came in here
15 and it's my understanding, number one, that there is a
16 certain amount of, a certain type of evidence that the State
17 is going to want to view in camera. Is that right,
18 Solicitor?

19 MS. HUEY: Yes, with our fourth witness.

20 THE COURT: Okay. Very well. And also, apparently,
21 there is one witness who is a little bit under the weather.
22 If you will remind me of that so we can take precautionary
23 steps. Otherwise, I told the attorneys that I wanted clarify
24 one of my earlier rulings. I'm not asking for any argument
25 at this point with regard to my clarification, but I will

1 give both the State and the Defense an opportunity to
2 clarify, in response to what I say, and this is in regard to
3 the State's motion, or the hearing we had, on whether or not
4 the video of the arraignment would be admitted into evidence.
5 That was resisted by the defendant on several grounds which
6 would include, but not be limited to, the Fifth Amendment
7 right to Miranda, and also the Sixth Amendment right to
8 counsel. At the hearing, I ruled that the arraignment was
9 not a custodial interrogation so that the Fifth Amendment
10 Miranda Warning requirement are not applicable to that
11 circumstance. That remains my ruling. But according to my
12 law clerk, I apparently stated that the Sixth Amendment right
13 to counsel was not relevant to the inquiry and that was an
14 unfortunate use of terms. If I said that, I don't
15 specifically recall saying that, but I want to clarify for
16 the record. That was a poor choice of phrasing, because
17 certainly, that would be a critical, an arraignment would be
18 a critical juncture in any proceeding in which the defendant
19 would have a right to counsel, but I will point out that the
20 Sixth Amendment right to counsel is a defense specific right
21 even if the offenses are factually related. The defendant
22 was being arraigned on a new charge, although it stemmed from
23 the same underlying facts in this case. The defendant did
24 not invoke his right to counsel concerning this new charge.
25 In fact, the defendant executed a waiver of his right to

1 counsel, and therefore, I should have said, or stated, the
2 protections afforded by the Sixth Amendment right to counsel.
3 were not implicated under the circumstances involved at the
4 arraignment hearing as opposed to saying they were not
5 relevant. With that clarification, especially to you Mr.
6 Robinson, I will give you ample opportunity to make a full
7 and clear record in this matter in response to what I said
8 when I clarified. Okay? From the State, anything
9 additional?

10 MS. HUEY: Nothing, Your Honor.

11 THE COURT: Mr. Robinson, anything additional before we
12 get started?

13 MR. ROBINSON: Are you wanting me ----

14 THE COURT: I'm not asking you to argue now. I just
15 wanted to put that on the record while it's on my mind.
16 Plus, it would be unfair for me to make you argue any
17 response, catching you off guard like that. I'm going to let
18 you have time to think about it and study on it and then put
19 it on the record at an appropriate time.

20 MR. ROBINSON: I couldn't hear you anyway, Your Honor.

21 THE COURT: Well, I've got my ears on, so I'm trying to
22 do better. Is everybody ready to proceed?

23 MS. HUEY: Yes, sir.

24 THE COURT: Bring the jury in, please Buck.

25 (Jury in at 9:42 a.m.)

1 THE COURT: Good morning Ms. Terry, Ladies and Gentlemen
2 of the jury. I hope you had a nice evening. Before we get
3 started, just a few administrative matters. First, has
4 anyone on the jury spoken with anyone about this case, heard,
5 listened, or read anything about this case during the break?
6 (Jurors shake heads) Very good. Also, we have made
7 arrangements today instead of making you go out for lunch, we
8 will bring it in to you today. So, if it starts getting
9 around lunchtime, you can rest assured you will be okay on
10 that end. Okay? That being said, is the State ready to
11 proceed?

12 MS. ADAMS: Yes sir, Your Honor.

13 THE COURT: Is the Defense ready to proceed?

14 MR. ROBINSON: Yes sir, Your Honor.

15 THE COURT: Call your next witness.

16 MS. ADAMS: Thank you, Your Honor. The State calls Dr.
17 Woodard.

18 (After being duly sworn by the Clerk of Court, Dr.
19 Woodard testified as follows:)

20 CLERK OF COURT: If you would have a seat on the stand
21 and state your name and spell your last name for the record,
22 please.

23 DR. Woodard: I am Brett Houghton Woodard. W-O-O-D-A-R-D.

24 COURT REPORTER: How do you spell Houghton?

25 DR. Woodard: H-O-U-G-H-T-O-N.

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1 COURT REPORTER: Thank you.

2 DIRECT EXAMINATION OF Brett Woodard, M.D. BY MS. ADAMS

3 Q Dr. Woodard, where are you employed?

4 A I'm employed with Piedmont Pathology Associates in
5 Anderson, South Carolina.

6 Q In what capacity?

7 A I'm a Pathologist and a Forensic Pathologist by sub-
8 specialty training and certification.

9 Q Please explain to the jury exactly what a Forensic
10 Pathologist is.

11 A A Forensic Pathologist is a specialist in the field of
12 Pathology that deals with the diseases and injuries to
13 the human body, how they may manifest themselves in
14 relationship to incapacity until the point of death.
15 Also, you deal with blood samples that are related to
16 chemicals that may be taken into a human being and lead
17 to incapacity up to death.

18 Q Please tell the jury also about your educational
19 background.

20 A I received my Baccalaureate Degree from the University
21 of Pittsburgh in Pittsburgh, Pennsylvania. I received
22 my medical degree from Tulane University in New Orleans.
23 I did an Internship in Pediatrics at the Charity
24 Hospital in New Orleans. I did a Residency training at
25 Duke University Medical Center in Durham, North Carolina

1 in Pathology. I was on the faculty of Duke University
2 Medical Center for about 18 months before I came to
3 Piedmont Pathology Associates in 1982. I returned to
4 North Carolina in 1994 in Fellowship training in
5 Forensic Pathology and I became Board Certified that
6 year in Forensic Pathology by the American Board of
7 Pathology.

8 Q So, how long have you been a Forensic Pathologist?

9 A Since 1994.

10 Q And what, specifically, are your job duties?

11 A One of my jobs with Piedmont Pathology is to perform
12 autopsies at the request of coroners from various
13 counties in the Upstate of South Carolina.

14 Q About how many autopsies have you performed over the
15 years?

16 A I perform approximately 250 autopsies a year. I've been
17 doing that since I came to Piedmont Pathology in 1982.

18 Q Have you testified as an expert in the field of Forensic
19 Pathology before?

20 A Yes. In South Carolina, North Carolina, Georgia and
21 several other states.

22 Q So, roughly, how many times have you been qualified as
23 an expert?

24 A Hundreds.

25 MS. HUEY: Your Honor, at this point I would like to

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1 qualify Dr. Woodard as an expert in Forensic Pathology.

2 THE COURT: Any voir dire?

3 MR. ROBINSON: No voir dire and no objection, Your Honor.

4 THE COURT: Very well. Ladies and Gentlemen of the
5 jury, Dr. Woodard will be qualified as an expert in the field
6 of Forensic Pathology. As I told you with regard to other
7 experts in this case, normally a person is not allowed to
8 give their opinion. They must state what they felt, said, or
9 heard, saw or felt. In this matter, since Dr. Woodard has a
10 specialty in the field of Forensic Pathology and has been
11 qualified as an expert in that field, he will be allowed to
12 give his opinion in regard to the field of Forensic
13 Pathology. His testimony is like any other testimony in this
14 case. You can accept it, you can reject it, or do with it
15 what you would like. That being said, go ahead, Solicitor.

16 MS. HUEY: Thank you, Your Honor.

17 Q Dr. Woodard, did you perform an autopsy on the victims
18 in this case, Homer and JoAnn Staton?

19 A Yes. I did.

20 Q What procedures do you generally follow when you perform
21 an autopsy?

22 A We examine the body as it's brought to us from the
23 location that it's found. This would be: look at the
24 outside of the body, both for associated materials that
25 may be associated with the body that would give us an

1 idea of primary and secondary crime scenes. The body
2 may have been exposed to or human contacts of the body
3 may have occurred as well as injuries and features that
4 help tell us about the time and manner of death. We
5 look at the clothing to see if there are any injuries to
6 the clothing. It may indicate an underlying injury to
7 the body. And ultimately, we remove any materials we
8 see in the clothing and look at the outside of the body,
9 at the skin surfaces of the body, for those features
10 that will tell us about injury or any other event which
11 may have occurred to the individual. We then open the
12 individual up in autopsy to see for oneself and look at
13 how injuries from the outside of the body translate to
14 injuries within the body that may have led to incapacity
15 followed by death in an individual who has suffered
16 these particular injuries.

17 Q Dr. Woodard, let's start with Homer's autopsy first.

18 When was that autopsy performed?

19 A It was performed on the 26th of October, 2009, at
20 approximately 10:00 a.m. in the morning.

21 Q So, this was the day after his body was discovered.
22 Correct?

23 A That's correct.

24 Q Okay. Now, were your findings in that autopsy
25 consistent with Homer's time of death being Friday

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1 night, October 23, 2009?

2 MR. ROBINSON: Objection, Your Honor. Calls for
3 speculation in this case.

4 THE COURT: I'll overrule the objection on that, but if
5 you will lay a little bit more foundation, please ma'am.

6 Q Dr. Woodard, were you able to determine, approximately,
7 the time of death for Homer?

8 A An approximate time of death. Yes.

9 Q Okay. And how were you able to do that?

10 A By a body -- After a body dies, two things happen to it.
11 The heart stops pumping so blood falls to the lowest
12 level by gravity. Early in the process after a body is
13 dead, if you roll the body over, the blood will fall to
14 the new lowest portion, but after a while the blood
15 leaks out of the capillaries and permanently stains on
16 the surface that was lowest. This takes several hours
17 for it to occur. After death, the body initially
18 stiffens. We refer to that as rigor mortis, because it
19 occurs because the energy molecules that allow our
20 muscles to move, or our bones, go away, are used up, and
21 the body becomes stuck in the position that it was in.
22 After a period of time that stiffness begins to go away
23 and become less and less. We can look at those features
24 as well as the features of the insects and what insects
25 have done to the body to get an approximate time of

1 death.

2 Q So again, Dr. Woodard, for Homer's autopsy, were your
3 findings consistent with Friday night, October 23rd?

4 A Yes. They were consistent with that. The 26th was
5 Monday and they were consistent with someone who had
6 died sometime late Friday or early Saturday morning.

7 Q Now, what type of injuries, generally, did you find on
8 Homer?

9 A We found injuries that we refer to as blunt force
10 injuries. These are injuries that are caused by an
11 object that is not sharp like a knife. It strikes the
12 body with sufficient force to tear the skin, and in this
13 particular case, to break the underlying bones beneath
14 the skin. These injuries were mainly focused around his
15 right hand and lower arm as well as his head from
16 approximately the mid-line back where the crown, where
17 hair would be in the back, around to the right side and
18 up onto the right forehead.

19 Q So, in your expert opinion what was the cause of Homer's
20 death?

21 A Blunt force trauma which resulted in breaking bones of
22 the skull, fractures of the skull, and tearing of the
23 underlying fibrous sac that protects our brain, the
24 dura, and actually tearing of the brain itself.

25 Q As a result, what was the manner of death ruled?

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1 A Homicide.

2 (Ms. Adams shows Mr. Robinson a document)

3 Q Dr. Woodard, I'm going to show you what has been marked
4 as State's Exhibit 8. Do you recognize that?

5 A This represents what we refer to as a standard anatomic
6 drawing. It shows a male head without any hair, and an
7 underlying skull without skin or soft tissue. It gives
8 us the opportunity to, in general, I'm not an artist,
9 but in general, to draw the general features of the
10 injuries that we saw and so to assist us in preparing
11 the report. This bears some stickers that we prepare
12 before we do an autopsy. We prepare little stickers
13 that we can apply to things to identify the person, that
14 have the deceased's name, our autopsy number, and some
15 other identifying features. In this particular case,
16 the day we did it and the date of birth of the deceased.
17 It also has my handwritten autopsy identification number
18 written by my hand at the top.

19 Q So, is that the one that you did for Homer Staton?

20 A A copy of it. Yes.

21 MS. ADAMS: Your Honor, I would like to submit
22 State's Exhibit 8 into evidence.

23 THE COURT: Any objection?

24 MR. ROBINSON: No objection.

25 THE COURT: Admitted without objection.

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1 (Whereupon, a head diagram of Homer Staton is entered
2 into evidence as State's Exhibit No. 8, without objection)

3 Q Dr. Woodard, if you don't mind if you could step down
4 and explain to the jury.

5 Dr. Woodard leaves the witness stand and Ms. Adams
6 projects diagram on large screen)

7 A As I said, this is a general drawing of the human head.
8 From the side, this represents the skin. As we saw,
9 this shows just the general distribution from the back
10 of the head of tears in the skin that were produced,
11 their approximate location, from the back to the front
12 of the head. These little squiggly lines represent
13 scrapes to the skin and these drawn, funny-shaped areas
14 represent actual tears in the skin, what we refer to as
15 lacerations where the skin is crushed between an object
16 and the underlying skull and splits apart and then we
17 have the underlying skull. This is the right side of
18 the head. We can see the underlying skull. These are
19 the approximate shapes and locations of fractures to the
20 skull that we observed. We have fractures in the back
21 and we had a very large fracture, this would be sort of
22 above and slightly behind the ear. We had a very large
23 area of broken bone where pieces of bone were missing
24 and pieces of bone were driven into the dura and then
25 into the underlying brain.

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1 Q Now, on the bottom of the left side ---

2 A This represents the left ---

3 Q --- of the body.

4 A --- side of his body.

5 Q Were there any ---

6 A It was a small scrape here at the edge of his lip, but
7 beyond that, there were no injuries on the left side of
8 his body.

9 Q So, Homer's injuries were all on his right side?

10 A That's correct.

11 Q Dr. Woodard, how many injuries did you find?

12 A I count -- Well, some of these injuries represent
13 multiple blows, but we found at least 11 separate
14 injuries associated with the head and associated with
15 his right hand, which had to represent at least 11
16 blows, though clearly, when you have a large area of
17 bone that is broken out like this and pounded into the
18 brain, more than one blow would have hit there, but we
19 can't say how many.

20 Q Could you determine a size or shape of these injuries?

21 A Many of the injuries were nonspecific, but several of
22 the injuries had very rounded contour to them which
23 suggested an object that would have a hammer-like edge
24 to it, the rounded area of the hammer that you would
25 pound a nail with. This could be found on other

1 objects, as well.

2 Q So -- But his injuries are consistent with being hit in
3 the head with a hammer?

4 A Some of the injuries are characteristic of that, The
5 nail pounding portion of the hammer.

6 Q Okay. Dr. Woodard, you can have a seat. Thank you.
7 (Witness returns to the witness stand) Please tell the
8 jury a little bit about Homer's health.

9 A Well, Homer was 72 years old. He previously had colon
10 cancer removed, so he had a bag to drain his bowels. He
11 had a degree of degenerative heart changes, hardening of
12 the arteries, and then he had degenerative changes of
13 his kidneys, which are often associated with high blood
14 pressure and atrophy of his kidneys. His kidneys were
15 extremely small, because they were scarred and
16 deteriorating. I know he currently wasn't in renal
17 failure, but his kidneys were headed toward renal
18 failure.

19 Q So, he was not in very good physical condition?

20 A No. He was not.

21 Q Okay. Did Homer have any defensive injuries that you
22 found?

23 A Yes. Homer had some injuries on his right hand and
24 lower arm. These were seen over the way people would
25 call the back of the hand and the result was tears on

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1 his fingers where the fingers were struck. It actually
2 resulted in a breaking of his ring finger bone on his
3 right hand and it also resulted in a blow that struck
4 his lower arm and it produced a large bruise on the
5 lower portion of his arm.

6 Q What, if anything, were you able to determine about the
7 angle of the blows?

8 A The blows primarily came from his back to, back lateral
9 portion of his body and several of the blows produced
10 what we call avulsion. Avulsion, basically, means that
11 the blow is hit at an angle such that one side of the
12 torn skin rips away from the underlying tissue and in
13 these particular cases, those went downward and
14 posterior in direction, which would suggest that the
15 blows were coming from above and behind.

16 Q Now, what do the defensive injuries on his hand indicate
17 to you?

18 A That he was, at some point for a period of time, aware
19 he was being attacked and made an effort to stop the
20 attack from occurring.

21 Q How many blows would it have taken to incapacitate
22 Homer?

23 A The blows that were not fended off, one or two blows
24 before he would be so stunned that he would be
25 incapacitated.

1 Q Explain to the jury the type of force that is necessary
2 to cause the injuries that you found.

3 A Well, it takes a strong force to produce a tear in the
4 skin, to crush the skin against the skull or an
5 underlying bone, but in order to break the underlying
6 skull to produce these large pieces of bone that were
7 driven into the brain, it takes severe force. The type
8 of forces that are generated in automobile accidents,
9 typically, and the fact there were multiple areas that
10 the skull was so broken meant that that kind of force
11 was applied while focusing on smaller areas multiple
12 times.

13 Q So, repeatedly, obviously.

14 A Repeatedly.

15 Q Now, Dr. Woodard, you also performed the autopsy on
16 JoAnn Staton. Correct?

17 A That's correct.

18 Q Now, when was that autopsy performed?

19 A I performed that autopsy on the 29th. That would be
20 three days after her husband's autopsy.

21 Q Okay. And the day after her body was discovered, as
22 well?

23 A That's correct.

24 Q Now, explain to the jury the condition of JoAnn's body
25 when she first came to you, because, obviously, she had

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1 been out there a lot longer than Homer.

2 A Well again, she was clothed, but she was wet. I don't
3 have a remembrance of the weather, but she was wet. She
4 had started the process of decomposition, which is the
5 breakdown of the body when it's not refrigerated or
6 embalmed. After death, the body, the germs that live in
7 our bodies and the chemicals that the cells are made of,
8 begin to break our body down and also she had been
9 started to be attacked by fly eggs which turn into
10 maggots and the maggots were beginning to eat on her
11 body.

12 Q So, based on her state of decomposition, were you able
13 to determine a time of death with her?

14 A Yes. Again, her possible approximate of death would be
15 sometime late Friday or early Saturday morning.

16 Q So, it would be consistent with the same time as Homer's
17 death?

18 A Yes. That's correct.

19 Q In your expert opinion, what was the cause of JoAnn's
20 death?

21 A Again, blunt force trauma. She had multiple lacerations
22 to the skin and of her scalp, basic head fractures and
23 the underlying bones of those and she also had injuries
24 to her right hand with breaking of the bones in her
25 right hand and the right lower bone that would be on the

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1 little finger side of her right arm.

2 Q So, what was the manner of her death ruled?

3 A Homicide.

4 Q All right. Dr. Woodard, I am going to show you...

5 (Ms. Adams shows a document to Mr. Robinson)

6 Q Dr. Woodard, this is State's Exhibit 9. Do you
7 recognize that?

8 A Yes. This is, again, is a standardized drawing of a
9 human head with a standardized drawing of the human
10 skull and it has a sticker on the bottom which
11 identifies the patient and the autopsy number and then
12 on this particular one, in my hand, I have written the
13 individuals name on the sheet. There is a second sheet
14 associated with it, that again, has the stickers and the
15 name written on it and it represents the side view of a
16 human head similar to the side view that we saw on her
17 husband.

18 Q So this is -- These are the injuries marked for JoAnn?

19 A That's correct.

20 MS. ADAMS: Your Honor, I would like to move State's
21 Exhibit 9 into evidence.

22 THE COURT: Any objection?

23 MR. ROBINSON: No objection.

24 THE COURT: Admitted without objection.

25 (Whereupon, a diagram of the skull is entered into

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1 evidence as State's Exhibit No. 9, without objection)

2 Q Dr. Woodard, if you could step down and explain your
3 findings on JoAnn to the jury, please.

4 (Witness complies)

5 A This is, obviously, the frontal type of view of the head
6 and skull. It's not a female head, just a standard
7 head. And you see here on the back of her skull, we can
8 approximate the mid-line right here, that there were
9 blows that went over from the left posterior and then
10 began to be more numerous toward the right back side of
11 the head. There were some that came over onto the right
12 side of the forehead and she also had scrapes on the
13 edge of her lip and at the edge of her jaw-line here
14 underneath the jaw that you can see.

15 Q Okay. Let's go to the second page.

16 A This is a side view. Again, you see on the right side
17 of the head, we see places that were tears and injuries
18 on the right side of the head, on the skin on the right
19 side of the head. The scrapes that we saw on the left
20 side of the head and then there was a scrape up here on
21 the, sort of at the hairline, that had sort of the
22 general pattern of two bars with a little bit of a line
23 in between them. We also showed the underlying skull
24 and you can see there was a big plate of depressed bone
25 here and another big plate of depressed bone on the

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1 back portion on the right side. So, only the blows that
2 were on the right side produced fractures on the
3 underlying skull. This is colored in because the
4 parietal is black which is caused by the blood seeping
5 down through the scalp by gravity.

6 Q How many blows did JoAnn receive?

7 A Accounting for arm blows, you have 18 separate areas of
8 injury that occurred, not counting these little
9 nonspecific scrapes here, but are related to these
10 lacerations and the lacerations that occurred on her
11 hand.

12 Q So, she had at least 18 blows?

13 A At least 18 blows. And again, in order to take a large
14 area of bone such as this and break portions of it loose
15 and throw them into the car and pound other parts into
16 the underlying skull, there had to be more than a single
17 blow in that particular location to achieve that kind of
18 injury, but we can't say how many.

19 Q Thank you, Dr. Woodard.

20 (Witness returns to the witness stand)

21 Q So, when would JoAnn have been incapacitated with these
22 kind of injuries?

23 A Again, once her hand and arm were removed from the
24 occasion, one or two blows of this kind of force that
25 produces tears to the scalp, would have resulted in her

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1 being incapacitated to totally unconscious.

2 Q So, again, so the jury understands the injuries to her
3 hand, they would also be -- How would you describe
4 those?

5 A Those, again, are on the back side of the hand and the
6 little finger side of the bone. It would be suggestive
7 that her hand had been placed between the attacker and
8 her head in order to fend off the blows. So, at some
9 point, she was aware that she was going to be attacked
10 and made an effort to defend herself.

11 Q Now, what about the angle of her blows, as well?

12 A Again, the angle of her blows were primarily posterior
13 and in a downward direction.

14 Q So, that would mean from behind?

15 A That's correct.

16 Q What, if any, postmortem marks did you find on JoAnn?

17 A Well, JoAnn, again, she came clothed and she had some
18 scrape injuries on her body that were observed over her
19 abdomen with smeared, muddy dirt and it showed a
20 streaked pattern, what we refer to as a drag pattern.
21 Dirt has small little rocks in it, even fine dirt, and
22 as the body is dragged across, because of the weight of
23 the body going down, it produces little tiny injuries to
24 the skin and also we had the mud showing directionality
25 that she had been dragged across a dirty surface of some

1 sort before she, ultimately, was placed at the location
2 she was found.

3 Q Dr. Woodard, with all these blows to both Homer and
4 JoAnn, did you find that the force was consistent among
5 all the blows?

6 A Some blows were, had less force and only produced tears
7 in the skin, but many of the blows were extremely
8 forceful and the blows that produced the large fractures
9 in the skull would require a similar degree of a high
10 level of force.

11 Q Now, the defendant stated that both Homer and JoAnn were
12 killed in their car which is a small Toyota Corolla.
13 JoAnn would have been driving and Homer was in the
14 passenger seat.

15 THE COURT: Stop. Stop, please. State your objection.

16 MR. ROBINSON: I object to the form of the question,
17 Your Honor. It was a statement that ---

18 THE COURT: Just let me do this. Ms. Terry, would you
19 take your jury back to your jury room, please, ma'am?

20 (Jury out at 10:12 a.m.)

21 THE COURT: All right, would you state your objection for
22 the record, please?

23 MR. ROBINSON: The objection is, it assumes facts that
24 are not in evidence, Your Honor.

25 THE COURT: Which facts are these that you are assuming

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1 are not in evidence?

2 MR. ROBINSON: Your Honor, there was a statement. She
3 said the defendant stated and as far as anyone is concerned,
4 the jury thinks that he stated it. I think she could say,
5 "in his statement, he stated," but I think that is kind of
6 misleading.

7 THE COURT: Clarify that for me, please. What you are
8 saying is the defendant stated as opposed to in his
9 statement?

10 MR. ROBINSON: They got a statement from him. Okay?

11 THE COURT: Right.

12 MR. ROBINSON: What she is saying is, just stating it
13 out loud, and it sounds kind of misleading to me and that's
14 what I was objecting to.

15 THE COURT: Would you re-phrase that ---

16 MS. ADAMS: Yes, sir, Your Honor.

17 THE COURT: --- to be in a statement, please ma'am?

18 MR. ROBINSON: And also too, Your Honor, that when an
19 objection is made, she should stop and not keep going and
20 going.

21 THE COURT: Well, I'm not sure she heard you.

22 MS. ADAMS: I ---

23 THE COURT: Everybody has been pretty well behaved so
24 far.

25 MR. ROBINSON: Thank you, Your Honor.

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1 THE COURT: Yes, sir. Bring the jury back now.

2 (Jury in at 10:14 a.m.)

3 THE COURT: All right, Solicitor.

4 MS. ADAMS: Thank you, Your Honor.

5 CONT. DIRECT EXAMINATION OF DR. WOODARD BY MS. ADAMS

6 Q Dr. Woodard, the defendant gave a statement to law
7 enforcement and in that statement, it claims that Homer
8 and JoAnn were killed in their car, which is a small
9 Toyota Corolla. JoAnn was driving and Homer was in the
10 passenger seat. Are your findings consistent with the
11 killer being in the back seat attacking from behind?

12 A Yes. They would be.

13 Q Now, based on the number of injuries on both Homer and
14 JoAnn, the amount of force that you described for each
15 of these blows and the fact that they were attacked from
16 behind, in your expert opinion, what was the purpose of
17 these blows?

18 A Well, one or two successful blows would have
19 incapacitated them, so this is far in excess of the
20 force necessary just to incapacitate and the repetitive
21 blows into the skulls which resulted in large plates of
22 both of their skulls being extruded from the body into
23 the crime scene location and also driven into the
24 underlying brain, the only purpose would be to commit
25 homicide.

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1 MS. ADAMS: I have no further questions, Your Honor.

2 THE COURT: Cross examination?

3 MR. ROBINSON: May it please the Court.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION OF BRETT WOODARD, MD BY MR. ROBINSON

6 Q Doctor, you have a copy of the report that you gave on
7 Homer Staton. Don't you?

8 A I'm sorry. I didn't hear you.

9 Q You have a copy of the report that you did on Homer
10 Staton. Right?

11 A That's correct.

12 Q In front of you? I am going to let you turn to that for
13 one second, if you don't mind, and I want you to turn to
14 the middle of, I think your first page as far as the
15 date of birth and date of death. Do you see that?

16 A That's correct.

17 Q Can you tell the jury what you put on your report as far
18 as date of death?

19 A Unknown.

20 Q Okay. And that would go in line with what you told Ms.
21 Adams, you really don't know when Homer and Mrs. Staton
22 died. Do you?

23 A This was the information that was given to me.

24 Obviously, I don't know his date of birth. The only
25 thing I know in that section from my own facts and

1 knowledge are the date and time that I did the autopsy.

2 Q Uh-huh.

3 A That was the information given to me by Mr. McGowen, the
4 guy who was the Coroner.

5 Q Okay.

6 A But he did not know about what the date was. I don't
7 know the exact hour and minute that they died, but I
8 know it had to be Friday evening or early Saturday
9 morning.

10 Q But you are giving -- When you do that though, you are
11 giving an approximation. You really don't know.

12 A That's right. You know, that's multiple hours. I can't
13 be more sure than that.

14 Q But you can't tell this jury the time, excuse me, time
15 and date that this happened. Can you?

16 A I can't say it happened at 8:15, on a certain night.
17 Absolutely not. No one can.

18 Q And you don't know as far as the -- And you would agree,
19 as far as this blunt force trauma that you are talking
20 about, you don't know whether it was caused by a hammer,
21 you don't know whether it was caused by some other blunt
22 force object. Do you?

23 A I know some of the blows were caused by an object with a
24 hammer-like edge to it, a hammer's surface. Other
25 blows, I could not tell you.

CROSS EXAMINATION OF BRETT WOODARD BY MR. ROBINSON

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1 Q But as far as the blows that seemed like they had
2 hammer-like indentation, or whatever, you don't know
3 exactly if that was a hammer or not. Do you?

4 A It was an object with a hammer-like head to it.

5 Q So, it could have been a handle, a doorknob, maybe?

6 A It could have been an object like a hammerhead, like on
7 a hatchet.

8 Q Uh-huh.

9 A Or a hammerhead on a barbed wire repair tool.

10 Q Uh-huh.

11 A Some crowbars have a hammerhead associated with them.

12 Some construction tools have a hammerhead associated

13 with them that are done for salvage. It's just

14 something that has that head that would be traditionally

15 something that would strike nails.

16 Q Okay. So, you really don't know exactly if it was a
17 hammer or whether it was one of these objects you just
18 talked about. Correct?

19 A That's why I say it is an object with a hammer-like
20 head.

21 Q Okay. I want to look at the, take a look at the
22 pictures again and I am going to ask the Solicitor to
23 help me if she could. I want to pull up Homer Staton's
24 wounds, if I may? (Solicitor Adams places the
25 illustration on the screen) I'm going to ask you to

1 point in time you may need exact measurements of
2 individual stains, I have those. In certain instances,
3 we can impact stains. We can attempt to locate an angle
4 in which they were deposited on the surface and pinpoint
5 an area in which those stains came. In this case, I was
6 unable to do that, but that's the reason I need
7 photographs, plus having blood stains in particular
8 detail.

9 Q In particular, did you take note of different patterns
10 of blood stains within the car?

11 A I did.

12 Q Okay. And what were some of those patterns?

13 A Most of the bloodstains were in the front of the
14 vehicle. There were stains consistent with drips, and
15 that's just blood that flows off by gravity on the
16 driver's side of the threshold, which is the part of the
17 door that is covered when the door is closed, but
18 visible when the door is open. There were also
19 bloodstains consistent with the spatter on the driver's
20 side exterior side of the mirror, which indicates that
21 the window was down at least at some point during the
22 incident. There were stains on the windshield. There
23 were tranfers, which are when a bloody object comes into
24 contact with something else, those stains are consistent
25 with a spurt or gush, which is just violent blood

DIRECT EXAMINATION OF MELISSA WALLACE BY MS. HUEY

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1 dispersed under pressure as well as some flow and
2 saturations. Saturation is just what it sounds like,
3 it's when an item becomes saturated with blood. The
4 flow is when an area becomes so saturated that there is
5 more blood accumulating than can be absorbed into the
6 material and it tends to flow from gravity itself. On
7 the passenger side, it appeared that both of the
8 passenger doors were open, at least at some point,
9 because blood had accumulated in the threshold. As I
10 said earlier, it is a part of the door that is visible
11 when the door is open and it's covered by the door when
12 the door is closed. There were also stains consistent
13 with cast off on the head liner as well as the far
14 passenger side and far driver side rear window. There
15 was a large stain in the center of the back seat
16 consistent with saturation of flow from the passenger
17 front seat as well as evidence on the side of that front
18 passenger seat, indicating the seat was reclined. There
19 were also transfer patterns, as I stated earlier, on the
20 head liner that appear to be from a claw hammer.

21 Q Now, Ms. Wallace, in reviewing all this evidence, did
22 you also review SLED DNA reports?

23 A I do.

24 Q Okay. And do -- That, coupled with the photographs you
25 took and the blood stain patterns you analyzed, what, if

1 anything, could you determine in terms of where the
2 victim's were in this particular car?

3 A Most of the blood from the front passenger seat came
4 from Homer and most of the blood from the driver's front
5 seat came from JoAnn.

6 Q And again, where was the majority of blood in this car?

7 A The majority of the blood was in the front passenger
8 part of the car.

9 Q Okay. So what, if anything, does that tell you about
10 the car being the crime scene itself?

11 A It indicates that at least a good portion of the
12 assault, itself, occurred in the passenger compartment
13 of the car. As to whether any assault occurred once
14 they were removed from the car, I can't say. I don't
15 have anything to indicate that one way or the other, but
16 there was, at least, a large portion of the assault
17 occurred within the passenger part of the car.

18 Q What, if anything, can you speak to in terms of the
19 attacker?

20 A Due to the impressions in the head liner, as well as the
21 amount of blood in the back, there is also a void area
22 which means that it, in fact, is void of blood in the
23 center rear portion of the head liner as well as the
24 center rear windshield or rear window, indicates it is
25 more consistent with there being a single attacker

DIRECT EXAMINATION OF MELISSA WALLACE BY MS. HUEY

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1 attacking from the back seat towards the center of the
2 vehicle.

3 Q A single attacker from the back seat?

4 A That's correct.

5 Q Okay. Did you also review statements taken from the
6 defendant in this case?

7 A I did.

8 Q And based on all of the evidence that you analyzed, in
9 addition to the defendant's statement, again, is the
10 crime scene, being the car, consistent with one attacker
11 being in the back and hammering both JoAnn, who was in
12 the driver's seat, and Homer Staton, who was in the
13 passenger seat?

14 A It is consistent with that. Yes.

15 Q Now, I believe you touched on some pooling in the back
16 passenger seat?

17 A That's correct.

18 Q Okay. What, if anything, can you tell me about that?

19 A It's consistent with the front passenger seat being
20 reclined with Homer being in the seat for some period of
21 time due to the saturation stains on the headrest itself
22 in the front seat as well as the flow and saturation
23 stains on the side of that front passenger seat, that
24 side of the console which flows directly onto the rear
25 seat. Some of that blood flows backwards towards the

CROSS EXAMINATION OF MELISSA WALLACE BY MR. ROBINSON 395

1 crease, that means the backrest, and some of it flows
2 forward onto the floor creating a puddle on the floor.

3 Q So again, in reviewing the defendant's statement in this
4 case, if he said that he got in the car after JoAnn's
5 body was dragged out and he reclined Mr. Staton, who was
6 in the passenger seat, are your findings consistent with
7 that?

8 A They are.

9 Q That's all I have for this witness, Judge.

10 THE COURT: Cross examination?

11 CROSS EXAMINATION OF MELISSA WALLACE BY MR. ROBINSON

12 Q Ma'am, if you need a break, let me know. I will make
13 sure I ask the questions as quickly as possible.

14 A I'm fine.

15 Q Ma'am, approximately how many swabs were analyzed in
16 regards to the Staton's car?

17 A I'm not sure of exactly where some of the swabs came
18 from the -- Some of the swabs from the initial
19 submission may have been from a different vehicle, which
20 wasn't indicated. I know... (Looks through her
21 documents)

22 Q Would it be fair to say a large number?

23 A Yes.

24 Q I figured I would save you some time. Ma'am, how many
25 hair samples were collected from the car?

DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

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1 Paul Kelley.

2 (After being duly sworn by the Clerk of Court, Paul
3 Kelley testified as follows:)

4 CLERK OF COURT: If you would have a seat on the witness
5 stand and state your name and spell your last name for the
6 record, please.

7 MR. KELLEY: My name is Paul Ricky Kelley. My last name
8 is spelled, K-E-L-L-E-Y.

9 DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

10 Q Mr. Kelley, where do you live?

11 A North Line Street.

12 Q Okay. And how long have you lived there?

13 A About 17 years.

14 Q So, you were living there in October of 2009?

15 A Yes, ma'am.

16 Q And where is that located in Anderson?

17 A Right off Murray Avenue on the South end of town.

18 Q Is that considered downtown?

19 A No, it's Oral Mill.

20 Q All right. Do you know the Defendant in this case,
21 Matthew Fullbright?

22 A Yes. I do.

23 Q Okay. And how do you know him?

24 A I bought a bunch of wire and stuff from him in the past
25 and I've got a couple of guys to help him do some

1 electrical work and all.

2 Q And what is your cell phone number, Mr. Kelley?

3 A 864-353-2149.

4 Q And was that your cell number back in October of 2009?

5 A Yes, ma'am.

6 Q Do you know a Irving or Ernie Ramirez, Mr. Kelley?

7 A No, ma'am.

8 MR. ROBINSON: Your Honor, I have an objection that I
9 need to take up outside presence of the jury.

10 THE COURT: If you would take your jury back for a few
11 minutes, please?

12 (Jury out at 10:53 a.m.)

13 THE COURT: State the nature of your objection.

14 MR. ROBINSON: Your Honor, it's a Rule 5 objection. Your
15 Honor, we don't have any materials on this guy. This is the
16 first. We have no record, nothing. No statements or
17 anything on this guy. We didn't know ---

18 MS. Huey: There was no statement, Judge. That's all he
19 is going to testify to, which is the phone records supplied
20 to Mr. Robinson.

21 MR. ROBINSON: I don't believe we have any phone records
22 on him.

23 THE COURT: Would you show him what you are referring to,
24 please? Let's take a quick 5 minute break while you are
25 doing that. Sir, you can not speak with anybody or to

DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

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1 anybody about your testimony. Okay, sir? Let's take a 5
2 minute break.

3 (Brief Break)

4 THE COURT: All right, Mr. Robinson?

5 MR. ROBINSON: Your Honor, I'm going to withdraw my
6 objection, as far as that goes. We are missing -- it's not
7 the Solicitor, nothing the Solicitor has done. The way the
8 discovery is, everything together. You have Ramirez, you've
9 got all him, all these people. It's hard to see them until
10 you go down it. It looks like we have some dates that may be
11 missing and some stuff that is not from Ramirez as far as
12 between Ramirez and possibly some more.

13 THE COURT: I'm not quite following what you are saying.
14 You say you have some dates that are missing?

15 MR. ROBINSON: There are dates that are missing. Correct.

16 THE COURT: Is there any specific information that you
17 are asking to...

18 MR. ROBINSON: Yes, sir. We are missing Ramirez, three
19 days from 9/23 to 9/26.

20 THE COURT: On these phone records?

21 MR. ROBINSON: Uh-huh.

22 THE COURT: Would you make that available to him, ma'am?
23 Those are the documents that were put up and testified to
24 yesterday by the gentleman from AT&T?

25 MS. HUEY: No, sir.

DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

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1 THE COURT: It's not? Okay.

2 MS. ADAMS: No, sir.

3 MR. ROBINSON: The reason it's important is that it
4 shows ---

5 THE COURT: Specifically, I want you to identify for the
6 record, so it's clear what you are asking to receive.

7 MR. ROBINSON: We are missing the Ramirez phone records
8 from 9/23 through 09/26, 2009.

9 THE COURT: Okay, stop. Do you have Mr. Ramirez records
10 from those dates?

11 MS. ADAMS: Judge, we do. We provided them to him.
12 There were two calls on September 23rd and one of September
13 26th.

14 THE COURT: Okay. Do me a favor if you would? Would you
15 show those records to Mr. Robinson? Mr. Clerk, would you
16 mind making a copy of those?

17 MR. ROBINSON: I've got Ramirez. It looks like it's
18 skipping some of Ramirez' phone calls.

19 THE COURT: Show it to the Solicitor so y'all can get on
20 the same page. Y'all know more about those documents than I
21 do. (Mr. Robinson shows documents to the Solicitor. They
22 look through a notebook) All right, Mr. Robinson, does that
23 explanation satisfy you that you received those documents?

24 MR. ROBINSON: It satisfies me, yes. It satisfies me and
25 it looks like the records from these phone companies are a

DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

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1 jumble sometimes and the phone calls ---

2 THE COURT: I understand that, but for the record so we
3 are clear, the Solicitor maintains that they provided you
4 with that information. You don't deny that. Do you?

5 MR. ROBINSON: No. We found it. I would ask, as this
6 particular witness, I'd ask for the NCIC on that witness,
7 since I did request that before.

8 THE COURT: Well, before we go there, are you withdrawing
9 your motion? I thought I heard you say that.

10 MR. ROBINSON: I am, Your Honor.

11 THE COURT: Okay. Do you have the NCIC on this witness?
12 Technically, after he testifies, but if you have it now,
13 let's do it.

14 MS. HUEY: Yes, sir, Judge. I thought I gave it to him,
15 but let me double check. (Looks through her documents)

16 THE COURT: Ms. Huey, are you, doing the direct on this
17 witness?

18 MS. HUEY: Yes, sir, Your Honor.

19 THE COURT: All right. Let's go forward with your
20 direct, then we will take a break. During that break get
21 them the NCIC report. That is the standard procedure.

22 MS. HUEY: I don't think there is anything impeachable in
23 the record, but I will look for it.

24 THE COURT: Is the State ready to proceed?

25 MS. HUEY: Yes, sir, Your Honor.

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

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1 THE COURT: Mr. Robinson, are you ready to proceed?

2 MR. ROBINSON: Yes, Your Honor.

3 THE COURT: Bring the jury in, please.

4 (Jury in at 11:03 a.m.)

5 THE COURT: Ms. Huey?

6 MS. HUEY: Yes, Your Honor.

7 CONTINUED DIRECT EXAMINATION OF PAUL KELLEY BY MS. HUEY

8 Q Mr. Kelley, I believe the last question I asked you was,
9 do you know Irving or Ernie Ramirez?

10 A No. I don't.

11 Q But you do know the defendant, Matthew Fullbright? Is
12 that Correct?

13 A Yeah, I know Matthew.

14 Q That's all I have, Judge.

15 THE COURT: Cross examination? Just one second. Let me
16 stop here.

17 MR. ROBINSON: I have no questions of this witness.

18 THE COURT: You do not? You are sure?

19 MR. ROBINSON: No questions.

20 THE COURT: May this witness be excused?

21 MS. HUEY: Yes sir, please.

22 THE COURT: Mr. Robinson?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: All right. Thank you, sir. You may be

25 excused. All right, Ms. Terry, Ladies and Gentlemen of the

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

1 jury, I'm going to go ahead and take the morning break at
2 this point. I know you have kind of been shuffled in and
3 out, but that is just the way it works during trials. I
4 would anticipate that it will be about a 15 or 20 minute
5 break. If you need anything please let the bailiff know and
6 he will make sure we get it for you. If you will go back to
7 your jury room at this point, please.

8 MS. TERRY: Thank you, Your Honor.

9 (Jury out at 11:05 a.m.)

10 THE COURT: All right, just for the record, Mr. Robinson,
11 you are not requesting the NCIC report on the last witness,
12 Mr. Kelley? Is that correct?

13 MR. ROBINSON: I withdraw that request, Your Honor, based
14 on the direct examination.

15 THE COURT: Very well, we will be in recess for 20
16 minutes.

17 (Brief Break)

18 THE COURT: Is the State ready to proceed?

19 MS. HUEY: Yes, sir, Your Honor.

20 THE COURT: Mr. Robinson?

21 MR. ROBINSON: Yes, sir.

22 (Jury in at 11:47 a.m.)

23 THE COURT: All right Ladies and Gentlemen of the jury,
24 Ms. Terry, this is going to be one of those instances where
25 you come in and go back out. I wanted to respond to

1 something that you requested and that is for the snacks and
2 various things. That is on the way.

3 MS. TERRY: We got it.

4 THE COURT: Oh, you did get it?

5 MS. TERRY: Yes, sir.

6 THE COURT: Very well. Good. Thank you. Then, I
7 mistakenly called you out here. I have an administrative
8 matter I need to take up, but we will get you -- Go have a
9 break again, get you something to eat or drink and we will
10 bring you back out here as soon as I can. Okay?

11 (Jury out at 11:48 a.m.)

12 THE COURT: All right, would you call your next witness
13 as far as the chart is concerned, please, ma'am?

14 MS. ADAMS: Thank you, Your Honor. The State calls Sammy
15 Alfakir.

16 (After being duly sworn by the Clerk of Court, Sammy
17 Alfakir testified as follows:)

18 CLERK OF COURT: If you would have a seat on the witness
19 stand and state your name and spell your last name for the
20 record, please.

21 MR. ALFAKIR: My name is Sammy Alfakir.

22 A-L-F-A-K-I-R.

23 MS. ADAMS: Judge, I'm going to attempt to qualify Sammy
24 as an expert in Radio Frequency Engineering. Would you like
25 me to go through that as well before we get to that?

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 THE COURT: Whatever you need to do.

2 PROFFERED DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

3 Q What is your occupation?

4 A I am a Radio Frequencing Engineer.

5 Q And what type of education and training do you have?

6 A I have a four-year degree in Electrical Engineering and

7 I have 16 years of practical experience and on the job

8 training in wireless telecommunications.

9 Q So, where are you currently employed?

10 A AT&T.

11 Q And how long have you been with AT&T?

12 A Going on seven years.

13 Q What are your day to day duties as a Radio Frequency

14 Engineer for AT&T?

15 A I work on network operations. We look at the towers.

16 We help with the network. We spot where the troubles

17 are. We look at, occasionally, call records to see if

18 somebody is having trouble at a particular tower.

19 Q So, your duties do include interpreting AT&T cell phone

20 records based on the tower cell site information?

21 A Almost every day.

22 Q How are you able to tell a cell phone's location based

23 on the cell tower it hits off of?

24 A From the daily records, from the call records. They

25 always state which tower you hit off of, or you talk to

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 during a phone call. So, all I have to do is locate the
2 tower number or the tower I.D. I know all the towers in
3 the upstate.

4 Q Have you ever testified as an expert in court before?

5 A Yes. Twice.

6 Q And what court was that? Was it General Sessions?

7 A One in Richland County and one in Lexington County and
8 all were homicides.

9 MS. ADAMS: Judge, I would ask to qualify Mr.
10 Alfakir as an expert in the field of Radio Frequency
11 Engineering.

12 THE COURT: Voir dire?

13 MR. ROBINSON: I have no voir dire and no questions, Your
14 Honor.

15 THE COURT: Any objections to his qualifications?

16 MR. ROBINSON: No.

17 THE COURT: He will be qualified as an expert in the
18 field of Radio Frequency Engineering. Is that correct?

19 MS. ADAMS: Yes, sir.

20 THE COURT: Okay.

21 Q At this time, Sammy, I want to show you what has been
22 marked as State's Exhibit 22. Do you recognize this?

23 A I do.

24 Q Okay. How do you recognize it?

25 A I made it.

PROFFERED TESTIMONY - SAMMY ALFAKIR

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- 1 Q Okay. Can you ---
- 2 A Explain how ---
- 3 Q --- tell the Judge how you made this map?
- 4 A I used the software on Map Info and I overlay the roads
- 5 that come prepackaged with this software, then I
- 6 overlay on top of that by GPS, the location of our
- 7 towers. Those are the tiny red shapes and then each
- 8 tower has a certain propagation area and I overlaid the
- 9 propagation areas of the towers in the call records.
- 10 THE COURT: The propagation area meaning the area that is
- 11 distributed ---
- 12 A It serves. The area it serves. And ---
- 13 Q And that would be the purple, right?
- 14 A The pink dots, the purple dots. I overlaid from GPS,
- 15 the location of a car, some location of deceased people,
- 16 I used the GPS and overlaid them on the map.
- 17 Q So, where you have given the actual addresses for these
- 18 locations, meaning the home, where the Staton's car was
- 19 found, where Kenneth Burdette testified that he met the
- 20 defendant that night at the gas station at 252 and 413,
- 21 and the location the bodies were located, of the
- 22 Statons.
- 23 A The bodies ---
- 24 Q The bodies ---
- 25 MR. ROBINSON: Your Honor, I'm going to object to this

1 line of questioning. First of all, they are leading and I
2 think it is very prejudicial to talk about what people may
3 have been said. Other than that, I think it's fine to
4 testify what is on that diagram. That's all he is able to
5 do.

6 THE COURT: I'm going to sustain that. It is leading.
7 Just re-phrase your question, please ma'am.

8 Q Were you given certain addresses that were important to
9 this case to add to that map?

10 A Yes. The home, the car. I overlaid them for addresses,
11 yes. And the two bodies were GPS points, so they were
12 precise.

13 Q So, why was it necessary for you to have these locations
14 in reference to the cell phone records of AT&T for these
15 two phones?

16 A So we could -- I could overlay them properly on the map
17 and try to look at the cell phone records and see if
18 they coincide with the facts.

19 Q And how did you mark the locations, literally mark them?

20 A I was given locations and I was able to track these
21 locations down to the exact point and I was able to
22 place a marker where it needs to be placed.

23 Q So, does this map accurately reflect the distances and
24 the roads between all of the locations that are marked
25 on the map?

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 A Yes. This map is precise and it is to scale.

2 MS. ADAMS: Your Honor, at this point I would ask to
3 admit into evidence, which is State's Exhibit 22.

4 MR. ROBINSON: I object, Your Honor. While I think it is
5 demonstrative in terms of a map of cell phone records, it
6 really has not been determined yet in this case when the
7 Staton's died, where they died. Their own witness, the
8 Doctor stated he wasn't sure exactly when they died. He said
9 one time on the 23rd and one time the morning of the 24th.
10 He could not exactly say when they died. And secondly, they
11 are not sure where the bodies -- first of all what time they
12 died and they can't place the bodies in any specific place.
13 This is extremely prejudicial because it just says "GoPhone",
14 but it has no number associated with it. It says, "GoPhone",
15 but what does that really show? On the records that Ms.
16 Adams showed me, it says it's Homer Staton's GoPhone and it
17 should show the number of that phone. It doesn't say that.

18 THE COURT: All right.

19 MR. ROBINSON: I think it is very prejudicial.

20 THE COURT: Well, you understand that when you are
21 prosecuting somebody, the evidence is supposed to be
22 prejudicial. That's why you do that to the extent it doesn't
23 rise to the level of something that should be withheld. Let
24 me look at it. On the foundation, I'm concerned about two
25 things: One, where do these GPS coordinates, where were they

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 derived? Who took them ---

2 MS. ADAMS: Your Honor, he received the GPS coordinates
3 for the bodies from law enforcement.

4 THE COURT: Okay. I think you need to develop that
5 further so I can understand the development of that map.
6 Also, the GoPhone, is there any facts in evidence that shows
7 the number or the identification of that GoPhone other than
8 the box that we have?

9 MS. ADAMS: Your Honor, I apologize, that is an AT&T
10 phone and I was going to do that with Mr. Alfakir before I
11 did the map.

12 THE COURT: I think, before we make a determination--

13 MS. ADAMS: He will testify. We actually have the
14 records of the subscriber information for the GoPhone that he
15 will testify to, that was registered to Homer Staton and when
16 it was activated.

17 THE COURT: Well, let's do this. In order for me to make
18 an in camera determination, I want there to be a sufficient
19 foundation laid so I can make a determination.

20 MS. ADAMS: I will back up, then, Judge.

21 THE COURT: Yes, ma'am.

22 Q All right. Let me show you State's Exhibit Number 20.

23 Do you recognize those phone records?

24 A Yes. Homer Staton is the subscriber.

25 Q Okay. Now, how do you recognize those?

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 A Those were -- We provided you with those as a part of
2 the subpoena.

3 Q Okay.

4 A Pre-paid. This is a pre-paid account. This is his
5 personal cell phone account. Pre-paid account.

6 Q Now what does pre-paid mean?

7 A It means this is something that he bought and paid for
8 in advance, like a GoPhone, like a phone that if you
9 would, if your credit is not good enough, you can only
10 get pre-paid. So, you pay for it in advance before you
11 use it.

12 Q So, it would be referred to as a GoPhone. Correct?

13 A Yeah, this is a GoPhone.

14 Q And what is the phone number that is ---

15 A 864-373-4666.

16 Q Are those phone records kept in the ordinary course of
17 business of AT&T?

18 A Yes. Everyday.

19 Q And do they fairly and accurately represent the
20 subscriber information and any incoming and outgoing
21 calls from October 14th of '09 through October 23rd of
22 '09 up until 10:44 p.m.?

23 A They do, indeed.

24 MS. ADAMS: Your Honor, I would ask that State's
25 Exhibit 20 be admitted into evidence.

PROFFERED TESTIMONY - SAMMY ALFAKIR

413

1 THE COURT: Mr. Robinson?

2 MR. ROBINSON: Same objection, Your Honor, as before. I
3 would like the numbers to be listed on the map.

4 THE COURT: She is talking about the business records of
5 the GoPhone that he just testified about.

6 MR. ROBINSON: Yes. I'm not going to object to that.

7 THE COURT: Am I correct in that?

8 MS. ADAMS: Yes, sir, Your Honor. The subscriber
9 information states that phone number was in Homer Staton's
10 name and cell phone records. All the calls were made from
11 that cell phone.

12 THE COURT: I will admit that without objection.

13 (Whereupon, a 3-page AT&T cell phone record is admitted
14 into evidence as State's Exhibit No. 20, without objection)

15 Q Mr. Alfakir, let me show you what has been marked as
16 State's Exhibit 21, which are two pages of records in
17 different formats. Can you -- Do you recognize those?

18 A I do.

19 Q Okay. How do you recognize those?

20 A Again, we provided those after a subpoena was issued.

21 Q From the Anderson County Sheriff's Office. Correct?

22 A Yes.

23 Q Now, what phone number from those two pages of records,
24 what do they correspond to?

25 A They correspond to area code [REDACTED].

PROFFERED TESTIMONY - SAMMY ALFAKIR

414

1 Q And are those records completed in the ordinary course
2 of business?

3 A Yes, they are.

4 Q And do they fairly and accurately represent the cell
5 tower locations and the incoming and outgoing calls for
6 that mobile number, which, Your Honor, as we know, there
7 has been testimony that that was Homer's cell phone
8 number beginning at 5:44 p.m. on October 23rd and ending
9 at 12:35 a.m. on October 26th.

10 A They do. They begin on the 23rd of October, 2009 at
11 6:22 p.m.

12 Q If you combine those records, though, Sammy, there are
13 actually two different formats.

14 A Oh, yes. I see. Yes, ma'am.

15 Q Can you please explain the difference between an un-
16 billed usage report and then the CDR live or cell site
17 report.

18 A The un-billed versus CDR. CDR has everything. However,
19 CDR may take days to compile from thousands and
20 thousands and thousands of records. The un-billed is
21 simply, may not be on -- what's on CDR may not be on
22 that bill because if it doesn't cost any air time, it
23 will not be on the bill.

24 Q Okay. So, sometimes a phone call would show up on a CDR
25 and not the un-billed and vice versa. Correct?

PROFFERED TESTIMONY - SAMMY ALFAKIR

415

1 A Correct.

2 Q So, the combination of those two formats are a fair and
3 accurate representation of the calls for Homer's cell
4 phone of [REDACTED]. Correct?

5 A Correct.

6 MS. ADAMS: And, Your Honor, I would ask that
7 State's Exhibit 21 be admitted into evidence.

8 THE COURT: Any objection?

9 MR. ROBINSON: The same objection I had before, Your
10 Honor. I still think they need to be listed as numbers on the
11 exhibit.

12 THE COURT: We are not going into the map, yet. We are
13 going over these cell phone records from AT&T.

14 MR. ROBINSON: That's why I didn't object to the chain of
15 custody and I'm not going to object to this, either. No
16 objection.

17 THE COURT: Exhibit 21 will be admitted without
18 objection.

19 (Whereupon, a 2-page AT&T phone bill record is admitted
20 into evidence as State's Exhibit No. 21, without objection)

21 Q Now, Sammy, again, did you take these cell phone records
22 for both phone numbers, along with the addresses that we
23 gave you on Blair Mill Road, which is where the house is
24 indicated, Horton Road where the car is indicated, the
25 gas station at 252 and 413 where the gas pump is

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 indicated and map out the cell towers that were listed
2 on those records?

3 A Yes. I did.

4 Q Okay. When "GoPhone" is listed here on these cell site
5 areas of coverage versus these three cell site
6 coverages, what do those -- What does that indicate?

7 A Where it says "GoPhone", that means the GoPhone placed
8 a call or received a call on those towers. Where the
9 other number is, 363-6783, this is where the other post-
10 paid phone number, sorry, the post-paid number made
11 calls or received calls.

12 Q So, basically, is this a way to indicate the difference
13 between the two phones and which phone is hitting off of
14 which cell site area?

15 A Correct.

16 Q It makes it easier to understand?

17 A That is correct.

18 MS. ADAMS: So, Judge, that is the reason that we listed
19 this cell phone number on the sites where that hit so it
20 was easier to understand what was going on with the map.
21 And then we put "GoPhone" to show that was where the
22 GoPhone was hitting off the cell towers. He will
23 testify as to the times that correspond with the GoPhone
24 towers.

25 THE COURT: Explain to me the GPS coordinates. I'm still

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 concerned about those.

2 MS. ADAMS: For the bodies?

3 THE COURT: Yes.

4 MS. ADAMS: Law enforcement provided the GPS coordinates
5 of where the bodies were found and gave them to Mr. Alfakir
6 to put in the locations.

7 THE COURT: Are those coordinates in evidence at this
8 stage?

9 MS. ADAMS: The actual coordinates? No, sir.

10 THE COURT: All right.

11 MS. ADAMS: But this is, he will testify, this is
12 Waterside Drive and this is Asaville School Road.

13 THE COURT: Okay.

14 MS. ADAMS: Where the bodies were.

15 THE COURT: Right. Mr. Robinson?

16 MR. ROBINSON: Your Honor, let me tell you the objection
17 I have to this. The objection that I have and I will ask
18 some questions on these issues, of course, but there were a
19 lot of phone calls, I believe, during this period of time to
20 the Statons by other people. I think these are only as to
21 the GoPhone. There were other phone calls, as well.

22 THE COURT: Well, that would go to the weight and not the
23 admissibility. My concern is that these demonstrative pieces
24 of evidence should be based on facts in evidence. Okay? And
25 that being said, the coordinates of the GPS, do you need to

PROFFERED TESTIMONY - SAMMY ALFAKIR

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1 require the officers to come in and testify to their GPS,
2 acquiring those, or would you stipulate that they gave them
3 to this gentleman from which he did the map?

4 MR. ROBINSON: I think I would like the officer come in
5 and explain how he did that.

6 THE COURT: Could you get them here so we can get that
7 into evidence?

8 MS. ADAMS: He's right here, Your Honor. Absolutely.
9 Or...

10 THE COURT: Let me tell you. If he can put those
11 coordinates in the record, I feel that the rest of this is
12 based on facts that is in evidence and is demonstrative and
13 is subject to your attack on cross examination.

14 MS. ADAMS: And Your Honor, I don't know if this helps,
15 but obviously, this is Waterside Drive where he found
16 Waterside Drive on the map and he put her body and this is
17 Asaville School Road where his body is, and that is in
18 evidence. We just wanted him to get as accurate as possible
19 is why.

20 THE COURT: I understand. I do understand. If you
21 would, could you call the officer around and let him step
22 down and put up the coordinate information? Do you mind
23 doing that? If you don't mind, step down please, sir.

24 MR. ALFAKIR: No problem. (Witness leaves the witness
25 stand)

1 MS. ADAMS: Just one minute, Judge.

2 THE COURT: I'm advised that lunch is here. Let's take a
3 lunch break and let's come back at 1:45. Okay? Will that
4 give you enough time, Mr. Clerk?

5 CLERK OF COURT: Since lunch is here, 1:30?

6 THE COURT: Okay let's, 1:30.

7 (Lunch Break)

8 JANUARY 25, 2012 - AFTERNOON

9 THE COURT: Mr. Robinson, you are standing up as if there
10 is something you need to deal with.

11 MR. ROBINSON: I have had an opportunity to review ---

12 THE COURT: I'm sorry?

13 MR. ROBINSON: I have had an opportunity to review what
14 was given to us through your subpoena, through your order,
15 excuse me, and there are things missing that are very crucial
16 to my case.

17 THE COURT: Who's the records custodian?

18 MR. ROBINSON: I'm not sure. I got these from Jimmy
19 Penn, who got them from ---

20 THE COURT: Well, I know Mr. Penn. He's not the records
21 custodian. He did a favor by going out and getting that.
22 Now, who is the records custodian? Who is in charge of the
23 jail?

24 MR. PENN: Arnette Jones. She's the Captain.

25 THE COURT: Who is?

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

1 MR. PENN: Arnette Jones. That's who I talked to and she
2 provided these.

3 THE COURT: What's the --- Who's the --- What's the
4 fellow in charge of the jail?

5 MS. ADAMS: Gary Bryant.

6 THE COURT: Okay. Have him come up here this afternoon,
7 please.

8 MR. ROBINSON: Your Honor, I can probably ---

9 THE COURT: We are going to do that at the hearing. We
10 are not going to do that right now. Would you mind doing
11 that Mr. Penn? Thank you so much. Now, we are going to
12 continue on with the in camera hearing, setting the
13 foundation for demonstrative evidence. Is that correct?

14 MS. ADAMS: Yes, sir, Your Honor.

15 THE COURT: Is that correct?

16 MR. ROBINSON: Yes, sir.

17 THE COURT: Anything occurred other than that over the
18 course of the break I need to deal with?

19 MS. ADAMS: Not from us, Your Honor.

20 MR. ROBINSON: Not other than that, Your Honor.

21 THE COURT: Would you call your witness, please ma'am?

22 MS. ADAMS: Yes, sir, Your Honor. The State calls
23 Sergeant Beusse to the stand.

24 (After being duly sworn by the Clerk of Court, Sergeant
25 Chris Beusse testified as follows:)

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PROFFERED TESTIMONY - CHRIS BEUSSE

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1 CLERK OF COURT: If you would take the witness stand and
2 state your name and spell your last name for the record,
3 please.

4 SERGEANT BEUSSE: Christopher Henry Beusse. B-E-U-S-S-E.

5 PROFFERED DIRECT EXAMINATION OF CHRIS BEUSSE BY MS. ADAMS

6 Q Sergeant Beusse, as part of your investigation, did you
7 determine or acquire the GPS coordinates or latitude and
8 longitude numbers for the victims in this case, Homer
9 and JoAnn Staton?

10 A Yes, ma'am. I did.

11 Q And did you, in fact, were those numbers of the GPS
12 coordinates of latitude and longitude provided to AT&T,
13 specifically Sammy Alfakir, in order to put the
14 locations of where the bodies were found on this map?

15 A Yes, ma'am.

16 Q Can you please tell us what those numbers were that were
17 provided?

18 A For Asaville School Road, it was 34°22'366", 82°31'894".
19 For Ms. Staton on Waterside Drive, it was 34°19'200",
20 82°34'910".

21 Q And you have had an opportunity to look at this map.
22 Correct?

23 A Yes, ma'am.

24 Q Do the locations of the bodies appear to be in the
25 locations they were found on Waterside Drive for JoAnn

PROFFERED TESTIMONY - CHRIS BEUSSE

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1 Staton and Asaville School Road?

2 A Yes, ma'am.

3 MS. ADAMS: That's all I have, Your Honor.

4 THE COURT: Cross examination?

5 MR. ROBINSON: I just want to do some voir dire, Your
6 Honor.

7 THE COURT: Voir dire, sure.

8 PROFFERED CROSS EXAMINATION OF CHRIS BEUSSE BY MR. ROBINSON

9 Q Officer Beusse?

10 A Beusse, yes, sir. Got it right that time. Thank you.

11 Q All right. Tell me your qualifications as far as
12 putting this together, as far as -- you're looking at
13 certain notes up there?

14 A That's just the notes I had written when I wrote down
15 the degrees.

16 Q Where did you get the GPS coordinates from?

17 A When we went to the bodies at the location where they
18 were found.

19 Q You have a GPS monitor in your car?

20 A The Assistant Coroner.

21 Q The Assistant Coroner is the one that gave it to you?

22 A Yes, sir.

23 Q But you are not qualified. You don't have a GPS in your
24 car. Correct?

25 A No, sir.

PROFFERED TESTIMONY - CHRIS BEUSSE

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1 Q You got this from the Coroner, am I right?

2 A Yes, sir.

3 Q All right.

4 MR. ROBINSON: Your Honor, I'm not disputing the chain
5 of custody. I am not disputing that, but I don't know if
6 he's qualified to be giving the GPS. I think the Coroner may
7 have to be here to give the GPS coordinates.

8 THE COURT: If I may ask a question, when were these GPS
9 readings taken?

10 SERGEANT BEUSSE: At the time the bodies were
11 located.

12 THE COURT: When the bodies were located? Is that a part
13 of standard operating procedure, to take GPS readings as far
14 as an investigation?

15 SERGEANT BEUSSE: Yes, sir. Don McCown did it.
16 That's what he normally does.

17 THE COURT: Okay. Any questions from the State as a
18 result of mine?

19 MS. ADAMS: No, sir, Your Honor.

20 THE COURT: Any questions from you, Mr. Robinson?

21 ME. ROBINSON: No, sir, Your Honor.

22 THE COURT: Okay, thank you, sir. You may step down.

23 All right, anything further other than what you have stated
24 already?

25 MR. ROBINSON: Nothing further from the Defense, Your

1 Honor.

2 THE COURT: All right. Over lunch break, I looked up the
3 foundational requirements for demonstrative evidence as set
4 forth in Clark versus Cantrell, which is 529 S.E. 2d 528.
5 The first requirement is that the information has to be
6 authenticated as a condition precedent to the admission of
7 the evidence and that is simply satisfied by presented
8 evidence that is sufficient to support a finding that the
9 matter in question is what it purports to be. The prior
10 witness, Mr. Alfakir, is that correct?

11 MS. ADAMS: Alfakir, Your Honor.

12 THE COURT: Alfakir, purported that he actually, in fact,
13 drafted or created that map so that would be sufficient
14 authentication. Next, it has to show relevancy under Rules
15 401 and 402 and it is relevant if it has a direct bearing on
16 the case and tends to establish or make more or less probable
17 the matter in controversy and it certainly meets that
18 standard. The third and critical part of the inquiry for me,
19 at this stage, is whether the map has a fair and accurate
20 representation of the evidence in which it relates. Based on
21 the evidence I heard from Detective Beusse, Detective, is
22 that correct?

23 DETECTIVE BEUSSE: Yes, sir.

24 THE COURT: And Mr. Alfakir, I think the map fairly and
25 accurately represents the evidence that is in the record at

1 this stage. It will have to be repeated on the record before
2 this map can be admitted, but it doesn't have to be exact
3 evidence. It has to be fairly representative of the evidence
4 in this case and, finally, the probative versus prejudicial
5 rule, Rule 403, I find that it is certainly probative and its
6 probative value is not significantly outweighed by the
7 prejudicial impact on the evidence, and therefore I will
8 admit it. With that being said, from a logistical
9 standpoint, and I guess I'm asking you, Mr. Robinson, do you
10 want to require the State to go back through the laying of
11 this evidence again or would you stipulate, based on my
12 rulings, subject to your objection of my ruling, that they
13 can go forward with that without having to re-lay that
14 foundation?

15 MR. ROBINSON: Yes, Your Honor. I think you have
16 addressed it in camera and I think that is sufficient in this
17 case.

18 THE COURT: Okay.

19 MR. ROBINSON: And, obviously, I don't want to waste
20 time. I just ask that you note my objection.

21 THE COURT: Note your objection. You are protected on
22 the record and thank you for that stipulation. With that
23 being said, is the State ready to proceed?

24 MS. ADAMS: Yes, sir, Your Honor.

25 THE COURT: Mr. Robinson?

1 Mr. Robinson: Yes, sir.

2 THE COURT: Would you bring the jury in?

3 (Jury in at 1:44 p.m.)

4 THE COURT: All right, Ms. Terry, Ladies and Gentlemen of
5 the jury, number one, did you have sufficient amount of time
6 to eat a sufficient amount of food and drink?

7 MS. TERRY: Plenty of both, thank you, Your Honor.

8 THE COURT: Good. And like with other breaks, although I
9 know you were up here, did anybody attempt to speak with you
10 or have you read, heard, or seen anything about this case
11 during the break? (Jurors shake heads) Very good. Is the
12 State ready to proceed?

13 MS. ADAMS: The State is ready, Your Honor.

14 THE COURT: Mr. Robinson, are you ready to proceed?

15 MR. ROBINSON: The Defense is ready.

16 MS. ADAMS: Judge, may we approach for just a minute?

17 THE COURT: Yes, ma'am.

18 (Brief Bench Conference Off the Record)

19 MS. ADAMS: May it please the Court.

20 THE COURT: Yes, ma'am.

21 MS. ADAMS: The State calls Sammy Alfakir to the stand.

22 (After being duly sworn by the Clerk of Court, Sammy
23 Alfakir testified as follows:)

24 CLERK OF COURT: If you would take the stand and state
25 your name for the record and spell your last name, please.

THE STATE OF SOUTH CAROLINA VERSUS MATTHEW FULLBRIGHT

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 MR. ALFAKIR: My name is Sammy Alfakir. A-L-F-A-K-I-R.

2 DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

3 Q Sammy, where do you work?

4 A AT&T Mobility.

5 Q And what is your job with AT&T?

6 A Radio Frequency Engineer.

7 Q And how long have you been with AT&T?

8 A Seven years.

9 Q Okay. How long have you been a Radio Frequencing
10 Engineer?

11 A Seventeen years.

12 Q Seventeen?

13 A Yes, ma'am.

14 Q Okay.

15 MS. ADAMS: Your Honor, I believe that we have a
16 stipulation that he is qualified as an expert in Radio
17 Frequencing Engineer?

18 THE COURT: Is that correct?

19 MR. ROBINSON: That is correct, Your Honor.

20 THE COURT: All right. Ladies and Gentlemen of the jury,
21 I hate to repeat myself, but again, normally witnesses are
22 limited in their testimony to what they see, hear, smell or
23 touch, your normal senses. Again, people who, because of
24 their education or experience, may be qualified to give their
25 opinion in the field of their expertise. Mr. Alfakir has

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 been stipulated to be an expert in the field of Radio
2 Frequency Engineering. He will be allowed to testify as to
3 his opinion in that field and you can, like all other
4 evidence in this trial, you can accept it, you can reject
5 it, or do with it what you like. Thank you, ma'am.

6 MS. ADAMS: Thank you, Your Honor..

7 Q Was the phone number 864-363-6783 -- there has been
8 testimony, Judge, that that was Homer Staton's cell
9 phone -- was that phone using AT&T service back in
10 October of 2009?

11 A Yes, it was.

12 Q Now the phone number 864-373-4666. Was that also using
13 AT&T cell service in October of 2009?

14 A Yes, it was.

15 Q Sammy, I want to show you what we have marked as State's
16 Exhibit 21. Do you recognize those and what cell phone
17 number do those records correspond to?

18 A Yes, I recognize them. This is the call record for
19 mobile 864-363-6783.

20 Q That would be Homer's cell phone number?

21 A That is the post-paid number.

22 Q And then State's Exhibit 20. Do you recognize those
23 cell phone records from AT&T?

24 A Yes. Homer Staton's prepaid 373-4666 is the number and
25 this is the call record to go with it.

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 Q And when you say pre-paid, what is another name for a
2 phone or a pre-paid phone?

3 A AT&T calls it a GoPhone.

4 Q So, that would be -- I am going to refer to that
5 phone as Homer's GoPhone.

6 MS. ADAMS: So, Your Honor, I would ask that Exhibits 20
7 and 21 be moved into evidence.

8 THE COURT: Any objection?

9 MR. ROBINSON: No objection.

10 THE COURT: Admitted, without objection.

11 (Whereupon, a 3-page AT&T phone bill record is admitted
12 into evidence as State's Exhibit No. 20 and a 2-page AT&T
13 phone bill record is admitted into evidence as State's
14 Exhibit No. 21, without objection)

15 Q Now Sammy, I also want to show you what has been marked
16 as State's Exhibit 22. Do you recognize those?

17 A I sure do.

18 Q Okay. And did you prepare this?

19 A I did.

20 Q Okay. And briefly, just explain what this is for the
21 jury.

22 A I used a program app that is called Map Info and I
23 overlaid the roads, the lakes, the towers where we have
24 our own towers, AT&T towers. I also labeled where a
25 home, a car, and two deceased people were found. I also

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 labeled in pink, or rather purple, where the coverage of
2 each tower might be like.

3 Q And does this fairly and accurately represent the cell
4 coverage in October of 2009 and the other markings that
5 are on here that we will go over?

6 A Yes, it does. Nothing has changed since then.

7 MS. ADAMS: Your Honor, I would ask that State's
8 Exhibit 22 be admitted into evidence.

9 MR. ROBINSON: Subject to prior objection.

10 THE COURT: Admitted, subject to objection. Ladies and
11 Gentlemen, before we go forward, let me caution you on this.
12 This type of evidence is known as demonstrative evidence.
13 That is, this Exhibit No. 22 only represents a recreation of
14 the components version of the events in this case and it is
15 based on facts that are in evidence. It should in no way be
16 viewed as the absolute truth. Instead, like with all
17 evidence that you will hear during trial of this case, you
18 can accept it in whole or in part, you can reject it in whole
19 or in part or do with it what you would like. With that
20 being said, you may proceed.

21 (Whereupon, a map is entered into evidence as State's
22 Exhibit No. 22, subject to objection)

23 MS. ADAMS: Thank you, Your Honor. I am going to go
24 ahead and set this up so the jury can see it. (Ms. Adams
25 sets a large map on an easel in front of the jury) Judge, I

1 have to apologize. I don't know whether I have set this so
2 you can see it.

3 THE COURT: That's okay. If I need to, I will come
4 around.

5 Q Sammy, I want to start with the records for Homer's cell
6 phone which is [REDACTED]. And if you could step down and
7 let's briefly go over with the jury, too, exactly what
8 is on this map. So, were you given, to put on this map,
9 the address, at [REDACTED] Horton Road where the Staton's car
10 was found?

11 A Yes. Horton Road. (Indicating)

12 Q Okay, so you've indicated on the map where the car was
13 found with the car? (A symbol of a car on the map)

14 A Yes.

15 Q Okay. Now, were you also given the location of the gas
16 station at 252 and 413?

17 A Yes, I was able to place it exactly where it is.

18 Q Okay. So, where the little gas pump symbol is ---

19 A Right.

20 Q --- is where the gas station was. All right. Now, what
21 about the location of [REDACTED] Road, that, I
22 believe, is a house.

23 A I put a house right at that exact address. (Indicates)

24 Q Okay. Now, this photo shows, or this map, shows the
25 cell coverage of the towers. Correct?

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 A Yes. That would be the purple.

2 Q Show the jury exactly where, I know it's kind of hard to
3 see, but I think the towers are marked with numbers with
4 the corresponding towers and what the color means.

5 A The towers are marked with the red shape and they are
6 labeled by the tower I.D. And the events that took
7 place that night, on the night the towers were involved
8 in serving the calls, are symbolized here (Indicating)
9 and their coverage, their respective coverage areas are
10 shown below here as well. So these towers, we are not
11 showing you the entire network, we are just showing you
12 the towers that are involved in serving these calls,
13 whatever the calls might be.

14 Q So, would that mean that if a call hits off of a certain
15 tower that that cell phone is in that certain area?

16 A Yes, it is in a certain area. Yes. If a call is picked
17 up by this tower, or this tower, then you are somewhere
18 here.

19 Q Okay. So you are in some vicinity of where the color
20 is.

21 A The closest, the closest tower is the one that picks up
22 the call.

23 Q Okay. So, let's look at Homer's cell phone records
24 first. (Ms. Adams projects records on the large
25 screen.) Now these records are, there are two pages of

1 them, and they are in a little different format.

2 A Right.

3 Q Can you explain to the jury before I put them up, one is
4 un-billed usage and one is labeled CDR local cell sites.

5 What is the difference? I know we will have to combine
6 them to get all the calls.

7 A (Holds a bill in each hand, right hand CDR, left hand
8 usage bill) CDR are lines that we use so we can pull up
9 calls in case you have a problem. (Holding up right
10 hand) So, in case you have trouble or you drop a call
11 and you have to place a service call to us, we would
12 look at the call record and see what tower you are
13 talking to and we can deal with the tower directly.
14 (Holding up left hand) This is a billing call record.
15 This is what you have got at home when your bill comes
16 home to you and if it doesn't have a call that costs you
17 any minutes, there is no sense of putting the call on
18 the bill and the cost doesn't show up. (Holding up
19 right hand) This shows up everything. However, this
20 takes a couple of days to compile. (Holding up left
21 hand) This takes, this is immediate. This is different.
22 Both of them combine to make an actual, every step,
23 everything that the mobile did at some time.

24 Q So, just because one call is on one form and not on
25 another it doesn't mean it didn't happen, so to speak.

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 A Exactly. You look at them together.

2 Q All right. So let's start with this format. (Projects
3 it bill on large screen.) And just so the jury knows,
4 too, Sammy, this bottom part of the bill, what is that?

5 A That's...

6 Q That is your cell tower number information?

7 A No.

8 CLERK OF COURT: Your Honor, the foreperson is asking
9 something.

10 MS. TERRY: Is there any way we could get this enlarged?

11 THE COURT: Yes. Can you do that?

12 MS. ADAMS: I sure can. How is that?

13 MS. TERRY: And can we move the curser while we are at
14 it? (Ms. Adams moves the cursor off the big screen.) Thank
15 you.

16 Q Just so the jury knows what this is, those are just the
17 longitudes and latitudes of towers and addresses.
18 Correct?

19 A This is the cell tower I.D., the street address of the
20 tower, the latitude and longitude of the tower, and what
21 switch we switch the call off of and what area you are
22 in.

23 Q Okay. So, up above it -- and this is Exhibit 21. So,
24 these are the actual call reports. Correct?

25 A Correct.

1 Q What I am showing right now?

2 A Yes. I see some calls. I see tower, tower I.D.s, and
3 Greenville and Anderson towers.

4 Q Okay. So, specifically then, the 5:44 call which is not
5 on our map, of Homer's cell phone, where does that cell
6 phone call hit on?

7 A That tower, 281, is in Taylors.

8 Q So, based on Taylors, the Staton's home location, would
9 that indicate to you that cell phone is hitting off near
10 his home?

11 A He was home -- This person was home at this time of 5:45
12 and 6:22. The cell was still on 281 in Taylor's.

13 Q So, let's go to the next call, which is when?

14 A 7:29 p.m., he is in Anderson already.

15 Q Now, let's back up to the 6:22 call, because incoming
16 means that Homer's phone received a call, right?

17 A Received a call. Yes.

18 Q And 318-1497 is Ernie Ramirez's cell phone. So, Ernie
19 called Homer at what time?

20 A 6:22 p.m.

21 Q Okay. And where is Homer?

22 A Homer is at home. At 281, Taylors, somewhere in
23 Taylors.

24 Q Okay. So, now, let's go to the 7:29 call.

25 A 7:29, October 23, the mobile was in Anderson,

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1 specifically, in the area of Williamston and he is
2 already in downtown Williamston, somewhere. He is on
3 this side of Williamston and that was at 7:29 p.m. and
4 he received a call.

5 Q So, when Ernie's cell phone called Homer, he is moving
6 towards Anderson. Correct?

7 A He is already here in Williamston.

8 Q Okay. Now, tell the jury about the 7:44 phone call. Is
9 Homer making a call or receiving a call?

10 A He is...

11 Q Making the call. Correct? To Ernie's phone?

12 A Yes, he is making a call. He's making a call to 318-
13 1497 at 7:44 p.m. and he is on cell 186. 186 is...

14 Q That is indicated right here?

15 A In Belton. He is already in Belton. Yes, he is already
16 in Belton and he is somewhere in this vicinity
17 (Indicating on the map) and he is making a call out to
18 318-1497.

19 Q Okay. And now I am going to go to the other format.

20 (Projected on screen) Now on this format, Sammy, there
21 is actually, and so the jury understands, the 7:44 p.m.
22 call is not on this one, but it was on the other format,
23 but now there is an 8:08 p.m. phone call. Correct?

24 A At 8:08, I see it right there. The mobile originated
25 363-6783 made a call. He called 358-4123.

- 1 Q All right. Now, based on that you can tell ---
- 2 A From the record, I can tell how long the call lasted.
- 3 Q Was there a connection in that call?
- 4 A 0 seconds. No.
- 5 Q What does that mean?
- 6 A Somebody did not answer his phone. Whoever he called
- 7 did not answer.
- 8 Q Or there was just no connection. Correct?
- 9 A No. No connection.
- 10 Q Now, where is Homer's phone at that phone call? What
- 11 tower did it hit off of? And I believe you have it on
- 12 the map, as well.
- 13 A Yes, it hit off of here somewhere. It was somewhere in
- 14 here (Indicating on the map) and near here is in Iva and
- 15 Iva is somewhere in here on these roads.
- 16 Q Now, and I know it's hard to see, so I want you to point
- 17 it out for the jury, were you were given the location of
- 18 JoAnn Staton's body, where she was found, and also the
- 19 location of Homer Staton's body and where he was found.
- 20 A Yes. I used the GPS coordinates to map them out, as
- 21 well, as they were given to me.
- 22 Q So, how did you indicate them, so they can see? I think
- 23 a female body is represented down here on Waterside
- 24 Drive. Correct?
- 25 A Yes. That was the female and this was the male victim

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1 and the GPS coordinates were given to me and so that was
2 added to the map. Precise locations.

3 Q So, at 8:08 p.m. then, Homer's cell phone that was
4 hitting on the tower, it was pretty much near where both
5 of their bodies were found. Correct?

6 A Yes.

7 Q All right. But there was no connection at that 8:08
8 p.m. call. Correct?

9 A No, that call went to voice mail. I can see it right
10 there. You see it is 0 seconds and the call was
11 forwarded immediately to voice mail.

12 Q Now, the next call, so the jury understands the rest of
13 that, is not until 10:53 the next morning. Correct?

14 A The next call at 10:53, I'm sorry, I made a mistake.
15 10:53 this next morning was the call to voice mail.
16 After a call of 6 seconds were received by 363-6783 that
17 call going to voice mail.

18 Q So, basically, from 10:53.47 seconds the next day, that
19 Saturday morning, all the way down, is anybody answering
20 that cell phone? Or what is going on with Homer's cell
21 phone after that call?

22 A He is getting a lot of calls and they are all going to
23 voice mail. He was getting a lot of voice mails, call
24 forward, call forward.

25 Q A lot of calls forwarded?

- 1 A Yes. Call forward. All the 704 area codes are all
2 voice mail boxes.
- 3 Q So, nobody is answering that phone?
- 4 A No one is answering it. Everything is going to
5 forwarded. Everything is going to -- these are the
6 messages they are leaving, 34 seconds, 20 seconds, et
7 cetera, et cetera. So, all these calls are after, on
8 the 24th and on, are no longer being reached and they
9 are all going to voice mail.
- 10 Q Okay. So, now I am going to show the jury the records
11 that have been entered as State's Exhibit 20. And just
12 to explain this to them, as well, this is actually the
13 subscriber page, Sammy, so explain to them what this
14 means.
- 15 A Okay. So, subscriber, Homer Staton. Address. The date
16 that he signed up for this service.
- 17 Q What was that date? When did he ---
- 18 A It was October 14, 2009.
- 19 Q Okay.
- 20 A And this a pre-paid phone, this is a GoPhone.
- 21 Q And this is the GoPhone, with the number [REDACTED].
22 Correct?
- 23 A Correct. [REDACTED].
- 24 Q And he started his service October 14, 2009.
- 25 A He did indeed.

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1 Q Okay. Explain, please, all these, basically, on October
2 14 down until we get to the next date what that is.

3 MR. ROBINSON: Your Honor, could she identify the
4 exhibit?

5 THE COURT: If you don't mind. That is the GoPhone,
6 Number 20?

7 MS. ADAMS: Number 20, yes, sir. And this is the CDR
8 cell phone records.

9 A This is the GoPhone. This is when it was initiated.
10 The customer is setting it up. He is receiving a lot of
11 text messages from the system, from us from AT&T, with
12 his set-up instructions, concerning voice mail, his
13 account, giving confirmation, things like that. There
14 are communications between our network and the customer
15 here on this date October 14 at 2:00, 2:45, all the
16 way to almost five 'till three.

17 Q So, basically, he is literally just setting up ---

18 A Setting up a new phone. Yes. Setting up a new phone.

19 Q Now, we go to October 23rd, I believe, at 1:00. There
20 was a phone call. Correct?

21 A October which date?

22 Q October 23rd.

23 A October 23rd starts at 9:22, here.

24 Q Back up to a phone call made ---

25 A On the 17th?

1 Q Yes.

2 A October 17th, 373-4666 made a phone call to 553-9033
3 that lasted 155 seconds.

4 Q And we know that that phone number belongs to Traci, his
5 daughter. So, that was the only phone call, basically,
6 then, that GoPhone made before October 23rd. Correct?

7 Because there are two calls on the 19th ---

8 A Yes.

9 Q But that was ---

10 A Yes.

11 Q --- when the voice mail was set-up?

12 A Yes. Yes, I agree. That was the only call.

13 Q All right. What does "mobile originating" mean in
14 mobile terminating?

15 A Mobile Originating means you are making a phone call,
16 when you are dialing someone's number. Terminating a
17 call is coming to you, terminated to you. You are
18 receiving a call.

19 Q So, mobile originating on here would mean the GoPhone
20 makes a call.

21 A Yes.

22 Q And terminating the GoPhone receives a call?

23 A Yes.

24 Q Okay. So, lets talk about the calls from 9:22 p.m.
25 through 9:26 p.m.

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1 A October 23rd ---

2 Q October 23rd.

3 A At 9:22 all the way to 9:26. I see them.

4 Q Okay. Is there any connection with those phone numbers?

5 A Dialing the same number, 353-2195 and 2149.

6 Q Most of the calls though are -- The first call to 353-
7 2195, and then basically, what, 26 seconds later, there
8 is a call to 353-2149, that we know belongs to Ricky
9 Kelley.

10 A On the 23rd of October, 9:23, the GoPhone dialed 353-
11 2149. Zero seconds. Did not reach.

12 Q The GoPhone is initiating the phone calls?

13 A Yes.

14 Q The first time at 9:22; the night of October 23rd right
15 around 9:20 p.m.

16 A Right. Yes.

17 Q All right. Then ---

18 A But not reach him. 0 seconds means no conversation took
19 place.

20 Q So, does the GoPhone ever connect to Ricky Kelley? If
21 you will go down all the way down to 353-2149.

22 A 353-2149... 0 seconds, 0 seconds, that's a 4 second call.

23 Q You can even see where Ricky Kelley called the GoPhone
24 back, but there is still no connection.

25 A There is no connection because they are playing phone

1 tag is what I am seeing there. From all these call
2 records. He is calling him and he is calling back, but
3 nobody answers the number. So, he called him back again
4 and he called him back, but there is still no
5 conversation taking place.

6 Q Okay. And that, even though there is 4 seconds over
7 here, is that too short to have a call?

8 A That is a -- usually when you call someone and you get
9 their voice mail and you hang up, that is 4 seconds on
10 your record.

11 Q Now, when the GoPhone makes that first call at 9:22,
12 even with no connection, what towers did that GoPhone
13 hit off of?

14 A It was on cell 5.

15 Q Could you show the jury on the map where that is.

16 A Cell 5 is right there. (Indicating on the map) He is in
17 the Honea Path area there, west of Honea Path, but he
18 is in this region of cell 5. Each cell has three
19 regions, with three sets of antennas. One antenna
20 always faces North. One of the antennas always faces
21 East. One antenna always faces West. You have to hit
22 off one of those antennas. Cell 5 dash 3 would be the
23 Western antenna set of antennas and then this person was
24 somewhere here.

25 Q Now, if I was in the vicinity of Homer Staton's body

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1 right here on Asaville School Road and made a phone
2 call, what tower would I hit off of?

3 A The closest one would be this one here, which is 168.

4 Q But am I in the vicinity of the body if I hit off of
5 cell 3?

6 A You are kind of close. You are a few miles up the
7 road. The next tower up, that is the closest one and
8 that would be cell 5.

9 Q Then, the GoPhone would be in between Homer's body going
10 this way?

11 A Yes. Somewhere between here and here is where cell 5
12 would have picked it up and that would most likely be
13 somewhere here. (Indicating on the map.)

14 Q Okay. Now, in those cell records, the call that did
15 not connect with Ricky Kelley, there is also a cell
16 tower over here, the 122?

17 A The 122.

18 Q It's not on this map. Explain that to the jury.

19 A It is on that map, actually. It is downtown Anderson.
20 It's not a part of -- When somebody calls you and the
21 call goes to voice mail or you are shut off, the tower
22 of the caller is displayed. So, basically, a cell 120
23 on this list right there twice, it means, it means that
24 the call was placed from someone calling this person and
25 the person did not answer or did not have his phone on.

1 So, the tower, 120, is so far away, but that is the
2 caller's tower.

3 Q Okay. So, that would mean, since that's Ricky Kelley's
4 phone, that Ricky Kelley was over here somewhere,
5 downtown?

6 A Somewhere around there.

7 Q His phone ---

8 MR. ROBINSON: Objection, Your Honor. Leading.

9 THE COURT: I sustain the objection. He objects to
10 leading.

11 A The phone was downtown Anderson, yes. The phone, which
12 number is [REDACTED]. That phone was downtown at the
13 time, somewhere here.

14 Q What time was the first conversation the GoPhone
15 actually had?

16 A That would be, I see a 16-second conversation and I
17 believe that might be 9:26 in the evening, 9:26,34
18 seconds. That seems to be the only time you have one.
19 It is a 16-second call.

20 Q So, would that be an actual call or would it be -- 65
21 seconds, is that voice mail or is that ---

22 A It seems to be that mobile number [REDACTED], had ---

23 Q Those two calls are happening at the same time. Correct?
24 The 20:26.34 and ---

25 A That's right. That's right. That is two cell phones.

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- 1 So he called -- Somebody called somebody and another guy
2 called at the same time. Both of those calls originated
3 right here. One of those guys was downtown Anderson and
4 the other guy was here in West Honea Path.
- 5 Q So, again, no connection for that, since the calls were
6 at the same time or went to voice mail.
- 7 A I see 16 seconds in here and I don't see a call forward
8 for a voice mail so this call has taken place.
- 9 Q All right. So let's go to the next call at 9:27.
- 10 A 9:27 and 25 seconds, mobile originated. GoPhone made a
11 call to [REDACTED], 65 seconds. That's a whole minute.
- 12 Q And that was at 9:27 p.m. and I believe we have
13 testimony that is Kenneth Burdette's cell phone.
- 14 A And it is at 9:27 p.m. Yes.
- 15 Q So, they spoke for 65 seconds. Correct?
- 16 A They sure did.
- 17 Q What tower is the GoPhone hitting off of?
- 18 A 53.
- 19 Q The same location. Right?
- 20 A Cell 5. Yes. Cell 5, right there.
- 21 Q What ---
- 22 A Somewhere here.
- 23 Q What happened at 9:32 p.m. on the GoPhone?
- 24 A 9:32, terminated. The GoPhone received a call from [REDACTED]
25 [REDACTED].

- 1 Q Kenneth Burdette.
- 2 A For 162 seconds and ---
- 3 Q What tower is the GoPhone at now?
- 4 A This guy, 168. Somewhere here.
- 5 Q So, he's down toward ---
- 6 A The mobile moved from West Honea Path towards Iva.
- 7 Q So, he is going back and forth a little bit?
- 8 A Yes, he did. He seemed to be going up first and then
- 9 come back down next.
- 10 Q So, does that indicate to you the GoPhone is moving?
- 11 A Yes. It does indeed.
- 12 Q What happened at 9:37 p.m.?
- 13 A 9:37, 5 minutes later, the GoPhone received a call from
- 14 [REDACTED] that lasted 162 seconds, again.
- 15 Q And where is the GoPhone? What tower?
- 16 A The tower was right here, 168-1.
- 17 Q And so the jury understands, these numbers are right
- 18 beside the towers. Correct?
- 19 A Yes. They are labeled.
- 20 Q Like 168 is?
- 21 A Yes.
- 22 Q And the one, two or three, what do they represent?
- 23 A Antenna sets. One faces North, one faces East, and one
- 24 faces West. One and two and three.
- 25 Q And you have highlighted which parts? The ones that are

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 hitting right here?

2 A The ones that are mentioned in the records, 168-1 would
3 be all of this. (Indicating on the map.) If I would
4 put the 168-2, I would add another one here somewhere.
5 If I would put 168-3, I would add another log right here
6 somewhere.

7 Q Now, tell the jury now what happened at 9:42 with
8 Kenneth Burdette's cell phone?

9 A 9:42, a call was received by the GoPhone from [REDACTED]
10 109 seconds and the GoPhone was on tower 5-3 again.

11 Q The GoPhone has moved back up. Correct?

12 A Yes. The GoPhone was here, now going back this way.

13 Q What happens at 9:48 p.m. with Kenneth Burdette's cell
14 phone and the GoPhone?

15 A 9:48, the call was received by [REDACTED]. The GoPhone,
16 78 seconds. The call was handled by cell 5-3. Right
17 here again. Somewhere here. (Indicating on the map.)

18 Q 9:48 and there was another at -- 9:52 is the next call.
19 Right?

20 A Yes. A call was made. A call was missed by ---

21 Q This is, moving on, this is Ernie Ramirez's cell phone,
22 so the jury knows 318-1497. What happens with Ernie's
23 cell phone and the GoPhone?

24 A The GoPhone called [REDACTED].

25 Q And the GoPhone initiated the call?

- 1 A Yes. The GoPhone used 54 seconds of air time and he was
2 on the cell 5-1. At this time, it had moved from here
3 to here.
- 4 Q So, again, the GoPhone has moved?
- 5 A Yes, ma'am. A moving phone.
- 6 Q So, then what happens at 9:59 with Kenneth Burdette's
7 cell phone? We're back to Kenneth Burdette's cell phone
8 number.
- 9 A At 9:59...
- 10 Q Is that a voice mail call?
- 11 A Before then, the GoPhone received a call from 356-2935
12 and the call did not get answered. It went to voice
13 mail. It was forwarded to a 704 area code. That is the
14 mailbox number. It is also 5 or 6 seconds long and the
15 same message, so this was a phone call that went to a
16 voice mail, but no voice message was left, because he
17 heard a voice message and he hung up.
- 18 Q So, why is there no tower listed for those calls, so the
19 jury understands?
- 20 A Because those were not billed.
- 21 Q Okay.
- 22 A Those were not billed.
- 23 Q All right. So, let's specifically look at the 10:00
24 call between Kenneth Burdette and the GoPhone. Kenneth
25 Burdette's called him back. Correct?

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- 1 A 2100 hours, the mobile received a call from 356-2935.
- 2 Q Which is Kenneth Burdette.
- 3 A For 71 seconds.
- 4 Q Now, where is the GoPhone?
- 5 A The GoPhone is at cell 48-2. 48-2 is this one right
- 6 here, somewhere. It is right there.
- 7 Q So, then, the GoPhone talks to Kenneth Burdette at
- 8 10:00. And what happens at 10:07?
- 9 A At 10:07, 10:06.55 a call was made by the GoPhone. He
- 10 dialed 1. He dialed -- He checked his voice mail.
- 11 Somebody checked voice mail on this particular phone,
- 12 dialed 1, and 0 seconds and nothing happened. He didn't
- 13 access. He didn't use any air time.
- 14 Q So, what about, there are two more calls between the
- 15 GoPhone and Kenneth Burdette at 10:07 and 10:11.
- 16 Correct?
- 17 A I see 10:07. Yes, 10:00 and 7 minutes, twice, and I see
- 18 the 10:00 and 11 minutes by the same person.
- 19 Q 99 seconds and 170 seconds?
- 20 A Yes, 99 seconds and 170 seconds.
- 21 Q And where is the GoPhone?
- 22 A The GoPhone is still right here at this vicinity.
- 23 Q So, if the GoPhone is at this gas station at 252 and
- 24 413, what cell tower would the GoPhone hit off of?
- 25 A It would be most likely off of 48-2. 48. Cell 48.

1 Right there.

2 Q So, this would be consistent with the GoPhone at the gas
3 station for those phone calls at 10:00, 10:07 and 10:11.
4 Correct?

5 A It was very likely there. Yes.

6 Q Okay. All right. Then about 18 minutes later, I
7 believe the GoPhone called Ernie's phone. Correct?

8 A What is Ernie's phone?

9 Q 314.

10 A 31 ---

11 Q 318-2229.

12 A 318. Okay, I see it now. 2229. Yes.

13 Q Okay. Now, all the remaining calls on the GoPhone are
14 with Ernie's phone. Correct?

15 A Yes. All of them, 318-1497.

16 Q Now, what tower is the GoPhone hitting off of?

17 A 123-3. So, that is right there. I'm sorry, 123. 123-3
18 is right there. That's the tower and the tower is
19 there. So, the area of 123-3 is in purple. Somewhere
20 in that purple section.

21 Q So, if the GoPhone is at Horton Road where the car was
22 found, making a phone call, what tower is it going to
23 hit off of?

24 A Definitely, 123.

25 Q Which is where the GoPhone was for those remaining

DIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 calls. Correct?

2 A Yes. 123-3 is the tower responsible for all these
3 communications. Right there.

4 Q Okay. Now, I want to make sure, I can't remember
5 exactly. The house location was Blair Mill Road, that
6 you received.

7 A Yes.

8 Q So, for this out-going call at 7:44 that Homer made to
9 Ernie's phone, is that consistent with him being, of
10 someone being there on Blair Mill Road?

11 A Yes. The only tower we have is right there, 186. And
12 if you are anywhere in Belton, 186 will carry the call.
13 There are no other towers to carry that call.

14 Q So, just to summarize, if the GoPhone is at Horton Road,
15 the cell phone records are consistent to calls made, are
16 consistent with the GoPhone being at Horton Road at that
17 time?

18 A Yes, it should. They are indeed. There is no room for
19 error. Our call records are used for billing, so there
20 are no mistakes about that.

21 Q Kenneth Burdette testified that he met the defendant at
22 this gas station between 10:00 and 10:30. Are the cell
23 phone records of the GoPhone consistent with that
24 testimony?

25 A Yes. 48-2 is right there. Cell 48 covered that whole

CROSS EXAMINATION OF SAMMY ALFAKIR BY MR. ROBINSON

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1 area right there and if anybody near this interchange
2 right there makes a phone call, it is probably, more
3 than likely, hitting off this tower right here.

4 Q And these cell phone areas where the GoPhone has gone
5 back and forth is clearly consistent with being at or
6 near JoAnn's body and Homer's body. Correct?

7 A Yes, he -- the towers that picked up the calls are
8 consistent with the events of the night of October 23rd.

9 Q You may please have a seat, Sammy. (Witness returns to
10 the witness stand.) Your Honor, I don't have any more
11 questions.

12 THE COURT: Cross examination?

13 MR. ROBINSON: May it please the Court.

14 THE COURT: Yes, sir.

15 CROSS EXAMINATION OF SAMMY ALFAKIR BY MISTER ROBINSON

16 Q Let me ask you something, sir. I do not know much about
17 AT&T and GoPhones, but in that area that we are talking
18 about here, that area that you have drawn this beautiful
19 map with, how many subscribers are in the area? In that
20 area right there? Would it be in the thousands?

21 A It's --- I'm going to guesstimate, if that's okay?

22 Q Okay. Go ahead.

23 A We probably have 10,000 subscribers.

24 Q Okay, about 10,000. And about how many GoPhones do you
25 think are in that area, that got sold in that area, at

CROSS EXAMINATION OF SAMMY ALFAKIR BY MR. ROBINSON

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1 that time?

2 A GoPhone on the average is about a quarter of our
3 subscriber base.

4 Q And what would you guesstimate the number of GoPhones
5 that were available in that area or working in that area
6 at that time?

7 A Probably a couple of thousand.

8 Q A couple of thousand? Okay. Now, just because a voice
9 mail comes on doesn't mean someone is either dead or
10 alive. Does it?

11 A No.

12 Q You can't tell. Can you?

13 A Not from voice mail or call records. No.

14 Q Correct. Correct. And you don't know, based on what
15 you are talking about, exactly who had that GoPhone at
16 that time. Do you?

17 A I don't know anything about that.

18 Q And you don't know whether they are alive or dead at
19 that time. Do you?

20 A I don't know anything about that.

21 Q But we do know that we had Ernie Ramirez and Kenneth
22 Burdette around the area at that time. Isn't that
23 right? From what you just testified to?

24 A If you will just tell me their phone numbers, I can look
25 up their phone numbers and tell you where their phone

- 1 numbers were there. I don't know their names.
- 2 Q Well, I think you remember your testimony a few moments
- 3 ago. Right? The names that you seemed to use the most
- 4 were Kenneth Burdette and Ernie Ramirez. That's true?
- 5 A I only deal with 10 digit mobile numbers. So, if you
- 6 have those mobile numbers ---
- 7 Q Okay.
- 8 A --- I can tell you from that where they were.
- 9 Q Okay. Let me ask you the cell phone numbers that they
- 10 used. Let's see, [REDACTED]?
- 11 A Yes, that was on the phone records. Yes.
- 12 Q Really. You know that?
- 13 A Yes, I do. I have said it enough times.
- 14 Q Okay. And Ernie Ramirez's number, let's see. How about
- 15 [REDACTED]?
- 16 A That's the GoPhone number.
- 17 Q That's the GoPhone number. Okay. Let me get Ernie
- 18 Ramirez' number. [REDACTED].
- 19 A Yes. We just saw that.
- 20 Q And that would be in that area right there. Right?
- 21 A Yes.
- 22 Q Okay. And, okay. But you don't, as I asked you before,
- 23 you have no idea who had the GoPhone at that time.
- 24 Right?
- 25 A No. I don't.

CROSS EXAMINATION OF SAMMY ALFAKIR BY MR. ROBINSON

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- 1 Q You have no idea. No idea?
- 2 A No.
- 3 Q Okay. And there is no way that you can put any sort of
- 4 GoPhone or any sort of phone with Matthew Fullbright.
- 5 Correct?
- 6 A I can't.
- 7 Q And none of the numbers that you have been given by the
- 8 Solicitor are Matthew Fullbright's number. Is that
- 9 correct?
- 10 A I don't think so.
- 11 Q Can you look at the Go -- the cell phone records for Mr.
- 12 Staton for a second, for [REDACTED]?
- 13 A Sure.
- 14 Q Can you look at those, please?
- 15 THE COURT: Exhibit Number?
- 16 MR. ROBINSON: I think that's Exhibit 20?
- 17 (Ms. Adams looks through Exhibits.)
- 18 MS. ADAMS: Your Honor, [REDACTED] is 21. State's Exhibit
- 19 No. 21.
- 20 Q 21. 21. Okay. All right, thank you. Now ---
- 21 THE COURT: Just one second. You need to move that so
- 22 the whole jury can see the witness, please.
- 23 MR. ROBINSON: This way? Okay.
- 24 (Ms. Adams places the map on the easel)
- 25 Q And you have no phone records -- Let me strike that

REDIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

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1 question. You have no phone records or phone numbers
2 that would link Matthew Fullbright to that map that you
3 have. Do you?

4 A I do not.

5 Q All right.

6 MR. ROBINSON: Thank you.

7 THE COURT: Redirect?

8 MS. ADAMS: One question.

9 REDIRECT EXAMINATION OF SAMMY ALFAKIR BY MS. ADAMS

10 Q Sammy, I just want to make sure so the jury is clear,
11 the only phones that you have mapped with your cell
12 sites are your AT&T phones which is mainly Homer's
13 GoPhone and his cell phone. Correct?

14 A Correct.

15 Q You don't know where Kenneth Burdette's cell phone was?

16 A I only ---

17 Q Or Ernie's cell phone was at the time. Correct?

18 A Correct. I only know two phones. The GoPhone and the
19 post-paid phone. Both belonged to a customer, Homer
20 Staton.

21 Q Thank you.

22 THE COURT: Anything further?

23 MR. ROBINSON: May I have one second, Your Honor? Beg
24 the Court's indulgence. Just a couple more questions and I
25 will be brief.

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1 RE-CROSS EXAMINATION OF SAMMY ALFAKIR BY MISTER ROBINSON

2 Q Can you read to the jury, calls number 22 off of the
3 [REDACTED] list?

4 THE COURT: Would you identify the Exhibit, please sir?

5 Mr. ROBINSON: That would be -- One second, Your Honor.

6 THE COURT: Okay, sir.

7 MR. ROBINSON: What is the exhibit you have?

8 MR. ALFAKIR: Twenty-one.

9 Q You've got 21?

10 A I have 21 in my hand. Yes.

11 Q Could you read to the jury, cell number, excuse me, call
12 number 22 off of the [REDACTED] list?

13 A Can you give me a time? The exact time and date of
14 that?

15 THE COURT: Just a second. Would you mind approaching
16 the witness and point it out?

17 Q Yes, sir.

18 A They are not numbered. Any particular time?

19 MR. ROBINSON: I'm going to withdraw the question,
20 because it is a little confusing, Your Honor.

21 THE COURT: Okay, sir.

22 Q Thank you, sir.

23 MR. ROBINSON: That's all I have on re-cross.

24 THE COURT: May this witness be excused?

25 MS. ADAMS: Yes, sir, Your Honor.

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1 THE COURT: Mr. Robinson?

2 MR. ROBINSON: Yes, sir, Your Honor.

3 THE COURT: Thank you, sir. Will you call your next
4 witness, please ma'am?

5 MS. HUEY: Your Honor, may I approach?

6 THE COURT: Yes, ma'am.

7 (Brief Bench Conference Off the Record)

8 MS. HUEY: The State calls Chris Beusse to the stand.

9 (After being duly sworn by the Clerk of Court, Chris
10 Beusse testified as follows:)

11 CLERK OF COURT: If you will take the witness stand and
12 state your name and spell your last name for the record,
13 please.

14 MR. BEUSSE: Christopher Henry Beusse. B-E-U-S-S-E.

15 DIRECT EXAMINATION OF CHRIS BEUSSE BY MS. HUEY

16 Q Detective Beusse, where are you employed?

17 A Anderson County Sheriff's Office.

18 Q And how long have you been there?

19 A About eight-and-a-half years.

20 Q What is your current capacity there?

21 A I am a Sergeant in Criminal Investigations.

22 Q And how long have you been a Sergeant?

23 A Almost a year-and-a-half.

24 Q In October of 2009, what was your title?

25 A I was a detective and I was assigned to White Collar

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1 Crimes and Homicide and Investigations.

2 Q As such, did you have an occasion to become involved in
3 this particular investigation?

4 A Yes, ma'am.

5 Q Okay. And how did that come about?

6 A I was on call on that particular date of October 23rd.
7 I received a phone call at the house in reference to
8 being called to the scene.

9 Q Now, did you respond to Horton Road, then?

10 A Yes, ma'am.

11 Q Okay. And what day was that again, Sergeant Beusse?

12 A It was October 23, 2009. A Saturday.

13 Q Saturday?

14 A Yes, ma'am.

15 Q Okay. If -- Okay, once you responded to the call what,
16 if anything, did you see when you first responded?

17 A When I responded, I saw a car that was parked against a
18 pasture gate. I approached the car and the driver's
19 side window was down. At that time, I looked inside and
20 I could see a large amount of glass and blood inside the
21 vehicle. It was on the passenger side, the driver's
22 side, console, dash, the passenger door, the rear
23 driver's door, and also blood in the back of the
24 vehicle. I also saw some brain, it looked to be brain,
25 tissue in the car, bone fragments in the front and the

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1 rear of the car.

2 Q And what, if anything else, could you tell about the
3 blood in the car?

4 A The passenger side seat was leaned back, or reclined and
5 in the middle, between the middle back seat and the
6 middle portion, there was like a pool of blood that I
7 noticed. It was not completely dried. It looked like
8 it was starting to congeal and that told me that an
9 incident had occurred in that car and it had been, you
10 know, kind of recent.

11 Q All right. So, what was your next step, then, once you
12 found this car?

13 A At that time, I tried to identify to who owned, who
14 owned the car. I found it to be registered to Homer and
15 JoAnn Staton. We then got their address which was 1
16 Greystone Way in Taylors, South Carolina. At that time
17 we tried to -- We contacted the Greenville County
18 Sheriff's Office who also responded to Greenville to
19 that residence to try to make contact.

20 Q And were you able to find the Statons?

21 A No, ma'am. We did make entry into the house for a well-
22 being check, but we couldn't locate them and we didn't
23 find them inside.

24 Q So, then, what was your next step?

25 A We did a search warrant on the house just to make sure

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1 they were not in the home.

2 Q Who, if anyone, did you speak with when you were trying
3 to locate the Statons?

4 A I spoke with her daughter, their daughter, Traci.

5 Q So, as a part of your investigation were you able to
6 determine when they were last seen or thereabouts?

7 A Yes, ma'am. She advised us she had seen ---

8 MR. ROBINSON: Objection, Your Honor. Hearsay.

9 THE COURT: Sustained.

10 Q As a part of your investigation, did you learn what time
11 the Statons had last been seen?

12 MR. ROBINSON: Objection, Your Honor ---

13 Q Without saying what someone said.

14 THE COURT: Just re-phrase your question. You can't say
15 what someone else told you. Okay?

16 DETECTIVE BEUSSE: Yes, sir.

17 Q As part of your investigation, were you able to
18 determine when the Statons were last seen?

19 A Around 4:00 p.m.

20 Q And that was on what day?

21 A Friday.

22 Q Friday the 23rd?

23 A Yes, ma'am.

24 Q Okay. So, on Friday the 23rd they were last seen around
25 4:00 p.m. and then what, if anything else, did you do

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1 after you determined that?

2 A After 4:00 p.m. that afternoon, we stayed there and
3 gathered information at that time that we made contact
4 at the residence. We went back home to Anderson. We
5 attempted to get the last 24 hours on Mr. Homer Staton's
6 cell phone.

7 Q Okay. And when you tried to get cell phones, cell phone
8 records quickly, like that, what is that called?

9 A We did an Exigent Circumstance Request. Basically, we
10 send that to the phone company if it is for life or
11 death or a missing person in a life or death situation.

12 Q And generally, how long does that usually take to come
13 back?

14 A It depends on the phone company. We got that one back
15 that day.

16 Q What, if anything, happened in the meantime?

17 A We were canvassing the area where we found the vehicle
18 and tried to talk to some neighbors. At that time, a
19 call came in that there was a body found on Asaville
20 School Road.

21 Q Okay. And so, did you respond to Asaville School Road?

22 A Yes, ma'am.

23 Q Okay. And what, if anything, happened there?

24 A We located the body of Homer Staton.

25 Q And in what condition was the body of Homer Staton?

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1 A What condition or what...

2 Q Did you suspect foul play?

3 A Yes, ma'am.

4 MR. ROBINSON: Objection, Your Honor. Calls for
5 speculation and relevancy.

6 THE COURT: Overruled.

7 Q As a result of that, what happened with Mr. Staton's
8 body?

9 A We located him in the wood-line off Asaville School Road
10 and he appeared to have injuries about his head on the
11 right-hand side. We observed those at this location at
12 that time. The Coroner's office also responded.

13 Q And then his body was transferred for autopsy. Is that
14 correct?

15 A Yes, ma'am.

16 Q Now, had Mrs. Staton been located yet?

17 A No, ma'am.

18 Q And what day was Mr. Staton located?

19 A That would have been on the 25th, October 25, 2009.

20 Q On that Sunday?

21 A Yes, ma'am.

22 Q Okay. Now, once you were able to look at the phone
23 records what, if anything, did you do as a result?

24 A We started going through the phone records trying to
25 determine the last known conversation, or the last

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1 contact, somebody might have had with Mr. Staton.

2 Q Okay. And what did you learn as a result of that?

3 A The last number that there was a conversation on was
4 318-1497.

5 Q Okay. And who did that number belong to?

6 A Irving Ramirez.

7 Q And did you make contact with Mr. Ramirez?

8 A Yes, ma'am.

9 Q And as a result of making contact with him what was the
10 next step?

11 A I responded to his residence and spoke with him and took
12 a statement and interviewed him.

13 Q And as a result of that, what did you then do?

14 A At that time, we tried to locate Matthew Fullbright.

15 MR. ROBINSON: Your Honor, hearsay and may I have a side-
16 bar?

17 THE COURT: Just one second. Would you take your jury to
18 the jury room, please?

19 (Jury out at 2:47 p.m.).

20 THE COURT: All right, Mr. Robinson?

21 MR. ROBINSON: Your Honor, the objection was hearsay and
22 another problem I am having with her examination of her
23 witness is, her narrative and the narrative questions she is
24 asking. He's allowed to go in and talk about everything he
25 did that day and basically, it's ---

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1 THE COURT: Let me stop you there. I'm going to overrule
2 your objection on hearsay. As long as it's a properly framed
3 question, why is he not allowed to go into a narrative as
4 long as it's responsive to the question?

5 MR. ROBINSON: All right, Your Honor.

6 THE COURT: I'm just asking.

7 MR. ROBINSON: Well, I think that -- he's the last
8 witness they have. He's the lead person on the case. I
9 withdraw the objection on the narrative part. I do think it's
10 hearsay and going through the back door, basically. It's not
11 what does Ramirez say, it's basically saying, from that, then
12 we were led to Mr. Full bright. It's definitely hearsay.

13 THE COURT: I understand. Overrule your objection.
14 (Speaking to the witness) I would still, I would caution you,
15 you cannot say what any third party told you. Okay? It
16 would be hearsay and would be sustained. Okay, sir? Are you
17 ready to proceed?

18 MS. HUEY: Yes, sir.

19 THE COURT: Are you ready to proceed?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: Would you bring the jury back, please?

22 (Jury in at 2:50 p.m.)

23 THE COURT: All right, Ms. Huey?

24 MS. HUEY: Yes, sir.

25 CONT. DIRECT EXAMINATION OF CHRIS BEUSSE BY MS. HUEY

- 1 Q So, Detective Beusse, I believe you said you were trying
2 to locate Matthew Fullbright. Is that correct?
- 3 A Yes, ma'am.
- 4 Q Okay. And as we've heard testimony before, did Mr.
5 Fullbright eventually come in and give a statement to
6 you and Investigator Gebing?
- 7 A Yes, ma'am.
- 8 Q I'm going to show you what has been previously admitted
9 as State's 1 through 4. If you could take a look at all
10 of those items, please?
- 11 A Yes, ma'am.
- 12 Q Okay. And do you recognize all those items?
- 13 A Yes, ma'am. I do.
- 14 Q And how are you able to recognize them?
- 15 A They are Miranda forms from our Sheriff's office, an
16 Advisory of Rights, a written statement from Matthew
17 Fullbright, also another Advisory of Rights, and also
18 another written statement from Matthew Fullbright.
- 19 Q And is your signature on all those items?
- 20 A Yes, ma'am.
- 21 Q And so what does that indicate, Detective Beusse?
- 22 A That indicates that I advised Matthew Fullbright of
23 these rights and witnessed him signing his name to them,
24 and also, myself and Sergeant Gebing.
- 25 Q Now, Detective Beusse, when you obtained these

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1 statements, or once you obtained them, can you give the
2 dates of those again?

3 A The first one is on October 28, 2009.

4 Q Okay. And then when was the second one?

5 A October 29, 2009.

6 Q Once you obtained these statements from the defendant
7 what, if anything, do you do in order to verify, or
8 corroborate, these statements?

9 A Based on what he said, we tried to check into it and see
10 if we could confirm or deny what he had told us.

11 Q Okay. And so, did you do so in this case?

12 A Yes, ma'am.

13 Q I want to go through the, starting with State's Exhibit
14 2, this would be the statement that began on October 28,
15 2009.

16 A Yes, ma'am.

17 Q Now, one of the things, one of the first things the
18 defendant admits in his statement is that he knew the
19 Statons.

20 A Yes, ma'am.

21 Q He was the one who knew the Staton's, originally? Is
22 that correct?

23 A Yes, ma'am.

24 Q Okay. Now what, if anything, did you do to corroborate
25 the fact that he knew the Statons?

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- 1 A Obtained some phone records from a Edna Edwards. This
2 would be his Aunt. There were phone calls on those
3 records, well, there was a call on those records to the
4 Statons.
- 5 Q Okay. And in this, and in the defendant's statement, he
6 admits to using his Aunt Edna's phone to call the
7 Staton's. Is that correct?
- 8 A Yes, ma'am.
- 9 Q And you were able to verify that with the phone records?
- 10 A Yes, ma'am.
- 11 Q Now, additionally, Mr. Beusse, the defendant admits to
12 using Irving Ramirez' phone to call the Statons. Were
13 you able to verify that?
- 14 A Yes, ma'am.
- 15 Q And how did you do that?
- 16 A Off cell phone records that we obtained.
- 17 Q Okay. And I believe we just heard testimony regarding
18 Mr. Staton's phone records. Were you able to identify
19 specific times when Irving Ramirez' phone called the
20 Staton's phone?
- 21 A Yes, ma'am.
- 22 Q Okay. If you could when, specifically on October 23,
23 2009, when did Irving Ramirez' phone first call the
24 Staton's?
- 25 A When I was reviewing the phone records, I noticed it was

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1 a call at 6:22 p.m. on 10/23/09. There was an incoming
2 call on that particular date.

3 Q Okay. And so through your investigation where, what
4 were you able to determine about the whereabouts of the
5 Statons at 6:22?

6 A Taylors, South Carolina.

7 Q And again, they lived in Taylors. Is that correct?

8 A Yes, ma'am.

9 Q Okay. Now, as far as another call from Irving Ramirez'
10 phone to the Statons that could be verified, what was
11 your next phone call?

12 A It was at 7:29 p.m. It was also an incoming call from
13 318-1497 on that phone.

14 Q And that was Ernie's cell phone?

15 A Yes, ma'am.

16 Q And then, finally, is there another phone call at 7:44
17 on those phone records?

18 A There is. Homer Staton's phone called Irving Ramirez'
19 phone. That time it showed up in Belton.

20 Q Okay.

21 A The time before, it was in Williamston.

22 Q Okay. Thank you. The time before it was in Williamston
23 at 7:29 and then the phone was near Blair Mill Road, or
24 excuse me, in Belton?

25 A Yes.

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1 Q And where is Blair Mill Road?

2 A It's in Belton.

3 Q In Belton. Okay. And who lived on Blair Mill Road?

4 A Matthew Fullbright and Irving Ramirez.

5 Q Now, so do these particular phone records correspond
6 with the defendant's statement, then? Were you able to
7 corroborate them?

8 A Yes, ma'am.

9 Q Now, additionally, in the defendant's statement that
10 began on October 28, 2009, he talks about driving the
11 detectives to, or directing the detectives to Waterside
12 Drive?

13 A Yes, ma'am.

14 Q Okay. What, if anything, could be corroborated about that?

15 A At the direction of Mr. Fullbright, we drove from the
16 Sheriff's office to Waterside Drive to the location of
17 JoAnn Staton, which he pointed out.

18 Q Okay. And again, how long does it take to get from the
19 Sheriff's office to Waterside Drive or thereabouts?

20 A It is probably 20 or so miles. It probably takes 30
21 minutes, maybe a few more. It's a good little drive.

22 Q And can you describe the Waterside Drive location?

23 A Yes, ma'am. It was a new neighborhood that was being
24 developed and when you turn in, there is a road going down
25 that splits off. It's secluded and dark. There was only

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1 several houses there.

2 Q And what, if anything, can you tell us, the jury, about how
3 the defendant was able to take you to JoAnn Staton's body?

4 A We pulled into the neighborhood and we went down to the end
5 and we took a left and drove down the road. We passed it.
6 We turned back around and come back up. He told us to
7 stop. He said right there, look over to the left. At that
8 time I got my flashlight, there were some other
9 investigators who had followed us to this location. I
10 shined my flashlight out the window to the direction that
11 he pointed.

12 THE COURT: Just one second. Whose phone is that? Just
13 keep it, Mr. Frazier. I'm sorry, go ahead.

14 Q Can you continue? You got your flashlight out.

15 A I got my flashlight out. I shined it out my window. At
16 that time, the investigators started looking.

17 Q Okay. And so how about -- How long do you think that
18 process took?

19 A Just several minutes. It wasn't long at all.

20 Q He was able to get you right there? Is that correct?

21 A Yes, ma'am.

22 Q All right. And again, was that corroborated then, in his
23 statement?

24 A Yes, ma'am.

25 Q Okay. Now, additionally, Detective Beusse, in this

1 statement, does the defendant claim to be wearing gloves
2 during this incident??

3 A He did speak that he was wearing gloves in his statement.

4 Q Okay. And how was that corroborated, if at all?

5 A During processing the vehicle, there was what appeared to
6 be glove prints lifted by the forensic investigator, also
7 wipe marks inside the car.

8 Q Now, we have also heard testimony about the GoPhone that
9 was registered to Homer Staton.

10 A Yes, ma'am.

11 Q Specifically, in the defendant's statement, he claims to
12 have used the GoPhone on the night of October 23, 2009.

13 A Yes, ma'am.

14 Q So, what was the importance, if any, of obtaining these
15 GoPhone records?

16 A There was a GoPhone package located inside the vehicle of
17 Homer and JoAnn Staton.

18 Q So, you knew this GoPhone existed.

19 A I knew the telephone existed, yes, ma'am, due to the fact
20 that the packaging was found inside the vehicle.

21 Q Okay. And were you able to obtain the GoPhone records?

22 Excuse me, let me back up. When did you request GoPhone
23 phone records?

24 A After we got the statement from Mr. Fullbright.

25 Q So, he gave you the statement and then you obtained the

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1 GoPhone records?

2 A Yes, ma'am.

3 Q Which Mr. Alfakir just testified to.

4 A Yes, ma'am.

5 Q Okay. Now, in terms of corroborating the defendant's
6 statement then, what, if anything, can you say about the
7 GoPhone records?

8 A The GoPhone was used on the night of October 23, 2009.

9 Q Okay. And one of the first phone calls from the GoPhone,
10 who was that made to?

11 A It was made at 9:23 to Paul Kelley.

12 Q And then, what, if anything, could you tell from the
13 GoPhone records that would corroborate the statement in
14 terms of where Homer Staton was found?

15 A The cell phone, the GoPhone, was hitting in the area off of
16 cell phone towers where the body was located, in the
17 general area.

18 Q Okay. Now, in the defendant's statement, does he actually
19 name Asaville School Road in his statement?

20 A No, ma'am.

21 Q Okay. How does he refer to that location?

22 A He advised us that he followed Irving Ramirez to this
23 location. They pulled over on the side of the road and
24 took the body out of the car.

25 Q So, he talks about the location of Homer Staton without

- 1 naming road names.
- 2 A Yes, ma'am.
- 3 Q Okay. But the GoPhone records corroborate that the GoPhone
- 4 would have been used at Asaville School Road?
- 5 A Yes, ma'am.
- 6 Q Okay. And again, that's where Homer Staton was found?
- 7 A Yes, ma'am.
- 8 Q Okay. What, if anything, does the GoPhone records show to
- 9 corroborate the defendant's statement in terms of Horton
- 10 Road?
- 11 A There was more phone calls made later in the evening and
- 12 the cell phone towers were hitting in this location also.
- 13 Q And the significance of Horton Road is?
- 14 A Where the vehicle was found.
- 15 Q The Staton's vehicle?
- 16 A Yes, ma'am.
- 17 Q Okay, Detective Beusse, I am going to show you what was
- 18 previously admitted as State's Exhibit 26. If you could
- 19 take a look at all of those, please.
- 20 A Yes, ma'am.
- 21 Q And do you recognize all of those?
- 22 A Yes, ma'am. I do.
- 23 Q Okay. What, if anything, do those items do to corroborate
- 24 the defendant's statement, again, that began on October 28,
- 25 2009 into October 29, 2009?